VOLUME 48, NUMBER 8 LEGISLATIVE RESEARCH COMMISSION FEBRUARY 1, 2022

# ADMINISTRATIVE REGISTER OF KENTUCKY

The submission deadline for this edition of the *Administrative Register of Kentucky* was noon, January 14, 2022.

## MEETING NOTICES

The **Administrative Regulation Review Subcommittee** is **tentatively** scheduled to meet on February 7, 2022, at 1:00 p .m. in room 149 Capitol Annex.

**ARRS Tentative Agenda - 2161** Online agenda updated as needed

## INDEXES & OTHER INFORMATION

**Regulation Review Procedure** ..... 2166
**ARRS Report** ..... 2351
**Other Committee Reports** ..... 2358
**Locator Index - Effective Dates** ..... H – 2
**KRS Index** ..... H – 18
**Certifications** ..... H – 35
**Technical Amendments** ..... H – 36
**Subject Index** ..... H – 37

## EMERGENCIES

**Teachers' Retirement System**
102 KAR 01:360E. Disability benefits for members who enter on, or after January 1, 2022 .. 2167
**Board of Nursing**
201 KAR 020:260E. Organization and administration standards for prelicensure registered nurse or practical nurse programs of nursing ..... 2168
**Board for Medical Imaging and Radiation Therapy**
201 KAR 046:020E. Fees ..... 2172
**Public Protection Cabinet**
800 KAR 001:020E. Team Western Kentucky Tornado Relief Fund ..... 2174
**Department for Community Based Services**
922 KAR 001:360E. Private child care placement, levels of care, and payment ..... 2176

## AMENDED IN-PROCESS EMERGENCIES

**Board of Cosmetology**
201 KAR 012:082E. Education requirements and school administration ..... 2184

## AS AMENDED

**Education Professional Standards Board**
016 KAR 001:030. Procedures for educator certificate surrender, revocation, suspension, reinstatement, and reissuance, and for application denial ..... 2188
**Personnel Board**
101 KAR 001:335. Employee actions ..... 2190
101 KAR 001:345. Disciplinary actions ..... 2191
101 KAR 001:365. Appeal and hearing procedures ..... 2192
101 KAR 001:367. Standards of conduct and technology governing recording board proceedings ..... 2193
101 KAR 001:375. Employee grievances and complaints. 2194
101 KAR 001:395. Restoration from military duty ..... 2195
101 KAR 001:400. Promotion ..... 2196
**Board of Cosmetology**
201 KAR 012:082. Education requirements and school administration ..... 2196
**Department of Fish and Wildlife Resources**
301 KAR 002:082. Transportation and holding of live exotic wildlife ..... 2200
301 KAR 003:010. Public use of Wildlife Management Areas ..... 2203
301 KAR 003:026. Access to Wildlife Management Areas for mobility-impaired individuals.. 2205
**Motor Vehicle Commission**
605 KAR 001:051. Dealer and salesman ..... 2206
605 KAR 001:071. Change of ownership. ..... 2206
605 KAR 001:091. Motor vehicle dealership names ..... 2207
605 KAR 001:131. Procedures ..... 2207
605 KAR 001:191. Motor vehicle advertising ..... 2208
605 KAR 001:211. Nonprofit motor vehicle dealer requirements and licensing ..... 2209
**Board of Education**
702 KAR 001:191. District Employee Quarantine Leave... 2210
702 KAR 007:065. Designation of agent to manage middle and high school interscholastic athletics ..... 2210
**Department for Libraries and Archives**
725 KAR 001:010. Records officers; duties ..... 2213
725 KAR 001:020. Recording and reproducing public records ..... 2214
725 KAR 001:030. Scheduling public records for retention and disposal; procedures ..... 2214
725 KAR 001:040. Collection and distribution of reports and publications ..... 2215
725 KAR 001:050. Records management program ..... 2215
725 KAR 001:061. Records retention schedules; authorized schedules ..... 2216
725 KAR 002:015. Public library facilities construction..... 2218
725 KAR 002:080. Interstate Library Compact ..... 2221
**Department of Alcoholic Beverage Control**
804 KAR 004:221. Alternating proprietorship agreements 2222

**Department of Insurance**
806 KAR 012:010. Advertising of accident and sickness benefits ..... 2222
806 KAR 014:007. Rate and form filing for health insurers ..... 2224
**Office of Telehealth Services**
900 KAR 012:005. Telehealth terminology and requirements ..... 2225
**Department for Public Health**
902 KAR 002:020. Reportable disease surveillance ..... 2226
**Division of Health Care**
906 KAR 001:180. Operation and services; personal services agencies ..... 2232
**Department for Aging and Independent Living**
910 KAR 004:010. Alzheimer's and dementia services curriculum review and approval ..... 2237

## AMENDED AFTER COMMENTS

**Board of Pharmacy'**
201 KAR 002:430. Emergency orders and hearings .... 2239
**Department of State Police**
502 KAR 010:030. Instructor's license ..... 2441
502 KAR 010:040. Training school facilities ..... 2443
502 KAR 010:070. Training vehicle, annual inspection ..... 2446
502 KAR 013:010. Application for certification under the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers ..... 2248
502 KAR 030:010. Criminal History Record Information System ..... 2250
502 KAR 030:020. Arrest and disposition reporting procedure ..... 2252
502 KAR 030:030. Audit of Criminal History Record Information System ..... 2253
502 KAR 030:050. Security of centralized criminal history record information ..... 2254
502 KAR 030:070. Inspection of criminal history record information by record subject ..... 2256
502 KAR 035:040. Reporting of missing children by law enforcement agencies ..... 2559
502 KAR 045:015. Qualifications ..... 2261
**Department for Public Health**
902 KAR 010:121. Plan review, annual permitting, and inspection fees for public swimming and bathing facilities, including splash pads operated by local governments .. 2263

## PROPOSED AMENDMENTS

**Board of Physical Therapy**
201 KAR 022:001. Definitions for 201 KAR Chapter 022 .. 2266
201 KAR 022:053. Code of ethical standards and standards of practice for physical therapists and physical therapist assistants ..... 2267
**Board of Alcohol and Drug Counselors**
201 KAR 035:070. Supervision experience ..... 2270
**Board of Medical Imaging and Radiation Therapy**
201 KAR 046:020. Fees ..... 2274
**Board of Emergency Medical Services**
202 KAR 007:560. Ground vehicle staff ..... 2276
**Department for Environmental Protection**
401 KAR 051:010. Attainment status designations ..... 2278
**Horse Racing Commission**
810 KAR 007:050. Kentucky Horse Breeders' Incentive Fund ..... 2282
**Office of Inspector General**
902 KAR 020:016. Hospitals; operations and services ..... 2285
902 KAR 020:106. Operation and services; ambulatory surgical center ..... 2298
906 KAR 001:110. Critical access hospital services ..... 2302
**Department for Community Based Services**
922 KAR 001:360. Private child care placement, levels of care, and payment ..... 2306
922 KAR 001:530. Post-adoption placement stabilization services ..... 2313
922 KAR 002:280. Background checks for child care staff members, reporting requirements, and appeals ..... 2316
922 KAR 005:070. Adult protective services ..... 2321

## NEW ADMINISTRATIVE REGULATIONS

**Department of Workplace Standards**
803 KAR 001:006. Employer-employee relationship ..... 2326
803 KAR 001:026. Equal pay provisions, meaning and application ..... 2328
803 KAR 001:061. Overtime pay requirements ..... 2331
803 KAR 001:064. Trading time ..... 2335
803 KAR 001:067. Hours worked ..... 2336
803 KAR 001:068. Recordkeeping requirements ..... 2337
803 KAR 001:071. Executive, administrative, supervisory or professional employees; salesmen ..... 2339
803 KAR 001:076. Exclusions from minimum wage and overtime ..... 2342
803 KAR 001:081. Board, lodging, gratuities and other allowances. ..... 2344
803 KAR 001:091. Workers with Disabilities and Work Activities Centers' employee's wages ..... 2347
**Office of Health Data Analytics**
900 KAR 3:010. Guaranteed Acceptance Program (GAP) reporting requirements ..... 2348

The **ADMINISTRATIVE REGISTER OF KENTUCKY** is the monthly supplement for the 2021 Edition of the **KENTUCKY ADMINISTRATIVE REGULATIONS SERVICE**.

**HOW TO CITE**: Cite all material in the **ADMINISTRATIVE REGISTER OF KENTUCKY** by Register Year number and Page number. Example: 48th Year of the Kentucky Register, page 318 (short form: 48 Ky.R. 318).

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

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

**ADMINISTRATIVE REGISTER OF KENTUCKY**
(ISSN 0096-1493)
© 2021 Legislative Research Commission, All Rights Reserved

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

**KENTUCKY LEGISLATIVE RESEARCH COMMISSION**

**Chairmen**

Senator Robert Stivers
Senate President

Representative David W. Osborne
Speaker of the House

**Senate and House Members**

Senator David Givens
President Pro Tempore

Senator Damon Thayer
Majority Floor Leader

Senator Morgan McGarvey
Minority Floor Leader

Senator Julie Raque Adams
Majority Caucus Chair

Senator Reginald Thomas
Minority Caucus Chair

Senator Mike Wilson
Majority Whip

Senator Dennis Parrett
Minority Whip

Representative David Meade
Speaker Pro Tempore

Representative Steven Rudy
Majority Floor Leader

Representative Joni L. Jenkins
Minority Floor Leader

Representative Suzanne Miles
Majority Caucus Chair

Representative Derrick Graham
Minority Caucus Chair

Representative Chad McCoy
Majority Whip

Representative Angie Hatton
Minority Whip

Jay D. Hartz, Director
Joe Cox, Printing and Publications Officer

**ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE**

Members
Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
Senator Julie Raque Adams
Senator Ralph Alvarado
Senator David Yates
Representative Randy Bridges
Representative Deanna Frazier
Representative Mary Lou Marzian

Staff
Sarah Amburgey
Stacy Auterson
Emily Caudill
Ange Darnell
Emily Harkenrider
Karen Howard
Carrie Nichols
Christy Young

**The following agenda may not take into consideration all of the administrative regulations that may be deferred by promulgating agencies. Deferrals may be made any time prior to or during the meeting.**

**Administrative Regulation Review Subcommittee**
**TENTATIVE Meeting Agenda**
**MONDAY, February 7, 2022 at 1 p.m.**
**Annex Room 149**

**1. CALL TO ORDER AND ROLL CALL**

**2. REGULATIONS FOR COMMITTEE REVIEW**

**SECRETARY OF STATE**
**Office of Business Services**
**Implementation of Revised Article 9**
030 KAR 005:011. Definitions for 030 KAR Chapter005.
030 KAR 005:021. Filing methods and forms.
030 KAR 005:031. Acceptance and refusal of records.
030 KAR 005:041. UCC information management system.
030 KAR 005:051. Filing, indexing, and data entry procedures.
030 KAR 005:060. Search requests, reports, and copies.

**DEPARTMENT OF LAW**
**Medical Examination of Sexual Abuse Victims**
040 KAR 003:020. Protocol for operation of local multidisciplinary teams on child sexual abuse. (Deferred from November)

**GENERAL GOVERNMENT CABINET**
**Personnel Board**
101 KAR 001:325. Probationary periods.

**FINANCE AND ADMINISTRATION CABINET**
**Kentucky Retirement Systems**
**General Rules**
105 KAR 001:210. Disability procedures. (Deferred from November)
105 KAR 001:310. Fred Capps Memorial Act. (Deferred from November)
105 KAR 001:330. Purchase of service credit. (Deferred from November)

**BOARDS AND COMMISSIONS**
**Board of Pharmacy'**
201 KAR 002:106E. Licensed or permitted facility closures. (Filed with Ordinary) ("E" expires 09-10-2022)

**Board of Licensure for Long-Term Care Administrators**
201 KAR 006:040. Renewal, reinstatement, and reactivation of license.

**Board of Barbering**
201 KAR 014:015. Retaking of examination.
201 KAR 014:030. Five (5) year expiration of license.
201 KAR 014:040. Inspection of shops and schools.
201 KAR 014:050. Apprentice license; qualifications.
201 KAR 014:065. Place of business requirements.
201 KAR 014:085. Sanitation requirements.
201 KAR 014:105. Barbering school enrollment and postgraduate requirements.
201 KAR 014:110. School equipment; plant layout.
201 KAR 014:115. Examinations; school and board.
201 KAR 014:125. Instructor requirements.
201 KAR 014:150. School records.
201 KAR 014:180. Fees.

**Board of Embalmers and Funeral Directors**
201 KAR 015:030E. Fees. (Filed with Ordinary) ("E" expires 03-27-2022) (Deferred from September)
201 KAR 015:030. Fees. (Filed with Emergency) (Deferred from October)
201 KAR 015:040. Examination. (Filed with Emergency) (Deferred from October)
201 KAR 015:050. Apprenticeship and supervision requirements. (Filed with Emergency) (Deferred from October)
201 KAR 015:110. Funeral establishment criteria. (Filed with Emergency) (Deferred from October)
201 KAR 015:125. Surface transportation permit. (Filed with Emergency) (Deferred from October)

**Board of Nursing**
201 KAR 020:220. Nursing continuing education provider approval.
201 KAR 020:280. Standards for developmental status, initial status, and approval of prelicensure registered nurse and practical nurse programs.
201 KAR 020:360. Continuing approval and periodic evaluation of prelicensure registered nursing and licensed practical nursing programs.

201 KAR 020:471. Repeal of 201 KAR 020:470. (Deferred from September)
201 KAR 020:472. Initial approval for dialysis technician training programs. (Amended After Comments) (Deferred from November)
201 KAR 020:474. Continuing approval and periodic evaluation of dialysis technician training programs. (Not Amended After Comments) (Deferred from November)
201 KAR 020:476. Dialysis technician credentialing requirements for initial credentialing, renewal, and reinstatement. (Deferred from September)
201 KAR 020:478. Dialysis technician scope of practice, discipline, and miscellaneous requirements. (Deferred from September)
201 KAR 020:480. Licensure of graduates of foreign nursing schools.

**Board of Examiners of Psychology**
201 KAR 026:115. Definition of psychological testing.
201 KAR 026:125. Health service provider designation.
201 KAR 026:130. Grievances and administrative complaints.
201 KAR 026:155. Licensed psychologist: application and temporary license.
201 KAR 026:160. Fee schedule.
201 KAR 026:175. Continuing education.
201 KAR 026:185. Requirements for granting licensure as a psychologist to an applicant licensed in another state.
201 KAR 026:190. Requirements for supervised professional experience.
201 KAR 026:215. Nonresident status.
201 KAR 026:225. Renewal and reinstatement.
201 KAR 026:230. Examinations and applications.
201 KAR 026:250. Employment of a psychological associate, a temporarily licensed psychological associate, or temporarily licensed psychologist.
201 KAR 026:270. Change of license status.
201 KAR 026:310. Telehealth and telepsychology.

**Board of Licensure for Massage Therapy**
201 KAR 042:010. Goals for massage therapy sessions. (Not Amended After Comments)
201 KAR 042:020. Fees. (Not Amended After Comments)
201 KAR 042:030. Licensee's change of name, home address, or place of business. (Not Amended After Comments)
201 KAR 042:035. Application process, exam, and curriculum requirements. (Not Amended After Comments)
201 KAR 042:040. Renewal and reinstatement. (Not Amended After Comments)
201 KAR 042:050. Complaint procedure and disciplinary action. (Not Amended After Comments)
201 KAR 042:061. Code of ethics and standards of practice for massage therapists.
201 KAR 042:070. Endorsement. (Not Amended After Comments)
201 KAR 042:080. Programs of massage therapy instruction.
201 KAR 042:110. Continuing education requirements. (Not Amended After Comments)

**Applied Behavior Analysis Licensing Board**
201 KAR 043:010. Application procedures for licensure.
201 KAR 043:020. Application procedures for temporary licensure.
201 KAR 043:030. Fees.
201 KAR 043:043. Code of ethical standards and standards of practice.
201 KAR 043:050. Requirement for supervision.
201 KAR 043:060. Complaint and disciplinary process.
201 KAR 043:071. Repeal of 201 KAR 043:070.
201 KAR 043:080. Renewals.
201 KAR 043:090. Voluntary inactive and retired status.
201 KAR 043:100. Telehealth and telepractice.

**TOURISM, ARTS AND HERITAGE CABINET**
**Department of Fish and Wildlife Resources**
**Fish**
301 KAR 001:410. Taking of fish by nontraditional fishing methods.

**Wildlife**
301 KAR 004:001. Selection of Fish and Wildlife Resources Commission nominees. (Deferred from November)
301 KAR 004:010. Districts. (Deferred from November)
301 KAR 004:020. Ballard Wildlife Management Area restrictions. (Deferred from November)
301 KAR 004:091. Buying and selling mounted wildlife specimens.
301 KAR 004:100. Peabody Wildlife Management Area use requirements and restrictions. (Deferred from November)
301 KAR 004:110. Administration of drugs to wildlife. (Deferred from November)

**Licensing**
301 KAR 005:001. Definitions for 301 KAR Chapter 5. (Deferred from November)
301 KAR 005:030. Purchasing licenses and permits. (Deferred from November)
301 KAR 005:100. Interstate Wildlife Violators Compact. (Deferred from November)

**JUSTICE AND PUBLIC SAFETY CABINET**
**Department of Corrections**
**Office of the Secretary**
501 KAR 006:290. Southeast State Correctional Complex.

**Department of State Police**
**Kentucky Missing Child Information Center**
502 KAR 035:010. Definitions. (Deferred from December)

502 KAR 035:020. Capabilities of the Missing Child Information Center computer system. (Deferred from December)
502 KAR 035:030. Quality of information reported to the Kentucky Missing Child Information Center. (Deferred from December)
502 KAR 035:040. Reporting of missing children by law enforcement agencies. (Amended After Comments)
502 KAR 035:050. Statistical analysis of information related to missing children. (Deferred from December)

**Candidate Selection**
502 KAR 045:005. Definitions. (Deferred from December)
502 KAR 045:015. Qualifications. (Amended After Comments)
502 KAR 045:035. Application and selection process. (Deferred from December)
502 KAR 045:045. Aptitude examination. (Deferred from December)
502 KAR 045:075. Register. (Deferred from December)
502 KAR 045:085. Medical examination. (Deferred from December)
502 KAR 045:105. Appointment. (Deferred from December)
502 KAR 045:115. Appeals. (Deferred from December)
502 KAR 045:150. Physical Fitness Test (PFT). (Deferred from December)

**TRANSPORTATION CABINET**
**Department of Highways**
**Traffic**
603 KAR 005:150. Encroachment permits.

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET**
**Department of Education**
**General Administration**
702 KAR 001:192E. District employee quarantine leave.

**Department of Workforce Investment**
**Office of Vocational Rehabilitation**
781 KAR 001:010. Office of Vocational Rehabilitation appeal procedures. (Deferred from November)
781 KAR 001:020. General provisions for operation of the Office of Vocational Rehabilitation. (Deferred from November)
781 KAR 001:030. Order of selection and economic need test for vocational rehabilitation services. (Deferred from November)
781 KAR 001:040. Rehabilitation technology services. (Deferred from November)
781 KAR 001:050. Carl D. Perkins Vocational Training Center. (Deferred from November)

**Office for the Blind**
782 KAR 001:010. Kentucky Business Enterprises. (Deferred from November)
782 KAR 001:070. Certified driver training program. (Deferred from November)

**Apprenticeship Standards**
787 KAR 003:020. Confidentiality of records of the Office of Employer and Apprenticeship Services.

**LABOR CABINET**
**Department of Workplace Standards**
**Labor Standards; Wages and Hours**
803 KAR 001:005. Employer-employee relationship. (Deferred from September)
803 KAR 001:025. Equal pay provisions, meaning and application. (Deferred from September)
803 KAR 001:060. Overtime pay requirements. (Deferred from September)
803 KAR 001:063. Trading time. (Deferred from September)
803 KAR 001:065. Hours worked. (Deferred from September)
803 KAR 001:066. Recordkeeping requirements. (Deferred from September)
803 KAR 001:070. Executive, administrative, supervisory or professional employees; salesmen. (Deferred from September)
803 KAR 001:075. Exclusions from minimum wage and overtime. (Deferred from September)
803 KAR 001:080. Board, lodging, gratuities and other allowances. (Deferred from September)
803 KAR 001:090. Workers with disabilities and work activity centers' employee's wages. (Not Amended After Comments) (Deferred from November)

**Occupational Safety and Health**
803 KAR 002:321E. Occupational health and environmental control. (Filed with Ordinary) ("E" expires 08-20-2022)
803 KAR 002:426E. Stairways and ladders. (Filed with Ordinary) ("E" expires 08-20-2022)

**PUBLIC PROTECTION CABINET**
**Department of Alcoholic Beverage Control**
**Licensing**
804 KAR 004:415. Direct shipper license.

**Department of Insurance**
**Health Insurance Contracts**
806 KAR 017:300. Provider agreement and risk-sharing agreement filing requirements.
806 KAR 017:575. Pharmacy benefit managers.
806 KAR 017:590. Annual report on providers prescribing medication for addiction treatment. (Not Amended After Comments)

**Group and Blanket Health Insurance**
806 KAR 018:030. Group health insurance coordination of benefits.

**Horse Racing Commission**
**Pari-Mutuel Wagering**
810 KAR 006:001. Definitions for 810 KAR Chapter 006.

**Medication Guidelines**
810 KAR 008:025E. Drug, medication, and substance withdrawal guidelines. ("E" expires 07-18-2022) (Deferred from January)
810 KAR 008:025. Drug, medication, and substance withdrawal guidelines. (Filed with Emergency)

**CABINET FOR HEALTH AND FAMILY SERVICES**
**Department for Public Health**
**Sanitation**
902 KAR 010:120. Kentucky public swimming and bathing facilities. (Amended After Comments) (Deferred from December)
902 KAR 010:121. Plan review, annual permitting, and inspection fees for public swimming and bathing facilities, including splash pads operated by local governments. (Amended After Comments)
902 KAR 010:190. Splash pads operated by local governments. (Amended After Comments) (Deferred from December)

**Department for Medicaid Services**
**Medicaid Services**
907 KAR 001:005. Nonduplication of payments. (Not Amended After Comments)

**Managed Care**
907 KAR 017:005. Definitions for 907 KAR Chapter 017.
907 KAR 017:010. Managed care organization requirements and policies relating to enrollees.

**Medicaid Eligibility**
907 KAR 020:001. Definitions for 907 KAR Chapter 020.
907 KAR 020:020. Income standards for Medicaid other than Modified Adjusted Gross Income (MAGI) standards or for former foster care individuals.

**Outpatient Pharmacy Program**
907 KAR 023:020. Reimbursement for outpatient drugs. (Filed with Emergency) (Amended After Comments) (Deferred from December)

**Department for Aging and Independent Living**
**Aging Services**
910 KAR 001:190. Nutrition program for older persons.

**Department for Community Based Services**
**Energy Assistance Program/Weatherization**
921 KAR 004:122E. Assistance for low-income households with water or wastewater utility arrears. (Filed with Ordinary) ("E" expires 08-28-2022)

## 3. REGULATIONS REMOVED FROM FEBRUARY'S AGENDA

**BOARDS AND COMMISSIONS**
**Board of Pharmacy'**
201 KAR 002:430. Emergency orders and hearings. (Amended After Comments) (Deferred from February)

**DEPARTMENT OF AGRICULTURE**
**Industrial Hemp**
302 KAR 050:021. Procedures and policies for hemp growers. (Comments Received; SOC ext. due 02-15-2022)
302 KAR 050:031. Procedures and policies for hemp processors and handlers. (Comments Received; SOC ext. due 02-15-2022)
302 KAR 050:046. Department's reports to the USDA; records retention for three years. (Comments Received; SOC ext. due 02-15-2022)
302 KAR 050:056. Sampling and THC testing; disposal of non-compliant harvests; post-testing actions. (Comments Received; SOC ext. due 02-15-2022)
302 KAR 050:080. Materials incorporated by reference. (Comments Received; SOC ext. due 02-15-2022)

**JUSTICE AND PUBLIC SAFETY CABINET**
**Department of State Police**
**Driver Training**
502 KAR 010:010. Definitions. (Deferred from December)
502 KAR 010:020. Department facilities; facility inspection; conflict of interest. (Deferred from December)
502 KAR 010:030. Instructor's license. (Amended After Comments) (Deferred from February)
502 KAR 010:035. Commercial driver's license skill testing. (Deferred from December)
502 KAR 010:040. Training school facilities. (Amended After Comments) (Deferred from February)
502 KAR 010:050. Contracts and agreements. (Deferred from December)
502 KAR 010:060. School advertising. (Deferred from December)
502 KAR 010:070. Training vehicle, annual inspection. (Amended After Comments) (Deferred from February)
502 KAR 010:080. License suspension, revocation, denial. (Deferred from December)
502 KAR 010:090. Procedure for denial, suspension, nonrenewal or revocation hearings. (Deferred from December)
502 KAR 010:110. Third-party CDL skills test examiner standards. (Deferred from December)
502 KAR 010:120. Hazardous materials endorsement requirements. (Deferred from December)

**Concealed Deadly Weapons**
502 KAR 011:010. Application for license to carry concealed deadly weapon. (Deferred from December)
502 KAR 011:060. License denial and reconsideration process. (Deferred from December)
502 KAR 011:070. License revocation and suspension notice and reinstatement process. (Deferred from December)

**Law Enforcement Officers Safety Act of 2004**

502 KAR 013:010. Application for certification under the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers. (Amended After Comments) (Deferred from February)

502 KAR 013:030. Range qualification for certification under the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers. (Deferred from December)

502 KAR 013:040. Issuance, expiration, and renewal of certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers. (Deferred from December)

502 KAR 013:050. Replacement of licenses to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers. (Deferred from December)

502 KAR 013:060. Change of personal information regarding certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers. (Deferred from December)

502 KAR 013:080. Incomplete application for certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers. (Deferred from December)

**General Traffic**

502 KAR 015:010. Traffic collision. (Deferred from December)

502 KAR 015:020. Abandoned vehicles. (Deferred from December)

**Criminal History Record Information System**

502 KAR 030:010. Criminal History Record Information System. (Amended After Comments) (Deferred from February)

502 KAR 030:020. Arrest and disposition reporting procedure. (Amended After Comments) (Deferred from February)

502 KAR 030:030. Audit of Criminal History Record Information System. (Amended After Comments) (Deferred from February)

502 KAR 030:050. Security of centralized criminal history record information. (Amended After Comments) (Deferred from February)

502 KAR 030:060. Dissemination of criminal history record information. (Deferred from December) (Deferred from February)

502 KAR 030:070. Inspection of criminal history record information by record subject. (Amended After Comments) (Deferred from February)

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET**

**Kentucky Commission on Proprietary Education**

791 KAR 001:010. Applications, permits, and renewals. (Deferred from November)

791 KAR 001:020. Standards for licensure. (Deferred from November)

791 KAR 001:025. Fees. (Deferred from November)

791 KAR 001:027. School record keeping requirements (Deferred from November)

791 KAR 001:030. Procedures for hearings. (Deferred from November)

791 KAR 001:035. Student protection fund. (Deferred from November)

791 KAR 001:040. Commercial driver license training school curriculum and refresher course. (Deferred from November)

791 KAR 001:050. Application for license for commercial driver license training school. (Deferred from November)

791 KAR 001:060. Application for renewal of license for commercial driver license training school. (Deferred from November)

791 KAR 001:070. Commercial driver license training school instructor and agency application and renewal procedures. (Deferred from November)

791 KAR 001:080. Maintenance of student records, schedule of fees charged to students, contracts and agreements involving licensed commercial driver license training schools. (Deferred from November)

791 KAR 001:100. Standards for Kentucky resident commercial driver training school facilities. (Deferred from November)

791 KAR 001:150. Bond requirements for agents and schools. (Deferred from November)

791 KAR 001:155. School closing process. (Deferred from November)

791 KAR 001:160. Transfer of ownership, change of location, change of name, revision of existing programs. (Deferred from November)

**PUBLIC PROTECTION AGENCY**

**Department of Insurance**

**Health Insurance Contracts**

806 KAR 017:350. Life insurance and managed care. (Deferred from October)

**CABINET FOR HEALTH AND FAMILY SERVICES**

**Department for Medicaid Services**

**Payments and Services**

907 KAR 003:170. Telehealth service coverage and reimbursement. (Comments Received; SOC ext. due 02-15-2022)

**Expiration dates in this document have been determined pursuant to KRS Chapter 13A provisions. Other statutes or legislation may affect a regulation's actual end date.*

# STANDARD ADMINISTRATIVE REGULATION REVIEW PROCEDURE
## Overview for Regulations Filed under KRS Chapter 13A As Amended by 2021 Legislation

## (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. Emergency administrative regulations become effective upon filing.

**Public Hearing and Public Comment Period**

The administrative body shall schedule a public hearing on a proposed administrative regulation. The public hearing is held between the 21st and the last workday of the month in which the public comment period ends. 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.

Public comment periods for ordinary regulations end on the last day of the month following publication; whereas, public comment periods for emergency regulations run through the last day of the month in which the regulation was published. For other ordinary regulations with open comment periods, please also see last month's *Administrative Register of Kentucky*.

The administrative body shall notify the Compiler 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 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 regulation is deferred or found deficient, an ordinary regulation shall be considered in effect upon adjournment of the appropriate jurisdictional committee or 90 days after being referred by LRC, whichever occurs first.

## EMERGENCY ADMINISTRATIVE REGULATIONS

NOTE: Pursuant to KRS 13A.190, emergency regulations expire after 270 days (or 270 days plus the number of days an accompanying ordinary is extended) or upon replacement by an ordinary regulation, whichever occurs first. This index reflects the KRS Chapter 13A-established expiration dates; however, expiration dates may be impacted by 2021 legislation including: Regular Session legislation: House Joint Resolution 77; KRS Chapter 39A, as amended by Senate Bill 1; and by KRS Chapters 13A and 214, as amended by Senate Bill 2; or Special Session legislation: House Joint Resolution 1; or KRS Chapter 13A as amended by Senate Bill 1 and Senate Bill 2..

**STATEMENT OF EMERGENCY**
**102 KAR 1:360E**

This emergency administrative regulation is being promulgated in contemplation of the requirements of House Bill 258(2021 RS) to provide individuals who become members of Teachers' Retirement System on or after January 1, 2022, with a disability benefit. The passage of the act and the start of the new benefits on January 1, 2022, necessitate the filing of this administrative regulation as an emergency because a member may become disabled as early as January 1, 2022, and be entitled to benefits that would be ongoing. This emergency administrative regulation will not be replaced by an ordinary administrative regulation, as a new regulation shall be established once the eligibility requirements to file for disability benefits and guidelines for filing an application by new members have been developed by the Teachers' Retirement System. The new eligibility requirements shall also address those members who have five (5) or more years of service.

ANDY BESHEAR, Governor
ALISON WRIGHT, Chairperson

**FINANCE AND ADMINISTRATION CABINET**
**Teachers' Retirement System**
**(New Emergency Administrative Regulation)**

**102 KAR 1:360E. Disability benefits for members who enter on, or after, January 1, 2022.**

EFFECTIVE: December 28, 2021
RELATES TO: KRS 161.661(19)
STATUTORY AUTHORITY: KRS 161.310, 161.661(19)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.661(19) provides that individuals who become members on, or after, January 1, 2022, shall be eligible for a disability benefit as prescribed by the Board of Trustees of Teachers' Retirement System (TRS) in an administrative regulation promulgated by the board. The disability plan and benefits may be adjusted by the board according to law.

Section 1. For members who enter TRS on, or after, January I,,2022, who have less than five (5) years of service, the disability plan and benefits shall be those provided under KRS 61.621 (the Fred Capps Memorial Act).

Section 2. The members defined in Section 1 are not eligible for benefits provided by KRS 16161.663.

ALISON WRIGHT, Chairperson
APPROVED BY AGENCY: December 22, 2021
FILED WITH LRC: December 28, 2021 at 12:45 p.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Wednesday, February 23, 2022, at 9:00 a.m. Eastern Time at the offices of the retirement system at 479 Versailles Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by Wednesday, February 16, 2022, five (5) working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation until the end of the calendar day on Monday, February 28, 2022. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT
Contact Person: Robert B. Barnes
(1) Provide a brief summary of:
(a) What this administrative regulation does: Establishes that members who enter the retirement system on, or after January 1, 2022 (new members), who have less than five (5) years of service credit, shall be provided disability benefits under KRS 61.621.
(b) The necessity of this administrative regulation: This regulation is befog filed as an emergency as a result of legislation enacted during the 2021 session requiring the board to promulgate an administrative regulation to provide disability benefits for new members. The potential exists for a member to become disabled as early as January 1, 2022, and be entitled to benefits that would be ongoing.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This emergency administrative regulation conforms to KRS 161.661 as it was amended by HB 258 (2021 RS) and which requires the board to promulgate an administrative regulation to provide disability benefits for new members.
(d). How this administrative regulation currently assists or will assist in the effective administration of the statutes: This emergency administrative regulation will identify for members entering the retirement system on, or after January 1, 2022, who have less than five (5) years of service credit that disability plan and benefits shall be provided to them under KRS 61.621.
(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: NA
(b) The necessity of the amendment to this administrative regulation: NA
(c) How the amendment conforms to the content of the authorizing statutes: NA
(d) How the amendment will assist in the effective administration of the statues: NA
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Members who enter the retirement system on, or after January 1, 2022, who have less than five (5) years of service credit and become disabled as a result of a job-related injury. TRS has had less than twenty (20) individuals become disabled as a result of a job-related injury for at least ten (10) years.
(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: The disability plan and benefits provided to those new members will be provided under KRS 61.621.
(a) List the actions that each of the regulated entities identified in question (3) will have to comply with this administrative regulation or amendment: New members would file an application for disability pursuant to the requirements of KRS 61.621.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The cost to the new members is part of the retirement contribution they make to TRS.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): New members who become disabled on, or after January 1, 2022, will be eligible to file for, and receive, disability benefits.

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

(a) Initially: There is no cost to implement this regulation.

(b) On a continuing basis: There is no continuing cost.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: Administrative expenses of the retirement system are paid by trust and agency are paid from restricted funds of the system.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increase in fees or funding required.

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

(9) TIERING: Is tiering applied? Tiering is not applied, as all members are treated the same.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 161.310, 161.661.

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? Administrative costs will be dependent upon the number of applications processed and cannot be quantified at this time. Given the very small number of members that will likely be impacted, however, administrative costs will be very low.

(d) How much will it cost to administer this program for subsequent years? Administrative costs incurred will be dependent upon the number of applications processed and cannot be quantified at this time. Given the very small number of members that will likely be impacted, however, administrative costs will be very low.

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:

**STATEMENT OF EMERGENCY**
**201 KAR 20:260E**

This emergency amendment to an existing administrative regulation is being promulgated to comply with an executive order issued under KRS Chapter 39A. On December 9, 2021, Governor Andy Beshear signed Executive Order 2021-913 to address the current nursing shortage in the Commonwealth of Kentucky. This administrative regulation is being filed on an emergency basis under KRS 13A.180, and pursuant to Executive Order 2021-913, KRS 39A.180, and Section 1.(13) of 2020 RS SB 150, 2020 Ky. Acts ch. 73, to ensure that programs of nursing may increase enrollments beyond their baselines to introduce more nurses into Kentucky's healthcare system. This emergency amendment differs from the existing administrative regulation. Under the existing administrative regulation, a program of nursing must submit a request to increase enrollment two months prior to the increase, except in exigent circumstances; Board staff has discretion to deny an increase; and each new campus was considered a separate program of nursing. This emergency amendment requires the Kentucky Board of Nursing to approve requests from programs of nursing to increase enrollment within 30 days if the program of nursing has demonstrated that it has sufficient resources to support the increase, and it requires new campuses to be considered enrollment increases and not separate programs of nursing. An ordinary amendment to the existing administrative regulation will not follow.

ANDY BESHEAR, Governor
JESSICA WILSON, President

**BOARDS AND COMMISSIONS**
**Board of Nursing**
**(Emergency Amendment)**

**201 KAR 20:260E. Organization and administration standards for prelicensure registered nurse or practical nurse programs of nursing.**

EFFECTIVE: January 11, 2022

RELATES TO: KRS 314.041(1), 314.111(1), 314.131

STATUTORY AUTHORITY: KRS 13A.190, 39A.180, 314.111(1), 314.131(1), (2), 2020 RS SB 150, 2020 Ky. Acts ch. 73

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.111(1) and 314.131(2) require the board to approve schools of nursing and courses preparing persons for licensure and to monitor standards for nurse competency under KRS Chapter 314. KRS 314.131(1) authorizes the board to promulgate administrative regulations to implement KRS Chapter 314. This administrative regulation establishes the organization and administration standards for prelicensure registered nurse or practical nurse programs. This Emergency Amendment is promulgated pursuant to Executive Order 2021-913, KRS 39A.180, and Section 1(13) of 2020 RS SB 150, 2020 Ky. Acts ch. 73.

Section 1. Definitions.

(1) "Campus" means a division of a college or university that has its own grounds, buildings, and students, but is administratively joined to the rest of the college or university.

(2) "Clerical assistance" means the provision of administrative, secretarial, or clerical help by qualified individuals that assists the program of nursing.

(3) "Clinical instructor" means a nurse who is employed by a program of nursing solely to provide students with traditional clinical or simulated experiences.

(4) "Nurse faculty" means a nurse who is employed by a program of nursing, either full-time, part-time, or adjunct, to provide didactic instruction, and may also provide clinical instruction or simulated experiences.

(5) "Preceptor" means a nurse with demonstrated competence in a specific clinical area who serves as a role model and mentor to assist in the development and validation of the competencies of a student.

(6) "Program of nursing" means the educational unit that prepares a person for licensure as a registered or licensed practical nurse.

(7) "Nursing track" means a path within a program of nursing that leads to licensure as a nurse.

Section 2. Organization or Administration Standards for Prelicensure Registered Nurse and Practical Nurse Programs. To be eligible for approval by the board, a program shall have:

(1) A governing institution.

(a) The governing institution that establishes and conducts the program of nursing shall hold accreditation as a postsecondary institution, college, or university by an accrediting body recognized by the U.S. Department of Education.

(b) The governing institution shall assume full legal

responsibility for the overall conduct of the program of nursing. The program of nursing shall have comparable status with the other programs in the governing institution and the relationship shall be clearly delineated.

(c) The governing institution shall:

1. Designate a program administrator for the prelicensure program of nursing who is qualified pursuant to 201 KAR 20:310 and is responsible for fulfilling the duties specified in subsection (3) of this section on a twelve (12) month basis;

2. Assure that at least fifty (50) percent of the program administrator's time shall be dedicated to complete the duties specified in this administrative regulation at each program of nursing. A governing institution that is unable to comply with this standard may request an exemption from the board in writing.

a. The request shall state the reasons for noncompliance and the efforts the institution has taken and will take to comply with the standard.

b. If the exemption is granted, it shall be for twelve (12) months from the date of board approval. During this time, the governing institution shall not open a new program of nursing and shall not increase enrollment at an existing program of nursing;

3. Provide evidence that the fiscal, human, physical, clinical, and technical learning resources shall be adequate to support program mission, processes, security, and outcomes;

4. Provide student support programs, services, and activities consistent with the mission of the governing institution that promote student learning and enhance the development of the student;

5. Make financial resources available to the program of nursing consistent with equivalent programs at the governing institution;

6. Employ nurse faculty pursuant to 201 KAR 20:310 in sufficient number and expertise to accomplish program outcomes and quality improvement;

7. Provide written policies for faculty related to qualifications for the position, rights and responsibilities of the position, criteria for evaluation of performance, workload, and retention;

8. Involve the nurse faculty in determining academic policies and practices for the program of nursing; and

9. Provide for the security, confidentiality, and integrity of faculty employment and student records.

(d) The governing institution shall provide an organizational chart that describes the organization of the program of nursing and its relationship to the governing institution;

(2) Administrative policies.

(a) There shall be written administrative policies for the program of nursing that shall be:

1. In accord with those of the governing institution; and

2. Available to the board for review.

(b) The board shall be notified in writing of a change, vacancy, or pending vacancy, in the position of the program administrator within thirty (30) days of the program of nursing's awareness of the change, vacancy, or pending vacancy.

1. The head of the governing institution shall submit to the board in writing the name of the registered nurse who has been designated to assume the administrative duties for the program, the date the person will assume the duties of program administrator, and a copy of his or her curriculum vitae.

2. a. If there is to be a lapse between the date of the change or vacancy and the date the newly-appointed program administrator assumes duties, the head of the governing institution shall submit a plan of transition to ensure the continuity of the program.

b. Progress reports shall be submitted if requested by the board.

3. a. The length of the appointment of an interim program administrator shall not exceed six (6) months.

b. Additional six (6) month periods may be granted upon request to the board based on a documented inability to fill the position.

(c) A written plan for the orientation of the nurse faculty to the governing institution and to the program shall be implemented.

(d) There shall be a written contract between the governing institution and each agency or institution that provides a learning experience for a student. A contract shall not be required for an observational experience.

1. The contract shall clearly identify the responsibilities and privileges of both parties.

2. The contract shall bear the signature of the administrative authorities of each organization.

3. The contract shall vest in the nurse faculty control of the student learning experiences subject to policies of the contractual parties.

4. The contract shall be current and may include an annual automatic renewal clause.

5. The contract shall contain a termination clause by either party;

(3) A program or an interim program administrator who shall have authority and responsibility in the following areas:

(a) Development and maintenance of collaborative relationships with the administration of the institution, other divisions or departments within the institution, related facilities, and the community;

(b) Participation in the preparation and management of the program of nursing budget;

(c) Screening and recommendation of candidates for nurse faculty appointment, retention, and promotion;

(d) Submission of the qualifications of all nurse faculty and clinical instructors as set forth in 201 KAR 20:310, Section 4;

(e) To provide leadership within the nurse faculty for the development, implementation, and evaluation of the program of nursing and program outcomes;

(f) To facilitate the implementation of written program policies for the following:

1. Student admission;

2. Student readmission and advance standing;

3. Student progression, which shall include:

a. The level of achievement a student shall maintain in order to remain in the program or to progress from one (1) level to another; and

b. Requirements for satisfactory completion of each course in the nursing curriculum.

4. Requirements for completion of the program;

5. Delineation of responsibility for student safety in health related incidents both on campus and at any clinical activity required by the program of nursing;

6. Availability of student guidance and counseling services;

7. The process for the filing of grievances and appeals by students;

8. Periodic evaluation by the nurse faculty of each nursing student's progress in each course and in the program;

9. Student conduct that incorporates the standards of safe nursing care; and

10. Publication and access to current academic calendars and class schedules;

(g) To facilitate the continuing academic and professional development for the nurse faculty;

(h) 1. To initiate and coordinate the development of contracts with clinical facilities, the number and variety of which shall be adequate to meet curricular outcomes;

2. To develop written criteria for the selection and evaluation of clinical facilities and ensure that the criteria shall be utilized by the program of nursing; and

3. To assure that clinical facilities show evidence of approval by the appropriate accreditation, evaluation, or licensure bodies, if applicable;

(i) The establishment of student-nurse faculty ratio in the clinical practice experience.

1. The maximum ratio of nurse faculty to students in the clinical area of patients-clients shall be defensible in light of safety, learning objectives, student level, and patient acuity.

2. The student-nurse faculty ratio shall not exceed ten (10) to one (1) in the clinical practice experience, including observational or other supervised learning experiences.

3. This ratio shall not apply to on campus skill lab experiences;

(j) The submission of the Certified List of Kentucky Program of Nursing Graduates, as incorporated by reference in 201 KAR 20:070, upon student completion of all requirements for a degree, diploma, or certificate, regardless of the state in which the graduate intends to seek licensure;

(k) The development and maintenance of an environment

conducive to the teaching and learning process;

(l) To facilitate the development of long-range goals and objectives for the nursing program;

(m) To ensure that equipment, furnishings, and supplies be current and replaced in a timely manner;

(n) To ensure that the nurse faculty has sufficient time to accomplish those activities related to the teaching-learning process and program outcomes;

(o) To coordinate an orientation to the roles and responsibilities of full-time, part-time, adjunct nurse faculty, and clinical instructors to the program of nursing and, as appropriate, to clinical facilities so that the mission, goals, and expected outcomes of the program shall be achieved;

(p) To facilitate regular communication with the full and part time nurse faculty and clinical instructors in the planning, implementation, and evaluation of the program of nursing;

(q) To ensure that recruitment materials provide accurate and complete information to prospective students about the program including the:

1. Admission criteria;

2. Program description, including course sequence, prerequisites, and corequisites;

3. Length of the program;

4. Current cost of the program, including tuition and all associated fees and expenses; and

5. Transferability of credits to other public and private institutions in Kentucky;

(r) To conduct or participate in the written evaluation of each nurse faculty member, clinical instructor, and program of nursing support staff according to published criteria, regardless of contractual or tenured status;

(s) To ensure the adherence to the written criteria for the selection and evaluation of clinical facilities utilized by the program of nursing;

(t) To maintain current knowledge of requirements pertaining to the program of nursing and licensure as established in 201 KAR Chapter 20;

(u) To attend the next available board orientation for program administrators but not later than within six (6) months of appointment;

(v) To develop a structure to allow nurse faculty to assist in the governance of the program;

(w) To ensure that the curriculum is developed and implemented pursuant to 201 KAR 20:320; and

(x) To ensure that the program of nursing posts a link provided by the board to the information published by the board pursuant to 201 KAR 20:360, Section 5(4) on its Web site and refers all individuals seeking information about the program to this link.

(4) A system of official records and reports essential to the operation of the program of nursing maintained according to institutional policy. Provisions shall be made for the security and protection of records against loss and unauthorized distribution or use. The system shall include records of:

(a) Currently enrolled students to include admission materials, courses taken, grades received, scores for standardized tests, and clinical performance records;

(b) Minutes of faculty and committee meetings, which shall be maintained a minimum of five (5) years, irrespective of institutional policy;

(c) Faculty records including:

1. Validation of current licensure or privilege to practice as a Registered Nurse in Kentucky;

2. Evidence of fulfilling the faculty orientation requirements established in 201 KAR 20:310, Section 3(5); and

3. Performance evaluation for faculty employed more than one (1) year;

(d) Systematic plan of evaluation;

(e) Graduates of the program of nursing; and

(f) Administrative records and reports from accrediting agencies; and

(5) Official publications of the governing institution including:

(a) A description of the governing institution and program of nursing;

(b) Policies on admission, progression, dismissal, graduation, and student grievance procedures; and

(c) A description of student services;

(6) Clerical assistance and support staff.

(a) There shall be clerical assistance and support staff sufficient to meet the needs of the nursing program for the administrator, faculty, and students.

(b) Each campus shall have at least one (1) dedicated clerical staff.

(c) If the program of nursing does not have at least one (1) dedicated clerical staff, the program administrator shall provide written justification to the board. The board shall evaluate the justification to determine whether the program may operate effectively without dedicated staff sufficient to meet the needs of the nursing program. If the board rejects the justification, the program of nursing shall comply with the board's determination on clerical staffing.

(7) Nurse faculty, full-time, and part-time, with the authority and responsibility to:

(a) Plan, implement, evaluate, and update the program;

(b) Assist in the design, implementation, evaluation, and updating of the curriculum using a written plan;

(c) Participate in the development, implementation, evaluation, and updating of policies for student admission, progression, and graduation in keeping with the policies of the governing institution;

(d) Participate in academic advisement and guidance of students;

(e) Provide theoretical instruction and clinical learning experiences;

(f) Evaluate student achievement of curricular outcomes related to nursing knowledge and practice;

(g) Develop and implement student evaluation methods and tools for each course that measure the progression of the student's cognitive, affective, and psychomotor achievement of course and clinical outcomes based on published rubrics and sound rationale;

(h) Participate in academic and professional level activities that maintain the faculty member's competency and professional expertise in the area of teaching responsibility;

(i) Communicate clinical outcomes to the student, clinical instructor, preceptor, and staff at the clinical site;

(j) Assume responsibility for utilizing the criteria in the selection of clinical sites and in the evaluation of clinical experiences on a regular basis;

(k) Evaluate the student's experience, achievement, and progress in relation to course and clinical outcomes, with input from the clinical instructor and preceptor, if applicable; and

(l) Delegate to a nurse employed by a clinical agency the supervision of a student performing a procedure; and

(8) Clinical instructors with the authority and responsibility to:

(a) Design, at the direction of the nurse faculty member, the student's clinical experience to achieve the stated outcomes of the nursing course in which the student is enrolled;

(b) Clarify with the nurse faculty member:

1. The role of the preceptor, if applicable;

2. The course responsibilities;

3. The course or clinical outcomes;

4. A course evaluation tool; and

5. Situations in which collaboration and consultation shall be needed;

(c) Participate in the evaluation of the student's performance by providing information to the nurse faculty member and the student regarding the student's achievement of established outcomes; and

(d) Delegate to a nurse employed by a clinical agency the supervision of a student performing a procedure.

Section 3. Notification of Change in Enrollment.

(1) All programs of nursing shall have on record with the board 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.

(2) (a) A program of nursing that desires to increase its enrollment beyond its enrollment baseline shall submit a request to the board. [~~The request shall be sent in writing at least two (2) months prior to the date for which the requested increase is being sought~~. ~~Exceptions to this time frame shall only be made for~~

~~exigent circumstances.~~] The request is only necessary if the increase is greater than the following:

1. If the enrollment baseline is fifty (50) or less, an increase of ten (10) students;

2. If the enrollment baseline is fifty-one (51)-100, an increase of twenty (20) students; or

3. If the enrollment baseline is greater than 100, an increase of twenty-five (25) students.

(b) The request shall demonstrate that the program has sufficient resources to fulfill the standards established by this administrative regulation for the anticipated increase in enrollment. These sufficient resources shall include adequate:

1. Number of qualified faculty;

2. Classroom space;

3. Clinical sites or simulation resources, pursuant to 201 KAR 20:320 Section 3;

4. Clerical support; and

5. Financial support.

(c) The program shall investigate the projected impact of the increase on the operation of programs of nursing within a fifty (50) mile radius and shall submit a report to the board.

(d) The program of nursing shall submit evidence that it has met the benchmarks set out in 201 KAR 20:360, Section 5(2)(f).

(3)(a) The request shall be reviewed by board staff. Board staff shall[~~may~~] approve the request within thirty (30) days of the receipt of the request, if [~~it is determined that~~] the criteria listed in subsection (2) of this section have been met.

(b) If [~~board staff determines that~~] the criteria listed in subsection (2) of this section have not objectively been met, the request shall be held in abeyance until the program of nursing demonstrates that the criteria listed in subsection (2) of this section has been met, and the timeframe of thirty (30) days in subsection (3)(a) of this section shall be tolled until the program of nursing demonstrates that the criteria listed in subsection (2) of this section has been met[~~referred to the board for further consideration and a decision~~].

Section 4. Multiple Campuses. (1)[~~(a)~~] A governing institution may have programs of nursing located on different campuses.

[~~(b) Each campus shall be considered a separate program of nursing.~~]

(2) (a) The governing institution shall designate a main campus headed by a program administrator.

(b) The program administrator shall have final responsibility and authority for the non-main campuses, but shall designate an assistant program administrator to assist in the governance of each non-main location. The assistant program administrator shall meet the qualification for a nurse faculty as set out in 201 KAR 20:310. The program administrator may designate the amount of release time for the assistant program administrator for administrative duties, but it shall not be less than twenty-five (25) percent.

(3) For purposes of calculating benchmarks set out in 201 KAR 20:360, Section 5(2)(f), each campus shall individually report its data annually to the board. The board shall evaluate the benchmarks for each campus individually.

Section 5. Suspension of Enrollment. (1) A governing institution that decides to suspend enrollment in the program of nursing shall notify the board in writing within thirty (30) days following the decision. No longer enrolling in one (1) of several nursing tracks within a program of nursing shall not constitute suspension of enrollment for purposes of this administrative regulation.

(2) The notification shall identify the reasons leading to the decision and how long it is anticipated that the suspension will be in effect.

(3) The governing institution shall report to the board annually on the status of the suspension.

(4) (a) If the decision to reinstate enrollment is made within three (3) years of the decision to suspend enrollment, the governing institution shall notify the board in writing of the decision within thirty (30) days.

(b) The notification shall state the date classes will begin. It shall also list the faculty and clinical sites that will be utilized.

(5) If the decision to reinstate enrollment is made three (3) years or more from the decision to suspend enrollment, the governing institution shall comply with the procedures outlined in 201 KAR 20:280.

Section 6. Change in Accreditation.

(1) A governing institution that seeks to change the U.S. Department of Education recognized accrediting body from which it receives accreditation shall notify the board when it has filed an application for accreditation.

(2) A governing institution with an application in process before the accrediting body shall be considered in compliance with Section 2(1)(a) of this administrative regulation.

(3) (a) A governing institution whose application has been denied by its accrediting body shall not be considered to be in compliance with Section 2(1)(a) of this administrative regulation.

(b) The board shall begin the process established in 201 KAR 20:360, Section 7 for withdrawal of approval.

JESSICA WILSON, President

APPROVED BY AGENCY: January 11, 2022

FILED WITH LRC: January 11, 2022 at 10:44 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Monday, February 21, 2022, at 10:00 a.m. (EDT) 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 by Monday, February 14, 2022, 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. EDT) Monday, February 28, 2022. 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: Jeffrey R. Prather, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone (502) 338-2851, email Jeffrey.Prather@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jeffrey R. Prather

(1) Provide a brief summary of:

(a) What this administrative regulation does: Under the existing administrative regulation, a program of nursing must submit a request to increase enrollment two months prior to the increase, except in exigent circumstances; Board staff has discretion to deny an increase; and each new campus was considered a separate program of nursing. This emergency amendment requires the Kentucky Board of Nursing to approve requests from programs of nursing to increase enrollment within 30 days if the program of nursing has demonstrated that it has sufficient resources to support the increase, and it requires new campuses to be considered enrollment increases and not separate programs of nursing.

(b) The necessity of this administrative regulation: This emergency amendment is being promulgated to comply with Executive Order 2021-913.

(c) How this administrative regulation conforms to the content of the authorizing statutes: By establishing criteria for the approval of enrollment increases.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It sets criteria for the approval of enrollment increases.

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

(a) How the amendment will change the existing administrative

regulation: The existing administrative regulation mandates that a program of nursing must submit a request to increase enrollment two months prior to the increase, except in exigent circumstances; Board staff has discretion to deny an increase; and each new campus was considered a separate program of nursing. This emergency amendment requires the Kentucky Board of Nursing to approve requests from programs of nursing to increase enrollment within 30 days if the program of nursing has demonstrated that it has sufficient resources to support the increase, and it requires new campuses to be considered enrollment increases and not separate programs of nursing.

(b) The necessity of the amendment to the administrative regulation: Governor Andy Beshear signed Executive Order 2021-913. This administrative regulation is being filed on an emergency basis to comply with the Executive Order.

(c) How the amendment conforms to the content of the authorizing statutes: By establishing criteria for the approval of enrollment increases.

(d) How the amendment to the administrative regulation will assist in the effective administration of the statutes: The amendment brings the regulation into compliance with Executive Order 2021-913, pursuant to KRS 13A.180.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Prelicensure registered nurse or practical nurse programs of nursing. There are currently approximately 90 programs of nursing.

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

(a) A detailed explanation of the actions the entities referenced in question (3) will be required to undertake in order to comply with this proposed administrative regulation: To increase enrollment, the program of nursing must notify the Board of Nursing and demonstrate that it has sufficient resources to support the increase, and it requires new campuses to be considered enrollment increases and not separate programs of nursing

(b) An estimate of the costs imposed on entities referenced in question (3) in order to comply with this proposed administrative regulation: There are no additional costs imposed.

(c) The benefits that may accrue to the entities referenced in question (3) as a result of compliance: Programs of Nursing will be able to increase enrollment more quickly.

(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) Provide the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency general funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation or amendment: It will not.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: It does not.

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

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? 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 13A.190, KRS 39A.180, KRS 314.111, KRS 314.041, 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? None.

(d) How much will it cost to administer this program for subsequent years? No additional costs.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**STATEMENT OF EMERGENCY**
**201 KAR 46:020E**

This emergency amendment to the existing administrative regulation is being promulgated under KRS 13A.190(1)(a)(3) to meet an imminent deadline for the promulgation of an administrative regulation that is established by state statute or federal law. KRS 311B.080 requires the Board for Medical Imaging and Radiation Therapy ("Board") to recognize and enforce the current rules and regulations, practice standards, scopes of practice, and ethical standards for the nationally recognized professional organizations and certifying bodies for technologists and therapists regulated by the Board. Effective January 1, 2022, the American Registry of Radiologic Technologists ("ARRT"), the national certifying body for medical imaging professionals recognized by the Board, will implement a change to the process for the payment of examination fees. The exam fee will be payable directly to the ARRT rather than a pass through payment to the Board; therefore, the Board requests to make emergency adjustments to the fee schedule to comply with this update. This emergency amendment to the existing administrative regulation shall be replaced by an identical ordinary administrative regulation.

ANDY BESHEAR, Governor
DOYLE DECKER, Board Chair

**BOARDS AND COMMISSIONS**
**Board for Medical Imaging and Radiation Therapy**
**(Emergency Amendment)**

**201 KAR 46:020E. Fees.**

EFFECTIVE: December 21, 2021

RELATES TO: KRS 311B.050, 311B.100(2), 311B.110, 311B.120, 311B.130, 311B.140, 311B.180, 311B.190

STATUTORY AUTHORITY: KRS 311B.010, 311B.050, 311B.120

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. KRS 311B.120 requires the board to promulgate administrative regulations to establish fees and penalties. This administrative regulation establishes fees for the licensure of an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, a nuclear medicine technologist, and a limited x-ray machine operator.

Section 1. Initial Application and License Fee. A non-refundable initial application and license fee shall be $100.

Section 2. Renewal License Fee. A non-refundable renewal fee shall be fifty (50) dollars per year.

Section 3. Temporary Application and License Fee. A non-

refundable fee for a temporary license shall be $100.

Section 4. Provisional Training License Fee. A non-refundable fee for a provisional training license for a radiation therapist and a nuclear medicine technologist shall be fifty (50) dollars per twenty-four (24) month training period.

Section 5. Temporary Limited X-ray Machine Operator Application and License Fee. A non-refundable, non-transferrable fee for a license shall be $100.

Section 6. Duplicate License Fee. A non-refundable fee for a duplicate license shall be twenty (20) dollars.

Section 7. Reinstatement Fee. A reinstatement fee shall be $100. Reinstatement fee shall be assessed starting on day six (6) following the expiration date of license.

Section 8. Name Change Fee. A non-refundable fee for a new printed license with a name change shall be twenty (20) dollars.

Section 9. Limited X-ray Machine Operator Examination Qualification Fee. A non-refundable fee for the qualification to register for the limited x-ray machine operator examination shall be twenty-five (25) dollars[~~$165~~].

Section 10. Insufficient Funds Fee. A fee for returned check or denied online banking (ACH) payment shall be fifty (50) dollars.

Section 11. Written Verification of Qualifications Fee. The fee for completion of written verification documents shall be twenty-five (25) dollars per document.

Section 12. Continuing Education Approval Fee. (1) Individual continuing education program fee shall be ten (10) dollars.

(2) Annual sponsoring institution fee shall be $100.

DOYLE DECKER, Chair

APPROVED BY AGENCY: December 8, 2021

FILED WITH LRC: December 21, 2021 at 12:50 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 23, 2022, at 10:00 a.m. in the office of the Board of Medical Imaging and Radiation Therapy, 125 Holmes Street, Suite 320, Frankfort, Kentucky 40601, (502) 782-5687. Individuals interested in attending this hearing shall notify the agency in writing by five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until the end of the day on February 28, 2022. Send written notification of intent to attend the public hearing or submit written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Elizabeth Morgan, Executive Director, Board of Medical Imaging and Radiation Therapy, 125 Holmes Street, Suite 320, Frankfort, Kentucky 40601, phone (502) 782-5687; fax (502) 782-6495; email elizabeth.morgan@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Elizabeth Morgan

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the fees to be assessed to licensees and applicants.

(b) The necessity of this administrative regulation: The necessity of this regulation is to advise the public, licensee and applicant of fees to be assessed.

(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 establishing fees.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes the fees to be assessed from applications, renewals, reinstatement, name change, and various other programs and services provided by the board.

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

(a) How the amendment will change this existing administrative regulation: The amendment updates the fee for the limited x-ray machine operator exam due to an update from the exam administrator.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary since the board is updating the limited x-ray machine operator exam fee due to an update in the administration fee and process of paying exam fees to exam administrator.

(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 fees.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will update the fee for the limited scope exam due to a change in the process of registering individuals to take exam by the exam administrator.

(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 7,600 licensees.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: There is no new requirement 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): This amendment to the administrative regulation requires individuals that apply to take the limited scope exam to pay the administrative fee to the Board and they will also pay an exam fee to the organization that administers the exam.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The regulations place applicants and licensees on clear notice of the fees associated with licensure and procedures.

(5) Provide an estimate of how much it will cost to implement this administrative regulation: No additional cost will be incurred as a result of amending this administrative regulation.

(a) Initially: No new costs will be incurred by the changes.

(b) On a continuing basis: No new costs will be incurred by the changes.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees established by this regulation and 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: The decrease in fees for the limited scope exam is due to the test administrator only allowing examinees to pay for the exam via online portal; previously, the Board was sent monthly invoices based on how many examinees registered for the exam.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This amendment to the administrative regulation updates fees for the limited scope exam.

(9) TIERING: Is tiering applied? Tiering was not applied as the regulation is applicable to all credential holders and applicants. This regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Board of Medical Imaging and Radiation Therapy.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 311B.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.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? There will be no increase in revenue as a result of the decrease in fee for limited x-ray machine operator exam. This is the fee to review eligibility for the exam and register them into the exam system.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? The cost associated with administering this regulation is the time for staff to register the individual for the exam.

(d) How much will it cost to administer this program for subsequent years? This regulation merely defines terms used throughout the 201 KAR Chapter 46. There is no additional cost associated with administering this regulation.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**STATEMENT OF EMERGENCY**
**800 KAR 1:020E**

Pursuant to KRS 12.270(2), KRS 11.065, KRS 13A.190(1), KRS 39A.180, Executive Order 2021-923, and Executive Order 2021-925, this emergency administrative regulation is being promulgated in order to meet an imminent threat to public health, safety, or welfare. On December 10, 2021, and continuing, a powerful severe weather system generating heavy rain, thunderstorms, tornadoes, and strong straight-line winds impacted the Commonwealth of Kentucky, causing death and injury, flash flooding, loss of power, and damage to public infrastructure and private properties. This devastating severe weather system will continue to affect the lives of Kentuckians and have consequences across the Commonwealth. The Team Western Kentucky Tornado Relief Fund was established in response to this catastrophic weather event, and for the purpose of protecting and safeguarding the public health, safety, and welfare of Kentuckians. Under Executive Order 2021-925, the Governor directed the Secretary of the Public Protection Cabinet to administer the Team Western Kentucky Tornado Relief Fund. This emergency administrative regulation will expire at the latest date permitted by law under KRS 13A.190 and will not be replaced by an ordinary administrative regulation.

RAY PERRY, Secretary
ANDY BESHEAR, Governor

**PUBLIC PROTECTION CABINET**
**(New Emergency Administrative Regulation)**

**800 KAR 1:020E. Team Western Kentucky Tornado Relief Fund.**

EFFECTIVE: December 17, 2021

RELATES TO: KRS 12.270, 11.065, 39A.180, EO 2021-923, EO 2021-925

STATUTORY AUTHORITY: KRS 12.270, 11.065, 39A.180, EO 2021-925

NECESSITY, FUNCTION, AND CONFORMITY: Pursuant to KRS 11.065, the Secretary of the Public Protection Cabinet ("Secretary") is a member of the Governor's Executive Cabinet and shall, among other things, perform duties the Governor may require. To fulfill these duties, under KRS 12.270(2), the secretary of each cabinet is authorized to accept and expend funds from any public or private source. Executive Order 2021-925 ("Order") requires the Public Protection Cabinet ("Cabinet") to establish the Team Western Kentucky Tornado Relief Fund ("Fund") to be administered by the Secretary of the Public Protection Cabinet. 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 or will be affected due to the severe weather events of December 10 and 11, 2021. The Order further requires the Secretary establish standards, consistent with the public purpose of the Order to provide assistance to impacted Kentuckians, 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.

Section 1. Definitions.

(1) "Administrative Purposes" means expenditures that are not direct aid to Kentucky residents affected by the severe weather events of December 10 and 11, 2021, including but not limited to overhead expenses of a Qualified Nonprofit Organization.

(2) "Cabinet" means the Kentucky Public Protection Cabinet.

(3) "Fund" means the Team Western Kentucky Tornado Relief Fund, established by Executive Order 2021-925.

(4) "Qualified Nonprofit Organization" means a non-profit organization, entity, or institution, including but not limited to tax-exempt organizations under Internal Revenue Code Section 501(c)(3) or 501(c)(4) and religious organizations.

Section 2. Acceptance of Funds. Pursuant to KRS 12.270(2) and Executive Order 2021-925, the Cabinet may accept monies from any source, public or private, for deposit into the Fund.

Section 3. General Eligibility Requirements. Notwithstanding Sections 9 and 10 of this emergency administrative regulation, to be eligible to receive a financial award from the Fund, an applicant shall:

(1) Be a Qualified Nonprofit Organization;

(2) Submit a complete application for a financial award to the Cabinet via an online portal available at https://teamwkyrelieffundapp.ky.gov/ that includes the proper name of the organization, the current status of the organization, the charitable purpose or purposes of the organization, the geographic area the organization intends to serve with any awarded funds, and a description of the proposed project and how any financial award will be used;

(3) Include a description in the application explaining how those who are or will be impacted by the severe weather events of December 10 and 11, 2021 will be positively impacted should a financial award be provided to the applicant.

Section 4. Financial Assistance. (1) An applicant meeting the requirements of Section 3 of this emergency administrative regulation may receive a financial award which shall be paid directly to the applicant in the sole discretion of the Cabinet or its designee.

(2) Awards may be made in any amount; however, no financial awards made from the Fund shall be expended on Administrative Purposes.

(3) All funds received shall be used to serve Kentucky residents affected by the severe weather events of December 10 and 11, 2021, by assisting with the provision of food, clothing,

shelter, utilities, medical expenses, household needs, or other necessities of life. Funds can also be used to provide long-term financial or other assistance and rebuilding to those impacted by the severe weather events of December 10 and 11, 2021.

Section 5. Documentation of Expenditures. A Qualified Nonprofit Organization that receives a financial award from the Fund shall document expenditures of all awarded monies. The documentation must be retained for at least two years following the distribution of all funds and shall be subject to inspection during that time by the Cabinet or its designee.

Section 6. Incomplete Applications. An incomplete application shall be denied. However, an applicant shall be permitted to submit an updated application if the applicant's prior application was denied solely on the basis of being incomplete.

Section 7. Administrative Fees. Administrative fees shall not 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, with the exception of processing fees imposed by merchant banks or credit card companies.

Section 8. 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 or the Cabinet shall be considered a public record subject to the Kentucky Open Records Act. Accordingly, the Commonwealth and the Cabinet shall retain all documents described for a period of not less than two (2) years from the last distribution from the Fund.

Section 9. Direct Payment for Funeral Expenses. Notwithstanding Sections 3 through 6 of this regulation, the person who is responsible, or would be responsible absent donations, for the payment of funeral expenses for an individual whose death was related to the severe weather events of December 10 and 11, 2021, may receive direct financial assistance from the Fund in an amount not to exceed $10,000 for the purpose of assisting in the payment of those funeral expenses or other expenses associated with the person's death. The Public Protection Cabinet or its designee shall coordinate such direct payments and shall obtain all necessary information from the Kentucky Office of Vital Statistics, coroners, or other appropriate entities to verify eligibility for any direct payment under this paragraph.

Section 10. Other Acceptable Uses of Fund Monies. Subject to the availability of funds, the Cabinet, in its sole discretion, may elect to allocate funds, including but not limited to excess funds, to Qualified Nonprofit Organizations located within the Commonwealth of Kentucky that provide for the health and welfare of Kentuckians or may directly distribute funds to Kentucky residents affected by the severe weather events of December 10 and 11, 2021.

Section 11. No Entitlement. All awards shall be subject to the availability of funds, and all awards made from the Fund shall be purely a matter of grace and not subject to any appeal.

Section 12. No Intent to Create Individual or Organizational Interests. The establishment of the Fund is not intended to create and shall 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.

Section 13. Expiration. This emergency administrative regulation shall not be replaced by a regular administrative regulation and shall expire at the latest date permitted by law.

RAY A. PERRY, Secretary

APPROVED BY AGENCY: December 17, 2021

FILED WITH LRC: December 17, 2021 at 4:17 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 9:00 a.m. EST on February 22, 2022 at 500 Mero Street, Room 127CW, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. 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 p.m. on February 28, 2022. 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: Benjamin Long, General Counsel, 500 Mero Street, 218 NC, Frankfort, Kentucky 40601, phone (502) 782-2736, fax (502) 546-3639, email Benjamin.Long@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Benjamin Long, General Counsel

(1) Provide a brief summary of:

(a) What this administrative regulation does: This emergency administrative regulation establishes procedures, consistent with the public purpose of Executive Order 2021-925, regarding expenditure of monies from the Team Western Kentucky Tornado Relief Fund to qualified nonprofit organizations and Kentucky residents affected by the severe weather events of December 10 and 11, 2021, and to pay for funeral expenses for individuals whose deaths were related to the severe weather events of December 10 and 11, 2021.

(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 KRS 11.065, KRS 12.270(2), and Executive Order 2021-925 to establish and administer Team Western Kentucky Tornado Relief Fund.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 11.065 makes the Secretary of the Public Protection Cabinet a member of the Governor's Executive Cabinet and requires that the Secretary shall, among other things, perform duties the Governor may require. 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. Executive Order 2021-925 requires the Secretary to establish standards regarding acceptance and expenditure of, including establishing eligibility criteria and a process for receiving, adjudicating, and paying requests for financial assistance from the Fund. 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 procedures for distribution of monies from the Team Western Kentucky Tornado Relief Fund to qualified nonprofit organizations and Kentucky residents affected by the severe weather events of December 10 and 11, 2021, and to pay for funeral expenses for individuals whose deaths were related to the severe weather events of December 10 and 11, 2021, including establishing eligibility criteria and a process for receiving, adjudicating, and paying requests as required by KRS 12.270(2) and Executive Order 2021-925.

(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 Western Kentucky Tornado Relief Fund, including qualified nonprofit organizations who may be provided distributions from the fund. Kentucky residents affected by the severe weather events of December 10 and 11, 2021, and individuals who are responsible, or would be responsible absent donations, for the payment of funeral expenses for individuals whose deaths were related to the severe weather events of December 10 and 11, 2021, may receive direct financial assistance from the 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 have to receive, adjudicate, or pay requests for assistance from the Team Western Kentucky Tornado Relief Fund. Applicant qualified nonprofit organizations 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 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 Western Kentucky Tornado Relief Fund.

(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 applicant qualified nonprofit organizations through the Team Western Kentucky Tornado Relief Fund. Monies from the Fund may also be distributed directly to Kentucky residents affected by the severe weather events of December 10 and 11, 2021. This emergency administrative regulation further provides that a person responsible for the payment of funeral expenses for an individual whose death was related to the severe weather events of December 10 and 11, 2021, may receive direct financial assistance from the Fund in an amount not to exceed $10,000 for the purpose of assisting in the payment of those funeral expenses.

(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 organizations or individuals or for funeral expenses will come from the Team Western Kentucky Tornado Relief 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 no qualified nonprofit organizations 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 11.065, KRS 12.270(2), Executive Order 2021-923, Executive Order 2021-925, and KRS 39A.180.

(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 1:360E**

This emergency administrative regulation is necessary in order to immediately increase the per diem rates that Qualified Residential Treatment Programs (QRTPs) receive for the care of children placed in this setting. The Family First Prevention Services Act (FFPSA) placed new requirements on QRTPs that ensure that children are assessed regarding treatment needs and stay in residential or institutional placement settings for only as long as required by their treatment. The FFPSA also placed many additional requirements on these providers that will decrease the maltreatment that children experience and prevent re-entry into the cabinet's custody. The increased requirements come at a great cost to these providers. General funds that were appropriated to the Department for Community Based Services for the purpose of providing child welfare prevention services in fiscal year 2021-2022 will be utilized to provide this rate increase. This amendment is deemed to be an emergency pursuant to KRS 13A.190(1)(a)1. and 2., as providing this trauma-informed, extensive care for children in

a residential setting is critical to preventing a threat to public safety and welfare and this emergency amendment is necessary in order to utilize the general fund appropriation that was provided specifically for child welfare prevention services this fiscal year. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is not identical to this emergency administrative regulation.

ANDY BESHEAR, Governor
ERIC C. FRIEDLANDER, Secretary

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

**922 KAR 1:360E. Private child care placement, levels of care, and payment.**

EFFECTIVE: December 28, 2021
RELATES TO: KRS 199.011, 199.640-199.680, 199.801, 600.020(25), 605.090(1)(b), (d), 610.110, 42 U.S.C. 622, 672
STATUTORY AUTHORITY: KRS 194A.050(1), 199.641(4), 605.090(1)(d), 605.150(1)
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. KRS 199.641(4) and 605.090(1)(d) authorize the cabinet to establish by administrative regulation the rate setting methodology and the rate of payment for child-caring facilities and child-placing agencies, consistent with the level and quality of service provided. KRS 605.090(1)(d) authorizes the cabinet to promulgate administrative regulations establishing conditions under which the cabinet may place a child committed to the Department of Juvenile Justice or the cabinet, in a child-caring facility or a child-placing agency operated by a local governmental unit or private organization willing to receive the child, upon the conditions established by the cabinet. KRS 605.150(1) authorizes the cabinet to promulgate administrative regulations to implement the provisions of KRS Chapter 605. This administrative regulation establishes: (a) five (5) levels of care based upon the needs of a child for whom the cabinet has legal responsibility; (b) a payment rate for each level; (c) gatekeeper responsibilities; (d) provider requirements; (e) procedures for classification at the appropriate level of care; and (f) procedures for determination of components of the model program cost analysis.

Section 1. Definitions.
(1) "Cabinet" is defined by KRS 199.011(3).
(2) "Child-caring facility" or "facility" is defined by KRS 199.011(5).
(3) "Child-placing agency" or "agency" is defined by KRS 199.011(6).
(4) "Department" is defined by KRS 199.011(7) and 199.641(1)(b).
(5) "Emergency shelter" is defined by KRS 600.020(25).
(6) "Gatekeeper" means the department or agent responsible for:
(a) Making a clinical determination of the level of care necessary to meet a child's treatment and service needs; and
(b) Other administrative duties in the areas of:
1. Assessment;
2. Placement;
3. Performance measurement; and
4. Consultation regarding children and their needs.
(7) "Index factor" means a specific number derived from time-study data, used to determine payment for each level of care.
(8) "Initial level of care" means a level of care:
(a) Assigned by the gatekeeper to a child at the point of entry into the level of care system; and
(b) That is time-limited and effective for the first six (6) months of a child's placement.
(9) "Level of care" means one (1) of five (5) standards representing the treatment and service needs of a child placed by the cabinet in out-of-home care.
(10) "Level of care packet" means an assessment conducted by designated cabinet staff and a collection of forms required for submission to the gatekeeper for the purpose of determining the appropriate level of care in accordance with Section 2(2) of this administrative regulation.
(11) "Model program cost analysis" is defined by KRS 199.641(1)(c).
(12) "Placement coordinator" means an individual whose responsibilities are established in KRS 199.801.
(13) "Reassigned level of care" means a level of care that is:
(a) Determined by the gatekeeper after a child's level of care expires; and
(b) Authorized for a specific period of time.
(14) "Time study" is defined by KRS 199.641(1)(d).
(15) "Utilization review" means a gatekeeper's examination, during a child's placement in a child-caring facility or child-placing agency, of the child's case record and existing documentation for the purpose of:
(a) Identifying the child's current level of functioning; and
(b) Assigning the appropriate level of care.

Section 2. Referral Process for Level of Care System Placement. (1) A level of care packet shall be completed by a cabinet staff person and submitted to the gatekeeper for a child at least forty-eight (48) months of age or a child who is medically complex regardless of age at the time:
(a) The child enters the level of care system;
(b) A child currently placed in a child-caring facility or a child-placing agency reaches forty-eight (48) months of age or is found to be medically complex; or
(c) A child's level of care expires and assignment of a new level is necessary.
(2) A level of care packet shall include the DPP-886, Private Child Care Client Inter-agency Referral Form, and the following child-specific information:
(a) Identifying data;
(b) Individual strengths and limitations;
(c) Daily living skills;
(d) Physical health needs, including documentation indicating the child's medically complex status if the child is medically complex;
(e) Mental health needs including:
1. Behavioral health; and
2. Diagnosis and treatment;
(f) Medications;
(g) History of substance abuse, high risk, or other significant behavior including:
1. Sexual acting out; and
2. Legal history, status, or delinquency behavior patterns;
(h) Out-of-home care placement information including:
1. Reason for entering out-of-home care;
2. History of abuse, neglect, or dependency;
3. Current custody status;
4. Current and previous placements; and
5. Permanency goal;
(i) Social supports;
(j) Educational functioning, grade level, and any special educational need;
(k) Religious background and practices; and
(l) If a child has an IQ of seventy (70) or above:
1. Child Behavior Checklist For Ages 1 1/2-5 (Achenbach);
2. Child Behavior Checklist For Ages 6-18 (Achenbach); or
3. Another tool pursuant to the Promoting Wellbeing and Adoption after Trauma Grant in accordance with 42 U.S.C. 622(b)(15).
(3)(a) If a child needs placement within the level of care system, a cabinet staff person shall submit a copy of the completed level of care packet, including level assignment, to the placement coordinator.
(b) The placement coordinator shall forward the level of care packet to potential child-caring facilities or child-placing agencies.

(4) If a child-caring facility or child-placing agency accepts a child for out-of-home placement and the cabinet approves the placement in accordance with KRS 199.801 and 922 KAR 1:370, a cabinet staff person shall:

(a) Complete the DPP-114, Private Child Caring and Child Placing Level of Care Schedule, with the level of care payment rate:

1. As assigned by the gatekeeper within the previous six (6) months; or

2. If there is an emergency placement, within two (2) business days of the placement or receipt of the assigned level of care;

(b) Arrange transportation for the child to the placement; and

(c) Notify the placement coordinator of the selected placement.

(5) If a child-caring facility or child-placing agency accepts an emergency placement requested by the cabinet outside of the gatekeeper's regular working hours, a cabinet staff person shall:

(a) Submit a level of care packet to the gatekeeper for a child who does not have a current level of care assignment; and

(b) Inform the placement coordinator of the location and date of placement.

(6) The placement coordinator shall notify a child-caring facility or child-placing agency that was not chosen for placement upon provision of notification in accordance with subsection (4)(c) of this section.

Section 3. Gatekeeper Responsibilities. The gatekeeper shall:

(1) Evaluate a child forty-eight (48) months of age or older or any child designated as medically complex:

(a) Who is referred by the department or currently placed in a child-caring facility or child-placing agency; and

(b) For an initial or reassigned level of care;

(2) Within three (3) working days of receipt of the level of care packet:

(a) Determine the appropriate level of care according to a needs assessment consistent with one (1) of the five (5) levels of care; and

(b) Return the completed:

1. DPP-886, Private Child Care Client Inter-agency Referral Form, to the department; or

2. CRP-6, Children's Review Program Notice of Level of Care Payment Authorization Reassignment, to the department and the child-caring facility or the child-placing agency;

(3) Conduct a utilization review for a child:

(a) Six (6) months from the initial placement or reassignment and placement in a child-caring facility and child-placing agency; and

(b)1. Every three (3) months thereafter if the child is in a private child care residential placement; or

2. Every six (6) months thereafter if the child is in a foster care placement or therapeutic foster care;

(4) Reassign a child's level of care after the previous level has expired;

(5) Monitor each child-caring facility and child-placing agency;

(6) Maintain a confidential information system for each child served that shall include:

(a) Placement history;

(b) Level of care assignments;

(c) Length of treatment; and

(d) Discharge outcomes; and

(7) For a utilization review, return the completed CRP-2, Children's Review Program Notice of Level of Care Payment Authorization, to the private child-caring facility or private child-placing agency and the cabinet after a level is conducted or reassigned.

Section 4. Levels of Care. A level of care shall be assigned in accordance with this section. (1) A Level I child shall be a child who requires a routine home environment that:

(a) Provides maintenance;

(b) Provides guidance;

(c) Provides supervision to meet the needs of the child; and

(d) Ensures the emotional and physical well-being of the child.

(2) A Level II child shall be a child who:

(a) May engage in nonviolent antisocial acts, but be capable of meaningful interpersonal relationships; and

(b) Requires supervision in a structured supportive setting with:

1. Counseling available from professional or paraprofessional staff;

2. Educational support; and

3. Services designed to improve development of normalized social skills.

(3) A Level III child shall be a child who:

(a) May engage in an occasional violent act;

(b) May have superficial or fragile interpersonal relationships;

(c) Requires supervision in a structured, supportive environment where the level of supervision and support may vary from low to moderate, proportional to the child's ability to handle reduced structure;

(d) May occasionally require intense levels of intervention to maintain the least restrictive environment; and

(e) Requires a program flexible enough to allow:

1. Extended trials of independence if the child is capable;

2. A period of corrective and protective structure during relapse; and

3. Counseling available from professional or paraprofessional staff.

(4) A Level IV child shall be a child who:

(a) Has behavioral and physical, mental, or social needs that may present a moderate risk of causing harm to himself or others; and

(b) Requires a structured supportive setting with:

1. Therapeutic counseling available by professional staff; and

2. A physical, environmental, and treatment program designed to improve social, emotional, and educational adaptive behavior.

(5) A Level V child shall be a child who:

(a) Has a severe impairment, disability, or need;

(b) Is consistently unable or unwilling to cooperate in his own care;

(c) Presents a severe risk of causing harm to himself or others; and

(d) Requires Level IV services and a:

1. Highly structured program with twenty-four (24) hour supervision; or

2. Specialized setting that provides safe and effective care for a severe, chronic medical condition, behavioral disorder, or emotional disturbance.

Section 5. Payment Methodology and Rates.

(1) Payment Methodology.

(a) The cabinet shall base a per diem rate for the care of a child placed by the cabinet in a private child-caring facility, upon the "model program cost analysis" defined by KRS 199.641(1)(c).

(b) Each private child caring facility and child-placing agency shall report to the cabinet annually, on the DPP-888, Kentucky Cabinet for Health and Family Services Annual Audited Cost Report and Time Study and Instructions for Completing the Annual Cost Report and Time Study for Child Caring and Child Placing Programs and Facilities.

(2) The cabinet shall establish an index factor for payment on behalf of a child for whom a level of care has been determined.

(a) The factor shall be determined:

1. Based on the amount of treatment provided at each level of care; and

2. By determining the median of:

a. Number of daily treatment hours, derived from time study data, provided to children served by private child-caring facilities and child-placing agencies; and

b. Level of care of children served by private child-caring facilities and child-placing agencies that contract with the cabinet.

(b)1. For children whose level is determined, the median level of care shall be represented by an index factor of one (1).

2. For children whose level is not determined, the median level of care shall be represented by an index factor that is proportionate to the amount of treatment provided to the children in the median level pursuant to subparagraph 1 of this paragraph.

(3) A statewide median cost, including board, care, and treatment components, for each level of care shall be calculated by using a utilization factor of ninety (90) percent for residential treatment and seventy-five (75) percent for a group home.

(4) The payment rate for each level of care shall be calculated by multiplying the median cost by the index factor specific to that level of care. The rate for each level of care shall be adjusted by the Consumer Price Index during each intervening period between the fiscal year used for the cost analysis and calculation of the rate.

(5) Statewide median cost shall be calculated:

(a) Using a utilization factor of eighty (80) percent:

1. For an emergency shelter with a treatment license:

a. Board;

b. Care; and

c. Treatment components; or

2. For an emergency shelter without a treatment license:

a. Board; and

b. Care components; and

(b) Adjusting for each level of care by the Consumer Price Index during each intervening period between the fiscal year used for the cost analysis and calculation of the rate.

(6)(a) To the extent funds are available, an incentive payment for a private child-caring facility that participates in a per diem rate contract with the cabinet shall be determined by evaluating the performance of the child-caring facility, in accordance with KRS 199.641(2)(a). Measurable performance outcomes shall include:

1. Child safety while in the care of a private child-caring facility or child-placing agency;

2. Child safety after reunification with the child's family;

3. Adequate educational support;

4. Reduced time spent in out-of-home care without an increase in the rate of out-of-home care reentry;

5. Increased placement stability during the service period;

6. Increased achievement of permanency goals; and

7. Increased stability in permanency placement following planned discharge.

(b) The cabinet's contract with a private child-caring facility shall specify the:

1. Indicators used to measure the performance outcomes established in paragraph (a) of this subsection; and

2. Target percentages used as performance goals.

(c) Each child in the custody of the cabinet who is placed in a private child-caring facility during the contract period shall be included in the percentage of children for whom the cabinet expects achievement of an outcome.

(d) At the time the contract period expires, each private child-caring facility shall be ranked based on the percentage of children for whom the facility achieved an outcome. To the extent funds are available, a payment incentive shall be distributed to a private child-caring facility that performed in the top one-third (1/3) of the facilities.

(e) The amount of a payment incentive shall be determined according to the funding appropriated for this purpose in the biennial budget.

(7) In addition to services provided on a per diem rate, the cabinet shall solicit proposals from private child-caring facilities or child-placing agencies to provide alternative services to children and their families. To the extent funds are available, the alternative services:

(a) Shall be geared toward improved performance outcomes; and

(b) May include case management responsibilities shared between the cabinet and the child-caring facility or child-placing agency.

(8) Payment to child-caring facilities or child-placing agencies that provide alternative services according to subsection (7) of this section shall be based upon expectations agreed upon between the cabinet and the child-caring facility or child-placing agency such as:

(a) Reduced length of stay in out-of-home placement;

(b) Increased safety from child abuse or neglect;

(c) Increased number of children moving into and remaining in permanent placement;

(d) Increased number of children and their families cared for in close proximity to their home communities;

(e) Increased number of children reunified with their families;

(f) Increased accountability for success in after care; or

(g) Decreased reentry into state custody.

Section 6. Residential Care.

(1) A child-caring facility that cares for children in the custody of the cabinet [~~in the levels of care system~~] shall be licensed pursuant to [~~under~~] 922 KAR 1:305 and shall meet the standards for child-caring facilities established in 922 KAR 1:300.

(2) The facility shall comply with 922 KAR 1:300[~~1:390~~], Section 8[4], Residential Treatment Program, if providing treatment-[-]oriented services.

(3) The daily rate for residential care to a child-caring facility determined by designated cabinet staff to not meet the requirements of a specified setting for placement in accordance with 42 U.S.C. 672(k)(2) shall be:

(a) Level I - $51.19;

(b) Level II - $61.52;

(c) Level III - $109.71;

(d) Level IV - [~~:~~

~~1. $183.00; or~~

~~2.~~] $193.50[~~ on or after August 1, 2018~~]; and

(e) Level V - [~~:~~

~~1. $236.60; or~~

~~2.~~] $256.70[~~ on or after August 1, 2018~~].

(4) The daily rate for residential care to a child-caring facility determined by designated cabinet staff to meet the requirements of a specified setting for placement in accordance with 42 U.S.C. 672(k)(2) shall be $298.50 per child.

Section 7. Emergency Shelter Care. (1) An emergency shelter child-caring facility shall meet the requirements of 922 KAR 1:380. The rate for emergency shelter care shall be:

(a) For a child-caring facility with a treatment license:

1. $115.31 per day; or

2. $126.80 per day on or after August 1, 2018; or

(b) For a child-caring facility without a treatment license:

1. $101.41 per day; or

2. $111.60 per day on or after August 1, 2018.

(2) If a child with an assigned level of care enters an emergency shelter child-caring facility with a treatment license, the emergency shelter child-caring facility shall:

(a) Receive a rate consistent with the child's assigned level of care pending results of the next-scheduled utilization review;

(b) If the child is Level II or lower, receive a rate not less than the rate for emergency shelter care in accordance with subsection (1) of this section per day; and

(c) Adhere to the child's individual treatment plan.

(3)(a) If the department determines that a child without an assigned level of care shall remain in an emergency shelter child-caring facility longer than thirty (30) days, the department shall make a referral to the gatekeeper, by the 20th day of placement, for assignment to an appropriate level of care.

(b) If a child remains in an emergency shelter longer than thirty (30) days, the emergency shelter child-caring facility with a treatment license shall:

1. Receive the residential rate consistent with the assigned level of care for each day the child is in the facility beyond the 30th day;

2. If the child is Level II or lower, receive a rate not less than the rate for emergency shelter care in accordance with subsection (1) of this section per day; and

3. Adhere to the child's individual treatment plan.

Section 8. Foster Care and Therapeutic Foster Care for a Child-Placing Agency.

(1) The basic daily rate for foster care shall be $44.82.

(2) The daily rates for therapeutic foster care shall be as follows:

(a) Levels I and II, if the child is stepped down from Level III or higher - $76.10;

(b) Level III - $83.16;

(c) Level IV - $101.23; and

(d) Level V - $139.96.

Section 9. Pregnant and Parenting Teen Programs. A child-caring facility with a pregnant and parenting teen program shall receive:

(1) A rate consistent with the assigned level of care for the adolescent parent; and

(2) Inclusive of child care cost, the amount established in Section 8(1) of this administrative regulation for the committed child of an adolescent parent who is committed to the cabinet.

Section 10. Provider Requirements.

(1) A child-caring facility or child-placing agency shall:

(a) Inform the department of the levels of care the facility or agency has the ability to serve;

(b) Demonstrate its ability to provide services, either directly or by contract, appropriate to the assigned level for each child, including:

1. Room, board, and other activity contributing to housing, food, clothing, school supplies, or personal incidentals;

2. Clinical services including:

a. The evaluation and treatment of an emotional disorder, mental illness, or substance abuse problem; and

b. Identification and alleviation of related disability or distress, experienced by a child who follows a specific individual treatment plan targeted to identify a problem; and

3. Support services that:

a. Identify necessary resources and coordinate services provided by a range of agencies or professionals;

b. Allow a child to cope with the disability or distress;

c. Provide access to improving the educational or vocational status of the child; and

d. Provide essential elements of daily living;

(c) Submit the following reports to the gatekeeper in time for the reports to be received by the gatekeeper within thirty (30) days prior to the utilization review due date:

1. For a child who has an IQ seventy (70) or above, a behavior inventory appropriate to the child's developmental level consisting of completed forms established in Section 2(2)(l) of this administrative regulation; and

2. For a child who has an IQ below seventy (70), a behavioral inventory appropriate to the child's development level:

a. Consisting of:

(i) A completed Reiss Scales for Children's Dual Diagnosis (Mental Retardation and Psychopathology); or

(ii) Another completed tool identified and piloted pursuant to the Promoting Wellbeing and Adoption after Trauma Grant in accordance with 42 U.S.C. 622(b)(15); and

b. By the first utilization review due date and every twelve (12) months thereafter; and

3. To the gatekeeper and designated cabinet staff, a copy of the CRP-7, Children's Review Program Application for Level of Care Payment (ALP):

a. On a quarterly basis, for a private child care residential placement; or

b. On a semiannual basis for a foster care placement;

(d) Provide outcomes data and information as requested by the gatekeeper; and

(e) Obtain accreditation within two (2) years of initial licensure or within two (2) years of acquiring an agreement with the cabinet, whichever is later, from a nationally-recognized accreditation organization, such as:

1. The Council on Accreditation; or

2. The Joint Commission on Accreditation for Healthcare Organizations.

(2) Emergency shelters without a treatment license shall be exempt from the accreditation requirements specified in subsection (1)(e) of this section.

Section 11. Utilization Review and Authorization of Payment.

(1) The child-caring facility or child-placing agency shall submit to the gatekeeper the reports established in Section 10(1)(c) of this administrative regulation for the utilization review in time for the reports to be received by the gatekeeper within thirty (30) days prior to the utilization review due date.

(2) If the child-caring facility or child-placing agency fails to submit the reports as established in Section 10(1)(c) of this administrative regulation in time for the reports to be received by the gatekeeper within thirty (30) days prior to the utilization review due date, the cabinet shall:

(a) Suspend payments until the necessary information has been submitted to the gatekeeper;

(b) If a child's level is reduced after untimely reports are received by the gatekeeper, make an adjustment for overpayment retroactive to the first utilization review due date that was missed; or

(c) If a child's level is increased as a result of delinquent reports, apply a higher rate beginning the day after the untimely reports are received by the gatekeeper.

(3) If the child-caring facility makes timely submission of the reports, and if the:

(a) Level of care remains unchanged, payments shall continue unchanged;

(b) Level of care is reduced, and the:

1. Child remains in the same placement, the lower level of care shall be effective on the 31st day following the utilization review due date; or

2. Child is placed in another child-caring facility or child-placing agency after the utilization review due date, the rate for the lower level shall be effective on the day the child is placed; or

(c) Level of care is increased, the rate for the higher level of care shall be effective the day after the utilization review due date.

(4) If a child-caring facility, child-placing agency, or the department determines it to be in the best interest of a child to be transitioned from a residential program to another program and the required reports established in Section 10(1)(c) of this administrative regulation have been submitted on time, and if:

(a) The program is not therapeutic foster care, the rate for the level resulting from the utilization review shall remain in effect until the next scheduled utilization review; or

(b) The new program is therapeutic foster care, the residential rate for the level resulting from the utilization review shall remain in effect for thirty (30) days after the change in placement. On the 31st day, the therapeutic foster care rate for the assigned level shall apply.

(5) If the child-caring facility, child-placing agency, or cabinet staff disagrees with the level of care assigned by the gatekeeper, the child-caring facility, child-placing agency, or cabinet staff may request a redetermination as established in Section 12 of this administrative regulation.

Section 12. Redetermination.

(1) If the child-caring facility, child-placing agency, or cabinet staff disagrees with the level of care assigned by the gatekeeper, the child-caring facility, child-placing agency, or cabinet staff may request a redetermination of the assigned level by providing to the gatekeeper:

(a) New information that supports the request for a new level; and

(b) Completion of the "request for redetermination" section of one (1) of the following forms:

1. DPP-886, Private Child Care Client Inter-agency Referral Form, for an initial or reassigned level;

2. CRP-2, Children's Review Program Notice of Level of Care Payment Authorization, for a utilization review;

3. CRP-4, Children's Review Program Notice of Level of Care Redetermination;

4. CRP-5, Children's Review Program DCBS Foster Care Utilization Review Notice of Level Assignment, for a utilization review; or

5. CRP-6, Children's Review Program Notice of Level of Care Payment Authorization Reassignment, for a reassignment.

(2) If the request for a redetermination is received by the gatekeeper within thirty (30) days after the most recent utilization review or admission, and if the gatekeeper assigns a higher level with a CRP-4, Children's Review Program Notice of Level of Care Redetermination, the increased payment shall be retroactive to the most recent of the following:

(a) The date of the most recent utilization review due date; or

(b) The date of admission.

(3) If the request for redetermination is received by the gatekeeper more than thirty (30) days after the most recent utilization review or admission, and if a:

(a) Higher level is assigned by the gatekeeper with a CRP-4, the increased payment shall be effective the day after the request is received by the gatekeeper; or

(b) Lower level is assigned by the gatekeeper with a CRP-4, the lower payment shall be effective thirty (30) days after the request is received by the gatekeeper.

(4) If the child-caring facility, child-placing agency, or cabinet staff does not agree with the redetermination as provided by the CRP-4, an appeal may be requested in accordance with Section 14 or 15 of this administrative regulation.

Section 13. Reassignment.

(1) If the level of care expires and the child is moved to a different child-caring facility or child-placing agency placement, a reassigned level of care shall be obtained by the:

(a) Department completing a level of care packet for a level assignment; or

(b) New child-caring facility or child-placing agency submitting the following within thirty (30) days of the placement:

1. A cover letter requesting a reassignment;

2. An assessment of the child;

3. Documentation to support the level of care assignment, such as the level of care packet or discharge summary; and

4. Material as established in Section 2(2)(l) of this administrative regulation.

(2) The reassigned level of care rate shall be effective on the date of admission to the new placement.

(3) If the child-caring facility or child-placing agency disagrees with the level of care assigned by the gatekeeper, the child-caring facility or child-placing agency may request a redetermination as established in Section 12 of this administrative regulation.

Section 14. Informal Dispute Resolution.

(1) A contract agent dissatisfied by a decision of the cabinet or a gatekeeper may seek informal resolution by filing a request with the secretary of the cabinet, or designee, within ten (10) days following notice of the decision.

(2) Upon receipt of a request for informal resolution, the cabinet shall:

(a) Review the request; and

(b) Render a written decision on the issue raised within thirty (30) calendar days unless an extension is granted by the secretary or designee:

1. Due to extenuating circumstances that prolong the review; and

2. With notice provided to the contract agent.

(3) If the dispute relates to a decrease or denial of payment, the contract agent may request an administrative hearing in accordance with Section 15 of this administrative regulation.

Section 15. Administrative Hearing Process. A child-caring facility or child-placing agency may request an administrative hearing in accordance with 922 KAR 1:320.

Section 16. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Child Behavior Checklist for Ages 1 1/2 - 5 (Achenbach)", 7/00;

(b) "Child Behavior Checklist for Ages 6-18 (Achenbach)", 6/01;

(c) "CRP-2, Children's Review Program Notice of Level of Care Payment Authorization", 10/18;

(d) "CRP-4, Children's Review Program Notice of Level of Care Redetermination", 11/14;

(e) "CRP-5, Children's Review Program DCBS Foster Care Utilization Review Notice of Level Assignment", 10/18;

(f) "CRP-6, Children's Review Program Notice of Level of Care Payment Authorization Reassignment", 10/18;

(g) "CRP-7, Children's Review Program Application for Level of Care Payment (ALP)", 11/14;

(h) "DPP-114, Private Child Caring and Child Placing Level of Care Schedule", 8/18;

(i) "DPP-886, Private Child Care Client Inter-agency Referral Form", 10/18;

(j) "DPP-888, Kentucky Cabinet for Health and Family Services Annual Audited Cost Report and Time Study and Instructions for Completing the Annual Cost Report and Time Study for Child Caring and Child Placing Programs and Facilities", 10/18; and

(k) "Reiss Scales for Children's Dual Diagnosis (Mental Retardation and Psychopathology)", 1990.

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

MARTA MIRANDA-STRAUB, Commissioner
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: December 21, 2021

FILED WITH LRC: December 28, 2021 at 10:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on February 21, 2022, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by February 14, 2022, 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 virtually 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 February 28, 2022. 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: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Laura Begin or Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes levels of care based upon the needs of a child for whom the Cabinet for Health and Family Services has legal responsibility, a payment rate for each level, gatekeeper responsibilities, provider requirements, procedures for classification at the appropriate level of care, and procedures for determination of components of the model program costs analysis.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the policy and procedures for placement of a child in the custody of the cabinet with a child-placing agency or child-caring facility, levels of care and related payments, responsibilities and requirements of the gatekeeper and private providers, and rate setting methodology.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing the levels of care and associated payments for a child's placement at a child-caring facility or child-placing agency.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists with the effective administration of the statutes through its incorporation of the methodology regarding the placement of a child in the custody of the cabinet with a child-caring facility or child-placing agency, procedures concerning the model program cost analysis, provider and gatekeeper requirements, levels of care, and payment rate for each level of care.

(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 emergency administrative regulation is necessary in order to immediately increase the per diem rates that Qualified Residential Treatment Programs (QRTPs) receive for the care of children placed in this setting. The Family First Prevention Services Act (FFPSA) placed new requirements on QRTPs that ensure that children are assessed regarding treatment needs and stay in residential or institutional placement settings for only as long as required by their treatment. The FFPSA required these providers to utilize a trauma-informed treatment model designed to address the treatment needs of youth identified through the assessment and to facilitate the participation of the youth's family in the treatment process. QRTP providers participate in discharge planning and six months of aftercare supports to the youth and family to decrease future maltreatment or re-entry into the cabinet's custody. The increased requirements come at a great cost to these providers. General funds that were appropriated to the Department for Community Based Services for the purpose of providing child welfare prevention services in fiscal year 2021-2022 will be utilized to provide this rate increase.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to adjust reimbursement for the care of children placed in residential child-caring facilities to ensure children are placed in the most appropriate placement based upon their needs. The rate increase is anticipated to assist with provider capacity, thereby better assuring placement options and quality care for children in state custody. The Children's Alliance has stressed the urgent need to increase rates so that providers can maintain the staff needed to meet staff to client ratios and keep the children in their care safe. Many provider rates will be increased in the summer of 2022, but the cabinet understands that an increase must be provided to QRTPs immediately to provide adequate reimbursement for the care, services, and treatment provided to children in the state's custody and to ensure these facilities are able to recruit and retain the necessary staff.

(c) How the amendment conforms to the content of the authorizing statutes: Among other requirements, this amendment conforms to KRS 199.641(4) and 605.090(1)(d) by establishing the rate setting methodology and the rate of payment for child-caring facilities and child-placing agencies, consistent with the level and quality of service provided in administrative regulation

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes by ensuring federal and state standards are met and children are provided with care and treatment that meets their needs.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: In SFY 2021, 6,430 unique children were placed in a setting according to their level established in this administrative regulation. The department anticipates approximately forty (40) QRTPs will be affected by this per diem increase.

(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 children affected by this administrative regulation will have no new action required. Federal law has increased the standards that must be met for some of the entities providing care pursuant to this administrative regulation; therefore, they will be receiving increased per diems for providing care and meeting these new standards.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The cabinet utilized the Annual Audited Cost Report and Time Study to determine rates for providers based on allowable costs. This rate methodology provides for treatments as close as possible to the child's home geographic area and ensures continuity with families, schools, and communities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Many affected entities will receive a per diem rate increase through this amendment. This rate increase is designed to offset the cost of meeting the higher standards required by recent federal legislation.

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

(a) Initially: The cabinet projects the specific rate increase contained herein to cost $6.5 Million in General Funds appropriated for child welfare prevention services.

(b) On a continuing basis: The cabinet projects the per diem increases are within appropriations; however, the administrative body will continually monitor its costs to make any adjustments necessary to maintain a comprehensive service array within available funding.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The sources of funding include federal Title IV-E (of the Social Security Act) foster care maintenance, general funds, and agency and restricted funds derived from the Temporary Assistance for Needy Family (TANF) block grant and Medicaid. General Funds that were appropriated to the Department for Community Based Services for the specific purpose of providing child welfare prevention services in fiscal year 2021-2022 will be utilized to provide part of this rate increase.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? This administrative regulation does include tiering as different per diem rates and standards are associated with specific levels of care provided to children in the state's custody.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 42 U.S.C. 622, 672

(2) State compliance standards. KRS 194A.050(1), 199.641(4), 605.090(1)(d), 605.090(1)(d), 605.150(1)

(3) Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 622, 672

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation does not impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate. This amendment and the increase in per diem rates associated with levels of care are necessary in order to meet the higher standards required by the Family First Prevention Services Act.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation does not impose a stricter standard, or additional or different responsibilities or 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 Cabinet for Health and Family Services, specifically the Department for Community Based Services (DCBS), is impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1), 199.641(4), 605.090(1)(d), 605.150(1), 42 U.S.C. 622, 672

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency

(including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will generate no new revenues.

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

(c) How much will it cost to administer this program for the first year? The administrative body has conducted extensive analysis of its budgetary context and service demands to ensure the per diem increases are sustainable within appropriations.

(d) How much will it cost to administer this program for subsequent years? The administrative body projects the per diem increases are within appropriations; however, the administrative body will continually monitor its costs to make any adjustments necessary to maintain a comprehensive service array within available funding.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation

1

## AMENDED IN-PROCESS EMERGENCY ADMINISTRATIVE REGULATIONS

NOTE: Pursuant to KRS 13A.190, emergency regulations expire after 270 days (or 270 days plus the number of days an accompanying ordinary is extended) or upon replacement by an ordinary regulation, whichever occurs first. This index reflects the KRS Chapter 13A-established expiration dates; however, expiration dates may be impacted by 2021 legislation including: Regular Session legislation: House Joint Resolution 77; KRS Chapter 39A, as amended by Senate Bill 1; and by KRS Chapters 13A and 214, as amended by Senate Bill 2; or Special Session legislation: House Joint Resolution 1; or KRS Chapter 13A as amended by Senate Bill 1 and Senate Bill 2.

**BOARDS AND COMMISSIONS**
**Board of Cosmetology**
**(Emergency As Amended at ARRS, January 10, 2022)**

**201 KAR 12:082E. Education requirements and school administration.**

**EFFECTIVE:** January 10, 2022
**Previous versions -**
**Emergency Amendment:** 48 Ky.R. 1468
**Emergency Amended After Comments:** 48 Ky.R. 2009
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; and[~~,~~]
(d) Application of Artificial Eyelashes.
(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 or program of instruction of any practice ***licensed or permitted[listed]*** in KRS Chapter 317A or 201 KAR Chapter 12 [~~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 eight (8)[~~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 or programs of instruction of any practice ***licensed or permitted[listed]*** in KRS Chapter 317A or 201 KAR Chapter 12 [~~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 of any practice ***licensed or permitted[~~listed~~]*** in KRS Chapter 317A or 201 KAR Chapter 12 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 [~~Message~~];
(d) Facial Machines;
(e) Hair Removal;
(f) Advanced Topics and Treatments; [~~and~~]
(g) Application of Artificial Eyelashes; and
(h)[~~(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 ***or[/]*** pin curls;
(g) Thermal curling;
(h) Flat iron styling;
(i) Wig and Hair Additions; and
(j) Long hair styling.
(4) 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***[~~legible and~~] accurate daily attendance record ***used only for the verification and tracking of the required contact hours for education***[~~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; and***

***(b) All instructors shall comply with the biometric time keeping system.***

[~~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 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 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 or program 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 or programs of instruction in any practice ***licensed or permitted[~~listed~~]*** in KRS Chapter 317A or 201 KAR Chapter 12 [~~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 or programs of instruction in any practice ***licensed or permitted[~~listed~~]*** in KRS Chapter 317A or 201 KAR Chapter 12 [~~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 or program for instruction in any practice ***licensed or permitted[~~listed~~]*** in KRS Chapter 317A or 201 KAR Chapter 12 [~~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***[~~Hour~~] Transfer ***Request***[~~Request~~] form. Upon receiving a completed Program ***Hour***[~~Hour~~] Transfer ***Request***[~~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. Emergency Alternative Education. Digital theory content may be administered by a licensed school ***if[~~in the event of~~]*** forced long-term or intermittent emergency ***closure or closures are[~~closure(s)~~]*** due to a world health concern or crisis ***as cited by national or state authority[~~to be approved by the board~~]***. The board may determine when emergency alternative education shall begin and end ***based on the effect of the state of emergency on education standards and shall make determinations in compliance with state and national declarations of emergency***. The necessary compliance steps for implementation are:

(1) Full auditable attendance records shall be kept showing actual contact time spent by a student in the instruction module.

(2) Milady **or Pivot Point supported digital curriculum platforms [~~supported Mind Tap, Pivot Point supported LAB,~~]** or recorded video conference participation shall be used.

(3) Schools shall submit an outline to the board within ten (10) days prior to ***the*** occurrence ***of the alternative education*** defining the content scope to be taught or completed***,*** and a plan for a transition into a digital training environment. Plans may be submitted for approval by the board to be kept for future use ***if[~~in the event~~]*** emergency alternative education is allowable.

(4) Completion certificates showing final scoring on digital modules shall be maintained in student records.

(5) Schools and students shall comply with Section 4 of this ***administrative*** regulation on accessible hours.

(6) No student shall accrue more than the total required theory instruction hours outlined in the ***[~~above~~]*** instructional sections in emergency alternative education time ***as established in Sections 3(1)(a), 7(1)(a), 14(1)(a) and 16(1)(a) of this administrative regulation.***

(7) ***The*** board may determine eligibility for accruals based on duration of ***the*** crisis and applicable time limits for alternative emergency education availability.

Section 34. [~~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***[~~Hour~~] Transfer ***Request***[~~Request~~] Form", ***April 2020[~~January 2019~~]***[~~April 2020~~].

(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. This material is also available on the board's Web site at kbc.ky.gov.***[~~(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 M. Campbell, Board Administrator, 1049 US Hwy 127 S. Annex #2, Frankfort, Kentucky 40601, phone (502) 564-4262, email julie.campbell@ky.gov.

# 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, January 10, 2022)**

**16 KAR 1:030. Procedures for educator certificate surrender, revocation, suspension, reinstatement, and reissuance, and for application denial.**

RELATES TO: KRS Chapter 13B, 160.380, 161.010-161.100, 161.120, 218A.010[~~(6)~~]

STATUTORY AUTHORITY: KRS 161.028(1), 161.120(1), 161.175(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.028(1) authorizes the Education Professional Standards Board (EPSB) to establish standards and requirements for obtaining and maintaining an educator's certificate***;[~~, The EPSB is authorized to~~]*** revoke, suspend, or refuse to issue or renew ***a certificate***; impose probationary or supervisory conditions upon ***a certificate***; issue a written reprimand or admonishment; or any combination of those actions regarding any certificate issued to Kentucky certified educators for reasons delineated in KRS 161.120(1). KRS 161.175(2) authorizes the EPSB[~~Education Professional Standards Board~~] to promulgate administrative regulations requiring an educator whose certificate has been suspended or revoked by the EPSB[~~Education Professional Standards Board~~] because the educator engaged in misconduct involving the illegal use of controlled substances to submit to drug testing. This administrative regulation identifies the conditions for initiating a disciplinary action against an educator's certificate and establishes procedures for certificate reinstatement, reissuance, and application denial.

Section 1. Purpose. (1) In order to support the mission of the EPSB[~~Education Professional Standards Board (EPSB)~~], the EPSB[~~board~~] may take action against an educator's certificate in an effort:

(a) To ensure that an educator has an understanding of an educator's professional duties and responsibilities; and

(b) To protect students, parents of students, school personnel, or school officials.

(2) The EPSB[~~board~~] may take action against any certificate issued under KRS 161.010 to 161.100 for any of the reasons set forth in KRS 161.120(1).

Section 2. Complaints and Reports. (1) A complaint may be made by any person, organization, or entity. The complaint shall be in writing and shall be signed by the person offering the complaint. [~~The complaint shall be sent to the offices of the EPSB.~~] The complaint shall be sent to the EPSB and contain:

(a) The name, phone number, and address of the person making the complaint, and the name of the educator against whom the complaint is made. If known, the person making the complaint shall include the address of the school district where the educator works; and

(b) A clear and concise description of the issues of fact.

(2) A report shall be sent to the EPSB by superintendents of local school districts pursuant to KRS 161.120(2)(a).

(a) A superintendent's duty to report shall include the reporting of criminal convictions discovered by the district pursuant to KRS 160.380, even if the conviction occurred prior to the date the educator's certification was issued.

(b) The superintendent[~~or the superintendent's designee~~] shall have thirty (30) days from the date the[~~that~~] superintendent receives notice of the criminal conviction to report that criminal conviction to the EPSB pursuant to KRS 161.120(2)(a).

(c) Failure of the superintendent to provide the full facts and circumstances or to forward copies of all relevant documents and records in the superintendent's possession pursuant to 161.120(2)(b), may result in action against the superintendent's certificate pursuant to 161.120(1)(j).

(d) The superintendent shall supplement the report in writing within ***thirty (30)*** days of the superintendent receiving the additional information or supporting documentation.

(3) EPSB staff shall do an initial review of all complaints and reports to determine whether there is sufficient credible evidence that a violation of KRS 161.120(1) may have occurred. If the report or complaint contains sufficient credible evidence that a violation of KRS 161.120(1) may have occurred, EPSB staff shall open a file and assign that file a number.

(a) The EPSB staff shall send a copy of these complaints and reports by certified mail to the educator's address on file with EPSB.

(b) The educator shall have the right to file a rebuttal with the EPSB within thirty (30) calendar days from the date the educator receives the complaint or report from the EPSB unless the parties agree to extend that deadline.

(c) EPSB staff shall add the case to the EPSB's docket and prepare the file for EPSB[~~board~~] review by redacting all the educator's identifiers if one (1) of the following occurs:

1. The educator's rebuttal is received;
2. The notice is returned as undeliverable; or
3. The educator:

a. Fails to file a rebuttal with the EPSB; and

b. Has not requested to extend the thirty (30) day deadline.

(d) The EPSB[~~board~~] shall determine whether the nature and quality of the alleged violation warrants deferral, dismissal, training, admonishment, further investigation, or initiation of a hearing.

(e) In making its determination, the EPSB[~~board~~] shall consider if the allegation, if proven, would warrant sanction by the EPSB[~~board~~].

(f) When making a determination as to the level of sanctions warranted, the EPSB[~~board~~] shall consider the following factors:

1. The seriousness of the alleged violation;
2. Whether the alleged violation was premeditated or intentional;
3. Whether an attempt to conceal the alleged violation was made;
4. Whether there were any prior violations;
5. Whether training is appropriate to prevent further violations;
6. Whether the sanction is necessary to deter future violations; or
7. Other relevant circumstances or facts.

(4)(a) If the EPSB[~~board~~] determines that sanctions are warranted, the EPSB[~~board~~] shall refer the matter to hearing.

(b) If the EPSB[~~board~~] refers the matter to hearing, the EPSB[~~board~~] shall, by majority vote, approve the issuance of a notice of hearing and the statement of charges. The statement of charges shall include specific reasons for the EPSB's[~~board's~~] proposed action, including the:

1. Statutory or regulatory violation;
2. Factual basis on which the disciplinary action is based; and
3. Penalty sought.

(c) The parties may agree to resolve the matter informally at any time***, in accordance with KRS 161.120(8)***. Any agreement to resolve the matter shall be memorialized in an agreed order. To be valid, the agreement shall be approved by the EPSB[~~board~~]. The agreed order shall be signed by the educator, the educator's attorney, if any, and the EPSB[~~board~~] chair.

(d) The EPSB staff shall initiate the hearing process, in accordance with KRS Chapter 13B, within thirty (30) days after the EPSB[~~board~~] refers the matter to hearing.

Section 3. (1) The hearing shall be held in accordance with KRS Chapter 13B.

(2) Either party may be entitled to a reasonable continuance of

the hearing date for good cause.

(3) The educator has the right to request a private in-person hearing***, in accordance with KRS 161.120(5)(b)***.

(a) The educator shall waive the right to a private in-person hearing if the educator fails to specifically make a written[~~the~~] request for a private in-person hearing at least five (5) days prior to the hearing[~~in writing~~].

(b) Even if the educator elects to proceed with a private, in-person hearing, the hearing transcript for that hearing shall be subject to disclosure after the EPSB[~~board~~] issues its final order[~~decision~~] unless exempt from disclosure by law.

(c) All hearings shall be conducted in the office of the EPSB[~~Education Professional Standards Board, 100 Airport Road, Frankfort, Kentucky 40601~~] unless a new location is agreed upon by the parties.

(4) The hearing officer's recommended order shall include a discussion of the factors set forth in Section 2(3)(f) of this administrative regulation if recommending sanctions.

(5) A party may file any exceptions to the recommended order within fifteen (15) calendar days from the date the recommended order is mailed[~~after receiving the recommended order~~].

(a) This time limit shall not be extended, and responses to exceptions shall not be considered by the EPSB[~~board~~].

(b) Any disagreement with a factual finding or conclusion of law in the recommended order not contained in the exceptions shall be waived.

Section 4. Final Decision. (1) The EPSB may delegate to the EPSB chair the authority to sign a decision made or order issued under this section on behalf of a majority of the EPSB ~~board~~ members. [~~In making its final decision, the board shall consider the record including the recommended order and any exceptions filed.~~]

(2) After the EPSB[~~board~~] chair certifies that a quorum is present, a majority of the voting members present shall be required to make a final decision on the recommended order, agreed order, or request for the issuance of an order of default judgment.

(3) In making a final order in accordance with KRS 13B.120, the EPSB shall consider the record including the recommended order and any exceptions filed.[~~The board may delegate to the board chair the authority to sign a decision made or order issued under this section on behalf of a majority of the board members.~~ ]

Section 5. Procedure for Suspension, Surrender, or Revocation of a Certificate. (1) When the EPSB[~~board~~] issues a final decision [~~in accordance with KRS 13B.120~~], the EPSB staff shall mail a copy of the final decision to the educator by certified mail using the address the educator provided to the EPSB[~~Education Professional Standards Board~~], or any other means permitted by law.

(2) A record of EPSB[~~board~~] action shall become part of the educator's official records maintained by EPSB staff.

(3) Immediately following the issuance of the EPSB[~~board's~~] final decision, the EPSB staff shall notify the reporting parties of the action taken.

(4) EPSB staff shall also ensure that the suspension, surrender, or revocation is noted on EPSB's Web site.

(5) EPSB staff shall also ensure that the information is provided to the National Association of State Directors of Teacher Education and Certification (NASDTEC) for inclusion in the NASDTEC Clearinghouse***, which[~~. The clearinghouse~~]*** is a searchable database administered by NASDTEC relating to educator certification and discipline.

Section 6. Procedure for Reinstatement of a Suspended Certificate. (1) Reinstatement of a suspended certificate for reasons other than misconduct involving the illegal use of controlled substance as defined in KRS 218A.010***shall be subject to the following requirements:***[~~(6)~~]***[~~.~~]***

(a) A certificate that has been suspended by the EPSB shall not be reinstated until the certificate holder has met all conditions and requirements ordered by the EPSB.

(b) If a certificate lapses during a period of suspension, the certificate holder shall apply for renewal of the certificate at the end of the suspension period. The EPSB[~~board~~] shall renew the certification if the certificate holder has met all educational requirements for renewal and has completed all of the conditions and requirements ordered by the EPSB[~~board~~].

(c) The burden to initiate the process to reinstate a suspended certificate shall be on the certificate holder.

1. If the suspension does not include conditions, the EPSB staff shall remove all references of the suspension from the Web site at the conclusion of the suspension period.

2. If the suspension includes conditions, the certificate holder shall provide the EPSB proof that all conditions have been met.

a. The EPSB shall reinstate the certificate at the conclusion of the suspension period once the EPSB receives evidence from the certificate holder demonstrating that the conditions of suspension were met.

b. The EPSB shall remove from its Web site any reference to the suspension once the certificate holder has provided evidence that the conditions of suspension have been met.

(d) The record of suspension as well as reinstatement of the certification shall become part of the educator's official certification records, but the record of suspension shall not be referenced on any certificate subsequently issued to the certificate holder.

(2) Reinstatement of a suspended certificate for misconduct involving the illegal use of controlled substance as defined in KRS 218A.010***shall be subject to the following requirements:***[~~(6)~~]***[~~.~~]***

(a) In addition to conditions for reinstatement of a suspended certificate established in subsection (1) of this section, the certificate holder shall provide written evidence that the certificate holder has submitted to a drug test at the certificate holder's own expense administered by a drug testing facility approved by the EPSB[~~board~~] within thirty (30) days of reinstatement [~~or submission of an application for reissuance of the certificate~~].

(b) The certificate holder shall arrange for the drug testing facility to send the results of the drug test directly to the EPSB.

(c) A certificate holder subject to the terms of this subsection may petition the EPSB to approve a drug testing facility of the certificate holder's choice.

1. Petition to Approve Drug Testing Facility. The petition shall contain the following information:

a. The drug testing facility's name and location;

b. The name and telephone number for the director of the facility;

c. The method of test specimen collection;

d. The drug testing facility's method of assuring identity of the test subject;

e. Procedures for testing specimens, including forensic testing methods; and

f. Chain of custody protocols.

2. The drug testing facility shall test at a minimum for the following named controlled substances:

a. Marijuana;

b. Cocaine;

c. Opiates;

d. Amphetamines;

e. Phencyclidene;

f. Morphine;

g. MDMA (Ecstasy);

h. Methadone;

i. Benzodiazepines;

j. Barbiturates; and

k. Oxycodone.

(d) If the results of the drug test indicate illegal drug use by the certificate holder, the certificate shall not be reinstated [~~or reissued~~].

Section 7. Procedure for Reissuance of a Certificate after Revocation. (1) If revocation was for reasons other than misconduct involving the illegal use of controlled substance as defined in KRS 218A.010[~~(6)~~], the conditions established in this subsection shall apply.

(a) The former certificate holder shall complete the same application that all educators in Kentucky shall complete to obtain certification.

(b) The former certificate holder shall bear the burden of proving that the certificate holder is fit for practice.

(c) The former certificate holder shall satisfy all current educational requirements for the certificate sought.

(d) The EPSB[~~Education Professional Standards Board~~] may include terms and conditions that the EPSB[~~board~~] reasonably deems appropriate as a condition of reissuance in accordance with KRS 161.120(11)(b) if reissuing the certificate.

(2) If revocation was for misconduct involving the illegal use of controlled substance as defined in KRS 218A.010[~~(6)~~], the former certificate holder shall:

(a) Comply with the requirements established in Section 6(1) of this administrative regulation [~~for reissuance of certification after revocation for all other offenses~~]; and

(b) Submit to drug testing as established in Section 6(2) of this administrative regulation [~~for the suspension resulting from illegal use of controlled substances~~].

(3) Regardless of the reason for the revocation, the revocation shall be noted on the certificate that is issued and shall remain on the EPSB Web site.

Section 8. Denial of Application for a Certificate. If the EPSB[~~Education Professional Standards Board~~] denies an individual's application for a Kentucky certificate pursuant to this administrative regulation, the applicant may file an appeal in accordance with KRS 161.120(5)(a)2.

Section 9. Motion to Reconsider. (1) ***In accordance with KRS 161.120(9),*** the EPSB may reconsider, modify***,*** or reverse its decision of its own volition.

(2) Under exceptional circumstances, the EPSB may reconsider, modify or reverse its decision on any disciplinary matter upon a motion by one (1) of the parties.

CONTACT PERSON: Todd Allen, 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.

**GENERAL GOVERNMENT CABINET**
**Personnel Board**
**(As Amended at ARRS, January 10, 2022)**

**101 KAR 1:335. Employee actions.**

RELATES TO: KRS 18A.075(1)***[, 18A.0751(1), (4)]***[~~, 18A.115(4)~~]

STATUTORY AUTHORITY: KRS 18A.075***, 18A.0751(1), (4)***

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 ***through[~~to~~]*** 18A.200. KRS 18A.0751(1) and (4) require the Personnel Board to promulgate administrative regulations for the classified service governing demotion, transfer, reinstatement, [~~reemployment,~~] and discipline. [~~KRS 18A.115(4) establishes requirements governing the promotion of a career employee to a position exempted from classified service.~~] This administrative regulation establishes the method for determining an employee's work station, the requirements governing a demotion, transfer, or reinstatement of an employee, and requirements relating to written reprimands.

Section 1. [~~Definition. "Class series" means a group of positions that are similar as to the duties performed and have:~~

~~(1) Varying levels of:~~

~~(a) Discretion;~~

~~(b) Responsibility; and~~

~~(c) Minimum requirements of training, experience, or skill; and~~

~~(2) Schedules of compensation that are commensurate with minimum requirements.~~

~~Section 2.~~] Work Station.

(1) The official work station of an employee assigned to an office shall be the street address where the office is located.

(2) The official work station of a field employee shall be that address to which the employee is assigned at the time of appointment to the employee's current position.

(3) Except as ***established[~~provided~~]*** by Sections 2, 3, and 4[~~, and 5~~] of this administrative regulation, an appointing authority may assign an employee to work at a site other than his or her current work station if the:

(a) Site is within the employee's county of employment; and

(b) Assignment is not a transfer, demotion, or reinstatement.

Section 2.[~~Section 3.~~] Demotion. (1) A demotion for cause shall be intra-agency.

(2) Voluntary demotion.

(a) A voluntary demotion shall be made if an employee with status requests a voluntary demotion on the Voluntary Transfer/ Demotion/ Promotion Employee [~~Salary Retention~~] Agreement Form incorporated by reference [~~prescribed~~] by the Personnel Cabinet in 101 KAR 2:034.

(b) The form shall include:

1. [~~A statement of the reason for the request;~~

~~2.~~] The effective date of the demotion;

2.[~~3.~~] The position from which the employee requests demotion;

3.[~~4.~~] The position to which the employee will be demoted;

4. The pay grade, salary, and work week for the position to which the employee will be demoted; and

5. A statement that the employee waives the right to appeal the demotion.

(c) The agency shall forward a copy of the form [~~request~~] to the Personnel Cabinet Secretary [~~of Personnel~~].

(3) A voluntary demotion shall be interagency or intra-agency.

Section 3.[~~Section 4.~~] Transfers. (1) The transfer of an employee with status shall conform to the requirements established in this section.

(2)(a) A transfer shall be on a voluntary or involuntary basis.

(b) An appointing authority shall establish cause [~~a reasonable basis~~] for selecting an employee for involuntary transfer.

(c) If an employee has not requested a transfer in writing, a transfer shall be deemed involuntary.

(3) Involuntary transfer, same county.

(a) Prior to the effective date of an involuntary transfer to a position with a work station in the same county, an employee shall receive a written notice of involuntary transfer.

(b) The notice shall:

1. Indicate that the employee:

a. Has been selected for transfer; and

b. Is required to report to the new work station; and

2. State the:

a. New work station;

b. Reason for the transfer;

c. Effective date of the transfer; and

d. Right of the employee to appeal the transfer to the board within sixty (60) calendar days of receipt of the notice of involuntary transfer, excluding the date the notice is received.

(c) A copy of the notice shall be forwarded to the Personnel Cabinet Secretary [~~of Personnel~~].

(d) An employee shall report to the new work station upon the date ***stated[~~specified~~]*** in the notice.

(4) Involuntary transfer, out of county. If an involuntary transfer is to a position with a work station in a different county:

(a) An employee shall be entitled to travel [~~and moving~~] expenses as ***established[~~provided~~]*** by 200 KAR 2:006;

(b) An employee shall receive a written notice of involuntary transfer at least thirty (30) calendar days prior to the effective date of the transfer; ***and***

(c) The notice shall contain:

1. The information ***established[~~specified~~]*** in subsection (3)(b) of this section; and

2. A statement that the employee is entitled to[~~: a.~~] reimbursement of travel expenses incurred [~~within~~] thirty (30) calendar days following [~~of~~] the effective date of the transfer [~~notice; and~~

~~b. Moving expenses, if any~~].

(5) An involuntary transfer shall be intra-agency.

(6) Voluntary transfer.

(a) Prior to a voluntary transfer, an employee with status shall request a voluntary transfer on the Voluntary Transfer/ Demotion/ Promotion Employee [~~Salary Retention~~] Agreement Form incorporated by reference [~~prescribed~~] by the Personnel Cabinet in 101 KAR 2:034.

(b) The form shall include:

1. [~~A statement of the reason for the request;~~

~~2.~~] The effective date of the transfer;

2.[~~3.~~] The position number and job classification [~~, including identifying number,~~] from which the employee requests a transfer;

3.[~~4.~~] The position number and job classification [~~, including identifying number,~~] to which the employee requests a transfer;

4. The pay grade, salary, and work week for the position to which the employee will be transferred; and

5. A statement that the employee waives the right to appeal the transfer.

(c) The agency shall forward a copy of the form [~~request~~] to the Personnel Cabinet Secretary [~~of Personnel~~].

(7) A voluntary transfer shall be interagency or intra-agency.

Section 4.[~~Section 5.~~] Reinstatement. (1) A request for reinstatement shall be submitted by the appointing authority to the Personnel Cabinet Secretary [~~of Personnel~~].

(2) The request shall include a finding that the candidate for reinstatement:

(a) Meets the current qualifications for the job classification to which the employee is being reinstated; and

(b) Has previously held status at that grade level or higher.

(3) If the reinstatement is to a job classification outside of the job classification [~~series~~] where the employee has previously held status, the candidate shall pass the appropriate examination***, if applicable,*** prior to reinstatement.

(4) The request for reinstatement shall contain a copy of the board's order ordering reinstatement, if applicable.

Section 5.[~~Section 6.~~] Written Reprimand. (1) An employee or former employee may petition the Personnel Cabinet Secretary for removal of a written reprimand and all related documentation from the employee's official personnel file after a period of three (3) years from the date of the written reprimand.

(a) An employee's request shall not be granted if the employee has received any disciplinary action or written reprimand in the three (3) years prior to the request for removal.

(b) A petition for removal shall:

1. Be made by the employee***[,]*** and be dated and signed; and

2. Include***[~~the following information~~]***:

a. The employee's current position number, job classification, agency, work phone number, and work address;

b. The employee's immediate supervisor at the time of the petition for removal;

c. The date the written reprimand was issued;

d. A statement by the employee that the employee has not received any disciplinary actions or written reprimands in the three (3) years prior to the petition; and

e. A statement that the information contained in the petition is correct and complete to the best of the employee's knowledge, and that the employee has provided notification [~~a copy~~] of the petition to the employee's current appointing authority.

(c) The petition for removal shall be mailed by first-class mail**,** [~~or~~] hand-delivered to the office of the Personnel Cabinet Secretary**,** or submitted electronically as ***allowed[~~permitted~~]*** by the Personnel Cabinet Secretary.

(2) A petition for removal of a written reprimand shall be ***approved by[~~subject to the approval of~~]*** the Personnel Cabinet Secretary ***before the reprimand removal.***

(a) The Personnel Cabinet Secretary shall approve or deny the petition for removal within thirty (30) calendar days of receipt of the petition.

(b) If the petition is denied, the Personnel Cabinet Secretary shall notify the employee in writing and provide justification for denial. The decision by the secretary with respect to the petition shall be final and not appealable to the Personnel Board.

(c) If the petition is approved, the Personnel Cabinet Secretary shall notify the employee and the appointing authority of the employee's agency in writing of the approval.

(3) Upon removal from an employee's official personnel file maintained by the Personnel Cabinet, a written reprimand shall be handled as established in this subsection.

(a) The written reprimand shall be delivered to the Office of Legal Services and remain in the custody and care of the Office of Legal Services.

(b) The Office of Legal Services shall maintain the written reprimand [~~document~~] as confidential work-product materials for the availability or use in any future legal proceeding.

(c) If no legal proceeding involving the employee's personnel file has been filed within five (5) years of receipt, the written reprimand shall be permanently destroyed.

(d) Upon removal from the official personnel file, but prior to destruction, a written reprimand shall not be considered as part of any personnel action.

(e) The employing agency shall be notified by the Personnel Cabinet of the removal of a written reprimand from an employee's official personnel file.[

~~Section 7. Incorporation by Reference. (1) "Voluntary Transfer/Demotion/ Salary Retention Agreement Form", March 2011, Personnel Cabinet, is incorporated by reference.~~

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

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.

**GENERAL GOVERNMENT CABINET**
**Personnel Board**
**(As Amended at ARRS, January 10, 2022)**

**101 KAR 1:345. Disciplinary actions.**

RELATES TO: KRS 18A.020, 18A.075, 18A.0751, 18A.095, 29 U.S.C. 201

STATUTORY AUTHORITY: KRS 18A.075 (1) [~~Chapter 13A~~], 18A.0751

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.075 requires the Personnel Board to promulgate comprehensive administrative regulations consistent with the provisions of KRS 18A.005 ***through[~~to~~]*** 18A.200. KRS 18A.0751 ***requires[~~specifies that~~]*** the Personnel Board ***to*** promulgate comprehensive administrative regulations for the classified service governing dismissals, suspensions, fines, and other disciplinary measures. This administrative regulation ***establishes[~~describes~~]*** conditions for instituting disciplinary measures and the manner of notification. [~~KRS 18A.095 relates specifically to dismissals, suspensions and other penalizations. KRS 18A.020 relates, in part, to written reprimands. This administrative regulation will replace 101 KAR 1:340 which includes repetition of statutory language which is being repealed.~~]

Section 1. General Provision. Appointing authorities may discipline employees for lack of good behavior or the unsatisfactory performance of duties.

Section 2. Dismissal. (1) The notice required by KRS 18A.095(6) and (7) may be combined ***if[~~provided~~]*** all requirements ***of this administrative regulations*** are satisfied.

(2) When the employee is notified, copies of the notice of intent to dismiss and the notice of dismissal or other penalization shall be forwarded to the [~~Commissioner of~~] Personnel Cabinet Secretary [~~on the same date notice is delivered to the employee~~].

Section 3. Demotion. When the employee is notified, copies of the notice of demotion shall be forwarded to the [~~Commissioner of~~] Personnel Cabinet Secretary [~~on the same date notice is delivered~~

~~to the employee~~].

Section 4. Suspension. (1) A suspension shall not exceed thirty (30) working days.

(2) An employee on initial probation [~~without status~~] may also be suspended for a period not to exceed thirty (30) days and shall be entitled to the same provisions of notice contained in KRS 18A.095(8) with the exception of the right of appeal.

(3) When the employee is notified, copies of the notice of suspension shall be forwarded to the [~~Commissioner of~~] Personnel Cabinet Secretary [~~on the same date notice is delivered to the employee~~].

Section 5. Disciplinary Fine. (1) A disciplinary fine shall not exceed ten (10) days' pay. The fine shall be computed on the basis of the employee's current salary. The fine shall not conflict with requirements of the Fair Labor Standards Act of 1938, 29 U.S.C. 201, or other minimum wage requirements established by legislative or executive authority.

(2) Prior to imposition of a disciplinary fine, the employee shall be notified in writing of the amount of the fine by the appointing authority [~~in writing of the amount of the fine~~].

(3) An employee on initial probation [~~without status~~] may also be fined for a period not to exceed ten (10) days and shall be entitled to the same provisions of notice contained in KRS 18A.095(8) with the exception of the right of appeal.

(4) When the employee is notified, copies of the notice of disciplinary fine shall be forwarded to the [~~Commissioner of~~] Personnel Cabinet Secretary [~~on the same date notice is delivered to the employee~~].

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.

**GENERAL GOVERNMENT CABINET**
**Personnel Cabinet**
**(As Amended at ARRS, January 10, 2022)**

**101 KAR 1:365. Appeal and hearing procedures.**

RELATES TO: KRS Chapter 13B, 18A.075, 18A.0751, 18A.095, 344.030

STATUTORY AUTHORITY: KRS 13B.170, 18A.075, 18A.0751

NECESSITY, FUNCTION, AND CONFORMITY: KRS 13B.170 authorizes an agency to promulgate administrative regulations to carry out the provisions of KRS Chapter 13B and enact administrative hearing procedures. KRS 18A.075 ***requires[provides that]*** the Personnel Board ***to[shall]*** promulgate comprehensive administrative regulations consistent with the provisions of KRS 18A.005 ***through[to]*** 18A.200. KRS 18A.0751 ***requires[provides that]*** the Personnel Board ***to[shall]*** promulgate comprehensive administrative regulations providing for the procedures to be utilized by the board in the conduct of hearings. This administrative regulation establishes Personnel Board hearing procedures.

Section 1. Definitions. (1) "Because of sex" or "on the basis of sex" is defined by KRS 344.030(8).

(2) "Qualified individual with a disability" is defined by KRS 344.030(1).

(3) "Reasonable accommodation" is defined by KRS 344.030(6).

(4) "Religion" is defined by KRS 344.030(7).

(5) "Undue hardship" is defined by KRS 344.030(9).

Section 2. An appeal of an action alleged to be based on discrimination shall be governed by the terms defined in Section 1 of this administrative regulation.

Section 3. Filing. (1) An appeal or a document relating to an appeal shall be filed with the Personnel Board through the office of the executive director within the time period ***established[set forth]*** in KRS 18A.095[~~after receiving notification of the penalization or after becoming aware of the penalization through the exercise of due diligence~~].

(2)(a) An appeal, motion, request, objection, exception, response, witness list, or other document may be filed by a party with the board by means of facsimile transmission or other electronic means including email.

(b) If a party transmits a document to the board by facsimile transmission or other electronic means, ***the party[they]*** [~~he~~] shall attempt to transmit the document to all parties by the same method [~~facsimile transmission~~].

(3) To be timely filed, a document transmitted by facsimile or other electronic means shall be received by the board within the statutory or regulatory times ***established[specified]*** for filing and be received by the board no later than midnight on the last day for filing.

(4) The submission of an original copy of a facsimile transmission or email shall not be required, unless ***requested[upon request]***.

(5)[~~be received by the Personnel Board no later than three (3) business days after transmission or the document transmitted shall be voided unless good cause is shown.~~

~~(5) The date of filing of a document filed by facsimile transmission shall be the date the original of the document was received by the board, if the board fails to receive the facsimile transmission.~~

~~(6)~~] A state employee shall not use state time, equipment, materials, or personnel in pursuing an appeal without the advance written permission of an appointing authority in their employing agency.

(6)[~~(7)~~] An appeal shall be heard in Franklin County[~~Frankfort~~], Kentucky.

Section 4. Designation of Hearing Officer. (1) Unless otherwise directed by the board, the executive director shall assign a hearing officer or officers to an appeal.

(2) If more than one (1) hearing officer is assigned, one (1) shall be designated as chief hearing officer.

(3) If an appeal will be heard by the full board, [~~the chairman of~~] the board shall designate a [~~serve as the~~] chief hearing officer.

Section 5. Continuances. (1) A continuance of a scheduled hearing may be granted by a hearing officer for good cause.

(2) The hearing officer ***shall have[has]*** the discretion to require that a request for continuance ***shall[must]***[A request for a continua~~nce shall~~]:

(a) Be written;

(b) State the reason for the request;

(c) Include proposed dates for rescheduling the hearing; and

(d) Be filed with the board.[~~;~~] [~~and~~

~~(e) Be mailed to all parties at least ten (10) days prior to the scheduled hearing.~~]

(3) The hearing officer ***shall have[has]*** the discretion to require that any objection to a request for continuance ***shall[must]***[~~An objection to a request for a continuance shall~~]:

(a) Be written;

(b) State the reason for the objection to the request for continuance; and

(c) Be filed with the board.[~~; and~~

~~(d) Be mailed to all parties at least five (5) days prior to the scheduled hearing.~~]

(4)(a) At the direction of the hearing officer, the executive director may/~~shall~~] execute and transmit to all parties an interim order either granting or denying the request for continuance.

(b) If the request for continuance is granted, the interim order shall state the date on which the hearing has been rescheduled or that the hearing has been continued generally.

Section 6. Prehearing Procedures. (1) A motion, request, or filing shall be in writing, filed with the board through the office of the executive director, and served on all parties.

(2) Unless an interim order provides for review by the board prior to the conclusion of a hearing, which shall only be granted at the sole discretion of the hearing officer, the board shall review an interim order when it considers the recommended order, record,

and exceptions.

(3) If an employee retains counsel subsequent to filing an [~~his~~] appeal, ***that[~~their~~]*** [~~his~~] attorney may be required to[~~shall~~] file a written entry of appearance.

(4) An employee shall notify all parties and the board in writing of a change of address.

(5)(a) A Kentucky Personnel Board subpoena form shall be available in the office of the executive director and shall be issued by the executive director.

(b) Preparation and service of the subpoena and compliance with the subpoena shall be the responsibility of the party requesting the subpoena.

(6) A deposition may be taken in an extraordinary circumstance and upon authorization by the hearing officer. A request to take a deposition shall be filed at least fifteen (15) calendar days prior to the scheduled hearing. An objection to the request shall be filed prior to the scheduled hearing.

(7) At the discretion of the [~~Upon agreement of all parties and approval by the~~] hearing officer, two (2) or more appeals that [~~which~~] involve the same or similar facts may be consolidated. Upon motion of a party, or upon ***the hearing officer's[~~their~~]***[~~his~~] own motion, the hearing officer may join other parties as necessary to appropriately consider the matter.

(8) An agreed settlement shall be submitted in writing for review by the Personnel Cabinet Secretary and final action by the board.

Section 7. Conduct of Hearing. (1) Unless the appeal is heard by the full board, the hearing officer assigned shall hear the appeal.

(2) A party shall provide at least four (4) copies of an exhibit that is to be introduced as evidence. The parties may exchange documents through appropriate electronic means, including email. The hearing officer shall have the discretion to appropriately fashion the evidentiary record at all times. [~~Copies shall be prepared prior to the hearing.~~]

Section 8. Board Review and Action. (1) A response to a written exception to a recommended order may be filed by a party within fifteen (15) [~~five (5)~~] calendar days after the date the written exception is filed with the board. A response shall be:

(a) In writing; and

(b) Served on all parties.

(2) At the request of a party or on its own motion, the board may permit oral arguments before the full board. A request for oral argument shall be:

(a) In writing; and

(b) Filed with the board within fifteen (15) days of issuance of a recommended order.

(3) A final order shall be prepared, executed, and entered at the direction of the board by the secretary to the board.

Section 9. Incorporation by Reference. (1) The following forms are incorporated by reference:

(a) "Kentucky Personnel Board Appeal Form (1-[/]2018)"; and

(b) "Kentucky Personnel Board Subpoena Form (2-[/]90)".

(2) These forms may be inspected, copied, or obtained at the office of the Personnel Board, 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

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.

**GENERAL GOVERNMENT CABINET**
**Personnel Board**
**(As Amended at ARRS, January 10, 2022)**

**101 KAR 1:367. Standards of conduct and technology governing recording [~~electronic media and still photography coverage of~~] board proceedings.**

RELATES TO: KRS 18A.075, 18A.0751, 18A.095

STATUTORY AUTHORITY: KRS Chapter 13A, 18A.0751

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.075 requires the Personnel Board to promulgate comprehensive administrative regulations consistent with the provisions of KRS 18A.005 ***through[~~to~~]*** 18A.200. KRS 18A.0751 ***requires[~~specifies that~~]*** the Personnel Board ***to*** promulgate comprehensive administrative regulations provisions for the procedures to be utilized by the board in the conduct of hearings. This administrative regulation ***establishes provisions for[~~will govern any and all~~]*** recordings [~~the use of electronic media and still photography coverage~~] of [~~board~~] Personnel Board proceedings.

Section 1. Equipment, [~~and~~] Personnel, [~~.~~] and Location. ***(1)*** The Personnel Board, its hearing officers, and staff ***may[~~shall have the discretion to~~]*** determine ***the appropriate and permissible***:

***(a)[~~(1) The appropriate and permissible~~]*** Equipment used for recording Personnel Board proceedings;

***(b)[~~(2) The appropriate and permissible~~]*** Personnel allowed to record Personnel Board proceedings; and

***(c) Location or locations***

***[~~(3) The appropriate and permissible location(s)~~]*** for the equipment and personnel allowed to record Personnel Board proceedings.

***(2)*** The Personnel Board, its hearing officers, and staff ***shall operate so as[~~may use the discretion afforded them primarily~~]*** to ensure that the process of recording Personnel Board proceedings does not produce distracting sound or light, which would unduly disrupt the orderly conduct of those proceedings.

[~~(1) Not more than one (1) portable television camera (film camera - sixteen (16) mm sound on film (self-blimped) or video tape electronic camera), operated by not more than one (1) camera person, shall be permitted in any board proceeding. Not more than two (2) television cameras, operated by not more than one (1) camera person each, shall be permitted in any meeting of the board.~~

~~(2) Not more than one (1) still photographer, utilizing not more than two (2) still cameras with not more than two (2) lenses for each camera and related equipment for print purposes shall be permitted in any board proceeding.~~

~~(3) Not more than one (1) audio system for radio broadcast purposes shall be permitted in any board proceeding. Audio pickup for all media purposes shall be accomplished from existing audio systems present in the hearing room. If no technically suitable audio system exists in the hearing room, microphones and related wiring essential for media purposes shall be unobtrusive and shall be located in places designated in advance of any proceeding by the presiding hearing officer.~~

~~(4) Requests for coverage, which need not be in any particular form, shall be made to the presiding hearing officer. Subject to the provisions of subsection (5) of this section, approval of such requests shall be regarded as approval of coverage for the print (photographs) or broadcast (radio and television) media generally.~~

~~(5) Any "pooling" arrangements among the media required by these limitations on equipment and personnel shall be the sole responsibility of the media without calling upon the hearing officer to mediate any dispute as to the appropriate media representative or equipment authorized to cover a particular proceeding. In the absence of advance media agreement on disputed equipment or personnel issues, the hearing officer shall exclude all contesting media personnel from a proceeding.~~

~~Section 2. Sound and Light Criteria. (1) Only television photographic and audio equipment which does not produce distracting sound or light shall be employed to cover board~~

~~proceedings. Specifically, such photographic and audio equipment shall produce no greater sound or light, when such equipment is in good working order than the following equipment:~~

| | |
|---|---|
| ~~(a) Ikegami~~ | ~~HL-74A, HL-53, HL-77, HL-33, HL-34, HL-35, HL-51, HL-79, HL-78A, HL-79A, HL-79D, ITC-350, ITC-240~~ |
| ~~(b) RCA~~ | ~~TK76, TK78~~ |
| ~~(c) Sony~~ | ~~DXC-1600 Trinicon, BVP-200, BVP-3000, DXC-1640~~ |
| ~~(d) ASACA~~ | ~~ACC-2006~~ |
| ~~(e) Hitachi~~ | ~~SK80, SK90~~ |
| ~~(f) Hitachi~~ | ~~FP-3030, FP3060A, FP-205, FP-405, GP7~~ |
| ~~(g) Philips~~ | ~~LDK-25~~ |
| ~~(h) Sony BVP-200~~ | ~~ENG Camera~~ |
| ~~(i) Fernseh~~ | ~~Video Camera~~ |
| ~~(j) JVC 8800u~~ | ~~ENG Camera~~ |
| ~~(k) AKAI~~ | ~~CVC-150, VTS-150~~ |
| ~~(l) Panasonic~~ | ~~WV-3085, NV-3085, AK-750, WV-3800~~ |
| ~~(m) JVC~~ | ~~GC-4800u, KY-2000~~ |

~~No artificial lighting device of any kind shall be employed in connection with the television camera.~~

~~(2) Only still camera equipment which does not produce distracting sound or light shall be employed to cover judicial proceedings. Specifically, such still camera equipment shall produce no greater sound or light than a thirty-five (35) mm Leica "M" Series Rangefinder camera, including blimped still reflect cameras, e.g., Nikon F2 or F3, which meet this sound and light criteria. No artificial lighting device of any kind shall be employed in connection with a still camera.~~

~~(3) It shall be the affirmative duty of media personnel to demonstrate to the hearing officer adequately in advance of any proceeding that the equipment sought to be utilized meets the sound and light criteria enunciated herein. A failure to obtain advance approval for equipment shall preclude its use in any proceeding.~~

~~Section 3. Location of Equipment Personnel. (1) Television camera equipment shall be positioned in such location in the hearing room as shall be designated by the hearing officer. The area designated shall provide reasonable access to coverage. If areas remote from the hearing room which permit reasonable access to coverage are provided, all television camera and audio equipment shall be positioned only in such area. Video tape recording equipment which is not a component part of a television camera shall be located in an area remote from the hearing room.~~

~~(2) A still camera photographer shall position himself in such location in the hearing room as shall be designated by the hearing officer. The area designated shall provide reasonable access to coverage. Still camera photographers shall assume a fixed position within the designated area and, once a photographer has established himself in a shooting position, he shall act so as not to call attention to himself through further movement. Still camera photographers shall not be permitted to move about in order to obtain photographs of board proceedings.~~

~~(3) Broadcast media representatives shall not move about the hearing room while proceedings are in session, and microphones or taping equipment once positioned as required by Section 1(3) of this administrative regulation shall not be moved during the proceeding.~~]

Section 2.[~~Section 4.~~] Movement During Proceedings. At the discretion of the board, recording [~~News media photographic or audio~~] equipment shall not be placed in or removed from the hearing room except prior to commencement or after adjournment of proceedings each day, or during a recess. [~~Neither television film magazines nor still camera film or lenses shall be changed in the hearing room except during a recess in the proceeding.~~

~~Section 5. Hearing Room Light Sources. With the concurrence of the hearing officer, modifications and additions may be made in light sources existing in the hearing room, provided such modifications or additions are installed and maintained without public expense.~~]

Section 3.[~~Section 6.~~] Conferences of Counsel. To protect the attorney-client privilege and the effective right to counsel, there shall be no audio pickup or broadcast of conferences that [~~which~~] occur in the hearing room between attorneys and their clients, between co-counsel of a client, or between counsel and the hearing officer held at the bench.

Section 4.[~~Section 7.~~] Use of Media Material. Unless specifically ***allowed[~~permitted~~]*** by the board, none of the recordings [~~film, video tape, still photographs or audio reproductions~~] developed during or by virtue of coverage of a board proceeding shall be admissible as evidence in the proceeding out of which it arose, any proceeding subsequent or collateral thereto, or upon any rehearing or appeal of ***the[~~such~~]*** proceedings.

Section 5.[~~Section 8.~~] Confidentiality. (1) In order to protect the legally recognized interests in confidentiality of individuals, any party may move to exclude electronic media or still photographers from the hearing room during all or any portion of a hearing. [~~The hearing officer shall not unreasonably refuse such a request.~~]

(2) The hearing officer, on ***the hearing officer's[~~their~~]***[~~his~~] own motion, may exclude electronic media or still photographers from the hearing room during all or a portion of a hearing***[~~in their~~]***[~~his~~]***[~~sound discretion~~]***.

Section 6.[~~Section 9.~~] Applicability[~~Board Meetings~~]. ***(1)*** This administrative regulation shall apply to all Personnel Board proceedings[~~meetings of the full board~~].

***(2) If[~~Where~~]*** this administrative regulation is to be applied to a meeting of the full board, the discretion afforded the board [~~any function of the hearing officer~~] as ***established in this administrative regulation[~~set out herein~~]*** shall be exercised [~~performed~~] by the ***chair or vice-chair[~~chairman or vice-chairman~~]*** of the board or, in ***the[~~their~~]*** absence ***of the chair or vice-chair***, the member of the board who is moderating the board meeting.

***(3) If[~~Where~~]*** this administrative regulation is to be applied to any other Personnel Board proceeding, the discretion afforded the board as ***established in this administrative regulation[~~set out herein~~]*** shall be exercised by the hearing officer ***or[~~and/or~~]*** member of Personnel Board staff.

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.

**GENERAL GOVERNMENT CABINET**
**Personnel Board**
**(As Amended at ARRS, January 10, 2022)**

**101 KAR 1:375. Employee grievances and complaints.**

RELATES TO: KRS 18A.075, 18A.0751***, 18A.095***[, 18A.095]

STATUTORY AUTHORITY: KRS ***18A.075[~~Chapter 13A~~]***, 18A.0751

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.075 and 18A.0751 requires the Personnel Board to adopt comprehensive administrative regulations consistent with the provisions of KRS 18A.005 ***through[~~to~~]*** 18A.200. KRS 18A.0751(1)(i) requires the Personnel Board to promulgate an administrative regulation governing employee grievances and complaints. This administrative regulation establishes the requirements governing employee grievances and complaints.

Section 1. ***Definition. "Grievance" means[~~Definitions; Grievance. A grievance is~~]***[Definition. "Grievance" means] a complaint filed by an employee that[~~which~~] concerns some aspect of ***the employee's[~~their~~]*** [~~his or her~~] conditions of employment:

(1) Over which ***the[~~their~~]***[~~the employee's~~] cabinet or agency

has control***;[,]*** and

(2) ***That[Which]*** has occurred, or of which the employee has become aware[,] through the exercise of due diligence.[,] within thirty (30) days prior to filing.

Section 2. General Provisions. (1) An employee in the classified service who believes that they have[he or she has] been subjected to unfair or unjust treatment concerning ***the employee's[their]*** conditions of employment may file a grievance***. A grievance shall be*** in accordance with this ***administrative regulation[procedure ]***[administrative regulation].

(2) A grievance concerning an action that [which] is appealable directly to the board pursuant to KRS 18A.095 may also be filed with the cabinet or agency. The filing of a grievance with the cabinet or agency shall not***:***

***(a)***[:

(a)] Prohibit the employee from also filing an appeal with the board***;***[;] or

***(b)***[(b)] Extend the statutory appeal period.

(3) An employee utilizing ***the[this]*** procedure ***established in this administrative regulation*** shall be entitled to file a grievance without interference, coercion, discrimination, or reprisal.

(4) An appointing authority shall inform its employees of the provisions of this administrative regulation***[,]*** or any modifications in the levels of review that have been approved by the Personnel Board for the employee's cabinet or agency pursuant to Section 4(3)[(4)] of this administrative regulation.

***[(5)(a) The Personnel Cabinet shall provide to the employees, through the appointing authorities, a grievance form to be used for the filing a grievance.***

***(b) "Grievance Form (Revised October 2011)" is incorporated by reference.***

***(c) This form may be inspected, copied, or obtained at the Personnel Board, 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky 40601, 8 a.m. to 4:30 p.m., Monday through Friday.]***

Section 3. Procedures. (1) A grievance shall be filed ***on a Grievance Form*** [on a Grievance Form] with an employee's immediate supervisor within thirty (30) days following occurrence or the employee becoming aware, through the exercise of due diligence, of the action that is the subject of the grievance. If the action or conduct of the first line supervisor is the basis of an employee's grievance, the grievance may be filed with the second line supervisor.

(2) An employee shall state in writing the basis of ***the employee's[their]***[the] grievance or complaint together with the corrective action desired. If an employee wishes to submit additional information or documentation, ***the employee[they]*** [the employee] may attach it to the Grievance Form.

(3) If a grievance is filed that alleges discrimination on the basis of race, color, religion, national origin, sex, disability***,*** or age forty (40) or over, the recipient of this grievance shall immediately notify the cabinet or agency EEO coordinator to comply with the affirmative action plan.

(4) Interviews to evaluate or investigate the grievance outside of normal work hours with the grievant or other employees shall entitle ***employee participants[them]*** to compensatory time.

(5) Interviews to evaluate or investigate the grievance held with the grievant or other employees shall not require the use of leave time.

(6) Parties may have a representative present at each step of the grievance procedure.

Section 4. Grievance Levels. (1) Except as provided by Section 3(1) of this administrative regulation, the immediate supervisor shall, upon investigation, issue findings and a decision in writing to the employee within ten (10) work days after receipt of the grievance. If the responding supervisor is unable to resolve the complaint to the satisfaction of the employee, the employee may request review of the grievance***, which shall be requested*** within five (5) work days of receipt of the decision by the next appropriate level.

(2) The next line supervisors shall each have five (5) work days to respond to the grievance. The employee ***shall have[has]***[shall have] five (5) work days after each intermediate supervisory review to decide to appeal the grievance to the next level.

(3) If the line supervisors are unable to resolve the grievance to the satisfaction of the employee, the employee may request review of the grievance***, which shall be requested*** within five (5) work days of receipt of the decision of the final line supervisor by the appointing authority for a final determination. The appointing authority, upon investigation, shall issue findings and a final determination in writing to the employee within twenty (20) work days.

(4) Unless the time limits have been extended by agreement of the parties, failure of supervisory or management personnel to respond within ***the established[prescribed]*** time limits shall automatically advance the grievance to the next review level.

(5) An intermediate grievance level may be waived***. Waiver shall be*** by written agreement of the parties.

***Section 5. Incorporation by Reference. (1) "Grievance Form", October 2011, is incorporated by reference.***

***(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Personnel Board, 1025 Capital Center Driver, Suite 105, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.***[Section 5. Incorporation by Reference. (1) "Grievance Form", October 2011, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Personnel Board, 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.]

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.

**GENERAL GOVERNMENT CABINET**
**Personnel Board**
**(As Amended at ARRS, January 10, 2022)**

**101 KAR 1:395. Restoration from military duty.**

RELATES TO: KRS 61.371-61.379***, 413.160***

STATUTORY AUTHORITY: KRS ***[Chapter 13A,]*** 61.379

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.379 ***requires[directs]*** the Personnel Board to ***promulgate[adopt]*** administrative regulations to carry out the provisions of KRS 61.371 ***through[to]*** 61.379. ***This administrative regulation establishes the procedure for employment restoration following military duty.***[This administrative regulation will replace 101 KAR 1:390 which includes repetition of statutory language which is being repealed.]

Section 1. Restoration from Military Duty. (1) If an employee advises ***the employee's[their]***[his] employer that ***the employee is[they are]***[he is] leaving their[his] position to perform military duty, the employer shall advise the employee in writing of ***the employee's[their]***[his] rights under KRS 61.371 ***through[to]*** 61.379.

(2) An employee who returns from military duty and is denied restoration of employment shall be advised in writing of ***the[such]*** denial by the employer.

(3) The required notice of denial by the employer shall include the employee's right to appeal to the Kentucky Personnel Board [state personnel board] within the time limits ***established[prescribed]*** by KRS 413.160.

(4) Appeals filed under this section shall be heard by the Board [board] pursuant to 101 KAR 1:365.

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.

**GENERAL GOVERNMENT CABINET**
**Personnel Board**
**(As Amended at ARRS, January 10, 2022)**

**101 KAR 1:400. Promotion.**

RELATES TO: KRS 18A.075, 18A.0751, 18A.115
STATUTORY AUTHORITY: KRS [~~Chapter 13A,~~] 18A.075, 18A.0751
NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.075 [~~18A.057~~] requires the Personnel Board to promulgate comprehensive administrative regulations consistent with the provisions of KRS 18A.005 ***through[~~to~~]*** 18A.200. KRS 18A.0751 ***requires[~~directs~~]*** that comprehensive administrative regulations be promulgated by the Personnel Board for the classified service governing promotion. ***[~~KRS 18A.115 relates to promotion of career employees.~~]***[~~The amendment to~~] This administrative regulation establishes the requirements governing promotion of a classified employee[~~is required to conform to Senate Bill 61 (1994 session), and to the requirements of KRS 18A.112, 13A.200, and 13A.222~~].

Section 1. Promotion. (1) ***Each agency[~~Agencies~~]*** shall consider an applicant's qualifications, record of performance, conduct, seniority, and performance evaluations in the selection of an employee for a promotion.
(2) Promotions may be interagency or intra-agency.[
~~(3)(a) An employee in the classified service, other than a career employee, may be promoted to a position in the unclassified service.~~
~~(b) He shall not have reversion rights to a position in the classified service.~~
~~(c) An employee who was promoted or changed as a result of other action, with no break in service, from a position in the classified service to a position in the unclassified service prior to July 15, 1986, shall retain the reversion rights he held at the time of promotion or other action.~~]

Section 2. Promotion Documentation. (1) Prior to a promotion in the classified service, an employee with status shall request a promotion on the Voluntary Transfer/Demotion/Promotion Employee Agreement Form incorporated by reference by the Personnel Cabinet in 101 KAR 2:034.
(2) The form shall include:
(a) The effective date of the promotion;
(b) The position number and job classification from which the employee is promoting;
(c) The position number and job classification to which the employee is promoting;
(d) The pay grade, salary, and work week for the position to which the employee will be promoted; and
(e) A statement that the employee waives the right to appeal the promotion.
(3) The agency shall forward a copy of the form to the Personnel Cabinet Secretary.

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.

**BOARDS AND COMMISSIONS**
**Board of Cosmetology**
**(As Amended at ARRS, January 10, 2022)**

**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; and[~~.~~]
(d) Application of Artificial Eyelashes.
(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 or program of instruction of any practice ***licensed or permitted[~~listed~~]*** in KRS Chapter 317A or 201 KAR Chapter 12 [~~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 eight (8)[~~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 or programs of instruction of any practice ***licensed or permitted[~~listed~~]*** in KRS Chapter 317A or 201 KAR Chapter 12 [~~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 of any practice ***licensed or permitted[~~listed~~]*** in KRS Chapter 317A or 201 KAR Chapter 12 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 [~~Message~~];
(d) Facial Machines;
(e) Hair Removal;
(f) Advanced Topics and Treatments; [~~and~~]
(g) Application of Artificial Eyelashes; and
(h)[~~(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 ***or[/]*** pin curls;
(g) Thermal curling;
(h) Flat iron styling;
(i) Wig and Hair Additions; and
(j) Long hair styling.
(4) 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***[~~legible and~~] accurate daily attendance record ***used only for the verification and tracking of the required contact hours for education***[~~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; and***

***(b) All instructors shall comply with the biometric time keeping system.***

[~~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 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 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 or program 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 or programs of instruction in any practice ***licensed or permitted[listed]*** in KRS Chapter 317A or 201 KAR Chapter 12 [~~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 or programs of instruction in any practice ***licensed or permitted[listed]*** in KRS Chapter 317A or 201 KAR Chapter 12 [~~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 or program for instruction in any practice ***licensed or permitted[listed]*** in KRS Chapter 317A or 201 KAR Chapter 12 [~~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***[~~Hour~~] Transfer ***Request***[~~Request~~] form. Upon receiving a completed Program ***Hour***[~~Hour~~] Transfer ***Request***[~~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. Emergency Alternative Education. Digital theory content may be administered by a licensed school ***if[~~in the event of~~]*** forced long-term or intermittent emergency ***closure or closures are[~~closure(s)~~]*** due to a world health concern or crisis ***as cited by national or state authority[~~to be approved by the board~~]***. The board may determine when emergency alternative education shall begin and end ***based on the effect of the state of emergency on education standards and shall make determinations in compliance with state and national declarations of emergency***. The necessary compliance steps for implementation are:

(1) Full auditable attendance records shall be kept showing actual contact time spent by a student in the instruction module.

(2) Milady ***or Pivot Point supported digital curriculum platforms[~~supported Mind Tap, Pivot Point supported LAB,~~]*** or recorded video conference participation shall be used.

(3) Schools shall submit an outline to the board within ten (10) days prior to ***the*** occurrence ***of the alternative education*** defining the content scope to be taught or completed***,*** and a plan for a transition into a digital training environment. Plans may be submitted for approval by the board to be kept for future use ***if[~~in the event~~]*** emergency alternative education is allowable.

(4) Completion certificates showing final scoring on digital modules shall be maintained in student records.

(5) Schools and students shall comply with Section 4 of this ***administrative*** regulation on accessible hours.

(6) No student shall accrue more than the total required theory instruction hours outlined in the ***[~~above~~]*** instructional sections in emergency alternative education time ***as established in Sections 3(1)(a), 7(1)(a), 14(1)(a), and 16(1)(a) of this administrative regulation***.

(7) ***The*** board may determine eligibility for accruals based on duration of ***the*** crisis and applicable time limits for alternative emergency education availability.

Section 34. [~~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***[~~Hour~~] Transfer ***Request***[~~Request~~] Form", ***April 2020[~~January 2019~~]***[~~April 2020~~].

(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. This material is also available on the board's Web site at kbc.ky.gov.***[~~(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 M. Campbell, Board Administrator, 1049 US Hwy 127 S. Annex #2, Frankfort, Kentucky 40601, phone (502) 564-4262, email julie.campbell@ky.gov.

**TOURISM, ARTS AND HERITAGE CABINET**
**Department of Fish and Wildlife Resources**
**(As Amended at ARRS, January 10, 2022)**

**301 KAR 2:082. Transportation and holding of live exotic wildlife.**

RELATES TO: KRS ***13B,*** 150.010, 150.015, 150.186, [~~150.305,~~] 150.320, 150.330, 150.990, 150.183, 150.195, 150.235, ***258.065, 258.085[~~285.065, 285.085~~]***

STATUTORY AUTHORITY: KRS 65.877, 150.025(1), 150.090, 150.105, 150.180[~~(6)~~], 150.280, 50 C.F.R. 17, 50 C.F.R. 21[~~.29~~], 18 U.S.C. 42-43, 16 U.S.C. 3371-3378

NECESSITY, FUNCTION, AND CONFORMITY: KRS 65.877 authorizes local governments to regulate or prohibit inherently dangerous wildlife as identified by the department and requires the department to establish procedures for denying or issuing a transportation permit. KRS 150.025(1) authorizes the department to regulate the buying, selling, or transporting of wildlife. KRS 150.090 authorizes the department to appoint conservation officers charged with the enforcement of this chapter. KRS 150.105 authorizes the department to destroy or bring under control any wildlife causing damage to persons, property or other animals spreading disease and ***that[~~which~~]*** should be eliminated to prevent further damage. KRS 150.180[~~(6)~~] authorizes the department to regulate the transportation **and importation**[~~importation~~] of wildlife into Kentucky. KRS 150.280 requires the department to promulgate administrative regulations establishing procedures for the holding of protected wildlife. 50 C.F.R. 21 establishes the federal standards for holding migratory birds, including raptors. 50 C.F.R. 17 establishes the federal standards for endangered and threatened wildlife. This administrative regulation establishes the procedures for obtaining a transportation permit for exotic wildlife, prohibits the importation and possession of exotic species with the potential to damage native ecosystems, and places restrictions on importing, transporting, and holding species that are potentially dangerous to human health and safety.

Section 1. Definition. "Exotic wildlife" means wildlife species that [~~which~~] have never naturally existed in the wild in Kentucky, including [~~introduced~~] species introduced by man that have become naturalized.

Section 2. Transportation Permits and Certificates of Veterinary Inspection. (1) A [~~Pursuant to 301 KAR 2:081, a~~] person shall apply for and obtain a valid transportation permit or permit authorization number from the department for all shipments of exotic wildlife, unless otherwise exempted by this or another administrative regulation, prior to:

(a) Receiving a shipment of wildlife from outside of Kentucky; **[~~or~~]**

(b) **Importing[~~Transporting~~]**[~~Importing~~] exotic wildlife into Kentucky; **or**

**(c) Transporting exotic wildlife into Kentucky.**[~~or~~

~~(c) Transporting exotic wildlife into and through the state to a destination outside Kentucky.~~]

(2) A copy of a valid transportation permit or permit authorization number shall accompany all shipments of wildlife into [~~and through~~] Kentucky.

(3) An individual transportation permit shall be valid for one (1) shipment of wildlife.

(4) An annual transportation permit shall be valid for multiple wildlife shipments for one (1) year from the date of issue.

(5) All shipments [~~Any shipment~~] of wildlife, except for amphibians and reptiles, shall be accompanied by a:

(a) Certificate of veterinary inspection stating that the wildlife is free from symptoms of disease; or

(b) Federal [~~A federal~~] quarantine certificate.

Section 3. Applying for Permits. (1) A person shall apply for a transportation permit by completing the online application process when available at fw.ky.gov, or by submitting the necessary forms, as identified below, found on the department's Web site at fw.ky.gov:[~~, in accordance with 301 KAR 2:081~~].

(a) For an individual transportation permit, an applicant ***shall[~~must~~]*** submit a completed "Individual Transportation Permit Application" form; or

(b) For an annual transportation permit, an applicant ***shall[~~must~~]*** submit a completed "Annual Transportation Permit Application" form.

(2) An applicant for a transportation permit shall only obtain wildlife from a legal source.

(3) A permit holder ***shall[~~must~~]*** be at least eighteen (18) years of age.

(4) An applicant shall submit a completed application and remit the correct fee, as established in 301 KAR 3:022 or 301 KAR 3:061.[

~~(2) The department shall deny a permit to an applicant that:~~

~~(a) Is less than eighteen (18) years of age;~~

~~(b) Has been convicted within the last year of a violation of:~~

~~1. This administrative regulation; or~~

~~2. 301 KAR 2:081;~~

~~(c) Does not submit a completed application; or~~

~~(d) Does not remit the correct fee pursuant to 301 KAR 3:022.~~

~~(3) Failure to provide accurate, factual, and complete information on the application form shall result in:~~

~~(a) Immediate withdrawal or revocation of the permit; and~~

~~(b) Confiscation of the wildlife imported under the permit.~~]

(5)[~~(4)~~] An annual transportation permit holder shall[~~ notify the department of any amendments to the original application at least forty-eight (48) hours prior to any wildlife shipment by~~] submit a revised annual transportation permit application to the department via mail to the address listed on the annual transportation permit application or via email at FWpermits@ky.gov for any amendments to the original application and shall not ship wildlife unless the amendments are approved and a revised permit issued by the department.[~~calling the department by telephone at 800-858-1549, Monday through Friday, between 8 a.m. and 4:30 p.m., Eastern time.~~]

(6)[~~(5)~~] A person **importing,** transporting,[~~importing~~] or possessing exotic wildlife shall be responsible for following all applicable federal and state laws and local ordinances [~~and rules~~] regarding [~~captive~~] wildlife.

(7) A person with a valid falconry permit, as established in 301 KAR 2:195, shall not be required to possess a transportation permit for those raptors held under the falconry permit.

(8) An applicant possessing or transporting into Kentucky from outside the state federally protected migratory bird species, shall possess, and provide to the department, a valid United States Fish and Wildlife Service permit, except for persons or entities that meet the conditions listed in 50 C.F.R. 21.12 (a) and (b), 50 C.F.R. 21.13, and 50 C.F.R. 21.14.

(9) Federally endangered exotic species shall not be **imported, transported into Kentucky, or possessed,[~~possessed or transported into 12 Kentucky from outside the state~~]** except the Department of Fish and Wildlife Resources may allow **importation,** transportation**,** or possession of any exotic endangered species of wildlife pursuant to KRS 150.183 and 301 KAR 3:061.

Section 4. Prohibited Species. (1) Except as specified in Section 5 of this administrative regulation, a person shall not **import, transport into Kentucky, or possess[~~possess or transport into Kentucky from outside the state,~~]** [~~import, possess, or transport through Kentucky~~] the following exotic wildlife[~~species~~] that are considered potentially injurious to native ecosystems:

(a) Baya weaver (Ploceus philippinus);

(b) Blackbirds (Genus Agelaius), except native species;

(c) Cape sparrow (Passer melanurus);

(d) Cowbirds (Genus Molothrus), except native species;

(e) Cuckoo (Family Cuculidae), except native species;

(f) Dioch or red-billed quelea (Quelea quelea);

(g) European blackbird (Turdus merula);

(h) Fieldfare (Turdus pilaris);

(i) Flying fox or fruit bat (Genus Pteropus);

(j) Fox (Genus Cerdocyon, Genus Lycalopex, Genus Otocyon, Genus Urocyon and Genus Vulpes);

(k)[~~(j)~~] Gambian giant pouched rat (Cricetomys gambianus);

(l)[~~(k)~~] Giant, marine, or cane toad (Bufo marinus);

(m)[~~(l)~~] Hawaiian rice bird or spotted munia (Lonchura punctulata);[

~~(m) Jack rabbit (Genus Lepus);~~]

(n) Java sparrow (Padda oryzivora);

(o) Madagascar weaver (Foudia madagascariensis);

(p) Mistle thrush (Turdus viscivorus);

(q) Monk or Quaker parakeet (Myiopsitta monachus);

(r) Multimammate rat (Genus Mastomys);

(s) Mute swan (Cygnus olor);

(t) Nutria (Myocastor coypus);

(u) Prairie dog (Cynomys spp.);

(v) Raccoon dog (Nyctereutes procyonoides);[

~~(w) San Juan rabbit (Oryctolagus cuniculus);~~]

(w)[~~(x)~~] Sky lark (Alauda arvensis);

(x)[~~(y)~~] Song thrush (Turdus philomelus);

(y)[~~(z)~~] Starling (Family Sturnidae) including pink starlings or rosy pastors (Sturnus roseus), except for Indian Hill mynahs (Gracula religiosa);

(z)[~~(aa)~~] Suricate or slender-tailed meerkat (Genus Suricata);

(aa)[~~(bb)~~] Tongueless or African clawed frog (Xenopus laevis);

(bb)[~~(cc)~~] Weaver finch (Genus Passer), except Passer domesticus;

(cc)[~~(dd)~~] White eyes (Genus Zosterops);[

~~(ee) Wild European rabbit (also called the San Juan Rabbit) not distinguishable morphologically from native wild rabbits;~~]

(dd) Wild rabbits, hares, and pikas (Order Lagomorpha);

(ee)[~~(ff)~~] Yellowhammer (Emberiza citrinella); or

(ff) [~~(gg)~~] A member of the following families:

1. Suidae (pigs or hogs), except for domestic swine;

2. Viverridae (civets [~~civits~~], genets, lingsangs, mongooses and fossas); or

3. Tayassuidae (peccaries and javelinas).

(2) Except as specified in Section 5 and 6 of this administrative regulation, a person shall not **import or**[~~import or~~] possess **[~~or transport into Kentucky from outside the state~~]** the following inherently dangerous exotic [~~species of inherently dangerous~~] wildlife:

(a) Alligators or caimans (Family Alligatoridae);

(b) African buffalo (Syncerus caffer);

(c) Bears (Family Ursidae);

(d) Cheetah (Acinonyx jubatus);

(e) Clouded leopard (Neofelis nebulosa);

(f) Crocodiles (Family Crocodylidae);

(g) Elephants (Family Elephantidae);

(h) Gavials (Family Gavialidae);

(i) Gila monsters or beaded lizards (Family Helodermatidae);

(j) Hippopotamus (Hippopotamus amphibius);

(k) Honey badger or ratel (Mellivora capensis);

(l) Hyenas (Family Hyaenidae), all species except aardwolves (Proteles cristatus);

(m) Komodo dragon (Varanus komodoensis);

(n)[~~(m)~~] Lions, jaguars, leopards or tigers (Genus Panthera);

(o) Lynx (Genus Lynx);

(p)[(n)] Old world badger (Meles meles);

(q)[~~(o)~~] Primates, nonhuman (Order Primates);

(r)[~~(p)~~] Rhinoceroses (Family Rhinocerotidae);

(s)[~~(q)~~] Snow leopard (Uncia uncia);

(t)[~~(r)~~] Venomous exotic snakes of the families Viperidae, Atractaspididae, Elapidae, Hydrophidae, and Colubridae, except for hognose snakes (Genus Heterodon);

(u) [~~(s)~~] Wolverine (Gulo gulo); or

(v) [~~(t)~~] Hybrids of all species contained in this list.

Section 5. Exemptions. (1) A facility that is accredited by the Association of Zoos and Aquariums shall:

(a) Not be required to obtain a transportation permit for exotic wildlife;

(b) Be allowed to **import,** possess**,** and transport into Kentucky **[~~from outside the state~~]** federally endangered species and the prohibited exotic species listed in Section 4 of this administrative regulation for official zoo activities; and

(c) Maintain prohibited exotic species in an enclosure sufficient to prevent escape and direct contact with the public.

(2) Commissioner's exemption.

(a) Upon written request, the commissioner may grant a written exemption for the possession or transportation into Kentucky of the prohibited species listed in Section 4.

(b) Only the following entities shall be eligible for an exemption by the commissioner:

1. A facility that is designated as the official zoo of a municipality;

2. A college or university conducting research or education that fulfills a classroom requirement;

3. A lawfully operated circus only **importing, transporting into Kentucky, or possessing species[~~possessing or transporting species into Kentucky~~]** that are not federally endangered, as listed in the current Endangered Species Act list;

4. A facility previously granted an exemption by the commissioner for the purpose of housing confiscated wildlife and serving as an animal holding facility as a service to the department***; and[~~.~~]***

5. A facility previously granted a commissioner's exemption, as a licensed or accredited institute of education or research, that houses prohibited species at a permanent wildlife facility for educational or research purposes.

Section 6. Prohibited Species Requirements.

(1) Prohibited exotic species **imported, transported into Kentucky, or** possessed[~~ or transported into Kentucky~~] shall be maintained within an enclosure sufficient to prevent:

(a) Escape; and

(b) Direct contact with the public.

(2) A person **shall[~~may~~]** apply for a transportation permit to temporarily transport into **[~~and through~~]** the state **[~~to a destination outside of Kentucky~~]** a prohibited animal listed in Section 4(2) of this administrative regulation and shall not:

(a) Remain in the state in excess of forty-eight (48) hours;

(b) Stop in Kentucky for exhibition purposes; or

(c) Sell, trade, gift, barter, offer for sale, trade, gift, barter, or profit in any way from a prohibited animal while in Kentucky.

(3) Except for Lynx, a person who legally possessed wildlife listed in Section 4(2) of this administrative regulation prior to July 13, 2005, may continue to possess the animal through the life of the animal and shall maintain:

(a) Veterinary records;

(b) Acquisition papers for the animal; or

(c) Any other evidence that establishes that the person possessed the animal in Kentucky prior to July 13, 2005.

(4) Lynx legally held in Kentucky prior to December 1, 2021, may be allowed to remain in possession of the owner through the life of the animal. The owner shall maintain:

**(a)[~~1.~~]** Veterinary records;

**(b)[~~2.~~]** Acquisition papers for the animal; or

**(c)[~~3.~~]** Any other evidence that establishes that the person legally possessed the animal in Kentucky prior to December 1, 2021.

(5) A person who legally possesses wildlife pursuant to subsection (3) or (4) of this section shall not, without an exemption pursuant to Section 5:

(a) Replace the wildlife after its death;

(b) Allow the wildlife to reproduce; or

(c) Transfer wildlife to other persons, except if the owner predeceases the animal, the animal may be transferred to another person with the approval of the Department's Wildlife Division Director.

(6) If exotic wildlife listed in Section 4 of this administrative regulation escapes, the owner shall immediately contact local emergency services and the department at 800-252-5378 to report the escape.

(7) All bites, as established in KRS 258.065, or contact with applicable exotic animals that results in possible exposure to disease or zoonotic infection, shall be reported to the local county health department within twelve (12) hours.

(8) If an exotic mammal bites a person, or a mammal shows

symptoms of a rabies infection, the owner of the animal ***shall[~~must~~]*** arrange for the animal to be killed in a manner as to preserve the brain intact**,** and the animal's head shall be submitted for testing immediately to a laboratory approved by the Secretary for Health and Family Services to be tested for rabies, as established in 902 KAR 2:070**,** Section 5 and KRS 258.085(1)(c).

[~~Section 5. Exemptions. (1) A facility that is accredited by the American Zoo and Aquarium Association shall:~~

~~(a) Not be required to obtain a transportation permit for exotic wildlife; and~~

~~(b) Be allowed to import, transport, and possess the prohibited exotic species listed in Section 4(1) and (2) of this administrative regulation.~~

~~(2) Upon written request, the department shall consider an exemption for the importation of prohibited exotic species for the following entities:~~

~~(a) A facility that is designated as the official zoo of a municipality;~~

~~(b) A government agency;~~

~~(c) A college or university;~~

~~(d) A licensed or accredited institution of:~~

~~1. Research; or~~

~~2. Education;~~

~~(e) A lawfully operated circus; or~~

~~(f) An exhibitor sponsored or contracted by a lawfully operated state or county fair.~~

~~(3) Wildlife possessed or imported into Kentucky per subsection (2) or (4) of this section shall be maintained within an enclosure sufficient to prevent:~~

~~(a) Escape; and~~

~~(b) Direct contact with the public, except local governments may allow direct contact between the public and Asian elephants (Elephas maximus) if:~~

~~1. An established local ordinance exists that allows the contact; and~~

~~2. That ordinance provides regulatory standards in the areas of:~~

~~a. The safety record of the animal or animals;~~

~~b. Proper public safeguards;~~

~~c. Experience of the handlers;~~

~~d. Protective barriers; and~~

~~e. Third party liability insurance coverage from death or injury in an amount equal to or greater than $3,000,000.~~

~~(4) A person may apply for a transportation permit to temporarily transport into and through the state to a destination outside of Kentucky a prohibited animal listed in Section 4(2) of this administrative regulation and shall not:~~

~~(a) Remain in the state in excess of forty-eight (48) hours;~~

~~(b) Stop in Kentucky for exhibition purposes; or~~

~~(c) Sell, trade, barter, or offer for sale, trade, or barter a prohibited animal while in Kentucky.~~

~~(5) A person who legally possessed wildlife listed in Section 4(2) of this administrative regulation prior to July 13, 2005, may continue to possess the animal and shall maintain:~~

~~(a) Veterinary records;~~

~~(b) Acquisition papers for the animal; or~~

~~(c) Any other evidence that establishes that the person possessed the animal in Kentucky prior to July 13, 2005.~~

~~(6) A person who legally possesses wildlife pursuant to subsection (5) of this section shall not, without an exemption pursuant to subsections (2) and (3) of this section:~~

~~(a) Replace the wildlife; or~~

~~(b) Allow the wildlife to reproduce.~~

~~(7) If exotic wildlife listed in Section 4(1) and (2) of this administrative regulation escapes, the owner shall immediately contact local emergency services and the department at 800-252-5378 to report the escape or release.~~]

Section 7.[~~Section 6.~~] Permit-exempt Animals. The following exotic animals shall not require permits from the department for **importation, transportation into Kentucky, or**[~~ importation, transportation, or~~] possession[**~~ or transportation into Kentucky~~**]:

(1) Alpaca (Vicugna pacos);

(2) American bison (Bison bison);

(3) Breeds and varieties of goats derived from the wild goat or bezoar (Capra hircus);

(4) Camel (Camelus bactrianus and Camelus dromedarius);

(5) Canary (Serinius canaria)***;***

(6)[~~(5)~~] Chinchilla (Chinchilla laniger);

(7)[~~(6)~~] Cockatoo and cockatiel (family Cacatuidae);

(8)[~~(7)~~] Domesticated races of ducks and geese (family Anatidae) morphologically distinguishable from wild ducks or geese;

(9)[~~(8)~~] Domesticated races of the European rabbit (Oryctolagus cuniculus) morphologically distinguishable from wild rabbits;

(10)[~~(9)~~] Domesticated races of mink (Mustela vison), if:

(a) Adults are heavier than 1.15 kilograms; or

(b) The fur color can be distinguished from wild mink;

(11)[~~(10)~~] Domesticated races of rats (Rattus norvegicus or Rattus rattus) or mice (Mus musculus);

(12)[~~(11)~~] Domesticated races of turkeys (Meleagris gallopavo) recognized by the American Poultry Association and the U.S. Department of Agriculture, but shall not include captive held or bred wild turkeys;

(13)[~~(12)~~] Domestic yak (Bos grunniens);

(14)[~~(13)~~] Gerbil (Meriones unguiculatus);

(15)[~~(14)~~] Guinea fowl (Numida meleagris);

(16)[~~(15)~~] Guinea pig (Cavia porcellus);

(17)[~~(16)~~] Hamster (Mesocricetus spp.);

(18)[~~(17)~~] Indian Hill mynah (Gracula religiosa);

(19)[~~(18)~~] Llama (Lama glama);

(20)[~~(19)~~] Parrot, lovebird, [~~cockatiel,~~ ]budgerigar, macaw, parakeet (except monk parakeet, [~~(~~]M. monachus) (families Psittacidae, Psittaculidae, Psittrichasiidae)[~~and macaw (family Psittacidae)~~];

(21)[~~(20)~~] Peafowl (Pavo cristatus);

(22)[~~(21)~~] Pigeon (Columba domestica or Columba livia) or domesticated races of pigeons;

(23)[~~(22)~~] Ratite, as defined by KRS 247.870; and

(24)[~~(23)~~] Toucan (family Rhamphastidae).

[~~Section 7. Inspections and Permit Revocation. (1) A person holding exotic wildlife shall allow a conservation officer to inspect the holding facilities at any reasonable time.~~

~~(2) Captive wildlife may be confiscated and the permit revoked if the permit holder violates any provision of this administrative regulation.~~]

Section 8. Release. With the exception of pheasants and chukars, a person shall not release exotic wildlife into the wild.

Section 9. Inspections and Access. (1) A person in possession of exotic wildlife, pursuant to a transportation permit or commissioner's exemption, shall allow a conservation officer to inspect the holding facilities and the property on which the holding facilities are located at any reasonable time to carry out the purposes of this ***administrative*** regulation.

(2) A transportation permit or commissioner's exemption holder shall allow any department approved representative, accompanied by a conservation officer, to access the holding facilities and the property on which the holding facilities are located at any reasonable time to carry out the purposes of this regulation.

Section 10. Permit Denial and Revocation. (1) Denial. The department shall deny the issuance of a new permit, or deny a renewal of an existing or lapsed permit, and may confiscate wildlife from a person who:

(a) Is convicted of a violation of any provisions of:

1. KRS Chapter 150;

2. ***301 KAR Chapters 1 through 5[~~Any department regulation~~]***; or

3. Any federal statute or regulation related to hunting, fishing, or wildlife;

(b) Provides false information on a transportation permit application, certificate of veterinary inspection, federal quarantine certificate, request for commissioner's exemption, federal permits,

reports, or records;

(c) Acquires wildlife prior to receiving a transportation permit, commissioner's exemption, or certificate of veterinary inspection, except as established in Section 2(5), Section 3(7), Section 5(1) and Section 7; ***or***

(d) Fails to comply with any provision of this ***administrative*** regulation, 301 KAR 2:041, 301 KAR 2:081, 301 KAR 2:084, 301 KAR 2:195, 301 KAR 2:230, 301 KAR 2:251, 301 KAR 3:061, 302 KAR 20:020, 302 KAR 20:040, 50 C.F.R. 17, 50 C.F.R. 21, 18 U.S.C. 42-43, or 16 U.S.C. 3371-3378.

(2) Revocations.

(a) The department shall revoke a transportation permit or commissioner's exemption, and may confiscate wildlife, of a person who:

1. Is convicted of a violation of any provisions of:

a. KRS Chapter 150;

b. ***301 KAR Chapters 1 through 5[~~Any department regulation~~]***; or

c. Any federal statute or regulation related to hunting, fishing, or wildlife;

2. Provides false information on a transportation permit application, certificate of veterinary inspection, federal quarantine certificate, request for commissioner's exemption, federal permits, reports***,*** or records;

3. Acquires wildlife prior to receiving a transportation permit or commissioner's exemption, except as established in Sections 3(7) and ***[~~Section~~]*** 5(1); ***or***

4. Fails to comply with any provision of this ***administrative*** regulation, 301 KAR 2:041, 301 KAR 2:081, 301 KAR 2:084, 301 KAR 2:195, 301 KAR 2:230, 301 KAR 2:251, 301 KAR 3:061, 302 KAR 20:020, 302 KAR 20:040, 50 C.F.R. 17, 50 C.F.R. 21, 18 U.S.C. 42-43, or 16 U.S.C. 3371-3378.

(b) A fee shall not be refunded for a permit that is revoked.

(3) Denial period. An applicant for a transportation permit whose permit has been revoked or denied for the grounds established in this section shall be ineligible to reapply, and all applications ***shall be*** denied for the period established below:

(a) The initial denial period shall be one (1) year;

(b) A second denial period shall be three (3) years; ***and***

(c) A third or subsequent denial period shall be five (5) years.***[;]***

(4) Commissioner's exemption.

(a) A commissioner's exemption shall be revoked and future exemptions may be denied for:

1. Failure to maintain wildlife in an enclosure sufficient to prevent escape and direct contact with the public;

2. Failure to abide by the provisions set forth in an exemption letter or this ***administrative*** regulation; or

3. Any other reason ***necessary to protect public health, public safety, native ecosystems, or native wildlife[~~for which the commissioner deems appropriate~~]***.

(b) If an exemption is terminated, all prohibited species shall be immediately placed in an enclosure sufficient to prevent escape and direct contact with the public and removed from the state within forty-eight (48) hours.

(5) Confiscated Wildlife.

(a) All captive wildlife may be confiscated if a transportation permit or commissioner's exemption is revoked or denied, or a person **imports, transports into Kentucky, or possesses exotic wildlife[~~possesses or transports wildlife into Kentucky~~]** without a valid transportation permit, commissioner's exemption, or certificate of veterinary inspection, except as established in Section 2(5), Section 3(7), Section 5(1), and Section 7.

(b) Wildlife that is confiscated, as established in this section, shall not be returned to the person, entity, or facility from which they were confiscated, and shall be transferred or euthanized with the approval of the Wildlife Division Director.

Section 11. Administrative Hearings.

(1) An individual whose permit has been denied or revoked may request an administrative hearing pursuant to KRS Chapter 13B.

(2) A request for a hearing shall be in writing and postmarked or delivered in person to the department no later than thirty (30) days after notification of the denial or the revocation.

(3) Upon receipt of the request for a hearing, the department shall proceed according to the provisions of KRS Chapter 13B.

(4) The hearing officer's recommended order shall be considered by the commissioner and the commissioner shall issue a final order, pursuant to KRS Chapter 13B.

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

(a) "Annual Transportation Permit Application", 2021 edition;

(b) "Individual Transportation Permit Application", 2021 edition; and

(c) "Captive Wildlife Prohibited Species report form, 2021 edition.***[;]***

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m. ***or online at:***

***(a) https://fw.ky.gov/Wildlife/Documents/annualtransportapp.pdf for the "Annual Transportation Permit Application";***

***(b) https://fw.ky.gov/Wildlife/Documents/indtransportapp.pdf for the "Individual Transportation Permit Application"; and***

***(c) https://fw.ky.gov/Wildlife/Documents/capprohibitedreport.pdf for the "Captive Wildlife Prohibited Species Report form".***

CONTACT PERSON: Beth Frazee, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, email fwpubliccomments@ky.gov.

**TOURISM, ARTS AND HERITAGE CABINET**
**Department of Fish and Wildlife Resources**
**(As Amended at ARRS, January 10, 2022)**

**301 KAR 3:010. Public use of Wildlife Management Areas.**

RELATES TO: KRS ***13B,*** 150.025, 150.620, 150.640

STATUTORY AUTHORITY: KRS 150.025, 150.620

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations necessary to carry out the purposes of KRS Chapter 150. KRS 150.620 authorizes the department to impose and enforce special administrative regulations on lands acquired for public hunting, fishing, and related recreational uses. This administrative regulation prohibits certain actions inconsistent with the intended purpose of Wildlife Management Areas, establishes requirements for other uses***,*** and stipulates the procedure for obtaining group use permits on these areas.

Section 1. Definitions. (1) "Bait" means a substance composed of grains, minerals, salt, fruits, vegetables, hay or any other food materials, whether natural or manufactured, which may lure, entice***,*** or attract wildlife.

(2) "Baiting" means to place, deposit, tend, distribute, or scatter bait.

(3) "Event" means:

(a) An activity conducted by a group;

(b) A commercial activity; or

(c) A field trial.

(4) "Field trial" means an event where unleashed dogs are worked and judged.

(5) "Group" means:

(a) A club, society or association;

(b) Ten (10) or more persons who gather to conduct an event; or

(c) A field trial.

(6) "Horse" means a horse, pony, mule, donkey, llama***,*** or similar beast of burden.

(7) "Injurious substance" means a substance which may be

injurious to aquatic life, wildlife, or wildlife habitat.

(8) "Mechanized vehicle" means a motor vehicle, bicycle, or other human conveyance except a wheelchair.

(9) "Motor vehicle" means a motor-driven conveyance, whether or not licensed for use on a public highway.

(10) "Ride" means to ride, drive, or lead a horse.

(11) "Wildlife management area" or "WMA" means a tract of land:

(a) Controlled by the department through ownership, lease, license, or cooperative agreement; and

(b) Having "Wildlife Management Area" or "WMA" as part of its official name.

Section 2. While upon a WMA, a person:

(1) Shall observe the hunting dates, limits, and other requirements that apply to the county in which the WMA is located, unless otherwise specified in:

(a) This administrative regulation;

(b) 301 KAR 2:049;

(c) 301 KAR 2:178;

(d) 301 KAR 2:140;

(e) 301 KAR 2:142;

(f) 301 KAR 2:144;

(g) 301 KAR 2:222; or

(h) 301 KAR 2:225.

(2) Shall wear hunter orange garments as required in 301 KAR 2:172 when deer hunting with firearms is allowed.

(3) May hunt small game, furbearers, or turkey by archery during the modern gun deer season, including the first two (2) days, if the statewide modern gun deer season is closed on that area.

(4) Unless specified otherwise in 301 KAR 2:049, shall not allow an unleashed dog from March 1 until the third Saturday in August, except when participating in:

(a) A department-authorized field trial;

(b) The spring squirrel season; or

(c) Training a retriever or other water dog, if:

1. The activity is authorized by a sign at the body of water; and

2. The dog remains leashed except while actively training in or within 100 feet of the body of water.

(5) Shall not:

(a) Hunt:

1. On a WMA or portion of a WMA designated by a sign as closed to hunting; or

2. At an established access point, launching ramp, or recreation area.

(b) Enter a portion of a Wildlife Management Area designated by a sign as closed to public access.

(c) Discharge a firearm within 100 yards of a residence or occupied building, whether or not the building is on a WMA.

(d) Camp, except in a designated area.

(e) Place or distribute bait or otherwise participate in baiting wildlife on a Wildlife Management Area. Bait ***shall[~~does~~]*** not include the establishment and maintenance of plantings for wildlife, foods found scattered solely as the result of normal agricultural planting or harvesting practices, foods available to wildlife through normal agricultural practices of livestock feeding if the area is occupied by livestock actively consuming the feed on a daily basis, or standing farm crops under normal agricultural practices.

(f) Hunt over bait.

Section 3. Horseback Riding. A person shall not:

(1) Ride a horse on a WMA except:

(a) On a trail or area specifically marked for horseback riding;

(b) A maintained public road open to public vehicular traffic;

(c) During an event where a horse is allowed under a permit issued under the provisions of Section 6 of this administrative regulation; or

(d) While engaged in a legal hunting activity.

(2) Allow a horse to roam or graze on department property.

(3) Tether a horse in a way that would cause damage to a tree or shrub.

(4) Participate in horseback riding during firearms seasons for turkey, deer, and elk unless participating or assisting in a legal elk hunt. Any persons legally riding horses during an elk hunt shall abide by the hunter orange requirements found in 301 KAR 2:132, Section 5(5).

Section 4. Prohibited Activities. Except as authorized by the department, on a WMA a person shall not:

(1) Damage a tree or shrub;

(2) Dump trash or litter;

(3) Set fires, except for an attended campfire;

(4) Leave a campfire unattended;

(5) Cut or damage a fence or gate;

(6) Deface or destroy a sign;

(7) Destroy, harvest, or glean a crop;

(8) Allow livestock to roam freely;

(9) Dump the contents of a holding tank, portable toilet, or other container holding human waste;

(10) Deface or collect artifacts from historical or archeological sites;

(11) Ignite fireworks or rockets;

(12) Collect or remove plants;

(13) Place or cause to be placed an injurious substance on land or water;

(14) Engage in an activity which:

(a) Is commercial in nature and intent unless specified in Section 6(3) of this administrative regulation; or

(b) Could:

1. Unreasonably interfere with other uses or users of the area;

2. Pose a risk to persons or property; or

3. Damage facilities, roads, trails, or ecosystems of the area.

Section 5. Use of Mechanized Vehicles. Except as specifically authorized by the department ***in this administrative regulation***, on a WMA, a person shall not:

(1) Use a mechanized vehicle except:

(a) On a maintained road open to public use; or

(b) In a designated parking area;

(2) Park in a way that would:

(a) Block a road or gate; or

(b) Prevent access to a portion of the area.

Section 6. Group Permits. (1) A group shall not conduct an event upon department property without obtaining a permit at least thirty (30) days before the date of the event.

(2) ***An applicant shall use the "Wildlife Management Area Use Permit Application."[~~Application for the permit shall be upon a form provided by the department.~~]***

(3) The department shall deny a permit for an event that involves:

(a) The use of mechanized vehicles, except for travel to and from the area; or

(b) An activity prohibited in Section 4 of this administrative regulation except that a commercial activity may be permitted if it is:

1. An informational booth;

2. A food vendor;

3. For collecting registration or entrance fees;

4. A similar ancillary activity authorized by the event permit; or

5. An ecotourism event approved by the department.

(4) The department may:

(a) Require the group to reschedule an event to avoid user conflicts;

(b) Restrict an event to a specified location within the WMA;

(c) Cancel a scheduled event if flooding, fire danger, or other unforeseen circumstances render the WMA unsafe or unsuitable for the event; or

(d) Require the group to provide portable sanitary toilet facilities if existing facilities on the WMA are inadequate for the expected size of the group.

(5) The department shall revoke the permit and cancel an event if the group's behavior:

(a) Is rude, obnoxious, disruptive, or disorderly;

(b) Creates a danger to the health or safety of other users;

(c) Results in damage to the area; or

(d) Violates a state or federal law.

(6) The department may deny a permit to a group which has had a previous event canceled under subsection (5) of this section.

Section 7. Appeal of Permit Denial. (1) A person who wishes to appeal the denial of a permit shall request a hearing in writing, postmarked or delivered in person to the department no later than ten (10) days after notification of denial.

(2) Upon receipt of the request for a hearing, the department shall:

(a) Appoint a hearing officer qualified to conduct hearings under the provisions of KRS Chapter 13B; and

(b) Schedule a hearing to be held either:

1. Prior to the next regularly scheduled meeting of the commission, if the request for a hearing is received more than thirty (30) days before the scheduled commission meeting; or

2. Within thirty (30) days, if the request for a hearing is received within thirty (30) days of the next scheduled commission meeting.

(3) The hearing officer shall conduct the hearing and present his recommendation at the commission meeting immediately following the hearing date.

(4) The department may present evidence and call witnesses to support the suspension or revocation.

(5) The commission shall make its decision by majority vote.

(6) A person may appeal a decision of the commission in accordance with the provisions of KRS Chapter 13B.

Section 8. On Wildlife Management Areas not owned by the department, provisions of this administrative regulation shall not apply if:

(1) An activity prohibited by this administrative regulation is allowed by the entity owning the property; or

(2) An activity allowed by this administrative regulation is prohibited by the entity owning the property.

Section 9. Incorporation by Reference. (1) "Wildlife Management Area Use Permit Application", 1998 Edition, is incorporated by reference.

(2) It may be inspected, copied, or obtained***, subject to applicable copyright law,*** at the Kentucky Department of Fish and Wildlife ***Resources***, #1 Sportsman's Lane, Frankfort, Kentucky 40601 from 8 a.m. to 4:30 p.m. Monday through Friday.

CONTACT PERSON: Beth Frazee, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov.

**TOURISM, ARTS AND HERITAGE CABINET**
**Department of Fish and Wildlife Resources**
**(As Amended at ARRS, January 10, 2022)**

**301 KAR 3:026. Access to Wildlife Management Areas for mobility-impaired individuals.**

RELATES TO: KRS 150.025(1), 150.170, 150.175, 150.620

STATUTORY AUTHORITY: KRS 150.025(1), 150.620

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to establish hunting seasons and to regulate bag and possession limits for, and the methods of taking and the devices used to take, wildlife. In addition, KRS 150.620 authorizes the department to regulate the use of its Wildlife Management Areas. This administrative regulation ***establishes requirements to simplify[simplifies]*** the process for obtaining method exemptions and special use permits for mobility-impaired individuals and ***promote[promotes]*** nature-related recreational access to department-managed lands.

Section 1. Definitions. (1) "ATV" is defined in KRS 189.010(24).

(2) "Department" is defined in KRS 150.010(8).

(3) "Mobility-impaired individual" means an individual who meets the requirements of Section 2(1) of this administrative regulation.

(4) "Motor vehicle" is defined in KRS 189.010(19)(b).

(5) "Qualified assistant" means an individual who is participating in the activity with the mobility-impaired individual and designated by the mobility-impaired individual.

(6) "WMA" means a Wildlife Management Area owned or operated by the department.

Section 2. Mobility-impaired Access Permit. (1) ***A person shall qualify for a mobility-impaired access permit application if one (1) of the following requirements is met. The person***[***If a person meets one (1) of the following requirements, he shall qualify for a mobility-impaired access permit application from the department]***:

(a) Has permanent paralysis of at least one (1) leg;

(b) Has at least one (1) foot amputated;

(c) Is permanently confined to a wheelchair or ***needs[must use]*** crutches***[,]*** or a walker as a means of support to pursue daily activities;

(d) Is restricted by a lung disease to ***[such]*** an extent that the person's forced respiratory expiratory volume for one (1) second, when measured by spirometry, is less than one (1) liter, or the arterial oxygen tension is less than sixty (60) mm/hg on room air at rest;

(e) Requires portable oxygen;

(f) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as Class 3 or Class 4 according to standards set by the American Heart Association; or

(g) Has a diagnosed disease which creates a severe mobility impairment.

(2) The mobility-impaired access permit shall allow the following activities by a mobility-impaired individual:

(a) Discharge of a firearm or other legal hunting device from a motor vehicle ***if***[when] the vehicle is motionless and has its engine turned off. The motor vehicle shall be used as a place to wait or watch for game and shall not be used to chase, pursue, or drive game.

(b) May operate electric wheelchairs, ATV's, and other passenger vehicles on or off gated***, [or]*** ungated***,*** or open-gated roads otherwise closed to vehicular traffic***,*** but ***the individual shall do so*** only on designated tracts of designated WMAs.

1. The roads may be accessed March 1 through the third Friday in August.

2. Tracts designated as mobility-impaired access areas shall be posted with signs.

3. Vehicular access shall not be permitted on fields, openings, roads, paths, or trails planted with annual grains or agricultural crops.

4. It shall be permissible to access areas ***that[which]*** are not roads ***from*** the third Saturday of August until the end of February.

5. ATV users shall adhere to manufacturer recommendations***,*** including wearing a helmet, wearing safety glasses, and restricting riding to one (1) person***[;]*** while using ATVs on WMAs.

Section 3. (1) A mobility-impaired individual may designate one (1) qualified assistant. The qualified assistant may:

(a) Track and dispatch a wounded animal;

(b) Retrieve an animal; or

(c) Render other assistance in accordance with KRS Chapter 150 and 301 KAR Chapters 2 and 3.

(2) A qualified assistant shall not:

(a) Operate his or her own ATV; or

(b) Hunt or shoot from an ATV.

(3) Applicants for a mobility-impaired access permit shall:

(a) Fill out the required information on the Mobility-Impaired Access Permit Application; and

(b) Obtain the attestation and signature from a licensed physician describing the mobility impairment.

(4) In order to participate in activities authorized by Section 2(2) of this administrative regulation, a mobility-impaired individual shall have a completed mobility-impaired access application on his person at all times while participating in ***these[such]*** activities.

Section 4. All method exemption cards and letters issued prior

to the effective date of this administrative regulation are void.

Section 5. Incorporation by Reference. (1) "Mobility-impaired Access Permit", revised August 2001, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department ***of[for]*** Fish and Wildlife Resources, #1 Sportsman's Lane[~~Game Farm Road~~], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CONTACT PERSON: Beth Frazee, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov.

**TRANSPORTATION CABINET**
**Motor Vehicle Commission**
**(As Amended at ARRS, January 10, 2022)**

**605 KAR 1:051. Dealer and salesman.**

RELATES TO: KRS 190.010, 190.030

STATUTORY AUTHORITY: KRS 190.010, 190.030, 190.073

NECESSITY, FUNCTION, AND CONFORMITY: KRS 190.030 requires ***[that]*** a salesman's license ***to[shall]*** indicate for whom the salesman works and to be displayed upon request. This administrative regulation establishes the relationship between the dealership and salesman and implements statutory requirements to facilitate accurate recordkeeping by the Motor Vehicle Commission.

Section 1. (1) All activity of a licensed motor vehicle salesman shall be pursuant to the salesman's employment by the licensee whose name appears on the salesman's license.

(2) A salesman shall not establish a place of business separate from the location for which his employer holds a license.

(3) A salesman shall not hold himself out to be a licensed dealer or conduct himself in any manner which would lead a prospective purchaser to believe he is a licensed dealer.

(4) A salesman shall not advertise the sale or purchase of a motor vehicle. This subsection shall not prohibit licensed motor vehicle dealers from identifying or including salesmen in advertisements of the dealership.

Section 2. ***If[In the event]*** a salesman changes his place of employment to another dealership, he shall return his license to the commission.

Section 3. Every dealer licensee shall display in a conspicuous place in the dealership office a copy of the license of each salesman employed by the dealership. Upon the termination of employment of a salesman, the licensee shall, within ten (10) days, notify the commission of the termination and return to the commission the dealer's copy of the salesman's license.

Section 4. (1) A dealer shall apply for a motor vehicle salesman license for each person acting or intending to act as a salesman. The application shall be submitted by completing a salesman application through the dealer's on-line account at Ky.gov Login. The dealer shall provide the name, home address, social security number, date of birth of the salesman, and the employment history of the salesman in the motor vehicle industry identifying the name and address of any previous motor vehicle dealerships at which the salesman was employed. If the salesman does not have prior experience in the motor vehicle industry, the dealer shall so state.

(2) The employing dealer shall furnish a current photograph of the salesman for identification purposes.

(3) The employing dealer shall require the salesman to authorize the commission to make inquiries or investigations concerning the salesman's employment and criminal records. The employing dealership shall remit the required fee for a criminal background check if requested by the commission.

Section 5.

***(1)*** The following individuals shall be required to obtain a salesman's license:

***(a)*** Each natural person holding a motor vehicle dealer license***;[.]***

***(b)*** Each general partner actively involved in the day-to-day operation of a general or limited partnership holding a motor vehicle dealer license;

***(c)*** The president, chief executive officer, chief operating officer, or equivalent of a corporation holding a motor vehicle dealer license; and

***(d)*** Each manager, or, if member-managed, each member actively involved in the day-to-day operation of a limited liability company holding a motor vehicle dealer license.

***(2)*** All motor vehicle dealers shall have at least one (1) salesperson per licensed location.

Section 6. If any of the individuals in Section 5***(1)[(1-4)]*** are physically located and conduct business at more than one ***(1)*** location, the individual shall procure a salesman's license for each location. Otherwise, the individual shall procure a license for the location in Kentucky where he is located or a primary location in Kentucky if he is located outside the state.

***[Section 7. Incorporation by Reference. Dealer on-line account, salesman license application available at Ky.gov Login.]***

CONTACT PERSON: Suzanne Baskett, Executive Staff Advisor, Kentucky Motor Vehicle Commission, 200 Mero Street, Frankfort, Kentucky 40601, phone (502) 573-1000, fax (502) 227-8082, email Suzanne.Baskett@ky.gov.

**TRANSPORTATION CABINET**
**Motor Vehicle Commission**
**(As Amended at ARRS, January 10, 2022)**

**605 KAR 1:071. Change of ownership.**

RELATES TO: KRS 190.030

STATUTORY AUTHORITY: KRS 190.030, 190.073

NECESSITY, FUNCTION, AND CONFORMITY: KRS 190.030 requires each separate entity acting as a dealer to have a license and to make needed reports to the Motor Vehicle Commission. This administrative regulation establishes requirements for change of ownership of dealer licenses, particularly if a sale or transfer occurs, so that the commission can be on notice of who actually holds a license.

Section 1. (1) All licenses issued by the commission are non-transferable.

(2) A complete change of ownership of a licensee shall require a new Application for Motor Vehicle Dealer License, TC 98-1, incorporated by reference in 605 KAR 1:030 and the appropriate fee.

Section 2. Upon the sale or transfer of a licensee's business or the operating assets of a business to a new individual or entity, the new owner shall secure a new license for each location acquired, unless the acquirer has a valid motor vehicle dealer license for the locations.

Section 3. (1) If the licensee is a corporation or limited liability company, the transfer of the controlling stock or controlling membership interest shall be reported to the commission within fifteen (15) days of the transfer.

(2) The commission may require a new license application based on the reported transfer.

Section 4. The commission shall be notified on a timely basis of the following:

(1) the death of a licensee who is a sole proprietor;

(2) the death or dissolution of a general partner of a partnership or limited partnership licensee; or

(3) the death or dissolution of an owner of the controlling interest of a corporate or limited liability company licensee.

Section 5. In the case of the death of a sole proprietor, the commission may, if the executor or administrator alone, or in conjunction with dealership employees, is capable of operating the business in compliance with KRS Chapter 190, allow a duly qualified executor or administrator to operate the business for the remainder of the calendar year. In the case of the death or dissolution of a partner, or the controlling owner of ***a*** corporation or limited liability company, the commission shall require a new Application for Motor Vehicle Dealer License, TC 98-1, incorporated by reference in 605 KAR 1:030 and the appropriate fee if the death or dissolution results in a material change to the financial, moral, or operational fitness of the licensee.

CONTACT PERSON: Suzanne Baskett, Executive Staff Advisor, Kentucky Motor Vehicle Commission, 200 Mero Street, Frankfort, Kentucky 40601, phone (502) 573-1000, fax (502) 227-8082, email Suzanne.Baskett@ky.gov.

**TRANSPORTATION CABINET**
**Motor Vehicle Commission**
**(As Amended at ARRS, January 10, 2022)**

**605 KAR 1:091. Motor vehicle dealership names.**

RELATES TO: KRS 190.040

STATUTORY AUTHORITY: KRS 190.030, ***190.040, 190.073[040, 073]***

NECESSITY, FUNCTION, AND CONFORMITY: KRS 190.040(1)(i) authorizes a license to be denied, suspended, or revoked for false or misleading advertising. This administrative regulation establishes provisions against false or misleading advertising that prohibit the use of the name of a make of motor vehicle in the business name of a used motor vehicle dealer and the use of a dealership name that is so similar to the name of an existing dealership that it would confuse or mislead the public.

Section 1. The trade name of a licensee shall incorporate the words used cars, auto sales, auto mart, or other similar wording clearly identifiable as a motor vehicle dealer.

(1) A licensee, other than a franchised new motor vehicle dealer, shall not use the name of any make of motor vehicle as a part of the dealership business name.

(2) The adoption of the name of a make of motor vehicle in a trade name or advertising in this manner shall constitute false or misleading advertising within the meaning of KRS 190.040 and shall be ***[~~considered~~]*** grounds for the denial, suspension, or revocation of a license.

Section 2. The commission shall deny an Application for Motor Vehicle Dealer License, TC 98-1, incorporated by reference in 605 KAR 1:030, if the name or proposed trade name of the licensee is the same or so similar to the name or trade name of an existing, unrelated licensee that the proposed name would confuse or otherwise mislead the public into believing that the two (2) licensees are the same or related.

(1) If no other grounds are cited for the denial of the Application for Motor Vehicle Dealer License, TC 98-1, incorporated by reference in 605 KAR 1:030, the applicant may reapply.

(2) Reapplication with a new trade name shall be submitted within ten (10) days of denial without remitting an additional application fee.

CONTACT PERSON: Suzanne Baskett, Executive Staff Advisor, Kentucky Motor Vehicle Commission, 200 Mero Street, Frankfort, Kentucky 40601, phone (502) 573-1000, fax (502) 227-8082, email Suzanne.Baskett@ky.gov.

**TRANSPORTATION CABINET**
**Motor Vehicle Commission**
**(As Amended at ARRS, January 10, 2022)**

**605 KAR 1:131. Procedures.**

RELATES TO: KRS 190.058, 190.062

STATUTORY AUTHORITY: KRS 190.020, 190.058, 190.062

NECESSITY, FUNCTION, AND CONFORMITY: KRS 190.058 authorizes the Motor Vehicle Commission to adopt procedures to carry out the functions and duties conferred upon it by KRS Chapter 190. This administrative regulation establishes the proper form of procedure and practice before the Motor Vehicle Commission.

Section 1. Hearings. Hearings shall be conducted as established in this administrative regulation and KRS Chapter 13B. All testimony shall be transcribed.

Section 2. Appearances. A licensee who is a natural person may appear and be heard in person, or with or by a duly appointed attorney. A licensee that is an artificial entity shall be represented only by an attorney licensed or authorized to practice in Kentucky.

Section 3. Additional Hearings. The commission may, on its own motion, prior to its determination, require an additional hearing. Notice to all interested parties establishing the date of the hearing shall be given in writing by the executive director.

Section 4. Briefs. Briefs may be filed as a matter of right. All briefs shall be concise and shall be typewritten or printed. The time allowed for filing briefs shall be designated by the hearing officer.

Section 5. Continuances. Continuances shall be granted if a continuance is in the interest of justice and if requested at least forty-eight (48) hours in advance of the hearing date.

Section 6. Depositions. Depositions may be taken only when authorized by the hearing officer. The provisions of the Civil Rules governing the taking of depositions shall be applicable.

Section 7. (1) Except as otherwise provided by KRS Chapter 13B, the rules of evidence governing civil proceedings in the courts of the Commonwealth of Kentucky shall govern hearings before the commission, unless the hearing officer relaxes the rules if the ends of justice will be better served by so doing.

(2) Judicial notice.

(a) If called to the attention of the hearing officer, judicial notice may be taken of any matter situated in the files of the commission, the Department of Revenue or the Transportation Cabinet, any action pending that involves the commission**,** or other matters of which a court of Kentucky may take judicial notice.

(b) A brief statement recognizing the matter shall be made in the transcript by the hearing officer.

Section 8. Ex Parte Contacts. A person shall not have ex parte contact with any member of the commission regarding any matter pending before the commission for review prior to final decision. A person in violation of this Section shall be identified on the record to the commission and any information provided through the ex parte contact shall be stricken from the commission's records and disregarded.

Section 9. Service of Motions, Pleadings. Copies of all motions and pleadings shall be served upon all interested parties, in addition to filing the required copies before the commission.

Section 10. Notices. A notice of a hearing sent by certified mail to the business address of the licensee shown on the latest application for a license shall be sufficient notice.

Section 11. Subpoenas and Subpoena Duces Tecum. (1) The party desiring a subpoena shall make application at least five (5)

days before the hearing date with the executive director of the commission.

(2) The application shall be in writing, and shall state the name and address of each witness required.

(3) If evidence other than oral testimony is required, such as documents or written data, the application shall establish the specific matter to be produced and sufficient facts to indicate that the matter is reasonably necessary to establish the cause of action or defense of the applicant.

Section 12. Costs of Hearing. (1) If the commission, by issuance of a final order, finds that a violation has been committed by a licensee, or upholds the recommendation of the hearing officer in a matter involving an applicant for a motor vehicle dealer license, the commission may assess to the licensee or the applicant the fee charged to the commission for the transcription of the record and the fee charged by the hearing officer.

(2) If the hearing officer or the commission finds that the hearing has been held as a result of an allegation or charge lacking substantial merit, or if the hearing officer or commission finds that a party to the hearing has materially delayed or increased the cost of the hearing through its actions, the commission shall assess to the party bringing the allegation or causing the delay, the fee charged to the commission for transcription of the record and the fee charged by the hearing officer.

(3) The fee assessed for the transcription of the record and for the hearing officer shall be the actual costs charged to the commission for that particular hearing, and may be assessed in addition to any fine levied by the commission.

CONTACT PERSON: Suzanne Baskett, Executive Staff Advisor, Kentucky Motor Vehicle Commission, 200 Mero Street, Frankfort, Kentucky 40601, phone (502) 573-1000, fax (502) 227-8082, email Suzanne.Baskett@ky.gov.

**TRANSPORTATION CABINET**
**Motor Vehicle Commission**
**(As Amended at ARRS, January 10, 2022)**

**605 KAR 1:191. Motor vehicle advertising.**

RELATES TO: KRS 190.010-190.990

STATUTORY AUTHORITY: KRS 190.015, 190.020, 190.030, 190.040, 190.058, 190.073

NECESSITY, FUNCTION, AND CONFORMITY: KRS 190.040(1)(i) requires that a motor vehicle dealer shall not engage in ***["]***false or misleading advertising.***["]*** KRS 190.073 ***requires[~~authorizes~~]*** the Motor Vehicle Commission to ***["]***promulgate administrative regulations for the purpose of carrying out the provisions of KRS Chapter 190. This administrative regulation establishes examples of what constitutes ***["]***false or misleading advertising.***["]***

Section 1. Definitions. (1) "Advertising" means any oral, written**,** or graphic statement, whether physical or electronic, which offers vehicles for sale or lease or that indicates the availability of vehicles, including any statements or representation made in a newspaper, pamphlet, circular, other publication, in radio or television, social media, on the internet**,** or contained in any notice, handbill, sign, billboard poster, bill catalog, letter, or business card.

(2) "Bait advertising" means:

(a) An alluring but insincere offer to sell or lease a product, to obtain leads to persons interested in buying merchandise of the type advertised and to switch consumers from the advertised product to another product for a higher price or on a basis more advantageous to the dealer; or

(b) Advertising a new motor vehicle at a price that does not include all equipment listed as standard equipment by the manufacturer without disclosing that fact, or failing to disclose any of that equipment for the purpose of advertising a low price and ***["]***baiting***["]*** the customer into charges above the advertised price.

(3) "Clear and conspicuous" means a statement, representation**,** or term differing from other statements, representations, or terms being made so as to be readily noticeable to the person to whom it is being disclosed either by its size, sound, length of time, color, placement in the ad, or other features.

(4) "Demonstrator" ***or "program"*** means a vehicle of the current or preceding model year that has never been the subject of a retail sale, and that has been used by dealership personnel for demonstrating performance ability.

(5) "Executive vehicle" ***or[~~and~~]*** "official vehicle" mean, if so advertised, a vehicle that has been used exclusively by an executive or executives of the dealer franchisee.

Section 2. A licensee shall not use misleading or bait advertising. A practice shall not be pursued by an advertiser if the practice will discourage the sale of the advertised product with the intent and purpose of selling other merchandise instead.

Section 3. (1) An advertisement for the sale or lease of new and used vehicles placed by or on behalf of a licensee shall clearly and conspicuously identify the dealership by including in the text of the advertisement the business name as it appears on the dealer's license. In a classified newspaper or similar on-line advertisements, the licensee may, as an alternative, use the word ***["]***dealer***["]*** in the text of the advertisement.

(2) The advertisement of any dealership inventory on a non-company social media account shall be considered an advertisement placed on behalf of the dealership subject to these regulations and the provisions of KRS Chapter 190.

(3) A new or used motor vehicle dealer advertising the sale or lease of new or used motor vehicles at more than one (1) licensed location shall use in the text of the advertisement the business name for each advertised location as the name appears on the dealer's license for the locations where the advertised vehicles are located.

(4) A new motor vehicle dealer advertising the sale or lease of new motor vehicles at more than one (1) licensed location shall specifically identify the makes of vehicles available at each advertised location.

Section 4. (1) Except as established in subsection (2) of this section, if a specific new motor vehicle is advertised by a dealer as being for sale, that vehicle shall be:

(a) In the possession of the dealer;

(b) Shown; and

(c) Sold as advertised, illustrated, or described at the advertised price and terms, at the advertised address.

(2) The advertisement for the sale or lease of a specific new motor vehicle that is not in stock on the date of the advertisement shall:

(a) State:

1. ***["]***Not in stock***["]***;

2. ***["]***Order yours now***["]***; or

3. Other phrases of similar import that clearly indicate the vehicle is not available for immediate delivery; and

(b) Disclose a reasonable estimate of the period of time in which delivery will be made.

(3) If an advertisement pertains to one (1) specific vehicle only, this fact shall be disclosed in the advertisement. Listing a stock number shall be adequate disclosure.

Section 5. The following statements shall not be used in advertising by a dealer, unless the statements are absolutely true with no qualifications:

(1) Statements such as:

(a) ***["]***Write your own deal***["]***;

(b) ***["]***Name your own price***["]***;

(c) ***["]***Name your own monthly payments***["]***;

(d) ***["]***Appraise your own car***["]***; or

(e) Statements with similar meaning;

(2) Statements such as:

(a) ***["]***Everybody financed***["]***;

(b) ***["]***No credit rejected***["]***;

(c) ***["]***We finance anyone***["]***; or

(d) Other statements representing or implying that no

prospective credit purchaser will be rejected because of his inability to qualify for credit;

(3) Statements representing that no other dealer grants greater allowances for trade-ins, however stated; and

(4) Statements implying that because of its large sales volume, a new vehicle dealer is able to purchase vehicles for less than another dealer selling the same make of vehicles.

(5)(a) Claims such as ***[“]***first***[”]***, ***[“]***largest***[”]***, ***[“]***biggest***[”]***, ***or words of similar import*** shall not be used unless they are valid at the time ***the[~~such~~]*** claims are made.

(b) If ***the[~~such~~]*** claims are qualified with regard to area, location, time, or other limitations, upon the direction of the commission, the dealer shall incorporate within the advertisement the terms of ***the [~~such~~]*** qualification.

Section 6. Retail advertising shall not state or imply that the dealer:

(1) Is selling vehicles in a manner other than through normal retail channels, including use of terms ***[~~including~~]*** such as ***[“]***wholesale***[”]***, ***[“]***factory sale***[”]***, ***[“]***factory discount***[”]***; or

(2) Has a special relationship or connection to the manufacturer that other dealers do not have, including use of terms such as ***[“]***factory outlet***[”]***, ***[“]***factory branch***[”]***, ***or[~~and~~]*** similar terms used in connection with the manufacturer's name.

Section 7. It shall be false or misleading advertising to advertise the sale of a vehicle having only a Kentucky salvage title unless the advertisement conspicuously discloses that the vehicle has a salvage title and that the vehicle cannot be registered and operated on the roadways in Kentucky unless the vehicle is repaired and issued a rebuilt title.

Section 8. ***Because[~~Since~~]*** the amount of trade-in allowance will vary depending on the condition, model, and age of a buyer's vehicle, no specific trade-in amount or range of amounts shall be used in advertising.

Section 9. (1) An asterisk (*) may be used to give additional information about a word or term.

(2) Use of one (1) or more footnotes or asterisks which, alone or in combination, contradict, confuse, materially modify, or unreasonably limit a principal message of the advertisement shall not be used.

Section 10. (1) Any disclosure appearing in advertisements shall clearly and conspicuously feature all necessary information in a manner that can be read and understood or that can be heard and understood.

(2) The minimum duration of printed language in a television advertisement shall be five (5) seconds for every three (3) lines.

Section 11. If an advertisement contains an offer of a discount on a new vehicle, the amount of the discount shall be stated by reference to the actual dollar figure of the manufacturer's suggested retail price of the vehicle plus the retail price of dealer-added options.

Section 12. The words ***[“]***free***[”]***, ***[“]***gift***[”]***, or words of similar import may be used in advertising only if the advertiser is offering an unconditional gift.

Section 13. The manufacturer's suggested retail price (MSRP) dollar figure of a new motor vehicle if advertised in local media by a manufacturer, distributor, or regional advertisement council or association shall include all costs and charges for the vehicle advertised including destination charges if those charges are uniform regardless of destination throughout the state***.[;]*** Destination charges subject to variance within the state and dealer preparation charges may be excluded from the price, if the advertisement conspicuously states that the costs and charges are excluded.

(1) If the price of a vehicle is advertised in local media by a licensee, the vehicle shall be fully identified as to year, make, model, and if new or used.

(2) The stated price shall include all charges that the customer is required to pay for the vehicle, including ***[“]***freight***[”]*** or ***[“]***destination charges***[”]***, ***[“]***dealer preparation***[”]***, ***[“]***dealer handling***[”]***, ***[“]***additional dealer profit***[”]***, ***[“]***additional dealer margin***[”]***, and ***[“]***undercoating or rustproofing***[”]*** if the vehicle is already so equipped.

(3) The advertised price at which the dealer is advertising a particular motor vehicle shall be the price before consideration for a down-payment, a trade-in allowance, or other similar allowances.

Section 14. If the words ***[“]***list***[”]*** or ***[“]***sticker***[”]*** or words of similar import are used in a new motor vehicle advertisement, the words shall only refer to the actual dollar figure of the manufacturer's suggested retail price (MSRP) plus the retail price of dealer-added options.

Section 15. If any advertisement relates to a lease, the advertisement shall clearly and conspicuously disclose that the advertisement is for the lease of a vehicle.

Section 16. A dealer offering to sell a demonstrator, program, official, or executive vehicle shall clearly and conspicuously identify former use.

(1) A demonstrator shall be offered for sale as such only by a dealer who holds a valid sales agreement or franchise for the sale of the same line make of motor vehicle.

(2) A vehicle advertised as official or executive vehicles shall not have been sold or leased to a retail customer prior to the appearance of the advertisement.

Section 17. Motor vehicle financing shall not be advertised at a reduced interest rate if the cost thereof would be directly or indirectly borne by the buyer unless the advertisement discloses that rate shall affect the negotiated price of the vehicle to the buyer.

Section 18. In any action pursuant to this administrative regulation, truth shall be an absolute defense.

CONTACT PERSON: Suzanne Baskett, Executive Staff Advisor, Kentucky Motor Vehicle Commission, 200 Mero Street, Frankfort, Kentucky 40601, phone (502) 573-1000, fax (502) 227-8082, email Suzanne.Baskett@ky.gov.

**TRANSPORTATION CABINET**
**Motor Vehicle Commission**
**(As Amended at ARRS, January 10, 2022)**

**605 KAR 1:211. Nonprofit motor vehicle dealer requirements and licensing.**

RELATES TO: KRS 190.010 (29), (30)***,[;]*** 190.032

STATUTORY AUTHORITY: KRS 190.032***,[;]*** 190.073

NECESSITY, FUNCTION***,*** AND CONFORMITY: KRS 190.032 requires the Motor Vehicle Commission to establish requirements for initial application for and renewal of a license to be a nonprofit motor vehicle dealer and directs the commission to establish relevant requirements that shall include standards for disability or disadvantaging conditions concerning the clients served by nonprofit motor vehicle dealers. This administrative regulation establishes requirements and standards for nonprofit motor vehicle dealer requirements and licensing.

Section 1. In addition to KRS 190.010(29) and the application requirements established in 605 KAR 1:030, Sections 1 and 3, a nonprofit motor vehicle dealer applicant shall certify that it is an organization exempt from taxation pursuant to 26 U.S.C. Section 501(c)(3) of the Internal Revenue Code and that it has made all required filings with the Internal Revenue Service.

Section 2. In addition to KRS 190.010(30), an applicant shall demonstrate to the commission that the applicant's sales program serves only clients meeting two (2) or more of the following

disability or disadvantaging conditions:

(1) The client's household income is at or below the current federal Poverty Guidelines as established by the United States Department of Health and Human Services;

(2) The client has been designated as physically disabled by any state or federal agency;

(3) The client has an actual need for a motor vehicle in order to meet work, educational, or medical needs and the client cannot obtain a reliable vehicle without the dealer's assistance;

(4) The client has received state or federal funding specifically designed to allow the purchase of a vehicle for personal or household use; or

(5) The client has experienced the loss of a functioning vehicle as a result of an event certified as a natural disaster by any applicable state or federal agency.

Section 3. Upon the submission of its initial application and each renewal application thereafter, the applicant or licensee shall submit the current IRS Form 990 filed by the organization. If the applicant or licensee files a short form version of IRS Form 990, the commission may require the applicant or licensee to submit additional information which would be contained on IRS Form 990 if the commission has reasonable cause to doubt the financial responsibility of the applicant to comply with the provisions of KRS Chapter 190.

Section 4. A nonprofit motor vehicle dealer that is not also licensed as either a new motor vehicle dealer or a used motor vehicle dealer shall not sell any vehicles except as allowed by KRS 190.032(3).

CONTACT PERSON: Suzanne Baskett, Executive Staff Advisor, Kentucky Motor Vehicle Commission, 200 Mero Street, Frankfort, Kentucky 40601, phone (502) 573-1000, fax (502) 227-8082, email Suzanne.Baskett@ky.gov.

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET**
**Board of Education**
**Department of Education**
**(As Amended at ARRS, January 10, 2022)**

**702 KAR 1:191. District employee quarantine leave.**

RELATES TO: KRS 156.160, 160.290, ***160.291,*** 161.155

STATUTORY AUTHORITY: KRS 156.070, 156.160

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160 requires the Kentucky Board of Education to promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance, including regulations for the protection of the physical welfare and safety of public school children, as well as the pay of teachers during absence because of sickness or quarantine. KRS 156.070 provides the Kentucky Board of Education with the management and control of the common schools and all programs operated in those schools. KRS 160.291 authorizes fringe benefit payments by local boards of education which are deemed to be for services rendered for the benefit of the common schools. This administrative regulation establishes paid quarantine leave to employees in the event of quarantine due to infectious or contagious disease exposure.

Section 1. Quarantine Leave. (1) Each district board of education shall adopt policies providing each eligible full or part-time employee in the school district **at least ten (10) days paid leave per school year for[~~paid leave during the period the employee is ordered to~~]** quarantine due to **exposure to a reportable** infectious or contagious disease **under 902 KAR 2:020 or any other infectious or contagious disease designated as reportable to a local health department or the Department for Public Health by a valid order or administrative regulation of the local health department serving the school district or the Department for Public Health[~~exposure~~]**. This leave shall be in addition to any other leave provided by statute or board policy.

(2) In order to be eligible for leave under this section, the employee shall:

(a) Be ordered to quarantine **by a licensed treating physician, *physician [~~physician's~~]* assistant, or advanced practice registered nurse, the Department for Public Health, or a local health department** due to **exposure to a reportable** infectious or contagious disease **under 902 KAR 2:020 or any other infectious or contagious disease designated as reportable to a local health department or the Department for Public Health by a valid order or administrative regulation of the local health department serving the school district or the Department for Public Health [~~exposure by a treating medical professional, a public health department, or the Department for Public Health~~]**; and

(b) Have exhausted all accumulated sick leave provided to the employee pursuant to KRS 161.155 and local board of education policies, or be ineligible to utilize accumulated sick leave provided to the employee pursuant to KRS 161.155 and local board of education policies.

(3) A school district **shall[~~may~~]** require the employee to provide written documentation from the entity ordering the employee to quarantine due to exposure to **a reportable** infectious or contagious disease **under 902 KAR 2:020 or any other infectious or contagious disease designated as reportable to a local health department or the Department for Public Health by a valid order or administrative regulation of the local health department serving the school district or the Department for Public Health**.

(4) A school district, at its discretion, may determine quarantine leave pursuant to ***this[~~the~~]*** section is unnecessary ***if[~~when~~]*** an employee can fulfill his or her job duties remotely during the quarantine period.

(5) Leave granted pursuant to this section **shall be on a day-by-day basis, as needed, and** shall not accumulate or carry over year-to-year, and shall not be transferrable to any other classification of paid leave established by KRS 161.155, KRS 161.154, or local board of education policy.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

CONTACT PERSON: Todd G. Allen, 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, January 10, 2022)**

**702 KAR 7:065. Designation of agent to manage middle and high school interscholastic athletics.**

RELATES TO: KRS 61.805 - 61.850, 156.070(2), 160.380, 160.445, 20 U.S.C. 1681

STATUTORY AUTHORITY: KRS 156.070(1), (2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.070(1) requires the Kentucky Board of Education to manage and control the common schools, including interscholastic athletics in the schools. KRS 156.070(2) authorizes the board to designate an agency to manage athletics. This administrative regulation designates an agent for middle and high school athletics; establishes the financial planning and review processes for the agent; and incorporates by reference the bylaws, procedures, and rules of the agent.

Section 1. Definitions. (1) "Contact Drill" means that drills are run at Level 3, [~~thud, or~~] Level 4, or Level 5[~~live action~~].

(2) "KBE" means Kentucky Board of Education.

(3) "KHSAA" means Kentucky High School Athletics

Association.

(4) "Level 0" or "air" means that players run a drill unopposed [~~and~~] without contact.

(5) "Level 1" or "bags" means that a drill is run with [~~against~~] a bag or against another soft contact surface.

(6) "Level 2" or "control" means that***:***

***(a)*** A drill is run at an [~~the~~] assigned speed until the moment of contact;

***(b)*** One (1) player is predetermined the winner by the coach;

***(c)*** Contact remains above the waist***;[,]*** and

***(d)*** Players stay on their feet.

(7) "Level 3" or "Control to Ground" means that***:***

***(a)*** A drill is run at an assigned non-competitive speed or with players pre-engaged***;***

***(b)[,]*** There is a pre-determined winner***; and***

***(c)[,]*** Players are allowed to take their opponent to the ground in a controlled manner.

(8) "Level 4" or "thud" means that***:***

***(a)*** A drill is run at a competitive [~~the assigned~~] speed through the moment of contact;

***(b)*** There is no [~~not a~~] predetermined winner;

***(c)*** Contact is [~~remains~~] above the waist;

***(d)*** Players stay on their feet***;[,]*** and

***(e)*** A quick whistle ends the drill.

(9)[~~(8)~~] "Level 5" [~~"Level 4"~~] or "live [~~action~~]" means that a drill is run at a competitive speed in game-like conditions [~~and is the only time that players are taken to the ground~~].

(10)[~~(9)~~] "Non-Contact Drill" means that drills are run at Level 0, [~~air;~~] Level 1, [~~bags;~~] or Level 2[~~, control~~].

(11)[~~(10)~~] "OCR" means the United States Department of Education, Office for Civil Rights.

Section 2. The KHSAA shall be the Kentucky Board of Education's agent to manage interscholastic athletics at the middle and high school level in the common schools and private schools desiring to associate with KHSAA or to compete with a common school.

Section 3. To remain eligible to maintain the designation as the agent to manage interscholastic high school athletics, the KHSAA shall:

(1) Accept four (4) at-large members appointed by the Kentucky Board of Education to its high school Board of Control;

(2) Sponsor an annual meeting of its member high schools;

(3) Provide for each member high school to have a vote on the KHSAA Constitution and bylaw changes submitted for consideration;

(4) Provide for high school regional postseason tournament net revenues to be distributed to the member high schools in that region participating in that sport, utilizing a share approach determined by the high schools within that region playing that sport;

(5) Provide for students desiring to participate at the high school level (regardless of the level of play) to be enrolled in at least grade seven (7);

(6) Require its governing body to annually establish goals and objectives for its commissioner and perform a self-assessment and submit the results annually to the KBE by December 31;

(7) Advise the Department of Education of all legal action brought against the KHSAA;

(8) Permit a board of control member to serve a maximum of two (2) consecutive four (4) year terms with no region represented for more than eight (8) consecutive years;

(9) Employ a commissioner and evaluate that person's performance annually by October 31, and establish all staff positions upon recommendation of the commissioner;

(10) Permit the commissioner to employ other personnel necessary to perform the staff responsibilities;

(11) Permit the Board of Control to assess fines on a member high school;

(12) Utilize a trained independent hearing officer instead of an eligibility committee for a high school athletic eligibility appeal;

(13) Establish a philosophical statement of principles to use as a guide in a high school eligibility case;

(14) Conduct continual cycles of field audits of the association's entire high school membership, which provides that each high school is audited regarding each school's compliance with 20 U.S.C. Section 1681 (Title IX) and submit annual summary reports, including the highlighting of any potential deficiencies in OCR compliance to the Kentucky Board of Education;

(15) As a condition precedent to high school membership, require each member high school and superintendent to annually submit a written certification of compliance with 20 U.S.C. Section 1681 (Title IX);

(16) Conduct all meetings related to high school athletics in accordance with KRS 61.805 through 61.850;

(17) Provide written reports of any investigations into possible violations of statute, administrative regulation, KHSAA Constitution, KHSAA Bylaws, or other rules governing the conduct of high school interscholastic athletics conducted by KHSAA or their designees to the superintendent and principal of the involved school district and school before being made public;

(18) Not punish or sanction, in any manner, a school, student, coach, or administrator for allowing a student to play in an athletic contest or practice with the team during a time when an order of a court of competent jurisdiction permits the student to participate or otherwise stays or enjoins enforcement of a KHSAA final decision on eligibility; and

(19) Require any student enrolled initially in grade seven (7) through twelve (12) who is repeating a grade for any reason, to be ineligible, during the school year that the grade is repeated, to compete in an interscholastic athletics competition at any level.

Section 4. To remain eligible to maintain the designation as the agent to manage interscholastic athletics at the middle school level, the KHSAA shall implement the following requirements for all participants in middle school interscholastic athletics, distribute these requirements to all middle schools, and publish via the KHSAA Web site:

(1) Require that these provisions apply to all middle school interscholastic athletics. The following indicates that a team is representative of a school and classified as middle school athletics:

(a) The contest, event, or tournament is sponsored by a school or combined group of schools;

(b) Competitors wear a school-issued uniform;

(c) The contest, event, or tournament is sponsored by an outside entity as a school entry event, which is advertised or promoted as a school event, whether or not an entry fee is required;

(d) A school entity pays an entry fee, for the student or team, including payment by booster organizations;

(e) A school representative accompanies the student-athlete or transports the student-athlete to the contest, event, or tournament;

(f) A designated or hired member of a school coaching staff, whether paid or unpaid, is present and offering instruction, advice, evaluation, or refinement of skills or exercising other duties defined as coaching within the sport rules;

(g) Transportation to or from the contest, event, or tournament utilizes school provided or approved transportation;

(h) Competitors in the contest, event, or tournament wear apparel identifying them by the name of the school, including the formal name, informal name, or team nickname;

(i) Competitors in the contest, event, or tournament are provided promotional or other resources by the school including school media recognition, signage, and items indicative of school representation;

(j) Competition in a contest, event, or tournament has, in any form, jurisdiction of the local school board or school-based decision-making body, including financial or other approval control; or

(k) Competition in a contest, event, or tournament is covered by any school or school system provided or procured insurance policy;

(2) Require that any head or assistant coach, whether paid or unpaid, desiring to coach interscholastic athletics at the middle school level:

(a) Meet the requirements of KRS 156.070(2)(g)2;

(b) Meet the requirements of KRS 160.380(5) and (6); and

(c) Provide to the school documentation of successful completion of a C.P.R. course including the use of an automatic external defibrillator and the first aid training, conducted by an instructor or program approved by a college or university, the American Red Cross, the American Heart Association, or other bona fide accrediting agency that is approved by the KHSAA based upon industry standards. The certification shall be updated as required by the approving agency;

(3) Require adherence to the following items regarding safety, sports medicine, and risk minimization for all interscholastic athletics at the middle school level:

(a) Each student, before trying for a place on a middle school athletic team, shall provide an annual medical examination, in accordance with KRS 156.070(2)(e), and shall use the KHSAA form PPE01, with PPE02 being optional for the health care provider;

(b) All participants at the middle school level shall adhere to all sports medicine and risk minimization policies in use at the high school level that may be supplemented by the school, school district, conference, or association including:

1. Heat index and heat illness programs;

2. Wrestling weight management programs;

3. Concussion and other head injury policies including policies for minimizing impact exposure and concussion risks;

4. The following football drill work and practice activity limitations:

a. Football contact and non-contact practice shall use the appropriate clothing and equipment for the level of drill, including:

(i) A drill conducted in helmets-only shall be a Level 0, [~~air,~~] or Level 1[~~, bags~~];

(ii) A drill conducted in shells (shorts, shoulder pads, and helmets) shall be a non-contact drill; and

(iii) A contact drill shall be conducted in full equipment;

b. Middle school football shall practice a minimum of eleven (11) days before engaging another group or opponent in full contact, using the following minimum schedule:

(i) Five (5) days in helmets;

(ii) Followed by three (3) days in helmets and shoulder pads; and

(iii) Concluding with three (3) days in full equipment practice; and

c. Contact drills shall not be conducted more than twenty-one (21) days before the first regular-season contest;

d. The [~~Beginning July 1, 2020,~~] the first regular season interscholastic contest shall not be played before the Saturday preceding week seven (7) of the National Federation of High Schools Standardized Procedure for Numbering Calendar Weeks;

5. The following baseball pitching limitations shall apply to all interscholastic play at the middle school level including scrimmages, regular season, and post season games:

a. The pitch count shall be based on pitches thrown for strikes (including foul balls), balls, balls in play, and outs;

b. Warm-up pitches allowed before each inning, warm-up pitches allowed by the umpire in case of injury or game delay, and plays attempted against the batter-runner or any runner at first, second, or third base shall not count against this limit;

c. A pitcher at any level who reaches the pitch count limit in the middle of an at-bat shall be allowed to finish that hitter;

d. The required calendar rest shall begin on the day following the date on which the game began, or a resumed game began regardless of the conclusion time of the game; and

e. The rest periods shall be based on the following total pitches:

(i) Maximum pitches - eighty-five (85);

(ii) Fifty-six (56) pitches or more - three (3) calendar days rest;

(iii) Thirty-six (36) to fifty-five (55) pitches - two (2) calendar days rest;

(iv) Twenty (20) to thirty-five (35) pitches - one (1) calendar day rest; and

(v) One (1) to nineteen (19) pitches - no mandated rest;

6. Students seeking to play or practice, including scrimmages, regular season, and post season games, in the sport of fastpitch softball, shall be required to wear face protection, commercially manufactured for softball facial protection and worn as intended by the manufacturer, when playing the positions of first base, third base, and pitcher; and

7. Teams participating in middle school athletics as defined by subsection (1) of this section shall use KHSAA licensed officials in the sports of baseball, basketball, field hockey, football, soccer, softball, and volleyball;

(4) Create a permanent Middle School Athletics Advisory Committee. This committee shall:

(a) Report regularly, not less than annually to [~~Be autonomous with respect to~~] the Board of Control of the KHSAA with the Board of Control obligated to make a recommendation to the Kentucky Board of Education with respect to annually proposed regulatory changes;

(b) Be composed of no less than three (3) middle school representatives from each Supreme Court district as well as no less than three (3) at large representatives from throughout the state;

(c) Provide an opportunity for nonprofit athletic groups, parents, and others to participate and provide input on the sport, athletic event, or athletes involved in interscholastic activities through local school districts;

(d) Meet not less than twice annually to review current programs and policies, make recommendations for improvements to and participation in middle school interscholastic activities, as well as any changes in statute, administrative regulation, or policy related to middle school interscholastic athletics, and assist in the development of model guidelines for schools, districts, conferences, and associations to be used in implementing a middle school athletic program; and

(e) Report regularly, not less than annually, to the commissioner of the KHSAA and issue, in conjunction with the commissioner, a formal written report annually to the KBE with recommendations for changes in statute, administrative regulation, or policy;

(5) Require any organization conducting a school-based event at the middle school level to submit the following, which shall be published and listed on the KHSAA Web site:

(a) Annual financial reports of all sanctioned and approved events sponsored by the organization; and

(b) Documentation of financial accountability including verification of federal status and tax documents including an annual IRS Form 990;

(6) Provide notice to the middle schools related to any program conducted by KHSAA related to educating school administrators about the provisions of 20 U.S.C. 1681, Title IX;

(7) Provide educational materials and a mechanism to facilitate the monitoring and tracking capabilities for the middle schools to ensure compliance with the provisions of KRS 160.445 and other requirements for coaches at the middle school level;

(8) Require that any student who turns:

(a) Fifteen (15) years of age before August 1 of the current school year shall not be eligible for interscholastic athletics in Kentucky in competition against students exclusively enrolled in grades eight (8) and below;

(b) Fourteen (14) years of age before August 1 of the current year shall not be eligible for interscholastic athletics in Kentucky in competition against students exclusively enrolled in grades seven (7) and below; and

(c) Thirteen (13) years of age before August 1 of the current school year shall not be eligible for interscholastic athletics in Kentucky in competition against students exclusively enrolled in grades six (6) and below;

(9) Require each school, school district, conference, or association of schools to develop rules and limitations regarding student participation at the middle school level to include:

(a) A defined age limitation for participating students;

(b) A policy regarding the participation of students below grade six (6);

(c) A limitation on practice time before the season in any sport or sport activity which shall not exceed the practice time adopted for play at the high school level;

(d) A limitation on the number of school-based scrimmages and regular season, school based contests in each sport or sport-activity, which shall not include post season contests and shall not

exceed the allowable number of contests for that sport or sport-activity at the high school level; and

(e) A limitation on the length of the regular competitive season in each sport or sport-activity, not including any post season activities, which shall not exceed the length for that sport or sport-activity at the high school level;

(10) Conduct all meetings related to middle school athletics in accordance with KRS 61.805 through 61.850;

(11) Issue an annual report to the KBE on the status of interscholastic athletics at the middle school level, including any recommendations for changes in statute, administrative regulation, or policy;

(12) Allow a school or school district to join a conference or association that has developed rules for any particular sport or sport-activity to satisfy the requirements of this administrative regulation; and

(13) The period of June 25 to July 9, inclusive, shall be a dead period for middle school athletics. During the dead period:

(a) Students shall not receive coaching or training from school personnel, whether salaried or non-salaried;

(b) School facilities, uniforms, nicknames, transportation, or equipment shall not be used;

(c) School funds shall not be expended in support of interscholastic athletics; and

(d) A postseason wrap-up activity, celebration, or recognition event relating to a spring sports team at a school may be held.

Section 5. Financial Planning and Review Requirements. (1) KHSAA shall annually submit the following documents to the KBE by October 31:

(a) Draft budget for the next two (2) fiscal years, including the current year;

(b) End-of-year budget status report for the previous fiscal year;

(c) Revisions to the KHSAA Strategic Plan as a result of an annual review of the plan by the KHSAA governing body;

(d) A summary report of operations including summaries of financial, legal, and administrative actions taken and other items ongoing within KHSAA. This report shall also include a summary of items affecting:

1. Athletic appeals and their disposition, including the name of the individual, grade, school, and the action taken by KHSAA;

2. Eligibility rules;

3. Duties of school officials;

4. Contests and contest limitations;

5. Requirements for officials and coaches; and

6. Results of a biennial review of its bylaws that results in a recommendation for a change, directing any proposals for change in association rules to be considered for a vote by the member schools at the next legislative opportunity; and

(e) A review of all items which have been submitted to the membership for approval through the processes established in the KHSAA Constitution and the result of the voting on those issues.

(2) The KHSAA shall annually submit at the next meeting of the Kentucky Board of Education following receipt and adoption by the Board of Control, audited financial statements with the KHSAA Commissioner's letter addressing exceptions or notes contained in management correspondence if any.

Section 6. Forms. The forms incorporated by reference in this administrative regulation shall be filed:

(1) Using the paper form; or

(2) Using the electronic forms found on the Kentucky High School Athletic Association Web site at www.khsaa.org.

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

(a) "KHSAA Constitution", 7/2021[~~7/2020~~];

(b) "KHSAA Bylaws", 7/2021[~~7/2020~~];

(c) "KHSAA Due Process Procedure", 7/2021[~~6/2017~~];

(d) "KHSAA Board of Control and Officials Division Policies", 7/2021[~~7/2020~~];

(e) KHSAA Form BA101- Baseball Pitching Limitation", 6/2016;

(f) KHSAA Form GE01, "Application for Membership", 5/2020;

(g) KHSAA Form GE04, "Athletic Participation Form, Parental and Student Consent and Release for High School Level (grades 9 - 12) Participation", 7/2020;

(h) KHSAA Form DP02, "Request for Statutory Waiver of Bylaw 2", 6/2018;

(i) KHSAA Form DP06, "Application for Athletic Eligibility for Domestic Students", 7/2020;

(j) KHSAA Form DP07, "Application for Athletic Eligibility for Students having J-1 or F-1 Status", 7/2020;

(k) KHSAA Form DP08, "Application for Non U.S. Student Athletic Eligibility for Students Not having J-1/F-1 Status ", 7/2020;

(l) KHSAA Form DP16, "Request for Waiver of 20 Day Notice", 6/2018;

(m) KHSAA Form DP17, "Add. Info for Appeal", 6/2018;

(n) KHSAA Form DP18 "Waiver – 15 Day Exceptions", 6/2018;

(o) "KHSAA Form GE14- Contract for Athletic Contests", 7/2020;

(p) "KHSAA Form GE19-Title IX Procedures Verification", 5/2011;

(q) KHSAA Form GE20, "Heat Index Measurement and Record", 4/2014;

(r) KHSAA Form PPE01/Physician Clearance, "PPE01-Physician Clearance Form (Grades 6-12)", 7/2020;

(s) KHSAA Form PPE02/Physical Exam, "PPE02 Physical Exam Form (Grades 6-12)", 7/2021[~~7/2020~~];

(t) KHSAA Form PPE/Supplemental, "PPE- Physical Exam History Supplemental Form for Athletes With Special Needs (Grades 6 - 12)", 7/2019; and

(u) "KHSAA Form MS01- Athletic Participation Parental and Student Consent and Release for Middle School (grades 5-8) Participation", 7/2020.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Legal[~~, Legislative and Communication~~] Services, Department of Education, 5th Floor, 300 Sower Blvd, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CONTACT PERSON: Todd Allen, 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**
**Department for Libraries and Archives**
**Archives and Records Management Division**
**(As Amended at ARRS, January 10, 2022)**

**725 KAR 1:010. Records officers; duties.**

RELATES TO: KRS Chapter 171
STATUTORY AUTHORITY: KRS 171.450
NECESSITY, FUNCTION, AND CONFORMITY: KRS 171.450 requires the department to ***promulgate[~~prescribe~~]*** administrative regulations governing the procedures for retention scheduling of public records, disposal of public records, and for the transfer of public records to the State Archives or[~~and~~] Records Centers. This administrative regulation ***establishes[~~is to assure~~]*** uniformity and continuity ***with regard to public records[~~in these procedures~~]***.

Section 1. Each constitutional, statutory, and executive authority of state and local government shall designate a member of the staff as records officer, whose duty shall be to represent that[~~his~~] unit of government in its relations with the Archives and Records Management Division[~~Division of Archives and Records~~].

Section 2. Duties and responsibilities of each records officer ***shall be as established in subsection (1) of this section.[~~are as follows:~~]***

(1) The records officer[~~He~~] shall assist the Archives and Records Management Division[~~Division of Archives and Records~~] in inventorying, analyzing, and scheduling disposition of records of the records officer's[~~his~~] unit of government, or in any manner [~~as~~] approved by the agency head that[~~as~~] ***could[~~may~~]*** tend to

establish an efficient system of records management.

(2) The records officer[~~He~~] shall keep a record of the destruction of public records, noting the authorization for ***[~~said~~]*** destruction and the amount and date span of records destroyed. [~~He shall make an annual report of this record to a designated superior and to the Director of the Public Records Division.~~]

Section 3. The records officer shall keep a record of the transfer of public records to the State Archives and Records Centers, including the records transferred, date of transfer, and location in the State Archives and Records Centers.

Section 4.[~~Section 3.~~] (1) A state or local agency shall not destroy any original records after the records are microfilmed, digitized, duplicated, or reformatted without written approval[~~No original documents may be destroyed by any political unit of state or local government after being microfilmed or otherwise duplicated without written approval~~] of the Department for Libraries and Archives***, as established in the Destruction of Public Records: A Procedural Guide***.

(2) ***The records officer[~~He~~]*** shall keep a record of the destruction of public records, noting the authorization for ***[~~said~~]*** destruction and the amount of records destroyed. ***The records officer[~~He~~]*** shall make an annual report of this record to a designated superior and to the ***State Archivist[~~Director of the Public Records Division~~]***.

***Section 5. Incorporation by Reference. (1) "Destruction of Public Records: A Procedural Guide", November 2021, is incorporated by reference.***

***(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601, Monday through Friday, 9 a.m. to 4 p.m.***

CONTACT PERSON: Terry Manuel, Commissioner, Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601. phone 502-564-8303. fax 502-564-5773, email Terry.Manuel@ky.gov.

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET**
**Department for Libraries and Archives**
**Archives and Records Management Division**
**(As Amended at ARRS, January 10, 2022)**

**725 KAR 1:020. Recording and reproducing public records.**

RELATES TO: KRS 61.870, ***171.420(3)[~~141.420(3)~~]***, 171.450(1)(c), 171.600, 171.670

STATUTORY AUTHORITY: KRS 171.450(1)(c), 171.660

NECESSITY, FUNCTION, AND CONFORMITY: KRS 171.450(1)(c) requires the department to establish standards and procedures for recording, managing***, [and]*** preserving***, [~~public records,~~]*** and ***reproducing[~~for the reproduction of~~]*** public records. KRS 171.660 requires that [~~a~~] state and local agencies shall reproduce and preserve public records according to administrative regulations promulgated by the department. KRS 171.420(3) ***requires[~~provided that~~]*** the State Libraries, Archives, and Records Commission[~~State Archives and Records Commission~~] ***to[~~shall~~]*** be the final authority for the disposition of all public records in Kentucky. This administrative regulation establishes the standards to be followed for the recording or reproducing of public records.

Section 1. Recording shall be done on paper, microform[~~microfilm~~], or in a digital format.

Section 2. If the recording is done on paper, it shall be done on thirty-two (32) weight, 100 percent linen paper[~~or its equivalent in accordance with specifications established by the National Institute of Standards and Technology~~].

Section 3. If the recording is done on microfilm, microfiche, or some other type of microform, the agency shall follow the standards and procedures in Microfilming and Digital Imaging of Public Records: A Procedural Guide.

Section 4. If the recording is in a digital format or reformatted to a digital image, the agency shall follow the standards in Microfilming and Digital Imaging of Public Records: A Procedural Guide, Policy Memorandum on the Storage of Public Records as Scanned Images, and Ensuring [~~the~~] Long-term Accessibility and Usability of Textual Records Stored as Digital Images: Guidelines for State and Local Government Officials.

Section 5. (1) A state or local agency shall not destroy any original records after the records are microfilmed, digitized, duplicated, or reformatted without written approval of the State Archivist[~~ and Records Administrator~~] as established in 725 KAR 1:030.

(2) A state or local agency shall follow the retention and disposition schedules established by the State Libraries, Archives, and Records Commission[~~State Archives and Records Commission~~] in 725 KAR 1:061.

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

(a) "Microfilming and Digital Imaging of Public Records: A Procedural Guide", January 2010;

(b) "Policy Memorandum on the Storage of Public Records as Scanned Images, PM 2010-01", January 2010; and

(c) "Ensuring [~~the~~ ]Long-term Accessibility and Usability of Textual Records Stored as Digital Images: Guidelines for State and Local Government Officials", January 2010.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Archives and Records Management Division[~~Public Records Division~~], Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601, Monday through Friday, 9:00 a.m.[~~8 a.m.~~] to 4:00 p.m.[~~4:30 p.m.~~]

CONTACT PERSON: Terry Manuel, Commissioner, Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601. phone 502-564-8303. fax 502-564-5773. email Terry.Manuel@ky.gov.

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET**
**Department for Libraries and Archives**
**Archives and Records Management Division**
**(As Amended at ARRS, January 10, 2022)**

**725 KAR 1:030. Scheduling public records for retention and disposal; procedures.**

RELATES TO: KRS 171.450

STATUTORY AUTHORITY: KRS 171.450, 171.580

NECESSITY, FUNCTION, AND CONFORMITY: KRS 171.450(1)(a) and (b) require[~~requires~~] the department to establish procedures for the compilation and submission to the department of lists and schedules of public records proposed for disposal and to establish procedures for the disposal or destruction of public records authorized for disposal or destruction. KRS 171.580 authorizes the department to accept for deposit in the State Archives Center the records of any state or local agency that are determined by the department to have sufficient historical or other value[~~ to warrant their procedures for the scheduling of public records for retention and disposal and for the uniform destruction of public records~~]. ***This administrative regulation establishes provisions for the retention and disposal of public records.***

Section 1. State and local agencies shall follow the procedures for scheduling public records for retention and disposal described in Records Retention Scheduling: A Procedural Guide.

Section 2. State and local agencies shall follow the procedures

for disposing of eligible public records described in Destruction of Public Records: A Procedural Guide.

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

(a) "Records Retention Scheduling: A Procedural Guide", July 2008; and

(b) "Destruction of Public Records: A Procedural Guide", July 2008.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Archives and Records Management Division[~~Public Records Division~~], Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601, Monday through Friday, 9:00 a.m.[~~8 a.m.~~] to 4:00 p.m.[~~4:30 p.m.~~]

CONTACT PERSON: Terry Manuel, Commissioner, Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601. phone 502-564-8303. fax 502-564-5773. email Terry.Manuel@ky.gov.

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET**
**Department for Libraries and Archives**
**Archives and Records Management Division**
**(As Amended at ARRS, January 10, 2022)**

**725 KAR 1:040. Collection and distribution of reports and publications.**

RELATES TO: KRS 171.500

STATUTORY AUTHORITY: KRS 171.450

NECESSITY, FUNCTION, AND CONFORMITY: KRS 171.450 requires the department to establish procedures for collection and distribution by the central depository of all reports and publications issued by any department, board, commission, officer***,*** or other agency of the commonwealth for general public distribution. This administrative regulation establishes collection and distribution procedures for reports and publications.

Section 1. Definitions. (1) "Department" is defined ***by[~~in~~]*** KRS 171.410(2).

(2) "Division" ***means[~~is~~]*** Archives and Records Management Division[~~Public Records Division~~] in the Department for Libraries and Archives.[

~~(3) "Nonstate publication" means a brochure, public agency press release, internal procedure manual, internal newsletter, inter- and intraoffice correspondence and memorandum, and material designated by law as confidential.~~

~~(4) "Publication number" means a unique identifier assigned to state publications in the department's collection.~~]

(3)[~~(5)~~] "Records officer" ***means[~~is~~]*** the public agency employee who represents that[~~his~~] unit of government in its relations with the division, as ***established[~~defined~~]*** in 725 KAR 1:010.

(4)[~~(6)~~] "State publication" means a publication in any format that is produced by the authority of, or at the total or partial expense of, a state agency, and is required to be distributed under law by the agency, is publicly distributed outside the agency,[~~or~~] is displayed on a public agency ***Web site[~~website~~]***,[~~Web site~~] or is made available electronically by any other means.

Section 2. (1) The records officer of each agency or department of state government shall be responsible for depositing with the Department for Libraries and Archives, Archives and Records Management Division[~~Public Records Division~~], three (3) copies of each report and publication issued on paper by that agency for general public distribution or one (1) electronic copy. Publications shall be forwarded to the division on the date of issue.

(2) The records officer of each agency shall be responsible for depositing with the division one (1) copy of each state publication held in electronic format or issued for general public distribution on the agency's Web site.

***(a) Each publication[~~Publications~~]*** shall be forwarded to the division on the date of issue.

***(b) The agency[~~Agencies~~]*** shall forward electronic publications to the division in Adobe Portable Document Format (PDF)[~~, as attachments to an email message, or as documents on a disc~~].

***(c)*** Agencies shall follow the guidelines contained in Kentucky Information Technology Standards (KITS***), https://cgp.ky.gov/sites/COTPUBDOCS/Standards/KITS_Report.pdf***[~~"Enterprise Standards: 2000 Software Domain Category: 2330 Electronic Documents: NonAlterable."~~]***.***

Section 3. (1) Each agency shall notify the division in writing of the name of its records officer, as the agency employee who represents that[~~his~~] unit of government in its relations with the division***[~~, within thirty (30) days after the effective date of this administrative regulation and upon any change of that personnel thereafter~~]***. The records officer shall ***submit to[~~furnish~~]*** the division in writing***,*** ***[~~with~~]***a complete list of the agency's current state publications in all formats, annually, at the end of each fiscal year, and upon request.

(2) If a records officer is unsure whether ***or not*** particular published material constitutes a state publication, the records officer may consult the Archives and Records Management Division[~~division's coordinator of state publications~~].

Section 4. (1) Once submitted, state publications in all formats shall be reviewed for addition to the State Publications Collection at the department. Nonstate publications or paper copies in excess of the required three (3) ***may[~~shall~~]*** be discarded.

(2) Once added to the State Publications Collection, publications shall be [~~assigned a publication number and~~ ]listed on the department's Web site for general public access.

[~~Section 5. Incorporation by Reference. (1) "Enterprise Standards: 2000 Software Domain Category: 2330 Electronic Documents: Non Alterable" is incorporated by reference.~~

~~(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:00 p.m.4:30 p.m.~~]

CONTACT PERSON: Terry Manuel, Commissioner, Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601. phone 502-564-8303. fax 502-564-5773. email Terry.Manuel@ky.gov.

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET**
**Department for Libraries and Archives**
**Archives and Records Management Division**
**(As Amended at ARRS, January 10, 2022)**

**725 KAR 1:050. Records management program.**

RELATES TO: KRS Chapter 171

STATUTORY AUTHORITY: KRS 171.450(2), 171.520

NECESSITY, FUNCTION, AND CONFORMITY: KRS 171.450(2) requires that the department shall enforce the provisions of KRS 171.410 ***through[~~to~~]*** 171.740 by ***promulgation of[~~appropriate rules and~~]*** administrative regulations. KRS 171.520 requires the department to ***establish[~~prescribe~~]*** the policies and principles to be followed by state and local agencies in the conduct of their records management programs***,[~~;~~]*** to ensure the maintenance and security of records deemed appropriate for preservation***,[~~;~~]*** to facilitate the segregation and disposal of records of temporary value and to promote the effective and economical use of space, equipment***,*** and supplies needed for the purpose of creating, maintaining, and servicing records. KRS 171.520 ***[~~also~~]***authorizes the department to administer and grant any money appropriated to it for providing and improving records management programs of state and local agencies. This [~~proposed~~ ]administrative regulation ***establishes[~~is to assure~~]*** uniform policies ***for[~~in~~]*** the administration of grants to local governments for the improvement of records management programs.

Section 1. Eligibility of Applicants. Any local government office interested in improving the management and preservation of its public records may apply for a grant under the local records program by completing ***the Local Records Program Grant*** Application***[forms available through the department]***. For the purposes of this program, a local government office ***shall constitute a[should conform to the definition of]*** "public agency" as ***defined by[cited in]*** KRS 61.870(1).

Section 2. Application Procedures. All applications ***shall[must]*** be submitted on the ***Local Records Program Grant Application[official application form]*** and include a detailed project description, plan of work, and budget request. ***Supporting documentation, such as the Invitation for Bid Proposal are established in the Local Records Program Grant Guidelines.*** Entries on the application form and any required supporting documents ***shall[should]*** be typed and completed as fully as possible, with additional sheets attached if necessary. In signing the application and in accepting a grant award, applicants agree, in carrying out their projects, to abide by ***the criteria established in this administrative regulation[specific conditions set by the department]***.

Section 3. Categories for Funding. Any project ***[which seeks]***to improve the management and preservation of local public records ***shall[will]*** be considered. Categories for funding include, ***for example[but are not limited to]***:

(1) Security microfilming vital (critical for the functioning of the office) or historically significant records ***following the standards and procedures in Microfilming and Digital Imaging of Public Records: A Procedural Guide[using Archives and Records Management Division***][Public Records Division]***[standards]***. Security microfilming carried out with local records grant funds must be done through a micrographics laboratory or vendor[service bureau] certified ***according to the criteria established in the Microfilming and Digital Imaging of Public Records: A Procedural Guide[by the department]*** and officially recognized by the State Libraries, Archives, and Records Commission[State Archives and Records Commission]. A list of the names of currently certified laboratories or vendors ***may[can]*** be obtained from the ***department's web site (https://kdla.ky.gov/records/recmgmtservices/Pages/LocalRecordsProgramGrants.aspx)[department];[.]***

(2) Rerecording projects, for rerecording damaged records or records[originally recorded with a nonpermanent process and] now losing their image, using archivally acceptable methods of recording on paper or microfilm***;[.]***

(3) Document preservation projects, to carry out preservation or conservation measures on endangered records of major historical significance***;[.]***

(4) Purchasing document conservation supplies***;[.]***

(5) Establishing a local government records management program or archives. This ***may[could]*** include hiring or partially subsidizing the salary of a qualified archivist who will work with department personnel in initiating a specific, time-limited project***[according to department standards]***. Requests for salary support ***shall be evaluated based on this administrative regulation[will be evaluated on a case-by-case basis]***. ***These[Such]*** funds are not designed for ongoing support, and they ***shall not[cannot]*** be used to replace salary funds already being expended by the local government. They ***may[can]*** be used as ***short-term[short term]*** salary supplements***;[.]***

(6) Arranging and describing archival holdings, according to ***generally accepted professional standards of records management and archival theory and practice[standards or[and/or] formats approved by the department];[.]***

(7) Purchasing supplies and equipment ***that[which]*** promote preservation of or access to archival materials, including acid-free boxes and folders, shelving, and cabinets***; and[.]***[, and equipment to read microfilm.

(8) Improving storage conditions, rehabilitating storage are as, installing physical security systems, or providing for adequate environmental conditions in areas where records are stored.]

(8)[(9)] Codification of ordinances for cities and counties, ***according to procedures in Policy Memorandum on Approved Codification Services Vendors and Codification Grant Applicants/Recipients[using a codification services vendor approved by the department]***. Funds ***shall be[are]*** available for production of initial codes but not for code supplements.

Section 4. Grant Award Periods. Grants ***shall be[are]*** awarded on a state fiscal year basis***[, and applicants are encouraged to design projects which can be completed during that period. Applicants with longer term needs are encouraged to identify phases into which their projects can conveniently be divided, and they are urged to carry out their work in stages, each of which could be eligible for grant support in future grant cycles, pending satisfactory completion of each stage]***.

Section 5. Grant Review and Evaluation. Applications ***shall be[are]*** reviewed by the Local Records Grant Review Committee and ***ranked recommendations shall be presented to*** the State Libraries, Archives, and Records Commission[State Archives and Records Commission]. ***The State Libraries, Archives and Records Commission shall make[Recommendations of these groups are forwarded to the commissioner of the department who makes]*** the final decision on grant awards ***using the criteria established in Section 5 of this administrative regulation***.

Section 6. Grant Review Criteria. In reviewing applications and recommending the funding of specific projects, reviewers judge the projects by criteria***,*** which ***includes[may include the following]***:

(1) Urgency of the problem, ***such as*** significance and age of the records. The commission and other evaluation groups ***shall consider first[will pay special attention to those]*** local government applicants with critical records problems and to those with older records and with chronologically complete groupings of records***;[.]***

(2) Value as a model and type for size and geographical location of the local government. The program ***shall promote[strives to assure]*** equity in the geographic distribution of grant projects. The program ***shall include[includes]*** projects in various types and sizes of local governments, ***with[and]*** a major goal ***[is]***to provide model projects in all areas of the state***;[.]***

(3) Soundness of the proposed methods. The methods of handling the records ***shall[should]*** conform to generally accepted professional standards of records management and archival theory and practice***;[.]***

(4) Commitment of local government resources to the project. The commission and other evaluation groups ***shall[will]*** give preference to local governments ***that[which]*** commit some local resources to the proposed projects. ***[Such]***Support ***may[might]*** take the form of adequate office, storage, or working space; personnel; supplies; equipment; or a monetary contribution. Evidence of previous concern or commitment of support to improved local records management and preservation ***shall[will]*** also be important factors in the reviewers' evaluation***;[.]***

(5) Commitment by the local government to maintain the program[pro-gram] or the lasting benefit of a specific project. This ***may[could]*** include provisions for maintaining the accuracy and currency of a grant-funded code of ordinances with annual supplements, providing adequate storage space, designating of a person or persons responsible for maintaining and adding to a local archives, adhering to all standards for archival microfilming, or being willing to assume the cost of future security microfilming of relevant records***;[.]***

(6) Adequate security and protection of records. Local governments ***shall:***

***(a)1.[should]*** House records in secure, ***fire-resistant[fire resistant]*** facilities***;[.]*** or

***2.[should]*** State how the proposed project will safeguard the records in question.

***(b)*** Applicants ***shall comply with[should take into account the requirements of]*** KRS 171.710 regarding the safeguarding of public records***;[.]***

(7) Compliance with all legal requirements regarding custody and public access. This ***shall[would]*** include complying with the

requirements of the state's Open Records Law (KRS 61.870-876) and providing access to the general public in an area with proper security and supervision***; and[.]***

(8) Commitment by the local government to a comprehensive records management program. This ***shall[would]*** include regular legal disposition of [~~obsolete~~ ]records in accordance[~~accord~~] with the records retention[~~control~~] schedules covering the records of a local government agency, and ***may[might]*** also include files control, segregation of inactive or noncurrent material from active files, selective microfilming (where appropriate), and training of records personnel in records management techniques.

Section 7. ***Informal Appeals. (1) An applicant aggrieved by a decision of the State Libraries, Archives and Records Commission may file an informal appeal with commissioner of the department.***

***(2) Procedures.***

***(a) A formal letter of appeal shall be sent via email or postal mail to the commissioner of the department within three (3) working days of receipt of notice of rejection.***

***(b) The appeal shall include a brief description of why the applicant believes the decision of the State Libraries, Archives, and Records Commission is in error. The appeal shall be based solely upon alleged error by the State Libraries, Archives, and Records Commission. New information shall not be submitted with the appeal.***

***(c) The commissioner of the department shall make decision within two (2) working days of receipt of letter of appeal.***

***Section 8.*** Local governments ***that[which]*** are awarded grants shall enter into a grant contract[~~agreement~~] with the department***. The grant shall establish[which shall specify]*** performance and reporting requirements. Failure to fulfill the requirements ***shall[can]*** result in the return of the grant to the department.

***Section 9.[Section 8.]*** Selection of Codification Services Vendors. The department, in approving established codification services vendors to participate in codification work funded with local records grants, ***shall[wants to]*** ensure[~~insure~~] that basic criteria and professional standards are met. Criteria ***such as[which may include, but are not limited to,]*** the following ***shall be[are]*** used as essential measures to approve prospective codification services vendors:

(1) Corporate stability ***or[and/or]*** a history of reliable service, preferably to client governments in Kentucky***;[.]***

(2) Experienced legal and editorial staff conversant with local government law and the technical and editorial requirements ***to[which must]*** be met in producing accurate, usable codes of ordinances***;[.]***

(3) Access to online[~~on-line~~] statutory databases[~~data bases~~]***; and[.]***[

~~(4) Modern word-processing or computer assisted composition and typesetting capacity.~~]

(4)[(5)] The ability to provide code supplement services on a continuing basis[~~, through the use of subsection (4) of this section~~].

***Section 10. Codification Services Vendor[Section 9.]*** Applications from prospective codification services vendors ***shall be[are]*** reviewed by ***[an ad hoc advisory committee to]***the State Libraries, Archives**,** and Records Commission **using the criteria established in Section 9 of this administrative regulation.**

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

***(a) "Local Records Program Grant Application", October 2021;***

***(b) "Invitation for Bid Proposal", October 2021;***

***(c) "Local Records Program Grant Guidelines", November 2021;***

***(d) "Microfilming and Digital Imaging of Public Records: A Procedural Guide", January 2010;***

***(e) "Policy Memorandum on Approved Codification Services Vendors and Codification Grant Applicants/Recipients, PM 2021-11", November 2021; and***

***(f) "Codification Services Vendor Application", December 2021.***

***(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601, Monday through Friday, 9 a.m. to 4 p.m.***

CONTACT PERSON: Terry Manuel, Commissioner, Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601. phone 502-564-8303. fax 502-564-5773. email Terry.Manuel@ky.gov.

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET**
**Department for Libraries and Archives**
**Archives and Records Management Division**
**(As Amended at ARRS, January 10, 2022)**

**725 KAR 1:061. Records retention schedules; authorized schedules.**

RELATES TO: KRS 171.420(3), 171.450

STATUTORY AUTHORITY: KRS 171.450

NECESSITY, FUNCTION, AND CONFORMITY: KRS 171.420(3) ***requires[provides that]*** the State Libraries, Archives, and Records Commission[~~State Archives and Records Commission~~] ***to[shall]*** be the final authority for the disposition of all public records in Kentucky. KRS 171.450(1)(a) requires the department to establish procedures for the compilation and submission to the department of lists and schedules of public records proposed for disposal. KRS 171.450(2) requires the department to promulgate administrative regulations to enforce the provision of KRS 171.410 ***through[to]*** 171.740. This administrative regulation ***establishes[identifies]*** records retention and disposition schedules ***[approved by the commission]*** that state and local agencies shall follow for retention and disposition of public records.

Section 1. Schedules. (1) A Kentucky state government agency shall comply with:

(a) Records Retention Schedule, General Schedule for State Agencies;

(b) Records Retention Schedule, General Schedule for Electronic and Related Records; and

(c) The approved applicable schedule for the specific agency from among the following:

1. Records Retention Schedule, Department of Agriculture:
2. Records Retention Schedule, Auditor of Public Accounts;
3. Records Retention Schedule, Economic Development Cabinet;
4. Records Retention Schedule, Education and Workforce Development Cabinet;
5. Records Retention Schedule, Energy and Environment Cabinet;
6. Records Retention Schedule, Finance and Administration Cabinet;
7. Records Retention Schedule, General Government;
8. Records Retention Schedule, Office of the Governor;
9. Records Retention Schedule, Cabinet for Health and Family Services;
10. Records Retention Schedule, Justice and Public Safety Cabinet;
11. Records Retention Schedule, Department of Law;
12. Records Retention Schedule, Labor Cabinet;
13. Records Retention Schedule, Legislative Branch;
14. Records Retention Schedule, Office of the Lieutenant Governor;
15. Records Retention Schedule, Personnel Cabinet;
16. Records Retention Schedule, Public Protection Cabinet;
17. Records Retention Schedule, Office of the Secretary of State;
18. Records Retention Schedule, Tourism, Arts and Heritage Cabinet;

19. Records Retention Schedule, Transportation Cabinet; or
20. Records Retention Schedule, Department of the Treasury.

(2) State universities and the Kentucky Community and Technical College System shall comply with the Records Retention Schedule, State University Model.

(3) Kentucky local government agencies shall comply with:

(a) Records Retention Schedule, Local Government General Records Schedule;

(b) Records Retention Schedule, General Schedule for Electronic and Related Records; and

(c) The approved applicable schedule for the specific agency from among the following:

1. Records Retention Schedule, Area Development District;
2. Records Retention Schedule, County Attorney;
3. Records Retention Schedule, County Clerk;
4. Records Retention Schedule, County Coroner;
5. Records Retention Schedule, County Judge Executive;
6. Records Retention Schedule, County Sheriff;
7. Records Retention Schedule, County Treasurer;
8. Records Retention Schedule, County Jailer;
9. Records Retention Schedule, Lexington Fayette Urban County Government;
10. Records Retention Schedule, Public Library and Library Board;
11. Records Retention Schedule, Local Health Department;
12. Records Retention Schedule, Louisville Metro Government;
13. Records Retention Schedule, Municipal Government;
14. Records Retention Schedule, Public School District (K-12/Central Office); or
15. Records Retention Schedule, Kenton County Airport Board.

Section 2. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Records Retention Schedule, General Schedule for State Agencies", 2014;

(b) "Records Retention Schedule, General Schedule for Electronic and Related Records", 2014;

(c) "Records Retention Schedule, Department of Agriculture", 2014;

(d) "Records Retention Schedule, Auditor of Public Accounts", 2014;

(e) "Records Retention Schedule, Economic Development Cabinet", 2014;

(f) "Records Retention Schedule, Education and Workforce Development Cabinet", 2014;

(g) "Records Retention Schedule, Energy and Environment Cabinet", 2014;

(h) "Records Retention Schedule, Finance and Administration Cabinet", 2014;

(i) "Records Retention Schedule, General Government", 2014;

(j) "Records Retention Schedule, Office of the Governor", 2014;

(k) "Records Retention Schedule, Cabinet for Health and Family Services", 2014;

(l) "Records Retention Schedule, Justice and Public Safety Cabinet", 2014;

(m) "Records Retention Schedule, Department of Law", 2014;

(n) "Records Retention Schedule, Labor Cabinet", 2014;

(o) "Records Retention Schedule, Legislative Branch", 2014;

(p) "Records Retention Schedule, Office of the Lieutenant Governor", 2014;

(q) "Records Retention Schedule, Personnel Cabinet", 2014;

(r) "Records Retention Schedule, Public Protection Cabinet", 2014;

(s) "Records Retention Schedule, Office of the Secretary of State", 2014;

(t) "Records Retention Schedule, Tourism, Arts and Heritage Cabinet", 2014;

(u) "Records Retention Schedule, Transportation Cabinet", 2014;

(v) "Records Retention Schedule, Department of the Treasury", 2014;

(w) "Records Retention Schedule, State University Model", 2014;

(x) "Records Retention Schedule, Local Government General Records Schedule", 2014;

(y) "Records Retention Schedule, Area Development District", 2014;

(z) "Records Retention Schedule, County Attorney", 2014;

(aa) "Records Retention Schedule, County Clerk", 2014;

(bb) "Records Retention Schedule, County Coroner", 2014;

(cc) "Records Retention Schedule, County Judge Executive", 2014;

(dd) "Records Retention Schedule, County Sheriff", 2014;

(ee) "Records Retention Schedule, County Treasurer", 2014;

(ff) "Records Retention Schedule, County Jailer", 2014;

(gg) "Records Retention Schedule, Lexington Fayette Urban County Government", 2014;

(hh) "Records Retention Schedule, Public Library and Library Board", 2014;

(ii) "Records Retention Schedule, Local Health Department", 2014;

(jj) "Records Retention Schedule, Louisville Metro Government", 2014;

(kk) "Records Retention Schedule, Municipal Government", 2014;

(ll) "Records Retention Schedule, Public School District (K-12/Central Office)", 2014; and

(mm) "Records Retention Schedule, Kenton County Airport Board", 2014.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Archives and Records Management Division, Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601, Monday through Friday, 9:00 a.m.[~~8 a.m.~~] to 4:00 p.m.[~~4:30 p.m.~~]

CONTACT PERSON: Terry Manuel, Commissioner, Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601. Phone 502-564-8303. Fax: 502-564-5773. Email: Terry.Manuel@ky.gov.

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET**
**Department for Libraries and Archives**
**Division of Library Services**
**(As Amended at ARRS, January 10, 2022)**

**725 KAR 2:015. Public library facilities construction.**

RELATES TO: KRS Chapter 13B, 171.027, 171.125, 173.040, 173.340, 173.480, 173.725, 198B.032[~~198B.020~~], 198B.050, 227.300, 322.010(3), 323.010(1), (2), 323.020, Chapters 341, 342, 344, 42 U.S.C. 12101

STATUTORY AUTHORITY: KRS 171.027

NECESSITY, FUNCTION, AND CONFORMITY: KRS 171.027 ***requires[~~establishes~~]*** The Public Library Facilities Construction Fund to assist local public libraries and other governing bodies in debt service payments relating to library construction or renovation projects. KRS 171.027 requires the Department for Libraries and Archives to promulgate administrative regulations to establish: (1) the application process; (2) the criteria for project selection; (3) the minimum level of local participation required; and (4) the process to be followed in the construction of facilities. This administrative regulation ***establishes***: (1) ***definitions[~~defines terms~~]***; (2) ***[~~states~~]*** general requirements for eligibility; (3) ***[~~establishes~~]*** application procedures for the applicant and the department; (4) ***[~~establishes~~]*** the construction process; and (5) ***procedures[~~provides~~]*** for the payment of funds.

Section 1. Definitions. (1) "Application packet" means the packet of materials KDLA sends to each applicant library, containing:

(a) A copy of the MOA currently being used;

(b) A copy of this administrative regulation;

(c) The criteria used to determine minimum matching requirements; and

(d) Other relevant material needed for completion of an

application for assistance.

(2) "Architect" is defined by KRS 323.010(2).

(3) "Available local revenue" means***[, as determined by the public library and approved by KDLA,]*** the annual local funds available to pay down debt, not expected to decrease the level of normal and customary programs and services offered by the public library.

(4) "Award of assistance" means the annual grant payment awarded, for a period of not more than twenty (20) years, to a local public library to pay down debt incurred to construct or renovate a local public library facility.

(5) "Construction grant coordinator" means a [~~specialized~~] consultant designated [~~employed~~] by KDLA for the purpose of coordinating and consulting with Kentucky public libraries on construction grant issues.

(6) "Engineer" means "professional engineer" as defined by KRS 322.010(3).

(7) "KDLA" means the Kentucky Department for Libraries and Archives.

(8) "Local board" means:

(a) The local public library board of trustees established under KRS 173.040, 173.340, 173.480, or 173.725; or

(b) The official local governing body responsible for the operations of a local public library.

(9) "MOA" or "memorandum of agreement" means the written, long-term agreement between KDLA and a library awarding a PLFC Fund Grant to pay down debt incurred to finance a library facilities construction or renovation project, including each term and condition agreed to and stipulated by each party on the memorandum of agreement.

(10) "PLFC fund grant" means the annual grant awarded by KDLA, over a period of not more than twenty (20) years, to a local public library or governing body to assist in the payment of debt incurred to construct or renovate local public library facilities.

(11) "Public library" is defined by KRS 171.125(2).

(12) "Punch list" means an inventory of work that remains to be completed and signed by the owner, the architect, and the contractor, to show that they agree the items on the list represent the work that remains to be done.

(13) "Responsible bidder" means a person, business, or organization that has the capability in all respects to perform fully the contract requirements, and the integrity and reliability ***to[~~which will~~]*** assure good faith performance.

(14) "State librarian" means the official ***established[~~described~~]*** at KRS 171.130.

(15) "Written building program" means a textual description, often in bullet-point form, of the proposed facility and the spaces within the facility. It will ***establish construction items such as[~~delineate~~]*** square footages, building systems, building materials ***and[&]*** finishes, space adjacencies, utility ***and[&]*** data requirements, furniture needs, ***and*** collection spaces***[, etc]***.

Section 2. Stipulations and Conditions. (1) A public library building shall be constructed in compliance with the***[ following]***:

(a) Uniform State Building Code, KRS 198B.050, as administered by the Kentucky Office of Housing, Buildings and Construction, KRS 198B.032 [~~198B.020~~];

(b) Standards of Safety related to fire prevention and protection, KRS 227.300;

(c) The Americans With Disabilities Act of 1990, 42 U.S.C. 12101;

(d) Workers' Compensation and Unemployment Insurance, KRS Chapters 341 and 342; and[

~~(e) State Prevailing Wage Law, KRS 337.505 through 337.550; and~~]

(e) [~~(f)~~] The Civil Rights Act, KRS Chapter 344.

(2) The local board of a public library applying for assistance from the PLFC fund shall comply with the ***[following]*** KDLA requirements ***established in paragraphs (a) through (i) of this subsection.[:]***

(a) A building or renovation shall be planned, and construction shall be supervised by an architect or engineer whose credentials have been confirmed by KDLA.

(b) A contract for an architectural or construction service shall be in a standard form used by the American Institute of Architects[,].

***1.*** Information about American Institute of Architects forms and where they may be obtained is available on the Institute's Web site***, www.aia.org,***[~~, www.aia.org,~~] and on the Web site of the Kentucky Society of the American Institute of Architects***, www.aiaky.org***[~~, www.aiaky.org~~].

***2.*** An architect shall maintain professional liability insurance, including errors and omission insurance, in accordance with the limits ***established[~~set forth~~]*** in the construction grant contract.

(c) Each plan ***for construction that supports an open floorplan and is supportive of a functionally flexible library[~~and site selected for construction~~]*** shall be approved by KDLA.

(d) The site and facility shall be owned by the local board. KDLA shall approve an alternative facility ownership or use arrangement if it is determined by KDLA to be in the best interest of the state, the local board, and the population served by that library. An applicant shall request KDLA approval for a proposed site prior to purchasing the site. A letter indicating approval or disapproval shall be sent to the local board by KDLA. Property not approved shall be ineligible for construction funds. A building owned by a local county or city government shall be approved if an authoritative letter is obtained establishing the local board's right of possession and use of the building for at least twenty (20) years.

(e) Purchase of an existing building for conversion to library use shall qualify for a PLFC fund grant if:

1. A structural engineer or architect certifies that the building is structurally sound and suitable for conversion;

2. The existing building is of open construction, supportive of a functionally flexible library; and

3. The service and economic considerations for conversion outweigh the service and economic considerations for construction of a new building.

(f) A library building constructed using KDLA funds shall:

1. Remain open to the public; and

2. Maintain appropriately-qualified library personnel.

(g) An application shall include:

1. A written building program; and

2. A current long-range plan.

(h) A project shall:

1. Demonstrate a plan for future growth; and

2.a. Meet KDLA minimum standards for a public library facility; or

b. Be included in a countywide master facility plan designed to meet KDLA minimum standards within a reasonable time, with reference to the Kentucky State Data Center's ten (10) year median population projection.

(i) A local board shall provide free countywide library services, without discrimination, to the citizens of the county in which the public library facility is located.

Section 3. Application for Assistance. (1) Preceding each fiscal year [~~Each fall preceding a fiscal year~~] that funding is available through the PLFC fund, KDLA shall distribute an ***["]***Intent to Apply***["]*** notice to every public library in the Commonwealth. A library intending to apply for assistance for the following fiscal year shall submit to KDLA a Notification of Intent to Apply.

(2) KDLA shall send the following to each public library requesting fund assistance:

(a) Notification of the amount of funds available for PLFC grants; and

(b) An application packet.

(3) An incomplete or late application shall not be considered unless the delay will not interfere with the awarding of the PLFC grants and there is a documented, unusual circumstance ***as established in subsection (4) of this section***.

(4) An unusual circumstance shall include a delay by a third party in certifying that the proposed site is not located [~~on a historic site, or~~] in a flood plain[,] or other documented circumstance beyond the control of the local board.

Section 4. Review of Applications for Assistance From the PLFC Fund. (1) KDLA shall establish a construction review

committee to:

(a) Review applications; and

(b) Recommend to the state librarian the applicants considered eligible for a PLFC fund award.

(2) The committee shall be composed of five (5) members***.[, as follows:]***

(a) The state librarian shall appoint two (2) Division of Library Services [~~Field Services Division~~] consultants, to serve a term of one (1) year***.[;]***

(b) The state librarian [~~Director of Field Services~~] shall appoint two (2) members each of whom has been involved, within the previous eight (8) years, in the completion of a building project valued at a minimum of $500,000. Each member shall be a:

1. Library director;

2. Trustee; or

3. Staff member***.[;]***

(c) The construction grant coordinator shall serve:

1. For the duration of his or her position; and

2. As nonvoting chair of the committee***.[; and]***

(d) The state librarian [~~Director of Field Services~~] shall appoint a replacement for a member unable to complete his or her term.

(3) KDLA shall establish ***the Construction Review Committee – Preliminary Score Sheet to rank the PLFC fund award***:

***[(a) Procedures for the construction review committee; and***

***(b) A ranking system for the PLFC fund award.]***.

(4) The criteria for award shall be:

(a) Need:

1. Assessment of existing facilities and service;

2. Analysis of population data;

3. Minimum square footage;

4. Available local revenue; and[

~~5. General policies established for state assistance under the Public Library Services Improvement and Equalization Fund; and~~]

5. [~~6.~~] State library and library association standards***;[.]***

(b) Planning: the extent to which the proposed facility addresses the applicant library's long-range plan for services***;[.]***

(c) Partnerships: the extent to which the project strengthens the applicant library's relationship with other organizations in the service area***;[.]***

(d) Project budget: the [~~The~~] extent to which the applicant library's project budget addresses anticipated expenditures, including at least five (5) percent for contingency***;[.]***

(e) Local contribution to the annual debt retirement shall be as ***established in subparagraphs 1. through 3. of this paragraphs.[follows:]***[~~match, if required: the extent to which the local board of a county with adequate income to qualify for matching assistance under the PLFC fund shows funds available to match the state award and to complete the project.~~]

1. For applicant libraries with annual revenue from all sources of less than ***[one hundred thousand dollars {]***$100,000***[}]***, a minimum yearly contribution to the annual debt retirement payments for this project shall be ***[one thousand dollars {]***$1,000***.[};]***

2. For applicant libraries with annual revenue from all sources of at least ***[one hundred thousand dollars {]***$100,000***[}]*** but less than ***[five hundred thousand dollars {]***$500,000***[}]***, a minimum yearly contribution to the annual debt retirement payments for this project shall be ***[ten thousand dollars {]***$10,000***.[}; or]***

3. For applicant libraries with annual revenue from all sources of ***[five hundred thousand dollars {]***$500,000***[}]*** or greater, a minimum yearly contribution to the annual debt retirement payments for this project shall be ***[thirty thousand dollars {]***$30,000***;[{.]***

(f) Sustainability: the extent to which the local board can realistically afford to operate the proposed project***;[.]***

(g) Completeness of application: the extent to which the applicant library has fairly and accurately provided required information on the application form***; and[.]***

(h) Timeliness of meeting required reporting deadlines: the extent to which the applicant library has filed the KDLA annual report and Department for Local Government reports on or before the designated deadlines in the past two (2) years.

(5) The state librarian shall take one (1) of the following actions, based on the recommendation of the construction review committee:

(a) Approve the application and offer an award of assistance;

(b) Approve the application at a reduced level or based upon funds availability;

(c) Approve the application with restrictive conditions; or

(d) Reject the application.

(6) KDLA shall notify each applicant, in writing, of the result of the state librarian's action approving or rejecting the application.

Section 5. Informal Appeals. (1) An applicant aggrieved by a decision of the state librarian may file an informal appeal with KDLA.

(2) Procedures.

(a) The local board shall notify KDLA of its intent to appeal:

1. Within twenty-one (21) days of the date of the letter of notification;

2. In writing;

3. Stating the basis for appeal; and

4. By registered mail to the state librarian, return receipt requested.

(b) Upon receipt of a notice of intent to appeal, the state librarian shall:

1. Convene a board of appeals composed of three (3) members. The board shall be composed of: [~~, one (1) each having been nominated by:~~]

a. One (1) public library user nominated by the State Libraries, Archives, and Records Commission; [~~The State Advisory Council on Libraries;~~]

b. One (1) public library director nominated by the Kentucky Public Library Association; and [~~The Kentucky Library Association; and~~]

c. One (1) certified public library trustee nominated by the State Board for the Certification of Librarians; and [~~The Trustees Round Table; and~~]

2. Designate one (1) of the appointees to serve as chair.

(c) The board of appeals shall notify the appellant and the state librarian, in writing, of the date and place of the hearing. Within twenty-one (21) calendar days after the hearing***,*** the appeals board shall notify the state librarian and the local board of its recommendation.

(d) The state librarian shall consider the recommendation of the appeals board and shall, within fourteen (14) calendar days of receipt, either adopt the recommendation without comment or adopt the recommendation with modifications. If the appeals board's decision is modified, the state librarian shall provide a written explanation of the ***rationale[rational]*** for the modifications to the libraries impacted by the decision. [~~render a final decision.~~]

(3) A party aggrieved by a final decision of the state librarian may file a formal appeal***. An appeal shall be*** in accordance with KRS Chapter 13B.

Section 6. Award of Assistance. (1) The state librarian shall notify each eligible library of:

(a) The amount of assistance it will receive; and

(b) The requirements to be met in order to accept the award.

(2)[.] KDLA may make an award to a public library ***if[as long as]*** the total of all awards of assistance do not exceed the amount of PLFC funding that is available. An award of assistance shall be subject to availability of funds appropriated for this purpose in each biennium.

(3) Within thirty (30) days of receipt of notice of the award, the public library board shall notify KDLA of acceptance or rejection of the award of assistance. A public library not responding within thirty (30) days shall be declared ineligible and the award of assistance withdrawn and redistributed to the eligible recipients. Upon written request within the original thirty (30) day period, the state librarian may grant a single thirty (30) day extension if extenuating circumstances exist. Extenuating circumstances ***shall*** include problems with:

(a) Finalizing the terms of financing;

(b) Obtaining title to the property;

(c) Obtaining surveys of the property; and

(d) Similar circumstances beyond the control of the local board.

Section 7. Procedures After Acceptance. (1) After a local board decides to accept an award of assistance, the local board shall:

(a) Establish a building committee, the meetings of which shall be attended by the regional librarian and the construction grant coordinator, if possible; and

(b) Complete the following:

1. An agreed-upon MOA between KDLA and the local board, signed by both;

2. The building committee membership list and schedule of meeting dates;

3. Holding company contract, if needed;

4. Construction plans approved by KDLA; and

5. Other documentation***, [as specified by KDLA]*** such as financial documents and engineering reports necessary to ensure compliance with this administrative regulation.[

~~(2) Files for the project shall be kept at KDLA as directed in the appropriate public record retention schedule.~~]

(2) [~~(3)~~] Funds for projects receiving assistance shall be distributed according to a payment and reporting schedule contained in the MOA between KDLA and the local board.

Section 8. Construction Procedures. (1) The local board shall retain an attorney to act as advisor on contracts and other legal matters during the term of the construction project.[

~~(2) The project architect shall submit, to the U.S. Department of Labor, a list of construction trades that may be involved in order to establish the wage rate which the contractor shall be required to pay.~~]

(2) [~~(3)~~] The architect shall proceed with the working drawings and specifications for submission to KDLA for final approval by KDLA before the project is advertised for bids.

(3) [~~(4)~~] After KDLA has approved the working drawings, the plans shall be completed and advertised publicly for construction bids. The advertisement shall include notice that a builder's risk policy shall be required as part of the construction contract.[

~~(5) The bid opening date shall be coordinated with KDLA and the local library.~~

~~(6) The contract shall be awarded to the "lowest and best" responsible bidder, as mutually determined by the local board, the architect, and KDLA.~~]

(4) [~~(7)~~] The architect shall notify the construction grant coordinator at least one (1) week before the building is ready for inspection and punch list. The completed building shall be inspected by KDLA's designated official. A KDLA representative may make site visits during the project term.[

~~(8) A copy of each change order, invoice, and documentation of payment made shall be kept by the library in accordance with the Local Government General Records Retention Schedule established by KDLA and submitted to KDLA if requested.~~]

(5) [~~(9)~~] KDLA may, upon request of the local board, assist in selecting and ordering the furniture and equipment for the project in accordance with state law governing state agency advertisement, bidding, and purchase from a state price contract. [~~A prospective vendor shall furnish a bid and performance bond for each purchase over $50,000.~~]

(6) [~~(10)~~] Each payment to a contractor or supplier shall be made promptly, upon approval by the architect. Retainage shall comply with KRS 371.410. [~~Before substantial completion of the project, the board shall withhold ten (10) percent as retainage. After substantial completion of the project, the retainage may be reduced to five (5) percent if certified by the architect and approved by the board. If, after receipt of the punchlist, a reason for reduction of the retainage is certified, in writing, by the architect and approved by the board, the retainage may be reduced below five (5) percent. The minimum lump sum amount retained shall be twice the estimated cost to correct the punch list items.~~]

Section 9. Expenditure of Funds. (1) Funds from a PLFC grant shall be used only to pay a cost directly related to the construction or renovation of a local public library facility.

(2) A cost may include:

(a) Site acquisition;

(b) Architectural and engineering services;

(c) Financial and legal services; and

(d) Equipment.

(3) Site acquisition cost shall be limited to the lesser of:

(a) The actual cost of acquiring a site; or

(b) The fair market value of the site as determined by a ***licensed realtor[~~qualified appraiser approved by KDLA~~]***.

(4) Construction cost shall:

(a) Include fixed or movable equipment; and

(b) Not include consumable supplies.

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

(a) "Memorandum of Agreement", 7/21; [~~10/06;~~]

(b) "Notification of Intent to Apply for State Fiscal Year ____ Public Library Facility Construction Funds", 7/21; [~~6/06;~~]

(c) "Public Library Facility Construction Fund Application for Fiscal Year____ Construction Grants", 7/21***; and***

***(d) "Construction Review Committee – Preliminary Score Sheet", 9/21.***[~~8/06; and~~

~~(d) "Local Government General Records Retention Schedule", 9/99.~~]

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Libraries and Archives, 300 Coffee Tree Road, [~~Box 537,~~] Frankfort, Kentucky 40601[~~40602-0537~~], Monday through Friday, 9 a.m. to 4 p.m.[~~8 a.m. to 4:30 p.m.~~]

CONTACT PERSON: Beth Milburn, Deputy Commissioner, PO Box 537, 300 Coffee Tree Road, Frankfort, Kentucky 40602-0537, phone 502-564-8325, email beth.milburn@ky.gov.

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET**
**Department for Libraries and Archives**
**Division of Library Services**
**(As Amended at ARRS, January 10, 2022)**

**725 KAR 2:080. Interstate Library Compact.**

RELATES TO: KRS 171.221

STATUTORY AUTHORITY: KRS 171.221

NECESSITY, FUNCTION, AND CONFORMITY: KRS 171.221 authorizes the Department for Libraries and Archives to enter into agreements with other states for the purpose of providing cooperative library services. ***[~~The function of~~]*** This administrative regulation ***establishes provisions for providing cooperative library services[~~is to establish such an agreement~~]***.

Section 1. ***Definitions. (1)*** "Compact administrator" means the state librarian as ***established[~~designated~~]*** in KRS 171.130.

***(2) "Public library agency" means public library as defined by KRS 171.125(2).***

***Section 2. Any one (1) or more public library agencies in a party state in cooperation with any public library agency or agencies in one (1) or more other party states may establish and maintain an interstate library district upon approval by the compact administrator.***

***Section 3.[~~Section 2.~~]*** Incorporation by Reference. (1) "Interstate Library Compact" (1998), is incorporated by reference.

(2) It may be inspected, copied, or obtained at the Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601, telephone (502) 564-8300, Monday through Friday, 9[8] a.m. to 4[:~~30~~] p.m.

CONTACT PERSON: Beth Milburn, Deputy Commissioner, PO Box 537, 300 Coffee Tree Road, Frankfort, Kentucky 40602-0537, phone 502-564-8325, email beth.milburn@ky.gov.

**PUBLIC PROTECTION CABINET**
**Department of Alcoholic Beverage Control**
**(As Amended at ARRS, January 10, 2022)**

**804 KAR 4:221. Alternating proprietorship agreements.**

RELATES TO: KRS 243.220
STATUTORY AUTHORITY: KRS 241.060
NECESSITY, FUNCTION, AND CONFORMITY: KRS 241.060***(1)*** authorizes the board to promulgate reasonable ***administrative*** regulations governing procedures relative to the applications for and revocations of licenses, and the supervision and control of the use, manufacture, sale, transportation, storage, advertising, and trafficking of alcoholic beverages. This ***administrative*** regulation provides for the sharing of a licensed premises between two ***(2)*** or more licensees in accordance with an alternating proprietorship agreement.

Section 1. Definition. "Alternating proprietorship agreement" means a written agreement under which two ***(2)*** or more licensees share possession or ownership of a licensed premises and alternate exclusive use of the premises over the term of the agreement.

Section 2. A licensed premises ***shall[may]*** meet the requirements of KRS 243.220 if it is owned or possessed for a term not less than the license period by two ***(2)*** or more eligible licensees under an ***authorized*** alternating proprietorship agreement.

Section 3. A licensee **shall[may]** not enter into an alternating proprietorship agreement with any **person who holds a Kentucky alcoholic beverage license that the licensee is prohibited from holding under Kentucky law[other licensee with whom the licensee would have a prohibited interlocking substantial interest under 804 KAR 4:015]**.

Section 4. Licensees who share a licensed premises in accordance with an alternating proprietorship agreement shall individually meet ***all[any]*** requirements of their licenses***[, including, but not limited to, production and record-retention requirements]***.

Section 5. This administrative regulation shall not be interpreted to relate to direct shipper licenses.

Section 6. Federal Law. This administrative regulation shall not exempt a person from complying with any applicable federal laws.

CONTACT PERSON: Joshua Newton, General Counsel, Department of Alcoholic Beverage Control, 500 Mero Street, 2 NE #226, Frankfort, Kentucky 40601, phone (502) 782-0770, fax (502) 564-4850, email Joshua.Newton@ky.gov.

**PUBLIC PROTECTION CABINET**
**Department of Insurance**
**Division of Health and Life Insurance and Managed Care**
**(As Amended at ARRS, January 10, 2022)**

**806 KAR 12:010. Advertising of accident and sickness benefits.**

RELATES TO: KRS ***304.3-200,*** 304.3-240, 304.12-010, 304.12-020, 304.12-060, 304.12-120, 304.12-130***, 304.99***
STATUTORY AUTHORITY: KRS 304.2-110(1)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) authorizes the Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code***,*** as established in KRS 304.1-010. This administrative regulation clarifies the minimum standards for advertising as established in KRS 304.12-010 and 304.12-020.

Section 1. Definitions. (1) "Exception" means:
(a) Any provision in a policy in which coverage for a specified hazard is [entirely] eliminated; or[and]
(b) A statement of risk not assumed under the policy.
(2) "Limitation" means any provision that restricts coverage under the policy other than an exception or a reduction.
(3) "Reduction" means:
(a) Any provision ***in a policy*** that reduces the amount of the benefit; and
(b) A risk of loss is assumed but payment upon the occurrence of the loss is limited to some amount or period less than what would be otherwise payable had the reduction clauses not been used.

Section 2. Scope. The provisions of this administrative regulation shall***:***
***(1)*** Be ***[expressly]*** limited to a life or health insurer issuing any policy***; [as defined in Section 3(2) of this administrative regulation,]*** and
***(2)*** Apply to individual and group accident and sickness insurance advertisements***; and***
***(3) Apply to agents and brokers to the extent that an agent and broker are responsible for the advertisement of any policy.***

Section 3. (1) An insurance advertisement ***[for the purpose of this administrative regulation]*** shall include:
(a) Printed and published material and descriptive literature of an insurer used in newspapers, magazines, radio and TV scripts, and billboards and similar displays;
(b) Descriptive literature and sales aids of all kinds issued by an insurer for presentation to members of the public, including circulars, leaflets, booklets, depictions, illustrations, and form letters; and
(c) Prepared sales talks, presentations***, [and]*** material for use by agents and brokers, and representations made by agents and brokers.
(2) A policy ***[for the purpose of the advertisement regulations]*** shall include any policy, plan, certificate, contract, agreement, statement of coverage, rider, or endorsement that provides accident or sickness benefits or medical, surgical, or hospital expense benefits, whether on a cash indemnity, reimbursement, or service basis, except if issued in connection with another kind of insurance other than life, and except disability and double indemnity benefits included in life insurance and annuity contracts.
(3) Insurer ***[for the purpose of the advertisement regulations]*** shall include any corporation, association, partnership, reciprocal exchange, interinsurer, Lloyds, fraternal benefit society, and any other legal entity engaged in the advertisement of a policy.

***[Section 4.]***[Section 3.] ***[This administrative regulation shall apply to agents and brokers to the extent that an agent and broker are responsible for the advertisement of any policy.]***

***Section 4.[Section 5.]*** [Section 4.] (1) Advertisements shall***:***
***(a)*** Be truthful and not misleading in fact or in implication***; and***
***(b) Not use*** words or phrases, ***[the meaning of]*** which ***are[is]*** clear only by***:***
***1.*** Implication***;*** or
***2.[by]*** Familiarity with insurance terminology***[, shall not be used]***.
(2) ***(a)*** Words, phrases, or illustrations shall not be used in a manner that misleads or has the capacity and tendency to deceive as to the extent of any policy benefit payable, loss covered, or premium payable. An advertisement relating to any policy benefit payable, loss covered, or premium payable shall be sufficiently complete and clear to avoid deception or the capacity and tendency to deceive.
***(b)[(a)]*** The words and phrases "all," "full," "complete," "comprehensive," "up to," "as high as," "this policy will pay your hospital and surgical bills," ***[or]*** "this policy will replace your income," or similar words and phrases***:***

***1.*** Shall not be used so as to exaggerate any benefit beyond the terms of the policy***;[,]*** and

***2.*** May be used only in a manner that fairly describes a benefit.

***(c)[(b)]*** A policy covering only one (1) disease or a list of specified diseases shall not be advertised ***in a manner that implies[as to imply]*** coverage beyond the terms of the policy. Synonymous terms shall not be used to refer to any disease as to imply broader coverage than is the fact.

***(d)[(c)]*** The benefits of a policy that pays varying amounts for the same loss occurring under different conditions or that pays benefits only if a loss occurs under certain conditions shall not be advertised without disclosing the limited conditions under which the benefits referred to are provided by the policy.

***(e)[(d)]*** Phrases similar to "this policy pays $1,800 for hospital room and board expenses" shall be incomplete without indicating the maximum daily benefit and the maximum time limit for hospital room and board expenses.

(3) If an advertisement refers to any dollar amount, period of time for which any benefit is payable, cost of policy, ***[or]*** specific policy benefit***,*** or the loss for which a benefit is payable, it shall also disclose those exceptions, reductions, and limitations affecting the basic provisions of the policy without which the advertisement would have the capacity and tendency to mislead or deceive. ***Required disclosures include:***

(a) If a policy contains a time period between the effective date of the policy and the effective date of coverage under the policy ***[or a time period between the date of coverage under the policy]*** or a time period between the date a loss occurs and the date benefits begin to accrue for the loss, an advertisement shall disclose the existence of the periods***; and[.]***

(b) An advertisement shall disclose the extent to which any loss is not covered if the cause of the loss is traceable to a condition existing prior to the effective date of the policy. If a policy does not cover losses traceable to preexisting conditions, the advertisement of the policy shall not state or imply that the applicant's physical condition or medical history will not affect the issuance of the policy or payment of a claim. This ***requirement*** shall limit ***[the]*** use of the phrase "no medical examination required" and similar phrases.

***Section 5.[Section 6.]***[Section 5.] An advertisement that refers to renewability, cancelability, or termination of a policy, that refers to a policy benefit, or that states or illustrates time or age in connection with eligibility of applicants or continuation of the policy, shall disclose the provisions relating to renewability, cancelability, and termination and any modification of benefits, losses covered***,*** or premiums because of age or for other reasons, in a manner that shall not minimize or render obscure the qualifying conditions.

***Section 6.[Section 7.]***[Section 6.] All information required to be disclosed by this administrative regulation shall be stated***: (1)*** Conspicuously and in close conjunction with the statements to which the information relates***;*** or

***(2)*** Under appropriate captions of prominence that shall not be minimized, rendered obscure, or presented in an ambiguous fashion or intermingled with the context of the advertisement so as to be confusing or misleading.

***Section 7.[Section 8.]***[Section 7.] Testimonials used in advertisements shall be genuine, represent the current opinion of the author***,***[,] be applicable to the policy advertising, and be accurately reproduced. The insurer, in using a testimonial shall make as its own all of the statements contained in the advertisement***.[, and]*** All ***of*** the advertisement***,*** including the statements***,*** shall be subject to ***[all of]*** the provisions of this administrative regulation.

***Section 8.[Section 9.]***[Section 8.] An advertisement relating to the dollar amounts of claims paid, the number of persons insured, or similar statistical information relating to any insurer or policy shall not be used unless it accurately reflects all of the relevant facts. The advertisement shall not imply that statistics are derived from the policy advertised unless that is the fact.

***Section 9.[Section 10.]***[Section 9.] An offer in an advertisement of free inspection of a policy or offer of a premium refund shall not be a cure for misleading or deceptive statements contained in the advertisement.

***Section 10.[Section 11.]***[Section 10.] (1) If a choice of the amount of benefits is referred to, an advertisement shall disclose that the amount of benefits provided depends upon the plan selected***,*** and that the premium will vary in conjunction with the amount of the benefits.

(2) If an advertisement refers to various benefits that could be contained in two (2) or more policies, other than group master policies, the advertisement shall disclose that the benefits are provided only through a combination of the policies.

***Section 11.[Section 12.]***[Section 11.] An advertisement shall not directly or indirectly make unfair or incomplete comparisons of policies or benefits***[,]*** or otherwise falsely disparage competitors, policies, services, or business methods.

***Section 12.[Section 13.]***[Section 12.] (1) An advertisement that is intended to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed shall not imply licensing beyond those [these] limits.

(2) Advertisements by direct mail insurers shall indicate that the insurer is licensed in a specified state or states only, or is not licensed in a specified state or states, by use of language similar to "This company is licensed only in State A" or "This company is not licensed in State B."

***Section 13.[Section 14.]***[Section 13.] The identity of the insurer shall be made clear in all of the insurer's[insurers] advertisements. An advertisement shall not use a trade name, service make, slogan, symbol, or other device that has the capacity and tendency to mislead or deceive as to the true identity of the insurer.

***Section 14.[Section 15.]***[Section 14.] An advertisement of a particular policy shall not state or imply that prospective policyholders become group or quasi-group members***[,]*** and***,*** as members***,*** enjoy special rates or underwriting privileges***[,]*** unless that is the fact.

***Section 15.[Section 16.]***[Section 15.] An advertisement shall not state or imply that a particular policy or combination of policies is an introductory, initial, or special offer***[,]*** and that the applicant shall receive advantages by accepting the offer***[,]*** unless that is the fact.

***Section 16.[Section 17.]***[Section 16.] (1) An advertisement shall not state or imply that an insurer or a policy has been approved***,*** or that an insurer's financial condition has been examined and found to be satisfactory by a governmental agency, unless that is the fact.

(2) An advertisement shall not state or imply that an insurer or a policy has been approved or endorsed by any individual, group of individuals, society, association, or other organization, unless that is the fact.

***Section 17.[Section 18.]***[Section 17.] An advertisement shall not contain***: (1)*** Untrue statements with respect to the time within which claims are paid***;[,]*** or

***(2)*** Statements that imply that claim settlements will be liberal or generous beyond the terms of the policy.

***Section 18.[Section 19.]***[Section 18.] An advertisement shall not contain statements that are untrue in fact or by implication misleading with respect to the insurer's assets, corporate structure, financial standing, age, or relative position in the insurance business.

***Section 19.[Section 20.]***[Section 19.] (1) Each insurer shall maintain at its home or principal office a complete file containing every printed, published, or prepared advertisement of individual

policies, and typical printed, published, or prepared advertisements of blanket, franchise, and group policies, disseminated in this or any other state, whether or not licensed in the other state, with a notation attached to each advertisement that shall indicate the manner and extent of distribution and the form number of any policy advertised. The file shall be subject to regular and periodical inspection by the Department of Insurance. All advertisements shall be maintained by the insurer for a period of not less than three (3) years.

(2) A life or health [~~Each~~] insurer required to file an annual statement, in accordance with KRS 304.3-240, that issues any policy ***[as described in Section 3(2) of this administrative regulation]*** [~~which is now or which becomes subject to the provisions of this administrative regulation~~]***[;]*** shall file with the ***department[Department of Insurance]***, together with its annual statement, a certificate executed by an authorized officer of the insurer stating that to the best of his or her knowledge, information, and belief, the advertisements that were disseminated by the insurer during the preceding statement year complied or were made to comply in all respects with the provisions of KRS Chapter 304.

***Section 20.[Section 21.]***[~~Section 20.~~] [~~(1) The provisions of this administrative regulation shall not be expressly limited to a particular type of insurance and shall be applied to all insurance on subjects of risk located in or to be performed in Kentucky.~~

~~(2)~~] Any person, firm, corporation, or association who knowingly aids and abets an insurer in the violation of this administrative regulation or the applicable provisions of the Insurance Code shall be subject to the penalties established by KRS Subtitle 304.99.

***Section 21.[Section 22.]*** Incorporation by Reference. (1) ***[The following material is incorporated by reference:***

***(2)]*** Form 440, "Certificate on Advertising- Accident and Health", 10/2021 edition ***is incorporated by reference***.

***(2)[(3)]*** This material may be inspected, copied or obtained, subject to applicable copyright law, at the Department of Insurance, Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the department's Web site at: https://insurance.ky.gov/ppc/CHAPTER.aspx.

**PUBLIC PROTECTION CABINET**
**Department of Insurance**
**Division of Health and Life Insurance and Managed Care**
**(As Amended at ARRS, January 10, 2022)**

**806 KAR 14:007. Rate and form filing for health insurers.**

RELATES TO: KRS 304.1-010, ***304.12-020,*** 304.1-050, 304.3-270, 304.4-010, 304.14-120, 304.14-190,304.17-380, 304.17A-005, 304.17A-095, 304.17A-096, 304.17C-010(5)

STATUTORY AUTHORITY: KRS 304.2-110(1)***, 304.14-420***

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) authorizes the Commissioner of Insurance to promulgate reasonable administrative regulations necessary for or as an aid to the effectuation of the Kentucky Insurance Code, as defined by KRS 304.1-010. ***KRS 304.14-420 requires the commissioner to promulgate administrative regulations to establish minimum standards for the readability and intelligibility of insurance contracts.*** This administrative regulation establishes rate and form filing procedures for health insurers.

Section 1. Definitions.

(1) "Commissioner" means the Commissioner of Insurance as defined by KRS 304.1-050(1).

(2) "Department" means Department of Insurance as defined by KRS 304.1-050(2).

(3) "Filing entity" means a health insurer authorized to transact business in Kentucky or an entity authorized by that health insurer to submit filings on its behalf.

(4) "Health benefit plan" is defined by KRS 304.17A-005(22).

(5) "Health policy form" or "form" means***:***

***(a) Any*** application, policy, certificate, contract, rider, ***or*** endorsement***;[,]*** and

***(b) Includes advertising*** for long-term care, ***short-term[short term]*** nursing, and Medicare Supplement products***[, including advertising]***.

(6) ***"***Limited health service benefit plan***"*** is defined by KRS 304.17C-010(5).

Section 2. Filing Procedures. (1) A health insurance rate and form filing shall be accompanied by a Face Sheet and Verification Form, Form HIPMC-F1.

(2) An individual health insurance rate filing shall be accompanied by an Individual Health Forms Actuarial Certification Form, Form HIPMC-R4.

(3) An insurer issuing, delivering, or renewing a health benefit plan or a limited health service benefit plan shall complete and attach to each plan filed a Health Summary Sheet – Form Filings, Form HL-F11.

(4) Except for a health benefit plan rate filing pursuant to KRS 304.17A-095, a rate filing shall be accompanied by a Rate Filing Information Form, Form HIPMC-R36.

(5) If a rate or form filing submitted by a health insurer does not contain the information necessary to review the filing, the department shall use an Additional Health Information Request Form, Form HIPMC-F16, to request submittal of the incomplete information.

(6)***[(a)]*** Each form shall be identified by a unique form number in the lower left-hand corner of the first page of the form***.[; and***

***(b)]*** Other numbers shall not appear in close proximity to the form number.

(7) Each submission shall be accompanied by a submittal letter listing***:***

***(a)*** All forms by number with a brief description of each form***;*** and

***(b) [listing]*** All of the forms that will be submitted together.

(8) If a form is submitted with alternate pages or alternative benefits, the submittal letter required by subsection (7) of this section shall:

(a) State under what conditions each alternate page or alternative benefit may be used; and

(b) Identify by a unique form number each alternate page or alternative benefit.

(9) If a filing entity files a form containing variable text, the filing entity shall file an explanation of each variation the health insurer proposes to use.

(10) Except for an insert page or alternate page, each form shall contain the corporate name and address of the health insurer.

(11) A form ***that contains[filed for approval by the department shall not contain]*** advertising or marketing material ***shall be filed separately from all other forms***.

(12) If a new form is submitted, the filing entity shall identify the unique features of the form.

(13) If a filing includes a form which was previously disapproved by the department, the filing entity shall assign the form a new form number.

Section 3. Filing Entity. A filing entity may include in a filing multiple forms or documents pertaining to a single line of insurance, filed together on a particular date.

Section 4. Date of Filing. Pursuant to KRS 304.4-010(2), a fee payable under the Kentucky Insurance Code shall be collected in advance, unless an insurer is excluded from paying the fee in advance pursuant to KRS 304.4-010(3). The period of time in which the commissioner may approve or disapprove a filing shall not commence, and the submission shall not be given a filing date, until the following are received by the department:

(1) The rate or form filing;

(2) The appropriate fee pursuant to 806 KAR 4:010; and

(3) The form or letter of explanation required by Sections 2 and 6 of this administrative regulation, as appropriate.

Section 5. Use of Forms and Rates. (1) A form or rate ***filing***

shall not be used in Kentucky until:

(a) The form or rate has been approved by the department, which shall occur within the sixty (60) day timeframe[~~time frame~~] identified in KRS 304.14-120(2) except as follows:

1. If the 60th day falls on a weekend or holiday, the 60th day shall be the following business day; and

2. If the commissioner grants an extension of the sixty (60) day time period required for approval or disapproval of a form or rate, and the insurer does not submit a corrected form or rate or additional requested information at least five (5) days prior to the expiration of the extended time period, the filing shall be disapproved; and

(b) If a rate for the form is required by KRS 304.14-120 to be approved, the appropriate rate schedule has been approved.

(2) A document subject to a ***filed-only[~~filed only~~]*** process, including advertisements and provider directories, shall be:

(a) Filed with the department; and

(b) Subject to review in accordance with KRS 304.14-120.

Section 6. Form Revision. If a filing includes a form ***that[~~which~~]*** amends, replaces, or supplements a form which has been previously filed, it shall be accompanied by a letter of explanation from the filing entity which identifies:

(1) All changes contained in the newly filed form;

(2) The form being replaced;

(3) The date the replaced form was:

(a) Approved;

(b) Disapproved;

(c) Withdrawn; or

(d) Submitted; and

(4) The effect the changes have upon the policy or the rates applicable to the policy.

Section 7. Rate Revision and Annual Rate Filings. (1) The following shall be included and properly completed in a filing for rate revision or annual rate filing:

(a) Signed actuarial memorandum, in accordance with 806 KAR 17:070, ***Section[~~Sections 3 and~~]*** 4;

(b) New rate sheet, in accordance with 806 KAR 17:070, Section 3; and

(c) Forms required by Section ***4[~~2~~]*** of this administrative regulation.

(2) An appropriate fee [~~pursuant to 806 KAR 4:010,~~], shall be submitted with each filing, pursuant to 806 KAR 4:010.

Section 8. Officer Signature. A change of signature of the executing officer on a policy form shall not, because of this change alone, require a new filing.

Section 9. Electronic Filings. (1) A health insurer may file a rate or form electronically through the National Association of Insurance Commissioners' electronic system for rate and form filings via the Web site www.serff.com.

(2) An electronic filing as identified in subsection (1) of this section shall be in lieu of a paper filing.

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

(a) Form HIPMC-F1, "Face Sheet and Verification Form", 10/2021 [~~07/2020~~] edition;

(b) Form HL-F11, "Health Summary Sheet – Form Filings", 07/2020 edition;

(c) Form HIPMC-R4, "Individual Health Forms Actuarial Certification Form", 07/2020 edition;

(d) Form HIPMC-R36, "Rate Filing Information Form", 07/2020 edition; and

(e) Form HIPMC-F***[~~-~~]***16, "Additional Health Information Request Form", 07/2020 edition.

(2) This material may be inspected, copied or obtained, subject to applicable copyright law, at the Department of Insurance, Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the department's Web site at: https://insurance.ky.gov/ppc/CHAPTER.aspx[~~http://insurance.ky.gov~~].

CONTACT PERSON: Abigail Gall, Regulations Coordinator, 500 Mero Street, Frankfort, Kentucky 40601, phone +1 (502) 564-6026, fax +1 (502) 564-1453, email abigail.gall@ky.gov.

**CABINET FOR HEALTH AND FAMILY SERVICES**
**Office of Health Data and Analytics**
**Division of Telehealth Services**
**(As Amended at ARRS, December 9, 2021 and January 10, 2022)**

**900 KAR 12:005. Telehealth terminology and requirements.**

RELATES TO: KRS 205.510, 205.559, 205.5591, 211.332(2) - (5), **304.17A-005(23),** 304.17A-138, 304.40-320, 311.5975, 31 U.S.C. ***[§]*** 3729-3733, 42 U.S.C. ***[§]*** 1320a-7b(b), 42 U.S.C. ***[~~secs.~~]*** 1320d to 1320d-9, 42 U.S.C. ***[§]*** 1395nn

STATUTORY AUTHORITY: KRS 194A.105, 211.334(1)(d), 211.336(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.334 and 211.336 require the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary under applicable state laws to establish a telehealth terminology glossary to provide standard definitions for all health care providers who deliver health care services via telehealth, all state agencies authorized or required to promulgate administrative regulations relating to telehealth, and all payors; establish minimum requirements for the proper use and security of telehealth including requirements for confidentiality and data integrity, privacy, and security, informed consent, privileging and credentialing, reimbursement, and technology; and establish minimum requirements to prevent waste, fraud, and abuse related to telehealth. ***This administrative regulation establishes a telehealth terminology glossary.***

Section 1. Definitions. (1) "Department" means Department for Medicaid Services.

(2) "Division" means Division of Telehealth Services.

(3) **"Health care provider" is defined by KRS 304.17A-005(23), unless the provider or service is otherwise regulated by KRS 205.8451(7).**

**(4)[~~(3)~~]** "Health care service" is defined by KRS 211.332(2).

**(5)[~~(4)~~]** "Professional licensure board" is defined by KRS 211.332(3).

**(6)[~~(5)~~]** **"**State agency authorized or required to promulgate administrative regulations relating to telehealth" is defined by KRS 211.332(4).

**(7)[~~(6)~~]** "Telehealth" or "digital health" is defined by KRS 211.332(5).

Section 2. Compliance. ***[~~(1)~~]*** Health care providers performing a telehealth or digital health service shall:

***(1)[~~(a)~~]*** Maintain confidentiality of patient medical information in accordance with KRS 311.5975;

***(2)[~~(b)~~]*** Maintain patient privacy and security in accordance with the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. ***[~~secs.~~]*** 1320d ***through[~~to~~]*** 1320d-9, unless waived by the applicable federal authority;

***(3)[~~(c)~~]*** Obtain patient informed consent in accordance with KRS 311.5975 and ***[~~KRS~~]*** 304.40-320;

***(4)[~~(d)~~]*** Secure credentialing if required by a third party or insurer or other payor;

***(5)[~~(e)~~]*** ***[~~Establish guidelines to contact, refer, and obtain treatment for a patient who needs emergent or higher level-of-care services provided by a hospital or other facility~~][~~Obtain privileges by hospitals or facilities to admit and treat patients~~][~~;~~]***

***[~~(6)~~][~~(a)~~][~~(f)1.~~]*** Utilize the appropriate current procedural terminology (CPT) or health care common procedure coding (HCPCS) code and place of service (POS) code ***[~~"02"~~]*** to secure reimbursement for a professional telehealth service; or

***(b)[~~2.~~]*** Utilize appropriate telehealth service code, if a CPT or

HCPCS code is not available or not used for that service, according to customary practices for that health care profession, including the use of any telehealth modifiers or alternate codes;

***(6)***[~~(7)~~]***[(g)]*** Utilize non-public facing technology products that are HIPAA compliant;

***(7)***[~~(8)~~]***[(h)]*** As appropriate for the service, provider, and recipient, utilize the following modalities of communication delivered over a secure communications connection that complies with the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. secs. 1320d to 1320d-9:

***(a)***[~~1.~~] Live or real-time audio and video synchronous telehealth technology;

***(b)***[~~2.~~] Asynchronous store-and-forward telehealth technology;

***(c)***[~~3.~~] Remote patient monitoring using wireless devices, wearable sensors, or implanted health monitors;

***(d)***[~~4.~~] Audio-only telecommunications systems; or

***(e)***[~~5.~~] Clinical text chat technology ***if***[~~when~~]:

***1.***[~~a.~~] Utilized within a secure, HIPAA compliant application or electronic health record system; and

***2.***[~~b.~~] Meeting:

***a.***[~~(i)~~] The scope of the provider's professional licensure; and

***b.***[~~(ii)~~] The scope of practice of the provider; and

***(8)***[~~(9)~~]***[(i)]*** Comply with the following federal laws to prevent waste, fraud, and abuse relating to telehealth:

***(a)***[~~1.~~] False Claims Act, 31 U.S.C. § 3729-3733;

***(b)***[~~2.~~] Anti-Kickback Statute, 42 U.S.C. ***[§]***1320a-7b(b); and

***(c)***[~~3.~~] Physician Self-Referral, Section 1877 of the Social Security Act (42 U.SC. ***[§]***1395nn).

Section 3. Incorporation by Reference.

(1) "Telehealth Terminology Glossary", July 2021, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Telehealth Services, 275 East Main Street 4WE, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m., or from its Web site at https://telehealth.ky.gov.

CONTACT PERSON: Krista Quarles, Policy Specialist, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

**CABINET FOR HEALTH AND FAMILY SERVICES**
**Department for Public Health**
**Division of Epidemiology and Health Planning**
**(As Amended at Senate Standing Committee on Health and Welfare on January 12, 2022 and House Standing Committee on Health and Family Services on January 13, 2022)**

**902 KAR 2:020. Reportable disease surveillance.**

RELATES TO: KRS [~~211.180(1), 214.010,~~] 214.645, 214.625(5)(c)5, 214.990(1), 215.520, 216B.015, 258.065, 258.990, 311.282, 311.571, 315.010, 321.181(4), 333.020, 333.130

STATUTORY AUTHORITY: KRS 194A.050, 211.090(3), 211.180(1)(a), 214.010

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.180(1)(a) authorizes[~~requires~~] the cabinet to implement a statewide program for the detection, prevention, and control of communicable diseases, chronic and degenerative diseases, dental diseases and abnormalities, occupational diseases and health hazards peculiar to industry, home accidents and health hazards, animal diseases that are transmissible to man, and other diseases and health hazards that can be controlled. KRS 214.010 requires every physician, advanced practice registered nurse, and every head of family to notify the local health department of the existence of diseases and conditions designated by administrative regulation of the cabinet. This administrative regulation establishes notification standards and specifies the diseases requiring immediate, urgent, priority, routine, or general notification, in order to facilitate rapid public health action to control diseases and to permit an accurate assessment of the health status of the commonwealth.

Section 1. Definitions. (1) "Acid fast bacilli" or "AFB" means the mycobacteria that, if stained, retains color even after having been washed in an acid solution and can be detected under a microscope in a stained smear.

(2) "Health facility" is defined by KRS 216B.015(13).

(3) "Health professional" means a professional licensed under KRS Chapters 311 through 314.

(4) "Healthcare-associated infection" or "HAI" means an infection acquired by a person while receiving treatment for a separate condition in a health care setting.

(5) "Kentucky public health advisory" means a notification to health professionals, health facilities, and laboratories subject to this administrative regulation identifying a new health threat that warrants reporting through the procedures of this administrative regulation.

(6) "Laboratory-confirmed influenza" means influenza diagnosed through testing performed using:

(a) Reverse transcriptase polymerase chain reaction (RT PCR);

(b) Nucleic acid detection; or

(c) Viral culture.

(7) "Medical laboratory" is defined by KRS 333.020(3).

(8) "National Healthcare Safety Network" or "NHSN" means the nation's most widely used healthcare-associated infection (HAI) tracking system as provided to medical facilities by the Centers for Disease Control and Prevention (CDC)[~~CDC~~].

(9) "National reference laboratory" means a laboratory located outside of Kentucky that is contracted by a Kentucky health professional, laboratory, or health facility to provide laboratory testing.

(10) "Novel influenza A virus" means an influenza virus that causes human infection but is different from the seasonal human influenza A virus subtypes and includes viruses predominately of avian and swine origin.

(11) "Nucleic acid amplification test" or "NAAT" means the laboratory test used to target and amplify a single deoxyribonucleic acid (DNA) or ribonucleic acid (RNA) sequence, usually for detecting a microorganism.

(12) "Outbreak" means:

(a) Two (2) or more cases, including HAIs, that are epidemiologically linked or connected by person, place, or time; or

(b) A single case of an HAI not commonly diagnosed.

(13) "Pharmacist" is defined by KRS 315.010(17).

(14) "Post-exposure prophylaxis" or "PEP" means taking an antiretroviral medicine after being potentially exposed to HIV to prevent becoming infected.

(15) "Pre-exposure prophylaxis" or "PrEP" means daily medicine intended to reduce the chance of getting HIV.

(16) "Select agent" means a biological agent or toxin that could pose a severe threat to public health, plant health, animal product, or plant product as determined by the National Select Agent Registry (NSAR) at www.selectagents.gov.

(17) "Veterinarian" is defined by KRS 321.181(4).

Section 2. Notification Standards. (1) Health professionals and facilities.

(a) A health professional or a health facility shall give notification if:

1. The health professional or a health facility makes a probable diagnosis of a disease specified in Section 3, 6, 7, 8, 9, 12, 16, 17, 18, or 19 of this administrative regulation; and

2. The diagnosis is supported by:

a.(i) Clinical or laboratory criteria; and

(ii) Case classifications published by the Centers for Disease Control and Prevention at wwwn.cdc.gov/nndss; or

b. A health professional's medical opinion that the disease is present.

(b) A single report by a health facility of a condition diagnosed by a test result from the health facility's laboratory shall constitute notification on behalf of the health facility and its laboratory.

(c) A health facility may designate an individual to report on behalf of the health facility's laboratory, pharmacy, and the health

facility's other clinical entities.

(d) Notification shall be given to the local health department serving the county in which the patient resides.

(e) If the local health department cannot be reached, notification shall be given to the Kentucky Department for Public Health.

(f) The reporting health professional or health facility shall submit:

1. Information required in Section 5(6) of this administrative regulation; and

2. Clinical, epidemiologic, and laboratory information pertinent to the disease including sources of specimens submitted for laboratory testing.

(2) Medical Laboratories.

(a) A laboratory test result that indicates infection with an agent associated with one (1) or more of the diseases or conditions specified in Section 3, 6, 7, 8, 9, 12, 16, 17, 18, or 19 of this administrative regulation shall be reported to the local health department serving the county in which the patient resides.

(b) If the local health department cannot be reached, notification shall be given to the Kentucky Department for Public Health.

(c) The reporting laboratory shall submit the information required in Section 5(6) of this administrative regulation.

(3) National Reference Laboratories.

(a) A test result performed by a national reference laboratory that indicates infection with an agent associated with one (1) or more of the diseases or conditions specified in Section 3, 6, 7, 8, 9, 12, 16, 17, 18, or 19 of this administrative regulation shall be reported by the director of a medical laboratory, a health facility, or the health professional that referred the test to the national reference laboratory to the local health department serving the county in which the patient resides.

(b) If the local health department cannot be reached, notification shall be given to the Kentucky Department for Public Health.

(c) The report shall include the information required by Section 5(6) of this administrative regulation.

Section 3. Submission of Specimens to the Kentucky Department for Public Health Division of Laboratory Services. (1) A medical laboratory and a national reference laboratory in receipt of diagnostic specimens originating from the Commonwealth of Kentucky shall send direct specimens or pure clinical isolates for diseases established in subsection (5) of this section to the Division of Laboratory Services for primary or confirmatory testing and related studies.

(2) A medical laboratory or national reference laboratory using non-culture techniques to identify bacterial agents of diarrheal disease, such as enzyme immunoassays (EIAs) or molecular assays, shall attempt isolation of the etiologic agent identified. Pure clinical isolates shall be submitted to the Division of Laboratory Services.

(3) If the culture attempts do not produce a clinical isolate, the direct specimen, submitted in the appropriate preservative, shall be sent to the Division of Laboratory Services. A submitting laboratory shall provide the name of the etiologic agent detected by the non-culture technique at the time of specimen submission.

(4) A medical laboratory performing this test shall continue to follow the state's requirement for the submission of appropriate materials to the state public health laboratory.

(5) A medical or national reference laboratory shall submit pure isolates or, if not available, the direct specimen from the following diseases to the Division of Laboratory Services:

(a) Botulism, with prior approval from the Division of Epidemiology for testing;

(b) Brucellosis;

(c) Campylobacteriosis;

(d) Candida auris;

(e) Carbapenem-resistant Acinetobacter;

(f) Carbapenem-resistant Enterobacteriaceae;

(g) Carbapenem-resistant Pseudomonas;

(h) Cholera and diseases caused by other Vibrio species;

(i) Diphtheria;

(j) Escherichia coli O157:H7;

(k) Hemolytic Uremic Syndrome (HUS) – Post Diarrheal;

(l) Listeriosis;

(m) Measles;

(n) Meningococcal infections;

(o) Rabies, animal;

(p) Rubella;

(q) Salmonellosis;

(r) Shiga toxin-producing E. coli (STEC);

(s) Shigellosis;

(t) Tuberculosis (TB);

(u) Tularemia;

(v) Typhoid fever;

(w) Vancomycin-intermediate Staphylococcus aureus;

(x) Vancomycin-resistant Staphylococcus aureus; and

(y) Zika, with prior approval from the Division of Epidemiology for testing.

(6) All direct specimens or clinical isolates from enteric disease shall be submitted within seventy-two (72) hours from collection.

Section 4. Laboratory Testing and Submission of Specimens to the Division of Laboratory Services for the Identification of M. tuberculosis.

(1) For the identification of M. tuberculosis, a medical laboratory or national reference laboratory shall perform AFB smear and culture, regardless of rapid molecular testing results (NAAT).

(2) Rapid molecular testing shall be performed for the identification of M. tuberculosis on:

(a) Any diagnostic specimen with an AFB smear positive result; or

(b) Any specimen that originates from an individual with clinical or epidemiological evidence suggesting active tuberculosis.

(3) If rapid molecular testing cannot be performed by the medical laboratory or national reference laboratory, the diagnostic specimen shall be sent to the Division of Laboratory Services.

(4) A medical laboratory or national reference laboratory that has a diagnostic specimen test positive for M. tuberculosis by rapid molecular testing shall send the remainder of that specimen to the Division of Laboratory Services.

(5) Any diagnostic specimen found to be positive for M. tuberculosis by rapid molecular testing or culture testing shall be reported in accordance with Section 7 of this administrative regulation.

Section 5. Reporting Classifications and Methods. (1) Immediate reporting.

(a) A report required by Section 12(1) and (2) of this administrative regulation to be made immediately shall be:

1. Made by telephone to the local health department serving the county in which the patient resides; and

2. Followed up by electronic or fax submission to the local health department serving the county in which the patient resides within one (1) business day.

(b) Upon receipt of a report for a disease requiring immediate reporting, the local health department shall:

1. Notify the Kentucky Department for Public Health by telephone; and

2. Assist the department in carrying out a public health response.

(c) Weekend, evening, or holiday immediate notification. If local health department personnel cannot be contacted directly, notification shall be made by telephone using an emergency number provided by the local health department or the Kentucky Department for Public Health.

(d) For the protection of patient confidentiality, a report using the emergency number shall include:

1. The name of the condition being reported; and

2. A telephone number that can be used by the department to contact the reporting health professional or health facility.

(2) Urgent reporting.

(a) A report made within twenty-four (24) hours as required by Section 6 of this administrative regulation shall be:

1. Submitted electronically, by fax, or by telephone to the local

health department serving the county in which the patient resides; and

2. If submitted by telephone, followed up by electronic or fax submission to the local health department serving the county in which the patient resides within one (1) business day.

(b) Upon receipt of a report for a disease requiring urgent reporting, the local health department shall:

1. Notify the Kentucky Department for Public Health; and

2. Assist the department in carrying out a public health response.

(c) Weekend, evening, or holiday urgent notification. If local health department personnel cannot be contacted directly, notification shall be made by telephone using an emergency number provided by the local health department or the Kentucky Department for Public Health.

(d) For the protection of patient confidentiality, notification using the emergency number shall include:

1. The name of the condition being reported; and

2. A telephone number that can be used by the department to contact the reporting health professional or health facility.

(3) Priority reporting.

(a) A report made within one (1) business day as required by Section 7, 11, 12(3), 17(4), or 18 of this administrative regulation shall be:

1. Submitted electronically, by fax, or by telephone to the local health department serving the county in which the patient resides; and

2. If submitted by telephone, followed up by electronic or fax submission of a report to the local health department serving the county in which the patient resides within one (1) business day.

(b) Upon receipt of a report for a disease requiring priority reporting, a local health department shall:

1. Investigate the report and carry out public health protection measures; and

2. Notify the Kentucky Department for Public Health of the case by electronic or fax submission within one (1) business day.

(c) The reporting health department may seek assistance in carrying out public health measures from the Kentucky Department for Public Health.

(4) Routine reporting.

(a) A report made within five (5) business days, as required by Section 8, 9, 10, 13(1), 16(1), 17(7), or 20(1) of this administrative regulation, shall be made electronically, by fax, or by mail to the local health department serving the county in which the patient resides.

(b) Upon receipt of a report of a disease or condition requiring routine reporting, a local health department shall:

1. Make a record of the report;

2. Answer inquiries or render assistance regarding the report if requested by the reporting entity; and

3. Forward the report to the Kentucky Department for Public Health by electronic or fax submission of a report, or in writing within five (5) business days.

(5) General reporting. A report made within three (3) months, as required by Section 19 of this administrative regulation, shall be made electronically, by fax, or by mail.

(6) Reporting requirements.

(a) A report submitted by fax or by mail shall be made using one (1) of the following reporting forms:

1. EPID 200, Kentucky Reportable Disease Form;

2. EPID 250, Kentucky Reportable MDRO Form, to be used for priority reporting;

3. EPID 394, Kentucky Reportable Disease Form, Hepatitis Infection in Pregnant Women or Child (aged five (5) years or less);

4. EPID 399, Perinatal Hepatitis B Prevention Form for Infants;

5. Adult HIV Confidential Case Report Form; or

6. Pediatric HIV Confidential Case Report Form.

(b) Information to be reported. Except as provided in subsections (1)(d) and (2)(d) of this section, a report required by this administrative regulation shall include:

1. Patient name;

2. Date of birth;

3. Gender;

4. Race;

5. Ethnicity;

6. Patient address;

7. County of residence;

8. Patient telephone number;

9. Name of the reporting medical provider or facility;

10. Address of the reporting medical provider or facility; and

11. Telephone number of the reporting medical provider or facility.

(c) A reporting health professional shall submit the information listed in this subsection and Section 2(1)(f) of this administrative regulation.

Section 6. Notifiable Infectious Conditions Requiring Urgent Notification. (1) Notification of the following diseases shall be considered urgent and shall be made within twenty-four (24) hours:

(a) Anthrax;

(b) Botulism;

(c) Brucellosis (multiple cases, temporally or spatially clustered);

(d) Diphtheria;

(e) Hepatitis A, acute;

(f) Measles;

(g) Meningococcal infections;

(h) Middle East Respiratory Syndrome-associated Coronavirus (MERS-CoV) disease;

(i) Multi-system Inflammatory Syndrome in Children (MIS-C);

(j) Novel influenza A virus infections;

(k) Plague;

(l) Poliomyelitis;

(m) Rabies, animal;

(n) Rabies, human;

(o) Rubella;

(p) Severe Acute Respiratory Syndrome-associated Coronavirus (SARS-CoV) disease;

(q) Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2) (the virus that causes COVID-19) ***in accordance with sub section (2) of this section***;

(r) Smallpox;

(s) Tularemia;

(t) Viral hemorrhagic fevers due to:

1. Crimean-Congo Hemorrhagic Fever virus;

2. Ebola virus;

3. Lassa virus;

4. Lujo virus;

5. Marburg virus; or

6. New world arenaviruses including:

a. Guanarito virus;

b. Junin virus;

c. Machupo virus; and

d. Sabia virus; and

(u) Yellow fever.

(2) To track the spread of Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2), the virus that causes COVID-19, ***the following reporting is required:***

***(a) Laboratory reports of:***

***1. Positive and negative test results for SARS-CoV-2 viral detection using antigen or Nucleic Acid Amplification Test (NAAT), including polymerase chain reaction (PCR);***

***2. SARS-CoV-2 molecular sequencing; and***

***3. Positive test results for IgM or IgG antibodies to SARS-CoV-2 nucleocapsid protein.***

***(b) Health professional case report when:***

***1. A COVID-19 diagnosis of a patient for whom a laboratory report is not independently submitted;***

***2. A COVID-19 diagnosis of a patient is admitted to an inpatient medical facility; or***

***3. There is a COVID-19 associated mortality[~~notification of testing results shall include both positive and negative test results~~]***.

Section 7. Notifiable Infectious Conditions and Notifiable Non-Infectious Conditions Requiring Priority Notification. Notification of the following diseases or conditions shall be considered priority and shall be made within one (1) business day:

(1) Arboviral diseases, neuroinvasive and non-neuroinvasive, including:
(a) California serogroup virus diseases, including diseases caused by:
1. California encephalitis virus;
2. Jamestown Canyon virus;
3. Keystone virus;
4. La Crosse virus;
5. Snowshoe hare virus; and
6. Trivittatus viruses;
(b) Chikungunya virus disease;
(c) Eastern equine encephalitis virus disease;
(d) Powassan virus disease;
(e) St. Louis encephalitis virus disease;
(f) Venezuelan equine encephalitis disease;
(g) West Nile virus disease;
(h) Western equine encephalitis virus disease; and
(i) Zika virus disease or infection or the birth of a child to a mother who was Zika-positive or Zika-inconclusive during any stage of pregnancy or during the periconceptional period;
(2) Brucellosis (cases not temporally or spatially clustered);
(3) Campylobacteriosis;
(4) Carbon monoxide poisoning;
(5) Cholera;
(6) Cryptosporidiosis;
(7) Cyclosporiasis;
(8) Dengue virus infections;
(9) Escherichia coli O157:H7;
(10) Foodborne disease outbreak;
(11) Giardiasis;
(12) Haemophilus influenzae invasive disease;
(13) Hansen's disease (leprosy);
(14) Hantavirus infection, non-Hantavirus pulmonary syndrome;
(15) Hantavirus pulmonary syndrome (HPS);
(16) Hemolytic uremic syndrome (HUS), post-diarrheal;
(17) Hepatitis B, acute;
(18) Hepatitis B infection in a pregnant woman;
(19) Hepatitis B infection in an infant or a child aged five (5) years or less;
(20) Newborns born to Hepatitis B positive mothers at the time of delivery;
(21) Influenza-associated mortality;
(22) Legionellosis;
(23) Leptospirosis;
(24) Listeriosis;
(25) Mumps;
(26) Norovirus outbreak;
(27) Pertussis;
(28) Pesticide-related illness, acute;
(29) Psittacosis;
(30) Q fever;
(31) Rubella, congenital syndrome;
(32) Salmonellosis;
(33) Shiga toxin-producing E. coli (STEC);
(34) Shigellosis;
(35) Streptococcal toxic-shock syndrome;
(36) Streptococcus pneumoniae, invasive disease;
(37) Tetanus;
(38) Toxic-shock syndrome (other than Streptococcal);
(39) Tuberculosis;
(40) Typhoid fever;
(41) Varicella;
(42) Vibriosis; and
(43) Waterborne disease outbreak.

Section 8. Notifiable Infectious Conditions and Notifiable Non-Infectious Conditions Requiring Routine Notification. Notification of the following diseases shall be considered routine and shall be made within five (5) business days:
(1) Acute Flaccid Myelitis;
(2) Anaplasmosis;
(3) Babesiosis;
(4) Coccidioidomycosis;
(5) Creutzfeldt-Jakob disease;
(6) Ehrlichiosis;
(7) Hepatitis C, acute;
(8) Hepatitis C infection in a pregnant woman;
(9) Hepatitis C infection in an infant or a child aged five (5) years or less;
(10) Newborns born to Hepatitis C positive mothers at the time of delivery;
(11) Histoplasmosis;
(12) Laboratory-confirmed influenza;
(13) Lead poisoning;
(14) Lyme Disease;
(15) Malaria;
(16) Spotted Fever Rickettsiosis (Rocky Mountain Spotted Fever);
(17) Toxoplasmosis; and
(18) Trichinellosis (Trichinosis).

Section 9. Notifiable Infectious Conditions Requiring Routine Notification by Electronic Laboratory Reporting. (1) Notification of the following shall be considered routine and shall be electronically reported to the Kentucky Department for Public Health through the Kentucky Health Information Exchange within five (5) business days:
(a) Hepatitis B laboratory test results, which shall:
1. Be reported as positive or negative; and
2. Include the serum bilirubin levels or serum alanine aminotransferase taken within ten (10) days of the test of a patient who has tested positive;
(b) Hepatitis C laboratory test results, which shall:
1. Be reported as positive or negative; and
2. Include the serum bilirubin levels or serum alanine aminotransferase taken within ten (10) days of the test of a patient who has tested positive; or
(c) Varicella laboratory test results reported as positive for:
1. Isolation of varicella virus from a clinical specimen;
2. Varicella antigen detected by direct fluorescent antibody test; or
3. Varicella-specific nucleic acid detected by polymerase chain reaction (PCR).
(2) Reports made pursuant to this section shall include a diagnosis.

Section 10. Multi-Drug Resistant Organisms and Other Organisms Requiring Routine Notification by Electronic Laboratory Reporting. (1) Notification of the following diseases shall be considered routine and shall be electronically reported to the Kentucky Department for Public Health through the Kentucky Health Information Exchange within five (5) business days:
(a) Clostridioides (formerly Clostridium) difficile (C. difficile) identified from a positive laboratory test result for C. difficile toxin A or B (includes molecular assays {PCR} or toxin assays) or a toxin-producing organism detected by culture or other laboratory means performed on a stool sample;
(b) Enterobacteriaceae species resistant to ceftazidime, ceftriaxone, or cefotaxime;
(c) Methicillin-resistant Staphylococcus aureus (MRSA), which includes S. aureus cultured from any specimen that tests oxacillin-resistant, cefoxitin-resistant, or methicillin-resistant by standard susceptibility testing methods, or by a laboratory test that is FDA-approved for MRSA detection from isolated colonies. These methods may also include a positive result by any FDA-approved test for MRSA detection; and
(d) Vancomycin-resistant Enterococcus species (VRE), only those identified to the species level, that are resistant to Vancomycin by standard susceptibility testing methods or by results from any FDA-approved test for VRE detection from specific specimen sources.
(2) The report of an organism under this section shall include the:
(a) Date of specimen collection;
(b) Source of specimen;
(c) Susceptibility pattern; and
(d) Name of the ordering health professional.

(3) Upon a test result performed by a medical laboratory that indicates infection with an agent associated with one (1) or more of the diseases or conditions or a multi-drug resistant organism specified in this section, the director of the medical laboratory shall electronically report the result to the Kentucky Department for Public Health through the Kentucky Health Information Exchange within five (5) days.

(4) The report shall include a diagnosis.

Section 11. Multi-drug Resistant Organisms and Other Organisms Requiring Priority Reporting by EPID 250 and by Electronic Laboratory Reporting to the Kentucky Department for Public Health through the Kentucky Health Information Exchange within One (1) Business Day. Notification of the following diseases shall be considered priority:

(1) Candida auris - Laboratory Criteria for Diagnosis shall include:

(a) Confirmatory laboratory evidence for detection of Candida auris from any body site using either culture or a culture independent diagnostic test (for example, Polymerase Chain Reaction {PCR}); or

(b) Presumptive laboratory evidence for detection of Candida haemulonii from any body site using a yeast identification method that is not able to detect Candida auris, and either the isolate or specimen is not available for further testing, or the isolate or specimen has not yet undergone further testing;

(2) Carbapenem-resistant – Acinetobacter – Any Acinetobacter species testing resistant to imipenem, meropenem, or doripenem, with minimum inhibitory concentration (MIC)[~~MIC~~] value greater than or equal to eight (8) μg/mL by standard susceptibility testing methods, or by identification of a carbapenemase using a recognized test;

(3) Carbapenem-resistant Enterobacteriaceae (CRE) – Any Enterobacteriaceae species testing resistant to imipenem, meropenem, or doripenem, with MIC value greater than or equal to four (4) μg/mL, or ertapenem with MIC value greater than or equal to two (2) μg/mL, by standard susceptibility testing methods, or by identification of a carbapenemase using a recognized test;

(4) Carbapenem-resistant – Pseudomonas – Any Pseudomonas species testing resistant to imipenem, meropenem, or doripenem, with MIC value greater than or equal to eight (8) μg/mL by standard susceptibility testing methods, or by identification of a carbapenemase using a recognized test;

(5) Vancomycin-intermediate Staphylococcus aureus (VISA), which includes S. aureus cultured from any specimen having a MIC[~~minimum inhibitory concentration (MIC)~~] of four (4) to eight (8) μg/mL for vancomycin per standard laboratory methods; and

(6) Vancomycin-resistant Staphylococcus aureus (VRSA), which includes S. aureus cultured from any specimen having a MIC[~~minimum inhibitory concentration (MIC)~~] of greater than or equal to sixteen (16) μg/mL for vancomycin per standard laboratory methods.

Section 12. Newly Recognized Infectious Agents, HAI Outbreaks, Emerging Pathogens, and Pathogens of Public Health Importance. (1) The following shall be reported immediately by telephone to the Kentucky Department for Public Health:

(a) A suspected incidence of bioterrorism caused by a biological agent;

(b) Submission of a specimen to the Kentucky Division of Laboratory Services for select agent identification or select agent confirmation testing; or

(c) An outbreak of a disease or condition that resulted in multiple hospitalizations or death.

(2) An unexpected pattern of cases, suspected cases, or deaths that could indicate the following shall be reported immediately by telephone to the local health department in the county where the health professional is practicing or where the facility is located:

(a) A newly-recognized infectious agent;

(b) An outbreak;

(c) An emerging pathogen that may pose a danger to the health of the public;

(d) An epidemic; or

(e) A noninfectious chemical, biological, or radiological agent.

(3) A report of the following shall be considered priority and shall be reported to the local health department in the county where the health professional is practicing or where the facility is located within one (1) business day:

(a) Suspected Staphylococcal or other foodborne intoxication; or

(b) Salmonellosis or other foodborne or waterborne infection.

(4) The local health department shall:

(a) Investigate the outbreak or occurrence;

(b) Carry out public health protection measures to address the disease or condition involved; and

(c) Make medical and environmental recommendations to prevent future similar outbreaks or occurrences.

(5) The local health department may seek assistance from the Kentucky Department for Public Health.

Section 13. Laboratory Surveillance. (1) Medical or national reference laboratory results for the following shall be considered routine:

(a) Influenza virus isolates;

(b) PCR-positive test results for influenza virus; and

(c) DNA molecular assays for influenza virus.

(2) The report shall include specific laboratory information pertinent to the result.

(3) Upon request by the Kentucky Department for Public Health, a health facility laboratory or a medical laboratory shall report the number of clinical isolates and information regarding the antimicrobial resistance patterns of the clinical isolates at intervals no less frequently than three (3) months for:

(a) Acinetobacter baumannii complex;

(b) Enterobacter cloacae complex;

(c) Enterococcus species;

(d) Escherichia coli;

(e) Klebsiella oxytoca;

(f) Klebsiella pneumoniae;

(g) Pseudomonas aeruginosa;

(h) Staphylococcus aureus; or

(i) An organism specified in a request that includes a justification of its public health importance.

(4) A facility that reports antimicrobial resistance (AR) data to the National Healthcare Safety Network (NHSN) AUR (Antimicrobial Use & Resistance) module shall meet this reporting requirement through NHSN reporting.

Section 14. Healthcare-Associated Infection Surveillance. (1) A health facility in Kentucky that participates in Centers for Medicare and Medicaid Services (CMS)[~~CMS~~] reporting programs shall authorize the CDC to allow the Kentucky Department for Public Health to access health care-associated infection data reported to NHSN.

(2) The Kentucky Department for Public Health shall preserve patient confidentiality and shall not disclose to the public any patient-level data obtained from any health care facility.

(3) The Kentucky Department for Public Health may issue reports to the public regarding healthcare-associated infections in aggregate data form that:

(a) May identify individual health care facilities; and

(b) Shall comply with methodology developed by the CDC and CMS for national reporting of health care-associated infections.

(4) The Kentucky Department for Public Health may evaluate healthcare-associated infection data for accuracy and completeness.

Section 15. Antimicrobial Use Reporting. (1) A short-term acute-care hospital in Kentucky that participates in the CMS[~~Centers for Medicare and Medicaid Services (CMS)~~] reporting programs shall report data on facility-wide inpatient antimicrobial use to the Kentucky Department for Public Health, Healthcare-Associated Infection/Antibiotic Resistance (HAI/AR) Prevention Program, on a quarterly basis[~~, effective January 1, 2021~~]. Critical access hospitals shall be exempt.

(2) Reporting deadlines shall be consistent with the CMS

reporting program submission deadlines of data to the NHSN.

(3) The HAI/AR Prevention Program shall provide the specifications for data submission.

(4) Hospitals shall include aggregated antimicrobial use and patient day data for all inpatient units (facility-wide inpatient) included in the NHSN Laboratory-identified (LabID) MRSA Bacteremia reporting.

(5) The antimicrobial use numerator shall be days of therapy (DOTs) as defined by the NHSN Antimicrobial Use and Resistance (AUR) Module, available at //www.cdc.gov/nhsn/pdfs/pscmanual/11pscaurcurrent.pdf.

(6) Total DOTs shall be submitted for each of the following antimicrobials:

(a) Azithromycin;

(b) Cefepime;

(c) Ceftazidime;

(d) Ceftriaxone;

(e) Ciprofloxacin;

(f) Clindamycin;

(g) Daptomycin;

(h) Ertapenem;

(i) Imipenem;

(j) Levofloxacin;

(k) Linezolid;

(l) Meropenem;

(m) Moxifloxacin;

(n) Piperacillin-tazobactam; and

(o) Vancomycin.

(7) Total DOTs for the listed drugs shall include only administrations via the intravenous and digestive tract routes.

(8) The denominator for antimicrobial use reporting shall be patient days as defined by the NHSN LabID Module available at https://www.cdc.gov/nhsn/pdfs/pscmanual/12pscmdro_cdadcurrent.pdf.

(9) A hospital that reports antimicrobial use data to the NHSN AUR Module shall meet this reporting requirement through NHSN reporting.

Section 16. Human Immunodeficiency Virus (HIV) and Acquired Immunodeficiency Syndrome (AIDS) Surveillance. (1) All case reports shall be submitted to the HIV/AIDS Surveillance Program of the Kentucky Department for Public Health, Division of Epidemiology and Health Planning, or its designee, within five (5) business days of diagnosis on one (1) of the following forms:

(a) Adult HIV Confidential Case Report Form; or

(b) Pediatric HIV Confidential Case Report Form.

(2) Health professionals and medical laboratories shall report:

(a) A positive test result for HIV, [~~infection~~] including tests with negative or indeterminate results that are part of a diagnostic testing algorithm whose overall interpretation is positive, and results[~~a result~~] from:

1. Any HIV antibody test[~~3rd generation immunoassay~~];

2. Any HIV antigen test[~~4th generation immunoassay~~];

3. Any HIV Ribonucleic acid (RNA) or Deoxyribonucleic acid (DNA) test;

4.[~~Western Blot~~;

~~4. PCR~~;

~~5. HIV-1 or HIV-2 differentiating such as Multispot;~~

~~6. HIV antigen;~~

~~7. HIV antibody;~~

~~8.~~] CD4+ assay including absolute CD4+ cell counts and CD4+%;

5.[~~9. HIV Viral Load Assay including detectable and undetectable values;~~

~~10.~~] HIV genetic sequencing; or

6. HIV culture; or[

~~11. A positive confirmatory serologic test result for HIV infection; or~~]

(b) A diagnosis of AIDS that meets the definition of AIDS established within the CDC guidelines.

(3) A[~~The most recent~~] negative HIV test, if available, shall be submitted with the report required by subsection (2) (a) or (b) of this section.

(4) Any request for data related to HIV infection or AIDS shall be made to the Department for Public Health, Division of Epidemiology and Health Planning.

(5) A case report for a person with an HIV infection without a diagnosis of AIDS, or HIV infection with a diagnosis of AIDS shall include:

(a) The patient's full name;

(b) The patient's complete address;

(c) Date of birth using the format MMDDYYYY;

(d) Gender;

(e) Race;

(f) Ethnicity;

(g) Risk factors[~~factor~~] as identified by CDC;

(h) County of residence;

(i) Name of provider and facility submitting report including contact information;

(j) Specimens[~~Specimen~~] collected;

(k) Date and type of HIV test performed using the format MMDDYYYY;

(l) Results of CD4+ cell counts and CD4+%;

(m) Results of viral load testing;

(n) Results of RNA, DNA[~~PCR~~], HIV culture, HIV antigen, and HIV antibody, if performed;

(o) Results of TB testing, if available;

(p) Any documented HIV negative test, if available;

(q) History of PrEP or PEP treatment, if available;

(r) Antiretroviral treatment, if available;

(s) HIV status of the person's partner, spouse, or children, as applicable;

(t) Current pregnancy status for females;

(u) Opportunistic infections diagnosed; and

(v)[~~(u)~~] Date of onset of illness.

(6) A report of pregnancy and delivery for a female diagnosed with HIV disease shall include:

(a) All HIV diagnostic testing and results associated with the determination of HIV status of the infant, including tests with negative or indeterminate results that are part of a diagnostic testing algorithm and if final result is negative; and

(b) Any HIV treatment prescribed to an infant.

(7) A report of AIDS shall be made whether or not the patient has been previously reported as having an HIV infection.

(8)[~~(7)~~] If the patient has not been previously reported as having an HIV infection, the AIDS report shall also serve as the report of HIV.

Section 17. Sexually Transmitted Disease (STD). (1) Notification of a probable diagnosis of an STD as specified in subsection (4) or (7) of this section shall be made.

(2) The report shall provide:

(a) Pregnancy status; and

(b) Clinical, epidemiologic, laboratory, and treatment information pertinent to the disease.

(3) Upon a laboratory test result that indicates infection with an agent associated with one (1) or more of the diseases or conditions specified in subsection (4) or (7) of this section, a medical laboratory shall report to the Kentucky Department for Public Health information required by Section 5(6)(b) of this administrative regulation.

(4) Sexually Transmitted Diseases Requiring Priority Notification. A report of the following shall be considered priority and shall be made within one (1) business day:

(a) Each pregnant female who has tested positive for syphilis regardless of stage; or

(b) Syphilis - primary, secondary, or early latent.

(5) Upon receipt of a report for a disease or condition specified in subsection (4) of this section, a local health department shall:

(a) Investigate the report;

(b) Carry out public health protection measures to address the disease or condition; and

(c) Forward the report to the Kentucky Department for Public Health within one (1) business day.

(6) The local health department may seek assistance from the Kentucky Department for Public Health.

(7) Sexually Transmitted Diseases Requiring Routine Notification. A report of the following shall be considered routine

and shall be made within five (5) business days:
(a) Chancroid;
(b) Chlamydia trachomatis infection;
(c) Gonorrhea;
(d) Granuloma inguinale;
(e) Lymphogranuloma venereum; or
(f) Syphilis, other than primary, secondary, early latent, or congenital.
(8) Upon receipt of a report for a disease or condition specified in subsection (7) of this section, a local health department shall:
(a) Make a record of the report using Form EPID 200, Kentucky Reportable Disease Form;
(b) Forward the report to the Kentucky Department for Public Health within five (5) business days; and
(c) Render assistance if requested by the reporting entity or the Kentucky Department for Public Health.

Section 18. Tuberculosis. (1) A pharmacist shall give notice if two (2) or more of the following medications used for the initial treatment of active tuberculosis are dispensed to an inpatient in a health facility or to an ambulatory patient in a health facility or a pharmacy:
(a) Ethambutol;
(b) Isoniazid;
(c) Pyrazinamide; and
(d) Rifampin or rifabutin.
(2)(a) A report of tuberculosis shall be considered priority and shall be reported to the local health department serving the county in which the patient resides.
(b) If the local health department cannot be reached, notification shall be given to the Kentucky Department for Public Health.
(3) The report shall include:
(a) Information required in Section 5(6)(b) of this administrative regulation; and
(b) Names of the medications dispensed.

Section 19. Asbestosis, Coal Worker's Pneumoconiosis, and Silicosis. (1) A health professional shall report a diagnosis of the following to the Kentucky Department for Public Health within three (3) months of diagnosis:
(a) Asbestosis;
(b) Coal worker's pneumoconiosis; or
(c) Silicosis.
(2) A report required under this section shall include the information required in Section 5(6)(b).

Section 20. Reporting of Communicable Diseases in Animals. (1) A diagnosis in an animal of a condition known to be communicable to humans, except for rabies, shall require routine notification.
(2) A veterinarian shall report the diagnosis within five (5) business days to the local health department serving the county in which the animal is located.
(3) If a laboratory test indicates infection of an animal with an agent associated with a condition known to be communicable to humans, the director of a medical laboratory shall report the result to the local health department serving the county in which the animal is located within five (5) business days.
(4) The local health department receiving the report shall:
(a) Investigate the report;
(b) Carry out public health protection measures for the control of communicable diseases; and
(c) Forward the report to the Kentucky Department for Public Health within five (5) business days.
(5) The local health department may seek assistance from the Kentucky Department for Public Health.

Section 21. Kentucky Public Health Advisory. (1) If the secretary of the Cabinet for Health and Family Services or the commissioner of the Department for Public Health determines that a disease not presently listed in this administrative regulation requires reporting, the secretary or commissioner shall issue a Kentucky public health advisory.
(2) The Kentucky public health advisory shall include:
(a) Date and time the advisory is issued;
(b) A unique number to identify the advisory;
(c) Names for the disease or condition;
(d) A description of the disease or condition;
(e) Recommendations for health professionals, health facilities, and laboratories; and
(f) Notification requirements including:
1. The notification time interval; and
2. Methods for notification.
(3) The duty to report by health professionals, health facilities, and laboratories pursuant to a Kentucky public health advisory shall begin upon receipt of the advisory and shall remain in effect until the advisory is rescinded by order of the secretary or the commissioner.

Section 22. Penalty. If the cabinet has cause to believe that a physician willfully neglects or refuses to notify the cabinet in accordance with this administrative regulation, pursuant to KRS 214.990(1) the cabinet shall make a referral to the appropriate professional licensing board.

Section 23. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) "EPID 200, Kentucky Reportable Disease Form", 4/2020;
(b) "EPID 250, Kentucky Reportable MDRO Form", 10/2020[~~10/2000~~];
(c) "EPID 394, Kentucky Reportable Disease Form, Hepatitis Infection in Pregnant Women or Child (aged five (5) years or less)", 9/2020;
(d) "EPID 399, Perinatal Hepatitis B Prevention Form for Infants", 6/2020;
(e) "Adult HIV Confidential Case Report Form", 11/2019; and
(f) "Pediatric HIV Confidential Case Report Form", 11/2019.
(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. and available online at https://chfs.ky.gov/agencies/dph/dehp/idb/Pages/default.aspx.
CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

**CABINET FOR HEALTH AND FAMILY SERVICES**
**Office of Inspector General**
**Division of Health Care**
**(As Amended at ARRS, January 10, 2022)**

**906 KAR 1:180. Operation and services; personal services agencies.**

RELATES TO: KRS Chapter 13B, 209.030(2), (3), 209.032, 216.710-216.716, 216B.015, 311.621(16), 620.030(1)
STATUTORY AUTHORITY: KRS 216.712(4), 216.713(11)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 216.712(4) requires the ***Secretary of the Cabinet for Health and Family Services[~~cabinet~~]*** [~~Secretary~~] to promulgate administrative regulations to implement KRS 216.712 through 216.716, which require that personal service agencies be certified by the Cabinet for Health and Family Services. KRS 216.713(11) requires the cabinet to promulgate administrative regulations to implement, monitor, and enforce compliance with the dementia-specific training requirements for direct-care staff members. This administrative regulation establishes standards for the certification of personal services agencies.

Section 1. Definitions. (1) "Adverse action" means action taken by the cabinet's Office of Inspector General (OIG) to deny or revoke the certification of a personal services agency.
(2) "Cabinet" is defined by KRS 216.710(1).
(3) "Certification" means that a person, business entity, corporation, or association, either for-profit or not-for-profit, has

been issued a certificate by the Office of Inspector General to operate a personal services agency.

(4) "Client" is defined by KRS 216.710(2).

(5) "Designated representative" is defined by KRS 216.710(5).

(6) "Direct-care staff member" is defined by KRS 216.710(6).

(7) "Direct service" is defined by KRS 216.710(7)[~~(6)~~].

(8)[~~(7)~~] "Employee" means an individual who is:

(a) Directly employed by a personal services agency;

(b) An agent of a personal services agency;

(c) An independent contractor who has a contractual arrangement with a personal services agency to provide personal services; or

(d) Referred by another person or other agency that has an ownership or financial interest that is realized from the delivery of personal services rendered by the individual for whom the referral is made.

(9)[~~(8)~~] "Facilitate the self-administration of medication" means the client or the client's guardian, healthcare surrogate as defined by KRS 311.621(16)[~~(15)~~], or attorney-in-fact as appointed by a durable power of attorney authorizing the attorney-in-fact to make health care decisions for the client, has executed a written consent designating the persons or entities authorized to prepare or direct the client's medications and authorizing the personal services agency to facilitate the self-administration of medication ***in accordance with Section 7(1)(b) of this administrative regulation.***~~***[which shall be limited as follows:***~~

~~***(a) A client's medication shall:***~~

~~***1. Be prepared or directed in accordance with KRS 216.710(9)]***~~[~~(7)~~]~~***[(a)2 by:***~~

~~***a. The client's designated representative; or***~~

~~***b. A licensed health-care professional who is not an owner, manager, or employee of the personal services agency;***~~

~~***2. Except for ointments, be preset in a medication organizer or be a single dose unit; and***~~

~~***3. Include the client's name on the medication organizer or container in which the single dose unit is stored;***~~

~~***(b) A personal services agency direct care staff person may:***~~

~~***1. Remind a client when to take medications and observe to ensure that the client takes the medication as directed;***~~

~~***2. Hand the client's medication to the client. If the client is unable to open the medication, the staff person may open the unit dose or medication organizer, remove the medication from a medication organizer, and close the medication organizer for the client;***~~

~~***3. Assist a client in consuming oral medication, including tablets, capsules, or liquid medication, by:***~~

~~***a. Placing the dose in a container and placing the container to the mouth of the client;***~~

~~***b. Placing the medication in the client's hand or mouth; or***~~

~~***c. Following the written instructions of the client's designated representative or licensed health care professional for how to enable the client to take his or her medication; or***~~

~~***4. Steady or guide a client's hand while applying ointments; and***~~

~~***(c) Facilitating the self-administration of medication shall not include:***~~

~~***1. Instilling eye, ear, or nasal drops;***~~

~~***2. Mixing, compounding, converting, or calculating medication doses;***~~

~~***3. The preparation of syringes for injection or the administration of medications by any injectable route;***~~

~~***4. Administration of medications through intermittent positive pressure breathing machines or a nebulizer;***~~

~~***5. Administration of medications by way of a tube inserted in a cavity of the body;***~~

~~***6. Administration of parenteral preparations;***~~

~~***7. Administration of irrigations or debriding agents used in the treatment of a skin condition; or***~~

~~***8. Administration of rectal, urethral, or vaginal preparations.]***~~

(10)[~~(9)~~] "Parent personal services agency" is defined by KRS 216.710(11)[~~(9)~~].

(11)[~~(10)~~] "Personal services" is defined by KRS 216.710(9)[~~(7)~~].

(12)[~~(11)~~] "Personal services agency" is defined by KRS 216.710(10)[~~(8)~~].

(13)[~~(12)~~] "Provisional certification" means that the Office of Inspector General (OIG) has issued a ninety (90) day preliminary certificate to operate a personal services agency to a person, business entity, corporation, or association, either for-profit or not-for-profit, which:

(a) Has three (3) or fewer employees when the initial application is filed; and

(b) Indicated on the application that it intends to hire additional employees within ninety (90) calendar days of the date of the application.

(14)[~~(13)~~] "Significant financial interest" means lawful, direct or indirect ownership of a personal services agency or health care facility licensed pursuant to KRS Chapter 216B in an amount equal to or greater than twenty-five (25) percent total ownership of the personal services agency or health care facility.

Section 2. Certification of Personal Services Agencies. (1) To operate a personal services agency, a person or entity shall obtain certification from the Office of Inspector General.

(2) If an out-of-state personal services agency operates a branch office in Kentucky, the out-of-state agency shall be required to obtain separate certificates for each of its branch offices in Kentucky.

(3) A branch office of a parent personal services agency shall be owned and controlled by the parent personal services agency.

(4) A "health facility" or a "health service" as defined by KRS 216B.015 or a health-care practitioner licensed, certified, or regulated by local, state, or federal statutes or administrative regulations shall not be required to obtain certification to provide personal services pursuant to KRS 216.710(9)[~~(7)~~](b)9.

Section 3. Initial Application, Provisional Certification, and Approval. (1) ***A***~~***[No]***~~ person, entity, corporation, or association shall ***not*** provide personal services prior to obtaining certification.

(2) An applicant for initial certification, including provisional certification, shall submit to the OIG:

(a) An initial application fee of $500 made payable to the Kentucky State Treasurer;

(b) A completed Application for Certification to Operate a Personal Services Agency, OIG – 1180[~~, November 2009~~]; and

(c) Documentation required by Section 3.A, if applicable, and Section 6 of the application.

(3) Approval of initial certification shall be contingent on:

(a) Submission of the initial application fee of $500;

(b) The applicant's demonstration of compliance with the requirements of this administrative regulation and KRS 216.712, as documented on the Application for Certification to Operate a Personal Services Agency, OIG - 1180; and

(c) Submission of the documentation required by Section 3.A, if applicable, and Section 6 of the application.

(4)(a) Approval of provisional certification shall be contingent on:

1. Submission of the initial application fee of $500;

2. The applicant's demonstration of compliance with the requirements of this administrative regulation and KRS 216.712, as documented on the Application for Certification to Operate a Personal Services Agency, OIG - 1180; and

3. Submission of the documentation required by Section 3.A, if applicable, and Section 6 of the application.

(b) A personal services agency operating under provisional certification shall, no later than fourteen (14) calendar days prior to expiration of the provisional certificate, submit employee information required by Section 6, paragraph 2 of the Application for Certification to Operate a Personal Services Agency, OIG - 1180 for each employee hired by the agency after submission of the application for initial certification.

(c) If a personal services agency operates under provisional certification prior to approval of initial certification, the initial certification period shall expire one (1) year from the date of the provisional certificate.

Section 4. Annual Recertification. (1) At least sixty (60) calendar days prior to expiration of certification, the personal services agency shall submit to the OIG:

(a) An annual recertification fee of $350 made payable to the Kentucky State Treasurer;

(b) A completed Application for Certification to Operate a Personal Services Agency, OIG – 1180[~~, November 2009~~]; and

(c) Documentation required by Section 6 of the application.

(2) Approval of recertification shall be contingent on:

(a) Submission of the annual recertification fee of $350;

(b) The applicant's demonstration of continued compliance with the requirements of this administrative regulation and KRS 216.712, as documented on the Application for Certification to Operate a Personal Services Agency, OIG - 1180; and

(c) Submission of documentation required by Section 6 of the application.

Section 5. Change of Status. (1) Within thirty (30) calendar days after a change in an ownership interest of more than twenty-five (25) percent of a personal services agency, the following shall be submitted to the OIG:

(a) An Application for Certification to Operate a Personal Services Agency, OIG - 1180;

(b) Documentation required by Section 3.A, if applicable, and Section 6 of the application;

(c) A fee of $350 made payable to the Kentucky State Treasurer; and

(d) A bill of sale or comparable document ***that[which]*** includes:

1. The name and signature of the new owner or corporation;

2. The name and signature of the buyer and the seller; and

3. The effective date of the transaction.

(2) Following a change of ownership reported in accordance with subsection (1) of this section, certification shall be effective for a period of one (1) year from the date the change of ownership is approved by the OIG.

(3) A personal services agency shall notify the OIG in writing within thirty (30) calendar days after the effective date of:

(a) A change of name;

(b) A change in the location of the parent personal services agency or a branch office;

(c) The opening of a new branch office in Kentucky; or

(d) The closing of the parent personal services agency or an existing branch office within the state.

Section 6. Staff Requirements. (1)(a) A personal services agency shall employ an individual to act as the personal services agency's manager.

(b) The manager shall be responsible for the organization and daily operation of the personal services agency.

(c) The manager shall designate in writing one (1) or more individuals to act on behalf of the manager, or to perform any or all of the manager's responsibilities during the time in which the manager is unavailable to perform daily managerial duties for at least three (3) consecutive business days.

(2) Prior to acting as a personal services agency's manager, or prior to providing direct services to a client, an applicant for employment in a personal services agency shall submit to, and have completed a:

(a) Criminal record check conducted by the Justice and Public Safety Cabinet, Administrative Office of the Courts, or a company that conducts a search of criminal record information maintained by the Justice and Public Safety Cabinet or Administrative Office of the Courts;

(b) Check of the nurse aide and home health aide abuse registry established by [~~pursuant to~~] 906 KAR 1:100;

(c) Check of the caregiver misconduct registry established by 922 KAR 5:120 and required by KRS 209.032;

(d) Substance abuse test; and

(e)[~~(d)~~]1. A tuberculosis (TB) risk assessment performed and reported by a physician, advanced practice registered nurse, physician [~~physician's~~] assistant, or registered nurse.

2. If the TB risk assessment indicates that the applicant for employment is at increased risk for developing tuberculosis infection, or for progressing to active TB disease if infected, the individual shall submit to the following for purposes of employment:

a. Follow-up tuberculin skin test (TST); or

b. Blood assay for M. tuberculosis (BAMT).

3. An individual who has a positive TST result or a positive BAMT result:

a. Shall have a medical evaluation for possible active TB and receive a chest x-ray; and

b. Shall not provide direct services to a client until evidence is provided to the personal services agency documenting that the individual is free of active TB as verified through a health professional's statement, signed by a physician, advanced practice registered nurse, physician [~~physician's~~] assistant, or registered nurse.

(3) A personal services agency may, at its discretion, request that its manager or an employee who provides direct services to a client submit to any of the following background checks after the date of initial hire:

(a) Criminal record check conducted by the Justice and Public Safety Cabinet, Administrative Office of the Courts, or a company that conducts a search of criminal record information maintained by the Justice and Public Safety Cabinet or Administrative Office of the Courts;

(b) Check of the nurse aide and home health aide abuse registry;

(c) Check of the caregiver misconduct registry; or

(d)[~~(c)~~] Substance abuse test.

(4) A personal services agency shall not employ or retain an individual to serve as a manager or provide direct services to a client if the individual:

(a) Has been convicted of a crime defined by KRS 216.710(3) as verified through a criminal record check conducted pursuant to subsection (2)(a) or (3)(a) of this section;

(b) Appears on the nurse aide and home health aide abuse registry as verified through a check of the [~~nurse aide and home health aide abuse~~] registry conducted pursuant to subsection (2)(b) or (3)(b) of this section;

(c) Appears on the caregiver misconduct registry as verified through a check of the registry conducted pursuant to subsection (2)(c) or (3)(c) of this section;

(d) Tests positive for the presence of an illegal drug as verified through a substance abuse test conducted pursuant to subsection (2)(d)[~~(c)~~] or subsection (3)(d)[~~(c)~~] of this section; or

(e) [~~(d)~~] Fails to provide upon initial employment pursuant to subsection (2)(e)[~~(d)~~] or annually pursuant to subsection (5) of this section:

1. A copy of the results of a health professional's statement documenting that the individual is free of active tuberculosis;

2. Documentation of a negative TST; or

3. Documentation of a negative BAMT.

(5)(a) A personal services agency shall require its manager and each employee who provides direct services to a client to submit annually to a tuberculosis risk assessment performed and reported by a physician, advanced practice registered nurse, physician [~~physician's~~] assistant, or registered nurse.

(b) If a determination is made from the annual tuberculosis risk assessment that the employee is at increased risk for developing tuberculosis infection, or for progressing to active TB disease if infected, the employee shall submit to a follow-up TST or BAMT.

(c) An employee who has a positive TST result or a newly positive BAMT shall have a medical evaluation for possible active TB and receive a chest x-ray.

(d) If the annual tuberculosis screening reveals that the employee is recently infected, the employee shall not provide direct services to a client until evidence is provided documenting that the employee is free of active tuberculosis as verified through a health professional's statement signed by a physician, advanced practice registered nurse, physician's assistant, or a registered nurse.

(6) A personal services agency shall maintain documentation of the following in employee records:

(a) The results of each criminal record check conducted pursuant to subsection (2)(a) and (3)(a) of this section;

(b) The results of each check of the nurse aide and home

health aide abuse registry conducted pursuant to subsection (2)(b) and (3)(b) of this section;

(c) The results of each check of the caregiver misconduct registry conducted pursuant to subsection (2)(c) and (3)(c) of this section;

(d) The results of the substance abuse test conducted pursuant to subsection (2)(d) and (3)(d)[~~(c)~~] of this section; and

(e)[~~(d)~~] Documentation from a health professional that the employee is free of active TB and, if applicable, documentation of a follow-up TST or BAMT, chest x-ray, or medical evaluation.

(7) A personal services agency shall:

(a) Maintain employee records for a period of at least five (5) years; and

(b) Ensure that the records of current employees are:

1. Maintained on the premises of the agency; or

2. Accessible via a central computer file.

(8) A personal services agency or agency employee shall not be, or shall not apply to be a client's:

(a) Guardian;

(b) Power of attorney;

(c) Conservator;

(d) Limited conservator;

(e) Limited guardian;

(f) Standby guardian; or

(g) Testamentary guardian.

Section 7. Staff training and Competency. (1) Prior to providing direct services to a client, each employee shall receive training from the personal services agency regarding the following:

(a) Procedures for reporting abuse, neglect, or exploitation of an adult pursuant to KRS 209.030(2) and (3), or child abuse or neglect pursuant to KRS 620.030(1);

(b) Procedures for facilitating the self-administration of medications if personal services agency staff facilitate the self-administration of medication***, in accordance with the following requirements:***

***1. A client's medication shall:***

***a. Be prepared or directed in accordance with KRS 216.710(9)(a)2 by:***

***(i) The client's designated representative; or***

***(ii) A licensed health-care professional who is not an owner, manager, or employee of the personal services agency;***

***b. Except for ointments, be preset in a medication organizer or be a single dose unit; and***

***c. Include the client's name on the medication organizer or container in which the single dose unit is stored;***

***2. A personal services agency direct care staff person may:***

***a. Remind a client when to take medications and observe to ensure that the client takes the medication as directed;***

***b. Hand the client's medication to the client. If the client is unable to open the medication, the staff person may open the unit dose or medication organizer, remove the medication from a medication organizer, and close the medication organizer for the client;***

***c. Assist a client in consuming oral medication, including tablets, capsules, or liquid medication, by:***

***(i) Placing the dose in a container and placing the container to the mouth of the client;***

***(ii) Placing the medication in the client's hand or mouth; or***

***(iii) Following the written instructions of the client's designated representative or licensed health care professional for how to enable the client to take his or her medication; or***

***(iv) Steady or guide a client's hand while applying ointments; and***

***3. Facilitating the self-administration of medication shall not include:***

***a. Instilling eye, ear, or nasal drops;***

***b. Mixing, compounding, converting, or calculating medication doses;***

***c. The preparation of syringes for injection or the administration of medications by any injectable route;***

***d. Administration of medications through intermittent positive pressure breathing machines or a nebulizer;***

***e. Administration of medications by way of a tube inserted in a cavity of the body;***

***f. Administration of parenteral preparations;***

***g. Administration of irrigations or debriding agents used in the treatment of a skin condition; or***

***h. Administration of rectal, urethral, or vaginal preparations***; and

(c) Effective communication techniques tailored to individual client needs.

(2)(a)1. In addition to the training required by subsection (1) of this section and within ninety (90) days from the most recent effective date of this administrative regulation, a direct-care staff member who provides services to a client that exhibits symptoms of Alzheimer's disease or other dementia shall complete at least six (6) hours of initial training and three (3) hours of annual training in dementia care pursuant to the requirements established by KRS 216.713(3).

2. In accordance with KRS 216.713(2), a direct-care staff member shall successfully complete the initial training in dementia care prior to providing services to a client that exhibits symptoms of Alzheimer's disease or other dementia.

3. Pursuant to KRS 216.713(6), a direct-care staff member who has a lapse of twenty-four (24) months or more providing care to a client that exhibits symptoms of Alzheimer's disease or other dementia shall complete the six (6) hours of initial training within sixty (60) days of resuming the delivery of care to a client that exhibits symptoms of Alzheimer's disease or other dementia.

(b) A personal services agency shall:

1. Obtain cabinet approval of the agency's dementia care training curriculum in accordance with the process established by 910 KAR 4:010;

2. Provide a certificate of completion pursuant to KRS 216.713(4) to each direct-care staff member who successfully completes the initial and annual dementia care training; and

3. Maintain documentation of successful completion of dementia care training for each direct-care staff member in accordance with KRS 216.713(5).

(c)1. The cabinet shall impose fines in accordance with KRS 216.713(9) and (10).

2. All fines collected by the cabinet shall be deposited in the Kentucky personal services agency fund pursuant to KRS 216.716(1)(c).

(3)(a) A personal services agency shall evaluate the competency of each employee who will provide direct services to a client.

(b) The agency's evaluation to determine competency shall pertain to each personal services task the agency chooses to have the employee perform.

(4)[~~(3)~~](a) An employee's evaluation and a determination by the personal services agency that the employee is competent to perform a personal services task shall occur before the employee performs the task for a client without direct agency supervision.

(b) The content of the employee's training and evaluation shall:

1. Be documented and maintained in the employee's record, which shall be retained for a period of at least five (5) years; and

2. Include the date and the signature of the:

a. Person who conducted the training and evaluation; and

b. Employee who received the training and evaluation.

Section 8. Service Agreement. (1) Each personal services agency shall provide a written service agreement to the client or the client's designated representative that includes the following:

(a) The charge for each service provided by the personal services agency;

(b) The personal services agency's policy for notifying the client or client's designated representative of any change in the charge for services. Notice of an increase in the charge for services shall be given to a participating client or client's designated representative at least thirty (30) calendar days in advance of the effective date of the increase;

(c) The hours the personal services agency's office is open for business;

(d) The procedure for contacting the personal services agency's manager or the manager's designee;

(e) The procedure and telephone number to call for the purpose of filing a grievance with the personal services agency as described in Section 10 of this administrative regulation;

(f) An explanation of whether the personal services agency:

1. Directly employs the individual who will be providing personal services to the client;

2. Provides bonded protection for the client; and

3. Pays workers compensation or other benefits for the individual who will be providing personal services to the client;

(g) Name of the personal services agency's owner, including anyone with a significant financial interest in the agency;

(h) The procedure for changing or terminating a client's service plan; and

(i) A statement of client rights, which shall include the following:

1. The client has the right to have the client's property treated with respect;

2. The client has the right to request a change in his or her service plan, including the temporary suspension, permanent termination, temporary addition, or permanent addition of a service;

3. The client has the right to file a grievance as described in Section 10 of this administrative regulation regarding services, employee conduct, or the lack of respect for property and not be subject to discrimination or reprisal for filing the grievance; and

4. The client has the right to be free from verbal, physical, and psychological abuse, and to be treated with dignity.

(2) A personal services agency shall report to the cabinet an incident of suspected:

(a) Abuse, neglect, or exploitation of an adult pursuant to KRS 209.030(2) and (3); or

(b) Child abuse or neglect pursuant to KRS 620.030(1).

Section 9. Service Plan. (1) A personal services agency's manager or the manager's designee shall prepare a service plan. The initial service plan shall:

(a) Be in writing, dated, and signed by the:

1. Individual who prepared it; and

2. Client or client's designated representative;

(b) List the types and schedule of services to be provided to the client; and

(c) Identify the charge per service or charge per hour, whichever method the agency uses to bill clients.

(2) If a client or the client's designated representative requests a change in the type of service, duration of the service, or an increase or decrease in the number of visits, the personal services agency manager or manager's designee shall document on the client's service plan the:

(a) Requested change;

(b) Name of the person who requested the change; and

(c) Date the request was made.

(3) A personal services agency shall provide a copy of the service plan to the client within ten (10) calendar days of the date that the agency begins providing initial services.

Section 10. Client Grievances. (1) A personal services agency shall investigate a grievance made by a client or the client's designated representative alleging:

(a) An issue with a service that is furnished;

(b) Failure to furnish a service listed in the service plan;

(c) Failure to provide thirty (30) day advance notice of an increase in the amount the agency charges for its services;

(d) Inappropriate conduct of an employee while the individual is providing services to the client; or

(e) A violation of the client's rights.

(2)(a) A personal services agency shall:

1. Document how the agency investigated each grievance; and

2. Maintain on file for a period of at least five (5) years a written record documenting the outcome of the agency's investigation, including any action taken by the agency.

(b) Upon completing an investigation of a grievance, the personal services agency shall document that it notified the individual who reported the grievance of the outcome of the investigation and any action the agency plans to take as a result.

Section 11. Complaint Investigations. (1) The OIG shall investigate a:

(a) Report of any business that provides personal services without receiving certification;

(b) Report of any business that markets its services as a personal services agency without receiving certification;

(c) Complaint against a certified personal services agency in which the agency is alleged to be in noncompliance with the requirements of this administrative regulation, [~~or~~] KRS 216.712, or 216.713;

(d) Complaint against a certified personal services agency in which an agency employee is alleged to have abused or neglected a client, or misappropriated a client's property; or

(e) Complaint against a certified personal services agency in which an agency employee is alleged to have provided services to a client that exceed the scope of personal services.

(2)(a) A certified personal services agency or a business that is the subject of a complaint investigation shall not deny access to a representative of the OIG, after proper identification, to make an inspection for determining compliance with the requirements of this administrative regulation, [~~or~~] KRS 216.712, or 216.713.

(b) Denial of access, including any effort to delay, interfere with, or obstruct an effort by a representative of the OIG to enter the agency or deny access to records related to an inspection or investigation shall result in revocation of a personal services agency's certification.

Section 12. Request for Additional Information and Plans of Correction. (1) (a) The OIG shall notify an applicant or certified personal services agency in writing after:

1. Receipt of an incomplete or illegible application for initial certification or recertification;

2. Receipt of an application for initial certification or recertification in which additional information is needed by the OIG to verify that the applicant or personal services agency is in compliance with the requirements of this administrative regulation, [~~and~~] KRS 216.712, and in the case of recertification, KRS 216.713; or

3. Completion of a complaint investigation pursuant to Section 11 of this administrative regulation.

(b) The OIG's written notification specified in paragraph (a) of this subsection shall request that the applicant or certified personal services agency submit the following within ten (10) calendar days of the date of the notice:

1. Additional information needed by the OIG to deem an initial or recertification application as complete or legible;

2. Additional information needed by the OIG to make a determination of compliance with the requirements of this administrative regulation, [~~and~~] KRS 216.712, and in the case of recertification, KRS 216.713; or

3. A written plan of correction if the OIG has found upon completion of a complaint investigation that the certified personal services agency is in violation of this administrative regulation, [~~or~~] KRS 216.712, or 216.713. A plan of correction shall:

a. Be signed by the personal services agency's owner or manager;

b. Specify the date by which the agency intends to have corrected the violation;

c. Identify the specific measures the agency intends to use to correct the violation; and

d. Identify the specific measures the agency plans to use to ensure the violation will not recur.

(c) The OIG shall review additional information or a written plan of correction submitted pursuant to paragraph (b) of this subsection and notify the applicant or certified personal services agency in writing of the decision to:

1. Approve or not approve an application;

2. Accept or not accept a plan of correction; [~~or~~]

3. Deny or revoke certification for a violation of this administrative regulation or KRS 216.712; or

4. Impose a fine in accordance with Section 7(2)(c) of this administrative regulation.

(d) If the OIG determines that a plan of correction is not

acceptable and makes a written request for an amended plan of correction, the certified personal services agency shall submit the amended plan of correction within ten (10) calendar days of the date of the OIG's written request. The OIG shall review an amended plan of correction and notify the personal services agency in writing of the decision to:

1. Accept the amended plan of correction;

2. Deny or revoke certification for a violation of this administrative regulation or KRS 216.712; [~~or~~]

3. Require the agency to submit an acceptable plan of correction; or

4. Impose a fine in accordance with Section 7(2)(c) of this administrative regulation.

(e) Except for a violation for which a fine is imposed pursuant to Section 7(2)(c) of this administrative regulation, a certified personal services agency that fails to submit an acceptable plan of correction or acceptable amended plan of correction shall have its certification revoked.

(2) The OIG may impose fines in accordance with KRS 216.714(1) or (2).

Section 13. Denial, [~~and~~] Revocation, and Fines. (1) Initial certification shall be denied if an applicant:

(a) Has a significant financial interest in the entity applying for certification and held a significant financial interest in a personal services agency or health facility licensed pursuant to KRS Chapter 216B in which the agency's certification or facility's licensure was revoked during the three (3) years immediately preceding the filing of the application;

(b) Knowingly misrepresents or submits false information on the application; or

(c) Submits an application which fails to validate the entity's compliance with the requirements of this administrative regulation and KRS 216.712.

(2) Certification shall be revoked if a personal services agency:

(a) Fails to apply for annual recertification pursuant to Section 4(1) of this administrative regulation;

(b) Knowingly misrepresents or submits false information on the application at the time of annual recertification;

(c) Submits an application for annual recertification which fails to validate the agency's compliance with the requirements of this administrative regulation and KRS 216.712;

(d) Fails to comply with the background check and employment requirements of Section 6(2), (4), and (5) of this administrative regulation;

(e) Knowingly retains an employee who is:

1. Found by the cabinet to have abused or misappropriated a client's property; or

2. Convicted of, or pleads guilty, to a crime as defined by KRS 216.710(3);

(f) Fails to submit an acceptable plan of correction or acceptable amended plan of correction pursuant to Section 12(1)(b)3 or (d) of this administrative regulation;

(g) Interferes with a cabinet representative's ability to perform an official duty; or

(h) Provides services that are beyond the scope of personal services as defined by KRS 216.710(9)[~~(7)~~].

(3) Written notice of adverse action or notice of a decision to impose a fine pursuant to Section 7(2)(c) of this administrative regulation shall be provided at least thirty (30) calendar days prior to the:

(a) Effective date of the denial, [~~or~~] revocation; or

(b) Date by which the amount of the fine shall be paid in full.

(4) The [~~adverse action~~] notice shall:

(a) Explain the reason for the:

1. Denial or revocation of certification; or

2. Decision to impose a fine;

(b) Unless a fine is imposed pursuant to Section 7(2)(c) of this administrative regulation, specify that the personal services agency shall cease operation prior to the effective date of the adverse action;

(c) Advise the personal services agency of the right to request an appeal prior to the:

1. Effective date of the adverse action; or

2. Date by which the amount of the fine shall be paid in full;

(d) Specify that denial, [~~or~~] revocation, or fine shall be stayed if an appeal is requested; and

(e) Require the agency to:

1. Surrender the certificate of operation to OIG when the denial or revocation becomes effective; or

2. Pay any fine in full if an appeal is not requested.

Section 14. Closure of a Personal Services Agency. If a personal services agency closes voluntarily or as the result of adverse action, the agency shall relinquish to the OIG its certificate to operate as a personal services agency immediately after the effective date of the closure.

Section 15. Appeals. (1) A personal services agency that submits a written request for appeal within thirty (30) calendar days of the date the agency receives a notice of adverse action or notice of a decision to impose a fine shall be afforded a hearing in accordance with KRS Chapter 13B.

(2) If a hearing officer's final order does not uphold revocation of certification, the personal services agency may resume providing personal services.

Section 16. Incorporation by Reference. (1) "OIG - 1180, Application for Certification to Operate a Personal Services Agency", edition September 2021 [~~November 2009~~], 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. This material may also be viewed on the Office of Inspector General's Web site at: https://chfs.ky.gov/agencies/os/oig/dhc/Pages/ltcapplications.aspx.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

**CABINET FOR HEALTH AND FAMILY SERVICES**
**Department for Aging and Independent Living**
**Office of Dementia Services**
**(As Amended at ARRS, January 10, 2022)**

**910 KAR 4:010. Alzheimer's and dementia services curriculum review and approval.**

RELATES TO: KRS ***[~~Chapter~~]*** 216.710-216.716, 216.935-216.939, Pub.L. 116-131

STATUTORY AUTHORITY: 194A.050(1), 216.713

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216.713 requires the Cabinet for Health and Family Services to establish the submission and approval process for training curriculum utilized by agencies that provide services to individuals who exhibit symptoms of Alzheimer's disease or other dementias. ***This administrative regulation establishes the process for submitting curricula for cabinet approval that will meet the minimum training requirements for direct-care staff serving individuals exhibiting symptoms of Alzheimer's or other dementias.***

Section 1. Definitions. (1) "Department" means the Department for Aging and Independent Living or "DAIL".

(2) "Provider agency" means a home health agency, personal services agency, or assisted-living community that employs, directly or by contract, aides or other non-licensed personnel whose work involves extensive contact with individuals who exhibit symptoms of Alzheimer's disease or other dementias.

Section 2. Curriculum Approval. Curriculum approval shall be granted when it meets the requirements of 216.713(1)-(3).

Section 3. Submission of Curriculum. (1) All provider agencies

shall submit to the department the agency's proposed training curriculum:

(a) Upon development of the curriculum and prior to implementation of the training;

(b) By notification of the standardized curriculum being utilized and verifying the curriculum is being utilized in its entirety without alterations; or

(c) If the training was in place prior to July 15, 2021, the provider agency may continue to use the curriculum until the curriculum is either:

1. Officially approved by the department for permanent use; or

2. Determined not to meet the criteria for approval by the department.

(2) ***Unaltered,*** standardized curricula***[,]*** ***used*** ***[~~utilized~~]*** by provider agencies ***[~~that are not altered~~]***, may be utilized prior to official approval by the department***[,]*** if submitted pursuant to ***paragraph*** ***[~~subsection~~]*** (b) or (c) of ***subsection (1) of*** this section.

(3) The provider agency may submit curriculum for review by:

(a) Mail to the Department for Aging and Independent Living, Office of Dementia Services, 275 E Main St. 3 E-E, Frankfort, Kentucky 40621;

(b) Hand delivered to the department; or

(c) By electronic submission.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

# ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING OR RECEIPT OF WRITTEN COMMENTS

**BOARDS AND COMMISSIONS**
**Board of Pharmacy**
**(Amended After Comments)**

**201 KAR 002:430. Emergency orders and hearings.**

RELATES TO: KRS 13B.125, 13B.050(2), 218A.205, 315.121, 315.131(6)

STATUTORY AUTHORITY: KRS 218A.205, 315.191(1)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218A.205 and 315.191(1)(a) authorize the board to promulgate administrative regulations, issue subpoenas, schedule and conduct hearings, or appoint hearing officers to schedule and conduct hearings on behalf of the board on any matter under the jurisdiction of the board. This administrative regulation sets forth the requirements and procedures of emergency suspensions and emergency hearings conducted by the board.

Section 1. Authority to Issue Emergency Order; Timing.

(1) The case review panel or the president of the board, acting on behalf of the case review panel, may issue an emergency order restricting or suspending a license, permit or registration pursuant to KRS 315.131(3) and 13B.125.

(2) The case review panel shall make this determination following a completed investigation pursuant to KRS 315.191(1)(e) at a regularly scheduled meeting of the case review panel.

(3) (a) The board president may act on behalf of the case review panel and issue an emergency order restricting or suspending a license, permit or registration if the Board President determines that a basis for an emergency order as established in subsection (1) of this section exists and the circumstances of the specific case warrant emergency action prior to the next regularly scheduled meeting of the case review panel.

(b) If an emergency hearing is scheduled prior to the next regularly scheduled meeting of the case review panel, the board president may act on behalf of the case review panel and issue the complaint required to support the continuation of the emergency order.

(c) If the board president acts on behalf of the case review panel pursuant to paragraph (a) or (b) of this subsection, the board president shall report any action to the case review panel at its next regularly scheduled meeting.

Section 2. Findings of Fact and Conclusions of Law.

(1) The case review panel, or the board president acting on the panel's behalf, may consider any evidence or information in making a charging decision pursuant to KRS 315.121 or in making the determination to issue an emergency order pursuant to Section 1 of this administrative regulation. The evidence or information may include:

(a) An application for licensing permitting or registration or renewal filed by the individual with any licensing board;

(b) Any prior or current order issued by the board or the case review panel affecting the license, permit or registration;

(c) Any prior or current order issued by another state's licensing authority affecting the license, permit or registration in that state;

(d) The records of any criminal proceeding involving the licensee, permit holder or registrant;

(e) A report by or record of any governmental agency, including a law enforcement agency report;

(f) Patient records maintained by the permit holder or summaries of or references to the contents of those records;

(g) Records or reports issued or maintained by any business;

(h) An investigative report prepared by a board inspector or special investigator, including any summary of a verbal or written statement by a witness or any evidentiary document reviewed by an inspector;

(i) An investigative report prepared by a board inspector or special investigator involving another investigation conducted by the board relating to the licensee, permit holder or registrant;

(j) An oral or written statement by the licensee, registrant or designee for the permit holder, or the agent of licensee, permit holder or registrant, relating to the investigation; or

(k) A physical, mental, or substance abuse evaluation or assessment of the licensee or registrant.

(2) The evidence or information considered by the case review panel or board president, acting on behalf of the case review panel, shall constitute the board's record of proceedings relating to the issuance of an emergency order of restriction or suspension.

(3) If the case review panel or the board president, acting on behalf of the case review panel, issues an emergency order of restriction or suspension against a license, permit or registration, the emergency order shall be a written order and shall include findings of fact and conclusions of law, supported by the board's record of proceedings, upon which the agency bases the emergency order.

(4) Any emergency order shall be served upon the affected licensee, registrant or designee of the permit holder in the manner specified in KRS 13B.050(2). The emergency order shall become effective immediately upon receipt by the affected licensee, registrant or designee of the permit holder.

Section 3.**[**~~**Authority to Issue Emergency Order of Suspension Upon Felony Indictment. (1) If a licensee, registrant or designee of the permit holder is indicted in any state for a crime classified as a felony in that state and the conduct charged relates to a controlled substance, the licensee, registrant or designee of the permit holder's practice shall be considered an immediate danger to the public health, safety, or welfare pursuant to KRS 315.131 and 13B.125.**~~

~~**(2) If the board receives verifiable information that a licensee, registrant or designee of a permit holder has been indicted in any state for a crime classified as a felony in the state of indictment and the conduct charged relates to a controlled substance, the case review panel or board president, acting on behalf of the case review panel, shall immediately issue an emergency order suspending or restricting that licensee, registrant or permit holder's license, permit or registration or restricting the licensee, registrant or permit holder from dispensing, administering, or otherwise utilizing a controlled substance in Kentucky, until further order following the final resolution of criminal charges in the indictment.**~~

~~**(3) The emergency order of suspension shall remain in effect for not more than sixty (60) days pursuant to KRS 315.131(6).**~~

~~**Section 4.**~~**]** Request for the Timing of **a[**~~**an Emergency**~~**]** Hearing **on an Emergency Suspension**; Waiver.

(1) A licensee, registrant or permit holder required to comply with an emergency order may request an emergency hearing at any time between the effective date of the emergency order and the effective date of an order finally resolving the underlying complaint.

(2) (a) A request for an emergency hearing shall be presented to the board in writing, but may be submitted by facsimile or email.

(b) Upon receipt of a written request for an emergency hearing, the board shall schedule the emergency hearing on one (1) of the ten (10) days following the date of receipt of the written request. The day on which the written request is received by the board shall not be considered one (1) of the ten (10) working days.

(c) A written request shall be considered received on a particular work day if it is received by the board during the board's scheduled operating hours for that day. If the board receives a request for an emergency hearing by facsimile or email received after scheduled operating hours, the request shall be considered to have been received the next scheduled work day of the board.

(3) (a) **[**~~**A written request for an emergency hearing shall be considered a certification by the affected licensee,**~~

~~registrant or permit holder or their attorney, if represented, that the licensee, registrant or designee of the permit holder's counsel, if any, that the licensee, registrant or designee of the permit holder is available to participate in an emergency hearing on any of the ten (10) working days following the date of the board's receipt of the written request for an emergency hearing.~~

~~(b)~~] The [~~refusal~~] **inability** of the licensee, registrant or designee of the permit holder to accept a hearing date on a date specified by the board within the ten (10) working days shall constitute a waiver of the requirement of KRS 13B.125(3) to conduct the emergency hearing within ten (10) working days of the receipt of a request.

**(b)**[~~(c)~~] If there is a waiver of the ten (10) working day requirement, the hearing officer and parties shall schedule the emergency hearing to commence at the next date available to the hearing officer and both parties.

(4) (a) Unless there is a waiver of the requirement, the board shall commence the emergency hearing within ten (10) working days of the receipt of the written request for an emergency hearing.

(b) If the parties are unable to conclude the emergency hearing on the initial date assigned, the emergency hearing shall resume on the next date available to the hearing officer and both parties and shall continue on dates available to the hearing officer and both parties until concluded.

**Section 4.**[~~Section 5.~~] Scope and Conduct of Emergency Hearing; Hearing Officer's Role.

(1) The emergency hearing shall be conducted by the case review panel, its board president, acting on behalf of the case review panel, or by a qualified hearing officer appointed by the board's executive director.

(2) The singular function of the party conducting the emergency hearing shall be to determine whether the findings of fact providing the basis for the emergency order are supported by substantial evidence and, if so, constitute one (1) or more violations of KRS 315.121.

(3) [~~Given the ten (10) working day requirement of KRS 13B.125(3) and the unique nature of the hearing, it shall not be practicable pursuant to:~~

~~(a) KRS 13B.125(3) to conduct the emergency hearing in conformity with the provisions of KRS 13B.050;~~

~~(b) KRS 13B.060;~~

~~(c) KRS 13B.070;~~

~~(d) KRS 13B.080(2);~~

~~(e) KRS 13B.080(3) {as it relates to discovery orders} or (4) {to the extent it conflicts with this administrative regulation};~~

~~(f) KRS 13B.090(1) {to the extent it prohibits consideration of hearsay evidence}, (2) {other than the requirement that all testimony shall be made under oath or affirmation}, (3) or (7);~~

~~(g) KRS 13B.110; or~~

~~(h) KRS 13B.120.~~

~~(4) There shall not be a motion practice, prior to or as a part of the emergency hearing, relating to the legality or validity of the emergency order under consideration or relating to evidentiary issues.~~

~~(5)~~] The emergency hearing shall be conducted as required by KRS Chapter 13B and this subsection.

(a) The board shall produce and the hearing officer shall accept the record of the proceedings relating to the issuance of an emergency order under consideration.

(b) 1. The board shall not be required to produce any further evidence to support the emergency order.

2. The board may call the affected licensee, registrant or designee of the permit holder to testify, as if under cross-examination, regarding the factual accuracy of evidence or information cited in the record of proceedings relating to the issuance of the emergency order.

(c) The affected licensee, registrant or designee of the permit holder may testify, produce factual evidence, produce hearsay evidence through documents, or call lay witnesses to the extent that the evidence specifically tends to demonstrate that a factual statement relied upon by the case review panel or board president, acting on behalf of the case review panel, is factually incorrect or false.

**(4)**[~~(6)(a)~~] Within five (5) working days of completion of the emergency hearing, the hearing officer shall issue a written decision in which the hearing officer shall:

**(a)**[~~1.~~] Affirm the emergency order if there is substantial evidence of a violation of law and the case review panel has determined that a violation constitutes an immediate danger to the public health, safety, or welfare. If there is substantial evidence of a violation of law, the hearing officer shall not substitute his or her judgment as to the level of public protection necessary for the emergency order;

**(b)**[~~2.~~] Revoke the emergency order if there is no substantial evidence of a violation of law[~~. The findings of fact shall be found to be supported by substantial evidence if there is a factual basis for the findings, even if there is a conflict in the evidence or information considered by the case review panel or board president, acting on behalf of the case review panel. A finding that there is no substantial evidence to support the findings of fact shall require a finding that there is a complete absence of factual basis for the findings~~]; or

**(c)**[~~3.~~] Modify the emergency order if the emergency order relied upon multiple violations of law and the hearing officer has determined that there is no substantial evidence to support one (1) or more of the violations. Upon making that finding, the hearing officer may consider each remaining violation for which there is substantial evidence and may modify the level of protection if the modified protection fully protects the public health, safety, or welfare based upon the dangers presented by the licensee, registrant or designee of the permit holder's commission of each remaining violation.

[~~(b) The hearing officer shall not include additional findings of fact or conclusions of law in any written decision affirming the emergency order under consideration. The written decision shall be sufficient if it determines that there was substantial evidence of a violation of law and the panel had determined that the violation constituted an immediate danger to the public health, safety, or welfare.~~

~~(c) If the hearing officer issues a written decision revoking or modifying the emergency order under consideration, the hearing officer shall include findings of fact and conclusions of law to support the action.~~]

**Section 5.**[~~Section 6.~~] Judicial Review. Judicial review of a final order resulting from an emergency hearing shall comply with KRS 13B.140, 13B.150 and 13B.160.

LARRY A. HADLEY, R.Ph., Executive Director

APPROVED BY AGENCY: January 13, 2022

FILED WITH LRC: January 14, 2022 at 10:15 a.m.

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 sets forth the requirements and procedures of emergency suspensions and emergency hearings conducted by the Board of Pharmacy.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to set forth the requirements and procedures of emergency suspensions and emergency hearings conducted by the Board of Pharmacy.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation, authorized by KRS 315.191(1)(a) and KRS 218A.205, establishes the requirements and procedures of emergency suspensions and hearings conducted by the Board of Pharmacy. This regulation conforms to KRS 315.191(1)(a) because it further details the process for which the board shall issue emergency suspension orders and the process that shall be followed to challenge those

suspension orders. KRS 315.191(1)(a) authorizes the Board to promulgate regulations to regulate and control all matters within KRS 315, including KRS 315.131. KRS 218A.205(3)(d) requires that the Board promulgate an administrative regulation to effectuate a procedure for temporarily suspending, limiting, or restricting a license held by a named licensee where a substantial likelihood exists to believe that the continued unrestricted practice by the named licensee would constitute a danger to the health, welfare, or safety of the licensee's patients or of the general public. Prior to promulgation of this regulation, the Board did not possess an administrative regulation on the issue and was therefore not in compliance with KRS 218A.205(3)(d).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 315.191 enables the Board of Pharmacy to promulgate an administrative regulation that identifies the appropriate requirements and procedures for emergency suspensions and emergency hearings conducted by the board.

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

(a) How the amendment will change this existing administrative regulation: 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 government affected by this administrative regulation: The board anticipates licensees, permit holders and registrants will be minimally impacted by this new 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: Licensees, permit holders and registrants will have to familiarize themselves with this new regulation. This regulation provides the requirements and procedures of emergency suspensions and emergency hearings conducted by the board. The board will help educate identified entities of this new regulation.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). This new regulation will provide licensees, permit holders and registrants with information applicable to the requirements and procedures of emergency suspensions and emergency hearings conducted by the board.

(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 this new regulation is applicable to all licensees, permit holders and registrants.

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? Only the Board of Pharmacy.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 315.191(1)(a), KRS 218A.205

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

(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 this fiscal impact of the administrative regulation.

Revenues (+/-): 0

Expenditures (+-): 0

Other Explanation:

**JUSTICE AND PUBLIC SAFETY CABINET**
**Department of Kentucky State Police**
**(Amended After Comments)**

**502 KAR 10:030. Instructor's license.**

RELATES TO: KRS 332.204[~~332.030~~]

STATUTORY AUTHORITY: KRS 15A.160, 332.204, 332.216 [~~332.100~~]

NECESSITY, FUNCTION, AND CONFORMITY: **KRS 332.216 requires the department to promulgate administrative regulations to carry out the provisions of KRS Chapter 332. KRS 15A.160 authorizes the secretary of the cabinet to adopt administrative regulations to administer the cabinet. KRS 332.204(3) requires the department to establish an application process for the licensing of instructors for driver training in the operation of noncommercial motor vehicles. This administrative regulation establishes the requirements for the application and licensing for a driver training instructor. [~~KRS 15A.160 and 332.100 provide that the department~~]** [~~Secretary of the Justice Cabinet in cooperation with the Commissioner, Department of State Police,~~] **[~~may adopt such administrative regulations necessary to carry out the provisions of KRS Chapter 332. This administrative regulation establishes the department's policy regarding] the licensing of driver training instructor.~~]**

Section 1. **A person seeking[~~Each person desiring~~]** to be licensed as a driver training instructor shall submit an application **with required documents to the Kentucky State Police Drivers Testing Branch at the address in Section 12 of this administrative regulation [~~on the department's website. Additional materials may also be submitted online, including the supporting documentation and the fingerprint background check~~]** [~~must make application on forms furnished by the department. The forms shall consist of sections dealing with the~~

~~personal history of the applicant and include a physical examination report signed by an examining physician~~].

Section 2. The driver training instructor license application shall [~~must~~] indicate the name and address of the driver training school employing the applicant and shall [~~must~~] be signed by an agent or representative of the driver training school. The application shall [~~must~~] be verified under oath and signed by the applicant.

Section 3. The driver training instructor license applicant **shall submit to the Drivers Testing Branch at the address in Section 12 of this administrative regulation[~~may be licensed as an instructor upon~~]** [~~Upon~~] **[~~receipt by the department of~~]** the following:

(1) A [~~a~~] duly completed driver training instructor application, **KSP 107;**

(2) **The fee set in KRS 332.204(4) [~~A refundable fifty (50)~~]** [~~together with a nonrefundable twenty (20)~~] **[~~dollar fee~~]** in the form of a certified check or money order made payable to the Kentucky State Treasurer**;[~~,~~]**

**(3) Three (3) identical photographs that:**

**(a) Are one and one-half (1 1/2) inches by one and one-half (1 1/2) inches; and**

**(b) Show a full face view of the applicant's neck and uncovered head;**

**[~~(3) A refundable twenty (20) dollar background check fee in the form of a certified check or money order made payable to the Kentucky State Treasurer;~~**

**~~(4) Three (3) one~~]** [~~one (1) set of fingerprints of each digit on right and left hands, three (3) one~~] **[~~and one-half (1 1/2) inch by one and one-half (1 1/2) inch identical photographs which show a full face view of his or her neck and uncovered head,~~]**

**(4)[~~(5)~~]** A physical examination report, including the **following:**

**(a)** Results of an eye examination showing the visual acuity of the applicant to be at least 20/20 in one (1) eye and 20/40 in the other, or 20/30 in each eye separately with or without corrective lenses**;[~~, and~~]**

**(b)** Showing that the applicant **has at least[~~is not lacking~~]** one (1) functional**:**

**1.** Eye**;**

**2. Hand; and**

**3. Foot; and**

**(c) Would not be disqualified for a driver's license pursuant to 601 KAR 13:010;[~~, hand, or foot,~~]**

**(5)[~~(6)~~]** Proof[~~proof~~] of age **by copy of birth certificate or valid driver's license;[~~,~~]** [~~and~~]

**(6)[~~(7)~~]** Proof of education **by copy of diploma or GED certificate;[~~,~~]** and

**(7)[~~(8)~~] A Driver Training Instructor's Examination Report, KSP 110[~~The~~]**[~~the~~]**[~~ results of the department's examination~~]**, if the applicant has obtained a passing score[~~favorable, the applicant may then be licensed as an instructor~~].

Section 4. The driver training instructor examination **shall be administered by the department.**[~~consist of~~]**[~~:~~]**

(1) **The examination shall consist of** a written theoretical examination prepared and administered by the department and embracing subject matter pertinent to the care, operation, and use of a motor vehicle on the highways, and to general safety principles and practices, both for the purpose of testing an applicant's competency and fitness in the operation of a motor vehicle and in providing classroom instruction**, including rules of the road, safe driving practices, pedestrian safety, mechanics of motor vehicles, driver responsibility, the Kentucky point system, types of automobile insurance, and use of automobile safety devices. The results of the examination shall be recorded on the Drivers Training Instructors Examination Report, KSP 110.**

(2) The department may also test the applicant for depth perception, peripheral vision, and reaction time.

Section 5. All applicants who pass the instructor's examination and who are **[~~otherwise~~]** qualified **pursuant to KRS 332.204(3) and this administrative regulation shall[~~will~~]** be issued a driver training instructor license certifying the instructor for both classroom and practical instruction and containing the instructor's photograph, the name and address of the licensee, and the name and address of the driver training school by whom **the instructor[~~he~~]** is employed. **The license shall be:**

**(1) Nontransferable;**

**(2) Carried and displayed in compliance with KRS 332.206; and**

**(3) Surrendered to the Drivers Testing Branch upon expiration, revocation, suspension, mutilation of the physical license, or the instructor's separation from employment with the driver training school listed on the license.**

Section 6. **A driver training instructor license shall expire on June 30 of each year or upon separation from employment by the driver training school listed on the license. License renewal shall require submission of a new application pursuant to Section 3 of this administrative regulation, including payment of fees. A renewal application, supporting documents, and fees shall be submitted to the Drivers Testing Branch by June 30 of each year.**

**Section 7.[~~Section 6.~~]** If[~~Should~~] a license is[~~be~~] lost, mutilated, or destroyed, a duplicate license will be issued upon proof of the date the license was lost or destroyed and the circumstances involving the [~~such~~] loss, mutilation, or destruction. **[If a license is mutilated, it shall be surrendered to the department.]** [~~In the case of a mutilated license, the surrender of such license is necessary.~~] A five (5) dollar replacement **fee shall be paid [~~charge will be made~~]** for a duplicate license[~~all duplicates~~].

**[~~Section 7. All expired, revoked, or suspended licenses shall~~]** [~~must~~] **[~~be surrendered to the department at the time of expiration, revocation, or suspension.~~]**

Section 8. Any applicant who has previously been licensed as a driver training instructor but has not been so employed within two (2) years preceding application shall apply [~~will be treated~~] as an original applicant.

Section 9. Any instructor who has had **the instructor's[~~his or her~~]** license suspended or revoked or any applicant denied a license **may apply[~~will be eligible to make application~~]** again six (6) months following the suspension, revocation, or denial.

Section 10. The department **shall[~~will~~]** not issue a driver training instructor license to any applicant who has been convicted of two (2) or more moving hazardous traffic violations within the two (2) year period immediately preceding the date of application.

Section 11. A driver training school **shall complete a Driver Training School License Information Notice of Change, KSP 115, within ten (10) days of[~~is required to notify the department, in writing, of the~~]** termination of employment of an instructor or agent, or if there is any change in the address of any owner, partner, officer, or driving instructor.

**Section 12. Incorporation by Reference. (1) The following material is incorporated by reference:**

**(a) "Driver Training Instructor Application". KSP 107, 2009 edition;**

**(b) "Driver Training Instructor's Examination Report", KSP 110, 2001 edition; and**

**(c) "Driver Training School License Information Notice of Change", KSP 115, 2006 edition.**

**(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky State Police, Drivers Testing Branch, 1250 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. or at any KSP regional driver testing office. This material is also available on the agency Web site kentuckystatepolice.org under drivers testing.**

COL. PHILLIP J. BURNETT, JR., Commissioner
APPROVED BY AGENCY: January 6, 2022
FILED WITH LRC: January 11, 2022 at 1:30 p.m.
CONTACT PERSON: Amy Barker, Assistant General Counsel, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8207, fax (502) 564-6686, email Justice.RegsContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the requirements for the licensing of driver training instructors.
(b) The necessity of this administrative regulation: This administrative regulation informs applicants for a driver training instructor license of the requirements and procedures to apply for a license pursuant to KRS 332.204(3) and 332.216.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 332.216 requires the department to promulgate administrative regulations to carry out the provisions of KRS Chapter 332. KRS 332.204(3) requires the department to establish an application process for the licensing of instructors for driver training in the operation of noncommercial motor vehicles. This administrative regulation establishes the requirements for the application for and the licensing of a driver training instructor.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation details the requirements, procedures, and fees to apply for a driver training instructor license. It also informs licensees of the expiration period, renewal procedures, and surrender 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 statutory references, adds license display requirements, adds expiration and renewal information, adds surrender requirements, and incorporates forms by reference.
(c) How the amendment conforms to the content of the authorizing statutes: KRS 332.216 requires the department to promulgate administrative regulations to carry out the provisions of KRS Chapter 332. KRS 332.204(3) requires the department to establish an application process for the licensing of instructors for driver training in the operation of noncommercial motor vehicles. The amendment revises application requirements for a driver training instructor.
(d) How the amendment will assist in the effective administration of the statutes: The amendment clarifies the existing language and adds necessary procedures to inform applicants and licensees and to accurately reflect the licensing process.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Department of Kentucky State Police, 16 driver training schools, 17 driver training facilities, 50 driver training school instructors, and any potential applicants.
(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: Applicants and instructors renewing a driver training instructor license will have to follow the procedures stated in the amendment.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: No additional cost is anticipated.
(c) As a result of compliance, what benefits will accrue to the entities: The department, driver training schools, applicants, and licensees will benefit from more clearly defined procedures that will assist in the administration of the licenses.
(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 department.
(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: A fee is stated for a duplicate license copy.
(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: Yes.
(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 Department of Kentucky State Police; driver training schools; driver training school instructors.
(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 15A.160, 332.202, 332.204, 332.206, and 332.216.
(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.
(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The majority of revenue is from statutory fees. A small amount may be received from a few instructors requesting duplicate license copies.
(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 majority of revenue is from statutory fees. A small amount may be received from a few instructors requesting duplicate license copies.
(c) How much will it cost to administer this program for the first year? No additional cost is anticipated.
(d) How much will it cost to administer this program for subsequent years? No additional cost is anticipated.
Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.
Revenues (+/-):
Expenditures (+/-):
Other Explanation:

**JUSTICE AND PUBLIC SAFETY CABINET**
**Department of Kentucky State Police**
**(Amended After Comments)**

**502 KAR 10:040. Training school facilities.**

RELATES TO: KRS 332.204[~~332.030~~]
STATUTORY AUTHORITY: KRS 15A.160, 332.095, 332.204, 332.216 [~~332.100~~]
NECESSITY, FUNCTION, AND CONFORMITY: **KRS 332.216 requires the department to promulgate administrative regulations to carry out the provisions of KRS Chapter 332. KRS 15A.160 authorizes the secretary of the cabinet to adopt administrative regulations to administer the cabinet. KRS 332.202 and 332.204 require the department to establish a licensure process for driver training schools for instruction of persons in the operation of motor vehicles that are not commercial motor vehicles. This administrative regulation establishes the licensure process and standards for driver training schools. [~~KRS 15A.160 and 332.216~~]** [~~332.100~~] **[~~authorize the department to establish~~]** [~~provide that the Secretary of the Justice Cabinet in cooperation with the~~

~~Commissioner, Department of State Police, may adopt such~~] **[~~administrative regulations necessary to carry out the provisions of KRS Chapter 332. This administrative regulation establishes the department's policy regarding standards for driver training school facilities.~~]**

Section 1. **Driver training school standards.[~~The following standards shall apply to driver training school office facilities:~~]**

(1) The driver training school shall have and maintain an established place of business in the Commonwealth of Kentucky.

(2) The established place of business of each driver training school shall be owned or leased by the driver training school and regularly occupied and primarily used by that driver training school for the business of giving driving instructions for hire, and the business of preparing members of the public for examination given by the department for a motor vehicle operator's license.

(3) The established place of business of each driver training school shall be located in a district [~~which is~~] zoned for business or commercial purposes. The driver training school office shall have a permanent sign displaying the school name in letters at least six (6) inches in height and visible from the street or road on which the school is located. If the classroom is at a different address, the classroom [~~it too~~] shall have a permanent sign meeting the same criteria. The hours during which the driver training is conducted shall also be displayed. If these requirements do not comply with local zoning laws, the department shall permit a sign of a type which does comply.

(4) The established place of business or advertised address of any driver training school shall not consist of or include a house trailer, residence, tent, temporary address, office space only, a room or rooms in a hotel, rooming house or apartment house, or premises occupied by a single or multiple unit dwelling house. The residence requirement of this rule shall not apply to compel the discontinuance of a driver training school which was already established and operational on or before June 16, 1966.

(5) The place of business shall be operated by responsible personnel during stated office hours and shall be open to inspection of the premises, facilities, records and vehicles by any authorized representative of the cabinet during this time.

(6) The place of business shall have a business telephone used exclusively for the operation of the driving school.

(7) **A driver training school shall employ at least one (1) driver training instructor licensed pursuant to KRS 332.204 and 502 KAR 10:030.**

**(8) A driver training school shall have at least one (1) motor vehicle registered in the name of the school pursuant to 502 KAR 10:070.**

**(9)** A driver training school shall not transfer its license nor change its place of business without the prior approval of the department. **A transfer of ownership shall be treated as an initial application for a driver training school license. [~~There will be a $200 fee for transfer of ownership, which will be treated as an original application for license.~~]**

Section 2. **Driver Training School License Application. (1) A Driver Training School Application, KSP 106, shall be submitted to the Kentucky State Police Driver Testing Branch for a driver training school facility. If a school has more than one facility, it shall designate one of the facilities as the primary driver training school facility.**

**(2) The application fee set by KRS 332.204(2) shall be provided with the written application. The fee may be refunded if the application is denied.**

**(3) The application shall state:**

**(a) Name of the driver training school;**

**(b) Address of the driver training school;**

**(c) Telephone numbers of the driver training school;**

**(d) Whether the school is a sole proprietorship, corporation, or association; and**

**(e) Name, address, and telephone number of all owners, partners, associates, processing agents, officers; and managers.**

**(4) Each owner, partner, officer, and manager shall complete a Driver Training Instructor Application. The health history portion of the application shall not be required unless the applicant is applying for an instructor's license and to meet the requirements of 502 KAR 10:030.**

**Section 3. Driver Training School Branch Office. (1) A driver training school branch office shall meet the standards of a driver training school as required in KRS 332.204 and this administrative regulation.**

**(2) A Driver Training School Application shall be submitted to the Kentucky State Police Driver Testing Branch, 1250 Louisville Road, Frankfort, Kentucky 40601 for each driver training school branch office. The branch office application fee shall be one hundred (100) dollars for each branch office. Payment shall be in the form of a certified check or money order made payable to the Kentucky State Treasurer. The fee shall be provided with the written application. The fee may be refunded if the application is denied.**

**(3) If the application is approved, the department shall issue a copy of the license of the primary driver training school facility, appropriately endorsed, for use at the branch office. This copy shall be conspicuously displayed in the branch office at all times.**

**(4) A branch office or its equipment shall not be moved to a new location without prior approval of the department.**

**Section 4. Change in License Information. A Driver Training School License Information Notice of Change, KSP 115, shall be submitted to the Drivers Testing Branch for a primary office or a branch office within ten (10) days for:**

**(1) Change of school name;**

**(2) Change of address;**

**(3) Change of contact information;**

**(4) Addition, change, or departure of owner, partner, officer, or manager;**

**(5) Closure of a school or branch office. The license shall be surrendered to the Drivers Testing Branch immediately at 1250 Louisville Road, Frankfort, Kentucky 40601;**

**(6) Renewal of a driver training instructor license;**

**(7) Transfer of a driver training instructor license;**

**(8) Change of a driver training instructor's name or personal information on the license;**

**(9) Termination of a driver training instructor;**

**(10) Addition or removal of a fleet vehicle; or**

**(11) Change, renewal, cancellation, or termination of fleet liability insurance. The Driver Training School License Information Notice of Change shall be submitted ten (10) days prior to cancellation or termination of insurance.**

**Section 5. Driver Training Motor Vehicles. A Driver Training School Fleet Information, KSP 118, shall be submitted with the application listing all motor vehicles owned, leased, registered, or insured in the name of the driver training school. All motor vehicles shall comply with the provisions of 502 KAR 10:070.[~~The following standards shall apply to driver training school branch offices:~~**

**~~(1) A driver training school desiring to open a branch office shall make application on a form prescribed by the department. Upon approval~~]** [If application is approved]**[~~, the department will issue a copy of the license of the principal place of business, appropriately endorsed, for use at the branch office. This copy shall be conspicuously displayed in such branch office at all times.~~**

**~~(2) A branch office or its equipment may not be moved to a new location without the prior approval of the department.~~**

**~~(3) If~~]** [Should] **[~~a branch office is~~]** [be] **[~~discontinued, the branch office copy of the license shall be surrendered immediately to the department.~~**

**~~(4) The branch office shall meet all of the requirements of the licensed principal place of business.~~**

**~~(5) There will be a fee of $100 for licensure of each branch office.~~]**

**Section 6.[~~Section 3.~~] Classroom Facilities.[~~The following~~**

~~**standards shall apply to driver training school classroom facilities:**~~**]**

(1) The classroom facility of each driver training school shall be reasonably near its office facility and within thirty (30) minutes normal driving time of that facility.

(2) The classroom shall contain sufficient space and equipment to carry on the business of giving classroom instruction for students enrolled in the driver training school, and preparing students for examination for a motor vehicle operator's license.

(3) The classroom facility shall have adequate lighting, heating, ventilation, sanitation facilities, and shall comply with all state and local laws relating to public health, safety**,** and sanitation.

(4) The classroom facility shall contain the following equipment and supplies:

(a) Individual desks or tables providing writing surfaces for not less than eight (8) students;

(b) Adequate blackboards or whiteboards that [~~which~~] are visible from all seating areas;

(c) Adequate charts and diagrams or pictures relating to the operation of motor vehicles and traffic laws;

(d) Audio visual equipment consistent with modern technology[~~One (1) of the following:~~

~~1. A sixteen (16) millimeter sound movie projector and screen for showing driver training and sound films; or~~

~~2. A thirty-five (35) millimeter slide projector and slides; or~~

~~3. A video/audio display screen of not less than nineteen (19) inches diagonal measure, capable of being operated in conjunction with a video tape for showing driver training instruction~~]; and

(e) A copy of **this administrative regulation**[~~these rules and administrative regulations~~] displayed so as to be accessible to all students.

(5) ~~**[In addition to the foregoing,]**~~ The following ~~**[are]**~~ suggested teaching aids **may be used**:

(a) A reaction time testing device;

(b) Peripheral vision testing device;

(c) Magnetic traffic boards; and

(d) Other [~~Such other~~] devices that [~~as~~] may help to acquaint students with traffic laws and prepare them to safely operate motor vehicles.

(6) A minimum of four (4) [~~five (5)~~] hours of classroom instruction shall be available to each student receiving driving training from a driver training school.

**Section 7.**[~~**Section 4. Driver training schools shall make available the following**~~**]** [~~both~~] Theoretical and practical instruction**.**[~~as follows~~]~~**[:]**~~

(1) Practical instruction in driver training shall include the demonstration of, and actual instruction in, starting, stopping, shifting, turning, backing, parking, and steering in a training vehicle**,** which meets the regulatory requirements set forth herein.

(2) Theoretical instruction in driver training shall include subject matter **relating to rules of the road, safe driving practices, pedestrian safety, mechanics of motor vehicles, driver responsibility, the Kentucky point system, types of automobile insurance, and use of automobile safety devices**[~~**that meets the requirements set forth in 601 KAR 13:110, Section 4(a)-(d)**~~**]** [~~relating to rules of the road, safe driving practices, pedestrian safety, mechanics of motor vehicles, driver responsibility, the Kentucky point system, types of automobile insurance, and use of automobile safety devices~~].

**Section 8.**[~~**Section 5.**~~**] Student Fees and Charges. (1) A** ~~**[Each]**~~ school shall publish a schedule of fees or charges for behind-the-wheel lessons, classroom lessons, and all other fees or charges made by the school. A copy of this schedule shall be filed with the department **at the address in Section 10 of this administrative regulation**.

**(2)**

~~**[Section 6.]**~~ **A**~~**[Each]**~~ school shall inform each student, prior to the time instruction commences, of the character and amount of any [~~and all~~] fees or charges made for enrollment [~~or~~] registration, tuition, and use of any other service**,** [~~or~~] equipment or materials provided by the school.

**Section 9.**[~~**Section 7.**~~**] Relocation.** Prior to the relocation of a [~~Before any~~] driver training school office or branch office, or any equipment thereof, [~~is moved to another location,~~] the department shall be notified and the new location shall be inspected and approved.

**Section 10. Incorporation by Reference. (1) The following material is incorporated by reference:**

**(a) "Driver Training School Application", KSP 106, 2009 edition;**

**(b) "Driver Training School License Information Notice of Change", KSP 115, 2006 edition; and**

**(c) "Driver Training School Fleet Information", KSP-118, 2022 edition.**

**(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky State Police, Drivers Testing Branch, 1250 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. and at any KSP regional driver testing office. This material is also available on the agency Web site kentuckystatepolice.org under driver testing.**

COL. PHILLIP J. BURNETT, JR., Commissioner

APPROVED BY AGENCY: January 6, 2022

FILED WITH LRC: January 11, 2022 at 10:44 a.m.

CONTACT PERSON: Amy Barker, Assistant General Counsel, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8207, fax (502) 564-6686, email Justice.RegsContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the licensing procedures and standards for driver training schools.

(b) The necessity of this administrative regulation: KRS 332.216 requires the department to promulgate administrative regulations to carry out the provisions of KRS Chapter 332. KRS 332.202 and 332.204 require the department to establish a licensure process for driver training schools for instruction of persons in the operation of motor vehicles which are not commercial motor vehicles. This administrative regulation establishes the licensure process and standards for driver training schools.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 332.216 requires the department to promulgate administrative regulations to carry out the provisions of KRS Chapter 332. KRS 15A.160 authorizes the secretary of the cabinet to adopt administrative regulations to administer the cabinet. KRS 332.202 and 332.204 require the department to establish a licensure process for driver training schools for instruction of persons in the operation of motor vehicles which are not commercial motor vehicles. This administrative regulation establishes the licensure process and standards for driver training schools.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the licensure process and standards for driver training schools.

(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 an application process for the primary office and for branch offices, adds the fee for a branch office, adds requirements for notification of changes to license information, adds requirements for registration of the driver training vehicle fleet, adds forms, and updates required classroom technology.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to update the licensing procedures and standards for the schools.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 332.216 requires the department to

promulgate administrative regulations to carry out the provisions of KRS Chapter 332. KRS 332.202 and 332.204 require the department to establish a licensure process for driver training schools for instruction of persons in the operation of motor vehicles which are not commercial motor vehicles. The amendment addresses the licensure and standards for the schools.

(d) How the amendment will assist in the effective administration of the statutes: The amendment adds procedures to accurately reflect the licensing process and inform applicants and licensees of the standards for operating a driver training school.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Department of Kentucky State Police; 16 driver training schools, 17 driver training facilities, 50 driver training school instructors, and any potential applicants.

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

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: The training school applicants will need to follow the new licensing requirements and standards.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: A school will need to pay the fee for a branch office if it has one.

(c) As a result of compliance, what benefits will accrue to the entities: They will benefit from more clearly defined procedures and standards.

(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 department.

(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: A fee is stated for a branch office application.

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

(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 Department of Kentucky State Police; driver training schools; driver training school instructors; driver training school facilities.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 15A.160, 332.202, 332.204, and 332.216.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The majority of revenue is from statutory fees. There is currently one branch office for $100.

(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 majority of revenue is from statutory fees. Approximately $100 is anticipated unless new branch offices are opened.

(c) How much will it cost to administer this program for the first year? No additional cost is anticipated.

(d) How much will it cost to administer this program for subsequent years? No additional cost is anticipated.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**JUSTICE AND PUBLIC SAFETY CABINET**
**Department of Kentucky State Police**
**(Amended After Comments)**

**502 KAR 10:070. Training vehicle, annual inspection.**

RELATES TO: KRS **Chapter 332[~~165A.460~~]** [~~332.030~~]

STATUTORY AUTHORITY: KRS 15A.160, **[~~165A.460,~~]** 332.216 [~~332.100~~]

NECESSITY, FUNCTION, AND CONFORMITY: **KRS 332.216 requires the department to promulgate administrative regulations to carry out the provisions of KRS Chapter 332. KRS 15A.160 authorizes the secretary of the cabinet to adopt administrative regulations to administer the cabinet. This administrative regulation establishes the inspection of driver training motor vehicles used by driver training schools. [~~KRS 15A.160 and 332.100 authorizes the Department of Kentucky State Police to promulgate~~]** [~~provide that the Secretary of the Justice Cabinet in cooperation with the Commissioner, Department of State Police, may adopt such~~] **[~~administrative regulations necessary to carry out the provisions of KRS Chapter 332. This administrative regulation establishes the department's policy regarding the annual inspection of driver training vehicles utilized by driver training schools.~~]**

Section 1. Driver training motor vehicles shall be presented to any authorized representative of the Kentucky State Police Driver Testing Branch [~~Section for inspection~~] at least once a year for inspection.

Section 2. All motor vehicles used to give driver training instruction shall have a current safety inspection certificate issued by the department which shall be kept in the vehicle [~~glove compartment~~].

Section 3. **[~~In order to be approved~~]** The motor vehicle shall be:

(1) In a safe operating condition, not more than ten (10) [~~five (5)~~] years old**[~~, except that truck/tractors shall not be more than~~]**[~~ten (10) years old for on-the-road instruction and~~]**[~~fifteen (15) years old for off-the-road instruction~~]**;

(2) Insured as required in KRS **332.204(1)(d)[~~165A.475~~]**[~~332.030~~];

(3) Registered with the department in the name of a driver training school **as required by 502 KAR 10:040**;

(4) Equipped with dual controls on the foot brake, and on the clutch, if any, **to[~~which will~~]** enable the instructor to bring the car under control in case of emergency. **[~~Dual controls are not required on a truck/tractor. In addition, it is suggested that~~]** The driver training school **may** offer instruction in both manual **[~~gear shift~~]** and automatic transmission vehicles; and

(5) Equipped with seat belts that shall [~~which should~~] be used by both student and instructor**;[~~.~~]**

(6) Emergency ignition-kill toggle switch on instructor's side**;[~~, except for tractor/trailers.~~]**

(7) Equipped with outside mirror on both driver's side and instructor's side**; and[~~.~~]**

(8) Owned or leased by the school.

Section 4. The full name of the driver training school shall be

prominently displayed on both front and rear of such vehicle in letters at least two (2) inches high and in colors vividly contrasting with the color of the vehicle.

Section 5. (1) **[~~It shall be the responsibility of~~]** The driver training school and **[~~the duty of~~]** the driver training instructor **shall [~~to~~]** insure that all **training vehicles [~~vehicle~~]** are [~~the vehicle is~~] inspected annually.

(2) If any items in Section 3 are found to be missing, or insufficient, the vehicle may be determined uncertifiable, and the driver training school may be directed to:

(a) Correct any condition that renders a vehicle unsafe for operation,

(b) Have mechanical or equipment deficiencies corrected by a certified mechanic, or

(c) Obtain insurance, registration, or ownership of the vehicle in compliance with Section

(3) Any vehicle that is determined to be uncertifiable shall be reinspected and have all corrections verified by the Driver Testing Branch prior to being approved for operation by the driver training school.

Section 6. **A Driver Training School Fleet Information form, KSP 118, shall be submitted to the Driver Testing Branch within ten (10) days if:**

**(1) A driver training vehicle is added to the fleet of a primary or branch office location;**

**(2) A driver training vehicle is removed from the fleet of a primary or branch office location;**

**(3) A primary or branch office license is renewed as required by 502 KAR 10:040.**

**Section 7. Incorporated by Reference. (1) "Driver Training School Fleet Information", KSP-118, 2022 edition is incorporated by reference.**

**(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky State Police, Driver Testing Branch, 1250 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. and at any KSP regional driver testing office. This material is also available on the agency website kentuckystatepolice.org under driver testing.[~~It shall be the responsibility of the school to furnish written notice any time a vehicle is added to or deleted from the school's motor vehicle fleet.~~]**

COL. PHILLIP J. BURNETT, JR., Commissioner

APPROVED BY AGENCY: January 6, 2022

FILED WITH LRC: January 11, 2022 at 10:44 a.m.

CONTACT PERSON: Amy Barker, Assistant General Counsel, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8207, fax (502) 564-6686, email Justice.RegsContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the annual inspection of driver training vehicles used by driver training schools.

(b) The necessity of this administrative regulation: This regulation informs driver training schools of the requirements for registration of vehicles utilized for driver training instruction.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation establishes the procedures to ensure vehicles used for driver training instruction are registered, inspected, and safe to operate by driver training schools.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation establishes the requirements for inspection and certification of vehicles used for driver training instruction and adds requirements for maintenance of registration records filed with 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 process for finding a vehicle uncertifiable, provides for correction and reinspection of an uncertifiable vehicle, provides for updating information when a vehicle is added, removed, or transferred in a driver training school's fleet, and adds a form.

(b) The necessity of the amendment to this administrative regulation: The amendment addresses changes required by statutory changes.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 332.216 requires the department to promulgate administrative regulations to carry out the provisions of KRS Chapter 332. KRS 332.202 and 332.204 require the department to establish a licensure process for driver training schools for instruction of persons in the operation of motor vehicles which are not commercial motor vehicles. The amendment addresses the inspection and safety of vehicles used for training in the schools.

(d) How the amendment will assist in the effective administration of the statutes: The amendment provides clarification.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Department of Kentucky State Police; driver training schools; driver training school instructors; driver training school facilities.

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

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: The training schools will need to comply with the training vehicle inspection requirements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: No additional cost is anticipated.

(c) As a result of compliance, what benefits will accrue to the entities: They will benefit from having training vehicles inspected for safety in the schools.

(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 department.

(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.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation does not establish any new fees; nor does it directly or indirectly 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 Department of Kentucky State Police; driver training schools; driver training school instructors; driver training school facilities.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 15A.160, 332.202, 332.204, and 332.216.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for

the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

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

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

(c) How much will it cost to administer this program for the first year? No additional cost is anticipated.

(d) How much will it cost to administer this program for subsequent years? No additional cost is anticipated.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**JUSTICE AND PUBLIC SAFETY CABINET**
**Department of Kentucky State Police**
**(Amended After Comments)**

**502 KAR 13:010. Application for certification under the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers.**

RELATES TO: KRS 15.383, 61.365, 186.412, 237.138-237.142, 446.010**(31)[(29)]**, 18 U.S.C. 926C[~~, Pub.L. 108-277~~]

STATUTORY AUTHORITY: KRS 237.140

NECESSITY, FUNCTION, AND CONFORMITY: **KRS 237.138 to 237.142 establishes provisions for certification to carry a concealed deadly weapon for any elected or appointed peace officer who is honorably retired and who meets the provisions of these statutes and the Law Enforcement Officers Safety Act, 18 U.S.C. 926C.** KRS 237.140 **requires the Kentucky State Police to promulgate administrative regulations to implement the provisions of KRS 237.138 to 237.142 for the certification of retired peace officers to carry a concealed deadly weapon pursuant to 18 U.S.C. 926C. [~~provides for the certification of honorably retired elected or appointed peace officers to carry a concealed deadly weapon pursuant to 18 U.S.C. 926C and authorizes~~]** [~~requires~~] **[~~the department~~]** [~~Kentucky State Police~~] **[~~to promulgate administrative regulations to implement the certification provisions.~~]** This administrative regulation establishes the requirements and procedures for certification.

Section 1. Definitions. (1) "Applicant" means an honorably retired peace officer who has applied to the Kentucky State Police to be certified to carry a concealed deadly weapon pursuant to 18 U.S.C. 926C.

(2) "Application form" means the **["]**Commonwealth of Kentucky Carry Concealed Deadly Weapons/LEOSA: Application for License.**["]**

(3) "Honorably retired" means an elected or appointed peace officer who **meets the requirements to be a qualified retired law enforcement officer as defined by 18 U.S.C. 926C(c)[~~:~~**

**~~(a) Separated in good standing from service with a public agency as a law enforcement officer;~~**

**~~(b) Before separation, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;~~**

**~~(c)1. Before separation, served as a law enforcement officer for an aggregate of ten (10) years or more; or~~**

**~~2. Separated from service with an agency, after completing any applicable probationary period of service, due to a service-connected disability, as determined by the agency;~~**

**~~(d)1. Has not been officially found by a qualified medical professional employed by the agency from which the applicant separated from service to be unqualified for reasons relating to mental health; or~~**

**~~2. Has not entered into an agreement with the agency from which the applicant separated from service in which the applicant acknowledged that he or she is not qualified under 18 U.S.C. 926C for reasons relating to mental health;~~**

**~~(e) During the most recent twelve (12) month period, has met, at the expense of the retired peace officer, Kentucky's standards for training and qualifications for active law enforcement officers to carry firearms, as set out in KRS 15.383;~~**

**~~(f) Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and~~**

**~~(g) Is not prohibited by Federal law from receiving a firearm~~]**.

(4) "License" means the document indicating the approved certification pursuant to the Law Enforcement Officers Safety Act of 2004, as codified in 18 U.S.C. 926C.

(5)[~~(4)~~] "Peace officer" is defined by KRS 446.010(31)[~~(29)~~] and 61.365.

Section 2. An application form shall be identified by a unique number that shall be:

(1) Expressed on the application form as a bar code that contains the application number;

(2) Used as the identifying number for the applicant; and

(3) Machine and human readable.

Section 3. Application forms shall:

(1) Not be stored in an area accessible to the public; and

(2) Not be removed from the office of the sheriff except as permitted by Section **7[6]**(4) of this administrative regulation.

Section 4. **An applicant[~~Applicants~~]** shall submit an application and documents required by KRS 237.138 to 237.142 to the department**[~~ by~~]**:

(1) Electronically, via the **portal on the** department Web site **[~~and according to the procedures as described by the department~~]**; or

(2) By the procedures **[~~set forth~~]** in Section 5 **through [-]** Section 7 of this **administrative** regulation.

Section 5. A sheriff shall issue an application form to an applicant if:

(1) An applicant meets the requirements established by KRS 237.138 to 237.142;

(2) The sheriff has verified that an applicant is qualified for certification pursuant to KRS 237.138 to 237.142 and this administrative regulation;

(3) An applicant has submitted the material required by KRS 237.138 to 237.142 and this administrative regulation;

(4) Verification that an applicant is a Kentucky resident is made by:

(a) Submission of a valid Kentucky operator's license or personal identification card issued by the Transportation Cabinet [~~a circuit court clerk~~] pursuant to KRS 186.412;

(b) Personal knowledge of the sheriff; or

(c) Confirmation by another governmental agency; and

(5) Verification of an applicant's Social Security number is made by submission of:

(a) The applicant's Social Security card; or

(b) A governmental agency document that contains the applicant's name and Social Security number.

Section 6.[~~Section 5.~~] Completion of **Paper** Application Form **through Sheriff**. An applicant shall:

(1) Complete an application **form**;

(2) Sign the application in the applicant signature block of the application form in ink;

(3) Provide the information required by KRS 237.110(7)(a) through (e) on the application form;

(4) Not fold or tear the form;

(5) Use a black ink pen to complete the form;

(6) Not mark or otherwise make an entry in the "For Sheriff's Dept. Use Only" portion;

(7) Fill each bubble completely;

(8) Fill in or enter information, as appropriate, within a column block or bubble;

(9) Write within the constrained areas;

(10) Use upper case (capital) letters;

(11) Provide a photograph of the applicant complying with the provisions of 502 KAR 13:070;

(12) Submit the following completed forms to the sheriff to be attached to the application form:

(a) A KSP [**Form**] 123, Law Enforcement Officers Safety Act Licensee Peace Officer Range Qualification Certification[~~-LEOSA (KSP 123)~~];

(b) A KSP **[Form]** 124A, LEOSA Applicant Certification [~~(KSP 124A)~~]; and

(c) A KSP **[Form]** 124B, LEOSA Law Enforcement Retirement Certification[~~(KSP 124B)~~**]**; and

(13) Not be required to pay an application fee.

Section 7.[~~Section 6.~~] Sheriff's Duties. (1) If an applicant fails to follow the instructions for completion of an application, the sheriff shall:

(a) Destroy the improperly completed application; and

(b) Require the applicant to complete a new application form.

(2) The sheriff shall complete in black ink the lower right hand portion of the application form titled "For Sheriff's Dept. Use Only" by:

(a) Completing the ORI Number;

(b) Filling in the date of application;

(c) Indicating the applicant is a retired peace officer;

(d) Indicating the applicant is seeking LEOSA certification; and

(e) Signing in the portion labeled "Authorizing Official Signature."

(3) The sheriff shall place the following material in a single applicant packet:

(a) The applicant's completed application form;

(b) A photograph of the applicant complying with the provisions of 502 KAR 13:070; and

(c) **[~~A~~]** Completed KSP **forms** 123, 124A, and 124B.

(4) The sheriff shall mail single applicant packets**[~~:~~]**[

~~(a)~~] in a bulk mailer **to Kentucky State Police, LEOSA, 1266 Louisville Road, Frankfort, Kentucky 40601.**[~~; and~~

~~(b) On dates established by the "CCDW-LEOSA Application Mailing Schedule For Sheriffs."~~]

**Section 8.[~~Section 7.~~]** Incorporation by Reference. (1) The following material is incorporated by reference:

(a) **"Carry Concealed Deadly Weapons/LEOSA: Application for License", 2019 edition;**

**(b)**[~~"Commonwealth of Kentucky Carry Concealed Deadly Weapons/LEOSA: Application for License", October 2009;~~

~~(b) "CCDW-LEOSA Application Mailing Schedule For Sheriffs", July 2006;~~

~~(c)~~] **[~~KSP Form 123,~~]** "Law Enforcement Officers Safety Act Licensee Peace Officer Range Qualification Certification," **KSP 123,** 2014 edition[~~-LEOSA", KSP 123,07/05~~];

**(c)[~~(b)~~]**[~~(d)~~] **[~~KSP Form 124A,~~]** "LEOSA Applicant Certification", **KSP 124A**[~~KSP 124A~~], [~~December~~] 2010 edition; and

**(d)[~~(c)~~]**[~~(e)~~] **[~~KSP Form 124B,~~]** "LEOSA Law Enforcement Retirement Certification", **KSP 124B,** 2014 edition.[~~KSP 124B, December 2010.~~]

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Criminal Identification and Records Branch, Kentucky State Police, 1266 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday 8 a.m. to 4:30 p.m. This material is also available on the department Web site at kentuckystatepolice.org.[~~, phone, (502) 227-8700.~~]

COL. PHILLIP J. BURNETT, JR., Commissioner
KERRY B. HARVEY, Secretary

APPROVED BY AGENCY: January 5, 2022

FILED WITH LRC: January 11, 2022 at 10:44 a.m.

CONTACT PERSON: Amy Barker, Assistant General Counsel, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8207, fax (502) 564-6686, email Justice.RegsContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements and procedures for CCDW certification for elected or appointed peace officers who are honorably retired.

(b) The necessity of this administrative regulation: KRS 237.138 to 237.142 establishes provisions for certification to carry a concealed deadly weapon for any elected or appointed peace officer who is honorably retired and who meets the provisions of these statutes and the Law Enforcement Officers Safety Act (LEOSA), 18 U.S.C. 926C. KRS 237.140 requires the Kentucky State Police to promulgate administrative regulations to implement the provisions of KRS 237.138 to 237.142 and comply with 18 U.S.C. 926C. This administrative regulation complies with the statutes.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation conforms to the authorizing statute by laying out the procedures to be followed by law enforcement desiring CCDW licensure pursuant to LEOSA.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation provides the process for issuance of LEOSA CCDW licenses.

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

(a) How the amendment will change this existing administrative regulation: The amendment updates the procedures and forms. A definition of "license" and an electronic application procedure are added.

(b) The necessity of the amendment to this administrative regulation: The amendment updates the procedures and forms and complies with federal statute changes.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 237.138 to 237.142 establishes provisions for certification to carry a concealed deadly weapon for any elected or appointed peace officer who is honorably retired and who meets the provisions of these statutes and the Law Enforcement Officers Safety Act (LEOSA), 18 U.S.C. 926C. KRS 237.140 requires the Kentucky State Police to promulgate administrative regulations to implement the provisions of KRS 237.138 to 237.142 and comply with 18 U.S.C. 926C. The amendment complies with the statutes.

(d) How the amendment will assist in the effective administration of the statutes: The amendment clarifies the existing language, procedures, and revises forms.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Department of Kentucky State Police, sheriffs, and retired law enforcement officials desiring CCDW licensure.

(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: Applicants may use the Web based application procedure. The department staff, sheriffs, and applicants will have to use the new forms.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: No additional cost is anticipated.

(c) As a result of compliance, what benefits will accrue to the entities: The applicants will have an additional Web based application procedure available.

(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 department and sheriffs.

(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.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation does not establish any new fees or directly or indirectly 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 Department of Kentucky State Police and retired peace officers seeking CCDW licensure.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 237.140, 18 U.S.C. 926C, KRS 237.138 to 237.142

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

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

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

(c) How much will it cost to administer this program for the first year? No additional cost is anticipated.

(d) How much will it cost to administer this program for subsequent years? No additional cost is anticipated.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**JUSTICE AND PUBLIC SAFETY CABINET**
**Department of Kentucky State Police**
**(Amended After Comments)**

**502 KAR 30:010. Definitions for 502 KAR Chapter 30[~~Criminal History Record Information System~~].**

RELATES TO: KRS 15A.160,17.140

STATUTORY AUTHORITY: KRS 15A.160, 17.140**, 17.150** [~~17.080~~]

NECESSITY, FUNCTION, AND CONFORMITY: **KRS 17.140 requires a centralized criminal history record information system to be established in the Justice and Public Safety Cabinet under the direction, control, and supervision of the commissioner of the Department of Kentucky State Police.** KRS 15A.160 **authorizes[~~provides and~~]** [~~17.080 provide~~] **[~~that~~]** the secretary of the Justice and Public Safety Cabinet **to[~~may~~]** adopt [~~such~~] administrative regulations **to[~~as~~]** [~~are~~] **[~~necessary to properly~~]** administer the cabinet. **KRS 17.150(6) requires the secretary of the Justice and Public Safety Cabinet to adopt administrative regulations necessary to carry out the provisions of the centralized criminal history record information system and insure the accuracy of criminal history record information being reported to the system. [~~KRS 17.140 requires the Justice and Public Safety Cabinet to establish~~]** [establishes] **[~~the centralized criminal history record information system, under the direction, control and supervision of the Commissioner of the Department of the Kentucky State Police.~~]** This administrative regulation establishes the definitions to be used in the administration of the centralized criminal history record information system.

Section 1. [~~As employed in 502 KAR 30:010 through 502 KAR 30:070, unless the context requires otherwise:~~]

(1) "Administration of criminal justice" means performance of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice includes criminal identification activities and dissemination of CHRI. [~~"Criminal History Record Information System" means a system including equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation or dissemination of criminal history record information.~~]

(2) "Criminal history record information**[~~,~~]**" or "CHRI"**[~~,~~]** [~~hereinafter referred to as CHRI,~~] means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrest, detentions, indictments, informations, or other formal criminal charges, and any disposition arising therefrom, including**[~~, but not limited to,~~]** sentencing, correctional supervision**,** and release. [~~CHRI shall not include identification information such as fingerprint records to the extent that such information does not indicate involvement of the individual in the criminal justice system, or the evaluative information, such as statistical and analytical reports and files in which individuals are not directly or indirectly identifiable, or intelligence information. CHRI shall be limited to information concerning persons who have attained the age of eighteen (18) and shall not include any information concerning criminal offenses of acts of delinquency committed by any person before that person has attained the age of eighteen (18); provided, however, that if a person under the age of eighteen (18) is adjudicated as an adult and found guilty in a circuit court, information relating to such criminal offense shall be deemed CHRI. CHRI shall not include any information concerning any offense which is not punishable by incarceration.~~]

(3) "Criminal History Record Information System" means a system including equipment, facilities, procedures, agreements, and **organization[~~organizations~~]** thereof, for the collection, processing, preservation**,** or dissemination of criminal history record information.[~~"Criminal justice agency" means:~~

~~(a) Courts for purposes agreed upon between the secretary and Chief Justice;~~

~~(b) A government agency or any subunit thereof which performs the administration of criminal justice pursuant to a statute or executive order, and which allocates a substantial part of its annual budget to the administration of criminal justice.~~

~~The term criminal justice agency shall be inclusive of but not limited to: the Attorney General, sheriff departments, law enforcement agencies of a county or municipality, coroner, jailer, prosecuting attorney, probation officer, parole officer; warden or superintendent of a prison, reformatory, correctional school, mental hospital or institution of the retarded; state police, State Fire Marshal, Board of Alcoholic Beverage Control; Justice Cabinet; Cabinet for Human Resources; Transportation Cabinet; Corrections Cabinet; and every other person or criminal justice agency, except the court of justice, public or private, dealing with crimes or criminals or with delinquency or delinquents.~~]

(4) "Criminal justice agency" means:

(a) **The persons and entities listed in KRS 17.150(1);**

**(b) The Court of Justice and the Administrative Office of the** Courts **to the extent and** for purposes agreed upon between the secretary and Chief Justice; **or**

**(c)[~~(b)~~]** A government agency or any subunit **[~~that~~]** thereof **that [~~which~~]** performs the administration of criminal justice pursuant to a statute or executive order, and [~~which~~] allocates a substantial part of its annual budget to the administration of

criminal justice[**; or**

**(c) Any other agency as agreed upon by the secretary**.

**(d) The term criminal justice agency shall be inclusive of but not limited to: the Attorney General, sheriff departments, law enforcement agencies of a county or municipality, coroner, jailer, prosecuting attorney, probation officer, parole officer; warden of a prison, mental hospital or institution; state police, State Fire Marshal; Department of Alcoholic Beverage Control; Justice and Public Safety Cabinet; Department of Corrections; and every other person or criminal justice agency, except the court of justice, public or private, dealing with crimes or criminals or with delinquency or delinquents**]. ["Administration of criminal justice" means performance of any of the following activities: detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of CHRI.]

(5) "Disposition" means information disclosing that criminal proceedings have been concluded, including information disclosing that the police have elected not to refer a matter to a prosecutor or that a prosecutor has elected not to commence criminal proceedings, and also disclosing the nature of the termination of proceedings; or information disclosing that proceedings have been indefinitely postponed and also disclosing the reason for such postponement. Dispositions shall include[, but not be limited to]: acquittal, acquittal by reason of insanity, acquittal by reason of mental incompetence, case continued without finding, charge dismissed, charge dismissed due to insanity, charge dismissed due to mental incompetency, charge still pending due to insanity, charge still pending due to mental incompetence, guilty plea, nolle prosequi, no paper, nolo contendere plea, conviction [convicted], youthful offender determination, death [deceased], deferred disposition, dismissed-civil action, found insane, found mentally incompetent, pardoned, probation before conviction, sentence commuted, adjudication withheld, mistrial-defendant discharged, executive clemency, placed on probation, paroled or released from correctional supervision, or any other disposition deemed appropriate by the court.

(6) **"NLETS" means the National Law Enforcement Telecommunication System.**

**(7)** "Nonconviction data" means [arrest] information obtained [without disposition if an interval of one (1) year has elapsed] from the date of arrest to [and no active prosecution of] the date of disposition, in matters that do not result in a conviction, including [charges is pending; all] information disclosing that the police have elected not to refer a matter to a prosecutor, or that a prosecutor has elected not to commence criminal proceedings, or that proceedings have been indefinitely postponed, including [as well as] all acquittals and [all] dismissals.

**[(7) "NLETS" means the National Law Enforcement Telecommunication System.]**["Uniform offense report", hereinafter "UOR-1," means the report form developed pursuant to KRS 15A.190 and 17.150 on which every felony case, every misdemeanor case of theft by unlawful taking or disposition, every case of unauthorized use of a motor vehicle, and every other instance where there is an allegation that a criminal offense has been committed against a victim's person or property and a uniform citation will not suffice, shall be recorded and reported by forwarding a completed UOR-1 form to the Kentucky State Police, Records Section, hereinafter Records.

(8) "Court disposition uniform offense report," hereinafter "UOR-3," means that report form developed pursuant to KRS 15A.190 and 17.150 on which either preliminary or final court dispositions on all criminal offenses involving arrest(s) other than those reported on a uniform citation shall be recorded with final dispositions on all cases reported by forwarding a completed UOR-3 to Records.

(9) "NLETS" means the National Law Enforcement Telecommunication System.]

COL. PHILLIP J. BURNETT, JR., Commissioner
KERRY B. HARVEY, Secretary

APPROVED BY AGENCY: January 10, 2022
FILED WITH LRC: January 11, 2022 at 10:44 a.m.
CONTACT PERSON: Amy Barker, Assistant General Counsel, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8207, fax (502) 564-6686, email Justice.RegsContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes the definitions to be used in the Chapter.

(b) The necessity of this administrative regulation: Definitions are required to properly understand the Chapter.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation establishes the definitions for the Chapter, which is required pursuant to KRS 17.140.

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

(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 definitions and clarifies previous definitions.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to provide clarity.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment is part of the chapter of administrative regulations required to implement the CHRI system.

(d) How the amendment will assist in the effective administration of the statutes: The amendment provides to provide clarity.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Kentucky State Police, criminal justice agencies, individuals with sensitive information contained in the CHRI system.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Actions are not required for the definitions.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost is anticipated.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The regulated entities will have clearer definitions.

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

(a) Initially: No additional costs are anticipated.

(b) On a continuing basis: No additional costs are 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 Department and the criminal justice agencies.

(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 existing regulation established fees for testing. The administrative regulation does not establish or increase any fees.

(9) TIERING: Is tiering applied? No. Tiering was not applied 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 Kentucky State Police, criminal justice agencies, individuals with sensitive information contained in the CHRI system.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 15A.160, 17.140, 17.150

(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 administrative regulation does not generate any revenue.

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

(c) How much will it cost to administer this program for the first year? This amendment is not anticipated to increase costs.

(d) How much will it cost to administer this program for subsequent years? This amendment is not anticipated to increase 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:

**JUSTICE AND PUBLIC SAFETY CABINET**
**Department of Kentucky State Police**
**(Amended After Comments)**

**502 KAR 30:020. Arrest and disposition reporting procedure.**

RELATES TO: KRS 17.110, 17.115**, 17.140**

STATUTORY AUTHORITY: 15A.160, [~~17.080,~~] 17.150

NECESSITY, FUNCTION, AND CONFORMITY: **KRS 17.140 requires a centralized criminal history record information system to be established in the Justice and Public Safety Cabinet under the direction, control, and supervision of the commissioner of the Department of Kentucky State Police.** KRS 17.110 **requires[~~mandates that~~]** all city and county law enforcement agencies **[~~shall~~]** submit to the Justice **and Public Safety** Cabinet, Department of **Kentucky** State Police, photographs, and a description report of the offense on all persons arrested[~~on a felony charge~~]. KRS 17.115(2) requires persons in charge of any penal or correctional institution to provide the cabinet with fingerprints and descriptions on all persons committed to their custody or detained by them on cases where fingerprints and descriptions are taken, together with a report of the disposition. **KRS 15A.160 authorizes the secretary of the cabinet to adopt administrative regulations to administer the cabinet.** KRS 17.150(6) authorizes the secretary of **the cabinet[~~Justice~~]** to adopt administrative regulations **[~~that are~~]** necessary to **carry out the provisions of the centralized criminal history record information system and** insure the accuracy of [~~said~~ ]criminal history record information **being reported to the system**. This administrative regulation establishes arrest and disposition reporting procedures.

Section 1. Offense Reporting Procedure. [~~Within thirty (30) days of the arrest for an offense covered by KRS 17.110, two (2) sets of fingerprint cards, a mug shot or the negative of the mug shot, and a general description report (UOR-1) of the offense shall submitted to Records. Further,~~] Law enforcement and criminal justice agencies shall cooperate with **the Criminal Identification and** Records **Branch** by complying with **the use of** a "unique numbering system" to allow court disposition tracing. The "unique numbering system" shall be accomplished by the issuance of a Uniform Citation with every [~~felony~~ ]arrest as it relates to 502 KAR 30:020 subject to an agreement with the Chief Justice of the Supreme Court of Kentucky as set out in Section 2(2) of this administrative regulation.

Section 2. Disposition Reporting Procedures.

(1) Dispositions shall be submitted from each city and county law enforcement agency to **the Criminal Identification and** Records **Branch[~~;~~]**[~~in the form of the Uniform Offense Report (UOR-3),~~] or any subsequent disposition reporting instrument required by the **Department of** Kentucky State Police.

(2) Upon suitable written agreement with the Chief Justice of the Kentucky Supreme Court and the secretary of the Justice **and Public Safety** Cabinet, a unique tracking number will be assigned to each offender at the time of arrest. This unique number will be utilized throughout the movement of the offender through the criminal justice system, thereby enabling the Administrative Office of the Courts to provide a system compatible format[~~computer tape~~] to **the Criminal Identification and** Records **Branch** for automatic update of court dispositions in the CHRI files.

COL. PHILLIP J. BURNETT, JR., Commissioner
KERRY B. HARVEY, Secretary

APPROVED BY AGENCY: January 10, 2022

FILED WITH LRC: January 11, 2022 at 10:44 a.m.

CONTACT PERSON: Amy Barker, Assistant General Counsel, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8207, fax (502) 564-6686, email Justice.RegsContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes arrest and disposition reporting procedures.

(b) The necessity of this administrative regulation: This regulation is necessary in order to supply the Department with the required information pertaining to arrests made in the Commonwealth.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation establishes the reporting system necessary to effectively inform the Department of arrests made in the Commonwealth, and the eventual disposition of the matter.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation details the time allotted for an offense to be submitted to the Criminal Identification and Records Branch and details the requirements of the unique numbering system in order to effectively track the reported offenses.

(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 clarifies the existing language of the regulation, and removes outdated terms and requirements, including the completion of a UOR-1 or UOR-3 form. It revises the name of the entity that handles the criminal history record information within the Department and corrects the cabinet and Department names.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary in order for the regulation to reflect current procedures implemented by the Department.

(c) How the amendment conforms to the content of the authorizing statutes: The amended regulation allows for the reporting procedures to be more effectively understood by the Department and reporting agencies.

(d) How the amendment will assist in the effective administration of the statutes: The amendment clarifies the existing language, which results in a more concise, and clear regulation;

the amendment also removed outdated terms.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Department of Kentucky State Police, and criminal justice agencies.

(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 new or additional actions will have to be taken by the regulated entities in order to effectively comply with this amended regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: No additional cost is anticipated.

(c) As a result of compliance, what benefits will accrue to the entities: The Department and criminal justice agencies will benefit from more clearly defined procedures, which will assist in the administration of the procedures.

(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 Department and the criminal justice agencies.

(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.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No, this regulation does not establish any new fees; nor does it directly or indirectly 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 Department of Kentucky State Police and criminal justice agencies.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 15A.160, 17.110, 17.115, 17.150

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

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

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

(c) How much will it cost to administer this program for the first year? No additional cost is anticipated.

(d) How much will it cost to administer this program for subsequent years? No additional cost is anticipated.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**JUSTICE AND PUBLIC SAFETY CABINET**
**Department of Kentucky State Police**
**(Amended After Comments)**

**502 KAR 30:030. Audit of Criminal History Record Information System.**

RELATES TO: KRS 17.150

STATUTORY AUTHORITY: KRS 15A.160, [~~17.080,~~] 17.150

NECESSITY, FUNCTION, AND CONFORMITY: KRS 17.140 **requires[~~establishes~~]** a centralized criminal history record information system **to be established** in the Justice **and Public Safety** Cabinet under the direction**, control, and supervision** of the commissioner of the Department of **Kentucky** State Police. **KRS 15A.160 authorizes the secretary of the Justice and Public Safety Cabinet to adopt administrative regulations to administer the cabinet.** KRS 17.150(6) **requires the secretary of the Justice and Public Safety Cabinet to[~~provides that the Secretary of Justice shall~~]** adopt administrative regulations **[~~that are~~]** necessary to **carry out the provisions of the centralized criminal history record information system and** insure the accuracy of criminal history record information being reported to the **[~~centralized criminal history record information~~]** system. This administrative regulation establishes the requirements for audits of the centralized criminal history record information system and law enforcement and criminal justice agencies **that[~~which~~]** submit or receive criminal history record information to or from the centralized criminal history record information system.

Section 1. The **Criminal Identification and Records Branch [~~Records Section~~]** shall annually conduct an in-house audit of a random representative sample of hard copy data contained in the centralized Criminal History Record Information System. The scope of the audit shall include[~~ but is not limited to~~]:

(1) Adherence to federal and state regulations;

(2) Completeness and accuracy of CHRI;

(3) CHRI dissemination procedures;

(4) Security; and

(5) Compliance with mandated access and review procedures.

The[~~Said~~] audit shall be conducted in accordance with guidelines set out in 28 C.F.R.; 20.21(e)[~~, utilizing the standard audit instrument as prescribed by Records~~]. A report of the audit findings shall be submitted by the administrative head of **the Criminal Identification and** Records **Branch** to the commissioner, Department of **Kentucky** State Police and the secretary of the Justice **and Public Safety** Cabinet on or before January 10 of each year.

Section 2. **The Criminal Identification and Records Branch [~~Records~~]** shall conduct, on an annual basis, audits of at least four (4) criminal justice agencies, submitting or receiving data from or to the centralized Criminal History Record Information System. The criminal justice[~~Said~~] agencies shall be picked at random. The[~~Such~~] audits shall be conducted in accordance with guidelines set out in 28 C.F.R.; 20.21(e), utilizing the standard audit instrument. A report of the audit findings shall be submitted to the administrative head of the respective criminal justice agency within thirty (30) working days after the audit has been completed. The scope of the audit shall include[ ~~but not be limited to~~]:

(1) Adherence to federal and state regulations;

(2) Completeness and accuracy of CHRI;

(3) CHRI dissemination procedures;

(4) Security; and

(5) Compliance with mandated access and review procedures.

COL. PHILLIP J. BURNETT, JR., Commissioner
KERRY B. HARVEY, Secretary

APPROVED BY AGENCY: January 10, 2022

FILED WITH LRC: January 11, 2022 at 10:44 a.m.

CONTACT PERSON: Amy Barker, Assistant General Counsel, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8207, fax (502) 564-6686, email Justice.RegsContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes the requirements for audits of the centralized criminal history record information system and relevant agencies which submit or receive criminal history record information from same.

(b) The necessity of this administrative regulation: This regulation ensures compliance with KRS 17.150, while similarly confirming the agency is operating and complying with the applicable federal and state regulations.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation works to ensure the accuracy of criminal history record information provided to law enforcement and criminal justice agencies that rely upon a system of centralized information.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides guidance to the Criminal Identification and Records Branch and to criminal justice agencies regarding the criteria that will be judged in the audit, and similarly sets forth the audit procedure in general terms.

(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 clarifies the existing language of the administrative regulation, providing essential guidance to the Criminal Identification and Records Branch and the relevant agencies.

(b) The necessity of the amendment to this administrative regulation: The administrative regulation description was not clear and replaces an outdated section name with Criminal Identification and Records Branch.

(c) How the amendment conforms to the content of the authorizing statutes: The authorizing statute requires the secretary of the cabinet to adopt administrative regulations necessary to carry out the provisions of the centralized criminal history record information system and insure the accuracy of criminal history record information being reported to the system.

(d) How the amendment will assist in the effective administration of the statutes: The clarified language allows for the Criminal Identification and Records Branch to audit criminal history record information.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Department of the Kentucky State Police and all law enforcement and criminal justice agencies, which submit or receive criminal history record information to or from the records system.

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

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: The amendment does not require the regulated entities to take any action separate and apart from the previous language of the regulation. The amendment defines the scope of the audit.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: No additional cost is anticipated.

(c) As a result of compliance, what benefits will accrue to the entities: The regulated agencies will have more clearly defined guidance on the scope of the audit, and can more effectively ensure compliance with the applicable regulations and procedures.

(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 department and the criminal justice agencies.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase is necessary.

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

(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 Department of the Kentucky State Police and all law enforcement and criminal justice agencies, which submit or receive criminal history record information to or from the records system.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 15A.160, KRS 17.150

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

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

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

(c) How much will it cost to administer this program for the first year? No additional cost is anticipated.

(d) How much will it cost to administer this program for subsequent years? No additional cost is anticipated.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**JUSTICE AND PUBLIC SAFETY CABINET**
**Department of Kentucky State Police**
**(Amended After Comments)**

**502 KAR 30:050. Security of centralized criminal history record information.**

RELATES TO: KRS 17.140**, 17.150**

STATUTORY AUTHORITY: KRS **15A.160[~~15A.060~~]**, [~~17.080,~~]17.140**, 17.150**

NECESSITY, FUNCTION, AND CONFORMITY: KRS [~~17.080 authorizes the Secretary of Justice to institute rules and administrative regulations and direct proceedings and actions for administration of laws and functions that are invested in the Justice Cabinet. KRS~~] 17.140 **requires a centralized criminal history record information system to be established[~~establishes,~~]** in the Justice and Public Safety Cabinet under the direction, control, and supervision of the commissioner of the Department of **Kentucky** State Police**[~~, a centralized criminal history record information system. KRS 17.140 defines a centralized criminal history record information system as the system including equipment, facilities, procedures, and agreements for the collection, processing, preservation, or dissemination of criminal history records maintained by the Justice Cabinet~~]**. **KRS 15A.160 authorizes the secretary of the cabinet to adopt**

**administrative regulations to administer the cabinet. KRS 17.150(6) requires the secretary of the cabinet to promulgate administrative regulations necessary to implement the criminal history record information system.** This administrative regulation sets specific security standards to preserve the CHRI in an acceptable state.

Section 1. Procedures shall be implemented in the centralized criminal history record information system to insure that access to criminal history record information is restricted to authorized persons. The ability to access, modify, change, update, purge, or destroy such information shall be limited to authorized criminal justice personnel, or other authorized persons who provide operational support, such as programming or maintenance. Technologically advanced software or[~~and/or~~] hardware designs shall be implemented to prevent unauthorized access to criminal history record information.

Section 2. Procedures shall be implemented in the centralized criminal history information system to determine what persons have authority to enter in areas where criminal history information is stored and implement access control measures to insure entry is limited to specific areas where authorization is valid. Further, access control measures shall be implemented to insure unauthorized persons are totally denied access to areas where criminal history record information is stored. [~~Said~~] Access constraints shall include[~~, but not be limited to,~~] the system facilities, systems operating environments, data file contents, whether while in use or when stored in media library, and system documentation.

Section 3. Procedures shall be implemented in the centralized criminal history information system to insure that computer operations which support the criminal history record information data base, whether dedicated or shared, operate in accordance with procedures developed or approved by the Justice **and Public Safety** Cabinet, and further insure that:

(1) CHRI is stored by the computer in such a manner that it cannot be modified, destroyed, accessed, changed, purged, or overlaid in any fashion by unauthorized persons.

(2) Operational programs are used that will prohibit inquiry, record updates, or destruction of records, from any terminal other than designated terminals within the **Criminal Identification and** Records **Branch**.

(3) The destruction, partial deletion, total deletion, or record correction is limited to designated terminals under the direct control of **Criminal Identification and Records Branch[~~records~~]**.

(4) Operational programs are used to detect and store for the output of designated criminal justice agency employees, all unauthorized attempts to penetrate any criminal history record information system, program or file.

(5) The programs specified in subsections (2) and (4) of this section are known only to criminal justice agency employees responsible for criminal history record information system control or individuals in agencies pursuant to a specific written agreement with the Justice **and Public Safety** Cabinet to provide such programs and the operational program(s) are continuously kept under maximum security conditions.

(6) Procedures are instituted to assure that any individual or agency authorized direct access is responsible for:

(a) The physical security of criminal history record information under its control or in its custody; and

(b) The protections of such information from unauthorized access, disclosure or dissemination.

Section 4. Procedures shall be implemented in the centralized criminal history record information system to protect CHRI from unauthorized access, theft, sabotage, fire, flood, wind, or other natural or manmade disasters.

Section 5. Emergency Plans Required. Written plans and instructions dealing with emergencies described in Section 4 of this administrative regulation shall be developed in manual form and cover all foreseeable incidents ranging from minor accidents to major disasters causing the destruction of computer facilities, entire data bases, and[~~and/or~~] CHRI contained in manual files. Employees of the centralized criminal history record information system shall be trained in procedures and specifically assigned responsibilities in case of an emergency. Plans and instructions shall include[~~should be inclusive of, but not limited to,~~] emergency shutdown and evacuation procedures, a disaster recovery plan to restart critical system functions, procedures for backup files for critical data such as fingerprint cards, and duplicate system designs. The commissioner of the Department of **Kentucky** State Police shall make available needed personnel to reinstitute the centralized criminal history record information system as soon as feasible after accident or disaster.

**[~~Section 6. The records commander shall institute procedures for the screening, supervising, and disciplining of agency personnel in order to minimize the risk of compromising internal security. A background investigation of all prospective employees for records shall be conducted. The scope of the background investigation shall include~~]**[~~be inclusive of, but not limited to~~]**[~~:~~**

**[~~(1) Verification of all items as listed on the employment application;~~**

**[~~(2) Moral character;~~**

**[~~(3) Financial history;~~**

**[~~(4) Individual as well as spouse arrest history inclusive of juvenile files; and~~**

**[~~(5) Agency personnel records. All records employees shall~~]**[~~will~~] **[~~agree to and sign nondisclosure statements and notice of security breach forms. The records commander shall so notify the Commissioner of the State Police as to any violation of security policy. A violation of said security policy shall include~~]**[~~, but not be limited to,~~] **[~~the intentional violation or wanton disregard of the~~]**[~~any or all~~] **[~~security policies with regard to criminal history record information as set forth by section policy or~~]**[~~;~~] **[~~the compromising of an employee's security by committing, facilitating, or being a party to a crime. Upon notification by the records commander of a security compromise, the commissioner shall take immediate appropriate administrative action.~~]**

COL. PHILLIP J. BURNETT, JR., Commissioner
KERRY B. HARVEY, Secretary

APPROVED BY AGENCY: January 11, 2022

FILED WITH LRC: January 11, 2022 at 10:44 a.m.

CONTACT PERSON: Amy Barker, Assistant General Counsel, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8207, fax (502) 564-6686, email Justice.RegsContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation sets specific security standards to preserve criminal history record information (CHRI) in an acceptable state.

(b) The necessity of this administrative regulation: This regulation ensures compliance with KRS 17.140 and ensures that the CHRI remains secure to prevent unauthorized access.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation works to ensure the appropriate processes for preservation of the criminal history records maintained by the Justice and Public Safety Cabinet and implements procedures to limit access to the protected information to authorized persons.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will assist the Criminal Identification and Records Branch in implementing and maintaining the appropriate procedures to effectively protect and store the protected CHRI.

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

(a) How the amendment will change this existing administrative regulation: The amendment will clarify the existing language of the

administrative regulation, which provides guidance on how to effectively maintain and protect sensitive information. It revises the name of the entity that handles the criminal history record information within the Department and corrects the cabinet and Department names.

(b) The necessity of the amendment to this administrative regulation: The previous language was unclear and not appropriately defined within relevant sections of the text.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment further clarifies the language of the regulation which works to ensure the appropriateness of the procedures implemented by the Criminal Identification and Records Branch.

(d) How the amendment will assist in the effective administration of the statutes: The amendment contains language that is more clearly defined, which will benefit the personnel charged with implementing the subject procedures.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Department of Kentucky State Police, the Justice and Public Safety Cabinet, and all persons with personal information stored within the criminal history record information database maintained by Criminal Identification and Records Branch.

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

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: This amendment does not require the regulated entities to take any action separate and apart from the previous language of the regulation; instead, this amendment provides clarification of the appropriate processes.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: No additional cost is anticipated.

(c) As a result of compliance, what benefits will accrue to the entities: The regulated agencies will have more clearly defined guidance on the appropriate procedures regarding the sensitive information that they are charged with protecting.

(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 Department and the criminal justice agencies.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase is necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: The amendment of this administrative regulation does not establish any new fees or increase any fees, directly or indirectly.

(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 Department of the Kentucky State Police, the Justice Cabinet, and all persons with personal information stored within the criminal history record information database maintained by Records.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 17.140, KRS 15A.060

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

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

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

(c) How much will it cost to administer this program for the first year? No additional cost is anticipated.

(d) How much will it cost to administer this program for subsequent years? No additional cost is anticipated.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**JUSTICE AND PUBLIC SAFETY CABINET**
**Department of Kentucky State Police**
**(Amended After Comments)**

**502 KAR 30:070. Inspection of criminal history record information by record subject.**

RELATES TO: KRS 17.140, 17.150, 61.872, 61.878, 61.884

STATUTORY AUTHORITY: KRS 15A.150, [~~17.080,~~]17.150

NECESSITY, FUNCTION, AND CONFORMITY: **KRS 17.150(6) requires the secretary of the Justice and Public Safety Cabinet to promulgate administrative regulations necessary to implement the criminal history record information system. [~~KRS 17.150(5) makes that portion of KRS Chapter 61 which deals with administrative and judicial remedies for the inspection of public records and penalties appealable. KRS 61.884 allows the individual record subject to access their personal CHRI~~]** [relating to him] **[~~or other data in which the record subject is mentioned by name.~~]** This administrative regulation establishes **procedures** by which CHRI may be **reviewed and challenged[~~accessed~~]** by the individual record subject.

Section 1. **Access and Review Procedures. (1) The record subject of CHRI maintained by the department may review CHRI about the record subject and initiate a challenge to the CHRI through the Criminal Identification and Records Branch.**

**(2) To review CHRI, the record subject shall provide to the Criminal Identification and Records Branch at 1266 Louisville Road, Frankfort, Kentucky 40601:**

**(a) A completed Criminal History Information Review Request, KSP 309;**

**(b) One (1) set of rolled fingerprints to be used to verify the record subject's identity; and (c) A check or money order made payable to the Kentucky State Treasurer in the amount of twenty (20) dollars.**

**(3) The Criminal Identification and Records Branch staff shall:**

**(a) Note the date the request is received on the KSP 309; and**

**(b) Within five (5) working days of the receipt of the request:**

**1.Mail the criminal history records to the requestor if requested; or**

**2. Schedule the record review. If a review is scheduled, the requester shall be notified of the scheduled date and time of review in writing.**

**Section 2. Record Review Procedures. (1) To ensure that the subject appearing for a scheduled review of the CHRI is the person from whom the submitted set of fingerprints was obtained, Criminal Identification and Records Branch staff shall check the identity of the person prior to review of the CHRI by visually comparing the person to the picture on a driver's license or other government picture identification.**

**(2) The record subject, and his attorney, if written authorization is submitted by the record subject, may inspect the copy of the CHRI at the scheduled review.**

**(3) Criminal Identification and Records Branch staff shall provide reasonable assistance upon request to assist with understanding of the CHRI at the scheduled review.**

**(4) The Criminal Identification and Records Branch shall inform the record subject in writing that a challenge shall be initiated within thirty (30) working days of the scheduled review or the date the records are mailed to the record subject.**

**(5) If the record subject does not initiate a challenge at the time of CHRI review, a copy of the individual's record shall be retained by the Criminal Identification and Records Criminal Identification and Records Branch and filed with the record subject's KSP 309 form in a manner convenient to the Branch. Information regarding the Request for Review form shall remain at the Criminal Identification and Records Branch not less than thirty (30) working days from the scheduled date of review or mailing of the records. If after thirty (30) working days, a challenge has not been initiated, all documents regarding the review shall be maintained in accordance with the Criminal Identification and Records Branch's retention schedule.**

**Section 3. Challenge of Record Contents. (1) If the record subject desires to challenge the contents of the record, the record subject shall deliver or mail within thirty (30) working days of the record review or mailing of the records for review, whichever is later, a completed Criminal History Information Challenge, KSP 310, with supporting documents to the Criminal Identification and Records Branch, 1266 Louisville Road, Frankfort, Kentucky 40601.**

**(2) The record subject shall state on the KSP 310 if the individual requests a copy of the CHRI for purposes of the challenge.**

**(3) A copy of the individual's CHRI shall be given to the individual if a challenge is initiated and the individual requests a copy of the CHRI on the KSP 310 for purposes of pursuing a challenge. The copy provided by the Criminal Identification and Records Branch shall be permanently marked or stamped to indicate that the copy is for the purpose of the challenge and that any other use of the CHRI would be in violation of federal and state law.**

**Section 4. Processing of Challenge. (1) The Criminal Identification and Records Branch shall conduct a comparison of the information under challenge with the original input documents and information contained in the repository files.**

**(2) Any errors or omissions discovered in the repository files shall be corrected.**

**(3) If no error is found, the Criminal Identification and Records Branch shall:**

**(a) Forward to the agency or agencies which the records indicate as contributing the information under challenge a copy of the:**

**1. Original challenge form;**

**2. Record as contained in the files; and**

**3. Any other relevant information; and**

**(b) Request examination in an expeditious manner all relevant files to determine the validity of the challenge.**

**(4) The Criminal Identification and Records Branch shall notify the record subject or his legal counsel in writing of the status of the challenge within thirty (30) working days of the receipt of the challenge. Status of the challenge shall include a notice of clarification of record, expungement of erroneous data, substantiating record, or ongoing research process. The Criminal Identification and Records Branch shall notify the record subject of the results for the examination thirty (30) days after the previous notice if it reported an ongoing research process.**

**Section 5. Administrative Review. (1) If the record subject is dissatisfied with the action taken by the Criminal Identification and Records Branch, the individual may request an administrative review.**

**(2) The administrative review request shall be made in writing and mailed or delivered to the attention of the Criminal Identification and Records Branch Commander, 1266 Louisville Road, Frankfort, Kentucky 40601.**

**(3) The Commander shall provide the request to the Administrative Review Officer upon receipt of the request.**

**(4) The Administrative Review Officer shall review the record subject's CHRI in the same manner as performed by the Criminal Identification and Records Branch.**

**(5) The Administrative Review Officer shall notify the individual, in writing, of the decision on the administrative review. The notice shall be made in writing within thirty (30) days of receipt of the written request for the administrative review by the Commander.**

**Section 6. Action Taken if Error or Omission Found within Record. (1) The Criminal Identification and Records Branch shall correct necessary documents maintained in custody and notify all known criminal justice recipients of the erroneous information within the past year.**

**(2) The Criminal Identification and Records Branch shall furnish the record subject, upon request, a written list of known noncriminal justice recipients of the CHRI within the past year and corrections to be made.**

**(3) The Criminal Identification and Records Branch shall request in writing that the agency originating the erroneous information notify all known criminal justice recipients within the past year of corrections to be made.**

**(4) The Criminal Identification and Records Branch shall search for background checks made concerning the record subject within the past year and send a letter stating the correction with a copy of the corrected background check to an entity that was sent the incorrect background check results. A copy of the letter shall be sent to the record subject.**

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

**(a) "Criminal History Information Review Request", KSP 309, 2011 edition; and**

**(b) "Criminal History Information Challenge", KSP 310, 2008 edition.**

**(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky State Police, Criminal Identification and Records Branch, 1266 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the agency Web site kentuckystatepolice.org.** [~~This administrative regulation~~] [~~These administrative regulations~~] **[~~shall provide for the initiation of~~ access and review]**[access/review] **[~~procedures~~]** [~~at each~~] **[~~of CHRI maintained by the Kentucky State Police,~~]** [~~Posts throughout~~] **[~~The~~]** [~~Commonwealth with the exception of Frankfort, Post 12. The~~] **[~~Records Section~~] [~~shall serve as the location for record~~ access and review]** [access/review] **[~~for individuals near Frankfort.~~]** [~~Access/review procedure shall be uniform throughout the various designated sites.~~]

**[~~Section 2.~~ Access and Review Procedures]**[~~Access/Review Procedure~~]**[~~. The record subject shall complete the "Request for Review" form provided by~~ Records]**[~~at the respective access/review site~~]**[~~. A duplicate copy of~~ the]**[~~said~~] **[~~form shall be provided to the requester, or requester's legal counsel. The requester shall be required to provide~~ one (1) set of rolled fingerprints ~~.~~]**[~~from~~] **[~~The~~]** [~~requester on a completed KSP Form 22, will be forwarded to Records where~~ ] **[~~submitted fingerprints~~**

**will] [be used to verify the record subject's identity. The Records staff shall note the date of the request as indicated on the "Request for Review" form and shall schedule the record review within three (3) working days of the receipt of the request, unless a detailed explanation of the cause is given for further delay along with the place, time and earliest date on which the CHRI will be available for inspection. The requester shall be notified]** [forthwith ]**[by Records of the scheduled date of review.]**[All record reviews will be conducted from 8 a.m. through 4 p.m., Monday through Friday with the exception of legal holidays, at the designated State Police Post or the Records Section. Records shall returned to the post of the respective access/review request, the "Request for Review" form, the fingerprints taken from the individual for identity verification, a copy of the letter to the record subject scheduling the review date, and a certified copy of the individual's criminal history record.

Section 3. Record Reviewing Procedures. In order to insure that the subject appearing at the Post for the scheduled review of the CHRI supplied from Records is in fact the same person the submitted set of fingerprints were obtained from, visual recognition is required by Post personnel before allowing the individual to actually access the CHRI. The individual, and his attorney (if written approval is submitted by the record subject) shall be allowed to inspect the copy of the CHRI. Reasonable assistance shall be provided by Post personnel to insure understanding of the CHRI. After the record subject has inspected the CHRI, Post personnel should ascertain if a challenge of the content of the records will be initiated. Basis for challenge shall stem from erroneous information, misinformation, or fictitious information. The individual shall be informed that a challenge must be initiated within thirty (30) working days of the actual review. If a challenge is not initiated at the time of review, a copy of the individual's record will be retained at the Post and will be filed with the individual's "Request for Review" form in a manner convenient to the Post. Information regarding the "Request for Review" shall remain at the Post not less than thirty (30) working days from the actual date of review to allow the individual ample time to challenge the record content. If, after thirty (30) working days a challenge has not been initiated, all material regarding the review shall be returned to Records where a permanent record of the review shall be maintained.

Section 4. Challenge of Record Contents. If the record subject desires to challenge the contents of the record, the individual shall complete the "Challenge of Record" form (bottom portion of the original form). A duplicate copy should be provided to the individual. It should be noted on the form if the individual requests a copy of the record for purposes of challenge. A copy of the individual's record furnished through the Post by Records shall be given to the individual if a challenge is initiated and the individual states a need for a copy of the record for purposes of pursuing a challenge. The copy provided by Records shall be permanently marked or stamped to indicate that the copy is for the purpose of challenge and that any other use thereof would be in violation of federal and state law. The Post shall forward to Records a "Challenge of Record" form and any documents submitted by the individual in support of the challenge.

Section 5. Processing of Challenge by Records. Records shall conduct a comparison of the information under challenge with the original input documents and information contained in the repository files. Any errors or omissions discovered in the repository files shall be corrected. If no error is found, Records shall forward a copy of the original challenge form, a copy of the record as contained in the files, and any other relevant information to the agency or agencies which the Record Section's records indicate as contributing the information under challenge and shall request them to examine in an expeditious manner all relevant files to determine the validity of the challenge. Records shall notify the individual or his legal counsel in writing of the status of said challenge within thirty (30) working days of the challenge date. Status of challenge includes, but is not limited to, notice of clarification of record, expungement of erroneous data, substantiating record or ongoing research process.

Section 6. Administrative Review. If the record subject is dissatisfied with the action taken by Records, the individual may request an Administrative Review. This request shall be submitted in writing and directed to the attention of the Commander of the Records Section. The Commander of the Records Section shall notify in written form the Administrative Review Officer of the request for Administrative Review upon receipt of such request. An individual within the Department of State Police and designated by the Commissioner as the Administrative Review Officer shall review the individual's record in the same manner as performed by Records. The Administrative Review Officer shall notify the individual, in writing, of the decision of the Administrative Review. This notification shall be within thirty (30) days of submission of the written request for the Administrative Review. Any further appeal by the individual will be directed to the court for judicial review.

Section 7. Action Taken if Error or Omission Found Within Record. Records shall correct necessary documents maintained in custody. Notification of all known criminal justice recipients of the erroneous information within the past year and corrections shall be effected in written form. Records shall furnish the individual, upon request, a written list of known noncriminal justice recipients within the past year and of corrections to be made. Records will require that the agency originating the erroneous information notify all known criminal justice recipients within the past year and of corrections to be made. Further, the originating agency will be requested to furnish the individual, upon request, a written list of all known noncriminal justice recipients of erroneous information within the past year.]

COL. PHILLIP J. BURNETT, JR., Commissioner
KERRY B. HARVEY, Secretary
APPROVED BY AGENCY: January 10, 2022
FILED WITH LRC: January 11, 2022 at 10:44 a.m.
CONTACT PERSON: Amy Barker, Assistant General Counsel, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8207, fax (502) 564-6686, email Justice.RegsContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker
(1) Provide a brief summary of:
(a) What this administrative regulation does: This regulation provides the procedure for access and review of the criminal history record information (CHRI) maintained by the Kentucky State Police Criminal Identification and Records Branch.
(b) The necessity of this administrative regulation: This regulation is necessary to comply with the requirements of KRS 17.150.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation establishes the procedures for a record subject to review and challenge CHRI held by the Criminal Identification and Records Branch.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes the procedures for a record subject to review and challenge CHRI held by the Criminal Identification and Records Branch.
(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 clarifies the procedures for a record subject to review and challenge CHRI held by the Criminal Identification and Records Branch
(b) The necessity of the amendment to this administrative regulation: The previous language relating to the methods of challenging CHRI was unclear.
(c) How the amendment conforms to the content of the authorizing statutes: The amendment complies with the requirement of KRS 17.150(6) to insure the accuracy of the information.
(d) How the amendment will assist in the effective

administration of the statutes: This amendment removes the ambiguity that was present in the prior language regarding the procedure for challenging alleged errors in the CHRI.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Kentucky State Police, the Department of Criminal Justice Training, criminal justice agencies that provide information for the centralized criminal history records, and all persons attempting to access or inspect CHRI.

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

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: The record subjects will have to comply with the review and challenge procedure changes, the criminal justice agencies will have to research and address information errors.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: No additional cost is anticipated.

(c) As a result of compliance, what benefits will accrue to the entities: The amendment allows the Records Section to adhere to the accepted standards already in place.

(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 department and the criminal justice agencies.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase is necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: The amendment establishes a fee for a copy of CHRI.

(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 Kentucky State Police, the Department of Criminal Justice Training, criminal justice agencies that provide information for the centralized criminal history records, and all persons attempting to access or inspect CHRI.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 15A.150, 17.140, 17.150, 61.872, 61.878, 61.884

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The revenue for the department is limited because inspections may be made without the fee being paid for a copy.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The revenue for the department is limited because inspections may be made without the fee being paid for a copy.

(c) How much will it cost to administer this program for the first year? No additional cost is anticipated.

(d) How much will it cost to administer this program for subsequent years? No additional cost is anticipated.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**JUSTICE AND PUBLIC SAFETY CABINET**
**Department of Kentucky State Police**
**(Amended After Comments)**

**502 KAR 35:040. Reporting of missing children by law enforcement agencies.**

RELATES TO: KRS 17.450, 17.460

STATUTORY AUTHORITY: KRS 15A.160 **[~~17.080~~]**, 17.450, 17.460

NECESSITY, FUNCTION, AND CONFORMITY: KRS 17.450 **requires** **[~~mandates that~~]** the Justice and Public Safety Cabinet **to[~~shall~~]** establish a Kentucky Missing Child Information Center which shall serve as the central repository [~~Central Repository~~] of and clearing house for information about Kentucky **children believed to be missing and children from other states believed to be missing in Kentucky** **[~~related missing children~~]**. KRS 17.460 **requires** **[~~mandates that~~]** the law enforcement agencies receiving notification of a missing child **to[~~shall~~]** report information relating to that missing person to the Missing Child Information Center **[~~in a timely nature~~]**. **KRS 17.450 authorizes the cabinet to promulgate administrative regulations for the orderly receipt of missing child information and requests for retrieval of missing child information.** This administrative regulation establishes procedures **[~~and time frames~~]** associated with the reporting of a missing child.

Section 1. Reporting to the Missing Child Information Center.

(1) A KSP **[~~Form~~]** 261, **["]**Kentucky[~~As defined in this Chapter 502 KAR 35:010(3), a Kentucky~~] Missing Person's Report Form**,["]** shall be [~~initiated and~~] completed immediately by a law enforcement agency upon receiving notification from a parent or guardian that a child is missing. This form shall **be**:

(a) **[~~Be~~]** Completed to the fullest extent possible by the law enforcement agency receiving the missing child report; and

(b) **[~~The form shall be~~] F**orwarded to the Missing Child Information Center no later than twenty-four (24) hours after notification was made.

(2) If possible, a current photograph **shall**[~~and a Child I-Dent Form~~] **[~~will~~]** be obtained from the parent, guardian, or, if approved by the parent or guardian, from the school of the missing child. [~~The Kentucky Missing Persons Report Form shall either be completed by the responsible law enforcement agency or completed to the fullest extent possible with the information available and in all cases will be forwarded to the Missing Child Information Center no later than twenty-four (24) hours after notification by parent or guardian. In the event that the missing child is located prior to forwarding the report form, it is not necessary to forward that report form to the Missing Child Information Center.~~]

Section 2. LINK/NCIC Entry.

(1) The law enforcement agency receiving the initial report of a missing child shall immediately enter into the Law Information Network of Kentucky **(["]**LINK**["])** and the National Crime Information Center **(["]**NCIC**["])** computer criterion information related to the missing child.

(2) [~~Section 3.~~] **If [~~In the event that~~]** the reporting agency does not have direct terminal access to NCIC or is not participating in the regional LINK/NCIC Network, **[~~it shall be the responsibility of~~]** the reporting agency **shall:**

**(a) Complete a Kentucky Missing Person's Report Form, KSP 261; and**

**(b) Forward the KSP 261 to the Missing Child Information Center no later than twenty-four (24) hours after notification was made.**

**(3) Responsibility for the ongoing investigation of the missing child incident shall remain with the reporting agency and shall not automatically transfer to the Kentucky State Police post that entered the information on behalf of the reporting agency.**[~~to enter criterion information through the nearest Kentucky State Police Post.~~ **Responsibility for**] [~~It shall not be the responsibility of said post to assure~~]**[~~the ongoing investigation of the missing child incident~~]**[~~, that responsibility~~] **[~~shall remain with the~~ reporting]** [~~submitting~~] **[~~agency and shall not automatically transfer to the Kentucky State Police post that entered the information on behalf of the reporting agency.~~]**

Section 3.[~~Section 4.~~] As soon as possible, but no later than twenty-four (24) hours after the entry of missing child information, the investigating law enforcement agency shall notify law enforcement agencies having concurrent jurisdiction via electronic or telecommunicative means. Receiving agencies shall promptly notify agency duty personnel of all information relating to a missing child incident.

Section 4.[~~Section 5.~~] The Kentucky Missing **Child Information Center**[~~**Person's Web site**~~]. The Kentucky Missing Child Information Center shall:

(1) [~~**Maintain a public website for missing persons in Kentucky; and**~~

[~~**(2)**~~] Issue bulletins [~~issue flyers~~] containing physical and situational descriptions, or photographs whenever possible, of missing children **if requested by a law enforcement agency or as determined by the Kentucky Missing Child Information Center** [~~**on the Kentucky Missing Person's Web site**~~]. [~~when requested by a law enforcement agency or when determined by the Kentucky Missing Child Information Center.~~] Any bulletin that is issued shall contain the following information, at minimum: [~~Minimum information required before a bulletin flyer may be issued from the Kentucky Missing Child Information Center, shall be:~~]

(a) Reporting agency;[~~,~~]

(b) Case number;[~~,~~]

(c) [~~**ORI;**~~][~~,~~]

[~~**(d)**~~] Date missing;[~~,~~]

**(d)**[~~**(e)**~~] Name;[~~,~~]

**(e)**[~~**(f)**~~] Address;[~~,~~]

**(f)**[~~**(g)**~~] Sex;[~~,~~]

**(g)**[~~**(h)**~~] Race;[~~,~~]

**(h)**[~~**(i)**~~] Date of birth;[~~,~~]

**(i)**[~~**(j)**~~] Height;[~~,~~]

**(j)**[~~**(k)**~~] Weight;[~~,~~]

**(k)**[~~**(l)**~~] Hair color;[~~,~~] **and**

**(l)**[~~**(m)**~~] The most recent photograph providing an adequate likeness.[~~**; and**~~][~~,~~]

[~~**(n) Signature of parent or guardian**~~][~~, officer submitting report, and agency authorization. It shall be the responsibility of the investigating agency to request that a flyer be issued and to submit to the Kentucky Missing Child Information Center all information needed.~~]

**(2)**[~~**(3)**~~] Bulletins **shall be sent to requesting Kentucky law enforcement agencies and**[~~Flyers~~] [~~**will be provided through access to the public Kentucky Missing Person's Web site to all Kentucky law enforcement agencies as defined in 502 KAR 35:010(4) in addition**~~] to law enforcement agencies in geographical areas **to which**[~~where~~] there is reason to believe the missing child is proceeding [~~**to**~~] or in in the process of being taken[~~ **to**~~].

Section 5.[~~Section 6.~~] Cancellation of Missing Child Report. (1) [~~**It shall be the responsibility of**~~] The law enforcement agency that found or returned the missing child **shall**[~~**to**~~] append the existing LINK/NCIC message by placing a locator message on the entry.

(2) [~~**It shall be the responsibility of**~~] The reporting agency, upon notification and verification that the child has been found, **shall**[~~**to**~~] cancel **the** missing child entries in LINK/NCIC.

(3) **The reporting agency shall update the case report in the KYOPS with the location of the recovery of the missing child. If the reporting agency does not use KYOPS, it shall notify the Kentucky Missing Child Information Center with the location of the recovery of the missing child within seventy-two (72) hours** [~~**The Kentucky Missing Child Information Center shall**~~] [~~may~~] [~~**require information related to the location**~~] [~~finding~~] [~~**or recovery of the missing child to**~~] [~~better~~] [~~**provide statistical information on missing children, as required by 502 KAR 35:050**~~].

COL. PHILLIP J. BURNETT, JR., Commissioner
KERRY B. HARVEY, Secretary

APPROVED BY AGENCY: January 10, 2022

FILED WITH LRC: January 11, 2022 at 1:30 p.m.

CONTACT PERSON: Amy Barker, Assistant General Counsel, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8207, fax (502) 564-6686, email Justice.RegsContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes procedures associated with the reporting of a missing child.

(b) The necessity of this administrative regulation: This regulation provides reporting instructions to law enforcement agencies.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 17.350 requires the Cabinet to establish the Kentucky Missing Child Information Center. This regulation provides reporting instructions to law enforcement agencies.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation provides guidance to law enforcement.

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

(a) How the amendment will change this existing administrative regulation: The amendment will clarify the existing language of the administrative regulation and include requirements for submission. The amendment removes Web site language since it was not funded and adds bulletin distribution information in its place.

(b) The necessity of the amendment to this administrative regulation: The previous language was unclear and not completely defined within the relevant sections of the text. Funding was not obtained to build the Web site.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment provides for bulletins in place of the Web site. KRS 17.450 authorized the cabinet to promulgation administrative regulations for the orderly receipt of missing child information and requests for retrieval of missing child information.

(d) How the amendment will assist in the effective administration of the statutes: The amendment provides reporting instructions to law enforcement agencies.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Department of the Kentucky State Police and all law enforcement and criminal justice agencies which submit or receive information through the Kentucky Missing Children Information Center.

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

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: The law enforcement agencies will have to report missing children in the manner described.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: No additional

cost is anticipated.

(c) As a result of compliance, what benefits will accrue to the entities: The regulated agencies will have more clearly defined guidance on the scope of the audit, and can more effectively ensure compliance with the applicable regulations and procedures.

(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 department and the law enforcement agencies.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase is necessary.

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

(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 Department of the Kentucky State Police, and all law enforcement and criminal justice agencies which submit or receive information through the Kentucky Missing Children Information Center.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 15A.160, 17.450

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

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

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

(c) How much will it cost to administer this program for the first year? No additional cost is anticipated.

(d) How much will it cost to administer this program for subsequent years? No additional cost is anticipated.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**JUSTICE AND PUBLIC SAFETY CABINET**
**Department of Kentucky State Police**
**(Amended After Comments)**

**502 KAR 45:015. Qualifications.**

RELATES TO: KRS 16.040, 16.050, 16.080

STATUTORY AUTHORITY: KRS 16.040, 16.080

NECESSITY, FUNCTION, AND CONFORMITY: KRS 16.040 sets forth the basic qualifications for appointment as an officer **and authorizes the commissioner to establish additional experience for qualification by promulgation of administrative regulations**. KRS 16.080 **requires[~~vests in~~]** the commissioner **[~~the authority~~]** to **promulgate[~~adopt~~]** administrative regulations for enlistment. This administrative regulation establishes the procedure to be used to determine whether applicants possess the basic qualifications for appointment as a trooper.

Section 1. Age. **An applicant [~~Applicants~~]** shall submit a birth certificate to establish that **the applicant meets [~~they meet~~]** the age qualification of KRS 16.040(2)(a).

Section 2. Citizenship and Residency. (1) **An applicant[~~Applicants~~]** shall submit documentation verifying **the applicant's[~~their~~]** citizenship and residency, in accordance with[~~a college transcript verifying sixty (60) semester hours of credit from an accredited college or university or a high school diploma or GED with a copy of their DD-214 reflecting two (2) years of active duty military service or a notarized letter from the law enforcement employer certifying two (2) years of fulltime law enforcement employment as a sworn officer to establish the educational or experience qualification of~~] KRS 16.040(2)(c)[~~(d)~~].

(2)[~~Section 3.~~] **An applicant [~~Applicants~~]** who **is a citizen [~~are citizens~~]** of another country at the time of application shall submit **a** naturalization **certificate [~~certificates~~]** prior to employment to establish the citizenship qualification of KRS 16.040(2)(c).

(3)[~~Section 4.~~] **An applicant [~~Applicants~~]** who **is a citizen [~~are citizens~~]** of another state at the time of application shall submit **a** Kentucky motor vehicle operator's **license [~~licenses~~]** prior to appointment to establish the residency qualification of KRS 16.040(2)(c).

Section 3.[~~Section 5.~~] Education and Experience. **Pursuant to KRS 16.040(2)(d), an applicant shall submit, electronically or in paper form,** the **following:**

**(1) A certified copy of the applicant's college transcript from an accredited college or university verifying:**

**(a) Sixty (60) semester hours of credit; or**

**(b) An associate degree;**

**(2) (a) A certified copy of the applicant's high school diploma; and**

**(b) Proof of military experience by:**

**1. A certified copy of the applicant's DD-214; or**

**2. A letter verifying two (2) years of active duty military service for the applicant from a commanding officer with a notarized acknowledgment of the signature;**

**(3) (a) A certified copy of the applicant's high school diploma;**

**(b) A letter on the law enforcement agency's letterhead verifying two (2) years of full-time, paid employment as a certified, sworn peace officer with a notarized acknowledgment of the signature; and**

**(c) A completed, subscribed, and sworn KSP-004a form certifying two (2) years of full time employment as a:**

**1. Kentucky Police Officer Professional Standards (POPS) certified peace officer with a law enforcement agency; or**

**2. Certified peace officer in another state with a law enforcement agency; or**

**(4) (a) A certified copy of the applicant's:**

**1. High school diploma; or**

**2. General Equivalency Development (GED) diploma; and**

**(b) A completed, subscribed, and sworn KSP-004a form certifying thirty-six (36) months of having worked a minimum of thirty (30) hours per week or 130 hours per month in the following:**

**1. Employment;**

**2. Volunteer work; or**

**3. A paid or unpaid internship.[~~Applicants shall submit the following, electronically, or in paper form, pursuant to the requirements of KRS 16.040(2):~~**

**~~(1) A certified copy of their high school diploma or GED certificate to establish his or her educational experience qualifications,~~**

**~~(2) A certified copied of his or her college transcript verifying sixty (60) semester hours of credit from an~~**

**~~accredited college or university,~~**

**~~(3) A certified copy of his or her DD-214 or a notarized letter from a commanding officer verifying two (2) years of active duty military service,~~**

**~~(4) A notarized correspondence on agency letterhead from the law enforcement employer certifying two (2) years of full-time, paid employment as a certified, sworn peace officer; or~~**

**~~(5) A notarized Kentucky State Police Three (3) Years Work Experience Verification Form (KSP-004a) certifying thirty-six (36) months of employment, volunteer work, or paid or unpaid internships, verifying having working an average minimum of thirty (30) hours per week or 130 hours per month,~~**

**~~(6) A notarized Kentucky State Police Three (3) Years Work Experience Verification Form (KSP-004a) certifying two (2) years of full time employment as a POPS certified peace officer with a Kentucky law enforcement agency, having actively served within the past twelve (12) months, when applying to a LEAP academy, as described in this Chapter.~~**]

Section 4. Aptitude Test. **An applicant who is[~~Applicants~~]** continuing in the selection process shall submit to an aptitude test**.** [~~to a written examination~~]as described in this Chapter, designed and constructed to reveal the capacity of the applicant for employment as a sworn officer of the department. [~~Following the written examination the commissioner shall determine the number of applicants advancing to the next component of the selection process based upon the vacant funded positions and the projected attrition rates as candidates advance through the selection process.~~]

Section 5.[~~Section 6.~~] Physical Fitness Test. **An applicant who is[~~Applicants~~]** continuing in the selection process shall successfully complete the Physical Fitness Test (PFT), as described in this Chapter**,[~~,~~]** [~~Following the written examination an appropriate number of applicants shall advance to the Content Based Task Test (CBTT)~~] to determine if [~~whether~~] the applicant is physically able to safely perform essential job tasks as required by the Kentucky State Police Academy. The inability to safely perform essential job tasks, with or without reasonable accommodations, shall be grounds for deferral or disqualification.

Section 6.[~~Section 7.~~] Interview. **An applicant who is[~~Applicants~~]** continuing in the selection process shall successfully complete [~~Following completion of the Content Based Task Test (CBTT) an appropriate number of applicants shall advance to~~] the **[~~oral~~]** interview component of the selection process, as described in this Chapter.

Section 7.[~~Section 8.~~] Background Investigation. **An applicant who is[~~Applicants~~]** continuing in the selection process[~~Following successful completion of the oral interview component of the selection process, an appropriate number of applicants~~] shall submit [~~advance~~] to a [~~the~~] background investigation, as described in this Chapter.[~~which may include a polygraph examination~~] to establish the good moral character qualification of KRS 16.040(2)(b).

Section 8.[~~Section 9.~~] Following successful completion of the background investigation component of the selection process**,** an appropriate number of applicants shall be given a conditional offer of employment and required to submit to a medical examination and psychological examination to determine **the applicant's[~~his or her~~]** good health and fitness to safely perform essential job tasks with or without reasonable accommodations, as required by KRS 16.040(2)(b) and (3).

Section 9. Incorporation by Reference. (1) **[~~KSP Form 004a,~~]** "**3[~~Kentucky State Police Three (3)~~]** Years Work Experience Verification Form", **KSP-004a,** 2019 edition, is incorporated by reference.

(2) **This material[~~It~~]** may be inspected, copied, or obtained at the Department of State Police, Recruitment Branch, 919 Versailles Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. **This material is also available** [~~and~~] on the agency website kentuckystatepolice.org.

COL. PHILLIP J. BURNETT, JR., Commissioner

APPROVED BY AGENCY: January 6, 2022

FILED WITH LRC: January 12, 2022 at 2:00 p.m.

CONTACT PERSON: Amy Barker, Assistant General Counsel, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8207, fax (502) 564-6686, email Justice.RegsContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes the procedure to be used to determine whether the applicant possesses basic qualifications for appointment as a trooper and additional experience for qualification pursuant to KRS 16.040(2)(d)3.

(b) The necessity of this administrative regulation: This regulation is necessary to comply with KRS 16.040(2)(d)3 and 16.080.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation conforms to the authorizing statutes by establishing additional experience for qualification pursuant to KRS 16.040(2)(d)3 and enlistment qualification pursuant to KRS 16.080.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the additional experience for qualification and proof of qualification for a trooper.

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

(a) How the amendment will change this existing administrative regulation: This amendment allows the regulation to more accurately reflect the experience qualifications established by the commissioner pursuant to KRS 16.040(2)(d).

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to accurately reflect the qualifications required of each applicant and the proof required.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the authorizing statute by clarifying the qualifications established pursuant to KRS 16.040(2)(d)3.

(d) How the amendment will assist in the effective administration of the statutes: The amendment clarifies the qualifications established pursuant to KRS 16.040(2)(d)3.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Kentucky State Police, applicants to become cadet troopers.

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

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: The applicants will need to obtain the required proof of qualification and all will need to comply with the amendment requirements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: No additional cost is anticipated.

(c) As a result of compliance, what benefits will accrue to the entities: Accurate proof of qualifications will be available.

(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 department.

(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 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 new fees or increase any current fees, directly or indirectly.

(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 Kentucky State Police

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 16.040, 16:050, 16.080

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

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

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

(c) How much will it cost to administer this program for the first year? No additional cost is anticipated.

(d) How much will it cost to administer this program for subsequent years? No additional cost is anticipated.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**CABINET FOR HEALTH AND FAMILY SERVICES**
**Department for Public Health**
**Division of Public Health Protection and Safety**
**(Amended After Comments)**

**902 KAR 10:121. Plan review, annual permitting, and inspection fees for public swimming and bathing facilities, including splash pads operated by local governments.**

RELATES TO: KRS 211.185[~~211.180(1)(c)~~], 211.990(2)[~~, 2000 Ky. Acts ch. 549, part I.A.41~~]

STATUTORY AUTHORITY: KRS 194A.050, 211.180(2) [~~(1), (3), 2000 Ky. Acts ch. 549, part I.A.41~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050 and 211.180(2)[~~(3) and 2000 Ky. Acts ch. 549, part I.A.41~~] authorize the Secretary of the Cabinet for Health and Family Services to adopt a schedule of reasonable fees covering the costs for permitting and inspection of efforts regarding compliance with program standards administered by the cabinet. The fees shall be the total of the operational and administrative costs of the programs to the cabinet and to agencies as defined in KRS 211.185[~~cost of annual inspections performed by the Cabinet for Health Services or a local health department~~]. This administrative regulation establishes a schedule of fees for the cost of annual permitting and inspections of public swimming and bathing facilities, construction plan review, and construction inspection.

Section 1. Fees for Inspections. (1) A fee shall be required for inspections conductedby the cabinet or the local health department to determine compliance with:

(a) 902 KAR 10:120 for public swimming and bathing facilities; and

(b) 902 KAR 10:190 for splash pads operated by local governments.

(2) For public swimming and bathing facilities the annual inspection fee shall be:

(a) Assessed according to the total square footage of the water surface area;

(b) Calculated as established in this paragraph:

1. 1,000 square feet or less, the fee shall be ninety (90) dollars;

2. 1,001 to 1,500 square feet, the fee shall be $150;

3. 1,501 to 2,000 square feet, the fee shall be $200; and

4. 2,001 and above, the fee shall be $200 plus fifty (50) dollars for each additional 500 square feet of water surface area; and

(c) Include seventy-five (75) dollars for **[~~each~~]** interactive water **features[~~feature~~]**.

(3) For all beaches, the annual inspection fee shall be:

(a) Assessed according to the linear square footage of beach front;

(b) Calculated as established in this paragraph:

1. 149 or less linear square feet, the fee shall be ninety (90) dollars;

2. 150 to 200 linear square feet, the fee shall be $175; and

3. 201 and above, the fee shall be $175 plus fifty (50) dollars for each additional fifty (50) linear square feet; and

(c) Include seventy-five (75) dollars for **[~~each~~]** interactive or inflatable water **features[~~feature~~]**.

(4) For splash pads [~~operated by local governments~~] the annual inspection fee shall be $250 per year.

(5) For spas and hot tubs, the annual inspection fee shall be $150 per year.

(6) The inspection fee required by this section shall be:

(a) Paid to the local health department having jurisdiction by check or money order made payable to the Kentucky State Treasurer;

(b) Deposited in the environmental fee account; and

(c) Sent to the Department for Public Health for deposit with the Kentucky State Treasury.

Section 2. Plan Review and Construction Inspection. (1) A fee shall be required for all plan reviews and construction inspections by the cabinet or the local health department to determine compliance with:

(a) 902 KAR 10:120 for public swimming and bathing facilities; and

(b) 902 KAR 10:190 for splash pads operated by local governments.

(2) The fee for plan review shall be calculated as follows:

(a) Swimming and bathing facility plan review for gutter pools, the fee shall be $315.

(b) Swimming and bathing facility plan review for skimmer pools, the fee shall be $157.50.

(c) Swimming and bathing facility plan review for minor reconstruction, the fee shall be $105.

(3) The fee required by subsection (2) of this section shall include seventy-five (75) dollars for **[~~each~~]** interactive water **features[~~feature~~]**.

(4) The fee for swimming and bathing facility construction inspection shall be calculated as follows:

(a) Pre-renovation evaluation, the fee shall be $210.

(b) Rough-in construction inspection, the fee shall be $105.

(c) Final construction inspection, the fee shall be $157.50.

(5) The plan review and construction inspection fees required by this section shall be paid to the Kentucky Department for Public Health by check or money order made payable to the Kentucky State Treasurer.

Section 3. Annual Permit Fee. (1) An annual permit fee of $100 for all public swimming and bathing facilities, including beaches, and splash pads operated by local governments shall be:

(a) Paid no later than May 1 each year; and

(b) Paid to the Kentucky Department for Public Health by check or money order made payable to the Kentucky State Treasurer.

(2) A late payment fee of fifty (50) dollars shall be assessed on all annual permits not received by May 1 each year.[~~Public swimming and bathing facilities shall be subject to the following fees:~~

~~(1) Swimming and bathing facility with a total water surface area of less than 1,000 square feet or less; and a beach front of 149 linear feet or less - eighty-seven (87) dollars per year.~~

~~(2) Swimming and bathing facility with a total water surface area of 1,001 square feet or more; and a beach front of 150 linear feet or more - $167 per year.~~

~~(3) Swimming and bathing facility prerenovation evaluation - $200.~~

~~(4) Swimming and bathing facility plan review for gutter pools - $300.~~

~~(5) Swimming and bathing facility plan review for skimmer pools - $150.~~

~~(6) Swimming and bathing facility plan review with minor reconstruction - $100.~~

~~(7) Swimming and bathing facility rough-in construction inspection - $100.~~

~~(8) Swimming and bathing facility final construction inspection - $150.~~

~~Section 2. Payment of Fees. Fees shall be paid to the local health department having jurisdiction. Fees received by a local health department shall be deposited in the Kentucky State Treasury in a trust and agency account for use solely in administering the program. Inspection fees shall be submitted annually prior to May 1. Fees for a newly constructed facility shall be submitted initially at the preopening inspection and at each May 1 date thereafter.~~]

STEVEN J. STACK, MD, MBA, Commissioner
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: January 5, 2022

FILED WITH LRC: January 12, 2022 at 8:00 a.m.

CONTACT PERSON: Krista Quarles, Policy Specialist, 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: Julie Brooks or Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes fee amounts for reviewing construction plans and conducting construction inspections, annual fees for inspections of public swimming and bathing facilities including those with interactive water features, spray and splash pads or parks, and beaches, and fees for annual permitting of these facilities.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish a schedule of fees to help support the local health departments (LHD) and the cabinet in administering a program for public and semipublic swimming and bathing facilities.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 194A.050(2) authorizes the secretary to promulgate regulations to establish a fee schedule for permitting and annual inspection of efforts regarding compliance with program standards administered by the cabinet.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist with addressing the cost to administer public swimming and bathing facility construction, permitting and inspection 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: The amendment to this administrative regulation establishes a reasonable schedule of fees necessary to help support LHDs and the cabinet for the costs of reviewing construction plans and conducting construction inspections, annual fees for inspections of public swimming and bathing facilities including those interactive water features, spray and splash pads or parks, and beaches, and fees for annual permitting of these facilities. This change in the schedule of fees is consistent with the amount of time and effort expended by LHD and cabinet staff in conducting plan reviews and inspections based on the size and complexity of the establishment and the amount of time the establishment is open during the year that determines the number of inspections. The amended after comments version of this administrative regulation establishes a flat fee for interactive or inflatable water features, and clarifies the inspection fee for splash pads is applicable to all splash pads.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to offset the cost of administering this program.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 194A.050(2) authorizes the secretary to promulgate regulations to establish a fee schedule for permitting and annual inspection of efforts regarding compliance with program standards administered by the cabinet.

(d) How the amendment will assist in the effective administration of the statutes: The increase in inspection and permitting fees will help to offset the costs incurred by the cabinet and LHD when inspecting, reviewing construction plan, and permitting public and semipublic swimming and bathing facilities. This will ensure all public and semipublic swimming and bathing facilities are in full compliance with program standards.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are currently 2,250 public swimming pools, bathing facilities, and spas, and thirty-three (33) beaches regulated by the department. The department receives approximately 115 requests for plan review each year.

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

(a) List the actions that each of the regulated entities identified in questions (3) will have to take to comply with this administrative regulation or amendment: The permitted swimming and bathing facilities will pay a set permitting fee based on the time required to administratively track and renew permits in the Environmental Health Management Information System (EHMIS) database. Fees for inspections are being increased since this regulation was last amended in 2001 to help recoup the cost borne by local health departments and the cabinet to administer this program based on current salary rates, time and effort expended dependent upon facility size and complexity and the number of months open throughout the year.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the identities identified in question (3): A reasonable schedule of permitting and inspection fees is established in this amendment which help LHDs and the cabinet partially recover the full cost of running these programs. These fees are based on current salary requirements, time and effort spent conducting inspections which is largely dependent on size and complexity and the number of months a facility is open during the year.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): All swimming and bathing facilities are required to be inspected and permitted by the cabinet. The fees paid for inspection and permitting help to ensure swimming and bathing facilities are in compliance with state laws.

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

(a) Initially: The only additional cost will be to pay Custom Data Processing to update the inspection fees in EHMIS and to create a new permitting fee in EHMIS.

(b) On a continuing basis: There are no additional costs on a continuing basis.

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

Agency funds received from the fees continue to be used to implement and enforce this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change, if it is an amendment: This amendment does result in an increase in fees paid by swimming and bathing facilities. There is no increase in funding necessary for this regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees. The amendment to this administrative regulation increases the fees associated with operating public or semipublic swimming pools and recreational beach facilities. The administrative costs to local health departments and the cabinet is approximately $150 per hour for local health department environmental health inspectors of swimming and bathing facilities. This cost includes the salary of the inspector, fiscal year 2018 Kentucky Employee Retirement System (KERS), Federal Insurance Contributions Act (FICA) contributions, and health and life insurance cost. The total costs across all local health departments and the state is approximately $2,376,885 per year. The size and complexity of the establishment as well as the number of months the facility is open during a year all have an impact on the time required to conduct an inspection as well as the number of inspections performed throughout the year. All public and semi-public swimming and bathing facilities require a minimum of two (2) full facility inspections and monthly monitoring inspections per year. Facilities open year round will have a total of twelve (12) inspections while seasonal facilities will have a total of five (5) inspections. The current fee structure for swimming pools is based on the total square footage of the water surface area and separated into two (2) categories of 1,000 feet or less and 1,001 feet or more. This fee structure does not take into account the complexity of the inspection required for larger swimming pools, nor does it account for interactive or specialized water features. The current fee structure for beaches is based on the linear square feet of the beachfront and is separated into two (2) categories of 149 feet or less and 150 feet or more. This does not account for the complexity of inspecting larger beach areas, nor does it account for interactive or inflatable water features. The proposed fee structure for swimming pools keeps the categories based on total square footage for water surface area but adds two (2) additional categories of 1,001 to 1,500 square feet and 1,501 to 2,000 square feet. Swimming pools 2,001 square feet and more will pay an additional fifty (50) dollars for each additional 500 square feet. The proposed fee structure for beaches adds one (1) additional category of 150 to 200 linear square feet. Beaches 201 or more linear square feet of beachfront will pay an additional fifty (50) for each additional 50 feet. The proposed amendment to the fee structure includes the following new fees: seventy-five (75) dollars for each interactive water feature, including inflatable water features; $150 for spas and hot tubs; $250 for splash pads operated by local governments; and $100 annual permit fee for all facilities.

(9) TIERING: Is tiering applied? (Explain why or why not.) Tiering is applied. The inspection of complex swimming and bathing facilities and the facilities open more than 5 months in a year (not seasonal) requires more time and attention to detail. These facilities will pay a larger annual inspection fee. All swimming and bathing facilities will pay the same annual permitting fee to cover the administrative cost of tracking these facilities in EHMIS and renewing permits.

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 amendment impacts the Department for Public Health, Division of Public Health Protection and Safety, Environmental Management and Public Safety Branches, and all local health departments. Furthermore, those counties and municipalities that operate and maintain public swimming and bathing facilities will be impacted as will be the Kentucky Department of Parks which operates public swimming and bathing facilities including public beaches.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050 and 211.180.

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 change in fee structure will generate an estimated $286,450 in the first year. The new permit fee will generate an estimated $228,800 in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The change in fee structure will generate an estimated $286,450 in subsequent years. The annual permit fee will generate an estimated $228,800 in subsequent years.

(c) How much will it cost to administer this program for the first year? The costs associated with administering the permitting and inspection program is $2,376,885.

(d) How much will it cost to administer this program for subsequent years? There will be no change in program 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:

## PROPOSED AMENDMENTS

Public comment periods for ordinary, non-emergency regulations are at least two months long. For other regulations with open comment periods, please also see last month's *Administrative Register of Kentucky*.

**BOARDS AND COMMISSIONS**
**Board of Physical Therapy**
**(Amendment)**

**201 KAR 22:001. Definitions for 201 KAR Chapter 22.**

RELATES TO: KRS 327.010, 327.050, 327.200
STATUTORY AUTHORITY: KRS 327.040(11)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 327.040(11) authorizes the Kentucky Board of Physical Therapy to promulgate and enforce reasonable administrative regulations for the effectuation of the purposes of KRS Chapter 327 pertaining to the practice and credentialing of physical therapists and physical therapist assistants. This administrative regulation requires the definitions for 201 KAR Chapter 22.

Section 1. Definitions.
(1) "Board" is defined by KRS 327.010(3).
(2) "CAPTE" means Commission on Accreditation in Physical Therapy Education.
(3) "Credential" means the license or certificate issued by the board authorizing a person to practice physical therapy.
(4) "Credential holder" means a licensed physical therapist or certified physical therapist assistant who has met all requirements for credentialing in 201 KAR 22:020 and has been credentialed by the board.
(5) "Credentialing" means the process of licensing or certifying an applicant by the board.
(6) "Direct supervision" means:
(a) The physical therapist or physical therapist assistant:
1. Is immediately available to direct and supervise tasks that are related to direct patient care; and
2. Provides line of sight direction and supervision the majority of the time per visit for each patient when these tasks are performed; and
(b) Supervision is not provided by electronic communication.
(7) "Electronic communication" means:
(a) Any transfer of signs, signals, writing, images, sounds, data, information, or intelligence of any nature transmitted by computer or via the internet in whole or in part by a wire, radio, electromagnetic, photo-electronic, or photo-optical system; and
(b) The science and technology of the exchanging of information over any distance by electronic transmission of impulses including activities that involve using electronic communications to store, organize, send, retrieve, or convey information.
(8) "Endorsement" means a method of application which is utilized by an applicant credentialed by another jurisdiction.
(9) "Examination" means a board-approved examination that an applicant successfully passes as a requirement for credentialing.
(10) "Full time" means employment for forty (40) hours a week.
(11) "Inactive status" means a credential that is inactive and the credential holder is not engaged in the practice of physical therapy.
(12) "Jurisdiction" means a licensing authority in a state or territory of the U.S.
(13) "NPTE" means the National Physical Therapy Examination for physical therapists and physical therapist assistants.
(14) "On-site supervision" means immediate physical accessibility within the same building.
(15) "Patient" means any person for whom physical therapy is provided.
(16) "Physical therapist" is defined by KRS 327.010(2).
(17) "Physical therapist assistant" means a skilled health care worker certified by the board who performs physical therapy and related duties as assigned by the supervising physical therapist.
(18) "Physical therapist student" or "physical therapist assistant student" means a person who meets the requirements of KRS 327.050(10)(a).
(19) "Physical therapy" is defined by KRS 327.010(1).
(20) "Physical therapy student services" means services provided by a physical therapist student or physical therapist assistant student, as part of the student's educational program, and are considered as provided by the supervising physical therapist or physical therapist assistant.
(21) "Reinstatement of a credential" means a renewal of a license that has lapsed.
(22) "Sexual Misconduct" includes but is not limited to:
(a) engaging in sexual conduct, sexual contact, or soliciting a sexual relationship with a current patient, whether consensual or nonconsensual; or
(b) intentionally exposing or viewing a completely or partially disrobed patient in the course of treatment if the exposure or viewing is not related to patient diagnosis or treatment under current practice standards.
(23) "Sexual Harassment" means behavior characterized by the making of unwelcome and inappropriate sexual remarks, communications (whether in person or via any electronic or other means), or physical advances.
(24)[~~(22)~~] "Supervising physical therapist" means the physical therapist who is supervising the care of a patient who is being treated by a physical therapist assistant or supportive personnel.
(25)[~~(23)~~] "Supportive personnel" means a person assisting in the provision of direct physical therapy patient care who is not credentialed by the board and is not a physical therapist student or physical therapist assistant student.
(26)[~~(24)~~] "Telehealth" is defined by KRS 327.200(3).
(27)[~~(25)~~] "Telephysical therapy" means physical therapy between the credential holder and the patient who are not at the same physical location using interactive, secure, synchronous audio, and synchronous videoconferencing technology.
(28)[~~(26)~~] "Verification" means the process of verifying a lawful credential.

STEPHEN CURLEY, Executive Director
APPROVED BY AGENCY: November 18, 2021.
FILED WITH LRC: January 14, 2022 at 9:30 a.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 24, 2022, at 2:00 p.m. (ET). 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. All individuals who notify this agency in writing at least five workdays prior to this hearing shall be notified whether the hearing will be held virtually by video teleconference or in person at the Board's office, 312 Whittington Parkway, Suite 102, Louisville, Kentucky 40222. If no notification of intent to attend the hearing is received in writing 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 March 31, 2021. 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: Stephen Curley, Executive Director, Board of Physical Therapy, 312 Whittington Parkway, Suite 102, Louisville, Kentucky 40222, phone (502) 429-7140, fax (502) 429-7142, email stephen.curley@ky.gov; and M. Keith Poynter, General Counsel, Board of Physical Therapy, 312 Whittington Parkway, Suite 102, Louisville, Kentucky 40222, phone (502) 210-7112, fax (502) 584-5055, email MartinK.Poynter@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Stephen Curley

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation requires the definitions for 201 KAR Chapter 22.

(b) The necessity of this administrative regulation: This administrative regulation requires the definitions for 201 KAR Chapter 22.

(c) How this administrative regulation conforms to the content of the authorizing statutes: It defines words and phrases within 201 KAR Chapter 22.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It defines words and phrases within 201 KAR Chapter 22.

(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 additional definitions and phrases relating to 201 KAR Chapter 22.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to define additional words and phrases added by the proposed 201 KAR 22.053 changes.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment defines words and phrases within 201 KAR Chapter 22.

(d) How the amendment will assist in the effective administration of the statutes: The amendment defines words and phrases within 201 KAR Chapter 22.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 6,515 physical therapists and physical therapist assistants.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The regulated entities identified in question (3) will not be required to do anything to comply.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Nothing

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance the entities identified in (3) will better understand 201 KAR Chapter 22.

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

(a) Initially: No new costs will be incurred by the change.

(b) On a continuing basis: No new costs will be incurred by the change.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: None

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There will be no increase in fees or funding.

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

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

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will impact physical therapists and physical therapist assistants credentialed by the board.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 327.040; and 201 KAR Chapter 22.

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? None.

(d) How much will it cost to administer this program for subsequent years? None.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**BOARDS AND COMMISSIONS**
**Board of Physical Therapy**
**(Amendment)**

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

RELATES TO: KRS 327.040, 327.070

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

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

Section 1. Code of Ethical Standards.

(1) A physical therapist and a physical therapist assistant shall:

(a) Respect the rights and dignity of all patients;

(b) Practice within the scope of the credential holder's training, expertise and experience;

(c) Ensure that all personnel involved in the delivery of physical therapy services are identified to the patient by name and title;

(d) Report to the board any reasonably suspected violation of KRS Chapter 327, KRS 367.4082, or 201 KAR Chapter 22 by a credential holder or applicant within thirty (30) days;

(e) Report to the board any civil judgment, settlement, or civil claim involving the credential holder's practice of physical therapy made against the credential holder relating to the credential holder's own physical therapy practice within thirty (30) days; and

(f) Comply with the provisions of KRS 367.4082.

(2) A physical therapist and a physical therapist assistant shall not:

(a) Verbally or physically abuse a client; or

(b) Continue physical therapy services beyond the point of reasonable benefit to the patient, unless the patient consents in writing[.]; or

(c) Engage in sexual misconduct or sexual harassment with a patient:

1. While that person is a patient or client of the physical therapist or physical therapist assistant; or

2. While that person is a patient of a health care facility defined by KRS 216B.015 where the physical therapist or physical

therapist assistant provides physical therapy services; and

(3) A physical therapist or physical therapist assistant shall be solely responsible in regard to a relationship with a patient. A patient's initiation of a personal or sexual relationship shall not justify, excuse, or provide a defense for a violation of this section; and

(4) Consensual sexual relationships established prior to the initial evaluation will not be subject to portions of this regulation.

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

(1) Perform screenings in order to:

(a) Provide information on a person's health status relating to physical therapy;

(b) Determine the need for physical therapy evaluation and treatment;

(c) Make a recommendation regarding a person's ability to return to work or physical activity; and

(d) Provide physical therapy services;

(2) Evaluate each patient prior to initiation of treatment;

(3) Upon receipt of a patient under an active plan of care from another physical therapist:

(a) Complete an evaluation in compliance with subsection (2) of this section and Section 5(2)(a)-(d) of this administrative regulation;

(b) Ensure the evaluation and plan of care from the other physical therapist is current and appropriate;

(c) Retain the evaluation and plan of care from the other physical therapist in the medical record; and

(d) Comply with reassessment requirements based on the date of the most recent evaluation.

(4) Reassess each patient in accordance with the following:

(a) Reassessing inpatients in either a hospital or comprehensive rehabilitation facility every fourteen (14) days;

(b) Reassessing every ninety (90) days, with the physical therapist assistant present, patients in:

1. A facility defined in 902 KAR 20:086 as an intermediate care facility (ICF) for the mentally retarded (MR) and developmentally disabled (DD); or

2. A school system.

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

b. During this grace period treatment may continue based upon the previous reassessment or evaluation;

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

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

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

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

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

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

(9) Explain the plan of care to the patient and to others designated by the patient;

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

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

(a) For services provided by the physical therapist;

(b) For equipment rental or purchase; or

(c) For other services the physical therapist may recommend for the patient.

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

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

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

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

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

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

(6) Comply with the plan of care established by the physical therapist;

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

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

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

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

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

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

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

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

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

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

(5) Be responsible for:

(a) Interpreting any referral;

(b) Conducting the physical therapy evaluation;

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

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

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

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

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

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

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

(j) Directing and being accountable for services rendered by physical therapist students or physical therapist assistant students, including documentation requirements in Section 5 of this

administrative regulation.

Section 5. Standards for Documentation.

(1) The physical therapist shall be responsible for the physical therapy record of a patient. The physical therapy record shall include an evaluation and, as required, ongoing documentation and reassessment.

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

(a) Pertinent medical and social history;

(b) Appropriate subjective and objective information;

(c) An assessment, which may indicate problems, interpretations, and a diagnosis identifying the nature and extent of the patient's impairment; and

(d) The plan of care, which includes the:

1. Treatment; and

2. Measurable goals, including anticipated time frame of achievement.

(3) Ongoing documentation in the physical therapy record shall:

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

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

1. By the physical therapist or physical therapist assistant rendering treatment;

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

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

(c) Include:

1. The treatment rendered since the last evaluation, ongoing documentation, or reassessment;

2. The patient's response to treatment; and

3. Appropriate subjective and objective information;

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

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

(b) A reassessment shall include:

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

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

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

(5) The correct designation following the signature of the person who has entered a statement into the patient record shall be as follows:

(a) If written by a physical therapist: "PT". Appropriate designations for advanced physical therapy degrees may follow "PT";

(b) If written by a physical therapist assistant: "PTA";

(c) If written by supportive personnel: "PT Aide", or "Physical Therapy Aide", or "PT Tech"; and

(d) If written by a student: "Physical Therapist Student" or "PT Student"; "Physical Therapist Assistant Student" or "PTA Student".

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

STEPHEN CURLEY, Executive Director

APPROVED BY AGENCY: November 18, 2021

FILED WITH LRC: January 14, 2022 at 9:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 24, 2022, at 3:00 p.m. (ET) at 312 Whittington Parkway, Suite 102, Louisville, Kentucky 40222. Individuals interested in being heard at this hearing shall notify this agency in writing five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until March 31, 2021. 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: Stephen Curley, Executive Director, Board of Physical Therapy, 312 Whittington Parkway, Suite 102, Louisville, Kentucky 40222, (502) 429-7140 and Fax (502) 429-7142, Stephen.Curley@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Stephen Curley

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes those standards which, if violated, are a basis for disciplinary action under KRS 327.070.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to the Board's role in public protection as it addresses the rising boundary violations complaints the Board is receiving.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This amendment to the regulation adds provisions to the regulations prohibiting sexual misconduct between a PT or PTA and patients during the course of treatment.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This amendment adds provisions to the regulations prohibiting sexual misconduct between a PT or PTA and patients during the course of treatment. This will allow the Board to more clearly define prohibited conduct and thoroughly investigate alleged sexual misconduct.

(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 provisions to the regulations more clearly defining and prohibiting sexual misconduct between a PT or PTA during the course of treatment.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to the Board's role in public protection as it more clearly defines misconduct and addresses the rising boundary violations complaints the Board is receiving.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment gives the Board the authority to address a growing trend by adding provisions to the regulations more clearly defining sexual misconduct and prohibiting sexual misconduct between a PT or PTA during the course of treatment.

(d) How the amendment will assist in the effective administration of the statutes: It adds provisions to the regulations more clearly defining and prohibiting sexual misconduct between a PT or PTA and patients during the course of treatment. This will allow the Board to more thoroughly investigate and administratively prosecute alleged sexual misconduct.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 6,515 physical therapists and physical therapist assistants.

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

(a) List the actions that each of the regulated entities identified in

question (3) will have to take to comply with this administrative regulation or amendment: The regulated entities identified in question (3) will not be required to do anything to comply. This administrative regulation is necessary to the Board's role in public protection as it addresses the rising boundary violations complaints the Board is receiving.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Nothing

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance the Board will be able to further public protection. This compliance will protect the ethical boundaries of the profession and enhance public trust in the profession which is beneficial to the entities identified in question (3).

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

(a) Initially: No new costs will be incurred by the change.

(b) On a continuing basis: No new costs will be incurred by the change.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency Revenue Fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There will be no increase in fees or funding

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

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

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will impact physical therapists and physical therapist assistants credentialed by the board.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 327.040 and 327.070.

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? None.

(d) How much will it cost to administer this program for subsequent years? None.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**BOARDS AND COMMISSIONS**
**Board of Alcohol and Drug Counselors**
**(Amendment)**

**201 KAR 35:070. Supervision experience.**

RELATES TO: KRS 309.0814, 309.083(4), 309.0831, 309.0832, 309.0833, 309.0841, 309.0842, 309.0830, 309.0834

STATUTORY AUTHORITY: KRS 309.0813(1), (3), (5), 309.0814(1), 309.083(3), 309.0831(3), 309.0832(10), 309.0833(2), 309.086

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.0813(1) requires the board to promulgate administrative regulations for the administration and enforcement of KRS 309.080 through 309.089. KRS 309.0813(3) requires the board to approve or disapprove those persons who shall be credentialed. This administrative regulation establishes the standards for the accumulation of required supervised work experience for licensed alcohol and drug counselors, licensed clinical alcohol and drug counselors, licensed clinical alcohol and drug counselor associates, certified alcohol and drug counselors, certified alcohol and drug counselor associates II, certified alcohol and drug counselor associates I, and registered alcohol and drug peer support specialists.

Section 1. (1)(a) Peer Support Specialist Supervision. Peer support specialist supervision shall continue throughout the period of registration. The supervision shall include the four (4) following domains:

1. Advocacy;
2. Ethical Responsibility;
3. Mentoring and Education; and
4. Recovery and Wellness Support.

(b) A supervisor of a peer support specialist shall complete and submit KBADC Form 8, Peer Support Specialist Verification of Supervision that documents the twenty-five (25) hours of direct supervision.

(2) Clinical Supervision for Certification and Licensure Applicants. Clinical supervision shall include a minimum of ten (10) hours in each of the following four (4) domains:

(a) Screening assessment and engagement;

(b) Treatment planning, collaboration, and referral;

(c) Counseling; and[~~;~~]

(d) Professional and ethical responsibilities.[~~;~~]

(3) Clinical supervision shall meet the minimum requirements of the following:

(a) For applicants with a high school diploma or high school equivalency diploma requires 300 hours of clinical supervision with a minimum of ten (10) hours in each domain listed in subsection (2);

(b) For applicants with an associate's degree in a relevant field requires 250 hours of clinical supervision with a minimum of ten (10) hours in each domain;

(c) For applicants with an bachelor's degree in a relevant field requires 200 hours of clinical supervision with a minimum of ten (10) hours in each domain; and

(d) For applicants with a master's degree or higher in a relevant field requires 100 hours of clinical supervision with a minimum of ten (10) hours in each domain.

(4)(a) Clinical supervision may occur in individual or in group settings.

(b) The methods of clinical supervision shall include:

1. Face-to-face;
2. Video conferencing; or
3. Observation, which includes a period of discussion to critique the observed sessions, accompanied by a written explanation which includes strengths and deficiencies observed by the supervisor, and develops goals for the supervisee[~~Teleconferencing~~].

(5) Supervision that exceeds two (2) hours in a single day shall be accompanied by a written explanation justifying the length of supervision exceeding two (2) hours.

(6) Clinical supervisors shall complete and submit KBADC Form 13, Verification of Clinical Supervision, which documents the

required hours of supervision that has occurred during the work experience, in the Application for Certification as an Alcohol and Drug Counselor, Application for Licensure as an Alcohol and Drug Counselor, or Application for Licensure as a Clinical Alcohol and Drug Counselor, which are incorporated by reference in 201 KAR 35:020.

(7) For applicants applying for licensure who already possess a certified alcohol and drug counselor credential, supervision obtained under KRS 309.083 prior to February 5, 2016 shall be calculated toward the 100 hour supervision requirement under KRS 309.0832(3) and subsection (3)(d) of this section.

Section 2. Except as established by Section 1(6) of this administrative regulation, a supervisory arrangement shall have the prior approval of the board, with both supervisor and supervisee submitting a Supervisory Agreement to the board. The supervisor and supervisee shall also submit to the board the description of the supervisory arrangement or a change in the supervisory arrangement at least thirty (30) days prior to the effective date of the arrangement or change unless extenuating circumstances prevent the submission.

Section 3. (1) All supervision requirements shall:

(a) Be met with face-to-face individual or group weekly contact between supervisor and supervisee except as established in subsection (2) of this section and Sections 13 and 14 of this administrative regulation;

(b) Consist of not less than two (2) hours, two (2) times a month in the practice of alcohol and drug counseling; and

(c) Include additional supervision sessions, as needed.

(2) An alternative format of supervision, including two (2) way interactive video, may be substituted for the supervisory contact, required by subsection (1) of this section, upon specific approval by the board for certain types of circumstances, such as distance, weather, or serious injury or illness of the supervisor or supervisee.

(3) Upon a change of supervisor, a new plan for supervision shall be submitted by the supervisor and supervisee to the board for approval. This plan may require additional hours of supervision than was previously approved by the board.

(4) Upon termination of the supervisor-supervisee relationship, the final report of supervision shall be submitted to the board within thirty (30) days of the termination.

Section 4. (1)(a) A certified alcohol and drug counselor, licensed alcohol and drug counselor, or licensed clinical alcohol drug counselor requesting to become approved by the board to provide supervision shall:

1. Submit a complete and signed Form 4, Request to Provide Supervision;

2. For a certified alcohol and drug counselor or licensed alcohol and drug counselor, have at least two (2) years of post-certification experience, including Alcohol and Drug Counselor credentials transferred through reciprocity, and have attended the board-sponsored supervision training;

3. For a licensed clinical alcohol and drug counselor, have at least twelve (12) months of post-licensure experience, including Advanced Alcohol and Drug Counselor credentials transferred through reciprocity, or have attended the board-sponsored supervision training; and

4. Submit information as to whether or not the applicant has any unresolved complaints against the applicant's license or certification in Kentucky or any other state and, if there is an unresolved complaint, submit official documentation of the complaint or complaints.

(b) The board shall consider the severity, frequency, and history of violations and unresolved complaints. A person approved by the board on or after March 24, 2021 to provide supervision will have a maximum of five (5) consecutive years from the date of the approval to meet the requirements of KRS 309.0834(1) to become a certified clinical supervisor, and can continue to provide supervision until the earlier of the expiration of the five (5) year period or the date they become a certified clinical supervisor. The approval as a supervisor pursuant to this subsection shall be limited to five (5) years, cannot be extended past the five (5) year limit, and is available only once in the person's lifetime.

(2) A board approved supervisor shall obtain a minimum of three (3) board-sponsored continuing education hours in supervision theory or techniques in each three (3) year renewal cycle. The board shall suspend its approval of a supervisor if the supervisor does not complete the required continuing education.

(3) A certified alcohol and drug counselor or licensed clinical alcohol and drug counselor shall not be the supervisor of record for more than twenty-five (25) supervisees.

(4) A licensed clinical alcohol and drug counselor associate shall only be supervised by a licensed clinical alcohol and drug counselor.

(5) The board may extend certification as a certified clinical supervisor to a person who is approved to provide clinical supervision but does not meet all the provisions of KRS 309.0834(1) if the person:

(a) Submits a complete KBADC Form 24, Application For Grandparenting as a Certified Clinical Supervisor, with payment of the application fee required by 201 KAR 32:020 Section 1(1);

(b) Is a licensed clinical alcohol and drug counselor or a certified alcohol and drug counselor in Kentucky prior to March 24, 2021;

(c) Was approved by the board to provide clinical supervision prior to March 24, 2021; and

(d) Pays the certification fee required by 201 KAR 35:020 Section 3(4) after the board's approval of their KBADC Form 24, Application For Grandparenting as a Certified Clinical Supervisor. A person approved by the board before March 24, 2021 to provide clinical supervision shall, within twelve (12) months of the effective date of this amendment to this administrative regulation, apply for grandparenting as a certified clinical supervisor pursuant to this subsection.

Section 5. (1) The supervisor shall make all reasonable efforts to be assured that each supervisee's practice is in compliance with this administrative regulation.

(2) The supervisor shall report to the board an apparent violation of KRS 309.086 on the part of the supervisee.

(3) The supervisor shall inform the board immediately of a change in the ability to supervise or in the ability of a supervisee to function in the practice of alcohol and drug counseling in a competent manner.

(4) The supervisor shall control, direct, or limit the supervisee's practice to ensure that the supervisee's practice of alcohol and drug counseling is competent.

(5) The supervisor of record shall be responsible for the practice of alcohol and drug counseling or peer support services provided by the supervisee. If the board receives a complaint concerning a supervisee, the board shall notify the supervisor of record.

(6) For each certificate or license holder supervised, the supervisor shall maintain a KBADC Form 13, Verification of Clinical Supervision, for each supervisory session that shall include the domain covered, date of session, length of session, and method of supervision of the session. For each registrant supervised, the supervisor shall maintain a KBADC Form 8, Peer Support Specialists Verification of Supervision Form, for each supervisory session that shall include the date, length, method, and domain covered during the session. This record shall be maintained for a period of not less than six (6) years after the last date of supervision.

Section 6. (1) The supervisor of record shall submit the Supervisor Log for each supervisee to the board on an annual basis with a KBADC Form 14, Supervision Annual Report.

(2) The report shall include:

(a) A description of the frequency, format, and duration of supervision;

(b) An assessment of the functioning of the supervisee, including the strengths and weaknesses; and

(c) Other information that could be relevant to an adequate assessment of the practice of the supervisee.

Section 7. (1) If a supervisee has more than one (1) board-

approved supervisor, the supervisors shall be in direct contact with each other at least once every six (6) months, and they shall provide supervisory plans and reports to the board and copies to each other.

(2) A request to have more than two (2) supervisors at one (1) time shall require a written request to the board, which shall include detailed information as to how the supervisors shall communicate and coordinate with each other in providing the required supervision.

Section 8. If the supervisee is a licensed clinical alcohol and drug counselor associate, a temporary certified alcohol and drug counselor, certified alcohol and drug counselor associate I, or certified alcohol and drug counselor associate II, the supervisor of record shall:

(1) Review all alcohol and drug assessments and treatment plans;

(2) Review progress notes and correspondence on a regular basis to assess the competency of the supervisee to render alcohol and drug services;

(3) Jointly establish with the supervisee a supervisory plan that shall be submitted to the board and approved within thirty (30) days of the beginning of the supervisory relationship. The plan shall:

(a) Be updated, revised as needed, and submitted to the board annually;

(b) Include intended format and goals to be accomplished through the supervisory process; and

(c) Include methods that the supervisor and supervisee shall employ to evaluate the supervisory process;

(4) At least semi-annually, have direct observation of the supervisee's work, which may be accomplished through audiotaping, video camera, videotaping, one (1) way mirror, or as a cotherapist;

(5) Have direct knowledge of the size and complexity of the supervisee's caseload;

(6) Limit and control the caseload, as appropriate, to the supervisee's level of competence;

(7) Have knowledge of the therapeutic modalities and techniques being used by the supervisee;

(8) Have knowledge of the supervisee's physical and emotional well-being if it has a direct bearing on the supervisee's competence to practice; and

(9) Submit a completed KBADC Form 7, Supervision Evaluation, within thirty (30) days of termination of a supervisory agreement.

Section 9. If the supervisee is a peer support specialist, the supervisor of record shall:

(1) Jointly establish with the supervisee a supervisory plan that shall be submitted to the board and approved within thirty (30) days of the beginning of the supervisory relationship. The plan shall:

(a) Be updated, revised as needed, and submitted to the board annually;

(b) Include intended format and goals to be accomplished through the supervisory process; and

(c) Include methods that the supervisor and supervisee shall employ to evaluate the supervisory process;

(2) Review and countersign all peer recovery service plans;

(3) Review peer recovery notes and correspondence on an as-needed basis to assess the competency of the supervisee to render peer recovery services;

(4) At least once every two (2) months, have direct observation of the supervisee's work, which may be accomplished through audiotaping, video camera, videotaping, one (1) way mirror or direct observation;

(5) Have direct knowledge of the size and complexity of the supervisee's caseload;

(6) Limit and control the caseload, as appropriate, to the supervisee's level of competence;

(7) Have knowledge of the methods and techniques being used by the supervisee;

(8) Have knowledge of the supervisee's physical and emotional well-being if it has a direct bearing on the supervisee's competence to practice; and

(9) Submit a completed KBADC Form 9, Supervision Evaluation for Peer Support Specialist, within thirty (30) days of termination of a peer support special supervisory agreement.

Section 10. (1) The supervisee shall:

(a) Keep the supervisor adequately informed at all times of his or her activities and ability to function; and

(b) Seek consultation from the supervisor, as needed, in addition to a regularly-scheduled supervisory session.

(2) The supervisee shall:

(a) Participate with the supervisor in establishing supervisory goals and in completing the regular supervisory reports;

(b) Be jointly responsible with the supervisor for ensuring that a supervisory report or plan has been sent to the board, in accordance with the reporting schedule established in Section 6(1) of this administrative regulation; and

(c) Report to the board an apparent violation on the part of the supervisor.

(3) Except as established in Section 11 of this administrative regulation, a supervisee shall not continue to practice alcohol and drug counseling or peer support services if:

(a) The conditions for supervision established in the supervisory agreement are not followed;

(b) There is a death or serious illness of the board-approved supervisor that results in the supervisor not being able to provide supervision; or

(c) The supervisory agreement is terminated by the board, the board-approved supervisor, or the supervisee for any reason other than the extenuating circumstances that allow temporary supervision in Section 11 of this administrative regulation.

Section 11. Temporary Supervision. (1) In extenuating circumstances, if a supervisee is without supervision, the supervisee may continue working up to sixty (60) calendar days under the supervision of a "qualified mental health professional" as defined by KRS 202A.011(12), a certified alcohol and drug counselor, or a licensed clinical alcohol and drug counselor while an appropriate board-approved supervisor is sought and a new supervisory agreement is submitted to the board. Extenuating circumstances include situations such as death or serious illness of the board-approved supervisor, a leave of absence by the supervisor, the termination of the supervisor's employment, or termination of the supervisory agreement except for a violation of KRS 309.080 through 309.089, or 201 KAR Chapter 35.

(2)(a) Within ten (10) days of the establishment of the temporary supervisory arrangement, the supervisee shall notify the board of the extenuating circumstances that have caused the supervisee to require temporary supervision.

(b) The supervisee shall submit, in writing, a plan for resolution of the situation within thirty (30) calendar days of the establishment of the temporary supervisory arrangement.

(c) The written plan shall include:

1. The name of the temporary supervisor;

2. Verification of the credential held by the temporary supervisor;

3. An email address and a postal address for the temporary supervisor and the supervisee; and

4. A telephone number for the temporary supervisor.

(3) The temporary supervisory arrangement shall expire after sixty (60) days of the establishment of the temporary supervisory arrangement.

(4) To avoid the expiration of a temporary supervisory arrangement:

(a) A temporary alcohol and drug counselor shall submit a completed KBADC Form 3, Supervisory Agreement; or

(b) A peer support specialist shall submit a completed KBADC Form 6, Peer Support Specialist Supervisory Agreement.

Section 12. Identification of Provider and Supervisor of Record. The actual deliverer of a service shall be identified to the client, and the client shall be informed of the deliverer's credential and name of supervisor of record.

Section 13. Supervision of a Disciplined Credential Holder. (1) The board shall appoint an approved supervisor to supervise a disciplined credential holder for the period of time established by the board and a member of the board to serve as a liaison between the board and the appointed supervisor.

(2) The disciplined credential holder shall be responsible for paying the fee for supervision.

(3) The supervisor shall have completed the board-sponsored training course in supervision.

(4) The supervisor shall:

(a) Review the originating complaint, agreed order, or findings of the disciplinary hearing;

(b) Meet with the disciplined credential holder and the board liaison to:

1. Summarize the actions and concerns of the board;

2. Review the goals and expected outcomes of supervision submitted by the board liaison;

3. Develop a specific plan of supervision approved by the board; and

4. Review the reporting requirements that shall be met during the period of supervision;

(c) Meet with the disciplined credential holder at least weekly, on an individual face-to-face basis for a minimum of one (1) hour unless modified by the board;

(d) Submit a quarterly report to the board which reflects progress, problems, and other information relevant to the need for board-mandated supervision;

(e) Make all reasonable efforts to insure that the disciplined credential holder's practice is in compliance with KRS 309.080 through 309.089, and 201 KAR Chapter 35;

(f) Report to the board any apparent violation on the part of the disciplined credential holder;

(g) Immediately report to the board in writing a change in the ability to supervise, or in the ability of the disciplined credential holder to function in the practice of peer recovery support or the practice of alcohol and drug counseling in a competent manner;

(h) Review and countersign assessments, as needed or appropriate;

(i) Review and countersign service or treatment plans, as needed or appropriate;

(j) Have direct observation of the disciplined credential holder's work on an as-needed basis;

(k) Have direct knowledge of the size and complexity of the disciplined credential holder's caseload;

(l) Have knowledge of the therapeutic methods, modalities, or techniques being used by the disciplined credential holder; and

(m) Have knowledge of the disciplined credential holder's physical and emotional well-being if it has a direct bearing on the disciplined credential holder's competence to practice.

(5) The supervisor shall control, direct, or limit the disciplined credential holder's practice to ensure that the disciplined credential holder's practice is competent.

(6) The supervisor shall contact the board liaison with any concern or problem with the disciplined credential holder, his or her practice, or the supervision process.

(7) A final meeting shall be scheduled within thirty (30) days of the end of the established supervision period to summarize the supervision. The meeting shall include the supervisor, disciplined credential holder, and board liaison. A written summary of the supervision shall be submitted by the supervisor to the board two (2) weeks following this meeting with a copy to the board liaison.

Section 14. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "KBADC Form 3, Supervisory Agreement", March 2021;

(b) "KBADC Form 4, Request to Provide Supervision", June 2021;

(c) "KBADC Form 6, Peer Support Specialist Supervisory Agreement", March 2021;

(d) "KBADC Form 7, Supervision Evaluation", March 2021;

(e) "KBADC Form 8, Peer Support Specialist Verification of Supervision", March 2021;

(f) "KBADC Form 9, Supervision Evaluation for Peer Support Specialist", March 2021;

(g) "KBADC Form 13, Verification of Clinical Supervision", January 2022[~~March 2021~~]; [~~and~~]

(h) "KBADC Form 14, Supervision Annual Report", March 2021; and[~~.~~]

(i) "KBADC Form 24, Application For Grandparenting as a Certified Clinical Supervisor", January 2022.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Alcohol and Drug Counselors, 500 Mero St, 2 SC 32, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m. The board's Web site address is: https://adc.ky.gov.

TIM CESARIO, Chair

APPROVED BY AGENCY: January 14, 2022

FILED WITH LRC: January 14, 2022 at 11:15 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on March 22, 2022 at 11:00 a.m. Eastern Time in Room 127CW, The Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky 40601. All attendees shall comply with all Executive Orders relating to the State of Emergency as may be in effect on the date of the public hearing. Members of the public may utilize the following link to attend the meeting by video conference: Topic: ADC Public Comment Hearing Zoom Meeting, Time: Mar 22, 2022 10:45 AM Eastern Time (US and Canada). Join from PC, Mac, Linux, iOS or Android: https://us06web.zoom.us/j/89734513619?pwd=dm9kQUNEVitjOXg0d3Frd0hVYlZXdz09 // Password: 498985 // Or Telephone: Dial: USA 713 353 0212, USA 8888227517 (US Toll Free) -- Conference code: 583621. 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 March 31, 2022. 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: Kevin Winstead, Commissioner, Department of Professional Licensing, 500 Mero Street, phone (502) 782 - 8805, fax (502) 564-3969, email KevinR.Winstead@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kevin R. Winstead

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the procedure to obtain supervision for registration, certification, and licensure.

(b) The necessity of this administrative regulation: The necessity of this regulation is to establish the procedure to obtain supervision.

(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 supervision for registration, certification, and licensure.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will assist in defining the expectations of the board; providing the board with more oversight, and establishing the procedure to obtain approval to be a supervisor.

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

(a) How the amendment will change this existing administrative regulation: The amendment will change the existing administrative regulation by: (1) clarifying that observation, instead of teleconferencing, is a method of clinical supervision, and amending

KBADC Form 13, Verification of Clinical Supervision, to clarify; (2) providing that a person approved on or after March 24, 2021 to provide supervision will have a maximum of five consecutive years from the date of the approval to meet the requirements of KRS 309.0834(1) to become a certified clinical supervisor, and can continue to provide supervision until the earlier of the expiration of the five year period or the date they become a certified clinical supervisor, and that the approval as a supervisor shall be limited to five years, cannot be extended past the five year limit, and is available only once in the person's lifetime; (3) allowing the board to extend certification as a certified clinical supervisor to a person who is approved to provide clinical supervision but does not meet all the provisions of KRS 309.0834(1) if the person submits a certain form created by the amendment to this regulation and meets certain criteria; (4) requiring a person approved before March 24, 2021 to provide clinical supervision to apply for grandparenting as a certified clinical supervisor within twelve months of the effective date of this amendment to this administrative regulation;

(b) The necessity of the amendment to this administrative regulation: The amendments are necessary to clarify the acceptable methods of clinical supervision and create a grandfathering provision for persons who have been approved as a supervisor but do not meet the requirements of KRS 309.0834(1) to become a certified clinical supervisor.

(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 requirements for supervision for registration, certification, and licensure.

(d) How the amendment will assist in the effective administration of the statutes: This regulation will assist in defining the expectations of the board; providing the board with more oversight, and establishing the procedure to obtain approval to be a supervisor.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The board is unable to determine the exact number of persons who would be impacted by this regulation. Future applicants and persons credentialed by the board will be affected by this administrative regulation. As of January 14, 2022 there were over 2,900 persons holding credentials issued by the board.

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

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: In order to comply with this regulation, supervisors shall provide clinical supervision by a method approved by the administrative regulation, and persons seeking approval and record their hours of supervision. Supervisors will have to apply with the board to become a supervisor.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: In complying with this administrative regulation, some applicants will have to attend training to become a supervisor, this may incur a cost. Most supervisees have to pay their supervisor for supervision.

(c) As a result of compliance, what benefits will accrue to the entities: As a result of compliance, the credential holders and applicants will be able to document the supervision received and provide the board with more oversight during the supervision process.

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

(a) Initially: Initially, there is no additional cost to the administrative body to implement this administrative regulation.

(b) On a continuing basis: On a continuing basis, there is no additional cost to the administrative body to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by credential holders 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: There are no increases in fees or funding required to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: There are no new fees or fee increases associated with the amendments.

(9) TIERING: Is tiering applied? Explain why or why not. Tiering was not applied as the regulation is applicable to all credential holders. This regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Alcohol and Drug Counselors.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 309.0813(1), (3), (5). 309.0834.

(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 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 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 will be no additional cost to administer this program.

(d) How much will it cost to administer this program for subsequent years? There will be no additional cost to administer this program.

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

Revenues (+/-): Neutral
Expenditures (+/-): Neutral
Other Explanation: None

## BOARDS AND COMMISSIONS
## Board for Medical Imaging and Radiation Therapy
## (Amendment)

**201 KAR 46:020. Fees.**

RELATES TO: KRS 311B.050, 311B.100(2), 311B.110, 311B.120, 311B.130, 311B.140, 311B.180, 311B.190

STATUTORY AUTHORITY: KRS 311B.010, 311B.050, 311B.120

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. KRS 311B.120 requires the board to promulgate administrative regulations to establish fees and penalties. This administrative regulation establishes fees for the licensure of an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, a nuclear medicine technologist, and a limited x-ray machine operator.

Section 1. Initial Application and License Fee. A non-refundable initial application and license fee shall be $100.

Section 2. Renewal License Fee. A non-refundable renewal fee shall be fifty (50) dollars per year.

Section 3. Temporary Application and License Fee. A non-

refundable fee for a temporary license shall be $100.

Section 4. Provisional Training License Fee. A non-refundable fee for a provisional training license for a radiation therapist and a nuclear medicine technologist shall be fifty (50) dollars per twenty-four (24) month training period.

Section 5. Temporary Limited X-ray Machine Operator Application and License Fee. A non-refundable, non-transferrable fee for a license shall be $100.

Section 6. Duplicate License Fee. A non-refundable fee for a duplicate license shall be twenty (20) dollars.

Section 7. Reinstatement Fee. A reinstatement fee shall be $100. Reinstatement fee shall be assessed starting on day six (6) following the expiration date of license.

Section 8. Name Change Fee. A non-refundable fee for a new printed license with a name change shall be twenty (20) dollars.

Section 9. Limited X-ray Machine Operator Examination Qualification Fee. A non-refundable fee for the qualification to register for the limited x-ray machine operator examination shall be twenty-five (25) dollars[~~$165~~].

Section 10. Insufficient Funds Fee. A fee for returned check or denied online banking (ACH) payment shall be fifty (50) dollars.

Section 11. Written Verification of Qualifications Fee. The fee for completion of written verification documents shall be twenty-five (25) dollars per document.

Section 12. Continuing Education Approval Fee. (1) Individual continuing education program fee shall be ten (10) dollars.

(2) Annual sponsoring institution fee shall be $100.

DOYLE DECKER, Chair

APPROVED BY AGENCY: December 8, 2021

FILED WITH LRC: December 21, 2021 at 12:50 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 23, 2022, at 10:00 a.m. in the office of the Board of Medical Imaging and Radiation Therapy, 125 Holmes Street, Suite 320, Frankfort, Kentucky 40601, (502) 782-5687. Individuals interested in attending this hearing shall notify the agency in writing by five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until the end of the day on March 31, 2022. Send written notification of intent to attend the public hearing or submit written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Elizabeth Morgan, Executive Director, Board of Medical Imaging and Radiation Therapy, 125 Holmes Street, Suite 320, Frankfort, Kentucky 40601, phone (502) 782-5687; fax (502) 782-6495; email elizabeth.morgan@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Elizabeth Morgan

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the fees to be assessed to licensees and applicants.

(b) The necessity of this administrative regulation: The necessity of this regulation is to advise the public, licensee and applicant of fees to be assessed.

(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 establishing fees.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes the fees to be assessed from applications, renewals, reinstatement, name change, and various other programs and services provided by the board.

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

(a) How the amendment will change this existing administrative regulation: The amendment updates the fee for the limited x-ray machine operator exam due to an update from the exam administrator.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary since the board is updating the limited x-ray machine operator exam fee due to an update in the administration fee and process of paying exam fees to exam administrator.

(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 fees.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will update the fee for the limited scope exam due to a change in the process of registering individuals to take exam by the exam administrator.

(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 7,600 licensees.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: There is no new requirement 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): This amendment to the administrative regulation requires individuals that apply to take the limited scope exam to pay the administrative fee to the Board and they will also pay an exam fee to the organization that administers the exam.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The regulations place applicants and licensees on clear notice of the fees associated with licensure and procedures.

(5) Provide an estimate of how much it will cost to implement this administrative regulation: No additional cost will be incurred as a result of amending this administrative regulation.

(a) Initially: No new costs will be incurred by the changes.

(b) On a continuing basis: No new costs will be incurred by the changes.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees established by this regulation and 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: The decrease in fees for the limited scope exam is due to the test administrator only allowing examinees to pay for the exam via online portal; previously, the Board was sent monthly invoices based on how many examinees registered for the exam.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This amendment to the administrative regulation updates fees for the limited scope exam.

(9) TIERING: Is tiering applied? Tiering was not applied as the regulation is applicable to all credential holders and applicants. This regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Board of Medical Imaging and Radiation Therapy.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.: KRS 311B.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.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? There will be no increase in revenue as a result of the decrease in fee for limited x-ray machine operator exam. This is the fee to review eligibility for the exam and register them into the exam system.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? The cost associated with administering this regulation is the time for staff to register the individual for the exam.

(d) How much will it cost to administer this program for subsequent years? This regulation merely defines terms used throughout the 201 KAR Chapter 46. There is no additional cost associated with administering this regulation.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM**
**Kentucky Board of Emergency Medical Services**
**(Amendment)**

**202 KAR 7:560. Ground vehicle staff.**

RELATES TO: KRS 189.910-189.950, 311A.030, 311A.190

STATUTORY AUTHORITY: KRS 311A.020, 311A.025, 311A.030, 311A.190

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311A.020 requires the Board of Emergency Medical Services to exercise all administrative functions in the regulation of the emergency medical services system and the licensing of ambulance services and medical first response agencies, except those regulated by the Board of Emergency Medical Services or the Cabinet for Health and Family Services. KRS 311A.030 requires the board to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers and medical first response agencies. This administrative regulation establishes the minimum staffing requirements for ground vehicles.

Section 1. Staffing Requirements. (1) Each Class I agency BLS ambulance shall at minimum, be staffed by:

(a) A driver certified as an emergency medical responder (EMR)[~~technician (EMT)~~]; and

(b) An attendant certified as an emergency medical technician (EMT).

(2) Each Class I agency ALS ambulance shall at minimum be staffed by:

(a) A driver certified as an emergency medical responder (EMR)[~~technician (EMT)~~]; and

(b) An attendant certified as an Advanced EMT or licensed as a paramedic.

1. Each Class I ALS agency providing primary 911 emergency ambulance service shall ensure that an on-duty paramedic shall staff at least twenty-five (25) percent of the agency's staffed ambulances at any time during a twenty-four (24) hour period.

2. To ensure compliance, each agency shall maintain its work schedules from the previous twelve (12) months until reviewed by board staff during its annual inspection.

(3) Each Class I agency operating an ALS ambulance providing a BLS level of care shall at minimum be staffed by:

(a) A driver certified as an emergency medical responder (EMR)[~~technician (EMT)~~]; and

(b) An attendant certified as an emergency medical technician (EMT).

(4) Each Class II agency shall at minimum be staffed by:

(a) A driver certified as an emergency medical responder (EMR)[~~technician (EMT)~~]; and

(b) An attendant certified as an emergency medical technician (EMT).

(5) A Class III Adult Critical Care ambulance agency shall at minimum be staffed by:

(a) A driver certified as an emergency medical responder (EMR)[~~technician (EMT)~~];

(b) An attendant licensed as a paramedic; and

(c) One (1) licensed:

1. Registered nurse;
2. Advanced practice registered nurse;
3. Respiratory therapist;
4. Physician assistant;
5. Physician; or
6. Additional paramedic.

(6) (a) Each Class III Pediatric Specialty Care Ambulance Agency shall at minimum be staffed by:

1. A driver certified as an emergency medical responder (EMR)[~~technician (EMT)~~];
2. A primary attendant licensed as a registered nurse; and
3. One (1) additional attendant licensed as a:

a. Registered nurse;
b. Advanced practice registered nurse;
c. Respiratory therapist;
d. Physician assistant;
e. Physician; or
f. Paramedic.

(b) Any attendant hired after January 1, 2020 shall acquire and maintain within one (1) year of hire, a specialty certification in Pediatric Critical Care or Neonatal Critical Care acquired through successful completion of a validated examination administered by an independent entity not associated with a specific course or program of education.

(7) (a) Each Class III Neonatal Specialty Care Ambulance Agency shall at minimum be staffed by:

1. A driver certified as an emergency medical responder (EMR)[~~technician (EMT)~~];
2. A primary attendant licensed as a registered nurse; and
3. One (1) additional attendant licensed as:

a. An advanced practice registered nurse;
b. A respiratory therapist;
c. A physician assistant;
d. A physician;
e. A registered nurse; or
f. Paramedic.

(b) Any attendant hired after January 1, 2020 shall acquire and maintain within one (1) year of hire, a specialty certification in Pediatric Critical Care or Neonatal Critical Care acquired through successful completion of a validated examination administered by an independent entity not associated with a specific course or program of education.

(8) Each Class IV agency operating a BLS ambulance shall at minimum be staffed by:

(a) A driver certified as an emergency medical responder (EMR) [~~technician (EMT)~~]; and

(b) An attendant certified as an emergency medical technician (EMT).

(9) Each Class IV service operating an ALS ambulance shall at minimum be staffed by:

(a) A driver certified as an emergency medical technician (EMT); and

(b) An attendant certified as an Advanced EMT or licensed as a paramedic.

1. Each Class IV ALS agency that provides emergency and nonemergency transportation for restricted locations, such as industrial sites or other sites, shall ensure an on-duty paramedic staffs at least twenty-five (25) percent of the agency's staffed ambulances at any time during a twenty-four (24) hour period.

2. To ensure compliance, each agency shall maintain its work schedules from the previous twelve (12) months until reviewed by board staff during its annual inspection.

(10) Each Class VI BLS medical first response agency shall at minimum be staffed by a certified:

(a) Emergency medical responder (EMR); or

(b) Emergency medical technician (EMT).

(11) Each Class VI ALS medical first response agency shall at minimum be minimally staffed by:

(a) A certified Advanced EMT; or

(b) A licensed paramedic.

(12) Each Class VIII BLS agency shall be minimally staffed by a certified:

(a) Emergency medical responder (EMR); or

(b) Emergency medical technician (EMT).

(13) Each Class VIII ALS agency shall be minimally staffed by:

(a) A certified Advanced EMT; or

(b) A licensed paramedic.

(14) Each Class I ALS, Class III ACC, Class IV ALS, and Class VI ALS agency shall have a licensed paramedic on duty at all times.

(15) At all times, the attendant shall monitor the patient and remain with the patient in the patient compartment.

(16) This administrative regulation shall not prevent an agency from utilizing staff other than those required by this administrative regulation in:

(a) Disasters;

(b) Mass casualty incidents; or

(c) Extraordinary scene conditions that would impair the safety of the patient or personnel operating at the scene.

(17) [~~A certified emergency medical responder who was employed by a Class I, II, or III agency as a driver prior to January 1, 2018 may continue in that role if the emergency medical responder's employment relationship with the Class I, II, or III agency does not lapse.~~

~~(18)~~] Alternative staff shall not operate a licensed vehicle unless the:

(a) Agency administrator so directs; and

(b) Vehicle is out of service and not subject to an emergency response.

Section 2. Motor Vehicle Operator Requirements. (1) Each person operating a vehicle shall:

(a) Be at least eighteen (18) years of age;

(b) Hold a valid driver's license in any state or territory of the United States; and

(c) Complete at least four (4) hours of driver training and education every two (2) years.

(2) The driver training and education shall consist of a:

(a) Review of driving a vehicle under emergency conditions;

(b) Review of KRS 189.910 through 189.950 regarding operation of emergency vehicles;

(c) Demonstration by the student of forward and back-up driving maneuvers in a controlled situation, such as in an obstacle course designed specifically for this purpose; and

(d) Review of defensive driving techniques and procedures with hands-on experience or exposure by visual aids or planned demonstrations.

Section 3. Public Notice of Negative Action. The board office shall cause to be published, on the KBEMS Web site or similar publication of the board, or otherwise disseminate, the name of any licensed agency that is fined, placed on probationary status, placed on restricted status, suspended, or had a license revoked.

PHILIP DIETZ, Chairman

APPROVED BY AGENCY: December 9, 2021

FILED WITH LRC: January 12, 2022 at 12:46 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 23, 2022 at 1:00 PM Eastern Standard Time at the Kentucky Board of Emergency Medical Services, 2464 Fortune Drive, Suite 195, Lexington, Kentucky 40509. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through March 31, 2022. 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: Chuck O'Neal, Deputy Executive Director of Administration, Kentucky Board of Emergency Medical Services, 2464 Fortune Drive, Suite 195, Lexington, Kentucky 40509, phone (859) 256-3587, email chuck.oneal@kctcs.edu.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Chuck O'Neal

(1) Provide a brief summary of:

(a) What this administrative regulation does: 202 KAR 7:560 establishes the minimum staffing requirements for ground vehicles.

(b) The necessity of this administrative regulation: KRS 311A.030 requires the Board to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers and medical first response agencies.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 311A.030 by establishing the minimum staffing requirements for ground vehicles.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 311A.030 requires the Board to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers and medical first response agencies. This administrative regulation establishes the minimum staffing requirements for ground vehicles.

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

(a) How the amendment will change this existing administrative regulation: This amendment will allow emergency medical responders (EMRs) to drive ambulances.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to mitigate staffing concerns and ensure that ambulances are adequately staffed.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 311A.030 requires the Board to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers and medical first response agencies. This administrative regulation establishes the minimum staffing requirements for ground vehicles.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation establishes the minimum staffing requirements for ground vehicles.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All Kentucky Licensed Ground Ambulance Services and Kentucky Medical First Response agencies.

(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: All Kentucky Licensed Ground Ambulance Services and Kentucky Medical First Response agencies will be permitted to assign emergency medical responders as ambulance drivers.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to any entity identified in question (3), other than administrative costs that may be incurred in recruiting and maintaining qualified attendants.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The entities affected will benefit by being permitted to assign emergency medical responders (EMRs) as ambulance drivers.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: The Board shall pay for all administrative costs of reviewing compliance with applicable requirements.

(a) Initially: There will be no cost to any entity identified in question (3), other than administrative costs that may be incurred in recruiting and maintaining qualified attendants.

(b) On a continuing basis: There will be no cost to any entity identified in question (3), other than administrative costs that may be incurred in recruiting and maintaining qualified attendants.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: The Kentucky Board of Emergency Medical Services is a state agency that receives its annual budget from the state government.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary.

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

(9) TIERING: Is tiering applied? Tiering is not applied to this administrative regulation because the amendment establishes minimum staffing certification requirements for ground vehicles, which apply to all affected entities to ensure that all affected personnel meet the minimum qualifications.

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 administrative regulation will relate to all Kentucky Licensed Ground Ambulance Services and Kentucky Medical First Response agencies.

(2) Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 311A.030. No federal statutes necessitate this administrative regulation.

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will generate no revenue for the first year.

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

(c) How much will it cost to administer this program for the first year? This administrative regulation will not impose any costs on state or local government.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation will not impose any costs on state or local government.

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

Revenues (+/-): This administrative regulation will not generate revenue.

Expenditures (+/-): This administrative regulation will not impose any costs.

Other Explanation:

**ENERGY AND ENVIRONMENT CABINET**
**Department for Environmental Protection**
**Division for Air Quality**
**(Amendment)**

**401 KAR 51:010. Attainment status designations.**

RELATES TO: KRS 224.20-100, 224.20-110, 224.20-120, 40 C.F.R. 50, 51, 52, 53, 58, 75, 81.318, 42 U.S.C. 7401-7671q

STATUTORY AUTHORITY: KRS 224.10-100(5), 224.20-110, 42 U.S.C. 7407

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(5) authorizes the cabinet to promulgate administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation designates the status of all areas of the Commonwealth of Kentucky with regard to attainment of the ambient air quality standards.

Section 1. Definitions. (1) "Rest of state" means the remainder of the state has been designated and identified on a county by county basis.

(2) "Road" means a Kentucky route, a county road, a lane, or a U.S. route, highway, or interstate.

(3) "Statewide" means the entire state has been designated on a county by county basis.

Section 2. Attainment Status Designations. (1) The attainment status of areas of the Commonwealth of Kentucky with respect to the ambient air quality standards for carbon monoxide, lead, nitrogen oxides, ozone, particulate matter, and sulfur dioxide is listed in Sections 4 through 10 of this administrative regulation.

(2) Within sixty (60) days of revision by the U.S. Environmental Protection Agency (U.S. EPA) of a national ambient air quality standard, the cabinet shall review applicable data and submit to the U.S. EPA a revision to the attainment - nonattainment list pursuant to 42 U.S.C. 7407(d)(1).

(3) A road, junction, or intersection of two (2) or more roads as used in Section 7 of this administrative regulation that defines a nonattainment boundary for an area that is a portion of a county designated as nonattainment for ozone for any classification except marginal shall include as nonattainment an area extending 750 feet from the center of the road, junction, or intersection.

Section 3. Attainment Timetable. Primary and secondary ambient air quality standards shall be attained as expeditiously as practicable.

Section 4. Attainment Status Designations for Carbon Monoxide (CO). 1971 Standard:

| Designated Area | Designation Type |
|---|---|
| Statewide | Unclassifiable/Attainment |

Section 5. Attainment Status Designations for Lead (Pb). 2008 Standard:

| Designated Area | Designation Type |
|---|---|
| Statewide | Unclassifiable/Attainment |

Section 6. Attainment Status Designations for Nitrogen Oxides ($NO_2$). (1) 1971 Annual Standard:

| Designated Area | Does Not Meet Primary Standards | Cannot Be Classified or Better Than Standards |
|---|---|---|
| Statewide | | X |

(2) 2010 One (1) Hour Standard:

| Designated Area | Designation Type |
|---|---|

| | |
|---|---|
| Statewide | Unclassifiable/Attainment |

Section 7. Attainment Status Designations for Ozone ($O_3$). (1) The 1971 One (1) Hour Standard was revoked effective June 15, 2005, for all areas in the Commonwealth of Kentucky. The Cincinnati-Hamilton, Edmonson County, Huntington-Ashland, Lexington-Fayette, Louisville, Owensboro, and Paducah areas shall be considered maintenance areas for the one (1) hour national ambient air quality standards for the purposes of 40 C.F.R. Part 51, Subpart X.

(2) 1997 Eight (8) Hour Primary and Secondary Standard:

| Designated Area | Designation Type |
|---|---|
| Boone County | Attainment[(1)] |
| Boyd County | Attainment[(1)] |
| Bullitt County | Attainment[(1)] |
| Campbell County | Attainment[(1)] |
| Christian County | Attainment[(1)] |
| Jefferson County | Attainment[(1)] |
| Kenton County | Attainment[(1)] |
| Oldham County | Attainment[(1)] |
| Rest of state | Unclassifiable/Attainment |

Footnote: [(1)] Existing sources located in areas previously designated as nonattainment shall continue to comply with all applicable conditions pursuant to 401 KAR Chapters 59 and 61.

(3) 2008 Eight (8) Hour Primary and Secondary Standard:

| Designated Area | Designation Type |
|---|---|
| Boone County (part)<br>2000 Census tracts: 701, 702, 703.01, 703.04, 703.05, 703.06, 703.07, 703.08, 703.09, 704.01, 704.02, 705.01, 705.02, 706.03 | Attainment[(1)] |
| Campbell County (part)<br>2000 Census tracts: 501, 502, 503, 504, 505, 506, 511.01, 511.02, 512, 513, 519.01, 519.03, 519.04, 521, 522, 523.01, 523.02, 524, 525, 526, 528, 529, 530, 531 | Attainment[(1)] |
| Kenton County (part)<br>2000 Census tracts: 603, 607, 609, 610, 611, 612, 613, 614, 616, 636.03, 636.04, 636.05, 636.06, 638, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655.01, 655.02, 656, 657, 658, 659, 668, 669, 670, 671 | Attainment[(1)] |
| Rest of state | Unclassifiable/ Attainment |

Footnote: [(1)] Existing sources located in areas previously designated as nonattainment shall continue to comply with all applicable conditions pursuant to 401 KAR Chapters 59 and 61.

(4) 2015 Eight (8) Hour Primary and Secondary Standard:

| Designated Area | Designation Type | Classification |
|---|---|---|
| Boone County (part)<br>The entire county except for 2010 U.S. Census Tracts 706.01 and 706.04 | Nonattainment | Marginal |
| Bullitt County | Nonattainment | Marginal |
| Campbell County (part)<br>The entire county except for 2010 U.S. Census Tracts 520.01 and 520.02 | Nonattainment | Marginal |
| Jefferson County | Nonattainment | Marginal |
| Kenton County (part)<br>The entire county except for 2010 U.S. Census Tracts 637.01 and 637.02 | Nonattainment | Marginal |
| Oldham County | Nonattainment | Marginal |
| Rest of state | Attainment/Unclassifiable | |

Section 8. Attainment Status Designations for $PM_{2.5}$. (1) 1997 Annual Primary and Secondary Standard:

| Designated Area | Designation Type |
|---|---|
| Boone County | Attainment[(1)] |
| Boyd County | Attainment[(1)] |
| Bullitt County | Attainment[(1)] |
| Campbell County | Attainment[(1)] |
| Jefferson County | Attainment[(1)] |
| Kenton County | Attainment[(1)] |
| Lawrence County (part)<br>The area described by U.S. Census 2000 block group identifier 21-127-9901-6 | Attainment[(1)] |
| Rest of state | Unclassifiable/ Attainment |

Footnote: [(1)] Existing sources located in areas previously designated as nonattainment shall continue to comply with all applicable conditions pursuant to 401 KAR Chapters 59 and 61.

(2) 2012 Annual Primary Standard:

| Designated Area | Designation Type |
|---|---|
| Statewide | Unclassifiable/Attainment |

(3) 1997 Twenty-four (24) Hour Primary and Secondary Standard:

| Designated Area | Designation Type |
|---|---|
| Statewide | Unclassifiable/Attainment |

(4) 2006 Twenty-four (24) Hour Primary and Secondary Standard:

| Designated Area | Designation Type |
|---|---|
| Statewide | Unclassifiable/Attainment |

Section 9. Attainment Status Designations for Sulfur Dioxide ($SO_2$). (1) 1971 Primary and Secondary Standard:

| Designated Area | Does Not Meet Primary Standards | Does Not Meet Secondary Standards | Cannot Be Classified | Better Than National Standards |
|---|---|---|---|---|
| Statewide | | | | X |

(2) 2010 Primary Standard:

| Designated Area | Designated Type |
|---|---|
| Campbell County (part)<br>That portion of Campbell County which lies south and west of the Ohio River described as follows: Beginning at geographic coordinates 38.9735 North Latitude, 84.3017 West Longitude on the edge of the Ohio River running southwesterly to Kentucky Highway 1566; thence continuing running southwesterly along Kentucky Highway 1566 to Kentucky Highway 9 (AA Highway); thence running northwesterly along Kentucky Highway 9 (AA Highway) from Hwy 1566 to Interstate 275; thence running northeasterly along Interstate 275 to Highway 2345 (John's Hill Road), Hwy 2345 to US-27, US-27 to I-275, I-275 to the Ohio River; thence running southeasterly along the Ohio River from I-275 to geographic coordinates 38.9735 North Latitude, 84.3017 West Longitude | Attainment[(1)] |
| Henderson-Webster Counties, KY<br>Henderson County (part).<br>Webster County (part).<br>That portion of Henderson and Webster Counties encompassed by the polygon with the 48 vertices using Universal Traverse Mercator (UTM) coordinates of North American Datum 1983 (NAD83) as follows: (1) Kentucky 520, Upper Delaware Rd to the Green River boundary at | Nonattainment |

| | |
|---|---|
| 463979.00 Easting (E), 4171000.03 Northing (N); (2) The Green River boundary to JZ Shelton Rd 459058.03 E, 4160832.96 N; (3) JZ Shelton Rd to Kentucky 370 457811.00 E, 4159192.96, N; (4) Kentucky 370 to Pennyrile Parkway I–69 457089.96 E, 4159452.95 N; (5) Pennyrile Parkway I–69 to Sassafras Grove Rd 457675.35 E, 4156244.55 N; (6) Sassafras Grove Rd to US 41 456236.68 E, 4156125.75 N; (7) US 41 to Slaughters Elmwood Rd 457442.82 E, 4153425.68 N; (8) Slaughters Elmwood Rd to Railroad Track (NW) 456589.41 E, 4153424.43 N; (9) Railroad Track (NW) to Breton Rd 453677.09 E, 4155992.29 N; (10) Breton Rd to Kentucky 1835 453079.74 E, 4154924.00 N; (11) Kentucky 1835 to Kentucky 138 450702.89 E, 4153141.51 N; (12) Kentucky 138 to Crowder Rd 452587.06 E, 4152032.38 N; (13) Crowder Rd to Kentucky 120 453030.14 E, 4149175.08 N; (14) Kentucky 120 to Gooch Jones Rd 447528.25 E, 4147663.88 N; (15) Gooch Jones Rd to John Roach Rd 446551.75 E, 4150042.51 N; (16) John Roach Rd to Old Dixon Slaughters Rd 447462.17 E, 4151329.04 N; (17) Old Dixon Slaughters Rd to Old Dixon Rd 446532.28 E, 4152143.23 N; (18) Old Dixon Rd to Kentucky 138 446849.49 E, 4152437.09 N; (19) Kentucky 138 to Carnel Brooks Rd 450196.38 E, 4153305.18 N; (20) Carnel Brooks Rd to Rakestraw Bottoms Rd 450079.34 E, 4154326.39 N; (21) Rakestraw Bottoms Rd to Kentucky 132 447141.40 E, 4157145.04 N; (22) Kentucky 132 to Kentucky 283 444025.55 E, 4156172.90 N; (23) Kentucky 283 to Beckley Osbourne Rd 444300.82 E, 4158111.35 N; (24) Beckley Osbourne Rd to Dixon Wanamaker Rd 442067.07 E, 4158641.90 N; (25) Dixon Wanamaker Rd to Kentucky 191 441887.88 E, 4161614.33 N; (26) Kentucky 191 to D Melton Rd 442743.25 E, 4161250.11 N; (27) D Melton Rd to Knoblick Creek Rd 443688.82 E, 4162093.08 N; (28) Knoblick Creek Rd to US 41A 442319.35 E, 4163220.45 N; (29) US 41A to Dixon 1 Rd 443500.62 E, 4170518.52 N; (30) Dixon 1 Rd to GF Sights Rd 443094.58 E, 4170166.59 N; (31) GF Sights Rd to Cairo Dixie Rd 441341.46 E, 4170978.60 N; (32) Cairo Dixie Rd to Liles Cairo Rd 442919.00 E, 4173140.24 N; (33) Liles Cairo Rd to US 41A 443124.23 E, 4173204.51 N; (34) US 41A to Cairo Hickory Grove Rd 442860.28 E, 4174017.18 N; (35) Cairo Hickory Grove Rd to Pruitt Agnew Rd 446056.06 E, 4175740.98 N; (36) Pruitt Agnew Rd to Kentucky 1299 447662.11 E, 4180049.93 N; (37) Kentucky 1299 to Anthoston Frog Island Rd 448905.37 E, 4176327.31 N; (38) Anthoston Frog Island Rd to Kentucky 136 452613.63 E, 4179047.02 N; (39) Kentucky 136 to Upper Delaware Rd 454451.59 E, 4177687.26 N; (40) Upper Delaware Rd to Barren Church Rd S 456153.23 E, 4177723.20 N; (41) Barren Church Rd S to Barren Church Rd N 457912.85 E, 4180247.83 N; (42) Barren Church Rd N to Kentucky 1078 458542.52 E, 4181615.55 N; (43) Kentucky 1078 to Jones Brothers Rd 461322.00 E, 4179952.85 N; (44) Jones Brothers Rd to Kentucky 416 461209.84 E, 4177755.55 N; (45) Kentucky 416 to Kentucky 1078 463492.08 E, 4178026.50 N; (46) Kentucky 1078 to Onionville Rd 464177.31 E, 4177054.13 N; (47) Onionville Rd to Work Road 465476.34 E, 4176076.78 N; (48) Work Road to Upper Delaware Rd 462529.15 E, 4173036.52 N.<br>[~~Henderson County (part)~~<br>~~Census Block Groups 211010207013, 211010207014, 211010207024, and 211010208004~~] | [~~Attainment/ Unclassifiable~~] |
| Jefferson County (part)<br>That portion of Jefferson County compassed by the polygon with the vertices using Universal Traverse Mercator (UTM) coordinates in UTM zone 16 with datum NAD83:<br>Ethan Allen Way extended to the Ohio River at UTM Easting (m) 595738, UTM Northing 4214086 and Dixie Highway (US60 and US31W) at UTM Easting (m) 597515, UTM Northing 4212946; Along Dixie Highway from UTM Easting (m) 597515, UTM Northing 4212946 to UTM Easting (m) 595859, UTM Northing 4210678; Near the adjacent property lines of Louisville Gas and Electric-Mill Creek Electric Generating Station and Kosmos Cement where they join Dixie Highway at UTM Easting (m) 595859, UTM Northing 4210678 and the Ohio River at UTM Easting (m) 595326, UTM Northing 4211014; Along the Ohio River from UTM Easting (m) 595326, UTM Northing 4211014 to UTM Easting (m) 595738, UTM Northing 4214086 | Attainment(1) |
| Ohio County | Unclassifiable |
| Pulaski County | Unclassifiable |
| Rest of state[~~(2)~~] | Attainment/ Unclassifiable |

Footnote: (1) Existing sources located in areas previously designated as nonattainment shall continue to comply with all applicable conditions pursuant to 401 KAR Chapters 59 and 61.
[~~(2) Excluding Webster and the remainder of Henderson County.~~]

Section 10. Attainment Status Designations for Total Suspended Particulates (TSP). 1971 Standard:

| Designated Area | Does Not Meet Primary Standards | Does Not Meet Secondary Standards | Cannot Be Classified | Better Than National Standards |
|---|---|---|---|---|
| Bell County | | | | X |
| Boyd County | | | X | |
| That portion of Bullitt County in Shepherdsville | | | | X |
| That portion of Campbell County in Newport | | | | X |
| That portion of Daviess County in Owensboro bordered by the Ohio River on the north, by Frederica Street projected to the river on the west, by Fourth Street and U.S. 60 on the south, and by the Beltline (KY 212) projected to the river on the east | | | X | |
| That portion of Henderson County in Henderson | | | X | |

| | | | | |
|---|---|---|---|---|
| Jefferson County | | | X | |
| That portion of Lawrence County in Louisa | | | X | |
| McCracken County | | | | X |
| That portion of Madison County in Richmond | | | X | |
| Marshall County | | | | X |
| Muhlenberg County | | | | X |
| That portion of Perry County in Hazard | | | X | |
| That portion of Pike County in Pikeville | | | X | |
| That portion of Whitley County in Corbin | | | | X |
| Rest of state | | | | X |

REBECCA W. GOODMAN, Secretary

APPROVED BY AGENCY: December 20, 2021

FILED WITH LRC: January 12, 2022 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A virtual public hearing on this administrative regulation amendment will be held on March 30, 2022 at 10:00 a.m. (Eastern Time). The public hearing can be accessed at the following Web site address: https://global.gotomeeting.com/join/466756517 or can be accessed by phone: +1 (872) 240-3212 using code: 466-756-517. Please note that registration is required to participate in this hearing. You must either email your name and mailing address to Lisa.C.Jones@ky.gov or mail this information to Lisa Jones, Division for Air Quality, 300 Sower Boulevard, 2nd Floor, Frankfort, Kentucky 40601. Please put "Registration for Attainment Status Designations Hearing" as the subject line, and state in the body of the message if you plan to speak during the hearing. If no one registers to speak by March 24, 2022, then the hearing will be cancelled. Written comments shall be accepted until March 31, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation amendment to the contact person. The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing, may be made to the contact person at least five (5) workdays prior to the hearing.

CONTACT PERSON: Lisa Jones, Environmental Scientist III, Division for Air Quality, 300 Sower Boulevard, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 782-1288, fax (502) 564-4245, email Lisa.C.Jones@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lisa Jones

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation designates the status of all areas of the Commonwealth of Kentucky (Commonwealth) with regard to attainment of ambient air quality standards. Under section 107 of the Clean Air Act, the state has the primary responsibility of assuring air quality within the entire geographic area by submitting an implementation plan that specifies the manner in which national primary and secondary ambient air quality standards will be achieved and maintained within each air quality region in that state.

(b) The necessity of this administrative regulation: This administrative regulation is necessary because it designates whether an area is attaining ambient air quality standards.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-100(5) authorizes the Energy and Environment Cabinet (Cabinet) to promulgate administrative regulations for the prevention, abatement, and control of air pollution. KRS 224.20-110 prohibits pollution of the air under the jurisdiction of the Commonwealth in contravention of the emission standards or the ambient air standards adopted by the cabinet. Section 107 of the Clean Air Act provides states with the primary responsibility for assuring air quality within the entire geographic area of the state. This administrative regulation designates the status of all areas of the Commonwealth with regard to attainment of the National Ambient Air Quality Standards (NAAQS).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The Kentucky State Implementation Plan (SIP) specifies the manner in which national primary and secondary ambient air quality standards will be achieved and maintained within each air quality control region in the state depending on the attainment status designation of the area as established in this administrative 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: The proposed amendment to this administrative regulation will update the attainment status of geographic areas in Kentucky for new and revised national primary and secondary ambient air quality standards.

(b) The necessity of the amendment to this administrative regulation: The proposed amendment to this administrative regulation updates the state designations based on the most recent air quality data.

(c) How the amendment conforms to the content of the authorizing statutes: The proposed amendment to this administrative regulation conforms to the content of the authorizing statutes by identifying the status of areas in Kentucky with regard to attainment of ambient air quality standards for the planning and implementation of the Kentucky SIP.

(d) How the amendment will assist in the effective administration of the statutes: The Kentucky SIP specifies the manner in which national primary and secondary ambient air quality standards will be achieved and maintained within each air quality control region in the state depending on the attainment status designation of the area as prescribed in this administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The number and type of entities affected by this administrative regulation depends on the location of the facility since this regulation designates areas of the Commonwealth with regard to attainment of the NAAQS based on ambient air quality data.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Regulated entities will not have to take any action to comply directly with this administrative regulation. However, an entity may be required to meet additional requirements established in other administrative regulations due to the attainment status designation assigned to them in this regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost associated with the proposed amendment to this administrative regulation as it updates the attainment status designations to be consistent with federal regulations.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Compliance with standards set forth by other regulations due to the status designations in this administrative regulation will ensure entities are complying with the requirements of the Kentucky SIP to protect human health and the

environment.

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

(a) Initially: The Cabinet will not incur any additional costs for the implementation of the proposed amendment to this administrative regulation.

(b) On a continuing basis: The Cabinet will not incur any additional costs for the implementation of the proposed amendment to this administrative regulation on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Cabinet's current operating budget will be used to implement and enforce the proposed amendment to 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 the proposed amendment of this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: The proposed amendment to this administrative regulation will not establish, nor does it directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? No, tiering is not applicable because this regulation only indicates the attainment status designation for an area based on the most recent air quality data.

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 Division for Air Quality will continue to use the attainment status designations in this regulation to determine applicability of other regulations. State and local governments that own or operate affected facilities may be subject to other regulatory requirements based on the location of the affected facility and the facility's operating parameters.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 224.10-100(5), 224.20-110, 42 U.S.C. 7407, 40 C.F.R. 81.318

(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 proposed amendment to this administrative regulation will not generate revenue for the first year.

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

(c) How much will it cost to administer this program for the first year? The Division for Air Quality's current operating budget will be used to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? The Division for Air Quality's operating budget will be used 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 (+/-): There is no known effect on current revenues.

Expenditures (+/-): There is no known effect on current expenditures.

Other Explanation: There is no further explanation.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. The federal mandate for this administrative regulation is in 40 C.F.R. 81.318 and 42 U.S.C. 7407.

(2) State compliance standards. This administrative regulation designates the status of areas in the Commonwealth associated with ambient air quality standards.

(3) Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 7407 requires each state with the primary responsibility for assuring air quality within the entire geographic area of the state.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No, the administrative regulation does not impose stricter requirements or additional or different responsibilities than those required by the federal mandate.

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

**PUBLIC PROTECTION CABINET**
**Kentucky Horse Racing Commission**
**(Amendment)**

**810 KAR 7:050. Kentucky Horse Breeders' Incentive Fund.**

RELATES TO: KRS 230.225(5)(c), 230.330, 230.804, 15 U.S.C. 1821-1831

STATUTORY AUTHORITY: KRS 230.804(2)(b)

NECESSITY, FUNCTION AND CONFORMITY: KRS. 230.804 establishes the Kentucky Horse Breeders' Incentive Fund. KRS 230.804(2)(b) requires the Kentucky Horse Racing Commission to promulgate administrative regulations establishing the conditions and criteria for the distribution of moneys from the fund. This administrative regulation establishes eligibility standards, administrative practices to enforce the standards, and the procedures for paying incentive awards from the fund.

Section 1. Definitions.

(1) "Applicant" means a Kentucky affiliate representing a breed of horses which is eligible to register with the commission to participate in the Kentucky Horse Breeders' Incentive Fund.

(2) "Award distribution plan" means a plan submitted by a Kentucky affiliate to the commission outlining the procedures by which the Kentucky affiliate will award funds from the Kentucky Horse Breeders' Incentive Fund to incentive winners who are members of the Kentucky affiliate.

(3) "Breed" means a subspecies of horse with particular physical characteristics common to the subspecies which are used in establishing the identity of a horse by a registry recognized by the commission.

(4) "Breeder" means:

(a) A person or persons engaged in the breeding of horses eligible for the Kentucky Horse Breeders' Incentive Fund, as defined by the national association of the Kentucky affiliate recognized by the commission as a participant in the Kentucky Horse Breeders' Incentive Fund program; or

(b) If the national association does not define "breeder", the owner of the dam of a horse when the horse was foaled.

(5) "Closed breed registry" means the restrictions of the official national breed registry recognized by the Kentucky Horse Breeders' Incentive Fund.

(6) "Contest" means a competitive event with an outcome which qualifies the owner of a horse as an incentive winner under a Kentucky affiliate's award distribution plan.

(7) "Incentive winner" means a person whose horse's performance in a contest entitles that person to an award from the Kentucky Horse Breeders' Incentive Fund.

(8) "Kentucky affiliate" means the Kentucky organization that is recognized by a national breed organization representing that particular breed of horse in Kentucky.

(9) "Kentucky Horse Breeders' Incentive Fund" means the trust and revolving fund established by KRS 230.804.

(10) "KHBIF" means the Kentucky Horse Breeders' Incentive Fund.

(11) "Show horse" means a horse that participates in judged exhibition competitions.

Section 2. Registration of Kentucky Affiliate.

(1) Only a Kentucky affiliate may register to participate in the KHBIF.

(2) Kentucky affiliates shall have an Internal Revenue Service 501(c) designation.

(3) To become eligible to receive funds from the KHBIF, a Kentucky affiliate shall register with the commission by:

(a) Filing an "Application for Registration of Kentucky Affiliate with the Kentucky Horse Breeders' Incentive Fund", KHRC Form HB-1, (12/08); and

(b) Filing with the application an award distribution plan to be reviewed and approved by the commission.

(4) A thoroughbred breed shall not be eligible for registration with the KHBIF, unless the thoroughbred breed consists exclusively of show horses.

(5) A standardbred breed shall not be eligible for registration with the KHBIF, unless the standardbred breed consists exclusively of show horses.

(6) The color of a breed of horses shall not be the sole criterion used to define that breed for purposes of registration with the KHBIF.

(7) The commission may establish, under its general jurisdiction, the KHBIF Advisory Committee (the "advisory committee"). If established, the advisory committee shall consist of three (3) members appointed by the chairman of the commission by July 1 of each year. One (1) member shall be recommended to the chairman for appointment by the Kentucky Equine Education Project (KEEP). If KEEP has not recommended a member for appointment by July 1 of a given year, the Chairman of the commission shall make the appointment without the recommendation. At least one (1) member of the advisory committee shall have established knowledge of gaited horses. Each member of the advisory committee shall serve from July 1 through June 30 of the following year. Each member of the advisory committee shall be a resident of Kentucky. Each member of the advisory committee shall serve without compensation, but shall be entitled to reimbursement for all reasonable expenses incurred in the discharge of official business. The advisory committee shall select a chairman from its membership annually.

(8)(a) The advisory committee shall advise and assist the commission in the registration process described in this section. The advisory committee shall make a recommendation of approval or denial to the commission for each applicant based upon the application and compliance with the requirements established in subsection (13) of this section.

(b) The commission shall employ qualified personnel necessary to assist the commission and the advisory committee in carrying out the provisions of this administrative regulation. These personnel shall serve at the pleasure of the commission, and compensation for these personnel shall be fixed by the commission.

(9) After the advisory committee recommends to the commission the approval or denial of an application, the commission shall consider the recommendation and whether or not the requirements of this administrative regulation have been met, and shall:

(a) Approve the application;

(b) Deny the application; or

(c) Defer consideration of the application for a reasonable time for the purpose of conducting further investigation of the application.

(10) Registration shall be effective for three (3) years. The first three (3) year registration period shall consist of the period beginning January 1, 2022, and ending December 31, 2024.

(11) For the first registration period, a Kentucky affiliate shall register with the commission on or prior to November 1, 2021. Any Kentucky affiliate that registered with the commission under any previously effective version of this administrative regulation shall reregister.

(12) For each three (3) year period beginning on or after January 1, 2022, a Kentucky affiliate shall register with the commission on or prior to November 1 of the calendar year immediately preceding January 1 of the first year of the three (3) year registration period.

(13) A Kentucky affiliate shall have until December 31 following the November 1 deadline established in subsections (11) and (12) of this section to revise and update any information previously provided to the commission on or before the November 1 deadline.

(14) The application and the accompanying award distribution plan provided to the commission shall include the following information:

(a) The name of the breed of horse covered by the plan;

(b) The name of the Kentucky affiliate;

(c) A letter from the national breed organization representing the breed certifying that the Kentucky affiliate is the recognized representative in Kentucky of that breed, and certifying the number of horses twenty-five (25) years of age and younger in the breed residing in Kentucky. If the Kentucky affiliate is the national breed organization, then an independent third party approved by the commission shall certify the number of horses. Optionally, if the Kentucky affiliate demonstrates to the commission that it is unable to obtain an independent third party to certify horse numbers as required in this subsection, the commission may certify horse numbers at a fee of $120 per hour.

1. For a horse to be included in the certification, the horse shall be the result of parentage verified by DNA verification of either the horse's sire or dam. A three (3) generation pedigree on one (1) side shall be displayed on the certificate of registration, so that the horse, at least one (1) of the horse's parents, and at least (1) set of the horse's grandparents are displayed on the certificate.

2. Each horse shall receive claim money from [~~be registered with~~] only one (1) Kentucky affiliate per year.

3. The affiliate shall provide the data electronically to the commission and in a format agreeable to the commission;

(d) A letter from the national breed organization representing the breed certifying that the breed has a closed breed registry; and

(e) The award distribution plan pursuant to which awards will be distributed to KHBIF incentive winners who are breeders or owners of horses bred and foaled in Kentucky. The award distribution plan shall specify:

1. The scoring method or point system to be utilized in contests to determine the incentive winner of each contest as certified by the national breed organization;

2. The identity of the scoring person or body that will judge each contest as certified by the national breed organization;

3. The rules of the contests in which the horses of the breed will participate as certified by the national breed organization; and

4. The percentage distribution formula by which the Kentucky affiliate shall grant awards to incentive winners.

(15)(a) The commission shall be recognized and designated as the sole official registrar of the KHBIF for the purposes of registering the application and award distribution plan for each breed in accordance with the terms of this administrative regulation.

(b) The records of each national breed organization shall be used as the official records of the commission for determining the following information:

1. The identity of the Kentucky affiliate representing the breed in Kentucky; and

2. The number of horses of the breed twenty-five (25) years of age and younger registered with the national breed organization and currently residing in Kentucky.

(16) If the information on an application form required under this section is found to be inaccurate, or becomes inaccurate, or changes, the organization identified as the Kentucky affiliate shall promptly notify the commission of the correct information within thirty (30) days of discovering the inaccuracy or the circumstances causing the information to become inaccurate or to change.

Section 3. Timing and Distribution of Awards.

(1) The events eligible for awards from the KHBIF, as set forth in each award distribution plan, shall be those occurring on or after January 1, 2006.

(2) Awards to incentive winners shall be calculated and distributed each year.

(3) The commission, with the cooperation of each Kentucky affiliate shall, after the end of each calendar year, calculate the funds due to each Kentucky affiliate for that year.

(4) The amount allocated to a Kentucky affiliate participating in the KHBIF shall be calculated by:

(a) Dividing the number of horses of the breed twenty-five (25) years of age and younger and currently residing in Kentucky as certified by the national breed organization pursuant to Section 2(14)(c) of this administrative regulation, by the total number of horses from all Kentucky affiliates certified pursuant to Section 2(14)(c) of this administrative regulation. The number of horses in each case shall be the number of horses recorded on each Kentucky affiliate's application form on the December 31 deadline established in Section 2(13) of this administrative regulation; and

(b) Multiplying the fraction obtained in paragraph (a) by the total amount of money allocated to all Kentucky affiliates during the year.

(5) An award to an incentive winner from the KHBIF shall be determined based on the award distribution plan submitted by the Kentucky affiliate representing the breed to the commission pursuant to Section 2(2)(b) of this administrative regulation.

(6) The commission shall, by March 1 of each year, notify the Kentucky affiliate of the total dollars allocated to that affiliate.

(7) Kentucky affiliate shall, by October 1 of each year, notify the commission of the names of the incentive winners who are entitled to awards for contests held during the previous year. The Kentucky affiliate shall also, by October 1 of each year, notify the commission of the names of the horses registered to that affiliate, and the date of each horse's registration. If a horse is registered with more than one (1) affiliate, the commission shall not count that horse's award, and the funds for that award shall revert back to the KHBIF to be distributed in future awards.

(a) Within thirty (30) calendar days of receiving the names of the incentive winners from the Kentucky affiliate, the commission shall generate claim forms for the appropriate Kentucky affiliate.

(b) The Kentucky affiliate shall provide the claim forms received from the commission to its incentive winners from the previous year.

(c) The Kentucky affiliate shall provide a letter to the commission, which certifies that it has notified all incentive winners of their awards from the previous year. The commission shall not issue an award check for any of that Kentucky affiliate's incentive winners prior to receiving this letter.

(8) After receiving notification of an award, each incentive winner shall return an enclosed claim form for the award that certifies that the incentive winner is entitled to the award and that certifies the incentive winner's taxpayer ID number or Social Security number. The claim form shall be delivered to the commission no later than December 31 of the same year in which the commission notified the incentive winner of the award pursuant to subsection (7) of this section.

(9) The claim form shall be the form "Claim Form of Incentive Winner for Award from the Kentucky Horse Breeders' Incentive Fund", KHRC Form HB-2, (12/06).

(10) Failure to return the claim form required by subsection (8) of this section by December 31 of the year in which the incentive winner was notified of the award pursuant to subsection (7) of this section shall result in forfeiture of the award, and the award money shall lapse to the KHBIF.

(11) An award from the KHBIF shall not be granted to any incentive winner who is not in good standing with the national breed organization or Kentucky affiliate.

Section 4. Semiannual Reports.

(1) A semiannual status report describing a Kentucky affiliate's progress and participation in the award distribution plan shall be filed with the advisory committee by each Kentucky affiliate on or before July 31 and January 31. If that date is on a Saturday, Sunday, or legal holiday, the report shall be due on the first business day thereafter.

(2) The semiannual report shall also include:

(a) A list of all stallions presently breeding horses eligible to participate in the fund, and the farm locations on which the stallions stand;

(b) A schedule of all state and national contests for that year in which horses eligible to participate in the KHBIF are scheduled to participate;

(c) A list of all horses registered with the Kentucky affiliate and the horse's date of registration with that affiliate;

(d) A current list of the Kentucky affiliate's board members; and

(e) The current contact information of the Kentucky affiliate's preferred contacts.

Section 5. Disputes.

(1) Any dispute between the commission and a Kentucky affiliate or national breed organization arising under this administrative regulation shall be raised by the aggrieved party filing a petition seeking relief with the executive director of the commission, within thirty (30) days of the action or the inaction leading to the dispute, as established in 810 KAR 7:070.

(2) If the executive director and the aggrieved party do not agree on a resolution of the dispute, the executive director shall assign the case to a hearing officer who shall conduct a hearing pursuant to KRS Chapter 13B.

Section 6. Disciplinary Procedures.

(1) Violations, discipline, disputes, and investigation shall take place according to 810 KAR 7:070.

(2) In addition to the procedures established in 810 KAR 7:070, and notwithstanding any contrary provisions of 810 KAR 7:070, the commission may take the following actions, which would be subject to appeal as established in 810 KAR 7:070:

(a) For a violation of 810 KAR 7:070, the commission may bar a Kentucky affiliate or national breed organization from registering for a period of from one (1) to ten (10) years, based on the seriousness of the violation.

(b) For a second or subsequent violation of 810 KAR 7:070, the commission may bar the Kentucky affiliate or national breed organization from eligibility to receive an incentive from the KHBIF for a period of from one (1) to twenty (20) years.

(c) If the evidence available to the commission indicates that an individual who is a member of, or acting on behalf of, a Kentucky affiliate or national breed organization has, without the knowledge or consent of the Kentucky affiliate or national breed organization, violated 810 KAR 7:070, then the commission may condition the continuing registration of the Kentucky affiliate in the KHBIF upon the exclusion of that individual from any further participation in work related to the KHBIF.

Section 7. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Application for Registration of Kentucky Affiliate with the Kentucky Horse Breeders' Incentive Fund", KHRC 7-050-1, (10/2021)[~~KHRC Form HB-1, (12/08)~~]; and

(b) "Claim Form of Incentive Winner for Award from the Kentucky Horse Breeders' Incentive Fund", KHRC 7-050-02, (10/2021)[~~KHRC Form HB-2, (12/08)~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Horse Racing Commission, 4063 Iron Works Pike, Building B, Lexington, Kentucky 40511, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material may also be obtained from the KHRC Web site at www.khrc.ky.gov.

JONATHAN RABINOWITZ, Chair
RAY PERRY, Secretary

APPROVED BY AGENCY: December 28, 2021

FILED WITH LRC: January 13, 2022 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 9:00 a.m. EST on March 21, 2022 via video conference at the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511. 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 March 31, 2022. 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: Jennifer Wolsing, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone +1 (859) 246-2040, fax +1 (859) 246-2039, email jennifer.wolsing@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jennifer Wolsing

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation sets forth the procedures for administering the Kentucky Horse Breeders' Incentive Fund, established by KRS 230.804.

(b) The necessity of this administrative regulation: This regulation is necessary to provide mechanisms for registering the Fund, distributing funds among registered groups, and imposing disciplinary measures for violation of the regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 230.804(2)(b) authorizes the commission to promulgate administrative regulations prescribing the conditions and criteria for the distribution of moneys from the Kentucky Horse Breeders' Incentive Fund.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation follows KRS 230.804, which directs the commission to promulgate regulations establishing the conditions and criteria for the distribution of moneys from the Kentucky Horse Breeders' Incentive Fund.

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

(a) How the amendment will change this existing administrative regulation: This amendment will provide clarification to participants in the Kentucky Horse Breeders' Incentive Fund that a horse shall receive claim money from only one (1) Kentucky affiliate per year.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to ensure a horse does not claim money from multiple Kentucky affiliates per year and therefore taking an undue percentage of Incentive Fund money.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment further establishes the conditions and criteria for the distribution of moneys from the Kentucky Horse Breeders' Incentive Fund, which is authorized by KRS 230.804(2)(b).

(d) How the amendment will assist in the effective administration of the statutes: This amendment provides clarifying language that a horse shall receive claim money from only one (1) Kentucky affiliate per year.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Kentucky Horse Racing Commission Incentives & Development Division will be affected. There are currently eleven (11) Kentucky affiliates registered with the KHBIF. The affiliates' members will also be affected by this 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: This regulation does not require additional action on behalf of the interested parties.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: This regulation amendment does not involve additional costs.

(c) As a result of compliance, what benefits will accrue to the entities: Compliance with this regulation will allow Kentucky affiliates and incentive winners to take part in the funds distributed from the Kentucky Horse Breeders' Incentive Fund.

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

(a) Initially: No new costs are anticipated as a result of this proposed amendment.

(b) On a continuing basis: No continuing additional costs are anticipated associated with this proposed amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No new costs are anticipated as a result of this proposed amendment. The original source of funding is set forth in KRS 230.804(1) as a trust and revolving fund that is administered by the Kentucky Horse Racing 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 new costs are anticipated as a result of this proposed amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No new fees are anticipated as a result of this proposed amendment.

(9) TIERING: Is tiering applied? Tiering is not applicable to this proposed amendment. All aspects of this regulation will be applied equally to each racing association.

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.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 230.804 establishes the Kentucky Horse Breeders' Incentive Fund.

(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 proposed amendment will not generate any revenue for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No new revenue is anticipated as a result of this proposed amendment.

(c) How much will it cost to administer this program for the first year? No new costs are anticipated as a result of this proposed amendment.

(d) How much will it cost to administer this program for subsequent years? No new costs are anticipated as a result of this proposed amendment.

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: N/A.

**CABINET FOR HEALTH AND FAMILY SERVICES**
**Office of Inspector General**
**Division of Health Care**
**(Amendment)**

**902 KAR 20:016. Hospitals; operations and services.**

RELATES TO: KRS 198B.260, Chapter 209, 211.842-211.852, Chapter 214, 216.2970, 216B.010, 216B.015, 216B.040, 216B.042, 216B.0425(2), 216B.045, 216B.050, 216B.055, 216B.075, 216B.085, 216B.105-216B.125, 216B.140-216B.175, 216B.185, 216B.190, 216B.230-216B.239, 216B.250, 216B.400-

216B.402, 216B.990, [~~219.011-219.081,~~] Chapter 310, 311.560, 311.992, Chapter 311B, 314.011(8), 314.042(8), [~~320.210(2),~~] 333.030, 446.400, Chapter 620, 29 C.F.R. 1910.1030(d)(2)(vii), 40 C.F.R. Part 403, 42 C.F.R. Part 405, 412.22[~~(c)~~], 412.92, 413.65, 482.12(c), 489.24[~~489.25~~], Part 493, 45 C.F.R. Part 160, Part 164, 42 U.S.C. 1320d-2—[-]1320d-8, 1395u(b)(18)(C), 1395x(r)(2)-(5), 1395dd

STATUTORY AUTHORITY: KRS 216B.042(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary for the proper administration of the licensure function, which includes establishing licensure standards and procedures to ensure safe, adequate, and efficient health facilities and health services. This administrative regulation establishes the minimum licensure requirements for the operation of hospitals and the basic services provided by hospitals.

Section 1. Definitions. (1) "Accredited record technician" means an individual who:

(a) Has graduated from a program for medical record technicians that is accredited by the Council on Medical Education of the American Medical Association and the American Health Information Management Association; and

(b) Is certified as an accredited record technician by the American Health Information Management Association.

(2) "Governing authority" means the individual, agency, partnership, or corporation in which the ultimate responsibility and authority for the conduct of the health facility is vested.

(3) "Long-term acute inpatient hospital services" means acute inpatient services provided to patients whose average inpatient stay is greater than twenty-five (25) days.

(4) "Organ procurement agency" means a federally designated organization that coordinates and performs activities to encourage the donation of organs or tissues for transplantation.

(5) "Protective device" means a device designed to protect a person from falling, and may include:

(a) Side rails;

(b) A safety vest; or

(c) A safety belt.

(6) "Psychiatric unit" means a department of a general acute care hospital consisting of eight (8) or more psychiatric beds organized for the purpose of providing psychiatric services.

(7) "Registered health information administrator" means an individual who has obtained professional certification from the American Health Information Management Association.

(8) "Registered or registry-eligible dietician" means an individual who is licensed as a dietician in accordance with KRS Chapter 310.

(9) "Restraint" means any pharmaceutical agent or physical or mechanical device used to restrict the movement of a patient or the movement of a portion of a patient's body.

Section 2. Requirements to Provide Services. A facility shall not be licensed as or hold itself out to be a hospital unless it provides:

(1) The full range of services required by Section 4 of this administrative regulation; and

(2) Treatment for a variety of illnesses.

Section 3. Administration and Operation. (1) Governing authority licensee.

(a) The hospital shall have a recognized governing authority that has overall responsibility for:

1. The management and operation of the hospital; and

2. Compliance with federal, state, and local law pertaining to its operation.

(b) The governing authority shall:

1. Appoint an administrator whose qualifications, responsibilities, authority, and accountability shall be defined in writing and approved by the governing authority; and

2. Designate a mechanism for the annual performance review of the administrator.

(2) Administrator.

(a) The administrator shall:

1. Act as the chief executive officer;

2. Be responsible for the management of the hospital; and

3. Act as the liaison between the governing authority and the medical staff.

(b) The administrator shall keep the governing authority fully informed of the conduct of the hospital through:

1. Reports; and

2. Attendance at meetings of the governing authority.

(c) The administrator shall:

1. Develop an organizational structure including lines of authority, responsibility, and communication; and

2. Organize the day-to-day functions of the hospital through appropriate departmentalization and delegation of duties.

(d) The administrator shall establish formal means of accountability on the part of each subordinate to whom the administrator has assigned duties.

(e) The administrator shall:

1. Hold interdepartmental and departmental meetings as appropriate;

2. Attend or be represented at the meetings on a regular basis; and

3. Report to each department and to the governing authority the pertinent activities of the hospital.

(3) Administrative records.

(a) The hospital shall establish administrative records that reflect and guide the administrative operations of the hospital, including:

1. Minutes of the governing authority;

2. Financial records;

3. Personnel records; and

4. Employee health records.

(b) A hospital shall have discretion as to the form or content of any administrative record it establishes.

(c) The hospital shall maintain a:

1. Patient admission register;

2. Discharge register;

3. Birth register, if applicable; and

4. Surgical register, if applicable.

(d) Licensure inspection reports and plans of correction shall be made available to the general public upon request.

(4) Policies. The hospital shall have written policies and procedures governing all aspects of the operation of the facility and the services provided, including:

(a) A written description of the organizational structure of the facility that includes the lines of authority, responsibility, and communication, and departmental organization;

(b) The admission procedure to assure that a patient is admitted to the hospital in accordance with medical staff policy;

(c) Any constraint imposed on admissions by a limitation of:

1. Services;

2. Physical facilities;

3. Staff coverage; or

4. Other relevant factor;

(d) Financial requirements for patients on admission;

(e) Emergency admissions;

(f) Requirements for informed consent by patient, parent, guardian, or legal representative for diagnostic or treatment procedures;

(g) Effective procedures for tracking incidents, including transfusion reactions, drug reactions, and medication errors that may occur in the facility. A hospital shall have discretion as to its process, and the procedures shall encourage statistical analysis to inform process improvement activities;

(h) Procedures for meeting the requirements of KRS Chapter 214 and 902 KAR 2:020, including the reporting of:

1. Notifiable infectious conditions;

2. Notifiable non-infectious conditions;

3. Multi-drug resistant organisms;

4. Other reportable disease surveillance; and

5. Electronic laboratory reporting;[;]

(i) Use of restraints and a mechanism for monitoring and controlling the use of restraints;

(j) The internal transfer of a patient from one (1) level or type of care to another, if applicable;

(k) The discharge and termination of services;

(l) An organ procurement for transplant protocol developed by the medical staff in consultation with the organ procurement agency; [~~and~~]

(m) Policies that assure the reporting of cases of abuse, neglect, or exploitation of adults and children to the cabinet pursuant to KRS Chapters 209 and 620, including evidence that all allegations of abuse, neglect, or exploitation are thoroughly investigated internally to prevent further potential abuse while the investigation is in progress; and

(n) Policies that assure the reporting and investigation of quality of care and safety problems in accordance with KRS 216B.165, including assurance that retaliatory action shall not be taken against a staff member who in good faith reports a patient care or safety problem.

(5) Patient identification. The hospital shall have a system for identifying each patient from the time of admission to discharge. For example, an identification bracelet imprinted with the following:

(a) Name of patient;

(b) Hospital identification number;

(c) Date of admission; and

(d) Name of attending medical staff member.

(6) Discharge planning.

(a) The hospital shall have a discharge planning program to assure continuity of care for a patient who is:

1. Transferred to another health care facility; or

2. Discharged to the home.

(b) The professional staff of the facility involved in the patient's care during hospitalization shall participate in discharge planning of the patient whose illness requires a level of care outside the scope of the general hospital.

(c) The hospital shall:

1. Coordinate the discharge of the patient with the patient and the person or agency responsible for the postdischarge care of the patient;

2. Provide pertinent information concerning postdischarge needs to the responsible person or agency, including the full range of qualified providers or appropriate support organizations in the community available to provide post-acute care services; and

3. Comply with the requirements established in KRS 216B.230 to 216B.239, which include providing each patient or the patient's legal guardian, if applicable, with at least one (1) opportunity to designate a lay caregiver.

(7) Transfer procedures and agreements.

(a) The hospital shall have a written patient transfer procedure and agreement with at least one (1) of each type of other health care facility able to provide a level of inpatient care not provided by the hospital.

(b) A hospital that does not have a transfer agreement in effect, but has documented a good faith effort to enter into an agreement, shall be in compliance with paragraph (a) of this subsection.

(c) A transfer procedure and agreement shall:

1. Specify the responsibilities each institution assumes in the transfer of a patient; and

2. Establish the hospital's responsibility for:

a. Notifying the receiving entity promptly of the impending transfer of a patient; and

b. Arranging for appropriate and safe transportation.

(d) If a patient is transferred to another health care facility or to the care of a home health agency:

1. A transfer form containing the following information shall accompany the patient or be sent immediately to the other health care facility or home health agency:

a. Attending medical staff member's instructions for continuing care;

b. Current summary of the patient's medical record;

c. Information as to special supplies or equipment needed for patient care; and

d. Pertinent social information on the patient and family; and

2. A copy of the patient's signed discharge summary shall be forwarded to the health care facility or home health agency within thirty (30) days of the patient's discharge.

(e) If a patient is transferred to another licensed level of care within the same facility:

1. The history and physical examination report shall:

a. Be transferred to the other licensed level of care within the same hospital pursuant to KRS 216B.175(3); and

b. Serve to meet the history and physical examination requirement for the licensed level of care to which the patient has been transferred; and

2. The complete medical record or a current summary of the record shall be transferred with the patient.

(8) Medical staff.

(a) The hospital shall have a medical staff organized under bylaws approved by the governing authority.

(b) The medical staff shall be responsible:

1. To the governing authority for the quality of medical care provided to the patients; and

2. For the ethical and professional practice of its members.

(c) The organized medical staff shall be composed of doctors of medicine or doctors of osteopathy.

(d) At the discretion of the hospital, the governing body may elect to include the following practitioners as eligible for appointment to the medical staff to provide only those services authorized within the practitioner's respective scope of practice:

1. A licensed practitioner described in 42 U.S.C. 1395x(r)(2) – (5); or

2. A licensed practitioner described in 42 U.S.C. 1395u(b)(18)(C).

(e) The governing body of a hospital shall not be required to open eligibility for medical staff appointment to any licensed practitioner in addition to doctors of medicine or doctors of osteopathy.

(f) The medical staff shall develop and adopt policies or bylaws, subject to the approval of the governing authority that address the following:

1. Qualifications for medical staff membership, including licensure to practice in Kentucky in accordance with authorized scope of practice, except for graduate doctors of medicine or doctors of osteopathy in their first year of hospital training;

2.a. Responsibilities and duties of each category of medical staff membership the medical staff may choose to create, for example, active, associate, or courtesy;

b. Clinical privileges that may be possessed by medical staff members and allied health professionals;

c. Procedures for granting and withdrawing medical staff membership and clinical privileges; and

d. Procedures for reviewing credentials;

3. A mechanism for appeal of decisions adversely affecting medical staff membership or clinical privileges;

4. A method for the selection of officers of the medical staff;

5. Policy regarding the frequency of and attendance at meetings of the medical staff;

6. Authority to appoint committees to address areas of operation or clinical focus, which may include the following:

a. Executive committee;

b. Credentials committee;

c. Medical audit committee;

d. Medical records committee;

e. Infection control committee;

f. Tissue committee;

g. Pharmacy and therapeutics committee;

h. Utilization review committee; or

i. Quality assurance committee; and

7. A policy requiring a member of the medical staff to sign a verbal order for diagnostic testing or treatment:

a. As soon as possible after the order was given; or

b. If the patient was discharged prior to the order being authenticated, within thirty (30) days of the patient's discharge.

(g) All licensed practitioners appointed to the medical staff shall:

1. Be privileged in accordance with and function under the policies or bylaws required by paragraph (f) of this subsection; and

2. Comply with the hospital infection control and employee health policies.

(9) Personnel. The hospital shall:

(a) Employ a sufficient number of qualified personnel to

provide effective patient care and other related services;

(b) Have written personnel policies and procedures available to hospital personnel;

(c) Have a written job description for each position subject to review and revision as necessary;

(d) Have an employee health program for the mutual protection of employees and patients, including provisions for preemployment medical examination and follow-up medical examination no less than every three (3) years thereafter for staff who serve patients;

(e) Have a tuberculosis infection control program;

(f) Comply with the tuberculosis testing requirements established for health care workers in 902 KAR 20:205; and

(g) Maintain the following information in each employee's personnel record:

1. Name, address, Social Security number;

2. Health record;

3. Evidence of current registration, certification, or licensure;

4. Record of training and experience; and

5. Record of performance evaluation.

(10) Physical and sanitary environment.

(a) The condition of the physical plant and the overall hospital environment shall be maintained in such a manner that the safety and well-being of patients, personnel, and visitors are assured.

(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; and

3. Housekeeping.

(c) There shall be an infection control program charged with responsibility for investigating, controlling, and preventing infections in the hospital. A multidisciplinary infection control committee shall have oversight of the program. The program shall:

1. Be directed by:

a. A certified infection control preventionist; or

b. An infection preventionist that has education or specialized training and experience necessary to be certified within two (2) years of employment;

2. Have assigned administrative and professional staff to perform:

a. Infection control surveillance;

b. Investigation of cases and outbreaks;

c. Infection control training;

d. Reporting of diseases; and

e. Infection control collaborations with employee health services;

3. Receive every report of an infection incident discovered by an employee; and

4. Develop written infection control policies consistent with the Centers for Disease Control and Prevention guidelines.

(d) The infection control policies shall address the:

1. Prevention of disease transmission to and from patients, visitors, and employees, including:

a. Universal blood and body fluid precautions;

b. Precautions for infections that can be transmitted by the airborne route;

c. Work restrictions, including return to work policies for employees with infectious diseases;

d. Policies for vaccinating health care personnel or documenting immunity status for:

(i) Hepatitis B;

(ii) Influenza;

(iii) Measles;

(iv) Mumps;

(v) Rubella;

(vi) Pertussis; and

(vii) Varicella;

e. Policies for vaccinating health care personnel to prevent meningococcal disease, typhoid fever, or polio for personnel who have certain health conditions or are at risk for work-related exposure;

f. Handwashing and hand hygiene;

g. Antimicrobial stewardship; and

h. Reporting, investigating, and controlling outbreaks of healthcare-associated infections;

2. Use of environmental cultures. Culture testing results shall be recorded and reported to the Infection Control Committee; and

3. Cleaning, disinfection, and sterilization methods used for equipment and the environment.

(e) The hospital shall provide in-service education programs on the cause, effect, transmission, prevention, and elimination of infections.

(f) The hospital buildings, equipment, and surroundings shall be kept in a condition of good repair, neat, clean, and free from accumulations of dirt, rubbish, and foul, stale, or musty odors.

1. An adequate number of housekeeping and maintenance personnel shall be provided.

2. A written housekeeping procedure shall be:

a. Established for the cleaning of each area; and

b. Made available to personnel.

3. Equipment and supplies shall be provided for cleaning of all surfaces. The equipment shall be maintained in a safe, sanitary condition.

4. Hazardous cleaning solutions, compounds, and substances shall be:

a. Labeled;

b. Stored in closed metal containers; and

c. Kept separate from other cleaning materials.

5. The facility shall be kept free from insects, rodents, and their nesting places, and entrances to their nesting places shall be eliminated.

6. Garbage and trash shall be:

a. Stored in areas separate from those used for preparation and storage of food; and

b. Removed from the premises regularly.

7. Trash containers shall be cleaned on a regular basis.

(g) Sharp wastes.

1. Sharp wastes, including needles, scalpels, razors, or other sharp instruments used for patient care procedures, shall be:

a. Segregated from other wastes; and

b. Placed in puncture resistant containers immediately after use.

2. A needle or other contaminated sharp shall not be purposely bent, broken, or otherwise manipulated by hand as a means of disposal, except as permitted by Occupational Safety and Health Administration guidelines at 29 C.F.R. 1910.1030(d)(2)(vii).

3. A sharp waste container shall be:

a. Incinerated on or off site; or

b. Rendered nonhazardous.

4. Nondisposable sharps, such as large-bore needles or scissors, shall be placed in a puncture resistant container for transport to the Central Medical and Surgical Supply Department, in accordance with 902 KAR 20:009, Section 22.

(h) Disposable waste.

1. Disposable waste shall be:

a. Placed in a suitable bag or closed container to prevent leakage or spillage; and

b. Handled, stored, and disposed of to minimize direct exposure of personnel to waste materials.

2. The hospital shall establish specific written policies regarding handling and disposal of waste material.

3. The wastes identified in this subparagraph shall receive special handling.

a. Microbiology laboratory waste including a viral or bacterial culture, contaminated swab, or a specimen container or test tube used for microbiologic purposes shall be incinerated, autoclaved, or otherwise rendered nonhazardous.

b. Pathological waste including a tissue specimen from a surgical or necropsy procedure shall be incinerated.

4. Blood, blood specimens, used blood tubes, or blood products shall be:

a. Disposed of by incineration;

b. Autoclaved before disposal; or

c. Carefully poured down a drain connected to a sanitary sewer, subject to limitations in subparagraph 5. of this paragraph.

5. Wastes conveyed to a sanitary sewer shall comply with applicable federal, state, and local pretreatment law, including 40 C.F.R. Part 403 and relevant local ordinances.

6. An incinerator used for the disposal of waste shall be in compliance with 401 KAR 59:020 and 401 KAR 61:010.

(i) The hospital shall have available at all times a quantity of linen essential to the proper care and comfort of patients.

1. Linens shall be handled, stored, and processed to control the spread of infection.

2. Clean linen and clothing shall be stored in a clean, dry, dust-free area designated exclusively for this purpose.

3. An uncovered mobile cart may be used to distribute a daily supply of linen in patient care areas.

4. Soiled linen and clothing shall be placed in a suitable bag or closed container to prevent leakage or spillage, and there shall be minimal handling of soiled linen to prevent generating further aerosols.

5. Soiled linen shall be stored in an area separate from clean linen.

(11) Medical and other patient records.

(a) The hospital shall have a medical records service with administrative responsibility for medical records.

(b) A medical record shall be maintained in accordance with accepted professional principles for every patient admitted to the hospital or receiving outpatient services.

1. The medical records service shall:

a. Be directed by:

(i) A registered health information administrator on a full-time, part-time, or consultative basis; or

(ii) An accredited record technician on a full-time or part-time basis; and

b. Have available a sufficient number of regularly assigned employees so that medical record services may be provided as needed.

2. Medical records shall be retained for at least:

a. Six (6) years from date of discharge; or

b. If a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest.

3. A provision shall be made for written designation of the specific location for storage of medical records if the hospital ceases to operate because of disaster or for any other reason.

4. The hospital shall be responsible for safeguarding the record and its informational content against loss, defacement, and tampering.

5. Particular attention shall be given to protection from damage by fire or water.

(c) A system of identification and filing to assure the prompt location of a patient's medical record shall be maintained in accordance with the requirements of this paragraph.

1. Index cards, if used, shall bear at least the patient's full name, birth date, and medical record number.

2. There shall be a system for coordinating the inpatient and outpatient medical records of a patient whose admission is a result of, or related to, outpatient services.

3. Clinical information pertaining to inpatient and outpatient services shall be centralized in the patient's medical record.

4. A hospital using automated data processing shall keep patient indices electronically or reproduced on paper and kept in books.

(d) Ownership.

1. Medical records shall be the property of the hospital.

2. The original medical record shall not be removed from the facility except by court order or subpoena.

3. Copies of a medical record or portions of the record may be used and disclosed. Use and disclosure shall be as established by paragraph (e) of this subsection.

(e) Confidentiality and Security: Use and Disclosure.

1. The hospital shall maintain the confidentiality and security of medical records in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164, as amended, including the security requirements mandated by subparts A and C of 45 C.F.R. Part 164, or as provided by applicable federal or state law.

2. The hospital may use and disclose medical records. Use and disclosure shall be as established or required by HIPAA, 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164, or as established in this administrative regulation.

3. A hospital 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.

(f) Medical record contents shall be pertinent, current, and include the following:

1. Identification data and signed consent forms, including name and address of next of kin, and of the person or agency responsible for patient;

2. Date of admission, name of attending medical staff member, and allied health professional in accordance with subsection (8)(d)2. of this section;

3. Chief complaint;

4. Medical history including present illness, travel history, occupational history, past history, family history, and physical examination results;

5. Report of special examinations or procedures, which may include consultations, clinical laboratory tests, x-ray interpretations, or EKG interpretations;

6. Provisional diagnosis or reason for admission;

7. Orders for diet, diagnostic tests, therapeutic procedures, and medications, including patient limitations, signed and dated by the medical staff member or other ordering personnel acting within the limits of his or her statutory scope of practice;

8. Medical, surgical, or dental treatment notes and reports, signed and dated by a physician, dentist, licensed practitioner, or other ordering personnel acting within the limits of his or her statutory scope of practice if applicable, including records of all medication administered to the patient;

9. Complete surgical record signed by the attending surgeon or oral surgeon, including the:

a. Anesthesia record signed by the anesthesiologist or an advanced practice registered nurse who is a certified registered nurse anesthetist;

b. Preoperative physical examination and diagnosis;

c. Description of operative procedures and findings;

d. Postoperative diagnosis; and

e. Tissue diagnosis by qualified pathologist on tissue surgically removed;

10. Patient care plan that addresses the comprehensive care needs of the patient, including the coordination of the facility's service departments that have impact on patient care;

11. Nurses' observations and progress notes of a physician, dentist, licensed practitioner, or other ordering personnel acting within the practitioner’s statutory scope of practice;

12. Record of temperature, blood pressure, pulse, and respiration;

13. Final diagnosis using terminology in the current version of the International Classification of Diseases or the American Psychiatric Association's Diagnostic and Statistical Manual, if applicable;

14. Discharge summary, including:

a. Condition of patient on discharge; and

b. Date of discharge; and

15. In case of death:

a. Autopsy findings, if performed; and

b. An indication that the patient has been evaluated for organ donation in accordance with hospital protocol.

(g) Records shall be indexed according to disease, operation, and attending medical staff member using a recognized indexing system.

1. The disease and operative indices shall:

a. Use recognized nomenclature;

b. Include each specific disease diagnosed and each operative procedure performed; and

c. Include essential data on each patient having that particular condition.

2. The attending medical staff index shall include all patients attended or seen in consultation by each medical staff member.

3. Indexing shall be current, within six (6) months following discharge of the patient.

(12) Organ donation.

(a) The hospital shall establish and maintain a written protocol regarding organ procurement for transplant in consultation with an organ procurement agency.

(b) If a patient has died or death is imminent, the patient's attending physician shall determine, in accordance with the hospital's protocol, whether the patient is a potential organ or tissue donor.

(c) The hospital protocol shall include:

1. Criteria developed in consultation with the organ procurement agency for identifying potential donors;

2. Procedures for obtaining consent for organ donation;

3. Procedures for the hospital administrator or the administrator's designee to notify the organ procurement agency of a potential organ donor; and

4. Procedures by which the patient's attending physician or designee shall document in the patient's medical record:

a. If the patient is a potential donor, that the organ procurement agency has been notified; or

b. The contraindications to donation.

(d) A patient with impending or declared brain death or cardiopulmonary death, as determined pursuant to KRS 446.400, shall not be a potential donor if contraindications are identified and documented in the patient's medical record.

Section 4. Provision of Services. (1) Medical staff services.

(a) Medical care provided in the hospital shall be under the direction of a medical staff member in accordance with staff privileges granted by the governing authority.

(b) An attending medical staff member shall assume responsibility for diagnosis and care of his or her patient with respect to any medical or psychiatric problem that is present on admission or develops during hospitalization, subject to this paragraph:

1. If a patient is admitted by a practitioner identified in 42 C.F.R. 482.12(c)(4):

a. The patient shall be under the care of the practitioner for any condition that is specifically within the scope of practice of the practitioner as that scope is defined by the medical staff and permitted by state law; and

b. A doctor of medicine or doctor of osteopathy shall be responsible for care of the patient for any condition beyond the scope of the admitting practitioner's license.

2.a. Except as provided by clause b. of this subparagraph, if a patient is admitted by a licensed practitioner identified at 42 U.S.C. 1395u(b)(18)(C), a doctor of medicine or doctor of osteopathy shall be responsible for diagnosis and care of the patient.

b. If a non-Medicare patient is admitted by a certified nurse midwife, the patient shall be under the care of the certified nurse midwife for all services within that professional's scope of practice.

(c) Other qualified personnel may:

1. Complete medical histories;

2. Perform physical examinations; or

3. Record findings and compiler discharge summaries in accordance with the:

a. Practitioner's scope of practice; and

b. Hospital's protocols and bylaws.

(d) A complete history and physical examination shall be conducted according to the requirements of KRS 216B.175(2).

1. The history and physical examination shall include:

a. A description of the patient's chief complaint and the major reason for hospitalization;

b. A history of the patient's:

(i) Present illness;

(ii) Past illnesses;

(iii) Surgeries;

(iv) Medications;

(v) Allergies;

(vi) Social history;

(vii) Occupational history;

(viii) Travel history; and

(ix) Immunizations;

c. A review of the patient's anatomical systems and level of function at the time of the exam;

d. The patient's vital signs; and

e. A general observation of the patient's:

(i) Alertness;

(ii) Debilities; and

(iii) Emotional behavior.

2. The results of the history and physical examination shall be:

a. Recorded;

b. Reviewed for accuracy; and

c. Signed by the practitioner conducting the examination.

(e) The attending medical staff member shall:

1. State his or her final diagnosis;

2. Assure that the discharge summary is completed; and

3. Sign the records within thirty (30) calendar days following the patient's discharge.

(f) Physician services shall be available twenty-four (24) hours a day on at least an on-call basis.

(g) There shall be sufficient medical staff coverage for all clinical services of the hospital, in keeping with their size and scope of activity.

(2) Nursing service.

(a) The hospital shall have a nursing department organized to meet the nursing care needs of the patients and maintain established standards of nursing practice.

(b) A registered nurse with a bachelor of science degree in nursing shall serve as director of the nursing department.

(c) There shall be a registered nurse on duty at all times.

1. There shall be registered nurse supervision and staff nursing personnel for each service or nursing unit to insure the immediate availability of a registered nurse for all patients on a twenty-four (24) hour basis.

2. There shall be other nursing personnel in sufficient numbers to provide nursing care not requiring the service of a registered nurse.

3. There shall be additional registered nurses for surgical, obstetrical, emergency, and other services of the hospital, in keeping with their size and scope of activity.

4. Persons not employed by the hospital who render special duty nursing services in the hospital shall be under the supervision of the nursing supervisor of the department or service concerned.

(d) The hospital shall have written nursing care procedures and written nursing care plans for patients.

(e) Patient care shall be carried out in accordance with:

1. Attending medical staff member's orders;

2. Nursing process; and

3. Nursing care procedures.

(f) The nurse shall evaluate the patient using standard nursing procedure.

(g) A registered nurse shall assign staff and evaluate the nursing care of each patient in accordance with the patient's need and the nursing staff available.

(h) Nursing notes shall be:

1. Written and signed on each shift by nursing staff rendering care to patients;

2. Descriptive of the nursing care given; and

3. Include information and observations of significance that contribute to the continuity of patient care.

(i) A medication shall be administered only by a:

1. Registered nurse;

2. Physician;

3. Dentist;

4. Physician's assistant;

5. Advanced practice registered nurse;

6. Licensed practical nurse under the supervision of a registered nurse;

7. Paramedic acting within his or her statutory scope of practice and in accordance with the hospital's operating policies and procedures; or

8. Nurse extern in accordance with 201 KAR 20:400.

(j) Except in a circumstance that requires a verbal order, a medication, diagnostic test, or treatment shall not be given without a written order signed by a physician, dentist, licensed practitioner, or other ordering personnel acting within his or her statutory scope of practice.

(k) A verbal order for a medication shall be:

1. Given only to a licensed practical or registered nurse, paramedic, or pharmacist; and

2. Signed by a member of the medical staff or other ordering practitioner as soon as possible after the order was given, or if the

patient was discharged prior to the order being authenticated, within thirty (30) calendar days of the patient's discharge.

(l) A verbal order for a diagnostic test or treatment order may be given to a licensed practitioner acting within his or her statutory scope of practice and the hospital's protocols.

(m) A person receiving a verbal order for medication, a diagnostic test, or treatment shall, at the time the order is received:

1. Immediately transcribe the order;

2. Repeat the order to the person issuing the order; and

3. Annotate the order on the patient's medical record, as repeated and verified.

(n) A patient restraint or protective device, other than bed rails, shall not be used except:

1. In an emergency until the attending medical staff member can be contacted; or

2. Upon a written or telephone order of the attending medical staff member.

(o) If a patient restraint is necessary, the least restrictive form of protective device shall be used that affords the patient the greatest possible degree of mobility and protection.

(p) A locking restraint shall not be used under any circumstances.

(q) Meetings of the nursing staff and other nursing personnel shall be held at least monthly to discuss patient care, nursing service problems, infection control, employee health policies, and administrative policies.

(r) Written minutes of all meetings shall be kept.

(3) Dietary services.

(a) The hospital shall have a dietary department organized, directed, and staffed to provide quality food service and optimal nutritional care.

(b) The dietary department shall be directed on a full-time basis by an individual who by education, or specialized training and experience, shall be knowledgeable in food service management.

(c) The dietary service shall have at least one (1) registered or registry-eligible dietician working full-time, part-time, or on a consultative basis to supervise the nutritional aspects of patient care.

(d) Sufficient additional personnel shall be employed to perform assigned duties to meet the dietary needs of all patients.

(e) The dietary department shall have current written policies and procedures for food storage, handling, and preparation.

(f) Written dietary policy and procedure shall be available to dietary personnel.

(g) An in-service training program that includes the proper handling of food, safety, and personal grooming shall be given at least quarterly for new dietary employees.

(h) Menus shall be planned, written, and rotated to avoid repetition.

(i) Nutritional needs shall be met in accordance with:

1. Recommended dietary allowances of the Food and Nutrition Board of the National Research Council of the National Academy of Sciences; and

2. The medical staff member's orders.

(j) Each meal shall correspond with the posted menu.

(k) If a change is necessary, substitution shall provide equal nutritive value and the change shall be recorded on the menu.

(l) Each menu shall be kept on file for thirty (30) calendar days.

(m) Every diet, regular or therapeutic, shall be prescribed in writing, dated, and signed by the attending medical staff member or other ordering personnel acting within his or her statutory scope of practice.

(n) Information on the diet order shall be specific and complete and include:

1. The title of the diet;

2. Modifications in specific nutrients stating the amount to be allowed in the diet; and

3. Specific problems that may affect the diet or eating habits.

(o) Food shall be:

1. Prepared by methods that conserve nutritive value, flavor, and appearance;

2. Served at the proper temperatures; and

3. Prepared in a form such as cut, chopped, or ground to meet individual needs.

(p) If a patient refuses foods served, a nutritious substitution shall be offered.

(q) At least three (3) meals or their equivalent shall be served daily with not more than a fifteen (15) hour span between a substantial evening meal and a breakfast unless otherwise directed by the attending medical staff member.

(r) Meals shall be served at regular times with between-meal or bedtime snacks of nourishing quality offered.

(s) There shall be at least a three (3) day supply of food available in the facility at all times to prepare well-balanced palatable meals for all patients.

(t) There shall be an identification system for patient trays and methods used to assure that each patient receives the appropriate diet as ordered.

(u) The hospital shall comply with all applicable provisions of [~~KRS 219.011 to KRS 219.081 and~~] 902 KAR 45:005, the Kentucky food code.

(4) Laboratory services.

(a) The hospital shall have a well-organized, adequately supervised laboratory with the necessary space, facilities, and equipment to perform services commensurate with the hospital's needs for its patients.

(b) Anatomical pathology services and blood bank services shall be available in the hospital or by arrangement with other facilities.

1. Clinical laboratory. Basic clinical laboratory services necessary for routine examinations shall be available regardless of the size, scope, and nature of the hospital.

a. Equipment necessary to perform the basic tests shall be provided by the hospital.

b. Equipment shall be in good working order, routinely checked, and precise in terms of calibration.

c. Provision shall be made to carry out adequate clinical laboratory examinations including chemistry, microbiology, hematology, immunology, and immunohematology.

d. Services may be provided through arrangement with another licensed hospital that has the appropriate laboratory facilities, or with an independent laboratory licensed pursuant to 42 C.F.R. Part 493, KRS 333.030, and relevant administrative regulations.

e. The original report from a test performed by an outside laboratory shall be contained in the patient's medical record.

f. Laboratory facilities and services shall be available at all times.

g. Emergency laboratory services shall be available twenty-four (24) hours a day, seven (7) days a week, including holidays, in the hospital or through arrangement as specified in clause d. of this subparagraph.

h. The conditions, procedures, and availability of a service performed by an outside laboratory shall be in writing and available in the hospital.

i. There shall be a clinical laboratory director and a sufficient number of supervisors, technologists, and technicians to perform promptly and proficiently the tests requested of the laboratory.

j. The laboratory shall not perform a procedure or test outside the scope of training of the laboratory personnel.

k. Laboratory services shall be under the direction of a:

(i) Pathologist;

(ii) Doctor of medicine or osteopathy with training and experience in clinical laboratory services; or

(iii) Laboratory specialist with a doctoral degree in physical, chemical, or biological sciences, and training and experience in clinical laboratory services.

l. A report of each laboratory service provided shall be filed with the patient's medical record.

(i) A duplicate copy shall be kept in the department.

(ii) Each request for a laboratory test shall be ordered and signed by qualified personnel in accordance with his or her scope of practice and the hospital's protocols and bylaws.

2. Anatomical pathology. Anatomical pathology services shall be provided as indicated by the needs of the hospital, either in the hospital or under arrangement as specified in subparagraph 1.d. of this paragraph.

a. Anatomical pathology services shall be under the direct supervision of a pathologist full-time, part-time, or on a consultative

basis.

b. If the supervision is provided on a consultative basis, the hospital shall provide for at least monthly consultative visits by a pathologist.

c. The pathologist shall participate in staff, departmental, and clinicopathologic conference.

d. The pathologist shall be responsible for establishing the qualifications of staff and in-service training.

e. Except for exclusions listed in written policies of the medical staff, tissues removed at surgery shall be examined macroscopically, and if necessary, microscopically by the pathologist.

f. A list of tissues that do not routinely require microscopic examination shall be developed in writing by the pathologist or designated physician with the approval of the medical staff.

g. A tissue file shall be maintained in the hospital.

h. In the absence of a pathologist, there shall be an established plan for sending tissue to a pathologist outside the hospital if examination is required.

i. A signed report of a tissue examination shall be filed promptly with the patient's medical record.

j. A duplicate copy shall be kept in the department.

k. Each report of a macroscopic or microscopic examination performed shall be signed by the pathologist.

l. Examination results shall be filed promptly in the patient's medical record.

m. The medical staff member requesting the examination shall be notified promptly.

n. A duplicate copy of each examination report shall be filed in the laboratory in a manner that permits ready identification and accessibility.

3. The laboratory shall meet the proficiency testing and quality control provisions in accordance with the certification requirements of 42 C.F.R. Part 493.

4. Blood bank. Facilities for procurement, safekeeping, and transfusion of blood and blood products shall be provided or shall be readily available.

a. The hospital shall maintain proper blood storage facilities under adequate control and supervision of the pathologist or other authorized physician.

b. For emergency situations, the hospital shall:

(i) Maintain at least a minimum blood supply in the hospital at all times; and

(ii) Be able to obtain blood quickly from community blood banks or institutions.

c. If the hospital provides donor services, the hospital shall have an up-to-date list of donors and equipment necessary to obtain blood.

d. If the hospital utilizes outside blood banks, there shall be a written agreement governing the procurement, transfer, and availability of blood products between the hospital and donor center.

e. There shall be a provision for:

(i) Prompt blood typing and cross-matching; and

(ii) Laboratory investigation of transfusion reactions, either through the hospital or by arrangement with others on a continuous basis, under the supervision of a physician.

f. Blood storage facilities in the hospital shall have an adequate alarm system, which shall be:

(i) Regularly inspected and tested; and

(ii) Safe and adequate. Inspections of the alarm system shall be documented.

g. Records shall be kept on file indicating the receipt and disposition of blood provided to patients in the hospital.

h. A committee of the medical staff, or its equivalent, shall:

(i) Review transfusions of blood or blood derivatives; and

(ii) Make recommendations concerning policies governing transfusion practices.

i. Samples of each unit of blood used at the hospital shall be retained for further testing if there was an adverse reaction.

j. Blood not retained that has exceeded its expiration date shall be disposed of promptly.

k. The review committee shall:

(i) Investigate each transfusion reaction occurring in the hospital; and

(ii) Make recommendations to the medical staff regarding improvement in transfusion procedure.

(5) Pharmaceutical services.

(a) The hospital shall have adequate provisions for the handling, storing, recording, and distribution of pharmaceuticals in accordance with state and federal law.

(b) A hospital that maintains a pharmacy for compounding and dispensing of drugs shall provide pharmaceutical services under the supervision of a registered pharmacist on a full-time or part-time basis, according to the size and demands of the hospital.

(c) The pharmacist shall be responsible for supervising and coordinating the activities of the pharmacy department.

(d) Additional personnel competent in their respective duties shall be provided in keeping with the size and activity of the department.

(e) A hospital that does not maintain a pharmacy shall have a drug room utilized only for the storage and distribution of drugs, drug supplies, and equipment.

1. Prescription medications shall be dispensed by a registered pharmacist elsewhere.

2. The drug room shall be operated under the supervision of a pharmacist employed at least on a consultative basis.

(f) The consulting pharmacist shall assist in drawing up correct procedures and directions for the distribution of drugs.

(g) The consulting pharmacist shall visit the hospital on a regularly scheduled basis in the course of his or her duties.

(h) The drug room shall be kept locked and the key shall be in the possession of a responsible person on the premises designated by the administrator.

(i) Records shall be kept of the transactions of the pharmacy or drug room and correlated with other hospital records if indicated.

(j) The pharmacy shall establish and maintain a system of records and bookkeeping in accordance with accounting procedures and policies of the hospital for:

1. Maintaining adequate control over the requisitioning and dispensing of drugs and drug supplies; and

2. Charging patients for drugs and pharmaceutical supplies.

(k) A record of the stock on hand and of the dispensing of every controlled substance shall be maintained to ensure that the disposition of any particular item may be readily traced.

(l) The medical staff in cooperation with the pharmacist and other disciplines, as necessary, shall develop policies and procedures that govern the safe administration of drugs, including:

1. The administration of medications only upon the order of an individual who has been assigned clinical privileges or who is an authorized member of the house staff;

2. Review of the original order or a direct copy by the pharmacist dispensing the drugs;

3. The establishment and enforcement of automatic stop orders;

4. Proper accounting for, and disposition of, unused medications or special prescriptions returned to the pharmacy if:

a. The patient is discharged; or

b. The medication or prescription does not meet requirements for sterility or labeling;

5. Emergency pharmaceutical services; and

6. Reporting adverse medication reactions to the:

a. Appropriate committee of the medical staff; and

b. Food and Drug Administration MedWatch Program.

(m) Therapeutic ingredients of medications dispensed shall be favorably evaluated in the:

1. United States Pharmacopoeia;

2. National Formulary; or

3. United States Homeopath-Pharmacopoeia; Other necessary medication shall be approved for use by the appropriate committee of the medical staff.

(n) A pharmacist shall be responsible for determining specifications and choosing acceptable sources for drugs with approval of the appropriate committee of the medical staff.

(o) There shall be available a formulary or list of drugs accepted for use in the hospital, developed and amended as necessary by the appropriate committee of the medical staff.

(6) Radiology services.

(a) The hospital shall have:

1. Diagnostic radiology facilities currently licensed or registered pursuant to KRS 211.842 to 211.852;

2. At least one (1) fixed diagnostic x-ray unit capable of general x-ray procedures;

3. A radiologist on at least a consulting basis to:

a. Function as medical director of the department; and

b. Interpret films requiring specialized knowledge for accurate reading; and

4. Personnel adequate to supervise and conduct services, including one (1) certified radiation operator who shall be on duty or on call at all times.

(b) There shall be written policies and procedures governing radiologic services and administrative routines that support sound radiologic practices.

(c) Signed reports shall be filed in the patient's record and duplicate copies kept in the department.

(d) Radiologic services shall be performed only upon the written order of qualified personnel in accordance with the:

1. Professional's scope of practice; and

2. Hospital's protocols and bylaws.

(e) The written order shall contain a concise statement of the reason for the service or examination.

(f) Reports of interpretations shall be written or dictated and signed by the radiologist.

(g) Only an individual licensed pursuant to 201 KAR Chapter 46 and KRS Chapter 311B, under the direction of medical staff members, if necessary, shall use any x-ray apparatus or material. Uses include application, administration, and removal of:

1. Radioactive elements;

2. Disintegration products; and

3. Radioactive isotopes.

(h) An individual licensed pursuant to 201 KAR Chapter 46 and KRS Chapter 311B, under the direction of a physician, may administer medications allowed within:

1. The professional's scope of practice; and

2. Context of radiological services and procedures being performed.

(i) The radiology department shall be free of hazards for patients and personnel.

(j) Proper safety precautions shall be maintained against:

1. Fire and explosion hazards;

2. Electrical hazards; and

3. Radiation hazards.

(7) Physical restoration or rehabilitation service.

(a) If the hospital provides rehabilitation, work hardening, physical therapy, occupational therapy, audiology, or speech-language pathology services, the services shall be organized and staffed to insure the health and safety of patients.

(b) A hospital that provides physical restoration or rehabilitation services shall provide individualized techniques intended to:

1. Achieve maximum physical function normal to the patient; and

2. Prevent unnecessary debilitation and immobilization.

(c) The hospital shall develop written policies and procedures for each rehabilitation service provided.

(d) The hospital shall designate a member of the medical staff to coordinate restorative services provided to patients in accordance with their needs.

(e) Therapeutic equipment shall be:

1. Adequate to meet the needs of the service; and

2. In good condition.

(f) Therapy services shall be provided only upon written orders of qualified personnel in accordance with the practitioner's scope of practice and according to the hospital's protocols and bylaws.

(g) Therapy services shall be provided by or under the supervision of a licensed therapist, on a full-time, part-time, or consultative basis.

(h) The hospital shall maintain a complete therapy record for each patient provided physical therapy services.

(i) The report shall be:

1. Signed by the therapist who prepared the report; and

2. Maintained in the patient's medical record.

(8) Emergency services.

(a) A hospital shall develop written procedures for emergency patient care, including a requirement for:

1. Each patient requesting emergency care to be evaluated by a registered nurse;

2. At least one (1) registered nurse on duty to perform patient evaluation; and

3. A physician to be on call.

(b) A patient who presents at the hospital for emergency services shall be triaged by a registered nurse or paramedic acting:

1. Within his or her scope of practice; and

2. In accordance with the hospital's formal operating policies and procedures.

(c) The medical staff of a hospital within an organized emergency department shall establish and maintain a manual of policy and procedures for emergency and nursing care provided in the emergency room.

(d) The emergency service shall be under the direction of a licensed physician.

(e) Medical staff members shall be available at all times for the emergency service, either on duty or on call.

(f) Current schedules and telephone numbers shall be posted in the emergency room.

(g) Nursing personnel shall be assigned to or designated to cover the emergency service at all times.

(h) Facilities shall be provided to assure prompt diagnosis and emergency treatment.

(i) A specific area of the hospital shall be utilized for patients requiring emergency care on arrival.

(j) The emergency area shall be:

1. Located in close proximity to an exterior entrance of the facility; and

2. Independent of the operating room suite.

(k) Diagnostic and treatment equipment, drugs, and supplies shall be:

1. Readily available for the provision of emergency services; and

2. Adequate in terms of the scope of services provided.

(l) Adequate medical records shall be:

1. Kept on every patient seen in the emergency room, under the supervision of the Medical Record Service; and

2. If appropriate, integrated with inpatient and outpatient records.

(m) Emergency room records shall include at least:

1. A log listing the patient visits to the emergency room in chronological order, including:

a. Patient identification;

b. Means of arrival;

c. Person transporting patient; and

d. Time of arrival;

2. History of present complaint and physical findings;

3. Laboratory and x-ray reports, if applicable;

4. Diagnosis;

5. Treatment ordered and details of treatment provided;

6. Patient disposition;

7. Record of referrals;

8. Instructions to the patient or family for those not admitted to the hospital; and

9. Signatures of attending medical staff member, and nurse if applicable.

(9) Outpatient services.

(a) A hospital with an organized outpatient department shall have written policies and procedures relating to the staff, functions of service, and outpatient medical records.

(b) The outpatient department shall be organized in sections or clinics, the number of which shall depend on the:

1. Size and degree of departmentalization of the medical staff;

2. Available facilities; and

3. Needs of the patients the outpatient department serves.

(c) The outpatient department shall have appropriate cooperative arrangements and communications with community agencies, which may include:

1. Home health agencies;

2. The local health department;

3. Social and welfare agencies; and

4. Other outpatient departments.

(d) Each service offered by the outpatient department shall be under the direction of a:

1. Physician who shall be a member of the medical staff; or

2. Licensed healthcare practitioner qualified by education, experience, and specialized training related to the specific type of service under the practitioner's direction if the hospital has a separate director for each outpatient service.

(e) A registered nurse shall be responsible for the nursing services of the outpatient department.

(f) The number and type of other personnel employed shall be determined by the:

1. Volume and type of services provided; and

2. Type of patient served in the outpatient department.

(g) Necessary laboratory and other diagnostic tests shall be available through:

1. The hospital;

2. A laboratory in another licensed hospital; or

3. A laboratory licensed pursuant to KRS 333.030.

(h) Medical records shall be maintained and if appropriate, coordinated with other hospital medical records.

(i) The outpatient medical record shall be filed in a location that insures ready accessibility to the:

1. Medical staff members;

2. Nurses; and

3. Other personnel of the outpatient department.

(j) Information in the medical record shall be complete and sufficiently detailed relative to the patient's:

1. History;

2. Physical examination;

3. Laboratory and other diagnostic tests;

4. Diagnosis; and

5. Treatment.

(10) Surgery services.

(a) A hospital in which surgery is performed shall have an operating room and a recovery room supervised by a registered nurse qualified by training, experience, and ability to direct surgical nursing care.

(b) Sufficient surgical equipment, including suction facilities and instruments in good repair, shall be provided to assure safe and aseptic treatment of surgical cases.

(c) If flammable anesthetics are used, precautions shall be taken to eliminate hazards of explosions, including:

1. Use of shoes with conductive soles; and

2. Prohibition of garments or other items of silk, wool, or synthetic fibers that accumulate static electricity.

(d) There shall be effective policies and procedures regarding:

1. Surgical staff privileges;

2. Functions of the service; [~~and~~]

3. Evaluation of the surgical patient; and

4. Surgical smoke safety and control. The smoke evacuation policy shall be available to staff in all areas where surgical smoke is generated.

(e)1. In accordance with KRS 216B.153, a hospital that utilizes an energy-generating device shall make use of a smoke evacuation system:

a. That effectively captures and neutralizes surgical smoke at the site of origin and before the smoke can make ocular contact or contact with the respiratory tract of the occupants of the room; and

b. During any surgical procedure that is likely to produce surgical smoke.

2. The cabinet shall impose fines in accordance with KRS 216B.990(8) for each violation of noncompliance with KRS 216B.153 only if the violation has not been remedied after the hospital has had an opportunity to correct the violation through the filing of a plan of correction in accordance with 902 KAR 20:008, Section 2(13).

(f) Surgical privileges shall be delineated for each member of the medical staff performing surgery in accordance with the competencies of each staff member.

(g) [~~(f)~~] A roster of medical staff specifying the surgical privileges of each shall be maintained.

(h) [~~(g)~~] Except in emergency, a surgical operation or other hazardous procedure shall be performed only on written consent of the patient or the patient's legal representative.

(i) [~~(h)~~] The operating room register shall:

1. Be complete and up to date; and

2. Include the following:

a. Patient's name;

b. Hospital room number;

c. Preoperative and postoperative diagnosis;

d. Complications, if any;

e. Names of:

(i) Surgeon;

(ii) First assistant;

(iii) Anesthesiologist or an advanced practice registered nurse who is a certified registered nurse anesthetist; and

(iv) Scrub and circulating nurse;

f. Operation performed; and

g. Type of anesthesia.

(j) [~~(i)~~] There shall be a complete history and physical workup in the chart of each patient prior to surgery.

(k) [~~(j)~~] If the history and workup has been transcribed, but not yet recorded in the patient's chart, there shall be a statement to that effect and an admission note by the attending medical staff member in the chart.

(l) [~~(k)~~] The chart shall:

1. Accompany the patient to the operating suite; and

2. Be returned to the patient's floor or room after the operation.

(m) [~~(l)~~] An operative report describing the techniques and findings shall be:

1. Written or dictated immediately following surgery; and

2. Signed by the surgeon.

(n) [~~(m)~~] Tissues removed by surgery shall be:

1. Placed in suitable solutions;

2. Properly labeled; and

3. Submitted to the pathologist for macroscopic and, if necessary, microscopic examination.

(o) [~~(n)~~] An infection of a clean surgical case shall be recorded and reported to the Infection Control Program. The program shall investigate according to established procedures for investigation and review of surgical site infections.

(p) [~~(o)~~] Rules and policies related to the operating rooms shall be available and posted.

(11) Anesthesia services.

(a) A hospital that provides surgical or obstetrical services shall have anesthesia services available.

(b) Anesthesia services shall be organized under written policies and procedures regarding:

1. Staff privileges;

2. The administration of anesthetics; and

3. The maintenance of safety controls.

(c) A physician member of the medical staff shall be the medical director of anesthesia services.

(d) If possible, the director shall be a physician specializing in anesthesiology.

(e) If anesthetics are not administered by an anesthesiologist, the medical staff shall designate an advanced practice registered nurse who is a certified registered nurse anesthetist qualified to administer anesthetics.

(f) A qualified medical staff member or licensed practitioner functioning within their scope of practice shall perform a preanesthetic physical examination for every patient requiring anesthesia services.

(g) The following shall be recorded within forty-eight (48) hours of surgery:

1. Findings of the preanesthetic physical examination;

2. An anesthetic record on a special form; and

3. A postanesthetic follow-up, with findings recorded by the:

a. Anesthesiologist; or

b. Advanced practice registered nurse who is a certified registered nurse anesthetist.

(h) The postanesthetic follow-up note shall:

1. Be written:

a. Upon discharge from the postanesthesia recovery area; or

b. Within three (3) to twenty-four (24) hours after the procedure requiring anesthesia; and

2. Include:

a. Blood pressure and pulse measurements;

b. Presence or absence of the swallowing reflex and cyanosis;

c. Postoperative abnormalities or complications; and

d. The patient's general condition.

(12) Obstetrics service.

(a) A hospital providing obstetrical care shall have:

1. Adequate space;

2. Necessary equipment and supplies; and

3. A sufficient number of nursing personnel to:

a. Assure safe and aseptic treatment of mothers and newborns; and

b. Provide protection from infection and cross-infection.

(b) The obstetrics service shall be under the:

1. Medical direction of a physician; and

2. Supervision of a registered nurse qualified by training, experience, and ability to direct effective obstetrical and newborn nursing care.

(c) If a hospital has an obstetrical caseload that does not justify a separate nursing staff, the hospital's obstetrical nurses shall be designated and oriented to the specific needs of obstetrical patients.

(d) A registered nurse shall be on duty in the labor and delivery unit if a patient is in the unit.

(e) Each obstetrics patient shall be kept under close observation by professional personnel during the period of recovery after delivery, whether in the delivery room or in a recovery area, until the patient is transferred to the maternity unit.

(f) An on-call schedule or other suitable arrangement shall be provided to ensure that a physician who is experienced in obstetrics is readily available for consultation and for an obstetrical emergency.

(g) Patients in labor shall be cared for in adequately equipped labor rooms.

(h) An adequate supply of prophylaxis for the prevention of infant blindness shall be kept on hand and administered within thirty (30) minutes after delivery[~~, in accordance with 902 KAR 4:020~~].

(i) The hospital shall comply with the provisions of KRS 214.155 and 902 KAR 4:030 in administering tests for inborn errors of metabolism and other inherited and congenital disorders.

(j) The hospital shall have a method and procedure for the positive associative identification of the mother and infant.

(k) The identifiers shall be placed on mother and newborn in the delivery room at the time of birth and shall remain in place during the entire period of hospitalization.

(l) An up-to-date register book of deliveries shall be maintained containing the following information:

1. Infant's full name, sex, date, time of birth, and weight;

2. Mother's full name, including maiden name, address, birthplace, and age at time of this birth;

3. Father's full name, birthplace, and age at time of this birth; and

4. Full name of attending physician or nurse midwife.

(m) Each hospital providing maternity service shall provide a nursery not used for any other purpose.

(n) Specific routines for daily care of infants and their environment shall be prepared in writing and posted in the nursery workroom.

(o) A policy shall be established for:

1. A delivery occurring outside the delivery room; and

2. A patient with an infectious disease.

(p) Written policies and procedures shall be developed to cover alternative use of obstetrical beds.

(q) The hospital shall comply with the provisions of KRS 214.175 by participating in surveys conducted by the cabinet for the purpose of determining the prevalence of alcohol or other substance abuse among pregnant women and newborn infants.

(r) The hospital shall comply with the provisions of KRS 216.2970 by providing an auditory screening for all newborn infants.

(13) Pediatric services.

(a) A hospital providing pediatric care shall have proper facilities for the care of children apart from the newborn and maternity nursing services.

(b) If there is not a separate area permanently designated as the pediatric unit, there shall be an area within an adult care unit for pediatric patient care.

(c) There shall be available beds and other equipment that are appropriate in size for pediatric patients.

(d) There shall be proper facilities and procedures for the isolation of children with infectious, contagious, or communicable conditions.

(e) At least one (1) patient room shall be available for isolation use.

(f) A physician with pediatric experience shall be on call at all times for the care of pediatric patients.

(g) Pediatric nursing care shall be under the supervision of a registered nurse qualified by training, experience, and ability to direct effective pediatric nursing.

(h) Nursing personnel assigned to pediatric service shall be oriented to the special care of children.

(i) Policies shall be established to cover conditions under which parents may stay with small children or "room-in" with their hospitalized child for moral support and assistance with care.

(14) Psychiatric services. A hospital with a psychiatric unit shall:

(a) Designate the location and number of beds to be licensed as psychiatric beds; and

(b) Meet the requirements of 902 KAR 20:180.

(15) Chemical dependency treatment services. A hospital providing chemical dependency treatment services shall:

(a) Meet the requirements of 902 KAR 20:160, Sections 3 and 4; and

(b) Designate the location and number of beds to be used for chemical dependency treatment services.

(16) Medical library.

(a) The hospital shall maintain appropriate medical library services according to the professional and technical needs of hospital personnel.

(b) The medical library shall be in a location accessible to the professional staff.

(c) If printed resources are used, the library collection shall be organized.

(d) The library collection may be composed of digital references, which shall be on line or accessible on a computer.

Section 5. Long-term Acute Inpatient Hospital Services. (1) A hospital licensed pursuant to this administrative regulation and seeking to qualify for available Title XVIII Medicare reimbursement may provide long-term acute inpatient hospital services pursuant to applicable federal law and in accordance with this section.

(2) The area of the hospital designated to provide long-term acute inpatient hospital services shall provide services in compliance with:

(a) This administrative regulation; and

(b) 42 C.F.R. 412.22.

(3) A hospital wishing to provide long-term acute inpatient hospital services shall request authorization from the Office of Inspector General, Cabinet for Health and Family Services.

(4) The Office of Inspector General shall conduct a survey to determine if the requirements of this section are met and notify the hospital of the survey results by letter.

Section 6. Optional Designations. A hospital shall be designated as a:

(1) Primary stroke center if the hospital meets the criteria established in KRS 216B.0425(2); or

(2) SANE-ready hospital if the hospital meets the criteria established in KRS 216B.401(1).

Section 7. Off-campus, Kentucky Hospital-Owned Freestanding Emergency Department (FSED). (1) A hospital licensed pursuant to this administrative regulation may provide off-campus emergency services in a hospital-owned FSED. For purposes of this section, "off-campus" shall mean a location:

(a) Off the campus of the parent hospital that owns the FSED; and

(b) At least thirty-five (35) miles from an existing hospital that

is:

1. Licensed pursuant to this administrative regulation; and

2. Designated as a sole community hospital pursuant to 42 C.F.R. 412.92.

(2) If a Kentucky-licensed hospital owns and operates an outpatient clinic that provides [~~ambulatory care clinic licensed under 902 KAR 20:073 prior to July 15, 2018, or holds a certificate of need for an ambulatory care clinic that is not licensed by that date, the hospital shall notify the cabinet no later than ninety (90) days from the effective date of this administrative regulation of the clinic's scope of operations. The hospital's notification shall inform the cabinet whether the clinic will:~~

~~(a) Operate as an FSED, in which case the facility shall:~~

~~1. Provide emergency services in accordance with Section 4(8) of this administrative regulation;~~

~~2. Be designated as provider-based pursuant to 42 C.F.R. 413.65;~~

~~3. Not be required to obtain a new certificate of need; and~~

~~4. Obtain a separate license under 902 KAR Chapter 20 for any existing service provided under the ambulatory care clinic license and covered under Section IV of the State Health Plan without being subject to a separate certificate of need; or~~

~~(b) Provide~~] services that are limited to treatment for minor injury or illness, [~~in which case~~] the clinic shall not hold itself out to the public as an emergency treatment center or use similar terminology that expresses or implies that emergency medical service is offered at the clinic. This subsection [~~paragraph~~] shall not prohibit the clinic from holding itself out to the public as an urgent treatment center.

(3) A Kentucky-licensed hospital that seeks to establish an FSED [~~under circumstances not covered under subsection (2)(a) of this section~~] shall obtain a certificate of need.

(4) An FSED shall:

(a) Be owned by an accredited Kentucky hospital licensed under this administrative regulation;

(b) Be included under the same license and accreditation as the parent hospital;

(c) Meet the requirements of and be certified by the Centers for Medicare and Medicaid Services as a provider-based entity under 42 C.F.R. 413.65;

(d) Pay a fee in the amount of $1,000 for the FSED location at the time of annual renewal of the hospital's license;

(e) Operate twenty-four (24) hours per day, seven (7) days per week;

(f) Comply with the provisions of Section 4(8) of this administrative regulation governing emergency services;

(g) Be under the direction of a licensed physician who is a member of the parent hospital's organized medical staff;

(h) Ensure that nursing personnel are assigned to or designated to cover the emergency service at all times;

(i) Comply with the Emergency Medical Treatment and Labor Act (42 U.S.C. 1395dd) and 42 C.F.R. 489.24;

(j) Have facilities sufficient to assure prompt diagnosis, treatment, and stabilization of injuries and trauma;

(k) Have a written patient transportation agreement with a local emergency medical services (EMS) provider; and

(l) Maintain compliance with applicable federal, state, and local laws.

(5) An FSED shall cease to operate under this administrative regulation if the:

(a) Cabinet finds that there has been substantial failure by the facility to comply with the provisions of KRS Chapter 216B or this administrative regulation; and

(b) Facility fails to submit and implement an acceptable plan of correction or amended plan of correction in accordance with 902 KAR 20:008, Section 2(13).

(6) If an FSED receives notice to cease operations in accordance with subsection (5) of this section, the parent hospital may file a request in writing for a hearing pursuant to KRS 216B.105.

ADAM MATHER, Inspector General
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: November 12, 2021

FILED WITH LRC: December 28, 2021 at 8:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on March 21, 2022, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by March 14, 2022, 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 virtually 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 March 31, 2022. 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: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Kara Daniel; Stephanie Brammer-Barnes; Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the minimum licensure requirements for the operation of and services provided by hospitals.

(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 establish licensure standards and procedures to ensure safe, adequate, and efficient health facilities and 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(1) by establishing the minimum licensure requirements for the operation of and services provided by hospitals.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing the minimum licensure requirements for the operation of and services provided by hospitals.

(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 required by KRS 216B.153, a new law created by the passage of SB 38 from the 2021 session of the Kentucky General Assembly. KRS 216B.153(2) directs the cabinet to promulgate administrative regulations to require a health facility that utilizes energy generating devices to make use of a smoke evacuation system during any surgical procedure that is likely to produce surgical smoke.

In addition, this amendment updates Section 4(1)(b)2. to align with federal guidelines that do not require Medicaid or other non-Medicare patients to be under the care of a doctor of medicine or osteopathy if the patient is admitted by a certified nurse midwife. This amendment also deletes an outdated reporting requirement from Section 7 that required hospitals to notify the cabinet within ninety (90) days from the effective date of this administrative regulation (August 31, 2018) if the hospital owned a previously licensed, off-campus ambulatory care clinic that provided emergency services, in which case the clinic's licensure status was converted to a freestanding emergency department operating

under the hospital's license. The outdated reporting requirement also pertained to any hospital that previously held an unimplemented certificate of need for an ambulatory care clinic in which case the hospital was required to report whether it intended to operate the facility as a freestanding emergency department in the future.

(b) The necessity of the amendment to this administrative regulation: This amendment is required by KRS 216B.153.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of KRS 216B.153 by creating a requirement for hospitals to make use of a smoke evacuation system during any surgical procedure that is likely to produce surgical smoke.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the statutes by adding a requirement for the use of surgical smoke evacuation systems pursuant to KRS 216B.153 and by making additional housekeeping changes.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment affects hospitals that provide surgical procedures that are likely to produce surgical smoke. There are currently 69 acute care hospitals licensed in Kentucky.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Hospitals will be required to make use of a smoke evacuation system during any surgical procedure that is likely to produce surgical smoke.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). If a hospital does not currently have a smoke evacuation system as defined by KRS 216B.153(1)(b), the facility will incur costs associated with the purchase of a system.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Surgical smoke generated by the use of an energy-generating device during a surgical procedure contains toxic and biohazardous substances that present risks to perioperative team members and patients. Therefore, the use of smoke evacuation equipment required by this amendment will protect health care workers and patients from the harmful effects of surgical smoke.

(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 Office of Inspector General for implementation of this amendment.

(b) On a continuing basis: There are no additional costs to the Office of Inspector General for implementation of this amendment on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding used for the implementation and enforcement of the licensure function is from federal funds and state matching funds of general and agency appropriations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary to implement this amendment.

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

(9) TIERING: Is tiering applied? Tiering is not applicable as compliance with this administrative regulation applies equally to all hospitals regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation affects Kentucky-licensed hospitals. This administrative regulation also impacts the Cabinet for Health and Family Services, Office of Inspector General.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 216B.042, 216B.153

(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? Although KRS 216B.990(8) authorizes the cabinet to impose a fine ranging from $100 to $500 for each violation of KRS 216B.153, the cabinet is unable to predict with accuracy how many violations may be cited or otherwise determine the amount of fines that may be collected.

(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 cabinet is unable to predict with accuracy how many violations may be cited or otherwise determine the amount of fines that may be collected.

(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 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:

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 29 C.F.R 1910.1030(d)(2)(vii), 40 C.F.R. Part 403, 42 C.F.R. Part 405, 412.22, 412.92, 413.65, 482.12(c), 489.24, Part 493, 45 C.F.R. 160, 164, 42 U.S.C. 1320d-2 - 1320d-8, 1395u(b)(18)(C), 42 U.S.C. 1395x(r)(2) – (5), 1395dd

(2) State compliance standards. KRS 216B.042

(3) Minimum or uniform standards contained in the federal mandate. 29 C.F.R 1910.1030(d)(2)(vii) establishes the prohibition against contaminated needles and other contaminated sharps from being bent, recapped, or removed except in certain limited situations. Shearing or breaking of contaminated needles is prohibited.

40 C.F.R. Part 403 implements sections of the Federal Water Pollution Control Act, which establishes responsibilities of federal, state, and local government, industry and the public to implement National Pretreatment Standards to control pollutants which pass through or interfere with treatment processes in Publicly Owned Treatment Works (POTWs) or which may contaminate sewage sludge.

42 C.F.R. Part 405 establishes the Medicare program.

42 C.F.R. 412.22 establishes rules for hospitals and hospital units that are excluded from prospective payment systems for inpatient services.

42 C.F.R. 412.92 establishes rules for classification as a sole community hospital.

42 C.F.R. 413.65 establishes rules for determination of provider-based status for payment purposes.

42 C.F.R. 482 establishes the Conditions of Participation that hospitals must meet to participate in the Medicare and Medicaid Programs. 42 C.F.R. 482.12(c)(1) establishes federal requirements for a hospital's governing body.

42 C.F.R. 489.24 requires hospitals with an emergency department to comply with the Emergency Medical Treatment and Labor Act (EMTALA).

42 C.F.R. 493 is the section of the federal regulations titled "Standards and Certification: Laboratory Requirements", issued by the Centers for Medicare and Medicaid Services to enact the Clinical Laboratory Improvement Amendments (CLIA) law that establishes quality standards for laboratory testing performed on specimens from humans, such as blood, body fluid, and tissue, for the purpose of diagnosis, prevention, or treatment of disease, or assessment of health.

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. 1395x(r)(2) – (5) and 42 U.S.C. 1395u(b)(18)(C) are federal Medicare laws that describe what types of licensed practitioners may be appointed to the medical staff of a hospital.

42 U.S.C. 1395dd, the Emergency Medical Treatment and Labor Act, ensures public access to emergency services regardless of ability to pay.

(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 20:106. Operation and services; ambulatory surgical center.**

RELATES TO: KRS 211.842-211.852, 216B.015, [~~216B.040,~~] 216B.042, 216B.153, 216B.165, [~~216B.105(2), (3),~~] 216B.990(1), (2), (8), 311.400, 311.571, 311.710-311.810, 313.010(9), 313.030, [~~313.040, 313.420,~~] 314.041, 314.042, 314.051, 333.030, 45 C.F.R. Part 160, Part 164, 42 U.S.C. 1320d-2—1320d-8

STATUTORY AUTHORITY: KRS [~~216B.040,~~] 216B.042(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042(1)(a) and (c) require the cabinet to promulgate administrative regulations necessary for the proper administration of the licensure function and to establish licensure standards and procedures to ensure safe, adequate, and efficient health facilities and health services. This administrative regulation establishes the licensure requirements for the operation and services of ambulatory surgical centers.

Section 1. Definitions. (1) "Admission" means the time after completion of the registration process and at the first instance of rendering medical care to the patient on the day of the scheduled procedure as a part, or in anticipation, of a surgery.

(2) "Ambulatory surgical center" means a public or private institution that is:

(a) Hospital-based [~~Hospital based~~] or freestanding;

(b) Operated under the supervision of an organized medical staff; and

(c) Established, equipped, and operated primarily for the purpose of providing surgical services to patients not requiring hospitalization and [~~treatment of patients by surgery,~~] whose recovery under normal circumstances is not expected to [~~will not~~] require inpatient care.

(3) "Cabinet" is defined by KRS 216B.015(6)[~~(5)~~].

(4) "Center" means an ambulatory surgical center.

(5) "Licensee" means a person or business entity that has been issued and holds a valid ambulatory surgical center license from the cabinet[~~for Health and Family Services~~].

Section 2. Administration and Operation. (1) Licensee.

(a) The licensee shall be legally responsible for operation of the center and for compliance with federal, state, and local laws and administrative regulations pertaining to operation of the center.

(b) The licensee shall develop written policies for the administration and operation of the center.

(c) Medical staff shall approve medical policies that include the following:[~~. Policies shall include.~~]

1. Personnel practices and procedures that shall be readily[~~. These shall be~~] available to personnel;

2. Job descriptions for each level of personnel, including the authority, responsibilities, and actual work to be performed in each classification;

3. Written infection control measures governing[~~. Written procedures shall govern~~] the use of aseptic techniques and procedures in all areas of the center;

4. Sterilization of supplies;

5. Disposal of patient waste and other potentially infectious materials;

6. Examination by a pathologist of tissues removed during surgery, including the identification of[~~. Policies shall identify~~] tissues that [~~which~~] require examination and tissues that are exempted by the medical staff team from examination [~~which do not~~];

7. Procedures for consultation [~~Instances in which consultations~~] with other physicians, dentists, or podiatrists based on a patient's medical needs[~~shall be required~~];

8. A list of surgical procedures [~~which may be~~] performed in the center;

9. The center's privileging process, including the granting and withdrawal of medical staff surgical privileges, and privileges for the administration of anesthetics; [~~and~~]

10. Arrangement for transportation of patients who require hospital care;

11. A surgical smoke safety and control policy that shall be available to staff in all areas where surgical smoke is generated; and

12. Policies that assure the reporting and investigation of quality of care and safety problems in accordance with KRS 216B.165, including assurance that retaliatory action shall not be taken against a staff member who in good faith reports a patient care or safety problem.

(2) Personnel and administration.

(a) Administrator. The center shall have:

1. An administrator responsible for the daily [~~day to day~~] operation of the center; and

2. A similarly qualified staff person for delegation of responsibilities [~~for delegating that responsibility~~] in the administrator's absence.

(b) Current employee records shall be maintained and [~~shall~~] include:

1. A resume of the employee's training and experience;

2. Evidence of current licensure or registration, if required; and

3. Evaluation of the employee's performance, including a report of any adverse incident involving the employee[~~Reports of accidents occurring while the employee is on duty~~].

(c) Medical staff requirements. The center shall have an organized medical staff responsible for:

1. The quality of medical care provided in the center; [~~and~~]

2. Oversight of [~~for~~] the ethical and professional practices of its members; and

3. Developing[~~.~~

~~1. The medical staff shall develop~~] the center's medical care policies.

(d)[~~2.~~] Surgical procedures shall be performed by professionally qualified physicians, dentists, or podiatrists who:

1. Are legally authorized under their scope of practice to perform the procedures; [~~them~~] and

2. Have been granted clinical privileges by the center's [~~to perform the procedures by the center through its~~] medical staff or governing body.

(e)[~~(d)~~] Pharmaceutical, radiology, or laboratory services provided directly by the center or through an agreement with another entity shall be provided under the direction of a licensed pharmacist, a physician specializing as a radiologist, or a physician specializing as a pathologist, respectively, on a full-time, part-time, or regular consultative basis.

(f)[~~(e)~~] The center shall employ registered nurses on a full-time basis for patient care in the operating and postanesthesia recovery

rooms.

(g)[~~(f)~~] The center shall employ other nursing personnel, aides, and technicians as necessary [~~required~~] to meet the needs of the patients served by the center, including personnel [~~to be~~] responsible for supervision, indexing, and filing of medical records.

(3) A center shall not retain a patient longer than twenty-four (24) hours from the time of admission to discharge.

(4) The center shall not provide obstetric [~~have provisions for obstetrical~~] deliveries.

(5) Physician coverage. A physician or a [~~the~~] practitioner that performs surgical procedures [~~the surgery~~] shall be present in the center until all patients have been discharged and have left the center.

(6) The center shall have a physician on the medical staff with admitting privileges at [~~in~~] a nearby hospital who is responsible for admitting patients in need of inpatient care.

(7) Medical records.

(a) Content. The center shall maintain a complete, comprehensive, accurate, and legible medical record for each patient. The [~~Adequate and complete medical records shall be prepared for all patients admitted to the surgical center. Notes shall be legibly written or typed and signed. A medical~~] record shall include the following information:

1. Name and address of the person [~~the~~] or agency responsible for the patient;

2. Patient identification data, including the patient's:

a. Name;

b. Address;

c. Age;

d. Sex; and

e. Marital status;

3. Date of admission and discharge;

4. Name of the referring and attending physician, dentist, or podiatrist[~~physicians', dentists' and podiatrists' names~~];

5. A medical history and physical evaluation that was performed and entered into the medical record no more than thirty (30) days prior to surgery;

6. A surgical consent form that has been signed by the patient or the patient's [~~his~~] legal representative prior to the surgical procedure;

7. All preoperative diagnostic studies and laboratory tests;

8. Special examinations, such as consultations, clinical, laboratory, and x-ray;

9. Nurses' notes;

10. Complete medical record signed by the operating surgeon, including:

a. Anesthesia record;

b. Preoperative diagnosis:

c. Operative procedures and findings;

d. Postoperative diagnosis;

e. Condition of patient upon discharge;

f. Postoperative instructions; and

g. If required, tissue diagnosis by a pathologist on specimens surgically removed;

11. Charts including records of temperature, pulse, respiration, and blood pressure; and

12. Medication record including:

a. Name of medication;

b. Dosage;

c. Date and time of administration;

d. Method of administration;

e. Name of prescribing physician, dentist, or podiatrist; [~~and~~]

f. Name of person who administered the medication; and

g. Any allergies or abnormal drug reaction.

(b) Indexing. The center shall have a system of identification and filing to assure [~~Medical records shall be systematically filed for~~] ready access to a patient's record by authorized personnel.

(c) Ownership.

1. Medical records shall be the property of the center.

2. The original medical record shall not be removed from the center except by court order or subpoena.

3. Copies of a medical record or portions of the record may be used and disclosed. Use and disclosure shall be as established by paragraph (d) of this subsection.

(d) Confidentiality and Security: Use and Disclosure.

1. The center shall maintain the confidentiality and security of medical records in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164, as amended, including the security requirements mandated by subparts A and C of 45 C.F.R. Part 164, or as provided by applicable federal or state law.

2. The center may use and disclose medical records. Use and disclosure shall be as established or required by HIPAA, 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164, or as established in this administrative regulation.

3. A center 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.

(e) [~~Records of patients shall not be removed from the center's custody except in accordance with a court order or subpoena.~~] Medical records shall be made available if requested for inspection by a duly authorized representative [~~representatives~~] of the cabinet.

(f)[~~(d)~~] The attending physician, dentist, or podiatrist shall complete and sign a patient's [~~the~~] medical record [~~of the patient~~] as soon as practicable after discharge, but not to exceed ten (10) days.

(g)[~~(e)~~]1. Orders for medication and treatment shall be dated, timed, and signed by the:

a. Prescribing physician, dentist, or podiatrist;[~~,~~] or

b. [~~the~~] Health care practitioner who receives the verbal order.

2. A verbal order [~~orders~~] shall be followed by a written order and signed [~~countersigned~~] by the prescribing physician, dentist, or podiatrist within forty-eight (48) hours, except that a prescription for a [~~records for~~] Schedule II drug [~~drugs~~] shall be signed immediately.

3. A record of medication administered to the patient shall be included in the record and signed by the health care professional [~~person~~] administering the medication.

(h)[~~(f)~~] Retention of records. Medical records shall be retained for at least:

1. Six (6) years from the date of discharge; or

2. If [~~a minimum of five (5) years or, in the case of~~] a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest.

(8) Bedrails shall be available for patients in the admitting and recovery units.

Section 3. Sanitary Environment. The [~~surgical~~] center shall provide a sanitary environment to avoid sources and transmission of infection[~~infections~~].

(1) An infection control committee composed of members of the medical and nursing staff shall be established and charged with responsibility for investigating, [~~be responsible for~~] controlling, and preventing infections in [~~within~~] the center.

(2) Nondisposable sterile supplies shall be reprocessed if the integrity of the pack has not been maintained.

(3) The center shall:

(a) Have suitable equipment for rapid and routine sterilization of supplies, utensils, and equipment; and

(b) Maintain a sterile storage area for the equipment to be kept [~~shall store them~~] in a clean, convenient, and orderly manner.

(4) Continuing education shall be provided to all [~~surgical~~] center personnel on the cause, effect, transmission, prevention, and elimination of infections.

Section 4. Surgical Services. (1) The center shall operate exclusively for the purpose of providing surgical services to patients not requiring hospitalization and in which the expected duration of services would not exceed twenty-four (24) hours following admission[~~provide treatment of patients by surgery, whose recovery under normal circumstances will not require inpatient care~~].

(2) The center shall have at least one (1) operating room.

(3) A patient shall be examined:

(a) By a physician, dentist, or podiatrist acting within the professional's scope of practice; and

(b) Immediately prior to surgery to evaluate risks pertaining to:

1. [~~the risk of~~] Anesthesia; and

2. [~~the risk of~~] The procedure to be performed.

(4) A registered nurse shall:

(a) Be available to circulate at all times; and

(b) Supervise each[~~. The~~] operating room [~~rooms shall be supervised by a registered nurse~~].

(5) The center shall have on file a list of all physicians, dentists, and podiatrists who have been granted [~~with~~] surgical privileges by the center's medical staff or governing body, including the scope of [~~at the center and~~] the privileges granted [~~assigned~~] to each practitioner[~~by the medical staff~~].

(6) The center shall maintain a complete and up-to-date operating room register.

(7) The following equipment shall be available in the center:

(a) Oxygen;

(b) Mechanical ventilatory assistance equipment including airways, manual breathing bag, and ventilator;

(c) Cardiac defibrillator;

(d) Cardiac monitoring equipment;

(e) Tracheostomy set;

(f) Laryngoscopes and endotracheal tubes;

(g) Suction equipment; and

(h) Emergency medical equipment and supplies specified by the medical staff.

(8)(a)In accordance with KRS 216B.153, a center that utilizes an energy-generating device shall make use of a smoke evacuation system:

1. That effectively captures and neutralizes surgical smoke at the site of origin and before the smoke can make ocular contact or contact with the respiratory tract of the occupants of the room; and

2. During any surgical procedure that is likely to produce surgical smoke.

(b) The cabinet shall impose fines in accordance with KRS 216B.990(8) for each violation of noncompliance with KRS 216B.153 only if the violation has not been remedied after the center has had an opportunity to correct the violation through the filing of a plan of correction in accordance with 902 KAR 20:008, Section 2(13).

(9) The center shall have arrangements for obtaining an adequate supply of blood in a timely manner to meet the center's needs.

(10)[~~(9)~~] A physician's, dentist's, or podiatrist's orders shall be in writing and signed by the physician, dentist, or podiatrist.

(11)[~~(10)~~] Except for cases requiring only local infiltration anesthetics, a physician anesthesiologist, a physician qualified to administer anesthesia, a dentist qualified to administer anesthesia, or a certified registered nurse anesthetist [~~acting under the direction of the operating surgeon~~] shall administer the anesthetics and remain present during the surgical procedures and until the patient is fully recovered from the anesthetics.

(12)(a)[~~(11)~~] The physician, dentist, or podiatrist in charge of the patient shall be responsible for seeing that tissue removed during surgery is delivered to the center's pathologist.

(b) The pathologist's [~~and that an examination and~~] report on any [~~is made on the~~] tissue removed during surgery shall be included in the patient's medical record unless the center's medical staff have adopted a written policy exempting certain types of removed tissue from examination[~~, if required by the center's written policies~~].

(13)[~~(12)~~] Voluntary interruption of pregnancies. An ambulatory surgical center shall comply with the applicable Kentucky statutes concerning the voluntary interruption of pregnancies, including KRS 311.710 to 311.810.

Section 5. Postanesthesia [~~Postanethesisa~~] Recovery Services. (1) The center shall have at least one (1) postanesthesia recovery unit.

(2) There shall be adequate staff available in the recovery unit so that no patient is left alone at any time.

(3) A registered nurse shall be present in the recovery unit during the time that [~~when~~] a patient is recovering from anesthesia.

(4) A registered nurse shall be available to the recovery unit at all times.

(5) A registered nurse or health care professional [~~person~~] staffing the postanesthesia recovery unit shall be adequately trained in all aspects of postoperative and postanesthetic care.

(6) The recovery unit nurse shall record a nursing note on each [~~a~~] patient to document[~~, noting~~] the following:

(a) Postoperative abnormalities or complications;

(b) Pulse;

(c) Respiration;

(d) Blood pressure;

(e) Presence or absence of swallowing reflex;

(f) Cyanosis; and

(g) The general condition of the patient.

(7) Available equipment shall include the following:

(a) Suction machine;

(b) Stethoscope;

(c) Sphygmomanometer;

(d) Emergency crash cart;

(e) Necessary drugs; and

(f) Oxygen.

(8)(a) The [~~surgical~~] center shall provide suitable accommodations for its patients.

(b) There shall be adequate floor space, furnishings, bed linens, and other utensils, equipment and supplies reasonably required for the proper care of the patients[~~ accommodated~~].

Section 6. Pharmaceutical Services. (1) The center shall have a licensed pharmacy or have arrangements for promptly obtaining prescribed drugs and biologicals from a pharmacy.

(2)(a) The center shall have [~~provide~~] appropriate methods and procedures for the storage, control, and administration of drugs and biologicals[~~,~~] developed with the advice of a licensed pharmacist.

(b) The pharmacist shall properly label drugs for individual patients.

(3) Licensed medical or nursing personnel shall administer medications in accordance with the established standards of practice set forth for:

(a) Podiatrists licensed in accordance with KRS 311.400;

(b) Physicians licensed in accordance with KRS 311.571;

(c) Dentists licensed in accordance with KRS 313.030[~~313.040 or 313.045~~];

(d) Dental specialists defined by KRS 313.010(9)[~~licensed in accordance with KRS 313.420~~]; or

(e) Nurses licensed in accordance with KRS 314.041, 314.042, or 314.051.

(4) Controlled substances.

(a) Controlled substances shall be kept under double lock (i.e., in a locked box in a locked cabinet). There shall be a controlled substances record that includes [~~in which is recorded~~] the:

1. Name of the patient;

2. Date and time;

3. Kind of controlled substance;

4. Dosage and method of administration of the controlled substance;

5. Name of the physician or practitioner who prescribed the controlled substance; and

6. Name of the nurse who administered the controlled substance[~~it~~].

(b) In addition to the requirements established in paragraph (a) of this subsection, there shall be a recorded and signed:

1. Schedule II controlled substances count daily conducted by a member of the nursing staff; and

2. Schedule III, IV, and V controlled substances count once per week by a member of the nursing staff.

Section 7. Radiology Services. (1) The center shall provide radiology services directly through an:

(a) Agreement with a licensed hospital;[~~,~~] or

(b) [~~through an~~] Independent radiology service.

(2) The radiology service shall have a current license or registration pursuant to KRS 211.842 to 211.852.

(3) If radiology services are provided directly by the center:

(a) The radiology department shall be free of hazards for patients and personnel. Proper safety precautions shall be maintained against:[~~;~~]

1. Fire and explosion hazards;
2. Electrical hazards; and
3. Radiation hazards;

(b) A physician specializing in radiology shall supervise the department and interpret films that require specialized knowledge for accurate reading;

(c) Signed reports shall be promptly entered into the medical record and duplicate copies kept in the department; and

(d) Orders for radiology procedures shall be made by a physician, dentist, or podiatrist.

Section 8. Laboratory Services. (1) The center shall provide laboratory services directly through:

(a) Its own licensed laboratory;

(b)[~~, through~~] An agreement with a laboratory in a licensed hospital;[~~,~~] or

(c) [~~through~~] An agreement with a licensed laboratory nearby.

(2) The medical laboratory providing services to the center shall be licensed pursuant to KRS 333.030, unless it is a part of a licensed hospital.

(3) Laboratory examinations shall be made only upon the request of a physician, dentist, or podiatrist.

(4)(a) The laboratory shall provide tissue pathology and diagnostic cytology examinations.

(b) Tissues removed from a patient during surgery shall be examined by a physician specializing in pathology if required by the center's written policies.

(5) Laboratory and tissue pathology reports shall be signed and entered into the medical record.

Section 9. Utilization Review. (1) The [~~surgical~~] center shall have in effect a plan for utilization review of the center's [~~their~~] services on at least a quarterly basis by a committee of physicians, dentists, or podiatrists who have no financial interest in the center.

(2) Reviews shall be made of the center's admissions and professional services, [~~furnished~~] including utilization of surgical services and tissue reports.

ADAM MATHER, Inspector General
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: November 12, 2021

FILED WITH LRC: December 28, 2021 at 8:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on March 21, 2022, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by March 14, 2022, 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 virtually 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 March 31, 2022. 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: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Kara Daniel; Stephanie Brammer-Barnes; Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the minimum licensure requirements for the operation of and services provided by ambulatory surgical centers.

(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 establish licensure standards and procedures to ensure safe, adequate, and efficient health facilities and 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(1) by establishing the minimum licensure requirements for the operation of and services provided by ambulatory surgical centers.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing the minimum licensure requirements for the operation of and services provided by ambulatory surgical centers.

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

(a) How the amendment will change this existing administrative regulation: This amendment is required by KRS 216B.153, a new law created by the passage of SB 38 from the 2021 session of the Kentucky General Assembly. KRS 216B.153(2) directs the cabinet to promulgate administrative regulations to require a health facility that utilizes energy generating devices to use a smoke evacuation system during any surgical procedure that is likely to produce surgical smoke. In addition, this amendment makes technical changes to conform to the administrative regulation drafting requirements of KRS Chapter 13A to improve clarity and flow, and also makes general housekeeping changes.

(b) The necessity of the amendment to this administrative regulation: This amendment is required by KRS 216B.153(2).

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of KRS 216B.153 by creating a requirement for ambulatory surgical centers to make use of a smoke evacuation system during any surgical procedure that is likely to produce surgical smoke.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the statutes by adding a requirement for surgical smoke evacuation systems pursuant to KRS 216B.153.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment affects ambulatory surgical centers that provide surgical procedures that are likely to produce surgical smoke. There are currently 49 ambulatory surgical centers licensed in Kentucky.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Ambulatory surgical centers will be required to make use of a smoke evacuation system during any surgical procedure that is likely to produce surgical smoke.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). If an ambulatory surgical center does not currently have a smoke evacuation system, the facility will incur costs associated with the purchase of a system.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Surgical smoke generated by the use of an energy-generating device during a surgical procedure contains toxic and biohazardous substances that present risks to perioperative team members and patients. Therefore, the use of smoke evacuation equipment required by this amendment will protect health care workers and patients from the harmful effects of surgical smoke.

(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 Office of Inspector General for implementation of this amendment.

(b) On a continuing basis: There are no additional costs to the Office of Inspector General for implementation of this amendment on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding used for the implementation and enforcement of the licensure function is from federal funds and state matching funds of general and agency appropriations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary to implement this amendment.

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

(9) TIERING: Is tiering applied? Tiering is not applicable as compliance with this administrative regulation applies equally to all ambulatory surgical centers regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation affects Kentucky-licensed ambulatory surgical centers. This administrative regulation also impacts the Cabinet for Health and Family Services, Office of Inspector General.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 216B.042, 216B.153

(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? Although KRS 216B.990(8) authorizes the cabinet to impose a fine ranging from $100 to $500 for each violation of KRS 216B.153, the cabinet is unable to predict with accuracy how many violations may be cited or otherwise determine the amount of fines that may be collected.

(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 cabinet is unable to predict with accuracy how many violations may be cited or otherwise determine the amount of fines that may be collected.

(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 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:

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 45 C.F.R. 160, 164, 42 U.S.C. 1320d-2 - 1320d-8

(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.

(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)**

**906 KAR 1:110. Critical access hospital services.**

RELATES TO: KRS 205.639(3), 211.842-211.852, 216.378, 216.379, 216.380, [~~216B.010,~~] 216B.015(6), 216B.040(1)(c), (2)(b), [~~216B.042, 216B.045-216B.055, 216B.075,~~] 216B.105, 216B.153, 216B.165, 216B.990, Chapter [~~216B.115 - 216B.131,~~] 311, 315.035, 333.030, [~~315, 333,~~] 42 C.F.R. 485.601-42 C.F.R. 485.647, 45 C.F.R. Part 160, Part 164, 42 U.S.C. 1320d-2—1320d-8, 42 U.S.C. 1395i-4(c)(2)[~~485.641~~]

STATUTORY AUTHORITY: KRS 216.380(14), [~~216B.040(3)(a),~~] 216B.042(1)(a), (c)[~~, 42 U.S.C. 1395i-4~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216.380(14) requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary to implement a program for the licensure of critical access hospitals. KRS 216B.042(1)(a) and (c) require the cabinet to promulgate administrative regulations necessary for the proper administration of the licensure function and to establish licensure standards and procedures to ensure safe, adequate, and efficient health facilities and health services. This administrative regulation establishes quality of care and licensure standards for critical access hospitals.

Section 1. Definitions. (1) "Cabinet" is defined by KRS 216B.015(6)[~~(5)~~].

(2) "Licensee" means the entity that has been issued and holds a valid critical access hospital license from the cabinet [~~for Health and Family Services~~].

Section 2. Requirements for Critical Access Status. (1) An applicant for initial licensure of a critical access hospital shall provide documentation to the cabinet verifying that the hospital:

(a) Complies with the requirements of KRS 216.380 and this administrative regulation[~~(3) or (4) have been met~~]; and

(b) [~~The hospital~~] Qualifies for state designation under 42 U.S.C. [~~Section~~] 1395i-4(c)(2)[~~; and~~

~~(c) The requirements of this administrative regulation have been met~~].

(2) In accordance with 42 U.S.C. 1395i-4(c)(2)(B), a critical access hospital that was certified by the secretary of the cabinet as a necessary provider of services prior to January 1, 2006, may be relicensed as a critical access hospital if[~~, provided~~] the requirements of this administrative regulation are met.

(3)(a) If an application for initial licensure of a critical access hospital is denied by the cabinet, the applicant shall be entitled to an administrative hearing pursuant to KRS 216B.040(1)(c) and (2)(b), and KRS 216B.105[~~Chapter 13B~~].

(b) Licensure hearings shall follow the procedures established by[~~in~~] 900 KAR 6:040.

Section 3. Administration and Operation. (1) The licensee shall be legally responsible for the operation of the critical access hospital and for compliance with federal, state, and local laws and administrative regulations[~~law~~] pertaining to the operation of the critical access hospital.

(2) A critical access hospital shall be under the medical direction of a physician licensed to practice medicine or osteopathy in Kentucky.

(3) The licensee shall:

(a) Establish written policies and lines of authority; and

(b) Designate an administrator as the person principally

responsible for the daily operation of the critical access hospital.

(4) The licensee shall develop patient care policies with the advice of a group of healthcare professionals [~~professional persons, as~~] identified by the licensee.

(a) Pursuant to 42 C.F.R. 485.635(a)(2), the advisory group [~~of professional persons~~] shall include:

1. At least one (1) Kentucky-licensed doctor of medicine or doctor of osteopathic medicine[~~or more physicians licensed in the Commonwealth of Kentucky~~]; and

2. One (1) or more physician assistants, advanced registered nurse practitioners, or clinical nurse specialists[~~persons who are not members of the staff~~].

(b) The patient care policies shall include:

1. A description of services that the critical access hospital furnishes, including services provided [~~shall provide directly or~~] through a contractual agreement;

2. A written program narrative describing in detail the:

a. Services [~~to be~~] offered;

b. Methods and protocols for service delivery;

c. Qualifications of personnel [~~to be~~] involved in the delivery of services; and

d. Outcomes expected to be attained through the delivery of specified services;

3. Guidelines for the medical [~~case~~] management of health problems, including[~~which include~~]:

a. Criteria for determining if a case requires medical consultation;

b. Patient referral procedures; and

c. Maintenance of health records;

4. Procedures for the proper storage, handling, and administration of drugs and biologicals; [~~and~~]

5. Procedures establishing annual review and evaluation of services provided;

6. Procedures that assure the reporting and investigation of quality of care and safety problems in accordance with KRS 216B.165, including assurance that retaliatory action shall not be taken against a staff member who in good faith reports a patient care or safety problem; and

7. A surgical smoke safety and control policy that shall be available to staff if the hospital offers any surgical procedure that is likely to produce surgical smoke.

(5) A critical access hospital shall establish written policies regarding patient rights and responsibilities to[~~. The policies shall~~] assure that each patient is:

(a) Informed of:

1. Patient rights;

2. Rules and regulations governing patient conduct and responsibilities; and

3. The procedure for handling a patient grievance;

(b) Informed of services available and related charges, including charges not covered by Medicare, Medicaid, or other third-party payor;

(c) Informed of the patient's:

1. Medical condition, unless medically contraindicated as documented in the patient's medical record;

2. Right to participate in planning his or her medical treatment; and

3. Right to refuse to participate in experimental research;

(d) Assisted in understanding his or her patient rights;

(e) Provided confidential treatment of his or her records in accordance with subsection (9) of this section[~~and given the opportunity to approve or refuse their release to an individual not involved in his or her care, except as required by Kentucky law or third-party payment contract~~];

(f) Treated with consideration, respect, and recognition of the patient's dignity and individuality, including privacy in treatment and care of personal health needs; and

(g) Informed of the procedure for filing a grievance or a recommendation to change a policy or service. The policy shall establish a time frame within which critical access hospital personnel shall determine what corrective action to take.

(6) Personnel.

(a) Staffing shall be maintained in accordance with KRS 216.380(9).

(b) A physician shall:

1. Be responsible for all medical aspects of the critical access hospital;

2. Provide direct medical services in accordance with KRS Chapter 311;

3. Be present to provide medical direction, supervision, and consultation to [~~the~~] staff at least once in every two (2) week period, unless no patient has been treated since the last visit;

4. Participate with other medical personnel in developing, executing, and periodically reviewing written policies and services;

5. Review and sign patient records during the site visit; and

6. Provide medical orders and medical care services to patients in accordance with the critical access hospital's [~~hospital~~] protocols.

(c) A registered nurse or licensed practical nurse shall be on duty if a patient has been admitted for overnight stay.

(7) The critical access hospital shall have transfer and linkage contracts in accordance with [~~that meet the requirements of~~] KRS 216.380(11) and (12).

(8) Medical records.

(a) A critical access hospital shall maintain a complete, comprehensive, accurate, and legible medical record for each patient. The [~~records. A medical~~] record shall include [~~contain at least~~] the following information:

1. The names of the patient's immediate family members;

2. Medical and social history, including information [~~data~~] obtainable from other providers;

3. Description of each medical visit or contact, including:

a. Condition or reason necessitating visit or contact;

b. Assessment;

c. Diagnosis;

d. Services provided;

e. Medications and treatments prescribed; and

f. Disposition made;

4. Reports of laboratory, x-ray, and other test findings; and

5. Documentation of referrals [~~made~~], including:

a. Reason for the referral;

b. To whom patient was referred; and

c. Information obtained from the referral source.

(b) Confidentiality of individual patient records shall be maintained in accordance with subsection (9)(b) of this section[~~at all times~~].

(c) Transfer of records. The critical access hospital shall:

1. Establish systematic procedures to assist with [~~in~~] continuity of care if a [~~the~~] patient transfers to another licensed level of care; [~~moves to another source of care,~~] and

2. [~~shall,~~] Upon proper release, transfer medical records or an abstract upon request.

(d) Retention of records. Medical records shall be retained for at least:

1. Six (6) years from the date of [~~After a patient's death or~~] discharge; or

2.[~~, the completed medical record shall be placed in an inactive file and retained for five (5) years or,~~] If the patient is a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest.

(9)(a) Ownership.

1. Medical records shall be the property of the critical access hospital.

2. The original medical record shall not be removed from the critical access hospital except by court order or subpoena.

3. Copies of a medical record or portions of the record may be used and disclosed. Use and disclosure shall be as established by paragraph (b) of this subsection.

(b) Confidentiality and Security: Use and Disclosure.

1. The critical access hospital shall maintain the confidentiality and security of medical records in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164, as amended, including the security requirements mandated by subparts A and C of 45 C.F.R. Part 164, or as provided by applicable federal or state law.

2. The critical access hospital may use and disclose medical records. Use and disclosure shall be as established or required by

HIPAA, 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164, or as established in this administrative regulation.

3. A critical access hospital 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.

(10) Utilization review and medical audit. In order to determine the appropriateness of services delivered, there shall be a written plan for utilization review that [which] specifies the frequency of reviews and composition of the body conducting the review.

(11)[(10)] Quality assessment and performance improvement program.

(a) Pursuant to KRS 216.380(10), a critical access hospital shall have a program[, in accordance with KRS 216.380(10),] to ensure continuous and effective mechanisms for:

1. Review and evaluation of patient care; and

2. Corrective action.

(b) The quality assessment and performance improvement program shall:

1. Be approved by the licensee;

2.[.

(c) The program shall:

1.] Establish responsibility for the monitoring and evaluation of services;

3.[2.] Delineate the scope of care;

4.[3.] Identify specific aspects of care to be provided;

5.[4.] Establish and document clinical criteria used to monitor care and services;

6.[5.] Systematically evaluate the standard of care to identify problems and recommend corrective action or alternatives to improve the standard of care;

7.[6.] Establish criteria to assess the effectiveness of corrective action taken to improve care; and

8.[7.] Require documentation of improvements in the standard of care[,] subsequent to corrective action taken.

(12) Contract[

(11) Contracted] services. The critical access hospital shall assure that a service provided under contract is properly licensed or certified in accordance with applicable local, state, and federal regulations and statutes.

Section 4. Provision of Services. (1) A critical access hospital shall provide [the] services in accordance with KRS 216.380(5).

(2) Laboratory services.

(a) A critical access hospital shall provide[, either directly or through contract,] basic laboratory services essential to the immediate diagnosis and treatment of each [the] patient.

(b) If the critical access hospital provides laboratory services directly, the hospital [service] shall comply [be in compliance] with 902 KAR 20:016, Section 4(4).

(c) If the critical access hospital contracts for laboratory services, the laboratory shall be licensed pursuant to KRS 333.030[it contracts with shall be in compliance with KRS Chapter 333].

(d) The following services shall be provided:

1. Chemical examination of urine, including ketone measurement, by stick or tablet method, or both;

2. Microscopic examination of urine sediment;

3. Hemoglobin or hematocrit;

4. Blood glucose[sugar];

5. Examination of stool specimens for occult blood;

6. Pregnancy tests; and

7. Primary culturing for transmittal to a hospital laboratory or licensed laboratory.

(3) Emergency services.

(a) A critical access hospital shall:

1. Provide medical emergency procedures as a first response to common life-threatening injuries and acute illness;

2.[, and shall] Have available [the] drugs and biologicals commonly used in life-saving procedures, such as analgesics, local anesthetics, antibiotics, anticonvulsants, antidotes and emetics, serums and toxoids; and

3. Provide [.

(a)] examination services [shall be provided by the critical access hospital] in accordance with 902 KAR 20:012.

(b) There shall be a physician, nurse practitioner, or physician assistant with training or experience in emergency care:

1. On-call and immediately available by telephone or radio contact;[,] and

2. Available on site within thirty (30) minutes on a twenty-four (24) hour per-day basis.

(c) A registered nurse shall be on duty at the hospital to provide immediate emergency care on a twenty-four (24) hour per day basis.

(4) Pharmacy services.

(a) In accordance with KRS 216.380(5)(b), a critical access hospital shall provide[, either directly or through contract,] basic pharmacy services essential to the treatment of the patient.

(b)[(a)] If the critical access hospital provides pharmacy services directly, the hospital shall comply [it shall be in compliance] with 902 KAR 20:016, Section 4(5).

(c)[(b)] If the critical access hospital contracts for pharmacy services, the pharmacy shall have a permit to operate in accordance with KRS 315.035[it contracts with shall be in compliance with KRS Chapter 315].

(5) Radiology services.

(a) In accordance with KRS 216.380(5)(b), a critical access hospital shall provide[, either directly or through contract,] basic radiology services essential to the immediate diagnosis and treatment of the patient.

(b)[(a)] If the critical access hospital provides radiology services directly, the hospital shall comply [it shall be in compliance] with 902 KAR 20:016, Section 4(6).

(c)[(b)] If the critical access hospital contracts for radiology services, the radiology facility shall be currently licensed or registered [service it contracts with shall have a current license or registration] pursuant to KRS 211.842 to 211.852.

(6) Dietary services. Pursuant to KRS 216.380(5)(b), the critical access hospital shall provide dietary services [shall be provided either] directly or by contract[,] in accordance with 902 KAR 20:016, Section 4(3) to each[, if a] patient who is admitted to the [critical access] hospital and remains for more than twelve (12) hours.

(7) Psychiatric units. A critical access hospital that provides inpatient psychiatric services in a distinct part [has established a psychiatric] unit in accordance with KRS 216.380(7)(a)[,] shall comply [be in compliance] with 902 KAR 20:180.

(8) Rehabilitation units. A critical access hospital that provides inpatient [has established a] rehabilitation services in a distinct part unit in accordance with KRS 216.380(7)(b)[,] shall comply [be in compliance] with the requirements of 902 KAR 20:240.

(9) Surgical services.

(a) If a critical access hospital provides surgical services, the hospital shall comply with 42 C.F.R. 485.639.

(b) 1. In accordance with KRS 216B.153, a critical access hospital that utilizes an energy-generating device shall make use of a smoke evacuation system:

a. That effectively captures and neutralizes surgical smoke at the site of origin and before the smoke can make ocular contact or contact with the respiratory tract of the occupants of the room; and

b. During any surgical procedure that is likely to produce surgical smoke.

2. The cabinet shall impose fines in accordance with KRS 216B.990(8) for each violation of noncompliance with KRS 216B.153 only if the violation has not been remedied after the hospital has had an opportunity to correct the violation through the filing of a plan of correction in accordance with 902 KAR 20:008, Section 2(13).

Section 5. Physical and Sanitary Environment. A critical access hospital shall maintain the condition of the physical plant and hospital's overall environment in accordance with [comply with the provisions of] 902 KAR 20:016, Section 3(10).

Section 6. Facility Requirements. A critical access hospital shall comply with the applicable structural specifications and physical plant requirements established by [of] 902 KAR 20:009 for [related to the] services offered.

ADAM MATHER, Inspector General
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: November 12, 2021

FILED WITH LRC: December 28, 2021 at 8:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on March 21, 2022, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by March 14, 2022, 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 virtually 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 March 31, 2022. 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: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Kara Daniel; Stephanie Brammer-Barnes; Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the minimum licensure requirements for the operation of and services provided by critical access hospitals.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with the requirements of KRS 216.380(14) to implement a program for the licensure of critical access hospitals. This administrative regulation is also necessary to comply with KRS 216B.042(1), which requires the Cabinet for Health and Family Services to establish licensure standards and procedures to ensure safe, adequate, and efficient health facilities and health services.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 216.380 and 216B.042(1) by establishing the minimum licensure requirements for the operation of and services provided by critical access hospitals.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing the minimum licensure requirements for the operation of and services provided by critical access hospitals.

(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 required by KRS 216B.153, a new law created by the passage of SB 38 from the 2021 session of the Kentucky General Assembly. KRS 216B.153(2) directs the cabinet to promulgate administrative regulations to require a health facility that utilizes energy generating devices to make use of a smoke evacuation system during any surgical procedure that is likely to produce surgical smoke. In addition, this amendment makes technical changes to conform to the administrative regulation drafting requirements of KRS Chapter 13A to improve clarity and flow, and also makes general housekeeping changes.

(b) The necessity of the amendment to this administrative regulation: This amendment is required by KRS 216B.153(2).

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of KRS 216B.153 by creating a requirement for critical access hospitals to make use of a smoke evacuation system during any surgical procedure that is likely to produce surgical smoke.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the statutes by adding a requirement for surgical smoke evacuation systems pursuant to KRS 216B.153.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment affects critical access hospitals that provide surgical procedures that are likely to produce surgical smoke. There are currently 27 critical access hospitals licensed in Kentucky.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Critical access hospitals will be required to make use of a smoke evacuation system during any surgical procedure that is likely to produce surgical smoke.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). If a critical access hospital does not currently have a smoke evacuation system, the facility will incur costs associated with the purchase of a system if the hospital offers any surgical procedure that is likely to produce surgical smoke.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Surgical smoke generated by the use of an energy-generating device during a surgical procedure contains toxic and biohazardous substances that present risks to perioperative team members and patients. Therefore, the use of smoke evacuation equipment required by this amendment will protect health care workers and patients from the harmful effects of surgical smoke.

(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 Office of Inspector General for implementation of this amendment.

(b) On a continuing basis: There are no additional costs to the Office of Inspector General for implementation of this amendment on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding used for the implementation and enforcement of the licensure function is from federal funds and state matching funds of general and agency appropriations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary to implement this amendment.

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

(9) TIERING: Is tiering applied? Tiering is not applicable as compliance with this administrative regulation applies equally to all critical access hospitals regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation affects Kentucky-licensed critical access hospitals. This administrative regulation also impacts the Cabinet for Health and Family Services, Office of Inspector General.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 216.380, 216B.042, 216B.153

(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? Although KRS 216B.990(8) authorizes the cabinet to impose a fine ranging from $100 to $500 for each violation of KRS 216B.153, the cabinet is unable to predict with accuracy how many violations may be cited or otherwise determine the amount of fines that may be collected.

(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 cabinet is unable to predict with accuracy how many violations may be cited or otherwise determine the amount of fines that may be collected.

(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 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:

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 42 C.F.R. 485.601-485.647, 45 C.F.R. 160, 164, 42 U.S.C. 1320d-2 - 1320d-8, 42 U.S.C. Section 1395i-4(c)(2)

(2) State compliance standards. KRS 216.380, 216B.042

(3) Minimum or uniform standards contained in the federal mandate. 42 C.F.R. 485.601-485.647 establish the federal conditions of participation for the certification of critical access hospitals.

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. Section 1395i-4(c)(2) establishes the criteria for designation as a critical access hospital.

(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 Community Based Services**
**Division of Protection and Permanency**
**(Amendment)**

**922 KAR 1:360. Private child care placement, levels of care, and payment.**

RELATES TO: KRS 199.011, 199.640-199.680, 199.801, 600.020(25), 605.090(1)(b), (d), 610.110, 42 U.S.C. 622, 672, 675

STATUTORY AUTHORITY: KRS 194A.050(1), 199.641(4), 605.090(1)(d), 605.150(1)

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. KRS 199.641(4) and 605.090(1)(d) authorize the cabinet to establish by administrative regulation the rate setting methodology and the rate of payment for child-caring facilities and child-placing agencies, consistent with the level and quality of service provided. KRS 605.090(1)(d) authorizes the cabinet to promulgate administrative regulations establishing conditions under which the cabinet may place a child committed to the Department of Juvenile Justice or the cabinet, in a child-caring facility or a child-placing agency operated by a local governmental unit or private organization willing to receive the child, upon the conditions established by the cabinet. KRS 605.150(1) authorizes the cabinet to promulgate administrative regulations to implement the provisions of KRS Chapter 605. This administrative regulation establishes: (a) [~~five (5)~~] levels of care based upon the needs of a child for whom the cabinet has legal responsibility; (b) a payment rate for each level and placement setting; (c) gatekeeper responsibilities; (d) provider requirements; (e) procedures for classification at the appropriate level of care and placement setting; and (f) procedures for determination of components of the model program cost analysis.

Section 1. Definitions. (1) "Cabinet" is defined by KRS 199.011(3).

(2) "Child-caring facility" or "facility" is defined by KRS 199.011(5).

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

(4) "Department" is defined by KRS 199.011(7) and 199.641(1)(b).

(5) "Emergency shelter" is defined by KRS 600.020(25).

(6) "Gatekeeper" means the department or agent responsible for:

(a) Making a clinical determination of the level of care necessary to meet a child's treatment and service needs; and

(b) Other administrative duties in the areas of:

1. Assessment;
2. Placement;
3. Performance measurement; and
4. Consultation regarding children and their needs.

(7) "Index factor" means a specific number derived from time-study data, used to determine payment for each level of care.

(8) "Initial level of care" means a level of care:

(a) Assigned by the gatekeeper to a child at the point of entry into the level of care system; and

(b) That is time-limited and effective for the first six (6) months of a child's placement.

(9) "Level of care" means the standard [~~one (1) of five (5) standards~~] representing the treatment and service needs of a child placed by the cabinet in out-of-home care.

(10) "Level of care packet" means an assessment conducted by designated cabinet staff and a collection of forms required for submission to the gatekeeper for the purpose of determining the appropriate level of care and placement setting in accordance with Section 2(2) of this administrative regulation.

(11) "Model program cost analysis" is defined by KRS 199.641(1)(c).

(12) "Placement coordinator" means an individual whose responsibilities are established in KRS 199.801.

(13) "Reassigned level of care" means a level of care that is:

(a) Determined by the gatekeeper after a child's level of care expires; and

(b) Authorized for a specific period of time.

(14) "Time study" is defined by KRS 199.641(1)(d).

(15) "Utilization review" means a gatekeeper's examination, during a child's placement in a child-caring facility or child-placing agency, of the child's case record and existing documentation for the purpose of:

(a) Identifying the child's current level of functioning, treatment, service, and supervision needs; and

(b) Assigning the appropriate level of care.

Section 2. Referral Process for Level of Care System Placement. (1) A level of care packet shall be completed by a cabinet staff person and submitted to the gatekeeper for a child at least forty-eight (48) months of age or a child who is medically complex regardless of age at the time:

(a) The child is referred for placement with a child-caring

facility or child-placing agency[~~enters the level of care system~~];

(b) A child currently placed in a child-caring facility or a child-placing agency reaches forty-eight (48) months of age or is found to be medically complex; or

(c) A child's level of care expires and assignment of a new level is necessary.

(2) A level of care packet shall include the [~~DPP-886, Private Child Care Client Inter-agency Referral Form, and the~~] following child-specific information:

(a) Identifying data;

(b) Individual strengths and limitations;

(c) Daily living skills;

(d) Physical health needs[~~,~~] including:

1. Any significant medical history;

2. Current diagnoses, assessments, and treatment; and

3. Documentation[~~documentation~~] indicating the child's medically complex status if the child is medically complex;

(e) Behavioral [~~Mental~~] health needs including:

1. Screening tools utilized based upon the child's age[~~Behavioral health~~]; and

2. Current diagnoses, assessments, [~~Diagnosis~~] and treatment recommendations;

(f) Medications;

(g) History of substance abuse, high risk, or other significant behavior including:

1. Sexual acting out; and

2. Legal history, status, or other court involvement[~~delinquency behavior patterns~~];

(h) Out-of-home care placement information including:

1. Reason for entering out-of-home care;

2. History of abuse, neglect, or dependency;

3. Current custody status;

4. Current and previous placements; and

5. Permanency goal;

(i) Social supports;

(j) Educational functioning, grade level, and any special educational need; and

(k) Religious background and practices[~~; and~~

~~(l) If a child has an IQ of seventy (70) or above:~~

~~1. Child Behavior Checklist For Ages 1 1/2-5 (Achenbach);~~

~~2. Child Behavior Checklist For Ages 6-18 (Achenbach); or~~

~~3. Another tool pursuant to the Promoting Wellbeing and Adoption after Trauma Grant in accordance with 42 U.S.C. 622(b)(15)~~].

(3)(a) If a child needs placement within a child-caring facility or a child-placing agency[~~the level of care system~~], a cabinet staff person shall submit a copy of the completed level of care packet, including level assignment, to the placement coordinator.

(b) The placement coordinator shall forward the level of care packet to potential child-caring facilities or child-placing agencies.

(4) If a child-caring facility or child-placing agency accepts a child for out-of-home placement and the cabinet approves the placement in accordance with KRS 199.801 and 922 KAR 1:370, a cabinet staff person shall:

(a) Complete the DPP-114, Private Child Caring and Child Placing Level of Care Schedule, with the level of care payment rate for placement type:

1. As assigned by the gatekeeper within the previous six (6) months; or

2. If there is an emergency placement, within two (2) business days of the placement or receipt of the assigned level of care;

(b) Arrange transportation for the child to the placement; and

(c) Notify the placement coordinator of the selected placement.

(5) If a child-caring facility or child-placing agency accepts an emergency placement requested by the cabinet outside of the gatekeeper's regular working hours, a cabinet staff person shall:

(a) Submit a level of care packet to the gatekeeper for a child who does not have a current level of care assignment; and

(b) Inform the placement coordinator of the location and date of placement.

(6) The placement coordinator shall notify a child-caring facility or child-placing agency that was not chosen for placement upon provision of notification in accordance with subsection (4)(c) of this section.

Section 3. Gatekeeper Responsibilities. The gatekeeper shall:

(1) Evaluate a child referred by the cabinet or currently placed in a child-caring facility or child-placing agency for the purpose of establishing an initial or reassigned level of care. The child shall be:

(a) Four (4) years of age or older; or

(b) Determined to be medically complex by designated cabinet staff[~~Evaluate a child forty-eight (48) months of age or older or any child designated as medically complex:~~

~~(a) Who is referred by the department or currently placed in a child-caring facility or child-placing agency; and~~

~~(b) For an initial or reassigned level of care~~];

(2) Within three (3) working days of receipt of the level of care packet:

(a) Determine the appropriate level of care according to an [~~a needs~~] assessment of the child's treatment, supervision, and service needs consistent with one (1) of the three (3) [~~five (5)~~] levels of care; and

(b) Return the completed[~~:~~

~~1. DPP-886, Private Child Care Client Inter-agency Referral Form, to the department; or~~

~~2.~~] CRP-6, Children's Review Program Notice of Level of Care Payment Authorization Reassignment, to the department and the child-caring facility or the child-placing agency;

(3) Assess a child placed in a child-caring facility in accordance with 42 U.S.C, 675a(c) within the first thirty (30) days of placement;

(4)[~~(3)~~] Conduct a utilization review for a child:

(a) Six (6) months from the initial placement or reassignment and placement in a child-caring facility and child-placing agency; and

(b)1. Every three (3) months thereafter if the child is in a [~~private~~] child-caring facility [~~care residential placement~~]; or

2. Every six (6) months thereafter if the child is in a foster care placement or therapeutic foster care;

(5)[~~(4)~~] Reassign a child's level of care after the previous level has expired;

(6)[~~(5)~~] Monitor each child-caring facility and child-placing agency;

(7)[~~(6)~~] Maintain a confidential information system for each child served that shall include:

(a) Placement history;

(b) Level of care assignments;

(c) Length of treatment; and

(d) Discharge outcomes; and

(8)[~~(7)~~] For a utilization review, return the completed CRP-2, Children's Review Program Notice of Level of Care Payment Authorization, to the [~~private~~] child-caring facility or [~~private~~] child-placing agency and the cabinet after a level is conducted or reassigned.

Section 4. Levels of Care. A level of care shall be assigned in accordance with this section.

(1) A Level I child shall be a child who requires a routine home environment that:

(a) Provides for the basic needs of the child[~~maintenance~~];

(b) Provides guidance and nurturing;

(c) Provides supervision to meet the needs of the child; [~~and~~]

(d) Provides educational support;

(e) Provides access to routine medical care; and

(f) Ensures the emotional and physical well-being of the child.

(2) A Level II child shall be a child who:

(a) Requires a routine home environment that meets the requirements of subsection (1) of this section;

(b) Has identified treatment needs based on available behavioral health screening and assessment information, current treatment recommendations, or has been determined to be medically complex, as defined by 922 KAR 1:495 and further described in 922 KAR 1:350, Section 4;

(c) Has a history of complex trauma related to maltreatment;

(d) [~~May engage in nonviolent antisocial acts, but be capable of meaningful interpersonal relationships; and~~

~~(b)~~] Requires supervision in a structured supportive setting with:

1. Counseling available from professional or paraprofessional staff;

2. Educational support; and

3. Services designed to improve physical and behavioral health and wellbeing;

(e) [~~development of normalized social skills.~~

~~(3) A Level III child shall be a child who:~~

~~(a) May engage in an occasional violent act;~~

~~(b) May have superficial or fragile interpersonal relationships;~~

~~(c) Requires supervision in a structured, supportive environment where the level of supervision and support may vary from low to moderate, proportional to the child's ability to handle reduced structure;~~

~~(d)~~] May occasionally require intense levels of intervention to maintain the least restrictive environment; and

(f)[~~(e)~~] Requires a program flexible enough to allow increased:

1. Independence [~~Extended trials of independence~~] if the child is capable; or

2. Structure during temporary periods of regression[~~A period of corrective and protective structure during relapse; and~~

~~3. Counseling available from professional or paraprofessional staff~~].

(3)[~~(4)~~] A Level III [~~IV~~] child shall be a child who:

(a) Has significant treatment needs as indicated by:

1. Available behavioral health screening and assessment information or current treatment recommendations that require specialized or frequent treatment services;

2. A determination by designated cabinet staff that the child has a high degree of medical complexity that requires specialized medical care;

3. The presence of both significant behavioral health needs requiring treatment and a determination of medical complexity by designated cabinet staff; or

4. A severe impairment or disability that requires a caregiver to attend to all care needs of the child[~~behavioral and physical, mental, or social needs that may present a moderate risk of causing harm to himself or others~~]; and

(b) Requires a highly structured supportive setting[~~ with~~]:

1. With frequent therapy provided [~~Therapeutic counseling available~~] by a qualified mental health professional or other treatment professional allowed pursuant to 922 KAR 1:300 within a treatment program designed to improve social, emotional, and educational adaptive behavior[~~professional staff~~]; [~~and~~]

2. That includes [~~A physical, environmental, and treatment program designed to improve social, emotional, and educational adaptive behavior.~~

~~(5) A Level V child shall be a child who:~~

~~(a) Has a severe impairment, disability, or need;~~

~~(b) Is consistently unable or unwilling to cooperate in his own care;~~

~~(c) Presents a severe risk of causing harm to himself or others; and~~

~~(d) Requires Level IV services and a:~~

~~1. Highly structured program with~~] twenty-four (24) hour supervision; or

3. That

[~~2. Specialized setting that~~] provides safe and effective care for a severe, chronic medical condition, behavioral health issue, or other highly specialized needs[~~disorder, or emotional disturbance~~].

Section 5. Payment Methodology and Rates.

(1) Payment Methodology.

(a) The cabinet shall base a per diem rate for the care of a child placed by the cabinet in a private child-caring facility, upon the "model program cost analysis" defined by KRS 199.641(1)(c).

(b) Each private child-[-]caring facility and child-placing agency shall report to the cabinet annually, on the DPP-888, Kentucky Cabinet for Health and Family Services Annual Audited Cost Report and Time Study and Instructions for Completing the Annual Cost Report and Time Study for Child Caring and Child Placing Programs and Facilities.

(2) The cabinet shall establish an index factor for payment on behalf of a child for whom a level of care has been determined.

(a) The factor shall be determined:

1. Based on the amount of treatment provided at each level of care; and

2. By determining the median of:

a. Number of daily treatment hours, derived from time study data, provided to children served by private child-caring facilities and child-placing agencies; and

b. Level of care of children served by private child-caring facilities and child-placing agencies that contract with the cabinet.

(b)1. For children whose level is determined, the median level of care shall be represented by an index factor of one (1).

2. For children whose level is not determined, the median level of care shall be represented by an index factor that is proportionate to the amount of treatment provided to the children in the median level pursuant to subparagraph 1 of this paragraph.

(3) A statewide median cost, including board, care, and treatment components, for each level of care shall be calculated by using a utilization factor of ninety (90) percent for residential treatment and seventy-five (75) percent for a group home.

(4) The payment rate for each level of care shall be calculated by multiplying the median cost by the index factor specific to that level of care. The rate for each level of care shall be adjusted by the Consumer Price Index during each intervening period between the fiscal year used for the cost analysis and calculation of the rate.

(5) Statewide median cost shall be calculated:

(a) Using a utilization factor of eighty (80) percent:

1. For an emergency shelter with a treatment license:

a. Board;

b. Care; and

c. Treatment components; or

2. For an emergency shelter without a treatment license:

a. Board; and

b. Care components; and

(b) Adjusting for each level of care by the Consumer Price Index during each intervening period between the fiscal year used for the cost analysis and calculation of the rate.

(6)(a) To the extent funds are available, an incentive payment for a private child-caring facility that participates in a per diem rate contract with the cabinet shall be determined by evaluating the performance of the child-caring facility, in accordance with KRS 199.641(2)(a). Measurable performance outcomes shall include:

1. Child safety while in the care of a private child-caring facility or child-placing agency;

2. Child safety after reunification with the child's family;

3. Adequate educational support;

4. Reduced time spent in out-of-home care without an increase in the rate of out-of-home care reentry;

5. Increased placement stability during the service period;

6. Increased achievement of permanency goals; and

7. Increased stability in less restrictive or permanent [~~permanency~~] placement following planned discharge.

(b) The cabinet's contract with a private child-caring facility shall specify the:

1. Indicators used to measure the performance outcomes established in paragraph (a) of this subsection; and

2. Target percentages used as performance goals.

(c) Each child in the custody of the cabinet who is placed in a private child-caring facility during the contract period shall be included in the percentage of children for whom the cabinet expects achievement of an outcome.

(d) At the time the contract period expires, each private child-caring facility shall be ranked based on the percentage of children for whom the facility achieved an outcome. To the extent funds are available, a payment incentive shall be distributed to a private child-caring facility that performed in the top one-third (1/3) of the facilities.

(e) The amount of a payment incentive shall be determined according to the funding appropriated for this purpose in the biennial budget.

(7) In addition to services provided on a per diem rate, the cabinet shall solicit proposals from private child-caring facilities or child-placing agencies to provide alternative services to children and their families. To the extent funds are available, the alternative services:

(a) Shall be geared toward improved performance outcomes;

and

(b) May include case management responsibilities shared between the cabinet and the child-caring facility or child-placing agency.

(8) Payment to child-caring facilities or child-placing agencies that provide alternative services according to subsection (7) of this section shall be based upon expectations agreed upon between the cabinet and the child-caring facility or child-placing agency such as:

(a) Reduced length of stay in out-of-home placement;

(b) Increased safety from child abuse or neglect;

(c) Increased number of children moving into and remaining in permanent placement;

(d) Increased number of children and their families cared for in close proximity to their home communities;

(e) Increased number of children reunified with their families;

(f) Increased accountability for success in after care; or

(g) Decreased reentry into state custody.

Section 6. Residential Care. (1) A child-caring facility that cares for children in the custody of the cabinet [~~in the levels of care system~~] shall be licensed pursuant to [~~under~~] 922 KAR 1:305 and shall meet the standards for child-caring facilities established in 922 KAR 1:300.

(2) The facility shall comply with 922 KAR 1:300[~~1:390~~], Section 8[4], Residential Treatment Program, if providing treatment-[-]oriented services.

(3) Only a child assigned as Level III shall be placed in residential care.

(4) The daily rate for residential care to a child-caring facility shall be:

(a) $193.50 per child for a child-caring facility determined by designated cabinet staff to not meet the requirements of a specified setting for placement in accordance with 42 U.S.C. 672(k)(2); and

(b) $298.50 per child for a child-caring facility determined by designated cabinet staff to meet the requirements of a specified setting for placement in accordance with 42 U.S.C. 672(k)(2)[~~Level I - $51.19;~~

~~(b) Level II - $61.52;~~

~~(c) Level III - $109.71;~~

~~(d) Level IV:~~

~~1. $183.00; or~~

~~2. $193.50 on or after August 1, 2018; and~~

~~(e) Level V:~~

~~1. $236.60; or~~

~~2. $256.70 on or after August 1, 2018~~].

Section 7. Emergency Shelter Care. (1) An emergency shelter child-caring facility shall meet the requirements of 922 KAR 1:380. The rate for emergency shelter care shall be:

(a) $193.50 per child per day for[~~For~~] a child-caring facility with a treatment license[~~:~~

~~1. $115.31 per day; or~~

~~2. $126.80 per day on or after August 1, 2018~~]; or

(b) $145.12 per child per day for[~~For~~] a child-caring facility without a treatment license[~~:~~

~~1. $101.41 per day; or~~

~~2. $111.60 per day on or after August 1, 2018~~].

(2) If a child with an assigned level of care enters an emergency shelter child-caring facility with a treatment license, the emergency shelter child-caring facility shall adhere[~~:~~

~~(a) Receive a rate consistent with the child's assigned level of care pending results of the next-scheduled utilization review;~~

~~(b) If the child is Level II or lower, receive a rate not less than the rate for emergency shelter care in accordance with subsection (1) of this section per day; and~~

~~(c) Adhere~~] to the child's individual treatment plan.

[~~(3)(a) If the department determines that a child without an assigned level of care shall remain in an emergency shelter child-caring facility longer than thirty (30) days, the department shall make a referral to the gatekeeper, by the 20th day of placement, for assignment to an appropriate level of care.~~

~~(b) If a child remains in an emergency shelter longer than thirty (30) days, the emergency shelter child-caring facility with a treatment license shall:~~

~~1. Receive the residential rate consistent with the assigned level of care for each day the child is in the facility beyond the 30th day;~~

~~2. If the child is Level II or lower, receive a rate not less than the rate for emergency shelter care in accordance with subsection (1) of this section per day; and~~

~~3. Adhere to the child's individual treatment plan.~~]

Section 8. Foster Care and Therapeutic Foster Care for a Child-Placing Agency.

(1) The basic daily rate for foster care shall be $44.82.

(2) If assessed on or after July 1, 2022, upon the next utilization review, the daily rate for foster care shall be $44.82 for:

(a) A child under the age of four (4) who has not been assigned a level; and

(b) A child over the age of four (4) with a level I assigned level of care.

(3) If assessed prior to July 1, 2022, the[~~The~~] daily rates for therapeutic or treatment foster care shall be as follows:

(a) Levels I and II, if the child is stepped down from Level III or higher - $76.10;

(b) Level III - $83.16;

(c) Level IV - $101.23; and

(d) Level V - $139.96.

(4) For a child assessed and assigned one of the following levels of care on or after July 1, 2022, upon the next utilization review, the daily rates for therapeutic or treatment foster care shall be:

(a) Level II - $83.16; and

(b) Level III - $139.96.

Section 9. Pregnant and Parenting Teen Programs. A child-caring facility with a pregnant and parenting teen program shall receive:

(1) A rate consistent with the assigned level of care for the adolescent parent; and

(2) Inclusive of child care cost, the amount established in Section 8(1) of this administrative regulation for the committed child of an adolescent parent who is committed to the cabinet.

Section 10. Independent Living Programs. (1) An independent living program shall be licensed pursuant to 922 KAR 1:310 and shall meet the standards for independent living programs established in 922 KAR 1:340.

(2) The daily rate for an independent living program shall be:

(a) $83.16 per child for Level I or Level II; and

(b) $139.96 per child for Level III.

(3) A Level III child in an independent living setting shall require increased structure, supervision, case management, and treatment services.

Section 11. Programs with Decoupled Rates. A child-caring facility or child-placing agency providing highly specialized behavioral health services may be paid for board and treatment services separately through agreement with the:

(1) Department for the cost of room, board, and watchful oversight; and

(2) Department for Medicaid Services or its designee for behavioral health treatment services.

Section 12. Provider Requirements.

(1) A child-caring facility or child-placing agency shall:

(a) Inform the department of the levels of care the facility or agency has the ability to serve;

(b) Demonstrate its ability to provide services, either directly or by contract, appropriate to the assigned level for each child, including:

1. Room, board, and other activity contributing to housing, food, clothing, school supplies, or personal incidentals;

2. Clinical services including:

a. The evaluation and treatment of behavioral health needs[~~an emotional disorder, mental illness, or substance abuse problem~~];

and

b. Identification and alleviation of related trauma symptoms, disability, or distress[,] experienced by a child who follows a specific individual treatment plan targeted to identify a problem; and

3. Support services that:

a. Identify necessary resources and coordinate services provided by a range of agencies or professionals;

b. Allow a child to cope with the trauma, disability, or distress;

c. Provide access to improving the educational or vocational status of the child; and

d. Provide essential elements of daily living;

(c) Submit the following reports [to the gatekeeper] in time for the reports to be received by the gatekeeper within thirty (30) days prior to the utilization review due date:

1. To the gatekeeper, a Child and Adolescent Needs and Strengths assessment report completed within the past six (6) months or another supplemental tool approved by the gatekeeper; and

2. [For a child who has an IQ seventy (70) or above, a behavior inventory appropriate to the child's developmental level consisting of completed forms established in Section 2(2)(l) of this administrative regulation; and

2. For a child who has an IQ below seventy (70), a behavioral inventory appropriate to the child's development level:

a. Consisting of:

(i) A completed Reiss Scales for Children's Dual Diagnosis (Mental Retardation and Psychopathology); or

(ii) Another completed tool identified and piloted pursuant to the Promoting Wellbeing and Adoption after Trauma Grant in accordance with 42 U.S.C. 622(b)(15); and

b. By the first utilization review due date and every twelve (12) months thereafter; and

3.] To the gatekeeper and designated cabinet staff, a copy of the CRP-7, Children's Review Program Application for Level of Care Payment (ALP):

a. On a quarterly basis, for a private child care residential placement; or

b. On a semiannual basis for a foster care placement;

(d) Provide outcomes data and information as requested by the gatekeeper; and

(e) Obtain accreditation within two (2) years of initial licensure or within two (2) years of acquiring an agreement with the cabinet, whichever is later, from a nationally-recognized accreditation organization, such as:

1. The Council on Accreditation; or

2. The Joint Commission[ on Accreditation for Healthcare Organizations].

(2) Emergency shelters without a treatment license shall be exempt from the accreditation requirements specified in subsection (1)(e) of this section.

Section 13.[Section 11.] Utilization Review and Authorization of Payment.

(1) The child-caring facility or child-placing agency shall submit to the gatekeeper the reports established in Section 12[10](1)(c) of this administrative regulation for the utilization review in time for the reports to be received by the gatekeeper within thirty (30) days prior to the utilization review due date.

(2) If the child-caring facility or child-placing agency fails to submit the reports as established in Section 12[10](1)(c) of this administrative regulation in time for the reports to be received by the gatekeeper within thirty (30) days prior to the utilization review due date, the cabinet shall:

(a) Suspend payments until the necessary information has been submitted to the gatekeeper;

(b) If a child's level is reduced after untimely reports are received by the gatekeeper, make an adjustment for overpayment retroactive to the first utilization review due date that was missed; or

(c) If a child's level is increased as a result of delinquent reports, apply a higher rate beginning the day after the untimely reports are received by the gatekeeper.

(3) If the child-caring facility makes timely submission of the reports, and if the:

(a) Level of care remains unchanged, payments shall continue unchanged;

(b) Level of care is reduced, and the:

1. Child remains in the same placement, the lower level of care shall be effective on the 31st day following the utilization review due date; or

2. Child is placed in another child-caring facility or child-placing agency after the utilization review due date, the rate for the lower level shall be effective on the day the child is placed; or

(c) Level of care is increased, the rate for the higher level of care shall be effective the day after the utilization review due date.

(4) [If a child-caring facility, child-placing agency, or the department determines it to be in the best interest of a child to be transitioned from a residential program to another program and the required reports established in Section 10(1)(c) of this administrative regulation have been submitted on time, and if:

(a) The program is not therapeutic foster care, the rate for the level resulting from the utilization review shall remain in effect until the next scheduled utilization review; or

(b) The new program is therapeutic foster care, the residential rate for the level resulting from the utilization review shall remain in effect for thirty (30) days after the change in placement. On the 31st day, the therapeutic foster care rate for the assigned level shall apply.

(5)] If the child-caring facility, child-placing agency, or cabinet staff disagrees with the level of care assigned by the gatekeeper, the child-caring facility, child-placing agency, or cabinet staff may request a redetermination as established in Section 14[12] of this administrative regulation.

Section 14.[Section 12.] Redetermination. (1) If the child-caring facility, child-placing agency, or cabinet staff disagrees with the level of care assigned by the gatekeeper, the child-caring facility, child-placing agency, or cabinet staff may request a redetermination of the assigned level by providing to the gatekeeper:

(a) New information that supports the request for a new level; and

(b) Completion of the "request for redetermination" section of one (1) of the following forms:

1. [DPP-886, Private Child Care Client Inter-agency Referral Form, for an initial or reassigned level;

2.] CRP-2, Children's Review Program Notice of Level of Care Payment Authorization, for a utilization review;

2.[3.] CRP-4, Children's Review Program Notice of Level of Care Redetermination;

3.[4.] CRP-5, Children's Review Program DCBS Foster Care Utilization Review Notice of Level Assignment, for a utilization review; or

4.[5.] CRP-6, Children's Review Program Notice of Level of Care Payment Authorization Reassignment, for a reassignment.

(2) If the request for a redetermination is received by the gatekeeper within thirty (30) days after the most recent utilization review due date or admission, and if the gatekeeper assigns a higher level with a CRP-4, Children's Review Program Notice of Level of Care Redetermination, the increased payment shall be retroactive to the most recent of the following:

(a) The date of the most recent utilization review due date if the complete utilization review materials were received on or before the utilization review due date; or

(b) The date of admission.

(3) If the request for redetermination is received by the gatekeeper more than thirty (30) days after the most recent utilization review due date or admission, and if a:

(a) Higher level is assigned by the gatekeeper with a CRP-4, the increased payment shall be effective the day after the request is received by the gatekeeper; or

(b) Lower level is assigned by the gatekeeper with a CRP-4, the lower payment shall be effective thirty (30) days after the request is received by the gatekeeper.

(4) If the child-caring facility, child-placing agency, or cabinet staff does not agree with the redetermination as provided by the CRP-4, an appeal may be requested in accordance with Section

16 or 17 [~~14 or 15~~] of this administrative regulation.

Section 15.[~~Section 13.~~] Reassignment. (1) If the level of care expires and the child is moved to a different child-caring facility or child-placing agency placement, a reassigned level of care shall be obtained by the:

(a) Department completing a level of care packet for a level assignment; or

(b) New child-caring facility or child-placing agency submitting the following within thirty (30) days of the placement:

1. A cover letter requesting a reassignment;

2. The most recent Child and Adolescent Needs and Strengths assessment or a comparable [~~An~~] assessment of the child; and

3. Documentation to support the level of care assignment, such as the level of care packet or discharge summary[~~; and~~

~~4. Material as established in Section 2(2)(l) of this administrative regulation~~].

(2) The reassigned level of care rate shall be effective on the date of admission to the new placement.

(3) If the child-caring facility or child-placing agency disagrees with the level of care assigned by the gatekeeper, the child-caring facility or child-placing agency may request a redetermination as established in Section 14[~~12~~] of this administrative regulation.

Section 16.[~~Section 14.~~] Informal Dispute Resolution. (1) A contract agent dissatisfied by a decision of the cabinet or a gatekeeper may seek informal resolution by filing a request with the secretary of the cabinet, or designee, within ten (10) days following notice of the decision.

(2) Upon receipt of a request for informal resolution, the cabinet shall:

(a) Review the request; and

(b) Render a written decision on the issue raised within thirty (30) calendar days unless an extension is granted by the secretary or designee:

1. Due to extenuating circumstances that prolong the review; and

2. With notice provided to the contract agent.

(3) If the dispute relates to a decrease or denial of payment, the contract agent may request an administrative hearing in accordance with Section (17)[~~15~~] of this administrative regulation.

Section 17.[~~Section 15.~~] Administrative Hearing Process. A child-caring facility or child-placing agency may request an administrative hearing in accordance with 922 KAR 1:320.

Section 18.[~~Section 16.~~] Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) [~~"Child Behavior Checklist for Ages 1 1/2 - 5 (Achenbach)", 7/00;~~

~~(b) "Child Behavior Checklist for Ages 6-18 (Achenbach)", 6/01;~~

~~(c)~~] "CRP-2, Children's Review Program Notice of Level of Care Payment Authorization", 01/22[~~10/18~~];

(b)[~~(d)~~] "CRP-4, Children's Review Program Notice of Level of Care Redetermination", 01/22[~~11/14~~];

(c)[~~(e)~~] "CRP-5, Children's Review Program DCBS Foster Care Utilization Review Notice of Level Assignment", 01/22[~~10/18~~];

(d)[~~(f)~~] "CRP-6, Children's Review Program Notice of Level of Care Payment Authorization Reassignment", 01/22[~~10/18~~];

(e)[~~(g)~~] "CRP-7, Children's Review Program Application for Level of Care Payment (ALP)", 01/22[~~11/14~~];

(f)[~~(h)~~] "DPP-114, Private Child Caring and Child Placing Level of Care Schedule", 01/22[~~8/18~~]; and

(g)[~~(i) "DPP-886, Private Child Care Client Inter-agency Referral Form", 10/18;~~

~~(j)~~] "DPP-888, Kentucky Cabinet for Health and Family Services Annual Audited Cost Report and Time Study and Instructions for Completing the Annual Cost Report and Time Study for Child Caring and Child Placing Programs and Facilities", 10/18[~~; and~~

~~(k) "Reiss Scales for Children's Dual Diagnosis (Mental Retardation and Psychopathology)", 1990~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Community Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be viewed on the department's Web site at https://chfs.ky.gov/agencies/dcbs/Pages/default.aspx.

MARTA MIRANDA-STRAUB, Commissioner
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: December 21, 2021

FILED WITH LRC: December 28, 2021 at 8:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on March 21, 2022, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by March 14, 2022, 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 virtually 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 March 31, 2022. 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: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Laura Begin or Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does:
This administrative regulation establishes levels of care based upon the needs of a child for whom the Cabinet for Health and Family Services has legal responsibility, a payment rate for each level, gatekeeper responsibilities, provider requirements, procedures for classification at the appropriate level of care, and procedures for determination of components of the model program costs analysis.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the policy and procedures for placement of a child in the custody of the cabinet with a child-placing agency or child-caring facility, levels of care and related payments, responsibilities and requirements of the gatekeeper and private providers, and rate setting methodology.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing the levels of care and associated payments for a child's placement at a child-caring facility or child-placing agency.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists with the effective administration of the statutes through its incorporation of the methodology regarding the placement of a child in the custody of the cabinet with a child-caring facility or child-placing agency, procedures concerning the model program cost analysis, provider and gatekeeper requirements, levels of care, and payment rate for each level of care.

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

(a) How the amendment will change this existing administrative regulation: This amendment changes the assessment and leveling process the cabinet uses in determining the placement setting for a

child in the cabinet's custody from a behavior-based system to a system that better provides needed services and treatment. This amendment revises the standards and per diems associated with the different levels of care. The Family First Prevention Services Act (FFPSA) placed new requirements on Qualified Residential Treatment Programs (QRTPs) that ensure that children are assessed regarding treatment needs and stay in residential or institutional placement settings for only as long as their treatment requires. The FFPSA also placed many other additional requirements on these providers that will decrease the maltreatment that children experience and prevent re-entry into the cabinet's custody. These increased requirements come at a great cost and these providers are already experience staffing crises. Documentation from the Children's Alliance noted that in order for facilities to maintain safe staff to client ratios, they have had to increase direct care wages by over $2/hour and another $4/hour to maintain competitive wages for the intense work required of treatment staff. General funds that were appropriated to the Department for Community Based Services for the purpose of providing child welfare prevention services in fiscal year 2021-2022 will be utilized to provide part of these rate increases. This amendment also updates material incorporated by reference to reflect amendments in the administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to adjust reimbursement for the care of children placed in residential child-caring facilities to ensure children are placed in the most appropriate placement based upon their needs. The Children's Alliance has stressed the urgent need to increase rates so that providers can maintain the staff needed to meet staff to client ratios and keep the children in their care safe. The rate increase is anticipated to assist with provider capacity, thereby better assuring placement options and quality care for children in state custody. Additional amendment was made to include qualified mental health provider placements as approved through the Family First Prevention Services Act. Without these placement options, children risk placement in more costly, restrictive settings or, conversely, in settings that do not otherwise meet the needs of the children. The health and welfare of these children are jeopardized without the payment rate increase, in addition to threats to federal child welfare funding due to an inadequate service array for children requiring out-of-home care.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by adjusting placement and level of care options for children in the custody of the cabinet for placement in child-caring facilities and child-placing agencies.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes by enhancing placement and levels of care options and increasing some payment rates so that they are more consistent with actual provider costs, thereby better facilitating placement options and preserving the health and welfare of children in the custody of the cabinet.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: In SFY 2021, 6,430 unique children were placed in a setting according to their level established in this administrative regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The children affected by this administrative regulation will have no new action required. Federal law has increased the standards that must be met for some of the entities providing care pursuant to this administrative regulation; therefore, they will be receiving increased per diems for providing care and meeting these new standards.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Meeting new standards will have a different cost for different affected entities. The cabinet utilized the Annual Audited Cost Report and Time Study to determine rates for providers based on allowable costs. This rate methodology provides for treatments as close as possible to the child's home geographic area and ensures continuity with families, schools, and communities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Many affected entities will receive a per diem rate increase through this amendment. This rate increase is designed to offset the cost of meeting the higher standards required by recent federal legislation. The purpose of this amendment is to re-design the system through which children in the state's custody are placed, ensuring higher standards of care and increased services and treatment provided closer to their home communities.

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

(a) Initially: The cabinet projects these rate increases to cost approximately $30 Million in state General Fund dollars.

(b) On a continuing basis: The cabinet projects the per diem increases are within appropriations; however, the administrative body will continually monitor its costs to make any adjustments necessary to maintain a comprehensive service array within available funding.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The sources of funding include federal Title IV-E (of the Social Security Act) foster care maintenance, general funds, and agency and restricted funds derived from the Temporary Assistance for Needy Family (TANF) block grant and Medicaid. General Funds that were appropriated to the Department for Community Based Services for the specific purpose of providing child welfare prevention services in fiscal year 2021-2022 will be utilized to provide part of this rate increase.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? This administrative regulation does include tiering as different per diem rates and standards are associated with specific levels of care provided to children in the state's custody.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 42 U.S.C. 622, 672, 675

(2) State compliance standards. KRS 194A.050(1), 199.641(4), 605.090(1)(d), 605.090(1)(d), 605.150(1)

(3) Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 622, 672, 675

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation does not impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate. This amendment and the increase in per diem rates associated with levels of care are necessary in order to meet the higher standards required by the Family First Prevention Services Act.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation does not impose a stricter standard, or additional or different responsibilities or 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 Cabinet for Health and Family Services, specifically the Department for Community Based Services (DCBS), is impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1), 199.641(4), 605.090(1)(d), 605.150(1), 42 U.S.C. 622, 672

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will generate no new revenues.

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

(c) How much will it cost to administer this program for the first year? The administrative body has conducted extensive analysis of its budgetary context and service demands to ensure the per diem increases are sustainable within appropriations.

(d) How much will it cost to administer this program for subsequent years? The administrative body projects the per diem increases are within appropriations; however, the administrative body will continually monitor its costs to make any adjustments necessary to maintain a comprehensive service array within available funding.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

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

**922 KAR 1:530. Post-adoption placement stabilization services.**

RELATES TO: KRS 199.011, 200.575, 600.020, 605.100, 605.130, 620.170, 45 C.F.R. 1355.34(b), (c), 1356.22, 42 U.S.C. 673

STATUTORY AUTHORITY: KRS 194A.050(1), 199.472, 605.100(1), 605.130(7), 605.150

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) authorizes the cabinet to promulgate, administer, and enforce those administrative regulations necessary to qualify for the receipt of federal funds. To maintain eligibility for full funding under Title IV-E and IV-B of the Social Security Act, under 45 C.F.R. 1355.34(b) and (c), the cabinet shall design services to help children achieve permanency, to include post-legal adoption services. KRS 199.472 mandates that the cabinet establish criteria for the adoption of children by administrative regulation. KRS 605.150 authorizes the cabinet to promulgate administrative regulations to implement the provisions of KRS Chapter 605, including KRS 605.130(7), which requires the cabinet to perform other services necessary for the protection of children, and KRS 605.100(1), which requires the cabinet to arrange for a program of care, treatment, and rehabilitation of the children committed to it. This administrative regulation establishes post-adoption placement stabilization services for children who were adopted from the custody of the cabinet, to the extent funds are available.

Section 1. Definitions. (1) "Aftercare plan" means a plan of care for a child upon the discontinuance of post-adoption placement stabilization services, which:

(a) Recommends services for the continued care of the child;

(b) Identifies community resources that have been arranged for the child or parent; and

(c) Includes actions that the parent agrees to take.

(2) "Child-caring facility" is defined by KRS 199.011(5).

(3) "Commitment" is defined by KRS 600.020(13).

(4) "Family team meeting" means a meeting convened to develop services to avoid the dissolution of an adoption in accordance with Section 2(2)(b)4. of this administrative regulation.

(5) "Post-adoption placement stabilization services" or "PAPSS" means coordination, payment, and provision of care and treatment of an adopted child by the cabinet to prevent dissolution of the adoption.

Section 2. Eligibility Requirements for Services. (1) The cabinet shall consider a request for PAPSS made on behalf of an adopted child if:

(a) The adoptive parent receives adoption assistance for the child in accordance with 922 KAR 1:050 or 922 KAR 1:060; and

(b) Cabinet staff determines that after the provision of other prevention services, such as services provided in subparagraph (2)(b)2. of this section, the adoption of the child remains in jeopardy of dissolution.

(2) If the threshold criteria of subsection (1) of this section are met, the cabinet shall consider a child eligible for PAPSS if:

(a) Upon a child's placement with a child-caring facility or a decision to extend PAPSS, the child is assessed:

1. Prior to July 1, 2022, a level of care by the cabinet or its agent and determined to meet criteria for:

a.[~~1.~~] Level IV[~~as established in 922 KAR 1:360, Section 4(4)~~]; or

b.[~~2.~~] Level V[~~as established in 922 KAR 1:360, Section 4(5)~~]; or

2. On or after July 1, 2022, as a Level III as established in 922 KAR 1:360, Section 4(3); and

(b) The adoptive parent:

1. Receives adoption assistance for the child in accordance with 922 KAR 1:050 or 922 KAR 1:060;

2. Has cooperated with other services to prevent the adoption's dissolution, such as:

a. Targeted Case Management and other behavioral health services through Community Mental Health Centers and other Kentucky Medicaid Program behavioral health services providers;

b. Family Preservation Services in accordance with KRS 200.575; or

c. Crisis stabilization through the Kentucky Medicaid Program;

3. Authorizes the cabinet to:

a. Coordinate PAPSS for the child;

b. Make a referral on behalf of the child to a child-caring facility for the child's placement; and

c. Access confidential medical and treatment information about the child; and

4. Agrees to:

a. Participate in a family team meeting:

(i) To include designated regional cabinet staff, family members, staff of the child-caring facility providing services to the child, or other individuals requested by the family or cabinet staff;

(ii) Within the first thirty (30) days of a child's receipt of PAPSS; and

(iii) As established in Section 4(4) of this administrative regulation;

b. Cooperate with an assessment of the child to determine the child's needs and eligibility for PAPSS as required by paragraph (a) of this subsection;

c. Place the child with:

(i) A child-caring facility operating in accordance with 922 KAR 1:360, for which the commissioner or designee shall approve the placement of a child age ten (10) or younger; or

(ii) An out-of-state, licensed child care institution upon authorization by the cabinet for payment to the child care institution

in accordance with Section 3(1) of this administrative regulation;

d. Participate in the child's treatment to support reunification with the child; and

e. A renegotiation of the child's adoption assistance to one (1) dollar, provided in accordance with 922 KAR 1:050 or 922 KAR 1:060, during the period of time the child receives PAPSS.

Section 3. Payment. (1) To the extent funds are available, the cabinet shall pay a reimbursement rate for PAPSS consistent with the child's assessed level of care or as established in Section 2(2)(a) of this administrative regulation unless:

(a) The child's child care institution does not have an agreement with the cabinet in accordance with 922 KAR 1:360; and

(b) Approval for a different rate is obtained from the commissioner or designee.

(2) During the time period in which a child receives PAPSS, the cabinet shall temporarily reimburse for the renegotiated adoption assistance in accordance with:

(a) Section 2(2)(b)4.e. of this administrative regulation; and

(b) 922 KAR 1:050 or 922 KAR 1:060.

Section 4. Timeframes for PAPSS. (1) The cabinet shall discontinue payment for PAPSS after the child has received PAPSS for sixty (60) calendar days, unless an additional time period of PAPSS has been approved in accordance with subsections (2) and (3) of this section.

(2) After the child has received PAPSS for sixty (60) calendar days, to the extent funds are available, the:

(a) Commissioner or designee may approve the child for an additional thirty (30) calendar days, for a total of ninety (90) calendar days of PAPSS, if the:

1. Child continues to meet the requirements specified in Section 2(2)(a) of this administrative regulation; and

2. Adoptive parent continues to meet the requirements specified in Section 2(2)(b) of this administrative regulation; or

(b) Cabinet may continue PAPSS to a child if the:

1. Child continues to meet the criteria established[~~requirements specified~~] in Section 2(2)(a) of this administrative regulation;

2. Child's assessed needs require PAPSS beyond an additional thirty (30) calendar days; and

3. Adoptive parent:

a. Voluntarily commits the child to the cabinet in accordance with KRS 620.170 and 45 C.F.R. 1356.22; and

b. Continues to meet the criteria established[~~requirements specified~~] in Section 2(2)(b) of this administrative regulation.

(3) To the extent funds are available, the cabinet may provide PAPSS to a child beyond ninety (90) calendar days in a twelve (12) month period, if the:

(a) Child continues to meet the criteria established[~~requirements specified~~] in Section 2(2)(a) of this administrative regulation; and

(b) Adoptive parent meets the requirements of subsection (2)(b)3. of this section.

(4) If a child receives PAPSS, the cabinet shall call at least one (1) family team meeting for the child. The meeting may be called:

(a) At thirty (30) calendar day intervals; or

(b) More frequently than one (1) time in a thirty (30) day period with the consent of the adoptive parent.

Section 5. Continuation of PAPSS Through Voluntary Commitment. (1) If an adoptive parent voluntarily commits a child to the cabinet for the child's continued benefit of PAPSS and continues to meet criteria established in Section 2(2)(b) of this administrative regulation, the cabinet shall seek no child support from the adoptive parent.

(2) Any extension to the voluntary commitment of the child to the cabinet shall be in accordance with KRS 620.170 and 45 C.F.R. 1356.22.

Section 6. Discontinuation and Aftercare. The cabinet may develop an aftercare plan for the adoptive parent and child, if the:

(1) Cabinet discontinues PAPSS; and

(2) Adoptive parent assists in the aftercare plan's development.

Section 7. Appeals. (1) An adoptive parent shall be granted an administrative hearing in accordance with 922 KAR 1:320 if the cabinet fails to:

(a) Use reasonable promptness in its:

1. Response to a request for PAPSS; or

2. Referral of an eligible child to a child-caring facility for approved PAPSS; or

(b) Call a family team meeting for a child during the:

1. Sixty (60) calendar days a child receives PAPSS; or

2. Period of time a child receives an extension to PAPSS in accordance with Section 4(2) and (3) of this administrative regulation.

(2) Private child-caring facilities shall have appeal rights in accordance with 922 KAR 1:360, Sections 16 and 17 [~~14 and 15~~].

(3) An adoptive parent may request a review by the commissioner if criteria of 922 KAR 1:320, Section 4(5) or 10(2) are met.

Section 8. Out-of-State Request for PAPSS. The cabinet shall consider out-of-state requests for a child adopted from the custody of the cabinet on a case-by-case basis, to include considerations regarding the:

(1) Needs of the child;

(2) Consent of the parent; and

(3) Extent of funds available.

MARTA MIRANDA-STRAUB, Commissioner
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: December 21, 2021

FILED WITH LRC: December 28, 2021 at 8:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on March 21, 2022, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by March 14, 2022, 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 virtually 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 March 31, 2022. 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: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Laura Begin or Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation provides assistance to adoptive families by allowing a child adopted from foster care to receive residential treatment post-adoption for a limited amount of time to prevent an adoption dissolution.

(b) The necessity of this administrative regulation: This regulation provides needed services and supports to adoptive families and children post-adoption.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the authorized statutes by allowing the cabinet to qualify for federal funds and establishing procedures for the implementation

of post-adoption placement stabilization services (PAPSS).

(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 PAPSS in a manner that is consistent with federal and state requirements, available funding, and the interests of families and children being served.

(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 this administrative regulation with changes to the level of care structure taking place in the simultaneous amendment to 922 KAR 1:360. Children deemed a level of care III under the new structure will qualify for PAPSS services. Additionally, for children ten (10) years of age and younger, the Department for Community Based Services Commissioner or designee will approve the placement of a child in a child-caring facility. This will ensure that young children are placed in the most appropriate placement setting to meet their needs.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to align with the simultaneous amendment filed to 922 KAR 1:360 and to ensure young children are placed in the most appropriate placement settings to meet their needs.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by better aligning with the needs of adopted children and overarching federal requirements that necessitated the amendment to 922 KAR 1:360.

(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 PAPSS in accordance with federal standards and the interests of adoptive families and children.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Adoptive families and children adopted from foster care will be impacted by this regulation. In 2019, 18 children received PAPSS and in 2020, 25 children received this assistance.

(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: Children who are assigned a level III level of care will be eligible for PAPSS rather than the previous level of care IV or V as this is being restructured in 922 KAR 1:360.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost to affected entities, children and families who receive post-adoptive supports.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Adoptive families and children adopted from foster care will still be able to access needed services post-adoption in order to prevent an adoption dissolution.

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

(a) Initially: There is no cost associated with this amendment.

(b) On a continuing basis: There is no cost associated with this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: General Fund dollars are utilized in the implementation of this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increase in fees or funding associated with this amendment.

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

(9) TIERING: Is tiering applied? Tiering is not applied. PAPSS is implemented in a like manner statewide.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 45 C.F.R. 1355.34(b), (c), 1356.22, 42 U.S.C. 673

(2) State compliance standards. KRS 194A.050(1), 199.472, 605.100(1), 605.130(7), 605.150

(3) Minimum or uniform standards contained in the federal mandate. 45 C.F.R. 1355.34(b), (c), 1356.22, 42 U.S.C. 673

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

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

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1), 199.472, 605.100(1), 605.130(7), 605.150, 45 C.F.R. 1355.34(b), (c), 1356.22

(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 administrative regulation will not generate any revenue for the first year. Providing additional supports to adoptive families in order to prevent children from re-entering foster care supports the overall well-being of that child and decreases the public cost of caring for the child if the child reenters foster care or if the adoption dissolves.

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

(c) How much will it cost to administer this program for the first year? The administration of this program is projected to fall within available state appropriations.

(d) How much will it cost to administer this program for subsequent years? In SFY 2021, the cabinet spent approximately $5 million on adoption assistance, not including post-adoption subsidy payments.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

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

**922 KAR 2:280. Background checks for child care staff members, reporting requirements, and appeals.**

RELATES TO: KRS 17.165, 17.500-17.580, 199.011(14), 199.466, 199.894, Chapter 209, 336.220, Chapter 506, 511, 515, 520, 525, 527, 529, 530, 620.050-620.120, 625.050-625.120, 45 C.F.R. 98.43, 34 U.S.C. 20921, 42 U.S.C. 9857-9858q

STATUTORY AUTHORITY: KRS 194A.050(1), 199.896(2), 199.8965(8), 199.8982(1)(f), 199.8994(6)

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 program. KRS 199.896(2) and 199.8982(1)(f) authorize, and 199.8994(6) requires the cabinet to promulgate administrative regulations pertaining to standards of a child-care center, family child-care home, and a child care provider that receives a child care subsidy administered by the cabinet, including criminal convictions that impact the safety and security of children in care. KRS 199.8965(8) requires the cabinet to promulgate an administrative regulation necessary to implement child care staff member background checks in accordance with 42 U.S.C. 9858f and implementing federal rule. This administrative regulation establishes background check requirements for child care staff members, reporting requirements, and appeals.

Section 1. Definitions. (1) "Cabinet" is defined by KRS 199.894(1).

(2) "Child-care center" is defined by KRS 199.894(3).

(3) "Child care provider" is defined by 45 C.F.R. 98.43(a)(2)(i).

(4) "Child care staff member" is defined by 45 C.F.R. 98.43(a)(2)(ii).

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

(6) "Kentucky National Background Check Program" or "NBCP" means a background screening program administered by the cabinet in accordance with 906 KAR 1:190.

(7) "Rap back system" is defined by KRS 199.011(14).

(8) "Type II child-care center" means the primary residence of the licensee in which child care is regularly provided for at least seven (7), but not more than twelve (12), children including children related to the licensee.

Section 2. Applicability and Exceptions. This administrative regulation shall apply to a child care staff member age eighteen (18) or older, including:

(1) An owner, operator, or employee of a child care provider;

(2) A child-care center licensee or director;

(3) An adult household member of a Type II child-care center, family child-care home, or provider registered in accordance with 922 KAR 2:180;

(4) An employee who is present during the time a child is receiving care;

(5) Any person with supervisory or disciplinary control over a child in care; and

(6) Any person having unsupervised contact with a child in care.

Section 3. Implementation and Enforcement. (1) [~~A person who is a child care staff member prior to January 1, 2018, shall submit to and complete background checks in accordance with this administrative regulation no later than September 30, 2018.~~

~~(2)~~] A child care staff member [~~hired on or after April 1, 2018,~~] shall[~~:~~

~~(a) Have completed~~] complete the background checks required in accordance with this administrative regulation and be[~~been~~] found to have no disqualifying offense prior to becoming a child care staff member.

(2)[~~; or~~

~~(b)1. Have submitted to the background checks required in accordance with this administrative regulation;~~

~~2. Not be left unsupervised with a child in care pending the completion of the background checks in accordance with this administrative regulation; and~~

~~3. Be dismissed or relocated from the residence if the person is found to have a disqualifying background check result.~~

~~(3) To assure timely processing of background checks and organize background checks of existing child care staff members, the cabinet shall prioritize the processing of background checks for an individual who is a:~~

~~(a) New hire on or after April 1, 2018; or~~

~~(b) Child care staff member before January 1, 2018, using the following schedule:~~

| ~~Background Check Submission and Fingerprinting Month~~ | ~~Renewal Month of the Child Care Provider's License, Certification, or Registration~~ |
|---|---|
| ~~March 2018~~ | ~~June, July~~ |
| ~~April 2018~~ | ~~August~~ |
| ~~May 2018~~ | ~~September or October~~ |
| ~~June 2018~~ | ~~November or December~~ |
| ~~July or August 2018~~ | ~~January, February, or March~~ |
| ~~September 2018~~ | ~~April or May~~ |

~~(4)~~] A current or prospective child care staff member shall be subject to background checks in accordance with Sections 4 and 5 of this administrative regulation at intervals pursuant to 45 C.F.R. 98.43(d).

~~(5) This administrative regulation shall govern a pilot of child care staff member's background check that shall:~~

~~(a) Commence in 2018; and~~

~~(b) Include volunteer child care providers representing differing provider types and geographical areas of the state.~~]

Section 4. Procedures and Payments. (1) To initiate the process for obtaining background checks on a prospective child care staff member, the child care provider shall:

(a) Request [~~that~~] the prospective child care staff member provide a copy of his or her driver's license or other government-issued photo identification and verify that the photograph clearly matches the prospective child care staff member;

(b) Request [~~that~~] the prospective child care staff member complete and sign the:

1. DCC-500, Applicant Child Care Staff Member Waiver Agreement and Statement; and

2. DCC-501, Disclosures to Be Provided to and Signed by the Applicant Child Care Staff Member; and

(c) Log on to the NBCP portal and enter the prospective child care staff member's demographic information for a check of the:

1. Child abuse and neglect central registry pursuant to 922 KAR 1:470;

2. National Crime Information Center's National Sex Offender Registry in accordance with 34 U.S.C. 20921; and

3. Sex Offender Registry established in accordance with KRS 17.500 through 17.580.

(2)(a) In accordance with KRS 199.8965(8), 336.220, and 45 C.F.R. 98.43(f), a child care provider shall submit payment via credit or debit card for a state and national fingerprint-supported criminal history background check performed by the Department of Kentucky State Police (KSP) and the Federal Bureau of Investigation (FBI), including the rap back system. If a child care staff member's rap back has not expired, a new fingerprint check shall not be needed.

(b) A child care provider enrolled in the Kentucky NBCP shall pay a fee not to exceed twenty-five (25) dollars in addition to any fees charged in accordance with paragraph (a) of this subsection for the actual cost of processing a fingerprint-supported state and national criminal background check and for providing rap back services.

(3) To the extent funds are available, the cabinet[~~:~~

~~(a) Race to the Top-Early Learning Challenge Grant in accordance with Pub. L. 112-10 shall cover the cost of background checks performed in accordance with subsection (1) of this section until close of the grant or exhaustion of grant funds, whichever~~

~~occurs first; or~~

~~(b) Cabinet~~] shall absorb, in whole or in part, fees using funding in accordance with 42 U.S.C. 9857-9858q.

(4)[~~(a)~~] Upon submission of payment in accordance with subsections (2) and (3) of this section, the child care [~~provider shall print a copy of the DCC-504, Applicant Child Care Staff Member Live Scan Fingerprinting Form, from the NBCP portal and provide the form to the child care staff member~~.

~~(b) The child care~~] staff member shall:

(a)[~~1.~~] Have no more than thirty (30) [~~ninety (90)~~] calendar days from the date of payment pursuant to subsections (2) and (3) of this section to submit his or her [~~the child care staff member's~~] fingerprints at an authorized collection site for NBCP; and

(b)[~~2.~~] Present his or her [~~the DCC-504 and~~] driver's license or other government-issued photo identification to the designated agent at an authorized collection site prior to fingerprint submission.

(5) Upon completion of the background checks in accordance with this section and Section 5 of this administrative regulation, the cabinet:

(a) Shall provide notice to the child care provider in accordance with 45 C.F.R. 98.43(e) that the prospective child care staff member is:

1. Eligible for hire; or

2. Not eligible for hire if the prospective child care staff member is found by the cabinet to have a disqualifying background check result in accordance with Section 6 of this administrative regulation;

(b) May release any record of state criminal history found in the files of the Kentucky centralized criminal history record information system to the child care provider or another entity provided on the waiver in accordance with subsection (1)(b) of this section; and

(c) Shall, upon receipt of written request from an applicant, send a copy of a KSP or FBI criminal history report to the prospective child care staff member by certified mail, restricted delivery service. The prospective child care staff member shall show proof of identity and sign to receive his or her criminal history report from the local post office.

(6) A child care provider shall not be obligated to employ or offer employment to an individual who has been found by the cabinet to be eligible for hire pursuant to subsection (5)(a) of this section.

(7) A child care staff member may submit a request for a protection and permanency record in accordance with 922 KAR 1:510.

(8)(a) If the NBCP portal is not operational, the cabinet may request a federal waiver that would allow a prospective staff member to undergo a:

1. Child abuse and neglect central registry check pursuant to 922 KAR 1:470;

2. Criminal records check conducted by the Kentucky Justice and Public Safety Cabinet or Administrative Office of the Courts;

3. National Crime Information Center's National Sex Offender Registry check in accordance with 34 U.S.C. 20921; and

4. Sex Offender Registry check in accordance with KRS 17.500 through 17.580.

(b) A background check completed through the NBCP portal shall be required as soon as operational.

Section 5. Checks of Other States. (1) In accordance with 45 C.F.R. 98.43(b)(3), a prospective child care staff member who resides in or has resided in another state within the last five (5) years shall:

(a) Request from each state of current or prior residency, in accordance with the state's laws, policies, and procedures, with a courtesy notice to the cabinet:

1. An in-state criminal records check by:

a. Means of fingerprints for the state of residence; or

b. Any means accepted by a state of prior residency;

2. A check of the state's sex offender registry or repository; and

3. A check of the state-based child abuse and neglect registry and database; and

(b) Direct results of the checks required in paragraph (a) of this subsection to the Department for Community Based Services, Division of Child Care, 275 East Main Street, 3C-F, Frankfort, Kentucky 40621[~~40601~~], or securely send results to CHFSDCCNBCP@ky.gov.

(2) If the prospective child care staff member's current or prior state of residency participates in the FBI's National Fingerprint File Program, a prospective child care staff member shall be exempt from the requirements of subsection (1)(a)1. of this section.

(3) In accordance with KRS 336.220, a child care provider shall pay any fee charged by another state for a background check as permitted pursuant to 45 C.F.R. 98.43(f) for a prospective child care staff member.

(4) If another state fails to respond to a check submitted in accordance with subsection (1) of this section within thirty (30) calendar days from the date of the background check's request as verified by the child care staff member, the cabinet shall:

(a) Process a child care staff member's background checks and issue notice to the child care provider in accordance with Section 4(5) of this administrative regulation to ensure compliance with 45 C.F.R. 98.43(e); and

(b) Send notice in accordance with Section 4(5) of this administrative regulation if:

1. Another state provides requested background check results at a later date; and

2. A disqualifying background check result is identified.

(5) A child abuse and neglect central registry check in accordance with 922 KAR 1:470 may be requested by a:

(a) Parent or legal guardian in accordance with KRS 199.466; or

(b) Child care staff member in another state.

Section 6. Disqualifying Background Check Results. (1) Unless a rehabilitative review pursuant to Section 9 of the administrative regulation determines the individual is eligible to be hired, an individual shall be ineligible to:

(a) Be hired or otherwise serve as a child care staff member if the individual:

1. Meets a criterion specified in 45 C.F.R. 98.43(c);

2. Has been convicted of, or has entered an Alford plea, a plea of guilty, or a plea of nolo contendere to[~~,~~]:

a. A drug-related felony, and five (5) years has not elapsed since the person was fully discharged from imprisonment, probation, or parole;

b. A sex or violent crime pursuant to KRS 17.165; [~~or~~]

c. A felony offense under:

(i) KRS Chapter 209, protection of adults;

(ii) KRS Chapter 506, inchoate offenses;

(iii)[~~(ii)~~] KRS Chapter 511, burglary and related offenses;

(iv)[~~(iii)~~] KRS Chapter 515, robbery;

(v)[~~(iv)~~] KRS Chapter 520, escape and other offense related to custody;

(vi)[~~(v)~~] KRS Chapter 525, riot, disorderly conduct, and related offenses;

(vii)[~~(vi)~~] KRS Chapter 527, offenses [~~offense~~] relating to firearms and weapons;

(viii)[~~(vii)~~] KRS Chapter 529, prostitution offenses; or

(ix) KRS Chapter 530, family offenses, excluding KRS 530.050; or

d. A misdemeanor offense under:

(i) KRS 525.130, cruelty to animals in the second degree - exemptions - offense involving equines; or

(ii) KRS 525.135, torture of dog or cat;

3. Is listed on:

a. The central registry established in accordance with 922 KAR 1:470; or

b. Another state's state-based child abuse and neglect registry or database;

4. Has been convicted of, or has entered an Alford plea, plea of guilty, or a plea of nolo contendere to, an offense under a criminal statute of the United States or of another state similar to an offense specified in this paragraph;

5. Has an open warrant for a disqualifying offense established in this paragraph; or

6. [~~Has a criminal background check result indicating that the~~

~~individual should be approached with caution by authorities; or~~

~~7.~~] Has a pending charge for a criminal offense specified in this paragraph; or

(b) Serve as a child-care provider's [~~center's~~] applicant, licensee, administrative staff, or director if the individual has been convicted of, or has entered an Alford plea, a plea of guilty, or a plea of nolo contendere to, a felony offense involving fraud, embezzlement, theft, or forgery.

(2) An individual who has received a pardon for a disqualifying offense, has had the record expunged, or has evidenced dismissal of a warrant or disqualifying charge may serve as a child care staff member.

(3) Unless there is a pending informal review, rehabilitative review, or appeal in accordance with Section 7 of this administrative regulation, a child care provider shall be ineligible for the Child Care Assistance Program and shall be subject to a cabinet action against the child care provider's license in accordance with 922 KAR 2:090, certification in accordance with 922 KAR 2:100, or registration in accordance with 922 KAR 2:180, if the child care provider:

(a) Employs a child care staff member who is ineligible for employment under subsections (1) and (2) of this section; or

(b) Is a registered child care provider, certified family child-care home, or Type II licensed child-care center and includes an adult household member who has a disqualifying background check result in accordance with subsections (1)(a) and (2) of this section.

Section 7. Notice of a Disqualifying Background Check Result and Appeals. (1) The cabinet shall notify each prospective or current child care staff member determined to have a disqualifying background check result in accordance with Section 6 of this administrative regulation.

(2) In addition to the cabinet's notification in accordance with subsection (1) of this section, a child care provider that receives notice from the cabinet that a prospective or current child care staff member has been determined to have a disqualifying background check result in accordance with Section 6 of this administrative regulation shall notify the child care staff member of the cabinet's determination within three (3) business days of receipt of the notice.

(3) Pursuant to 45 C.F.R. 98.43(e)(3), a prospective or current child care staff member who receives notice of having a disqualifying background check result in accordance with Section 6 of this administrative regulation may:

(a) Challenge the accuracy of the cabinet's determination by submitting a written request for informal review, including any information the individual wishes to be considered, to the Department for Community Based Services, Division of Child Care, 275 East Main Street, 3C-F, Frankfort, Kentucky 40621, within ten (10) calendar days of the date of notice in accordance with subsection (1) of this section; or

(b) Request a rehabilitative review pursuant to Section 9 of this administrative regulation.

(4) Upon completion of an informal review upon request pursuant to subsection (3)(a) of this section, the cabinet shall provide written notice of the cabinet's decision to uphold or rescind the notice of disqualifying background check result to the prospective or current child care staff member.

(5) A prospective or current child care staff member may appeal the results of an informal review or a rehabilitative review pursuant to Section 9 of this administrative regulation and 45 C.F.R. 98.43(e)(3), in accordance with 922 KAR 2:260.

(6) If a prospective or current child care staff member wishes to challenge the accuracy of a criminal background check, the cabinet shall refer the individual to the appropriate state or federal law enforcement agency.

(7) If a prospective or current child care staff member challenges the finding that he or she is the true subject of the results from a registry or repository check, the cabinet shall refer the individual to the agency responsible for maintaining the registry or repository.

Section 8. Termination or Relocation of a Child Care Staff Member upon Receipt of Notice of a Disqualifying Background Check Result. (1) If a prospective or current child care staff member has not requested an informal review or a rehabilitative review in accordance with Section 9 of this administrative regulation, the child care provider shall:

(a)1. Terminate the child care staff member no later than ten (10) calendar days after receipt of notice of the cabinet's determination, including the disqualifying background check result; or

2. Change residence of an adult household member in the child care provider's home no later than fifteen (15) calendar days after receipt of notice of the cabinet's determination, including disqualifying background check result; and

(b) Use the NBCP to provide electronic notification to the cabinet affirming the child care staff member's dismissal or household member's change in residence within three (3) business days of termination or residence change.

(2)(a) If a prospective or current child care staff member requests an informal review or a rehabilitative review in accordance with Section 9 of this administrative regulation, the child care provider:

1. May retain the child care staff member pending resolution of the informal review or rehabilitative review; and

2. Shall ensure that the child care staff member:

a. Is subject to direct, onsite supervision; or

b. Does not have duties or proximity that involves one-on-one contact with a child in care.

(b) A child care provider shall terminate the child care staff member or relocate the adult household member if the:

1. Informal review upholds the cabinet's determination of a disqualifying background check result, or the rehabilitative review committee does not grant a waiver; and

2. Child care staff member does not request an administrative hearing in accordance with Section 7(5) of this administrative regulation, in which the child care provider shall terminate the child care staff member or relocate the adult household member no later than the thirty-first calendar day following written notice of the results of the informal review or rehabilitative review.

(c) If a child care staff member requests an administrative hearing in accordance with Section 7(5) of this administrative regulation to appeal the decision from an informal review or rehabilitative review, the child care provider:

1. May retain the child care staff member pending the appeal's resolution if the child care staff member:

a. Remains subject to direct, onsite supervision; or

b. Does not have duties or proximity that involves one-on-one contact with a child in care; and

2. Shall terminate the child care staff member or relocate the adult household member no later than the thirty-first calendar day from the issuance of the final order if the child care staff member or adult household member does not prevail.

(d) Using the NBCP, the child care provider shall provide electronic notification to the cabinet affirming the individual's dismissal or relocation within three (3) business days of the termination or relocation.

Section 9. Rehabilitative Review. (1)(a) A prospective or current child care staff member found to have a disqualifying background check result shall be eligible for consideration of rehabilitation under an independent review process.

(b) Consideration of a disqualifying background check result under the rehabilitative review process described in this section shall not apply to:

1. A disqualifying felony offense that occurred less than ten (10) years prior to the date of the criminal background check;

2. Any disqualifying felony or misdemeanor offense related to abuse, neglect, or exploitation of a child;

3. Registration as a sex offender under federal law or under the law of any state;

4. A sex or violent crime as defined by KRS 17.165; or

5. A child abuse and neglect substantiated finding that:

a. Occurred less than seven (7) [~~five (5)~~] years prior to the date of the registry check; or

b. Involved:

(i) Sex abuse or sex exploitation of a child;

(ii) A child fatality related to abuse or neglect;

(iii) A near fatality of a child related to abuse or neglect; or

(iv) The involuntary termination of parental rights in accordance with KRS 625.050 through 625.120.

(2)(a) A prospective or current child care staff member may submit a written request for a rehabilitative review to the cabinet no later than fourteen (14) calendar days from the date of the notice of the cabinet's determination issued pursuant to Section 4(5) or 7(4) of this administrative regulation regarding a determination of a disqualifying background check result.

(b) If a prospective or current child care staff member requests a rehabilitative review, the child care staff member:

1. May be retained by the child care provider pending the rehabilitative review; and

2. Shall be subject to restrictions and termination or relocation in accordance with Section 8 of this administrative regulation.

(3) The request for a rehabilitative review shall include the following information:

(a) A written explanation of each disqualifying background check result, including:

1. A description of the events related to the disqualifying background check result;

2. The number of years since the occurrence of the disqualifying background check result;

3. The age of the individual at the time of the disqualifying background check result; and

4. Any other circumstances surrounding the disqualifying background check result;

(b) Official documentation showing that all fines, including court-imposed fines or restitution, have been paid or documentation showing adherence to a payment schedule, if applicable;

(c) The date probation or parole was satisfactorily completed, if applicable;

(d) Employment and character references, including any other evidence demonstrating the ability of the individual to perform the employment responsibilities and duties competently; and

(e) Evidence that the individual has pursued or achieved rehabilitation with regard to a disqualifying background check result.

(4) A rehabilitative review shall be conducted by a committee of three (3) employees of the cabinet, none of whom were[~~was~~] responsible for determining that the individual has a disqualifying background check result.

(5) The committee shall consider the information required under subsection (3) of this section, and shall also consider mitigating circumstances including:

(a) The amount of time that has elapsed since the disqualifying background check result;

(b) The lack of a relationship between the disqualifying background check result and the position for which the individual has applied; and

(c) Evidence that the applicant has pursued or achieved rehabilitation with regard to the disqualifying background check result.

(6) No later than thirty (30) calendar days from receipt of the written request for the rehabilitative review, the cabinet shall send the committee's determination on the rehabilitation waiver to the prospective or current child care staff member.

(7) The decision of the committee shall be subject to appeal in accordance with Section 7(5) of this administrative regulation.

(8) A child care provider shall not be obligated to accept an individual who is granted a waiver pursuant to this section as a child care staff member.

Section 10. Transparency. The cabinet shall maintain information concerning the background check processes in accordance with this administrative regulation on its Web site in accordance with 45 C.F.R. 98.43(g).

Section 11. Status of Employment. (1) A child care provider shall maintain the employment or residential status of each child care staff member who has submitted to a fingerprint-based criminal background check by reporting the status using the NBCP Web-based system.

(2) The cabinet shall inspect a child care provider to verify conformity with this administrative regulation.

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

(a) "DCC-500, Applicant Child Care Staff Member Waiver Agreement and Statement", 01/2022[~~12/2017~~]; and

(b) "DCC-501, Disclosures to Be Provided to and Signed by the Applicant Child Care Staff Member", 01/2022[~~12/2017; and~~

~~(c) "DCC-504, Applicant Child Care Staff Member Live Scan Fingerprinting Form", 12/2017~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Community Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be viewed on the department's Web site at https://chfs.ky.gov/agencies/dcbs/Pages/default.aspx.

MARTA MIRANDA-STRAUB, Commissioner
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: December 15, 2021

FILED WITH LRC: January 4, 2022 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on March 21, 2022, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by March 14, 2022, 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 virtually 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 March 31, 2022. 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: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Laura Begin or Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes background check requirements for child care staff members, reporting requirements, and appeals.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish background check requirements for child care staff members, reporting requirements, and appeals.

(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 child care staff members' background checks, reporting requirements, and appeals.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statutes through its establishment of child care staff member background checks, reporting requirements, and appeals.

(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 removes the option to provisionally hire someone as a child care staff member prior to receiving their state and national background check results. Language is being deleted that refers to the phased implementation of background checks for child care staff as this was already accomplished and there is currently no backlog associated with these background checks. The list of background check offenses that would disqualify someone from being employed by a child care provider is being amended to include a felony under KRS Chapter 209 (protection of adults) and misdemeanor crimes relating to the torture of animals or cruelty to animals. Changes in the fingerprinting process have resulted in no longer requiring the use of the DCC-504 form; therefore, that is also being eliminated through this amendment.

(b) The necessity of the amendment to this administrative regulation: 42 U.S.C. 9858 requires state and national background checks to be completed prior to employment with a child care provider.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 199.8965(8) requires the cabinet to promulgate an administrative regulation necessary to implement child care staff member background checks in accordance with 42 U.S.C. 9858. KRS 199.896(2) and 199.8982(1)(f) authorize, and 199.8994(6) requires the cabinet to promulgate administrative regulations pertaining to standards of a child care provider, including criminal convictions that impact the safety and security of children in care.

(d) How the amendment will assist in the effective administration of the statutes: The amendment ensures the safety and security of children in care by requiring state and national background checks be completed prior to offering employment to individuals who have applied.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: As of December 1, 2021, there were 1,784 licensed child care providers, 210 certified providers, and 41 registered providers. Since implementing the use of the National Background Check Program (NBCP) for child care staff, over 70,000 background checks have been conducted in this manner.

(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: Child care providers are already conducting state and national background checks for potential and current child care staff members. Providers were previously permitted to provisionally hire employees while background checks were pending, but that is no longer allowed.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Child care providers are already paying for background checks for potential and current staff members. To the extent possible, the department has and will continue to use its resources to absorb or offset costs for regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Child care providers have access to comprehensive state and national background checks for potential and current child care staff members. The health, safety, and welfare of children served by child care providers will be better preserved. The utilization of the Kentucky National Background Check Program is consistent with federal recommendations.

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

(a) Initially: The department has secured federal funds to assist in completing background checks. If the state fails to adhere to the new federal mandate, the state risks being subject to corrective action and a minimal, initial federal penalty of no less than $4.4 million of its Child Care and Development Fund award, which will increase in amount in subsequent years of noncompliance.

(b) On a continuing basis: The department will absorb or offset costs associated with implementation of the federal mandate within its existing appropriations, including federal award, to the extent possible.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Child Care and Development Fund Block Grant, state match, and maintenance of effort for the block grant, and limited agency funds will support the ongoing implementation and enforcement of this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increase in fees or funding necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: At this time, this administrative regulation does not directly establish any fees, but rather, passes along fees established by the agencies conducting the background checks, most often law enforcement. The cabinet has no control over the fees charged by law enforcement agencies. Per state law, law enforcement agencies and the cabinet cannot charge a child care provider more than the actual cost of processing the background check.

(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. 98.43, 42 U.S.C. 9857-9858q

(2) State compliance standards. KRS 194A.050(1), 199.896(2), 199.8965(8), 199.8982(1)(f), 199.8994(6)

(3) Minimum or uniform standards contained in the federal mandate. The provisions of the administrative regulation comply with the federal mandate.

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

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

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Cabinet for Health and Family Services will be impacted by this administrative regulation. Quasi-governmental agencies, local governments, and school districts that operate a licensed child-care center 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), 199.896(2), 199.8965(8), 199.8982(1)(f), 199.8994(6), 45 C.F.R. 98.43, 42 U.S.C. 9857-9858q

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will generate no revenue. Fees passed along to regulated entities will be established by the agency conducting the background check and are not allowed to exceed the actual cost of performing the check.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities,

counties, fire departments, or school districts) for subsequent years? This administrative regulation will generate no revenues in its subsequent years.

(c) How much will it cost to administer this program for the first year? This program is already in operation.

(d) How much will it cost to administer this program for subsequent years? This amendment is not expected to affect costs. There is a $4.4 million federal penalty that can be levied upon the state for the first year of noncompliance with the federal mandate. The department anticipates being able to absorb or offset costs within its existing state and federal awards. The enhanced safety measures afforded through the more comprehensive background checks will also ensure avoidance of costs that are associated with child maltreatment.

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 5:070. Adult protective services.**

RELATES TO: KRS Chapter 13B, 61.872, 194A.010, 202A.051, 202B.100, Chapter 209, 387.540(1), 42 U.S.C. 1397

STATUTORY AUTHORITY: KRS 194A.050(1), 209.030(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary to adopt all administrative regulations necessary under applicable state laws to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the individual citizens of the commonwealth [~~Commonwealth~~] and necessary to operate the programs and fulfill the responsibilities vested in the cabinet. KRS 209.030(1) authorizes the secretary to promulgate administrative regulations necessary for the implementation of adult protective services. This administrative regulation establishes the procedures for investigation and protection of adults who are suffering or at risk of abuse, neglect, or exploitation.

Section 1. Definitions. (1) "Abuse" is defined by KRS 209.020(8).

(2) "Adult" is defined by KRS 209.020(4).

(3) "Authorized agency" is defined by KRS 209.020(17).

(4) "Caretaker" is defined by KRS 209.020(6).

(5) "Emergency" is defined by KRS 209.020(11).

(6) "Employee" is defined by KRS 209.032(1)(a).

(7) "Exploitation" is defined by KRS 209.020(9).

(8) "Investigation" is defined by KRS 209.020(10).

(9) "Mental injury" means a negative impact on the emotional or psychological state of the adult that:

(a) Requires medical treatment;

(b) Is manifested by a behavioral change; or

(c) Would cause a reasonable person to feel fear, distress, humiliation, or ridicule.

(10) "Neglect" is defined by KRS 209.020(16).

(11)[~~(10)~~] "Protective services" is defined by KRS 209.020(5).

(12)[~~(11)~~] "Records" is defined by KRS 209.020(15).

(13) "Unreasonable confinement" means the unnecessary restriction of an adult's movement through physical or chemical restrains or the unnecessary isolation of an individual.

(14)[~~(12)~~] "Validated substantiated finding of adult abuse, neglect, or exploitation" is defined by KRS 209.032(1)(b).

(15)[~~(13)~~] "Vulnerable adult services provider" is defined by KRS 209.032(1)(c).

Section 2. Receiving a Report of Adult Abuse, Neglect, or Exploitation. (1) An individual suspecting that an adult has suffered abuse, neglect, or exploitation shall:

(a) Report to the cabinet in accordance with KRS 209.030(2) and (3); and

(b) Provide the information specified in KRS 209.030(4).

(2) The identity of the reporting individual shall remain confidential in accordance with KRS 209.140.

(3) The cabinet shall make available a twenty-four (24) hour on-call response system for emergency reporting after normal office hours.

(4) The cabinet shall investigate an anonymous report that provides sufficient information regarding the alleged abuse, neglect, or exploitation of an adult.

(5) If a report does not meet criteria for investigation, the cabinet may refer the reporting source to:

(a) Community resources;

(b) General adult services in accordance with 922 KAR 5:090; or

(c) A domestic [~~Domestic~~] violence protective services provider[~~in accordance with 922 KAR 5:102~~].

(6) Upon accepting a report for investigation of alleged adult abuse, neglect, or exploitation, the cabinet shall:

(a) Conduct an initial assessment and initiate an investigation in accordance with KRS 209.030(5); and

(b) Take into consideration the safety of the adult when proceeding with the actions necessary to initiate an investigation.

(7) The cabinet shall initiate an investigation upon acceptance of a report of:

(a) Abuse[~~, as defined in KRS 209.020(8),~~] if the report alleges an adult:

1. Being hit in a critical area of the body, such as the head, face, neck, genitals, abdomen, or kidney areas;

2. Has an injury that:

a. Was intentionally inflicted by another person; or

b. Is of unknown origin in a critical area of the body;

3. Was sexually abused;

4. Was subjected to unreasonable confinement;

5. Was subjected to intimidation; or

6. Received a punishment that resulted in pain, injury, or mental injury[~~Marks that are or have been observed on an adult that another individual allegedly inflicted;~~

~~2. Physical abuse inflicted upon the adult resulting in pain or injury, including a mental injury;~~

~~3. An adult being hit in a critical area of the body, such as the head, face, neck, genitals, abdomen, and kidney areas; or~~

~~4. An act of sexual abuse~~];

(b) Neglect[~~, as defined in KRS 209.020(16),~~] of an adult that may result in harm to the health and safety of the adult in the following areas:

1. Hygiene neglect, if the adult has physical symptoms that require treatment due to poor care as a result of:

a. An act or omission by a caretaker; or

b. The absence of a caretaker;

2. Supervision neglect, if the reporting source has observed a physical health and safety risk to an adult resulting from a lack of necessary and appropriate supervision;

3. Food neglect, if an adult shows symptoms of:

a. Malnutrition;

b. Dehydration;

c. Food poisoning; or

d. Lack of adequate food for a period of time that:

(i) Results in physical symptoms; or

(ii) Requires treatment;

4. Environmental neglect, if a serious health and safety hazard is present, and the adult or the adult's caretaker is not taking appropriate action to eliminate the problem; or

5. Medical neglect, if the adult is not receiving treatment for an injury, illness, or disability that:

a. Results in an observable decline in the adult's health and welfare;

b. May be life threatening; or

c. May result in permanent impairment;

(c) Exploitation of an adult[~~, as defined in KRS 209.020(9),~~] if the report alleges that the perpetrator was a person in a position of trust to the alleged victim and caused:

1. Isolation from friends, relatives, or important information,

such as:

a. Screening telephone calls;

b. Denying visitors; or

c. Intercepting mail;

2. Physical or emotional dependency;

3. Manipulation;

4. Acquiescence; and

5. Loss of resources; or

(d) An adult in need of protective services[~~as defined in KRS 209.020(5)~~].

(8) If a report alleging the exploitation of an adult does not meet criteria established in subsection (7)(c) of this section, the report may be referred to an appropriate authorized agency or community resource.

(9) The following criteria shall be used in identifying a report of alleged adult abuse, neglect, or exploitation not requiring an adult protective service investigation:

(a) The report does not meet the statutory definitions of:

1. Adult; and

2.a. Abuse;

b. Neglect; or

c. Exploitation; or

(b) There is insufficient information to:

1. Identify or locate the adult; or

2. Explore leads to identify or locate the adult.

(10) For a report accepted for investigation of alleged adult abuse, neglect, or exploitation, designated regional cabinet staff shall provide the information specified in KRS 209.030(4):

(a) For a determination of investigation assignment by cabinet supervisory staff;

(b) To the local guardianship office, if the adult is a state guardianship client; and

(c) To appropriate authorized agencies, as specified in KRS 209.030(5).

Section 3. Adult Protective Service Investigations. (1) The cabinet shall coordinate its investigation in accordance with KRS 209.030(6).

(2) An adult protective service investigation may include contact with the alleged perpetrator and collaterals, if the contact does not pose a safety concern for the adult or cabinet staff.

(3) Information obtained as a result of a protective service investigation shall be kept confidential in accordance with KRS 209.140.

(4) Requests for written information of the protective service investigation, except for court ordered releases, shall be handled through the open records process in accordance with KRS 61.872 and 922 KAR 1:510.

(5) Designated regional cabinet staff shall initiate the investigation of a report of alleged adult abuse, neglect, or exploitation. If the accepted report of alleged adult abuse, neglect, or exploitation with the expressed permission of the adult indicates:

(a) An emergency, the investigation shall be initiated within four (4) hours[~~one (1) hour~~]; or

(b) A nonemergency, the investigation shall be initiated within forty-eight (48) hours.

(6) If permission is granted by the adult, designated regional cabinet staff may take photographs, audio, or video recordings.

(7)(a) The cabinet shall obtain a written voluntary statement of adult abuse, neglect, or exploitation if the adult, witness, or alleged perpetrator is willing to provide the written statement; and

(b) The cabinet shall inform the adult, witness, or alleged perpetrator that the:

1. Statement may be shared with appropriate authorized agencies; [~~and~~]

2. Statement may be used in an administrative hearing conducted by the cabinet; and

3. Individual may be required to testify in an administrative hearing or in a court of law.

(8) If investigating reports of alleged abuse or neglect of an adult resulting in death, designated regional cabinet staff shall:

(a) Examine the coroner's or doctor's report;

(b) Obtain a copy of the death certificate for the case record, if possible;

(c) Notify the commissioner or designee;

(d) Consult with appropriate law enforcement, in accordance with KRS 209.030(6)(a) in completing the investigation, if an adult died allegedly as a result of abuse or neglect; and

(e) Determine if another resident in an alternate care facility is at risk of abuse or neglect, if the findings of an investigation suggest that an adult in the alternate care facility died allegedly as a result of abuse or neglect.

(9) Unless the legal representative is alleged to have abused, neglected, or exploited the adult, a legal representative may act on behalf of an adult for purposes of this administrative regulation.

Section 4. Results of the Investigation. (1) Designated regional cabinet staff shall address the following when evaluating the results of the investigation:

(a) The adult's account of the situation, if possible;

(b) The alleged perpetrator's account of the situation, if available;

(c) The information supplied by collateral contact;

(d) Records and documents;

(e) The assessment information;

(f) Previous reports involving the adult or alleged perpetrator; and

(g) Other information relevant to the protection of an adult.

(2) The findings of the adult protective service investigation shall be:

(a) Shared with appropriate authorized agencies in accordance with KRS 209.030(5); and

(b) Documented on the cabinet's database.

(3) Designated regional cabinet staff shall maintain a written record, as specified in KRS 209.030(5), to include:

(a) Information reported in accordance with KRS 209.030(4); and

(b) A narrative documenting:

1. The investigation; and

2. Findings of the investigation.

(4) If an issue or concern identified by the cabinet does not require a protective service case being opened, the cabinet may work with the adult to develop an aftercare plan:

(a) At the consent of the adult; and

(b) In an effort to prevent a recurrence of adult abuse, neglect, or exploitation.

Section 5. Substantiation Criteria and Submission of Findings. (1) In determining if an allegation is substantiated, the cabinet shall use the statutory definitions of:

(a) Adult; and

(b)1. Abuse;

2. Neglect; or

3. Exploitation.

(2) If preponderance of evidence exists, designated regional cabinet staff may make a finding of and substantiate abuse, neglect, or exploitation.

(3) A finding made by cabinet staff shall not be a judicial finding.

(4) Cabinet supervisory staff shall review and approve a finding of an investigation prior to its finalization.

Section 6. Reports of Alleged Adult Abuse, Neglect, or Exploitation Involving an Employee or Compensated Person. If the cabinet receives a report involving an employee or a person acting with the expectation of compensation, cabinet staff shall provide the alleged perpetrator during the investigative interview:

(1) Notice of the basic allegations, which shall be void of any specifics that may compromise the investigation;

(2) Notice that the alleged perpetrator will be provided notification of the findings upon completion of the investigation;

(3) Due process requirements in accordance with KRS Chapter 13B and KRS 209.032; and

(4) A statement that a validated substantiated finding shall be reported on the caregiver misconduct registry established [~~governed~~] by 922 KAR 5:120.

Section 7. Opening a Case. (1) A case may be opened:

(a) As a result of a protective service investigation; or

(b) Upon identification of an adult through a general adult services assessment as being at risk of abuse, neglect, or exploitation.

(2) The decision to open a case shall be based on the:

(a) Voluntary request for, or acceptance of, services by an adult who needs adult protection or general adult services; or

(b) Need for involuntary emergency protective services.

(3) If it has been determined that an adult is incapable of giving consent to receive protective services, the court may assume jurisdiction and issue an ex parte order in accordance with KRS 209.130.

(4) Emergency protective services shall be provided in accordance with KRS 209.100[~~209.110~~].

(5) The cabinet shall develop an adult's case plan with the adult and, upon consent of the adult, may include consideration of the following:

(a) Designated regional cabinet staff;

(b) Family members;

(c) Family friends;

(d) Community partners; or

(e) Other individuals requested by the adult.

(6) Within thirty (30) calendar days of opening a case, designated regional cabinet staff shall:

(a) Initiate a case plan with the adult; and

(b) Submit the plan to supervisory staff for approval.

Section 8. Referrals for Criminal Prosecution. The cabinet shall refer substantiated reports of adult abuse, neglect, or exploitation to Commonwealth's Attorneys [~~Commonwealth attorneys~~] and county attorneys for consideration of criminal prosecution in accordance with KRS 209.180.

Section 9. Restraining Order or Injunctive Relief. If necessary, designated regional cabinet staff shall contact the cabinet's Office of Legal Services for advice and assistance in obtaining restraining orders or other forms of injunctive relief that may be issued for protection of an adult, in accordance with KRS 209.040.

Section 10. Guardianship or Conservatorship of Disabled Persons. (1) In an attempt to provide appropriate protective services, designated regional cabinet staff shall assess the need for guardianship if an individual appears unable to make an informed choice to:

(a) Manage personal affairs;

(b) Manage financial affairs; or

(c) Carry out the activities of daily living.

(2) Designated regional cabinet staff may assist in protective service situations in seeking out family, friends, or other interested and qualified individuals who are willing and capable to become guardians.

(3) Upon an order of the court, the cabinet shall file an interdisciplinary evaluation report in accordance with KRS 387.540(1).

Section 11. Involuntary Hospitalization. (1) Designated regional cabinet staff shall encourage the voluntary hospitalization of an adult who needs to secure mental health treatment to avoid serious physical injury or death.

(2) Designated regional cabinet staff may file a petition for involuntary hospitalization in accordance with KRS 202A.051 and 202B.100 if:

(a) The adult lacks the capacity to consent or refuses mental health treatment;

(b) Other resources are not available;

(c) Another petitioner is absent or unavailable; and

(d) Prior cabinet supervisory approval is obtained.

Section 12. Reporting. (1) Reports of alleged adult abuse, neglect, or exploitation shall be maintained in the cabinet's database for:

(a) Use in future investigations; and

(b) Annual reporting requirements as specified in KRS 209.030(12).

(2) The cabinet shall submit a report annually to the Governor and Legislative Research Commission in accordance with KRS 209.030(12)(b).

(a) In addition to the information required by KRS 209.030(12)(b), the summary of reports received by the cabinet shall include for each individual who is the subject of a report:

1. Age;

2. Demographics;

3. Type of abuse;

4. The number of:

a. Accepted reports; and

b. Substantiated reports; and

5. Other information relevant to the protection of an adult.

(b) The information required in paragraph (a) of this subsection shall only be provided if it does not identify an individual.

Section 13. Case Closure and Aftercare Planning. (1) The cabinet's decision to close an adult protective service case shall be based upon:

(a) Evidence that the factors resulting in adult abuse, neglect, or exploitation are resolved to the extent that the adult's needs have been met;

(b) The request of the adult; or

(c) A lack of legal authority to obtain court ordered cooperation from the adult.

(2) An adult shall be:

(a) Notified in writing of the decision to close the protective service case; and

(b) Advised of the right to request a service appeal in accordance with Section 14 of this administrative regulation.

(3) If an adult protective service case is appropriate for closure, the cabinet may work with the adult to develop an aftercare plan:

(a) At the consent of the adult; and

(b) In an effort to prevent a recurrence of adult abuse, neglect, or exploitation.

(4) If the cabinet closes the protective service case in accordance with this section, aftercare planning may link the adult to community resources for the purpose of continuing preventive measures.

Section 14. Appeal Rights. (1) A victim of adult abuse, neglect, or exploitation may request a service appeal in accordance with 922 KAR 1:320, Section 2.

(2) If the cabinet makes a finding that an individual providing care to an adult as an employee or with the expectation of compensation has committed adult abuse, neglect, or exploitation, the individual shall receive appeal rights [~~appeals~~] in accordance with 922 KAR 5:120.

MARTA MIRANDA-STRAUB, Commissioner
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: December 15, 2022

FILED WITH LRC: January 4, 2022 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on March 21, 2022, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by March 14, 2022, 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 virtually 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 March 31, 2022. 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: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Laura Begin or Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes cabinet procedures for an adult protection assessment or investigation of abuse, neglect, or exploitation.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish adult protection services procedures.

(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 cabinet procedures for an adult protection assessment or investigation of abuse, neglect, or exploitation.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists with the effective administration of the statutes by establishing cabinet procedures for an adult protection assessment or investigation of abuse, neglect, or exploitation.

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

(a) How the amendment will change this existing administrative regulation: The amendment changes this administrative regulation by adding defined terms and adding to the list of examples that constitute abuse, ensuring uniformity in the application of terms used.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to keep the administrative regulation from expiring pursuant to KRS 13A.3102 and 3104. The amendment is also necessary to clarify definitions used within the regulation, establish additional acceptance criteria in regards to reports of adult exploitation, and to ensure clarity in the use of statements obtained during an investigation that can be used during administrative hearings.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes through its enhancement of cabinet procedures for an adult protection investigation or assessment of abuse, neglect, or exploitation.

(d) How the amendment will assist in the effective administration of the statutes: This amendment assists in the effective administration of the statutes by clarifying definitions, acceptance criteria for exploitation, and ensuring statements obtained during the investigation can also be used during administrative hearings.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: According to The Worker's Information SysTem, TWIST, data for SFY 2021, (TWS-Y165, October 25, 2021) the cabinet received 59,524 reports of alleged abuse, neglect, or exploitation of an adult resulting in almost 10,000 investigations. There were 2,078 substantiations with 1,719 unique victims.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: There is no new action required on the part of regulated entities above and beyond those that are statutorily prescribed or originally prescribed through this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Regulated entities will experience no new or additional cost as a result of this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Regulated entities will benefit from the amendment clarifying definitions and terms, acceptance criteria, and utilization of statements obtained during the course of an investigation.

(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 is not projected to have a fiscal impact on the administrative body.

(b) On a continuing basis: The amendment to this administrative regulation is not projected to have a fiscal impact on the administrative body.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The cabinet's provision of adult protective services is funded by the federal Social Services Block Grant, and General Funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. No increase in fees or funding is necessary to implement this administrative regulation.

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

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

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1397

(2) State compliance standards. KRS 194A.050(1), 209.030(1)

(3) Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 1397

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

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation does not impose stricter standards, or additional or different responsibilities or 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 Cabinet for Health and Family Services will be impacted 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. 42 U.S.C. 1397, KRS 194A.050(1), 209.030(1)

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

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

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

(c) How much will it cost to administer this program for the first year? The amendment to this administrative regulation is not projected to have a new fiscal impact on the administrative body.

(d) How much will it cost to administer this program for subsequent years? The amendment to this administrative regulation is not projected to have a new fiscal impact on the administrative body.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

## NEW ADMINISTRATIVE REGULATIONS

Public comment periods ordinary, non-emergency regulations are at least two months long. For other regulations with open comment periods, please also see last month's *Administrative Register of Kentucky*.

**LABOR CABINET**
**Department of Workplace Standards**
**(New Administrative Regulation)**

**803 KAR 1:006. Employer-employee relationship.**

RELATES TO: KRS Chapter 337
STATUTORY AUTHORITY: KRS 337.295
NECESSITY, FUNCTION, AND CONFORMITY: KRS 337.295 authorizes the commissioner to promulgate regulations. The function of this administrative regulation is to define what constitutes an employer-employee relationship.

Section 1. Definitions. (1) "Employee" is defined by KRS 337.010(1)(e) and (2)(a).
(2) "Employer" is defined by KRS 337.010(1)(d).

Section 2. The Employer-Employee Relationship. (1) In order for KRS Chapter 337 to be applicable there must be an employer-employee relationship. An employer-employee relationship requires an employer, employee, and the act or condition of work.
(2) To determine whether an individual is an employee for purposes of an employer-employee relationship, the factors that shall be considered include:
(a) The extent to which the services rendered are an integral part of the principal's business;
(b) The permanency of the relationship;
(c) The amount of the alleged contractor's investment in facilities and equipment;
(d) An alleged contractor's opportunities for profit and loss;
(e) The amount of initiative, judgement, or foresight in open market competition with others required for the success of the claimed independent enterprise; and
(f) The nature and degree of control by the principal. The factors to be considered when determining control include:
1. Whether there are restrictive provisions in the agreement between the possible employer and possible employee which require the work be satisfactory to the possible employer and detailing how the work is to be performed;
2. Whether the possible employer has control over the business of the person performing work even though the possible employer does not control the particular circumstances of the work;
3. Whether an agreement is indefinite or for a long period of time;
4. Whether the possible employer may cancel the agreement at his or her discretion, and on how much notice;
5. Whether the possible employer may discharge employees of an alleged independent contractor;
6. Whether the work done by an alleged independent contractor is the same or similar to that done by admitted employees; and
7. The degree of independent business organization and operation.
(3) In addition to the factors in subsection (2)(f) of this section, if control cannot be firmly established, the following factors shall be considered when determining if an independent contractor is an employee:
(a) Whether the work done by the alleged independent contractor is listed on the payroll with the appropriate tax deductions;
(b) Whether the payments to the alleged independent contractor are charged to a labor and salary account or selling expense account;
(c) Whether the employees of the alleged independent contractor must be approved by the possible employer;
(d) Whether the possible employer keeps the books and prepares payroll for the possible employee;
(e) Whether the alleged independent contractor is assigned to a particular territory without freedom of movement outside thereof;
(f) Whether the alleged independent contractor has an independent economic or other interest in his or her work, other than increasing his or her on pay;
(g) Whether the respective tax returns of the parties list the remuneration paid; and
(h) Whether the possible employer has control over the manner in which the work is to be performed.
(4) The following factors shall be immaterial to the determination of whether an employer-employee relationship exists:
(a) The place where the work is performed;
(b) The absence of a formal employment agreement;
(c) Whether the state or local government grants a license to the alleged independent contractor;
(d) The measurement, method, or designation of compensation;
(e) The fact that no compensation is paid and the alleged employee must rely entirely on tips, if other indications of employment are present; and
(f) Whether the alleged employee is paid by the piece or by the job or on a percentage or commission basis.

Section 3. Work. The subject matter of the employer-employee relationship must be work or its equivalent. The essential elements of work are:
(1) Physical or mental exertion, whether burdensome or not;
(2) Controlled or required by the employer; and
(3) Pursued necessarily and primarily for the benefit of the employer and their business.

Section 4. Religious, Charitable and Nonprofit Organizations, Schools, Volunteer Workers, Members of Religious Orders. (1) Persons such as nuns, monks, lay brothers, deacons, and other members of religious orders who serve pursuant to their religious obligations in the schools, hospitals, and other institutions operated by their church or religious order shall not be considered to be employees.
(2) Individuals who volunteer their services to religious, charitable and similar nonprofit organizations and schools not as employees or in contemplation of pay for the services rendered shall not be considered employees.
(3) Although the volunteer services described in subsection (2) of this section do not create an employer-employee relationship, the organizations for which they are performed may have employees performing compensated service whose employment is subject to KRS Chapter 337.
(a) In accordance with KRS Chapter 337, where an employer-employee relationship exists, employees shall not be paid less than statutory wages for hours worked in the workweek.
(b) There are circumstances where an employee may donate services as a volunteer and the time so spent shall not be compensable work.
(c) An employer-employee relationship shall not exist with respect to the volunteer time between the organization and the volunteer or between the volunteer and the person for whose benefit the service is performed.
(4) As part of an overall education program, public or private schools and institutions of higher learning may permit or require students to engage in activities conducted primarily for the benefit of the participants as a part of the educational opportunities provided to the students by the school or institution. These activities do not result in an employer-employee relationship between the student and the school or institution. The fact that a student may receive a minimal payment or stipend for participation in the activities shall not create an employer-employee relationship.
(5)(a) Tasks performed as a normal part of a program of treatment, rehabilitation, or vocational training shall not be

considered as work of a kind requiring a hospital patient, school student, or institutional inmate to be considered an employee of the hospital, school, or institution.

(b) Initial participation by a student with disabilities in a school-work program or sheltered workshop program shall not constitute an employer-employee relationship if the following conditions are met:

1. The activities are educational, are conducted primarily for the benefit of the participants, and comprise one of the facets of the educational opportunities provided to the individuals. The individual may receive some payment for his or her work in order to have a more realistic work situation, or as an incentive to the individual or to ensure that the employer will treat the individual as a worker;

2. The time in attendance at the school plus the time in attendance at the experience station, either in the school or with an outside employer, does not substantially exceed time the individual would be required to attend school if following a normal academic schedule. Time in excess of one (1) hour beyond the normal school schedule or attendance at the experience station on days when school is not in session shall be considered substantial; and

3. The individual does not displace a regular employee or impair the employment opportunities of others by performing work which would otherwise be performed by regular employees who would be employed by the school or an outside employer.

Section 5. Outside Work or Homework Performed by Independent Contractor. (1) A homeworker is an employee, even though there may be a buying and selling arrangement between the parties.

(2) If the employer asserts outside work or homework is performed by independent contractors, the following factors shall be considered in determining whether employee-employer relationship exists:

(a) Whether the employer has the right to control the manner of the performance of the work or the time in which the work is to be done;

(b) Whether the employer pays taxes for Social Security, unemployment, or workers' compensation insurance;

(c) Whether the homeworker ever collected any benefits such as unemployment or workers' compensation, because of unemployment by the employer;

(d) Whether the employer furnishes the material or finances directly or indirectly the purchase of the material which the homeworker uses;

(e) When the practice of buying and selling between the employer and the homeworker began, and what are the mechanics of the transaction are;

(f) Whether the homeworker bills the employer for the work done;

(g) Whether bills of sale are prepared;

(h) Whether sales taxes are paid, or are state or local exemptions obtained because of retail purposes;

(i) Whether payments are made in cash or by check;

(j) How the homeworker profits under the buying-selling arrangement compared with wages as a homeworker;

(k) Whom the homeworker considers to be the employer;

(l) Whether the homeworker has a license to do business; and

(m) The equipment used, what its value is, and who furnishes it.

Section 6. Trainees and Student-trainees. Whether trainees or students are employees under KRS Chapter 337, depends upon all circumstances of their activities on the premises of the employer. If all the following criteria apply, the trainees or students shall not be employees under KRS Chapter 337:

(1) The training, even though it includes actual operation of the facilities of the employer, is similar to that which would be given in a vocational school;

(2) The training is for the benefit of the trainees or students;

(3) The trainees or students do not displace regular employees, but work under their close observation;

(4) The employer that provides the training derives no immediate advantage from the activities of the trainees or students and on occasion operations may actually be impeded;

(5) The trainees or students are not necessarily entitled to a job at the conclusion of the training period; and

(6) The employer and the trainees or students understand that the trainees or students are not entitled to wages for the time spent in training.

KIMBERLEE C. PERRY, Commissioner
JAMIE LINK, Secretary

APPROVED BY AGENCY: January 3, 2022

FILED WITH LRC: January 10, 2022

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 28, 2022 at 1:00pm (ET). This hearing will be conducted by live videoconference (ZOOM) pursuant to Senate Bill 150, Section 1, subparagraph 8(b) (R.S. 2020) and the continuing state of emergency due to the novel coronavirus pandemic. Public access to the meeting will be available at https://us06web.zoom.us/j/88108844438, or by telephone at (713) 353-0212 or 888-822-7517 (toll free), conference code 786462. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. 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 attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through March 31, 2022. Send notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Duane Hammons, Labor Cabinet, Mayo-Underwood Building, 500 Mero Street, 3rd Floor, Frankfort, Kentucky 40601, phone (502) 564-1507, fax (502) 564-5484, email Kenneth.hammons@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Duane Hammons

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides guidance on what constitutes an employee-employer relationship and replaces 803 KAR 1:005.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to clarify what constitutes an employee-employer relationship in order to help determine whether the statutes are applicable.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 337.295 authorizes the commissioner to promulgate administrative regulations under KRS 337.275 to 337.325, 337.345, and 337.385 to 337.405.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides guidance on what constitutes an employee-employer relationship within KRS Chapter 337 which guides the department in determining whether an employer is subject to statutory requirements.

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

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all subject employers who employ employees in the Commonwealth subject to KRS Chapter 337, as well as their employees.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No additional compliance duties are required by this regulation. This regulation takes the place of 803 KAR 1:005.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no additional cost associated with this regulation as it is replacing 803 KAR 1:005.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Improved employee and employer protections and guidance for what constitutes an employee-employer relationship to help determine applicability of statutes.

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

(a) Initially: This administrative regulation is not anticipated to generate any new or additional costs as it is replacing 803 KAR 1:005.

(b) On a continuing basis: This administrative regulation is not anticipated to generate any new or additional costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state 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: This administrative regulation is not anticipated to generate any increase in fees or funding as it is replacing 803 KAR 1:005.

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

(9) TIERING: Is tiering applied? Tiering is not applied. All subject employers and employees covered by KRS Chapter 337 are treated equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Most state and local governmental entities are subject to KRS Chapter 337.

(2) Identify each state or federal statute or regulation that requires or authorizes the action taken by the administrative regulation. KRS 337.295.

(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 the 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 the 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? There is no cost to this amendment, as it is replacing 803 KAR 1:005.

(d) How much will it cost to administer this program for subsequent years? There is no cost to this administrative regulation as it is replacing 803 KAR 1:005.

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

Revenues (+/-): Unknown

Expenditures (+/-): Unknown

Other Explanation: This administrative regulation does not impose any additional requirements or expenditures as it is replacing 803 KAR 1:005.

**LABOR CABINET**
**Department of Workplace Standards**
**(New Administrative Regulation)**

**803 KAR 1:026. Equal pay provisions, meaning and application.**

RELATES TO: KRS 337.420-337.433

STATUTORY AUTHORITY: KRS 337.420(3), 337.425(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 337.425 authorizes the Commissioner of Workplace Standards to issue administrative regulations appropriate to carry out the provisions of KRS 337.420 to 337.433. The function of this administrative regulation is to provide guidance with respect to the meaning and application of the equal pay provisions set forth in KRS 337.420 to 337.433.

Section 1. Definitions. (1) “Employer” is defined by KRS 337.420(2).

(2) “Establishment” means a distinct physical place of business. Each physically separate place of business is considered a separate establishment.

(3) “Wage rate” is defined by KRS 337.420(3) and includes all payments made to or on behalf of the employee as remuneration for employment. This includes fringe benefits such as vacation and holiday pay, premium payments for work on Saturdays, Sundays, holidays, regular days of rest, pension benefits, insurance benefits, and other fringe benefits paid as compensation for employment. Payments made by an employer to an employee which do not constitute compensation for employment, such as payments related to maternity and reasonable payments for reimbursable expenses of traveling on the employer’s business, are not wages to be compared for equal pay purposes.

Section 2. Application of Provisions in General.

(1) Application to employers. The prohibition against discrimination in wages on the basis of sex contained in KRS 337.423 applies to every employer within the state.

(2) Application to establishments.

(a) The prohibition against discrimination in wages on the basis of sex applies within the same establishment.

(b) Where an employer has more than one (1) establishment in which he or she employs employees, there shall be no comparison between wages paid to employees in different establishments.

Section 3. Male Jobs and Female Jobs. (1) Where an employee of one (1) sex is hired or assigned to a particular job to replace an employee of the opposite sex, comparison of the newly assigned employee's wage rate with that of the replaced former employee is required, whether or not the job is performed concurrently by employees of both sexes.

(2) A prohibited sex-based wage differential occurs if all employees of one (1) sex are removed from a particular job by transfer or discharge so as to retain employees of only one (1) sex in a job previously performed interchangeably or concurrently by employees of both sexes.

(a) The employer's obligation to pay the higher rate for the job cannot be avoided or evaded by confining the job to members of the lower paid sex.

(b) Compliance with the law can be achieved only by increasing the wage rate to the higher rate paid for the job when performed by employees of the opposite sex.

Section 4. Inequalities in Pay. (1) Inequalities in pay between employees of the opposite sexes which may be a violation of KRS 337.423 include:

(a) Where an inequality, allegedly based on a difference in job content, is in fact one on which the employee occupying the job purportedly requiring the higher degree of skill, effort, or responsibility receives the lower wage rate;

(b) Where employees of only one (1) sex are concentrated in the lower grades of the wage scale, and there is no material

relationship other than sex between the lower wage rates paid to the employees and the higher rates paid to employees of the opposite sex; or

(c) If in a particular establishment all persons of one (1) sex tend to be paid at the lowest rate of the range and employees of the opposite sex hired to perform the same work tend to be paid at the highest rate of the range, and no specific factor or factors other than sex are associated with the difference in pay.

(2) Differentials in entrance rates shall not constitute a violation of KRS 337.423 if the factors taken into consideration in determining which rate is to be paid each employee are applied equally to men and women.

Section 5. Equality and Inequality of Pay in Particular Situations. (1) Overtime work. Overtime premiums are a part of wages for purposes of KRS 337.423.

(a) It is not a prohibited wage rate deferential where:

1. Male and female employees perform comparable work during regular hours but employees of one (1) sex only continue working overtime into another work period and work performed during this later period is compensated at a higher rate where such is required by law or is the customary practice of the employer; or

2. Male and female employees are performing equal work in an establishment during regular hours but only some of these employees continue working into an overtime period, and payment of a higher wage rate is paid for the overtime, so long as employees, whether male or female, are paid for the actual overtime hours worked.

(b) A prohibited wage rate deferential occurs where men and women receive the same straight-time rates for work subject to the equal pay standards, but employees of one (1) sex receive an overtime premium rate of twice the straight-time rate while employees of the opposite sex receive only one and one-half (1 1/2) times the straight-time rate for overtime.

(2) Special assignments. If an employee is required to perform an additional task outside regular working hours, it shall not justify payment of a higher wage rate to that employee for all hours worked. Employees who are assigned a different and unrelated task to be performed outside the regular workday may be paid at a different rate of pay for the time spent in performing such additional duty provided the rate is commensurate with the task performed.

(3) Vacation or holiday pay. Vacation or holiday pay is deemed to be remuneration for employment included in wages within the meaning of the law. A wage rate differential occurs when:

(a) Employees of one sex receive vacation pay for a greater number of hours than employees of the opposite sex;

(b) The work is subject to KRS 337.423; and

(c) There is no specified exception to the wage rate differential pursuant to KRS 337. 423(1).

(4) Contributions to employee benefit plans.

(a) If employer contributions to a plan providing insurance or similar benefits to employees are equal for both men and women, no wage differential prohibited by KRS 337.423 will result from such payments, even though the benefits which accrue to the employees in question are greater for one (1) sex than for the other.

(b) The fact that an employer making unequal contributions for employees of opposite sexes in this situation will not be considered a wage rate differential prohibited by KRS 337.423, if the resulting benefits are equal for the employees.

(5) Commissions. The establishment of different rates of commission for different types of merchandise is not a violation of the equal pay provisions where the factor of sex provides no part of the basis for the differential.

(6) Head of household. Head of household status bears no relationship to the requirements of the job to an employee's performance on the job. If a differential in pay exists because an employee of one (1) sex is head of a household and the other employee of the opposite sex is not, the differential is based on the factor of sex.

Section 6. The Equal Pay for Equal Work Standard; Generally. (1) In accordance with KRS 337.423, an employer is prohibited from paying employees of one (1) sex wages at rates lower than employees of the opposite sex for comparable work on jobs with comparable skills, efforts, and responsibilities required for performance. Application of the equal pay standard is not dependent on job classifications or titles but rather on actual job requirements and performance.

(2) In accordance with KRS 337.423, jobs with comparable requirements shall be compared in applying the equal pay for equal work standard.

(a) Jobs that require comparable skill, effort, and responsibility in their performance may not be identical in every respect. Jobs shall be scrutinized as a whole and over a full work cycle.

(b) Inconsequential differences in job content shall not be a valid excuse for payment of a lower wage to an employee of one (1) sex than to an employee of the opposite sex if the two (2) employees are performing comparable work on essentially the same jobs in the same establishment.

(c) In determining whether job differences are so substantial as to make jobs unequal, whether and to what extent significance has been given to such differences in setting the wage levels for the jobs shall be considered.

(d) In determining whether differences in job content are substantial in order to establish whether or not employees are performing comparable work, the amounts of time which employees spend in the performance of different duties shall not be the sole criteria.

(3) In order for the equal pay standard to apply, an analysis of the following shall be conducted:

(a) Comparable skill in performance.

1. Skill includes factors such as experience, training, education, and ability. It shall be measured in terms of the performance requirements of the job.

2. If employees are required to have the same skill in order to perform either of two (2) jobs, the jobs require comparable skill, even though the employee in one (1) of the jobs may not exercise the required skill as frequently or during as much of his or her working time as the employee in the other job. Possession of a skill not needed to meet requirements of the job shall not be considered in making a determination regarding comparability of skill.

3. The efficiency of the employee's performance in the job shall not be considered in evaluating skill;

(b) Comparable effort in performance.

1. Effort requires measurement of the physical or mental exertion needed for the performance of a job.

2. Jobs may require comparable effort in their performance even though the effort may be exerted in different ways on the two (2) jobs. Differences only in the kind of effort required to be expended in such a situation shall not justify wage differentials.

3. The occasional or sporadic performance of an activity which may require extra physical or mental exertion is not alone sufficient to justify a finding of unequal effort

4. A wage rate differential based on differences in the degree or amount of effort required for performance of jobs shall be applied uniformly to men and women; and

(c) Comparable responsibility.

1. Responsibility is the degree of accountability required in the performance of the job, with emphasis on the importance of the job obligation. Differences in the degree of responsibility required in the performance of otherwise comparable jobs cover a wide variety of situations.

2. If one (1) employee of a group performing jobs which are comparable in other respects is required from time to time to assume supervisory duties for reasons such as the absence of the regular supervisor, payment of a higher rate to the employee might be based on the additional responsibility required to perform the job.

Section 7. Exceptions to Equal Pay Standards. (1) KRS 337.423(1) provides two (2) exceptions to the standard requiring that employees doing comparable work be paid equal wages, regardless of sex:

(a) Differentials paid pursuant to an established seniority system; or

(b) Differentials paid pursuant to established merit increase system.

(2) If an employer relies on the excepting language to exempt a differential in pay from the operation of the equal pay provisions, the employer shall be able to demonstrate that wage rate differential is based on a factor other than sex where it appears that the payments are for jobs requiring comparable skill, effort and responsibility.

(3) A showing that a wage differential is based on a factor other than sex, so as to be exempt from the KRS 337.423, may be incomplete without a showing that there is a reasonable relationship between the amount of the differential and the weight properly attributable to the factor other than sex. To illustrate, if male employees who work forty (40) hours each week and female employees who work thirty-five (35) hours each week are performing comparable work on jobs, the performance of which requires comparable skill, effort and responsibility and they are paid weekly salaries for this work, a differential in the amounts could be justified as based on a difference in hours of work. However, if the difference in salaries paid is too great to be accounted for by the difference in hours of work, then it shall be necessary to show some other factor other than sex as the basis for the unexplained portion of the wage differential.

(4) Application of exceptions illustrated.

(a) When applied without distinction to employees of both sexes, shift differentials, incentive payments, production bonuses, performance and longevity raises and the like will not result in equal pay violations.

(b) "Red circle" rates. The term "red circle" rates describes certain unusual, higher than normal wage rates which are maintained for various reasons.

1. The use of a "red circle" rate may arise in a situation where an employer wishes to transfer a long-service employee, who can no longer perform their regular job because of ill health, to different work which is now being performed by employees of the opposite sex. Under the "red circle" principle the employer may continue to pay the employee his or her present salary, which is greater than that paid to the employees of the opposite sex, for the work both will be doing. Maintaining an employee's established wage rate despite a reassignment to a less demanding job is a valid reason for the differential even though other employees performing the less demanding work would be paid at a lower rate, since the differential is based on a factor other than sex.

2. Where wage rate differentials have been or are being paid on the basis of sex to employees performing comparable work, rates of the higher paid employees shall not be "red circled" in order to comply with the statute.

(c) Temporary reassignments.

1. An employer may require an employee, for a short period, to perform the work of a job classification other than the employee's regular classification. If the employee's rate for the regular job is higher than the rate usually paid for the work to which the employee is temporarily reassigned, the employer may continue to pay the employee the higher rate, under the "red circle" principle.

2. An employee may be required, during the period of temporary reassignment, to perform work for which employees of the opposite sex are paid a higher wage rate than that paid for the duties of the employee's regular job classification. The employer may continue to pay the reassigned employee at the lower rate, if the rate is not based on quality or quantity of production, and if the reassignment is in fact a temporary one.

3. If a piece rate is paid to employees of the opposite sex who perform the work to which the employer in question is reassigned, failure to pay that employee the same piece rate paid to the other employees would discriminate on the basis of sex.

4. Failure to pay the higher rate to the reassigned employee after it becomes known that the reassignment will not be of a temporary nature is an indication that sex rather than the temporary nature of the assignment is the real basis for the wage differential. Failure to pay the higher rate for a period longer than one (1) month will raise questions as to whether the reassignment was in fact intended to be a temporary one.

(d) Training programs. Employees employed under a bona fide training program may, in the furtherance of their training, be assigned from time to time to various types of work in the establishment. The employee in training status may be performing comparable work with nontrainees of the opposite sex whose wage rates may be unequal to those of the trainee. Provided the rate paid to the employee in training status is paid, regardless of sex, under the training program, the differential can be shown to be attributable to a factor other than sex and no violation of the equal pay standard will result.

(e) Temporary and part-time employees.

1. The payment of different wage rates to permanent employees than to temporary employees such as may be hired during the holiday season would not be a violation of the equal pay provisions even though comparable work is performed by both groups of workers.

2. The payment of a different wage to employees who work only a few hours a day than to employees of the opposite sex who work a full day will not necessarily involve noncompliance with the equal pay provisions, even though both groups of workers are performing comparable work in the same establishment.

KIMBERLEE C. PERRY, Commissioner
JAMIE LINK, Secretary

APPROVED BY AGENCY: January 3, 2022

FILED WITH LRC: January 10, 2022

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 28, 2022 at 1:00pm (ET). This hearing will be conducted by live videoconference (ZOOM) pursuant to Senate Bill 150, Section 1, subparagraph 8(b) (R.S. 2020) and the continuing state of emergency due to the novel coronavirus pandemic. Public access to the meeting will be available at https://us06web.zoom.us/j/88108844438, or by telephone at (713) 353-0212 or 888-822-7517 (toll free), conference code 786462. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. 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 attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through March 31, 2022. Send notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Duane Hammons, Labor Cabinet, Mayo-Underwood Building, 500 Mero Street, 3rd Floor, Frankfort, Kentucky 40601, phone (502) 564-1507, fax (502) 564-5484, email Kenneth.hammons@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Duane Hammons

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides official interpretations of the Department of Workplace Standards for the meaning and application of the equal pay provisions in KRS 337.420 to 337.433. This regulation replaces 803 KAR 1:025.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to clarify the Department's interpretation of the meaning and application of equal pay provisions in KRS 337.420 to 337.433 to ensure employers are compliant with statutes.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 337.425 authorizes the commissioner to promulgate administrative regulations to carry out the purpose of KRS 337.420 to 337.433.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides guidance on how the department interprets the meaning and application of equal pay provisions set forth in KRS 337.420 to 337. 433 which helps ensure compliance with statutes.

(2) If this is an amendment to an existing regulation, provide a

brief summary of:

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all subject employers who employ employees in the Commonwealth subject to KRS Chapter 337, as well as their 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: No additional compliance duties are required as this administrative regulation is replacing 803 KAR 1:025.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no additional cost associated with this administrative regulation as it is replacing 803 KAR 1:025.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Improved employee protection and guidance of the equal pay provisions so employers can ensure compliance with applicable statutes.

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

(a) Initially: This administrative regulation is not anticipated to generate any new or additional costs as it is replacing 803 KAR 1:025.

(b) On a continuing basis: This administrative regulation is not anticipated to generate any new or additional costs as it is replacing 803 KAR 1:025.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state 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: This administrative regulation is not anticipated to generate any increase in fees or funding as it is replacing 803 KAR 1:025.

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

(9) TIERING: Is tiering applied? Tiering is not applied. All subject employers and employees covered by KRS Chapter 337 are treated equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Most state and local governmental entities are subject to KRS Chapter 337.

(2) Identify each state or federal statute or regulation that requires or authorizes the action taken by the administrative regulation. KRS 337.425.

(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 the 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 the 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? There is no cost to this administrative regulation as it is replacing 803 KAR 1:025.

(d) How much will it cost to administer this program for subsequent years? There is no cost to this administrative regulation as it is replacing 803 KAR 1:025.

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

Revenues (+/-): Unknown

Expenditures (+/-): Unknown

Other Explanation: This administrative regulation does not impose any additional requirements or expenditures as it is replacing 803 KAR 1:025.

**LABOR CABINET**
**Department of Workplace Standards**
**(New Administrative Regulation)**

**803 KAR 1:061. Overtime pay requirements**

RELATES TO: KRS 337.285

STATUTORY AUTHORITY: KRS 337.295

NECESSITY, FUNCTION, AND CONFORMITY: KRS 337.285 requires overtime pay standards. KRS 337.295 authorizes the commissioner to promulgate administrative regulations. This administrative regulation establishes the official interpretations of the Department of Workplace Standards, Kentucky Labor Cabinet, with respect to the meaning and application of the overtime pay requirements established in KRS 337.285.

Section 1. Definitions. (1) “Profit sharing plan” means any person or arrangement that provides for the distribution by the employer to the employees of their respective shares of profits.

(2) “Profit sharing trust” means any program or arrangement that provides for the irrevocable deposit by the employer of the employee’s distributive shares of profits with a trustee for deferred distribution to the employees of their respective shares.

Section 2. Application of Overtime Provisions Generally. (1) Because there is not an absolute limitation in KRS 337.285 on the number of hours that an employee may work in any workweek, the employee may work as many hours a week as the employee and employer determined, if the required overtime compensation is paid to the employee for hours worked in excess of forty (40) hours as established in KRS 337.285.

(2) In accordance with KRS 337.285, an employer shall not be required to pay an employee overtime compensation for hours in excess of eight (8) per day or for work on Saturdays, Sundays, holidays, or regular days of rest.

(3) If more than forty (40) hours are not actually worked in the workweek, overtime compensation pursuant to KRS 337.285 need not be paid.

(4) KRS 337.285 shall not relieve an employer of an obligation the employer may have assumed by agreement or of any obligation imposed by other state or federal laws to limit overtime hours of work or to pay premium rates for work in excess of a daily standard or for work on Saturdays, Sundays, holidays, or other periods outside of or in excess of the normal or regular workweek or work day.

Section 3. The Workweek as the Basis for Applying KRS 337.285. If in any workweek KRS 337.285 applies and an employee or employer is not exempt from overtime pay requirements, the employer shall total all the hours worked by the employee in that workweek and pay overtime compensation for each hour worked in excess of forty (40) hours.

Section 4. Each Workweek Stands Alone. (1) In accordance with KRS 337.285, in a single workweek an employer shall not average hours over two (2) or more weeks. If an employee works thirty (30) hours one (1) week and fifty (50) hours the next, the

employee shall receive overtime compensation for the overtime hours worked beyond the applicable maximum in the second week, even if the average number of hours worked in the two (2) weeks is forty (40).

(2) This section shall apply regardless of whether the employee works on a standard or swing-shift schedule and regardless of whether the employee is paid on a daily, weekly, biweekly, monthly, or other basis.

(3) This section shall apply to pieceworkers and employees paid on a commission basis. For pieceworkers and commission workers, the hours worked and the compensation earned shall be determined on a workweek basis.

Section 5. Determining the Workweek. (1) An employee's workweek shall be based on a fixed and regularly recurring period of 168 hours, seven (7) consecutive twenty-four (24) hour periods, which need not coincide with the calendar week but may begin on any day and at any hour of the day.

(2) For purposes of computing pay in accordance with KRS 337.285, a single workweek may be established for a plant or other establishment as a whole or different workweeks may be established for different employees or groups of employees.

(3) Once the beginning time of an employee's workweek basis is established, it shall remain fixed regardless of the schedule of hours worked. The beginning of the workweek may be changed if the change is intended to be static and not designed to evade overtime requirements. The proper method of computing overtime pay in a period in which a change in the time of commencement of the workweek is made shall be accomplished as established in Section 13 of this administrative regulation.

Section 6. General Standard for Overtime Pay. The general overtime pay standard in KRS 337.285 requires that overtime shall be compensated at a rate not less than one and one-half (1 1/2) times the hourly rate at which the employee is employed but shall not be less than the statutory minimum. If the employee's hourly rate of pay is higher than the statutory minimum, the overtime compensation shall be computed at a rate not less than one and one-half (1 1/2) time the higher rate.

Section 7. Overtime compensation shall be at an hourly rate in accordance with KRS 337.285, which is based on the rate per hour.

(1) An employer shall not be required to compensate employees on an hourly rate basis. Employee earnings may be determined on a piece-rate, salary, commission, or other basis, but the overtime compensation due to employees shall be computed on the basis of the hourly rate calculated based on earnings computed at the hourly rate of employees during each workweek.

(2) The hourly rate of pay of an employee shall be determined by dividing the total remuneration for employment in any workweek by the total number of hours worked by the employee in that workweek for which the compensation was paid.

Section 8. (1) Hour rate employee. Overtime pay criteria for hourly rate employees is as established in 29 C.F.R. 778.110.

(2) Pieceworker. If an employee is employed on a piece-rate basis, the hourly rate of pay shall be computed by adding together total earnings for the workweek from piece rate and all other sources and dividing that sum by the number of hours worked in the week for which compensation was paid. For the overtime work the pieceworker is entitled to be paid, in addition to the total weekly earnings at this hourly rate for all hours worked, a sum equivalent to one-half (1/2) this rate of pay multiplied by the number of hours worked in excess of forty (40) in the week.

(3) Day rates and job rates. The overtime pay criteria for day rates and job rates are as established in 29 C.F.R. 778.112.

(4) Salaried employee. The overtime pay criteria for salaried employees is as established in 29 C.F.R. 778.113 and 778.114.

(5) Employees working two (2) or more rates. If an employee in a single workweek works at two (2) or more different types of work for which different nonovertime rates of pay have been established, the hourly rate for that week shall be the weighted average of the rates. The total earnings shall be computed to include compensation during the workweek from all the rates and shall then be divided by the total number of hours worked at all jobs.

(6) Payments other than cash. The overtime pay criteria for payments other than cash are as established in 29 C.F.R. 778.116.

(7) Commission payments. The overtime pay criteria for commission payments is as established in 29 C.F.R. 778.117 through 778.121.

(8) Other methods of determining the regular hourly rate shall be allowed if they provide for each employee employed by an employer to be paid a rate of not less than one and one-half (1 1/2) times the hourly rate at which the employee is employed and the method is not being used as an attempt to evade the provisions of KRS 337.285.

Section 9. Payments excluded from computing hourly rate. As used in KRS 337.285, the "hourly rate at which he is employed" shall be deemed to include all remuneration for employment paid to, or on behalf of, the employee, but shall not be deemed to include:

(1) Sums paid as gifts; payments in the nature of gifts made at holiday times or on other special occasions as a reward for service, the amounts of which are not measured by or dependent on hours worked, production, or efficiency. The sums shall not be credited toward overtime compensation due. To qualify for this exclusion, the bonus shall be actually a gift or in the nature of a gift. If it is measured by hours worked, production, or efficiency, the payment shall be considered geared towards wages and hours during the bonus period and shall not be considered in the nature of a gift. If the payment is so substantial that it can be assumed that employees consider it a part of the wages for which they work, the bonus shall not be considered to be in the nature of a gift. If the bonus is paid pursuant to contract, it shall not be in the nature of a gift;

(2) Payments made for an occasional period during which time worked is not being performed due to vacation, holiday, illness, failure of the employer to provide sufficient work or other similar cause, reasonable payments for traveling expenses or other expenses incurred by an employee in the furtherance of the employer's interests and properly reimbursable by the employer, and other similar payments to an employee that are not made as compensation for the employee's hours worked in any workweek, no part of the payments shall be credited toward overtime compensation due pursuant to KRS 337.285;

(3) Sums paid in recognition of services performed during a given period if:

(a) Both the fact that payment is to be made and the amount of the payment shall be determined at the sole discretion of the employer at or near the end of the period and not pursuant to any prior contract, agreement, or promise causing the employee to expect the payments regularly; or

(b) The payments are made pursuant to a bona fide profit-sharing plan or trust or bonda fide thrift or savings plan. The sums shall not, however, be credited toward overtime compensation due pursuant to KRS 337.285. In order for a bonus to qualify for exclusion as a discretionary bonus the employer shall retain discretion both as to the fact of payment and as to the amount until a time quite close to the end of the period for which the bonus is paid. The sum to be paid as a bonus shall be determined by the employer without prior promise or agreement. The employee shall not have a contract right, express or implied, to any amount. If the employer promises in advance to pay a bonus the employer shall have abandoned discretion with regard to it;

(4) Contributions irrevocably made by an employer to a trustee or third person pursuant to a bona fide plan for avoiding old-age, retirement, life, accident, or health insurance or similar benefits for employees. The sums shall not be credited toward overtime compensation pursuant to KRS 337.285;

(5) Extra compensation provided by a premium rate paid for certain hours worked by the employee in any day or workweek because the hours are hours worked in excess of eight (8) in a day or in excess of the maximum workweek applicable to the employee's normal working hours. Extra compensation paid for these hours shall be creditable toward overtime compensation pursuant to KRS 337.285;

(6) Extra compensation provided by a premium rate paid for work by the employee on Saturdays, Sundays, holidays, regular days of rest, or in the sixth or seventh day of the workweek, in which the premium rate is not less than one and one-half (1 1/2) times the rate established in good faith for like work performed in nonovertime hours on other days. Extra compensation paid for these shall be creditable toward overtime compensation pursuant to KRS 337.285; or

(7) Extra compensation provided by a premium rate period to the employee, in pursuance of an applicable employment contract or collective bargaining agreement, for work outside of the hours established in good faith by the contract or agreement as the basic, normal, or regular workday, in which the premium rate is not less than one and one-half (1 1/2) times the rate established in good faith by the contract or agreement for similar work performed during the workday or workweek. Extra compensation paid for these hours shall be creditable toward overtime compensation pursuant to KRS 337.285.

Section 10. Requirements of a "bona fide profit-sharing plan or trust." (1) a bona fide profit-sharing plan or trust shall comply with paragraphs (a) through (f) of this subsection.

(a) The profit-sharing plan or trust shall constitute a definite program or arrangement in writing, communicated or made available to the employees, which shall be established and maintained in good faith for the purpose of distributing to the employees a share of profits as additional remuneration over and above the wages or salaries paid to employees, which wages or salaries shall not be dependent upon or influenced by the existence of the profit-sharing plan or trust or the amount of the payments made pursuant thereto.

(b) All contributions or allocations by the employer in the fund to be distributed to the employees shall be:

1. Derived solely from profits of the employer's business as a whole, or an established branch or division of the business which is recognized for general business purposes and for which profits shall be separately and regularly calculated in accordance with accepted accounting practice; and

2. Made periodically, but not more frequently than is customary or consonant with accepted accounting practice to make periodic determinations of profit.

(c) Eligibility to share in profits shall extend to at least all employees who are subject to the minimum wage and overtime provisions of KRS 337.285, or to all employees in an established part of the employer's business as established in paragraph (b) of this subsection if eligibility can be determined factors such as length of service or minimum schedule of hours or days of work, which are established in the plan or trust and that eligibility need not extend to officers of the employer.

(d) The amounts paid to individual employees shall be determined in accordance with a definite formula or method of calculation established in the plan or trust. The formula or method of calculation shall be based on factors such as straight-time earnings, total earnings, base rate of pay of the employee, straight-time hours or total hours worked by employers, length of service, or distribution on a per capita basis.

(e) An employee's total share determined in accordance with paragraph (d) of this subsection shall not be diminished because of any other remuneration received by the employee.

(f) Provision shall be made either for payment to the individual employees of their respective shares of profits after the determination of the amount of profits to be distributed, or for the irrevocable deposit by the employer of the employee's distributive shares of profits with a trustee for deferred distribution to the employees of their respective shares after a stated period of time or upon the occurrence of appropriate contingencies established in the plan or trust. The right of an employee to receive his or her share shall not be dependent upon continuing in the employ of the employer after the period for which the determination of profits has been made.

(2) A plan or trust that contains any of the following provisions shall not be deemed to meet the requirements of a bona fide profit-sharing or trust:

(a) The share of any individual employee is determined in substance on the basis of attendance, quality or quantity of work, rate of production, or efficiency.

(b) The amount to be paid periodically by the employer into the fund or trust to be distributed to the employees is a fixed sum;

(c) Periodic payments of minimum amounts to the employees are guaranteed by the employer; or

(d) Any individual employee's share, by the terms of the plan or trust to be distributed to the employees are based on factors other than profits, such as hours of work, production, efficiency, sales, or savings in cost.

Section 11. Requirements of a "Bona Fide Thrift or Savings Plan." (1) A bona fide thrift or savings plan shall meet all of the standards established in paragraphs (a) through (e) of this subsection.

(a) The thrift or savings plan shall constitute a definite program or arrangement if it is in writing, adopted by the employer or by contract as a result of collective bargaining and communicated, or made available to the employees, and established and maintained, in good faith, for the purpose of encouraging voluntary thrift or savings by employees by providing an incentive to employees to accumulate regularly and retain cash savings through the regular purchase of public or private securities.

(b) The plan shall establish the category or categories of employees participating and the basis of their eligibility. Eligibility shall not be based on factors such as work, production, or efficiency of the employees. Hours of work may be used to determine eligibility of part-time or casual employees.

(c) The amount any employee could save under the plan shall be stated in the plan or determined in accordance with a definite formula established in the plan. The formula shall be based on actors such as the straight-time earnings or total earnings, case rate of pay, or length of service of the employee.

(d) The employer's total contribution in any year shall not exceed fifteen (15) percent of the participating employees' total earnings during the year. In addition, the employer's total contribution in any year shall not exceed the total amount saved or invested by the participating employees during that year.

(e) The employer's contributions shall be apportioned among the individual employees in accordance with a definite formula or method of calculation established in the plan. The formula or method of calculation shall be based on the amount saved or length of time the individual employee retains savings or investment in the plan if the employee's share is not determined because of any other remuneration received by the employee.

(2) An employee's participation shall be on a voluntary basis.

(3) An employee's wages or salary shall not be dependent upon or influenced by the existence of the thrift or savings plan or the employer's contributions to the plan.

(4) The amounts any employee may save under the plan, or the amounts paid by the employer under the plan shall not be based upon the employee's hours of work, production, or efficiency.

Section 12. Conditions for Exclusion of Benefit-plan Contributions under Section 9(4) of this Administrative Regulation. The criteria for the exclusion of benefit-plan contributions under Section 8(4) of this administrative regulation are as established in 29 C.F.R. 778.215.

Section 13. Overlapping When Change of Workweek is Made. (1) As established in Section 5 of this administrative regulation, the beginning of the workweek may be changed for an employee or for a group of employees if the change is intended to be permanent and is not designed to evade the overtime requirements of KRS 337.285. A change in the workweek necessarily results in a situation in which one (1) or more hours or days fall in both the old workweek as previously constituted and the new workweek. If the workweek in a plant commenced at 7 a.m. on Monday and it is now proposed to being the workweek at 7 a.m. on Sunday, the hours worked from 7 a.m. Sunday to 7 a.m. Monday shall constitute both the last hours of the old workweek and the first hours of the newly established workweek.

(2) The criteria for the computation of overtime due for

overlapping workweeks is as established in 29 C.F.R. 778.301 and 778.302(a) and (b).

KIMBERLEE C. PERRY, Commissioner
JAMIE LINK, Secretary
APPROVED BY AGENCY: January 3, 2022
FILED WITH LRC: January 10, 2022
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 28, 2022 at 1:00pm (ET). This hearing will be conducted by live videoconference (ZOOM) pursuant to Senate Bill 150, Section 1, subparagraph 8(b) (R.S. 2020) and the continuing state of emergency due to the novel coronavirus pandemic. Public access to the meeting will be available at https://us06web.zoom.us/j/88108844438, or by telephone at (713) 353-0212 or 888-822-7517 (toll free), conference code 786462. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. 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 attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through March 31, 2022. Send notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.
CONTACT PERSON: Duane Hammons, Labor Cabinet, Mayo-Underwood Building, 500 Mero Street, 3rd Floor, Frankfort, Kentucky 40601, phone (502) 564-1507, fax (502) 564-5484, email Kenneth.hammons@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Duane Hammons
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation provides guidance on the meaning and application of overtime pay requirements in KRS 337.285
(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide interpretation of the meaning of overtime pay requirements in KRS 337.285 to ensure employers are compliant with the statute.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 337.295 authorizes the commissioner to promulgate administrative regulations under KRS 337.275 to 337.325, 337.345, and 337.385 to 337.405.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides guidance on how the Department will interpret the overtime pay requirements in KRS 337.285 to ensure employers are compliant with the statute.
(2) If this is an amendment to an existing regulation, provide a brief summary of:
(a) How this amendment will change this existing administrative regulation:
(b) The necessity of the amendment to this administrative regulation:
(c) How the amendment conforms to the content of the authorizing statutes:
(d) How the amendment will assist in the effective administration of the statutes:
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all subject employers who employ employees in the Commonwealth subject to KRS Chapter 337, as well as, their 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: No additional compliance duties are required by this administrative regulation as it is replacing 803 KAR 1:060.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no additional cost associated with this administrative regulation as it is replacing 803 KAR 1:060.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Improved employee protection and guidance for overtime pay requirements.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: This administrative regulation is not anticipated to generate any new or additional costs as it is replacing 803 KAR 1:060.
(b) On a continuing basis: This administrative regulation is not anticipated to generate any new or additional costs as it is replacing 803 KAR 1:060.
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state 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: This administrative regulation not anticipated to generate any increase in fees or funding as it is replacing 803 KAR 1:060.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees associated with this administrative regulation.
(9) TIERING: Is tiering applied? Tiering is not applied. All employers and employees covered by KRS Chapter 337 are treated equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Most state and local governmental entities are subject to KRS Chapter 337.
(2) Identify each state or federal statute or regulation that requires or authorizes the action taken by the administrative regulation. KRS 337.295.
(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 the 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 the 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? There is no cost to this administrative regulation as it is replacing 803 KAR 1:060.
(d) How much will it cost to administer this program for subsequent years? There is no cost to this administrative regulation as it is replacing 803 KAR 1:060.
Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.
Revenues (+/-): Unknown
Expenditures (+/-): Unknown
Other Explanation: This administrative regulation does not impose any additional requirements or expenditures as it is replacing 803 KAR 1:061.

**LABOR CABINET**
**Department of Workplace Standards**
**(New Administrative Regulation)**

**803 KAR 1:064. Trading time.**

RELATES TO: KRS 337.275, 337.285, 45 U.S.C. 181
STATUTORY AUTHORITY: KRS 337.295
NECESSITY, FUNCTION, AND CONFORMITY: KRS 337.295 authorizes the commissioner to issue administrative regulations for special items usual in a particular employer-employee relationship. The function of this administrative regulation is to define the criteria to be met by public employers who wish to permit employees engaged in fire protection activities and any employee of a carrier by air subject to the provisions of 45 U.S.C. 181 to use the practice of "trading time."

Section 1. Definition. “Trading time” means the practice of employees engaged in fire protection activities and employees of carrier by air subject to 45 U.S.C. 181 substituting for one another on regularly scheduled tours of duty, or for some part thereof, in order to permit an employee to be absent from work for personal matters.

Section 2. The practice of "trading time" shall be deemed to have no effect on hours of work if the following criteria are met:
(1) The trading of time is done voluntarily by the employees participating in the program and not at the request of the employer;
(2) The reason for trading time is due to the employee's desire or need to attend to personal matters and not to the employer’s business operations; and
(3) A record is maintained by the employer of all time traded by employees.

KIMBERLEE C. PERRY, Commissioner
JAMIE LINK, Secretary
APPROVED BY AGENCY: January 3, 2022
FILED WITH LRC: January 10, 2022
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 28, 2022 at 1:00pm (ET). This hearing will be conducted by live videoconference (ZOOM) pursuant to Senate Bill 150, Section 1, subparagraph 8(b) (R.S. 2020) and the continuing state of emergency due to the novel coronavirus pandemic. Public access to the meeting will be available at https://us06web.zoom.us/j/88108844438, or by telephone at (713) 353-0212 or 888-822-7517 (toll free), conference code 786462. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. 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 attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through March 31, 2022. Send notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.
CONTACT PERSON: Duane Hammons, Labor Cabinet, Mayo-Underwood Building, 500 Mero Street, 3rd Floor, Frankfort, Kentucky 40601, phone (502) 564-1507, fax (502) 564-5484, email Kenneth.hammons@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Duane Hammons
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation defines criteria that must be met by public employers who allow employees engaged in fire protection activities and any employee of a carrier by air subject to provisions of 45 U.S.C. 181 (title II of the Railway Labor Act) to participate in the practice of trading time.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to define language to determine how to calculate time properly for public employers who allow employees engaged in fire protection activities and any employee of a carrier by air subject to provisions of 45 U.S.C. 181 (title II of the Railway Labor Act) to participate in the practice of trading time.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 337.295 authorizes the commissioner to promulgate administrative regulations under KRS 337.275 to 337.325, 337.345, and 337.385 to 337.405.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides the guidance for how to properly calculate time for subject employers and employees participating in the practice of trading time.
(2) If this is an amendment to an existing regulation, provide a brief summary of:
(a) How this amendment will change this existing administrative regulation:
(b) The necessity of the amendment to this administrative regulation:
(c) How the amendment conforms to the content of the authorizing statutes:
(d) How the amendment will assist in the effective administration of the statutes:
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all subject employers who employ employees in the Commonwealth subject to KRS Chapter 337, as well as their 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: No additional compliance duties are required by this administrative regulation as it is replacing 803 KAR 1:063.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no additional cost associated with this amendment as it is replacing 803 KAR 1:063.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Improved employee protection and guidance to ensure the correct calculation of time for subject employers and employees.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: This administrative regulation is not anticipated to generate any new or additional costs as it is replacing 803 KAR 1:063.
(b) On a continuing basis: This administrative regulation is not anticipated to generate any new or additional costs as it is replacing 803 KAR 1:063.
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state 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: This administrative regulation is not anticipated to generate any increase in fees or funding as it is replacing 803 KAR 1:063.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees associated with this administrative regulation.
(9) TIERING: Is tiering applied? Tiering is not applied. All public employers who allow employees engaged in fire protection activities and any employee of a carrier by air subject to provisions of 45 U.S.C. 181(title II of the Railway Labor Act) are treated equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Most state and local governmental entities are subject to KRS Chapter 337.

(2) Identify each state or federal statute or regulation that requires or authorizes the action taken by the administrative regulation. KRS 337.295, KRS 337.285, KRS 337.295.

(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 the 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 the 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? There is no cost to this administrative regulation as it is replacing 803 KAR 1:063.

(d) How much will it cost to administer this program for subsequent years? There is no cost to this administrative regulation as it is replacing 803 KAR 1:063.

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

Revenues (+/-): Unknown

Expenditures (+/-): Unknown

Other Explanation: This administrative regulation does not impose any additional requirements or expenditures as it is replacing 803 KAR 1:063.

**LABOR CABINET**
**Department of Workplace Standards**
**(New Administrative Regulation)**

**803 KAR 1:067. Hours worked.**

RELATES TO: KRS 337.275, 337.285

STATUTORY AUTHORITY: KRS 337.295

NECESSITY, FUNCTION, AND CONFORMITY: KRS 337.295 authorizes the commissioner to issue administrative regulations to carry out the provisions of KRS 337.275-337.325, 337.345 and 337.385-337.405. The function of this administrative regulation is to define the principals involved in determining what constitutes working time pursuant to KRS 337.275 and 337.285.

Section 1. Definition. “Employee” is defined by KRS 337.010(1)(e) and (2)(a).

Section 2. Employees suffered or permitted to work. The criteria for “suffered or permitted to work” applicable to KRS 337.275 and 337.285 are as established in 29 C.F.R. 785.11 through 785.13.

Section 3. Waiting Time. The criteria for “waiting time” applicable to KRS 337.275 and 337.285 shall be as established in 29 C.F.R. 785.14 through 785.17.

Section 4. Rest and meal periods. The criteria for rest and meal periods applicable to KRS 337.275 and 337.285 are as established in 29 C.F.R. 785.18 and 785.19.

Section 5. Sleeping time and certain other activities. The requirements for sleeping time and certain other activities applicable to KRS 337.275 and 337.285 are as established in 29 C.F.R. 785.20, 785.21, and 785.23.

Section 6. Lectures, Meetings and Training Programs. The requirements for lectures, meetings, and training programs applicable to KRS 337.275 and 337.285 are as established in 29 C.F.R. 785.27 through 785.32.

Section 7. Travel time. The requirements for travel time applicable to KRS 337.275 and 337.285 are as established in 29 C.F.R. 785.33, 785.35, 785.38, and 785.39.

Section 8. Recording work time. (1) In accordance with KRS 337.320, there is no particular method of keeping a time record worked by an employee. Recordkeeping requirements are set out in 803 KAR 1:068.

(2) Criteria for the use of time clocks applicable to KRS 337.275 and 337.285 are as established in 29 C.F.R. 785.48.

KIMBERLEE C. PERRY, Commissioner
JAMIE LINK, Secretary

APPROVED BY AGENCY: January 3, 2022

FILED WITH LRC: January 10, 2022

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 28, 2022 at 1:00pm (ET). This hearing will be conducted by live videoconference (ZOOM) pursuant to Senate Bill 150, Section 1, subparagraph 8(b) (R.S. 2020) and the continuing state of emergency due to the novel coronavirus pandemic. Public access to the meeting will be available at https://us06web.zoom.us/j/88108844438, or by telephone at (713) 353-0212 or 888-822-7517 (toll free), conference code 786462. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. 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 attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through March 31, 2022. Send notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Duane Hammons, Labor Cabinet, Mayo-Underwood Building, 500 Mero Street, 3rd Floor, Frankfort, Kentucky 40601, phone (502) 564-1507, fax (502) 564-5484, email Kenneth.hammons@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Duane Hammons

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides guidance for determining what constitutes working time pursuant to KRS 337.275 and 337.285.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to clarify the meaning of working time pursuant to KRS 338.275 and 337.285 in order to help determine hours worked.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 337.295 authorizes the commissioner to promulgate administrative regulations under KRS 337.275 to 337.325, 337.345, and 337.385 to 337.405.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides guidance that will help determine working time requirements pursuant to KRS 337.275 and 337.285.

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

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this

administrative regulation: This administrative regulation affects all subject employers who employ employees in the Commonwealth subject to KRS Chapter 337, as well as their 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: No additional compliance duties are required by this administrative regulation as it is replacing 803 KAR 1:065.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no additional cost associated with this administrative regulation as it is replacing 803 KAR 1:065.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Improved employee protection and guidance for employers for what constitutes working time.

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

(a) Initially: This administrative regulation is not anticipated to generate any new or additional costs as it is replacing 803 KAR 1:065.

(b) On a continuing basis: This administrative regulation is not anticipated to generate any new or additional costs as it is replacing 803 KAR 1:065.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state 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: This administrative regulation is not anticipated to generate any increase in fees or funding as it is replacing 803 KAR 1:065.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees associated with this administrative regulation as it is replacing 803 KAR 1:065.

(9) TIERING: Is tiering applied? Tiering is not applied. All subject employers and employees covered by KRS Chapter 337 are treated equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Most state and local governmental entities are subject to KRS Chapter 337.

(2) Identify each state or federal statute or regulation that requires or authorizes the action taken by the administrative regulation. KRS 337.295.

(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 the 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 the 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? There is no cost to this administrative regulation as it is replacing 803 KAR 1:065.

(d) How much will it cost to administer this program for subsequent years? There is no cost to this administrative regulation as it is replacing 803 KAR 1:065.

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

Revenues (+/-): Unknown

Expenditures (+/-): Unknown

Other Explanation: This administrative regulation does not impose any additional requirements or expenditures as it is replacing 803 KAR 1:065.

**LABOR CABINET**
**Department of Workplace Standards**
**(New Administrative Regulation)**

**803 KAR 1:068. Recordkeeping requirements.**

RELATES TO: KRS 337.275, 337.285

STATUTORY AUTHORITY: KRS 337.295

NECESSITY, FUNCTION, AND CONFORMITY: KRS 337.320 requires employers to keep records of hours of work and wages paid to employees subject to the provisions of KRS Chapter 337 for one year after entry and provides that the commissioner determine what information is required. The function of this administrative regulation is to set forth the recordkeeping requirements for employers subject to KRS Chapter 337.

Section 1. Definition. “Workday” means any consecutive twenty-four (24) hours.

Section 2. Each employer shall keep the records required by this administrative regulation safe and accessible at the place or places of employment, or at one or more established central recordkeeping offices where the records are customarily maintained. Where the records are maintained at a central recordkeeping office, other than in the place or places of employment, the records shall be made available within seventy-two (72) hours following notice from the commissioner or the commissioner’s authorized representative.

Section 3. Every employer shall maintain and preserve payroll or other records containing the following information and data for employees subject to KRS Chapter 337:

(1) Name in full, and on the same record, the employee's identifying symbol or number if used in place of name on any time, work, or payroll records;

(2) Social Security number;

(3) Home address, including zip code;

(4) Date of birth, if under eighteen (18);

(5) Sex and occupation in which employed;

(6) Time of day and day of week on which the employee's workweek begins.

(a) If the employee is part of a work force or employed in or by an employer all of whose workers have a workweek beginning at the same time on the same day, a single notation of the time of the day and beginning day of the workweek for the whole work force shall suffice.

(b) If, however, any employee or group of employees has a workweek beginning and ending at a different time, a separate notation shall be kept for that employee or group of employees;

(7) Hours worked each workday and each workweek;

(8) Regular rate of pay and total straight-time earnings or wages for all hours worked during the workweek;

(9) Total overtime compensation for the workweek;

(10) Total additions to or deductions from wages paid each pay period. Every employer making additions to or deductions from wages shall also maintain, in individual employee accounts, a record of the dates, amounts, and nature of the items which make up the total addition and deductions; and

(11) Total wages paid each pay period and date of payment.

Section 4. Employers who make retroactive payment of wages or compensation due under KRS 337.275 and 337.285 shall:

(1) Prepare a report of each payment showing the amount of payment to each employee, the period covered by the payment, and the date of payment;

(2) File the original report, which shall evidence payment by the employer and receipt by the employee, with the commissioner or the commissioner’s authorized representative within ten (10)

days after payment is made;

(3) Deliver a copy of the report to the employee; and

(4) Preserve a copy of the report as part of the employee's records.

KIMBERLEE C. PERRY, Commissioner
JAMIE LINK, Secretary

APPROVED BY AGENCY: January 3, 2022

FILED WITH LRC: January 10, 2022

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 28, 2022 at 1:00pm (ET). This hearing will be conducted by live videoconference (ZOOM) pursuant to Senate Bill 150, Section 1, subparagraph 8(b) (R.S. 2020) and the continuing state of emergency due to the novel coronavirus pandemic. Public access to the meeting will be available at https://us06web.zoom.us/j/88108844438, or by telephone at (713) 353-0212 or 888-822-7517 (toll free), conference code 786462. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. 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 attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through March 31, 2022. Send notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Duane Hammons, Labor Cabinet, Mayo-Underwood Building, 500 Mero Street, 3rd Floor, Frankfort, Kentucky 40601, phone (502) 564-1507, fax (502) 564-5484, email Kenneth.hammons@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Duane Hammons

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets forth the recordkeeping requirements for employers subject to KRS 337.320 in order to provide evidence that records are maintained.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish recordkeeping requirements for employers subject to KRS 337.320 in order for employers keep proper records which helps ensure proper pay to employees.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 337.295 authorizes the commissioner to promulgate administrative regulations under KRS 337.275 to 337.325, 337.345, and 337.385 to 337.405.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation clarifies what the requirements are for recordkeeping pursuant to KRS 337.320.

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

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all subject employers who employ employees in the Commonwealth subject to KRS Chapter 337, as well as their 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: No additional compliance duties are required by this administrative regulation as it is replacing 803 KAR 1:066.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no additional cost associated with this administrative regulation as it is replacing 803 KAR 1:066.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Improved employee protection and guidance for employers on requirements for compliance of KRS 337.320.

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

(a) Initially: This administrative regulation is not anticipated to generate any new or additional costs as it is replacing 803 KAR 1:066.

(b) On a continuing basis: This administrative regulation is not anticipated to generate any new or additional costs as it is replacing 803 KAR 1:066.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state 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: This administrative regulation is not anticipated to generate any increase in fees or funding as it is replacing 803 KAR 1:066.

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

(9) TIERING: Is tiering applied? Tiering is not applied. All employers and employees covered by KRS Chapter 337 are treated equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Most state and local governmental entities are subject to KRS Chapter 337.

(2) Identify each state or federal statute or regulation that requires or authorizes the action taken by the administrative regulation. KRS 337.295.

(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 the 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 the 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? There is no cost to this administrative regulation as it is replacing 803 KAR 1:066.

(d) How much will it cost to administer this program for subsequent years? There is no cost as this administrative regulation is replacing 803 KAR 1:066.

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

Revenues (+/-): Unknown

Expenditures (+/-): Unknown

Other Explanation: This administrative regulation does not impose any additional requirements or expenditures as it is replacing 803 KAR 1:066.

**LABOR CABINET**
**Department of Workplace Standards**
**(New Administrative Regulation)**

**803 KAR 1:071. Executive, administrative, supervisory or professional employees; salesmen.**

RELATES TO: KRS 337.275, 337.285
STATUTORY AUTHORITY: KRS 337.010(2)(a)2, 337.295
NECESSITY, FUNCTION, AND CONFORMITY: KRS 337.010(2)(a)2 exempts any individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of outside salesman, or as an outside collector as the terms are defined by administrative regulations of the commissioner from both the minimum wage and overtime requirements set forth in KRS 337.275 and 337.285. This administrative regulation defines what constitutes an individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of an outside salesman or outside collector.

Section 1. Scope. (1) The exemptions set forth in KRS 337.010(2)(a) shall not apply to workers as established in 29 C.F.R. 541.3(a).
(2)(a) The exemptions set forth in KRS 337.010(2)(a) shall not apply to workers as established in 29 C.F.R. 541.3(b)(1).
(b) The exempted employees identified in subsection 2(a) of this section do not qualify as exempt employees for reasons established in 29 C.F.R. 541.3(b)(2) through 541.3(b)(4).

Section 2. Executive Employees. (1) The term "individual employed in a bona fide executive capacity" in KRS 337.010(2)(a)2 includes employees:
(a) Compensated on a salary basis at a rate of not less than $684 per week, exclusive of board, lodging, or other facilities; and
(b) Who meet the criteria as established in 29 C.F.R. 541.100(a)(2) through 541.100(a)(4) and 541.101.
(2) "Management" shall include activities as established in 29 C.F.R. 541.102.
(3) The phrase "a customarily-recognized department or subdivision" is as established in 29 C.F.R. 541.103.
(4) To qualify as an exempt executive under KRS 337.010(2)(a)2, the criteria shall be as established in 29 C.F.R. 541.104.
(5) To determine whether an employee's suggestions and recommendations are given "particular weight" the factors shall be as established in 29 C.F.R. 541.105.
(6) The criteria for concurrent performance of exempt and nonexempt work shall be as established 20 C.F.R. 541.106.

Section 3. Administrative Employees. (1) The term "individual employed in a bona fide administrative capacity" in KRS 337.010(2)(a)2 shall include employees:
(a) Compensated on a salary basis at a rate of not less than $684 per week, exclusive of board, lodging, or other facilities; and
(b) Who meet the criteria as established in 29 C.F.R. 541.200(a)(2) and 541.200(a)(3).
(2) To qualify for the administrative exemption in KRS 337.010(2)(a)2, the criteria shall be as established in 29 C.F.R. 541.201 through 541.204.

Section 4. Professional Employees. (1) The term "individual employed in a bona fide professional capacity" in KRS 337.010(2)(a)(2) shall include employees:
(a) Compensated on a salary or fee basis at a rate of not less than $684 per week, exclusive of board, lodging, or other facilities; and
(b) Who meet the criteria as established in 29 C.F.R. 541.300(a)(2).
(2) To qualify for the learned professional exemption, the criteria shall be as established in 29 C.F.R. 541.301.
(3) To qualify for the creative professional exemption, the criteria shall be as established in 29 C.F.R. 541.302.
(4) Teachers.
(a) The term "individual employed in a bona fide professional capacity" in KRS 337.010(2)(a)2 shall include any employee as established in 29 C.F.R. 541.303(a) through (c).
(b) The salary requirements of Section 8 of this administrative regulation shall not apply to the teaching professionals described in this subsection.
(5) Practice of law or medicine.
(a) The term "individual employed in a bona fide professional capacity" in KRS 337.010(2)(a)2 shall include any employee as established in 29 C.FR. 541.304(a) through 541.304(c).
(b) The salary requirements of Section 8 of this administrative regulation shall not apply to the employees described in this subsection.

Section 5. Supervisors. The term "individual employed in a bona fide supervisory capacity" in KRS 337.010(2)(a)2 includes employees:
(1) Who are compensated for his or her services on a salary basis at a rate of not less than $684 per week, exclusive of board, lodging, or other facilities; and
(2) Who meet the criteria as established in 29 C.F.R. 541.104.

Section 6. Outside Sales Employees. (1) The term "individual employed in the capacity of outside salesman" in KRS 337.010(2)(a)2 shall include employees:
(a) Whose primary duty is:
1. Making sales; or
2. Obtaining orders or contracts for services or for the use of facilities for which consideration will be paid by the client or customer; and
(b) Who is customarily and regularly engaged away from the employer's place or places of business in performing the employee's primary duty.
(2) In determining the primary duty of an outside sales employee, the criteria shall be as established in 29 C.F.R. 541.500(b).
(3) The salary requirements of Section 8 of this administrative regulation shall not apply to employees described in this section.
(4) Making sales or obtaining orders.
(a) The criteria for making sales within the meaning of this section shall include criteria as established 29 C.F.R. 541.501(b) and 541.501(d).
(b) Obtaining orders for the use of facilities includes the selling of time on radio or television, the solicitation of advertising for newspapers and other periodicals, and the solicitation of freight for railroads and other transportation agencies.
(5) The criteria for an outside sales employee to be customarily and regularly engaged "away from the employer's place or places of business" shall be as established in 29 C.F.R. 541.502.
(6) The criteria for determining if promotional work is exempt under this section shall be as established in 29 C.F.R. 541.503.
(7) The criteria for drivers who sell to be exempt under this section shall be as established in 29 C.F.R. 541.504.

Section 7. Outside Collector. (1) The term "individual employed as an outside collector" in KRS 337.010(20)(a)2 shall include any employee who is employed for the purpose of and who is customarily and regularly engaged away from his employer's place or places of business and whose primary duty is:
(a) Collecting money for goods or services previously or presently furnished by his employer; or
(b) Collecting money for an account placed in the hands of his employer for collection.
(2) In determining the primary duty of an outside collector, work performed incidental to and in conjunction with the employee's outside collection activities shall be exempt work.
(3) The salary requirements of Section 8 of this administrative regulation shall not apply to the outside collector employees described in this section.

Section 8. Salary Requirements. (1) To qualify as an exempt executive, administrative, professional, or supervisory employee under KRS 337.010(2)(a)2, an employee shall be compensated on

a salary basis at a rate of not less than $684 per week, exclusive of board, lodging, or other facilities. Administrative and professional employees may also be paid on a fee basis as defined in Section 12 of this administrative regulation.

(2) The $684 per week may be translated into equivalent amounts for periods longer than one (1) week. The requirement shall be met if the employee is compensated biweekly on a salary basis of $1,368, semimonthly on a salary basis of $1,482, or monthly on a salary basis of $2,964. Except, the shortest period of payment that meets this compensation requirement is one (1) week.

(3) For academic administrative employees, the compensation requirement may be met by compensation on a salary basis at a rate at least equal to the entrance salary for teachers in the educational establishment by which the employee is employed, as provided in Section 3(4) of this administrative regulation.

(4) For computer employees, the compensation requirement also may be met by compensation on an hourly basis at a rate not less than twenty-seven (27) dollars and sixty-three (63) cents an hour, as provided in Section 14 of this administrative regulation.

(5) The exception from the salary or fee requirement shall not apply to pharmacists, nurses, therapists, technologists, sanitarians, dietitians, social workers, psychologists, psychometrists, or other professions which service the medical profession.

Section 9. Highly-Compensated Employees. (1) An employee with total annual compensation of at least $107,432 shall be exempt under KRS 337.010(2)(a)2 if the employee customarily and regularly performs any one (1) or more of the exempt duties or responsibilities of an executive, administrative, or professional employee identified in this administrative regulation. Where the annual period covers periods both prior to and after the date this administrative regulation is effected, the amount of total annual compensation due will be determined on a proportional basis.

(2)(a) "Total annual compensation" shall include at least $684 per week paid on a salary or fee basis. Total annual compensation may also include commissions, nondiscretionary bonuses, and other nondiscretionary compensation earned during a fifty-two (52) week period.

(b) “Total annual compensation” shall not include board, lodging, or other facilities as defined in Section 13 of this administrative regulation, and shall not include payments for medical insurance, payments for life insurance, contributions to retirement plans, and the cost of other fringe benefits.

(c) If an employee’s total annual compensation does not total at least the minimum amount established in subsection (1) of this section by the last pay period of the fifty-two (52) week period, the employer may, during the last pay period or within one (1) month after the end of the fifty-two (52) week period, make one (1) final payment sufficient to achieve the required level.

(d) An employee who does not work a full year for the employer, either because the employee is newly hired after the beginning of the year or ends the employment before the end of the year, may qualify for exemption under this section if the employee receives a pro rata portion of the minimum amount established in subsection (1) of this section, based upon the number of weeks that the employee will be or has been employed. An employer may make one (1) final payment as under paragraph (b) of this subsection within one (1) month after the end of employment.

(e) The employer may use any fifty-two (52) week period as the year, such as a calendar year, a fiscal year, or an anniversary of hire year. If the employer does not identify some other year period in advance, the calendar year shall apply.

(3) A highly compensated employee shall qualify for exemption if the employee customarily and regularly performs any one (1) or more of the exempt duties or responsibilities of an executive, administrative, or professional employee identified in this administrative regulation.

(4) This section shall not apply to employees whose primary duty includes performing nonoffice or manual work.

Section 10. Salary Basis. (1)(a) The criteria for an employee to be considered paid "on a salary basis" within the meaning of this administrative regulation shall be as established by 29 C.F.R. 541.602(a)(1) through 541.602(a)(2).

(b) Up to ten (10) percent of the salary amount required in Section 10(1)(a) of this administrative regulation may be satisfied by the payment of nondiscretionary bonuses, incentives and commissions, that are paid annually or more frequently.

1. The employer may utilize any fifty-two (52) week period as the year, such as a calendar year, fiscal year, or an anniversary of hire year. If the employer does not identify some other year period in advance, the calendar year shall apply.

2. This provision shall not apply to highly compensated employees.

3. If by the last pay period of the fifty-two (52) week period the sum of the employee’s weekly salary plus nondiscretionary bonus, incentive and commission payments received is less than fifty-two (52) times the weekly salary amount required, the employer may make one final payment sufficient to achieve the required level no later than the next pay period after the end of the year. Any final payment made after the end of the fifty-two (52) week period shall count only toward the prior year’s salary amount.

4. An employee who does not work a full fifty-two (52) week period for the employer, either because the employee is newly hired after the beginning of this period or ends the employment before the end of this period, may qualify for exemption if the employee receives a pro rata portion of the minimum amount established, based upon the number of weeks that the employee will be or has been employed. An employer may make one final payment under subsection (1)(b)3 of this section within one pay period after the end of employment.

(2)(a) The exceptions to the prohibition against deductions from pay in the salary basis requirement shall be as established in 29 C.F.R. 541.602(b)(1) and 541.602(b)(3) through 541.602(c).

(b) Deductions from pay in the salary basis requirement may be made for absences of one (1) or more full days occasioned by sickness or disability, if the deduction is made in accordance with a bona fide plan, policy, or practice of providing compensation for loss of salary occasioned by both sickness and disability.

1. If the employer’s particular plan, policy or practice provides compensation for the absences, deductions for absences of one (1) or more full days because of sickness or disability may be made before an employee has qualified under the plan, policy, or practice, and after the employee has exhausted his or her leave allowance thereunder. It is not required that the employee be paid any portion of his or her salary for the day or days for which the employee receives compensation for leave under the plan, policy or practice.

2. If the employer operates under a state sickness and disability insurance law, or a private sickness and disability insurance plan, deductions may be made for absences of one (1) or more full days if benefits are provided in accordance with the particular law or plan.

3. For an industrial accident, the "salary basis" requirement shall be met if the employee is compensated for loss of salary in accordance with the applicable compensation law or the plan adopted by the employer; if, the employer also has some plan, policy or practice of providing compensation for sickness and disability other than that relating to industrial accidents.

(3) The effect of improper deductions from salary are as established in 29 C.F.R. 541.603.

Section 11. The criteria for the minimum guarantee plus extras are as established in 29 C.F.R. 604.

Section 12. The criteria for when administrative and professional employees may be paid on a fee basis, rather than on a salary basis are as established in 29 C.F.R. 541.605.

Section 13. Board, Lodging, or Other Facilities. (1) The phrase "exclusive of board, lodging, or other facilities" shall mean "free and clear" or independent of any claimed credit for noncash items of value that an employer may provide to an employee. Costs incurred by an employer to provide an employee with board, lodging, or other facilities shall not count towards the minimum salary amount required for exemption under this administrative

regulation. Separate transactions are not prohibited between employers and their employees, but the costs to employers associated with the transactions shall not be considered in determining if an employee has received the full required minimum salary payment.

(2) "Other facilities" refers to items similar to board and lodging, such as meals furnished at company restaurants or cafeterias or by hospitals, hotels, or restaurants to their employees; meals, dormitory rooms, and tuition furnished by a college to its student employees; merchandise furnished at company stores or commissaries, including articles of food, clothing, and household effects; housing furnished for dwelling purposes; and transportation furnished to employees for ordinary commuting between their homes and work.

Section 14. Computer Employees. (1) Computer system analysts, computer programmers, software engineers, or other similarly skilled workers in the computer field shall be eligible for an exemption as professionals under KRS 337.010(2)(a)2. Job titles shall not be determinative of the applicability of this exemption.

(2) The exemption for computer employees shall apply to any computer employee as established in 29 C.F.R. 541.400(b) and 541.402.

(3) The exemption for computer employees shall not include employees established in 29 C.F.R. 541.401.

Section 15. Miscellaneous Provisions. (1) The criteria for primary duty are as established in 29 C.F.R. 541.700.

(2) The phrase "customarily and regularly" is as established in 29 C.F.R. 541.701.

(3) Directly and closely related shall be as established in 29 C.F.R. 541.703

(4) The criteria for determining whether the use of manuals precludes an exemption under KRS 337.010(2)(a)2 is as established in 29 C.F.R. 541.704.

(5) The criteria for the prohibition of KRS 337.010(2)(a)2 exemption to trainees is as established in 29 C.F.R. 541.705.

(6) The criteria for the application of emergencies to exempt employees shall be as established in 29 C.F.R. 541.706.

(7) The criteria for determining whether occasional tasks precludes exemption under KRS 337.010(2)(a)2 are as established in 29 C.F.R. 541.707.

(8) The criteria for the exemption of employees performing a combination of exempt duties as set forth in this regulation are as established in 29 C.F.R. 541.708.

(9) The requirement that the employee be paid on a salary basis shall not apply to an employee in the motion picture producing industry who is compensated at a base rate of at least $1,043 a week (exclusive of board, lodging, or other facilities).

(a) An employee in this industry who is otherwise exempt under Sections 2, 3, or 4 of this administrative regulation, and who is employed at a base rate of at least $1,043 a week is exempt if paid a proportionate amount, based on a week of not more than six (6) days, for any week in which the employee does not work a full workweek for any reason.

(b) An otherwise exempt employee in this industry qualifies for exemption if the employee is employed at a daily rate under the following circumstances:

1. The employee is in a job category for which a weekly base rate is not provided, and the daily base rate would yield at least $1,043 if six (6) days were worked; or

2. The employee is in a job category having a weekly base rate of at least $1,043, and the daily base rate is at least one-sixth (1/6) of such weekly base rate.

(10) Employees of public agencies.

(a) An employee of a public agency who otherwise meets the salary basis requirements of Section 10 of this administrative regulation shall not be disqualified from exemption under Sections 2, 3, 4, 5, or 14 of this administrative regulation on the basis that the employee is paid according to a pay system established by statute, ordinance, or administrative regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the public agency employee's pay to be reduced or the employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one (1) work-day if accrued leave is not used by an employee because:

1. Permission for its use has not been sought or has been sought and denied;

2. Accrued leave has been exhausted; or

3. The employee chooses to use leave without pay.

(b) Deductions from the pay of an employee of a public agency for absences due to a budget required furlough shall not disqualify the employee from being paid on a salary basis except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

KIMBERLEE C. PERRY, Commissioner
JAMIE LINK, Secretary

APPROVED BY AGENCY: January 3, 2022

FILED WITH LRC: January 10, 2022

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 28, 2022 at 1:00pm (ET). This hearing will be conducted by live videoconference (ZOOM) pursuant to Senate Bill 150, Section 1, subparagraph 8(b) (R.S. 2020) and the continuing state of emergency due to the novel coronavirus pandemic. Public access to the meeting will be available at https://us06web.zoom.us/j/88108844438, or by telephone at (713) 353-0212 or 888-822-7517 (toll free), conference code 786462. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. 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 attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through March 31, 2022. Send notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Duane Hammons, Labor Cabinet, Mayo-Underwood Building, 500 Mero Street, 3rd Floor, Frankfort, Kentucky 40601, phone (502) 564-1507, fax (502) 564-5484, email Kenneth.hammons@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Duane Hammons

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation defines criteria for qualifying as an individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of an outside salesman or collector, all of which are exempt from overtime and minimum wage requirements.

(b) The necessity of this administrative regulation: KRS 337.010(2)(a)(2) and 337.295 require the commissioner to define criteria for those exempted from overtime and minimum wage and overtime in the statute.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 337.295 authorizes the commissioner to promulgate administrative regulations under KRS 337.275 to 337.325, 337.345, and 337.385 to 337.405. KRS 337.010(2)(a)(2) requires the commissioner to define what constitutes an individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of an outside salesman or collector. This administrative regulation defines those terms.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation is necessary to define and provide guidance on the exemptions to KRS 337.275 and 337.285. It helps employers and employees in understanding their obligations and rights under the law.

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

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all subject employers who employ employees in the Commonwealth subject to KRS Chapter 337, as well as their 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: No additional compliance duties are required by this administrative regulation as it is replacing 803 KAR 1:070.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no additional cost associated with this administrative regulation as it is replacing 803 KAR 1:070.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Improved employee protection and guidance for employers on when employees are exempt from KRS 337.275 and 337.285.

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

(a) Initially: This administrative regulation is not anticipated to generate any new or additional costs as it is replacing 803 KAR 1:070.

(b) On a continuing basis: This administrative regulation is not anticipated to generate any new or additional costs as it is replacing 803 KAR 1:070.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state 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: This administrative regulation is not anticipated to generate any increase in fees or funding as it is replacing 803 KAR 1:070.

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

(9) TIERING: Is tiering applied? Tiering is not applied. All employers and employees covered by KRS Chapter 337 are treated equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Most state and local governmental entities are subject to KRS Chapter 337.

(2) Identify each state or federal statute or regulation that requires or authorizes the action taken by the administrative regulation. KRS 337.295 and 337.010(2)(a)2.

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

(a) How much revenue will the 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 the 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? There is no cost to this administrative regulation as it is replacing 803 KAR 1:070.

(d) How much will it cost to administer this program for subsequent years? There is no cost to this administrative regulation as it is replacing 803 KAR 1:070.

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

Revenues (+/-): Unknown

Expenditures (+/-): Unknown

Other Explanation: This administrative regulation does not impose any additional requirements as it is replacing 803 KAR 1:070.

**LABOR CABINET**
**Department of Workplace Standards**
**(New Administrative Regulation)**

**803 KAR 1:076. Exclusions from minimum wage and overtime.**

RELATES TO: KRS 337.010, 337.275, 337.285

STATUTORY AUTHORITY: KRS 337.295

NECESSITY, FUNCTION, AND CONFORMITY: KRS 337.010 excludes certain types of employees from being subject to the minimum wage and overtime provisions of KRS 337.275 and KRS 337.285 excludes certain employees from its coverage. The function of this administrative regulation is to define these exclusions.

Section 1. Definitions. (1) "Excise taxes" means taxes that are levied on the manufacture, sale or consumption of a commodity, and taxes levied on license to pursue certain occupations and corporate privileges.

(2) “Hotel” means an establishment known to the public as a hotel, which is primarily engaged in providing lodging or lodging and meals for the general public. Included are hotels operated by membership organizations and open to the general public and apartment hotels which provide accommodations for transients. An establishment whose income is primarily from providing a permanent place of residence or from providing residential facilities complete with bedrooms and kitchen for prolonged periods shall not be considered a hotel.

(3) “Motel” means an establishment which provides services similar to that of a hotel described in subsection (2) of this section, but which caters mostly to the motoring public, providing it with motor car parking facilities either adjacent to the room or cabin rented or at some other easily accessible place. Included in the term "motel" are those establishments known to the public as motor hotels, motor lodges, motor courts, motor inns, tourist courts, and tourist lodges.

(4) “Restaurant” means an establishment which is primarily engaged in selling and serving to purchasers at retail prepared food and beverages for consumption. This includes establishments commonly known as lunch counters, refreshment stands, cafes, cafeterias, coffee shops, diners, dining rooms, lunch rooms, or tea rooms. The term "restaurant" shall not include drinking establishments, such as bars or cocktail lounges, whose sale of alcoholic beverages exceed the receipts from sales of prepared foods and nonalcoholic beverages or establishments offering meal service on a boarding or term basis or providing the service only as an incident to the operation of a business of another kind and primarily to meet institutional needs for continuing meal service to persons whose continued presence is required for operation, such as a boarding house, dining facilities of a boarding school, college or university which serves its students and faculty, lunchroom facilities for private and public day school students, and other institutional food service facilities providing long-term meal service to stable groups of individuals as an incident to institutional operations in a manner wholly dissimilar to the typical transactions between a restaurant and its customers.

(5) “Retail store” or “service industry" means an establishment seventy-five (75) percent of whose annual dollar volume of sales of goods or services (or of both) is not for resale and is recognized as retail sales or services in the particular industry.

Section 2. Hotel or Motel. If hotels or motels are primarily engaged in providing lodging facilities, food and drink to the public, the exemption provided for hotels and motels in KRS 337.010(2)(a)6 and KRS 337.285 shall not be defeated because the hotel or motel engages in all or some of the following activities:

(1) The operation of valet services offering cleaning and laundering service for the garments of their guests;

(2) News stands;

(3) Hobby shops;

(4) Renting out of their public rooms for meetings;

(5) Lectures;

(6) Dances;

(7) Trade exhibits; or

(8) Weddings.

Section 3. Exemptions from Minimum Wage and Overtime. (1) Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than $95,000 for the five (5) preceding years exclusive of excise taxes at the retail level shall be exempt from both the minimum wage and overtime provisions of the statutes.

(2) To qualify for this exemption, the establishment shall be recognized as retail in the particular industry. Typically, a retail or service establishment is one which sells goods or services to the general public. It serves the everyday needs of the community in which it is located. The retail or service establishment performs a function in the business organization which is at the end of the stream of distribution, disposing in small quantities of the products and skills of the organization and does not take part in the manufacturing process.

(3) To compute the average annual gross volume of sales made for business done, the business shall add all the sales made for business done for the five (5) preceding years, exclusive of excise taxes at the retail level, and divide by five (5). If this average is less than $95,000, the establishment shall be exempt.

(a) If the establishment has been in business for less than five (5) years, the gross sales shall be totaled for the years the establishment has been in business and divided by the number of years. If this average is less than $95,000, the establishment shall be exempt.

(b) If the establishment has been in business for less than one (1) year, the gross sales shall be totaled for the number of months the establishment has been in business and divided by the number of months. This amount shall then be multiplied by twelve (12). If this amount is less than $95,000, the establishment shall be exempt.

(c) Excise taxes at the retail level shall not be computed in totaling the gross volume of sales. Excise taxes which are levied at the manufacturers, wholesalers or other distributive level shall not be excluded in calculating the dollar volume of sales.

Section 4. Exemptions from Overtime. (1) Employees of retail stores whose principal duties are connected with the selling, purchasing, and distributing of goods and employees of a restaurant, hotel and motel operation; any employee with respect to whom the Secretary of Transportation has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935; any sales person, parts person, or mechanic primarily engaged in selling or servicing automobiles, trucks, or farm implements, if the employee is employed by a nonmanufacturing establishment primarily engaged in the business of selling the vehicles or implements to ultimate purchasers; or any sales person primarily engaged in selling trailers, boats, or aircraft, if the employee is employed by a nonmanufacturing establishment primarily in the business of selling trailers, boats, or aircraft to ultimate purchasers; any driver employed by an employer engaged in the business of operating taxi cabs; employees whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected and abused and who are in the care of private nonprofit child caring facilities licensed by the Cabinet for Health and Family Services under KRS Chapter 199, and any individual who is employed by a third-party employer or agency other than the family or household using his or her services to provide in-home companionship services for a sick, convalescing, or elderly person shall be exempt from the overtime provisions of KRS 337.285.

(2) Employees of a retail store whose principal duties are not connected with the selling, purchasing, and distributing of the goods shall not be considered as exempt employees, nor will employees of a service establishment which does not sell goods, but is in the business of selling a service.

KIMBERLEE C. PERRY, Commissioner
JAMIE LINK, Secretary

APPROVED BY AGENCY: January 3, 2022

FILED WITH LRC: January 10, 2022

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 28, 2022 at 1:00pm (ET). This hearing will be conducted by live videoconference (ZOOM) pursuant to Senate Bill 150, Section 1, subparagraph 8(b) (R.S. 2020) and the continuing state of emergency due to the novel coronavirus pandemic. Public access to the meeting will be available at https://us06web.zoom.us/j/88108844438, or by telephone at (713) 353-0212 or 888-822-7517 (toll free), conference code 786462. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. 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 attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through March 31, 2022. Send notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Duane Hammons, Labor Cabinet, Mayo-Underwood Building, 500 Mero Street, 3rd Floor, Frankfort, Kentucky 40601, phone (502) 564-1507, fax (502) 564-5484, email Kenneth.hammons@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Duane Hammons

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation defines exclusions contained in KRS 337.275 and 337.285.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to define the exclusions defined in KRS 337.275 and 337.285 to help guide the department and assist employers in understanding the requirements under the law.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 337.295 authorizes the commissioner to promulgate administrative regulations under KRS 337.275 to 337.325, 337.345, and 337.385 to 337.405.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides clarification on employees who are excluded from requirements in KRS 337.275 and 337.285.

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

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all subject employers who employ employees in the Commonwealth subject to KRS Chapter 337, as well as their 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: No additional compliance duties are required by this administrative regulation as it is replacing 803 KAR 1:075.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no additional cost associated with this administrative regulation as it is replacing 803 KAR 1:075.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Improved employee protection and guidance for employers on exemptions to overtime requirements pursuant to KRS 337.275 and 337.285.

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

(a) Initially: This administrative regulation is not anticipated to generate any new or additional costs as it is replacing 803 KAR 1:075.

(b) On a continuing basis: This administrative regulation is not anticipated to generate any new or additional costs administrative regulation as it is replacing 803 KAR 1:075.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state 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: This administrative regulation is not anticipated to generate any increase in fees or funding administrative regulation as it is replacing 803 KAR 1:075.

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

(9) TIERING: Is tiering applied? Tiering is not applied. All subject employers and employees covered by KRS Chapter 337 are treated equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Most state and local governmental entities are subject to KRS Chapter 337.

(2) Identify each state or federal statute or regulation that requires or authorizes the action taken by the administrative regulation. KRS 337.295.

(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 the 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 the 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? T There is no cost to this administrative regulation as it is replacing 803 KAR 1:075.

(d) How much will it cost to administer this program for subsequent years? There is no cost to this administrative regulation as it is replacing 803 KAR 1:075.

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

Revenues (+/-): Unknown

Expenditures (+/-): Unknown

Other Explanation: This administrative regulation does not impose any additional requirements or expenditures as it is replacing 7803 KAR 1:075.

**LABOR CABINET**
**Department of Workplace Standards**
**(New Administrative Regulation)**

**803 KAR 1:081. Board, lodging, gratuities and other allowances.**

RELATES TO: KRS 337.275, 337.285

STATUTORY AUTHORITY: KRS 337.295

NECESSITY, FUNCTION, AND CONFORMITY: KRS 337.295 authorizes the commissioner to promulgate administrative regulations permitting allowances as part of the wage rates applicable under the statutes for board, lodging, gratuities, and other facilities. The function of this administrative regulation is to set forth what allowances may be credited toward the payment of wages as required KRS Chapter 337.

Section 1. Definitions. (1) “Tip” means a sum presented by a customer as a gift or gratuity in recognition of some service performed. A tip is distinguished from a payment of a charge made for the service.

(2) “Tipped employees” is defined in KRS 337.010(2)(d).

(3) “Wages” is defined in KRS 337.010(1)(c).

Section 2. Board, Lodging, and Other Facilities. (1) In accordance with KRS 337.275 and 337.285, an employer may be permitted to include as wages paid to an employee, the reasonable cost of furnishing an employee with board, lodging, or other facilities if they are customarily furnished by the employer to employees.

(a) Reasonable cost shall not include a profit to the employer or to any affiliated person.

(b) This section shall not prohibit payment of wages in facilities furnished either as additions to a stipulated wage or as items for which deductions from the stipulated wage will be made. The reasonable cost of board, lodging, or other facilities may be considered as part of the wage paid an employee only where customarily furnished to the employee. Not only shall the employee receive the benefits of the facility for which the employee is charged, but it is essential that the acceptance of the facility be voluntary and uncoerced.

(2) The criteria for board, lodging, or other facilities being customarily furnished as applicable to KRS 337.275 and 337.285 are as established in 29 C.F.R. 531.31.

(3) Other facilities.

(a) The criteria for “other facilities” as applicable to KRS 337.275 and 337.285 are as established in 29 C.F.R. 531.32(a).

(b) The cost of furnishing facilities which are primarily for the benefit or convenience of the employer shall not be recognized as reasonable and shall not be included in computing wages. Facilities primarily for the benefit or convenience of the employer include, but are not limited to:

1. Tools of the trade and other materials and services incidental to carrying on the employer’s business;

2. The cost of any construction by or for the employer; and

3. The cost of uniforms and of their laundering, where the nature of the business requires the employees to wear a uniform.

(4) The prohibition of kickbacks as applicable to KRS 337.275 and 337.285 is as established in 29 C.F.R. 531.35.

(5) The criteria for payment where additions or deductions are involved in nonovertime workweeks as applicable to KRS 337.375 and 337.285 are as established in 29 C.F.R. 531.36(a).

(6) Overtime workweeks.

(a) Pursuant to KRS 337.285, employees shall receive compensation for overtime hours at a rate of not less than one and one-half (1 1/2) times the rate at which the employee is employed. When overtime is worked by an employee who receives the whole or part of his or her wage in facilities and it becomes necessary to determine the portion of wages represented by facilities, all of the facilities shall be measured by the requirements of this administrative regulation.

(b) Deductions may be made on the same basis in an overtime workweek as in non-overtime workweeks, if their purpose and effect are not to evade the overtime requirements of KRS 337.285. However, the amount deducted shall not exceed the amount which could be deducted if the employee had only worked the maximum number of straight-time hours during the workweek. Deductions in excess of this amount for the items shall be illegal in overtime workweeks as well as in non-overtime workweeks. There is no limit on the amount which may be deducted for board, lodging, or other facilities in overtime workweeks provided that these deductions are made only for the reasonable cost of the items furnished.

(c) Where deductions are made from the stipulated wage of an employee, the regular rate of pay is arrived at on the basis of the stipulated wage before any deductions have been made. Where board, lodging, or other facilities are customarily furnished as addition to a cash wage, the reasonable cost of the facilities to the employer shall be considered as part of the employee's regular rate of pay.

Section 3. Payment Made to Person Other than Employee. (1) Amounts deducted for taxes. Taxes which are assessed against the employee and which are collected by the employer and forwarded to the appropriate governmental agency may be included as wages. This principle is applicable to the employee's share of Social Security, as well as other federal, state, or local taxes. No deduction shall be made for any tax or share of a tax which the law requires to be borne by the employer.

(2) The criteria for payments to third persons pursuant to a court order applicable to KRS 337.275 and 337.285 are as established in 29 C.F.R. 531.39(a).

(3) The criteria for payments to an employee's assignee applicable to KRS 337.275 and 337.285 are as established in 29 C.F.R. 531.40.

Section 4. Payment of Wages to Tipped Employees. (1) Conditions for taking tip credits in making wage payments.

(a) The wage credit permitted on account of tips under KRS 337.275(2) shall be taken only with respect to wage payments made under KRS Chapter 337 to those employees whose occupations in the workweeks for which the payments are made are those of "tipped employees."

(b) To determine whether a tip credit may be taken in paying wages to a particular employee, it is necessary to know:

1. What payments constitute tips;

2. Whether the employee receives more than thirty (30) dollars a month in payments in the occupation in which the employee is engaged; and

3. Whether in the occupation the employee receives these payments in that amount customarily and regularly.

(2) General characteristics of tips.

(a) To qualify as a tip, the customer shall determine:

1. Whether a tip is given;

2. The amount of the tip; and

3. Who shall be the recipient of the tip.

(b) Only tips actually received by an employee as money belonging to the employee which are used as the employee chooses free of any control by the employer, shall be counted in determining whether the employee is a tipped employee within the meaning of the KRS Chapter 337 and in applying the provisions of KRS 337.275(2).

(3) The following shall not be considered tips:

(a) Criteria established in 29 C.F.R. 531.55(a);

(b) Where the employment agreement is such that amounts presented by customers as tips belong to the employer and shall be credited or turned over to the employer, the employee is in effect collecting for his or her employer additional income from the operations of the employer's establishment. Even though the amounts are not collected by imposition of any compulsory charge on the customer, the employee is not receiving tips within the meaning of KRS Chapter 337.

(4) More than thirty (30) dollars a month in tips. If an employee employed is not a tipped employee, the employee shall receive the full compensation required by KRS Chapter 337 in cash or allowable facilities without any credit for tips received.

(a) Pursuant to KRS 337.010(2)(d), the definition of tipped employee does not require that the calendar month be used in determining whether more than thirty (30) dollars a month is customarily and regularly received as tips. A recurring monthly period beginning on the same day of the calendar month may be used.

(b) The fact that an employee is part of a group which has a record of receiving more than thirty (30) dollars a month in tips shall not qualify the employee as a tipped employee.

(5) The criteria for "customarily and regularly" as applicable to KRS 337.010(2)(d) are as established in 29 C.F.R. 531.57.

(6) Criteria for the exception of initial and terminal months of employment from the requirement that a tipped employee receive more than thirty (30) dollars a month in tips is as established in 29 C.F.R. 531.58.

(7) The tip wage credit. In determining compliance with the wage payment requirements of the statutes, under the provisions of KRS 337.275(2) the amount paid to a tipped employee by an employer is deemed to be increased on account of tips by an amount equal to the formula set forth in statute provided that the employer satisfies all the requirements in the workweek for which the wage payment is made.

(a) This credit is in addition to any credit for board, lodging, or other facilities which may be allowable under this administrative regulation. The actual amount is left by the statute to determination by the employer on the basis of the employer's information taken from his or her records concerning the tipping practices and receipts in the establishment. In order for an employer to take the maximum credit allowed by this special provision, the tipped employee shall receive the maximum in actual tips.

(b) If the employee is receiving less than the amount credited, the employer is required to pay the balance so that the employee receives at least the minimum wage with the combination of wages and tips. The tip credit shall be taken only for hours worked by the employee in an occupation in which the employee qualifies as a tipped employee. An employer shall not use any part of an employee's tips to pay the minimum wage to any employee; but may only apply credit toward the payment of the minimum wage to the employee who actually received the tip. Under employment agreements requiring tips to be turned over or credited to the employer to be treated as part of the employer's gross receipts, the employer shall pay the employee the full minimum hourly wage.

(8) Overtime payments. When overtime is worked by a tipped employee who is subject to the overtime pay provisions of KRS 337.285, the regular rate of pay is determined by dividing the employee's total remuneration for employment in any workweek by the total number of hours actually worked in that workweek for which the compensation was paid. A tipped employee's regular rate of pay includes the amount of tip credit taken by the employer (not in excess of the formula set forth in statute), the reasonable cost of any facilities furnished the employee by the employer, and the cash wages including commissions and bonuses paid by the employer. Any tips received by the employee in excess of the tip credit need not be included in the regular rate. The tips are not payments made by the employer to the employee as remuneration for employment.

(9) Tip pooling. Pursuant to KRS 337.275(2), employees may enter into an agreement to divide tips among themselves. Where employees enter into this type of agreement, the amounts retained by the employees are considered tips of the individuals who retain them. Where an employer requires employees to pool tips, no credit shall be taken and the employer shall pay the employee the full minimum wage.

Section 5. Records. Where an employer uses the reasonable cost of furnishing an employee with board, lodging, or other facilities in meeting the requirements of KRS 337.275 and 337.285,

it shall be necessary to keep the following records, in addition to those required by KRS 337.320:

(1) The facility being provided by the employer to the employee; and

(2) The cost being charged for the facility by the employer.

KIMBERLEE C. PERRY, Commissioner
JAMIE LINK, Secretary

APPROVED BY AGENCY: January 3, 2022

FILED WITH LRC: January 10, 2022

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 28, 2022 at 1:00pm (ET). This hearing will be conducted by live videoconference (ZOOM) pursuant to Senate Bill 150, Section 1, subparagraph 8(b) (R.S. 2020) and the continuing state of emergency due to the novel coronavirus pandemic. Public access to the meeting will be available at https://us06web.zoom.us/j/88108844438, or by telephone at (713) 353-0212 or 888-822-7517 (toll free), conference code 786462. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. 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 attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through March 31, 2022. Send notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Duane Hammons, Labor Cabinet, Mayo-Underwood Building, 500 Mero Street, 3rd Floor, Frankfort, Kentucky 40601, phone (502) 564-1507, fax (502) 564-5484, email Kenneth.hammons@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Duane Hammons

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation clarifies what allowances may be credited toward the payment of wages as required in KRS 337.275 and 337.285.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to clarify what allowances may be credited toward the payment of wages as required in the statutes.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 337.295 authorizes the commissioner to promulgate administrative regulations permitting allowances as part of the wages rate applicable under the statutes for board, lodging, gratuities, and other facilities.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides guidance on what allowances may be credited toward payment of wages to ensure that employees receive proper wages.

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

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all subject employers who employ employees in the Commonwealth subject to KRS Chapter 337, as well as their 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: No additional compliance duties are required by this administrative regulation as it is replacing 803 KAR 1:080.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no additional cost associated with this administrative regulation as it is replacing 803 KAR 1:080.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Improved employee protection and guidance for what employers on wage allowances.

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

(a) Initially: This administrative regulation is not anticipated to generate any new or additional costs as it is replacing 803 KAR 1:080.

(b) On a continuing basis: This administrative regulation is not anticipated to generate any new or additional costs as it is replacing 803 KAR 1:080.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state 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: This administrative regulation is not anticipated to generate any increase in fees or funding as it is replacing 803 KAR 1:080.

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

(9) TIERING: Is tiering applied? Tiering is not applied. All employers and employees covered by KRS Chapter 337 are treated equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Most state and local governmental entities are subject to KRS Chapter 337.

(2) Identify each state or federal statute or regulation that requires or authorizes the action taken by the administrative regulation. KRS 337.295.

(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 the 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 the 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? There is no cost to this administrative regulation as it is replacing 803 KAR 1:080.

(d) How much will it cost to administer this program for subsequent years? There is no cost to this administrative regulation as it is replacing 803 KAR 1:080.

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

Revenues (+/-): Unknown

Expenditures (+/-): Unknown

Other Explanation: This administrative regulation does not impose any additional requirements or expenditures as it is replacing 803 KAR 1:080.

**LABOR CABINET**
**Department of Workplace Standards**
**(New Administrative Regulation)**

**803 KAR 1:091. Workers with Disabilities and Work Activities Centers' employee's wages.**

RELATES TO: KRS 337.275-337.325, 337.345, 337.385-337.405

STATUTORY AUTHORITY: KRS 337.295

NECESSITY, FUNCTION, AND CONFORMITY: KRS 337.295 authorizes the commissioner to issue administrative regulations permitting workers with disabilities and work activities centers' employees to be employed at less than the established minimum wage. KRS 337.010(2)(a)5 requires that the wages be set for a period of time fixed by the commissioner. The function of this administrative regulation is to set certain standards to be used in obtaining these special rates.

Section 1. As used in this administrative regulation, unless the context requires otherwise:

(1) "Commissioner" is defined by KRS 337.010(1)(a).

(2) "Department" is defined in KRS 337.010(1)(b).

(3) "Work Activities Centers" means centers planned and designed to provide therapeutic activities for workers with severe disabilities affecting their productive capacity. The purpose of work activities centers is carrying out a recognized program of rehabilitation for workers with disabilities and/or providing the individuals with remunerative employment or other occupational rehabilitating activity of an educational or therapeutic nature.

(4) "Worker with a Disability" is defined by 29 C.F.R. 525.3(d).

Section 2. (1) No employer shall employ a worker with a disability or work activities center employee at less than the applicable minimum wage, unless the employment has been authorized by a special certificate issued by the commissioner or by the U.S. Department of Labor. The rate of pay and the period of time effective shall be fixed by the certificate.

(2) When the minimum wage provided by KRS 337.275 is less than or equal to the federal minimum wage the commissioner will not issue certificates for persons whose employment is subject to the federal minimum wage provisions of the Fair Labor Standards Act of 1938, as amended (FLSA). For these persons the employer shall request a certificate from the U.S. Department of Labor. Valid certificates issued by the U.S. Department of Labor, Wage Hour Division, which authorize rates of pay lower than the applicable Kentucky minimum wage, will be accepted as authority to pay subminimum wage rates, provided that the information submitted in the applications is complete and accurate. If there is any reason to believe that the employment is, or may be in the future, subject to the FLSA minimum wage, the federal certificate shall be obtained, and a state certificate will not be necessary.

(3) For workers with disabilities or work activities center employees not covered by the minimum wage provisions of the FLSA, certificates may be issued by the commissioner if all of the requirements for federal certification are met. These requirements are published in Title 29, Part 525 of the Code of Federal Regulations. For state certification the commissioner will exercise the authority and functions which the administrator has for the federal certificates.

(4) In the event an employer misuses a certificate in any way, the commissioner reserves the right to revoke the certificate and to refuse to issue another certificate in the future. If the certificate was issued by the U.S. Department of Labor, the commissioner will revoke any authority for payment of less than the minimum wage provided by KRS 337.275.

(5) Application for Kentucky special minimum wage certificates for workers with disabilities and work activities center employees will be submitted to the Division of Wages and Hours, Kentucky Department of Workplace Standards, Kentucky Labor Cabinet, 500 Mero Street, 3rd floor, Frankfort, Kentucky 40601 and shall be accompanied by the completed federal special minimum wage certificate applications as appropriate under Title 29, Part 525 of the Code of Federal Regulations.

KIMBERLEE C. PERRY, Commissioner
JAMIE LINK, Secretary

APPROVED BY AGENCY: January 3, 2022

FILED WITH LRC: January 10, 2022

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 28, 2022 at 1:00pm (ET). This hearing will be conducted by live videoconference (ZOOM) pursuant to Senate Bill 150, Section 1, subparagraph 8(b) (R.S. 2020) and the continuing state of emergency due to the novel coronavirus pandemic. Public access to the meeting will be available at https://us06web.zoom.us/j/88108844438, or by telephone at (713) 353-0212 or 888-822-7517 (toll free), conference code 786462. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. 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 attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through March 31, 2022. Send notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Duane Hammons, Labor Cabinet, Mayo-Underwood Building, 500 Mero Street, 3rd Floor, Frankfort, Kentucky 40601, phone (502) 564-1507, fax (502) 564-5484, email Kenneth.hammons@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Duane Hammons

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides standards used for obtaining special rates for workers with disabilities and work activities center employees.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to set the standard for obtaining special rates for workers with disabilities employed in work activities center pursuant to KRS 337.010(2)(a)5.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 337.295 authorizes the commissioner to promulgate administrative regulations under KRS 337.275 to 337.325, 337.345, and 337.385 to 337.405 and issue administrative regulations permitting workers with disabilities and work activities centers' employees to be employees at a rate less than minimum wage.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides guidance for obtaining special rates for workers with disabilities employed in work activities center pursuant to KRS 337.010(2)(a)5.

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

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all subject employers in the Commonwealth covered by KRS 337.

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

(a) List the actions that each of the regulated entities identified

in question (3) will have to take to comply with this administrative regulation or amendment: No additional compliance duties are required by this administrative regulation as it is replacing 803 KAR 1:090.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no additional cost associated with this administrative regulation as it is replacing 803 KAR 1:090.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Improved employee protection, limits on sub minimum wage for employees that allow an employee to ease back into the workforce.

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

(a) Initially: This administrative regulation is not anticipated to generate any new or additional costs as it is replacing 803 KAR 1:090.

(b) On a continuing basis: This administrative regulation is not anticipated to generate any new or additional costs as it is replacing 803 KAR 1:090.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state 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: This administrative regulation is not anticipated to generate any increase in fees or funding as it is replacing 803 KAR 1:090.

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

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 337 are treated equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Most state and local governmental entities are subject to KRS Chapter 337.

(2) Identify each state or federal statute or regulation that requires or authorizes the action taken by the administrative regulation. KRS 337.295.

(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 the 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 the 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? There is no cost to this administrative regulation as it is replacing 803 KAR 1:090.

(d) How much will it cost to administer this program for subsequent years? There is no cost to this administrative regulation as it is replacing 803 KAR 1:090.

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

Revenues (+/-): Unknown

Expenditures (+/-): Unknown

Other Explanation: This administrative regulation does not impose any additional requirements or expenditures as it is replacing 803 KAR 1:090.

**CABINET FOR HEALTH AND FAMILY SERVICES**
**Office of Health Data and Analytics**
**Division of Health Benefit Exchange**
**(New Administrative Regulation)**

**900 KAR 13:010. Guaranteed Acceptance Program (GAP) reporting requirements.**

RELATES TO: KRS 304.17B-001, 304.17B-021(2), 304.17B-023

STATUTORY AUTHORITY: KRS 304.17B-031(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.17B-031(1) requires the Office of Health Data and Analytics to promulgate administrative regulations necessary to carry out the provisions of KRS 304.17B-001 to 304.17B-031. KRS 304.17B-023 establishes reporting requirements for the Guaranteed Acceptance Program for a participating insurer and KRS 304.17B-021(2) establishes requirements for a supporting insurer to provide information to the office. This administrative regulation prescribes the form and the time schedule for submitting reports to the office.

Section 1. Definitions.

(1) "Earned premium" is defined by KRS 304.17B-001(8).

(2) "Guaranteed acceptance program" or "GAP" is defined by KRS 304.17B-001(11).

(3) "Guaranteed acceptance program participating insurer" is defined by KRS 304.17B-001(12).

(4) "Health benefit plan" is defined by KRS 304.17A-005(22).

(5) "Insurer" is defined by KRS 304.17A-005(29).

(6) “Office” is defined by KRS 304.17B-001(24).

(7) “Stop-loss carrier” is defined by KRS 304.17B-001(27).

(8) "Supporting insurer" is defined by KRS 304.17B-001(28).

Section 2. GAP Participating Insurer’s Monthly Report. A GAP participating insurer shall submit a GAPERF-M-1 to the office within thirty (30) calendar days after the end of each calendar month.

Section 3. Supporting Insurer’s and Stop-Loss Carrier’s Quarterly Report. A supporting insurer and a stop-loss carrier shall submit a GAPQR-2 to the office within thirty (30) calendar days after the end of each calendar quarter.

Section 4. GAP Participating Insurer’s Annual Report. A GAP participating insurer shall submit a GAPERF-A-1 to the office within forty-five (45) calendar days after the end of each calendar year.

Section 5. Certification. A GAP participating insurer shall complete and attach a GAPC-1 to the following reports at the time of the report’s submission to the office:

(1) GAPERF-M-1; and

(2) GAPERF-A-1.

Section 6. Annual Earned Premium Verification.

(1) After the end of a calendar year, the office may request in writing that a supporting insurer verify the total earned premiums reported by the insurer for that calendar year.

(2) If an earned premium verification is requested pursuant to subsection (1) of this section, a supporting insurer shall submit the following documentation:

(a) 1. Confirmation that the reported health benefit plan or stop-loss earned premium amounts are correct; or

2. Corrections of reported health benefit plan or stop-loss earned premium amounts; and

(b) A GAPAFF-1.

Section 7. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) “Guaranteed Acceptance Program and Kentucky Access Affidavit”, GAPAFF-1, 11/2021;

(b) “Guaranteed Acceptance Program (GAP) and Kentucky Access Data Certification Form”, GAPC-1, 11/2021;

(c) “Annual Report for GAP Participating Insurers”, GAPERF-A-1, 11/2021;

(d) "Monthly Report for GAP Participating Insurers", GAPERF-M-1, 11/2021; and

(e) "Supporting Insurer's and Stop-Loss Carrier's Quarterly Report", GAPQR-2, 11/2021.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Office of Health Data and Analytics, Division of Health Benefit Exchange, 275 East Main Street 4WE, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m., or may be accessed at khbe.ky.gov.

ANDREW C. BLEDSOE, Deputy Executive Director
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: December 22, 2021

FILED WITH LRC: January 12, 2022

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on March 21, 2022 at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by March 14, 2022, 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 virtually 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 March 31, 2022. 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: Krista Quarles, Policy Advisor, 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: Melea Rivera or Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation prescribes the format and time schedule for submitting Guaranteed Acceptance Program (GAP) reports to the office for each calendar year in accordance with KRS 304.17B-023 and KRS 304.17B-021.

(b) The necessity of this administrative regulation: KRS 304.17B-023 requires GAP participating insurers to report to the office and KRS 304.17B-021 requires supporting insurers to provide information to the office. This administrative regulation provides the format and time for submitting these reports.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 304.17B-031(1) requires the office to promulgate administrative regulations necessary to carry out the provisions of KRS 304.17B-001 to 304.17B-031. This administrative regulation provides the format and schedule for GAP participating insurers and supporting insurers to report to the office.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides the format and schedule for GAP participating insurers and supporting insurers to report to the office.

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

(a) How the amendment will change this existing administrative regulation: This amendment will provide updated editions of the required forms and removes or corrects language in the administrative regulation that no longer conforms to KRS Chapter 13A.

(b) The necessity of the amendment to this administrative regulation: Kentucky Access and GAP became the responsibility of the Office of Health Data and Analytics by a statutory change in 2019. This administrative regulation and the forms incorporated by reference needed revision to include the correct agency and address, to make other changes to reflect the format of the reports, and to comply with the drafting requirements of KRS Chapter 13A.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 304.17B-031(1) requires the office to promulgate administrative regulations necessary to carry out the provisions of KRS 304.17B-001 to 304.17B-031. This amendment does not alter the existing process. The amendment updates names, addresses, and edition dates of existing forms and makes revisions required by KRS Chapter 13A.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will bring this administrative regulation into compliance with KRS Chapter 13A and the updated language in KRS 304.17B.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately sixty (60) insurance companies will continue to use the modified forms to report information.

(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 insurance companies will need to use the updated forms when submitting their reports to the office.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Since the substantive form content has not changed with this amendment, no additional cost to the insurance companies is anticipated.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The insurance companies will be in compliance with the statutes and will have updated contact information for the office.

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

(a) Initially: Initial costs are estimated to be under $1,000 and include existing staff time and the establishment of a Kentucky Access email box to receive these reports, updating these forms, and posting the forms to a page on the KHBE.ky.gov Web site.

(b) On a continuing basis: The Division of Health Benefit Exchange will need to maintain and check the e-mail box for these reports. Staff will compile the reports for the annual assessment information and staff will audit some reports. Existing state staff is already handling these tasks, which take approximately fifteen (15) hours or less per month. Total estimated cost should be less than $500 per month.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: KHBE restricted funds will continue to be used.

(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 is expected to implement this amendment to an existing administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees. Insurance companies are required to pay annual assessments pursuant to KRS 304.17B-021.

(9) TIERING: Is tiering applied? Yes, tiering is applied because different reports are required depending on the type of insurance company and whether the company has GAP losses to report.

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, Office of Health Data and Analytics (OHDA) is required to implement this administrative regulation. Since the affected entities are insurance companies regulated by the Department of Insurance (DOI), which is the state agency that previously handled the collection of these reports, DOI may have a minor impact due to this amendment to an existing administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This administrative regulation is required and authorized by KRS 304.17B-023 and 304.17B-031.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. The expenditures of OHDA is less than $500 per month for this administrative regulation.

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

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

(c) How much will it cost to administer this program for the first year? Approximately $6,000 in existing staff time and resources.

(d) How much will it cost to administer this program for subsequent years? Approximately $6,000 in existing staff time and resources.

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 (+/-): Less than $500 per month.

Other Explanation: n/a

# ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
## Minutes of January 10, 2022

**Call to Order and Roll Call**

The January meeting of the Administrative Regulation Review Subcommittee was held on Monday, January 10, 2022 at 1 p.m. in Room 149 of the Capitol Annex. Representative Hale, Co-Chair, called the meeting to order, the roll call was taken.

**Present were:**

**Members:** Senator Stephen West, Co-Chair; Representative David Hale, Co-Chair; Senators Julie Raque Adams, Ralph Alvarado, and David Yates; Representatives Randy Bridges, Deanna Frazier, and Mary Lou Marzian.

**LRC Staff:** Sarah Amburgey, Stacy Auterson, Emily Caudill, Emily Harkenrider, Karen Howard, Carrie Nichols, and Christy Young.

**Guests:** Gordon A. Rowe, Rose Holbrook, Alan Hurst, Personnel Cabinet; Cassie Trueblood, Education Professional Standards Board; Johnna Ballinger, Michael Wilson, Secretary of State: Office of Business Services; Stafford Easterling, Personnel Board; Julie Campbell, Board of Cosmetology; Brian Clark, Steven Fields, Department of Fish and Wildlife Resources; Carlos Cassady, Motor Vehicle Commission; Todd Allen, Department of Education; Chad Collins, Julian Tackett, Kentucky High School Athletics Association; Terry Manuel, Beth Milburn, Department for Libraries and Archives; Joshua Newton, Department of Alcoholic Beverage Control; Abigail Gall, Chad Thompson, Department of Insurance; Sarah Jackson, Darryl Morgan, Rick Rand, Benjamin Siegel, Jason Siwula, Department for Housing, Buildings and Construction; Sarah Cooper, Kelli Rodman, Cabinet for Health and Family Services; Kim Minter, Donna Veno, Office of Telehealth Services; Kara Daniel, Adam Mather, Office of Inspector General; Jennifer Craig, Victoria Elridge, Phyllis Sosa, Department for Aging and Independent Living.

**The Administrative Regulation Review Subcommittee met on Monday, January 10, 2022, and submits this report:**

**The following effective administrative regulation was reviewed pursuant to KRS 13A.030(3):**

**PERSONNEL CABINET: Classified**

101 KAR 2:095. Classified service, general requirements. Rosemary Holbrook, assistant general counsel; Alan Hurst, acting executive director; and Gordon Rowe, general counsel, represented the cabinet.

In response to questions by Senator Raque Adams, Mr. Rowe stated that the cabinet had denied the Kentucky Child Victims' Trust Fund from inclusion as part of the Kentucky Employees Charitable Campaign (KECC) because currently the fund was not clearly an organization authorized for tax deductible donations. KECC believed that the Kentucky Child Victim's Trust Fund did important work and was a worthwhile organization. KECC intended to further investigate the fund for inclusion in KECC. The cabinet did not wish to broaden the requirements in this administrative regulation to allow for funds that did not include tax deductible donations, which might include partisan organizations. The cabinet would investigate and report back whether or not there were other statutorily established funds that had been denied based on the criteria established in this administrative regulation. Senator Raque Adams stated that Kentucky had the highest levels of child abuse and neglect in the nation; therefore, state employees should be able to contribute to a statutorily established fund to protect children.

In response to questions by Senator Alvarado, Mr. Rowe stated that the cabinet reviewed the Kentucky Child Victims' Trust Fund's annual reports and application in determining compliance with the requirements established in this administrative regulation. There was nothing in state or federal law that prohibited the fund's inclusion in the KECC. KECC was structured to benefit state employees by allowing tax deductible donations. Senator Alvarado stated that the Kentucky Child Victims' Trust Fund's Web site stated that donations were tax deductible.

In response to questions by Senator Yates, Mr. Rowe stated that the cabinet would investigate the possibility of a pass-through partnership with Prevent Child Abuse Kentucky, which was already a fund with the KECC. Senator Alvarado stated that there was already a partnership in place between the Kentucky Child Victims' Trust fund and Prevent Child Abuse Kentucky.

In response to questions by Co-Chair West, Mr. Rowe stated that the cabinet had broad statutory authority for this administrative regulation pursuant to KRS 18A.030. This administrative regulation could be amended in a way that would allow inclusion of the Kentucky Child Victims' Trust Fund. Co-Chair West requested that this administrative regulation be amended to provide for inclusion of the Kentucky Child Victims' Trust Fund, which Mr. Rowe agreed to consider.

Co-Chair Hale thanked the cabinet for considering to amend this administrative regulation and encouraged them to find a way to include the Kentucky Child Victims' Fund.

Representative Bridges stated that the cabinet could ask the Attorney General for information regarding the Kentucky Child Victims' Fund's taxation status or for information regarding KECC party structuring issues.

**Administrative Regulations Reviewed by this Subcommittee:**

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Education Professional Standards Board: General Administration**

16 KAR 1:030. Procedures for educator certificate surrender, revocation, suspension, reinstatement, and reissuance, and for application denial. Cassie Trueblood, counsel, represented the board.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2, 3, 5, 6, and 9 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**SECRETARY OF STATE: Office of Business Services: Implementation of Revised Article 9**

30 KAR 5:011E. Definitions for 030 KAR Chapter 005. Johnna Ballinger, section supervisor, and Michael Wilson, director of business services, represented the office.

In response to a question by Co-Chair West, Mr. Wilson stated that these administrative regulations were filed as emergencies because they had inadvertently been allowed to expire.

30 KAR 5:021E. Filing methods and forms.

30 KAR 5:031E. Acceptance and refusal of records.

30 KAR 5:041E. UCC information management system.

30 KAR 5:051E. Filing, indexing, and data entry procedures.

30 KAR 5:060E. Search requests, reports, and copies.

**PERSONNEL CABINET: Personnel Board**

101 KAR 1:335. Employee actions. Stafford Easterling, general counsel, represented the board.

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 and 3 through 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

101 KAR 1:345. Disciplinary actions.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

101 KAR 1:365. Appeal and hearing procedures.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 3, 5, and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

101 KAR 1:367. Standards of conduct and technology governing recording board proceedings.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 4 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.

101 KAR 1:375. Employee grievances and complaints.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to add a Section 5 for the Grievance Form incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

101 KAR 1:395. Restoration from military duty.

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.

101 KAR 1:400. Promotion.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**BOARDS AND COMMISSIONS: Board of Cosmetology**

201 KAR 12:082E. Education requirements and school administration. Julie Campbell, administrator, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2, 5, 8, 15, 18, 21, 23, and 32 through 35 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 33 to include compliance with state and national declarations emergency. 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: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2, 5, 8, 15, 18, 21, 23, and 32 through 35 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 33 to include compliance with state and national declarations emergency. Without objection, and with agreement of the agency, the amendments were approved.

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

301 KAR 2:082. Transportation and holding of live exotic wildlife. Brian Clark, deputy commissioner, and Steven Fields, staff attorney, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend Section 10 to specify that the commissioner's decision to revoke an exemption or deny future exemptions shall be based upon the necessity to protect public health, public safety, native ecosystems, or native wildlife; and (2) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 3, 5 through 7, and 9 through 12 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**Hunting and Fishing**

301 KAR 3:010. Public use of Wildlife Management Areas.

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, 5 through 6, and 9 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

301 KAR 3:026. Access to Wildlife Management Areas for mobility-impaired individuals.

In response to questions by Co-Chair Hale, Mr. Clark stated that specific Wildlife Management Areas had specially designed tracks to accommodate vehicles for hunting by disabled persons. The department would investigate and report back whether or not Clay WMA had any tracks for disabled persons.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2, 3, and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**TRANSPORTATION CABINET: Motor Vehicle Commission**

605 KAR 1:051. Dealer and salesman. Carlos Cassady, executive director, represented the commission.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2, 5, and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

605 KAR 1:071. Change of ownership.

A motion was made and seconded to approve the following amendment: to amend Section 5 to make a technical correction. Without objection, and with agreement of the agency, the amendment was approved.

605 KAR 1:091. Motor vehicle dealership names.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

605 KAR 1:131. Procedures.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

605 KAR 1:191. Motor vehicle advertising.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND

CONFORMITY paragraph and Sections 1, 3 through 6, 8, and 12 through 14 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

605 KAR 1:211. Nonprofit motor vehicle dealer requirements and licensing.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO, STATUTORY AUTHORITY, and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Kentucky Board of Education: General Administration**

702 KAR 1:191. District Employee Quarantine Leave. Todd Allen, general counsel, Department of Education; Chad Collins, general counsel, Kentucky High School Athletic Association; and Julian Tackett, commissioner, Kentucky High School Athletic Association, represented the cabinet.

In response to questions by Co-Chair West, Mr. Allen stated that this administrative regulation was not dependent upon Centers for Disease Control quarantine recommendations, and guidelines were not limited to coronavirus (COVID-19). Employees could be paid for quarantine leave up to ten (10) days for a reportable disease, if quarantine was ordered by a physician, and if the employee had already exhausted sick leave or been ineligible for sick leave.

In response to questions by Representative Frazier Gordon, Mr. Allen stated that provisions in this administrative regulation did not differentiate between vaccinated and unvaccinated employees. The cabinet did have an administrative regulation that was specific to coronavirus (COVID-19), and those provisions did differentiate between vaccinated and unvaccinated employees. This administrative regulation would replace that one.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**School Terms, Attendance, and Operation**

702 KAR 7:065. Designation of agent to manage middle and high school interscholastic athletics.

In response to a question by Co-Chair Hale, Mr. Tackett stated that Kentucky schools had done well in navigating public and mental health concerns within the context of athletics.

A motion was made and seconded to approve the following amendments: to amend Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**Department for Libraries and Archives: Archives**

725 KAR 1:010. Records officers; duties. Terry Manuel, commissioner, and Beth Milburn, deputy commissioner, represented the department.

In response to a question by Co-Chair West, Mr. Manuel stated that these administrative regulations did not govern agency level records retention requirements.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 and 4 to comply with the drafting requirements of KRS Chapter 13A; and (2) to add Section 5 to establish incorporated material. Without objection, and with agreement of the agency, the amendments were approved.

725 KAR 1:020. Recording and reproducing public records.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

725 KAR 1:025. Transfer of public records.

725 KAR 1:030. Scheduling public records for retention and disposal; procedures.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

725 KAR 1:040. Collection and distribution of reports and publications.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

725 KAR 1:050. Records management program.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 6 and 8 through 10 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to add: (a) Section 7 to establish an informal appeals process; and (b) Section 11 to establish incorporated material. Without objection, and with agreement of the agency, the amendments were approved.

725 KAR 1:061. Records retention schedules; authorized schedules.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**Libraries**

725 KAR 2:015. Public library facilities construction.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 7 and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 10 to add incorporated material. Without objection, and with agreement of the agency, the amendments were approved.

725 KAR 2:080. Interstate Library Compact.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to establish Section 2 to clarify which parties use the incorporated material. Without objection, and with agreement of the agency, the amendments were approved.

**PUBLIC PROTECTION CABINET: Department of Alcoholic Beverage Control: Licensing**

804 KAR 4:221. Alternating proprietorship agreements. Joshua Newton, general counsel, represented the department.

In response to questions by Co-Chair West, Mr. Newton stated that this administrative regulation allowed previously prohibited distillery partnerships.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 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.

**Department of Insurance: Trade Practices and Frauds**

806 KAR 12:010. Advertising of accident and sickness benefits. Abigail Gall, regulation coordinator, and Chad Thompson, general counsel, represented the department.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1 through 21 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**Insurance Contract**

806 KAR 14:007. Rate and form filing for health insurers.

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, 2, 5 through 7, and 10 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**Department of Housing, Buildings, and Construction: Electrical**

815 KAR 35:020. Electrical inspections. Darryl Morgan, director, Electrical Division; Rick Rand, commissioner; Benjamin Siegel, general counsel; and Jason Siwula, assistant state highway engineer, represented the department.

**CABINET FOR HEALTH AND FAMILY SERVICES: Office of Telehealth Services: Telehealth**

900 KAR 12:005. Telehealth terminology and requirements. Kim Minter, regulation coordinator; Kelli Rodman, director, Legislative Affairs; and Donna Veno, director, represented the office.

Co-Chair Hale and Senator Alvarado thanked the office for amending this administrative regulation.

A motion was made and seconded to approve the following amendments: to amend Section 2 to: (1) make a technical correction; and (2) delete the requirement for guidelines to contact, refer, and obtain treatment for a patient who needs emergency or higher level-of-care services. Without objection, and with agreement of the agency, the amendments were approved.

**Health Services and Facilities**

902 KAR 20:081. Operations and services; home health agencies. Kara Daniel, deputy inspector general, and Adam Mather, inspector general, represented the cabinet.

902 KAR 20:460E. Essential visitor programs; visitation guidelines for long-term care facilities.

In response to a question by Co-Chair West, Mr. Mather stated that this administrative regulation authorized specific individuals to be essential care visitors who could access patients during events such as pandemics. Prior caregivers could, for example, become essential care visitors because this was not exclusive to family members.

Senator Alvarado clarified that this allowed one (1) essential care visitor.

Co-Chair Hale thanked the office for this important administrative regulation

**Office of Inspector General: Division of Health Care**

906 KAR 1:180. Operation and services; personal services agencies.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 3, 5, and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**Department for Aging and Independent Living: Office of Dementia Services**

910 KAR 4:010. Alzheimer's and dementia services curriculum review and approval. Jennifer Craig, office coordinator; Victoria Elridge, commissioner; and Phyllis Sosa, staff assistant, represented the office.

In response to questions by Senator Alvarado, Ms. Elridge stated that KRS 216.713(1) through (3) established that Alzheimer's and dementia training applied to individuals who worked with patients of home health agencies, personal service agencies, and assisted living facilities that employed, directly or by contract, aids or unlicensed personnel who worked with Alzheimer's or dementia patients. This would include training for staff of personal care homes if those homes worked with home health or personal service agencies.

In response to a question by Co-Chair West, Senator Alvarado stated that he did not wish to ask the department to defer consideration of this administrative regulation; however, he wanted to clarify for the record that this impacted facilities beyond just home health agencies.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**The following administrative regulations were deferred or removed from the January 10, 2022, subcommittee agenda:**

**DEPARTMENT OF LAW: Medical Examination of Sexual Abuse Victims**

40 KAR 3:020. Protocol for operation of local multidisciplinary teams on child sexual abuse.

**Kentucky Retirement Systems: General Rules**

105 KAR 1:210. Disability procedures.

105 KAR 1:310. Fred Capps Memorial Act.

105 KAR 1:330. Purchase of service credit.

**BOARDS AND COMMISSIONS: Board of Pharmacy**

201 KAR 2:430. Emergency orders and hearings.

**Board of Embalmers and Funeral Directors**

201 KAR 15:030E. Fees.

201 KAR 15:030. Fees.

201 KAR 15:040. Examination.

201 KAR 15:050. Apprenticeship and supervision requirements.

201 KAR 15:110. Funeral establishment criteria.

201 KAR 15:125. Surface transportation permit.

**Board of Nursing**

201 KAR 20:471. Repeal of 201 KAR 020:470.

201 KAR 20:472. Initial approval for dialysis technician training programs.

201 KAR 20:474. Continuing approval and periodic evaluation of dialysis technician training programs.

201 KAR 20:476. Dialysis technician credentialing requirements for initial credentialing, renewal, and reinstatement.

201 KAR 20:478. Dialysis technician scope of practice, discipline, and miscellaneous requirements.

**Board of Licensure for Massage Therapy**

201 KAR 42:010. Goals for massage therapy sessions.

201 KAR 42:020. Fees.

201 KAR 42:030. Licensee's change of name, home address, or place of business.

201 KAR 42:035. Application process, exam, and curriculum requirements.

201 KAR 42:040. Renewal and reinstatement.

201 KAR 42:050. Complaint procedure and disciplinary action.

201 KAR 42:060. Code of ethics and standards of practice for massage therapists.

201 KAR 42:070. Endorsement.

201 KAR 42:110. Continuing education requirements.

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

301 KAR 4:001. Selection of Fish and Wildlife Resources Commission nominees.

301 KAR 4:010. Districts.

301 KAR 4:020. Ballard Wildlife Management Area restrictions.

301 KAR 4:100. Peabody Wildlife Management Area use requirements and restrictions.

301 KAR 4:110. Administration of drugs to wildlife.

**Licensing**

301 KAR 5:001. Definitions for 301 KAR Chapter 5.

301 KAR 5:030. Purchasing licenses and permits.

301 KAR 5:100. Interstate Wildlife Violators Compact.

**GENERAL GOVERNMENT CABINET: Department of Agriculture: Industrial Hemp**

302 KAR 50:021. Procedures and policies for hemp growers.

302 KAR 50:031. Procedures and policies for hemp processors and handlers.

302 KAR 50:046. Department's reports to the USDA; records retention for three years.

302 KAR 50:056. Sampling and THC testing; disposal of non-compliant harvests; post-testing actions.

302 KAR 50:080. Materials incorporated by reference.

**JUSTICE AND SAFETY CABINET: Department of State Police: Driver Training**

502 KAR 10:010. Definitions.

502 KAR 10:020. Department facilities; facility inspection; conflict of interest.

502 KAR 10:030. Instructor's license.

502 KAR 10:035. Commercial driver's license skill testing.

502 KAR 10:040. Training school facilities.

502 KAR 10:050. Contracts and agreements.

502 KAR 10:060. School advertising.

502 KAR 10:070. Training vehicle, annual inspection.

502 KAR 10:080. License suspension, revocation, denial.

502 KAR 10:090. Procedure for denial, suspension, nonrenewal or revocation hearings.

502 KAR 10:110. Third-party CDL skills test examiner standards.

502 KAR 10:120. Hazardous materials endorsement requirements.

**Concealed Deadly Weapons**

502 KAR 11:010. Application for license to carry concealed deadly weapon.

502 KAR 11:060. License denial and reconsideration process.

502 KAR 11:070. License revocation and suspension notice and reinstatement process.

**Law Enforcement Officers Safety Act of 2004**

502 KAR 13:010. Application for certification under the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers.

502 KAR 13:030. Range qualification for certification under the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers.

502 KAR 13:040. Issuance, expiration, and renewal of certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers.

502 KAR 13:050. Replacement of licenses to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers.

502 KAR 13:060. Change of personal information regarding certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers.

502 KAR 13:080. Incomplete application for certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers.

**Department of State Police: General Traffic**

502 KAR 15:010. Traffic collision.

502 KAR 15:020. Abandoned vehicles.

**Criminal History Record Information System**

502 KAR 30:010. Criminal History Record Information System.

502 KAR 30:020. Arrest and disposition reporting procedure.

502 KAR 30:030. Audit of Criminal History Record Information System.

502 KAR 30:050. Security of centralized criminal history record information.

502 KAR 30:060. Dissemination of criminal history record information.

502 KAR 30:070. Inspection of criminal history record information by record subject.

**Kentucky Missing Child Information Center**

502 KAR 35:010. Definitions.

502 KAR 35:020. Capabilities of the Missing Child Information Center computer system.

502 KAR 35:030. Quality of information reported to the Kentucky Missing Child Information Center.

502 KAR 35:040. Reporting of missing children by law enforcement agencies.

502 KAR 35:050. Statistical analysis of information related to missing children.

**Candidate Selection**

502 KAR 45:005. Definitions.

502 KAR 45:015. Qualifications.

502 KAR 45:035. Application and selection process.

502 KAR 45:045. Aptitude examination.

502 KAR 45:075. Register.

502 KAR 45:085. Medical examination.

502 KAR 45:105. Appointment.

502 KAR 45:115. Appeals.

502 KAR 45:150. Physical Fitness Test (PFT).

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Department of Workforce Investment: Office of Vocational Rehabilitation**

781 KAR 1:010. Office of Vocational Rehabilitation appeal procedures.

781 KAR 1:020. General provisions for operation of the Office of Vocational Rehabilitation.

781 KAR 1:030. Order of selection and economic need test for vocational rehabilitation services.

781 KAR 1:040. Rehabilitation technology services.

781 KAR 1:050. Carl D. Perkins Vocational Training Center.

**Office for the Blind**

782 KAR 1:010. Kentucky Business Enterprises.

782 KAR 1:070. Certified driver training program.

**Kentucky Commission on Proprietary Education**

791 KAR 1:010. Applications, permits, and renewals.

791 KAR 1:020. Standards for licensure.

791 KAR 1:025. Fees.

791 KAR 1:027. School record keeping requirements.

791 KAR 1:030. Procedures for hearings.

791 KAR 1:035. Student protection fund.

791 KAR 1:040. Commercial driver license training school curriculum and refresher course.

791 KAR 1:050. Application for license for commercial driver license training school.

791 KAR 1:060. Application for renewal of license for commercial driver license training school.

791 KAR 1:070. Commercial driver license training school instructor and agency application and renewal procedures.

791 KAR 1:080. Maintenance of student records, schedule of fees charged to students, contracts and agreements involving licensed commercial driver license training schools.

791 KAR 1:100. Standards for Kentucky resident commercial driver training school facilities.

791 KAR 1:150. Bond requirements for agents and schools.

791 KAR 1:155. School closing process.

791 KAR 1:160. Transfer of ownership, change of location, change of name, revision of existing programs.

**LABOR CABINET: Department of Workplace Standards: Labor Standards; Wages and Hours**

803 KAR 1:005. Employer-employee relationship.

803 KAR 1:025. Equal pay provisions, meaning and application.

803 KAR 1:060. Overtime pay requirements.

803 KAR 1:063. Trading time.

803 KAR 1:065. Hours worked.

803 KAR 1:066. Recordkeeping requirements.

803 KAR 1:070. Executive, administrative, supervisory or professional employees; salesmen.

803 KAR 1:075. Exclusions from minimum wage and overtime.

803 KAR 1:080. Board, lodging, gratuities and other allowances.

803 KAR 1:090. Workers with disabilities and work activity centers' employee's wages.

**PUBLIC PROTECTION CABINET: Department of Insurance: Health Insurance Contracts**

806 KAR 17:350. Life insurance and managed care.

806 KAR 17:590. Annual report on providers prescribing medication for addiction treatment.

**Horse Racing Commission: Pari-Mutuel Wagering**

810 KAR 8:025E. Drug, medication, and substance withdrawal guidelines.

**CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Sanitation**

902 KAR 10:120. Kentucky public swimming and bathing facilities.

902 KAR 10:121. Plan review, annual permitting, and inspection fees for public swimming and bathing facilities, including splash pads operated by local governments.

902 KAR 10:190. Splash pads operated by local governments.

**Department for Medicaid Services**

907 KAR 1:005. Nonduplication of payments.

**Payments and Services**

907 KAR 3:170. Telehealth service coverage and reimbursement.

**Outpatient Pharmacy Program**

907 KAR 23:020. Reimbursement for outpatient drugs.

**The subcommittee adjourned at 2:15 p.m. The next meeting of this subcommittee was tentatively scheduled for February 7, 2022, 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.

### SENATE STANDING COMMITTEE ON HEALTH AND WELFARE
**Meeting of January 12, 2022**

The following administrative regulations were available for consideration and placed on the agenda of the Senate Standing Committee on Health and Welfare for its meeting of January 12, 2022, having been referred to the Committee on January 5, 2022, pursuant to KRS 13A.290(6):

January 5, 2022
201 KAR 002:030
201 KAR 002:074
201 KAR 002:412 E
201 KAR 020:215
201 KAR 020:320
902 KAR 002:230 E
902 KAR 002:240 E
902 KAR 002:250 E
907 KAR 001:030
907 KAR 001:604
907 KAR 010:815
907 KAR 010:830
922 KAR 001:565

The following administrative regulation was approved as amended at the Committee meeting pursuant to KRS 13A.320:

902 KAR 002:020

**The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.**

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the January 12, 2022 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

**902 KAR 002:020**. Reportable disease surveillance.

Page 14
Section 6(1)(q)
Line 16

After "virus that causes COVID-19)", insert the following:
in accordance with subsection (2) of this section

Page 15
Section 6(2)
Line 9

After "virus that causes COVID-19,", insert the following: the following reporting is required:
(a) Laboratory reports of:
1. Positive and negative test results for SARS-CoV-2 viral detection using antigen or Nucleic Acid Amplification Test (NAAT), including polymerase chain reaction (PCR);
2. SARS-CoV-2 molecular sequencing; and
3. Positive test results for IgM or IgG antibodies to SARS-CoV-2 nucleocapsid protein.
(b) Health professional case report when:
1. A COVID-19 diagnosis of a patient for whom a laboratory report is not independently submitted;
2. A COVID-19 diagnosis of a patient admitted to an inpatient medical facility; or
3. There is a COVID-19 associated mortality

Delete the following:
notification of testing results shall include both positive and negative test results

### HOUSE STANDING COMMITTEE ON HEALTH AND FAMILY SERVICES
**Meeting of January 13, 2022**

The following administrative regulations were available for consideration and placed on the agenda of the House Standing Committee on Health and Family Services for its meeting of January 13, 2022, having been referred to the Committee on January 5, 2022, pursuant to KRS 13A.290(6):

January 5, 2022
201 KAR 002:030
201 KAR 002:074
201 KAR 002:412 E
201 KAR 020:215
201 KAR 020:320
902 KAR 002:230 E
902 KAR 002:240 E
902 KAR 002:250 E
907 KAR 001:030
907 KAR 001:604
907 KAR 010:815
907 KAR 010:830
922 KAR 001:565

The following administrative regulation was approved as amended at the Committee meeting pursuant to KRS 13A.320:

902 KAR 002:020

**The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.**

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the January 13, 2022 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

**902 KAR 002:020**. Reportable disease surveillance.

Page 14
Section 6(1)(q)
Line 16

After "virus that causes COVID-19)", insert the following:
in accordance with subsection (2) of this section

Page 15
Section 6(2)
Line 9

After "virus that causes COVID-19,", insert the following: the following reporting is required:

(a) Laboratory reports of:

1. Positive and negative test results for SARS-CoV-2 viral detection using antigen or Nucleic Acid Amplification Test (NAAT), including polymerase chain reaction (PCR);

2. SARS-CoV-2 molecular sequencing; and

3. Positive test results for IgM or IgG antibodies to SARS-CoV-2 nucleocapsid protein.

(b) Health professional case report when:

1. A COVID-19 diagnosis of a patient for whom a laboratory report is not independently submitted;

2. A COVID-19 diagnosis of a patient admitted to an inpatient medical facility; or

3. There is a COVID-19 associated mortality

Delete the following:

notification of testing results shall include both positive and negative test results

**SENATE STANDING COMMITTEE ON TRANSPORTATION**
**Meeting of January 19, 2022**

The Senate Transportation met on January 19, 2022 and a quorum was present. The following administrative regulations were available for consideration having been referred to the Committee on January 5, 2022, pursuant to KRS 13A.290(6):

603 KAR 003:100
603 KAR 005:360
603 KAR 010:011E
603 KAR 010:040E
603 KAR 010:040

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(8) and 13A.030(2):

none

**The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.**

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

none

**The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.**

The following administrative regulations were deferred pursuant to KRS 13A.300:

none

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the January 19, 2022 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

**HOUSE STANDING COMMITTEE ON TRANSPORTATION**
**Meeting of January 25, 2022**

The House Transportation met on January 25, 2022 and a quorum was present. The following administrative regulations were available for consideration having been referred to the Committee on January 5, 2022, pursuant to KRS 13A.290(6):

603 KAR 003:100
603 KAR 005:360
603 KAR 010:011E
603 KAR 010:040 E
603 KAR 010:040

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(8) and 13A.030(2):

none

**The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.**

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

none

**The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.**

The following administrative regulations were deferred pursuant to KRS 13A.300:

none

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the January 25, 2022 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 48th year of the *Administrative Register of Kentucky*, from July 2021 through June 2022.

**Locator Index - Effective Dates** **H - 2**

Lists all administrative regulations published or continuing through the KRS Chapter 13A review process 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 with a "47 Ky.R." or "48 Ky.R." notation are regulations that were originally published in previous years' issues of the *Administrative Register of Kentucky* but had not yet gone into effect when the last *Register* year ended.

ALSO NOTE: 2021 legislation may affect the expiration date of some regulations. Generally, the expiration dates listed in this index are based on KRS Chapter 13A provisions.

**KRS Index** **H - 18**

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** **H - 35**

A list of administrative regulations for which certification letters have been filed pursuant to KRS 13A.3104 during this *Register* year.

**Technical Amendment Index** **H - 36**

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** **H - 37**

A general index of administrative regulations published during this *Register* year, and is mainly broken down by agency.

# LOCATOR INDEX - EFFECTIVE DATES

Administrative regulations published in previous Register years may appear in this index if a regulation had not completed the KRS Chapter 13A review process by the beginning of *Register* year 48. The "*Register* number" or "Ky.R. number" is listed the first time a regulation is published during that Register year. Once the regulation has been published in another *Register* year, the new Ky.R. number will appear next to the page number entry. To view versions of regulations published in 46 Ky.R. or 47 Ky.R., please visit our online *Administrative Registers of Kentucky*.

**SYMBOL KEY:**

* Statement of Consideration not filed by deadline
** Withdrawn, deferred more than twelve months (KRS 13A.300(2)(e) and 13A.315(1)(d))
*** Withdrawn before being printed in Register
IJC Interim Joint Committee
*(r)* Repealer regulation: KRS 13A.310(3)-on the effective date of an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.

---

**EMERGENCY ADMINISTRATIVE REGULATIONS**

NOTE: Pursuant to KRS 13A.190, emergency regulations expire after 270 days (or 270 days plus the number of days an accompanying ordinary is extended) or upon replacement by an ordinary regulation, whichever occurs first. This index reflects the KRS Chapter 13A-established expiration dates; however, expiration dates may be impacted by 2021 legislation including: Regular Session legislation: House Joint Resolution 77; KRS Chapter 39A, as amended by Senate Bill 1; and by KRS Chapters 13A and 214, as amended by Senate Bill 2; or Special Session legislation: House Joint Resolution 1; or KRS Chapter 13A as amended by Senate Bill 1 and Senate Bill 2.

| Regulation Number | Ky.R. Page No. | Effective Date |
|---|---|---|
| 016 KAR 002:220E | 48 Ky.R. 253 | 6-25-2021 |
| 016 KAR 002:230E | 48 Ky.R. 255 | 6-25-2021 |
| 030 KAR 005:011E | 48 Ky.R. 1703 | 10-29-2021 |
| 030 KAR 005:021E | 48 Ky.R. 1704 | 10-29-2021 |
| 030 KAR 005:031E | 48 Ky.R. 1706 | 10-29-2021 |
| 030 KAR 005:041E | 48 Ky.R. 1708 | 10-29-2021 |
| 030 KAR 005:051E | 48 Ky.R. 1710 | 10-29-2021 |
| 030 KAR 005:060E | 48 Ky.R. 1711 | 10-29-2021 |
| 030 KAR 006:011E | 48 Ky.R. 1093 | 9-15-2021 |
| 031 KAR 004:195E | 48 Ky.R. 256 | 6-23-2021 |
| 031 KAR 004:200E | 48 Ky.R. 258 | 6-23-2021 |
| 031 KAR 005:025E | 48 Ky.R. 259 | 6-23-2021 |
| 040 KAR 001:040E | 48 Ky.R. 262 | 6-28-2021 |
| 101 KAR 002:095E | 47 Ky.R. 172 | 1-29-2021 |
| As Amended | 2534 | 5-11-2021 |
| Replaced | 2573 | 8-31-2021 |
| 101 KAR 002:210E | 48 Ky.R. 1095 | 9-15-2021 |
| 102 KAR 001:360E | 48 Ky.R. 2167 | 12-28-2021 |
| 200 KAR 002:006E | 47 Ky.R. 1730 | 1-29-2021 |
| Replaced | 1811 | 8-31-2021 |
| 200 KAR 003:020E | 48 Ky.R. 263 | 7-1-2021 |
| Impacted by 2021 legislation | | |
| 200 KAR 008:505E | 47 Ky.R. 1735 | 1-27-2021 |
| Impacted by 2021 legislation | | |
| 200 KAR 017:110E | 48 Ky.R. 5 | 6-2-2021 |
| 201 KAR 002:106E | 48 Ky.R. 1997 | 12-14-2021 |
| 201 KAR 002:410E | 47 Ky.R. 1343 | 11-23-2020 |
| As Amended | 1871 | 2-22-2021 |
| Withdrawn | | 8-10-2021 |
| 201 KAR 002:411E | 48 Ky.R. 734 | 8-10-2021 |
| Withdrawn | | 10-11-2021 |
| 201 KAR 002:412E | 48 Ky.R. 1466 | 10-11-2021 |
| As Amended | 1098 | 9-14-2021 |
| 201 KAR 002:411E | 48 Ky.R. 734 | 8-10-2021 |
| 201 KAR 012:082E | 48 Ky.R. 1468 | 10-1-2021 |
| Am Comments | 2009 | 12-14-2021 |
| As Amended | 2184 | 1-10-2022 |
| 201 KAR 015:030E | 48 Ky.R. 268 | 6-30-2021 |
| 201 KAR 015:040E | 48 Ky.R. 270 | 6-30-2021 |
| 201 KAR 015:050E | 48 Ky.R. 272 | 6-30-2021 |
| 201 KAR 015:110E | 48 Ky.R. 276 | 6-30-2021 |
| 201 KAR 015:125E | 48 Ky.R. 279 | 6-30-2021 |
| 201 KAR 020:260E | 48 Ky.R. 2168 | 1-11-2022 |
| 201 KAR 035:010E | 47 Ky.R. 1872 | 3-5-2021 |
| Am Comments | 2536 | 5-13-2021 |
| As Amended | 48 Ky.R. 15 | 6-8-2021 |
| Replaced | 334 | 8-26-2021 |
| 201 KAR 035:020E | 47 Ky.R. 1874 | 3-5-2021 |
| Am Comments | 2538 | 5-13-2021 |
| As Amended | 48 Ky.R. 16 | 6-8-2021 |
| Replaced | 68 | 8-26-2021 |
| 201 KAR 035:025E | 47 Ky.R. 1878 | 3-5-2021 |
| Am Comments | 2542 | 5-13-2021 |
| Replaced | 338 | 8-26-2021 |
| 201 KAR 035:040E | 47 Ky.R. 1880 | 3-5-2021 |
| Am Comments | 2544 | 5-13-2021 |
| Replaced | 340 | 8-26-2021 |
| 201 KAR 035:050E | 47 Ky.R. 1884 | 3-5-2021 |
| Am Comments | 2547 | 5-13-2021 |
| Replaced | 341 | 8-26-2021 |
| 201 KAR 035:055E | 47 Ky.R. 1886 | 3-5-2021 |
| Replaced | 48 Ky.R. 341 | 8-26-2021 |
| 201 KAR 035:070E | 47 Ky.R. 1889 | 3-5-2021 |
| Am Comments | 2550 | 5-13-2021 |
| Replaced | 342 | 8-26-2021 |
| 201 KAR 035:075E | 47 Ky.R. 1893 | 3-5-2021 |
| Am Comments | 2554 | 5-13-2021 |
| Replaced | 345 | 8-26-2021 |
| 201 KAR 035:080E | 47 Ky.R. 1895 | 3-5-2021 |
| Am Comments | 2556 | 5-13-2021 |
| Replaced | 346 | 8-26-2021 |
| 201 KAR 046:020E | 48 Ky.R. 2172 | 12-21-2021 |
| 301 KAR 002:221E | 47 Ky.R. 1184 | 10-30-2020 |
| Replaced | 1937 | 6-3-2021 |
| 501 KAR 006:080E | 47 Ky.R. 1186 | 11-2-2020 |
| Replaced | 1748 | 7-6-2021 |
| 601 KAR 002:233E | 47 Ky.R. 2335 | 4-12-2021 |
| Replaced | 48 Ky.R. 429 | 11-30-2021 |
| 603 KAR 010:011E | 48 Ky.R. 736 | 7-30-2021 |
| 603 KAR 010:040E | 48 Ky.R. 737 | 7-30-2021 |
| Am Comments | 1483 | 10-15-2021 |
| Replaced | 2077 | 1-25-2021 |
| 605 KAR 001:215E | 47 Ky.R. 2526 | 5-12-2021 |
| Replaced | 48 Ky.R. 1130 | 11-15-2021 |
| 702 KAR 001:190E | 47 Ky.R. 503 | 8-12-2020 |
| 702 KAR 001:191E | 48 Ky.R. 744 | 8-11-2021 |
| Withdrawn | | 12-8-2021 |
| 702 KAR 00:192E | 48 Ky.R. 1999 | 12-8-2021 |
| 702 KAR 001:195E | 48 Ky.R. 746 | 8-12-2021 |
| As Amended | 760 | 8-17-2021 |
| Impacted by 2021 legislation | | |
| 702 KAR 007:125E | 48 Ky.R. 748 | 8-11-2021 |
| Withdrawn | | 12-8-2021 |
| 787 KAR 001:360E | 47 Ky.R. 2527 | 5-4-2021 |
| Replaced | 48 Ky.R. 800 | 11-30-2021 |
| 800 KAR 001:020E | 48 Ky.R. 2174 | 12-17-2021 |
| 803 KAR 002:181E | 47 Ky.R. 2529 | 5-13-2021 |
| Replaced | 48 Ky.R. 2531 | 11-30-2021 |
| 803 KAR 002:182E*(r)* | 47 Ky.R. 2531 | 5-13-2021 |
| 803 KAR 002:320E | 47 Ky.R. 1527 | 1-13-2021 |
| Replaced | 2376 | 8-3-2021 |
| 803 KAR 002:321E | 48 Ky.R. 2001 | 11-23-2021 |
| 803 KAR 002:330E | 48 Ky.R. 753 | 7-20-2021 |
| 803 KAR 002:426E | 48 Ky.R. 2003 | 11-23-2021 |

| Regulation Number | 46 Ky.R. Page No. | | Effective Date |
|---|---|---|---|
| 803 KAR 025:305E | 48 Ky.R. | 1473 | 9-28-2021 |
| 810 KAR 002:001E | 47 Ky.R. | 1900 | 2-25-2021 |
| Replaced | 48 Ky.R. | 353 | 8-12-2021 |
| 810 KAR 003:001E | 47 Ky.R. | 1903 | 2-25-2021 |
| Replaced | 48 Ky.R. | 354 | 8-12-2021 |
| 810 KAR 004:001E | 47 Ky.R. | 1905 | 2-25-2021 |
| Replaced | 48 Ky.R. | 355 | 8-12-2021 |
| 810 KAR 005:001E | 47 Ky.R. | 1908 | 2-25-2021 |
| Replaced | 48 Ky.R. | 357 | 8-12-2021 |
| 810 KAR 006:001E | 47 Ky.R. | 1912 | 2-25-2021 |
| Replaced | 48 Ky.R. | 359 | 8-12-2021 |
| 810 KAR 006:010E | 47 Ky.R. | 1916 | 2-25-2021 |
| Replaced | 48 Ky.R. | 362 | 8-12-2021 |
| 810 KAR 006:030E | 47 Ky.R. | 1919 | 2-25-2021 |
| Replaced | 48 Ky.R. | 372 | 8-12-2021 |
| 810 KAR 008:025E | 48 Ky.R. | 1714 | 10-29-2021 |
| 811 KAR 001:251E*(r)* | 47 Ky.R. | 1923 | 2-25-2021 |
| Expired | | | 10-5-2021 |
| 900 KAR 012:005E | 48 Ky.R. | 755 | 7-28-2021 |
| Am Comments | | 1489 | 10-15-2021 |
| As Amended - IJC | | 2009 | 12-15-2021 |
| 902 KAR 002:211E | 47 Ky.R. | 1533 | 1-5-2021 |
| Am Comments | | 2558 | 4-28-2021 |
| As Amended | 48 Ky.R. | 18 | 6-8-2021 |
| Withdrawn | | | 6-11-2021 |
| 902 KAR 002:212E | 48 Ky.R. | 281 | 6-16-2021 |
| Impacted by 2021 legislation | | | |
| 902 KAR 002:213E | 48 Ky.R. | 757 | 8-12-2021 |
| As Amended | | 760 | 8-17-2021 |
| Impacted by 2021 legislation | | | |
| 902 KAR 002:221E | 48 Ky.R | 7 | 6-4-2021 |
| 902 KAR 002:230E | 48 Ky.R. | 1474 | 10-1-2021 |
| 902 KAR 002:240E | 48 Ky.R. | 1476 | 10-1-2021 |
| As Amended | | 2014 | 12-9-2021 |
| 902 KAR 002:250E | 48 Ky.R. | 1477 | 10-1-2021 |
| 902 KAR 004:150E | 47 Ky.R. | 1925 | 3-5-2021 |
| 902 KAR 020:160E | 47 Ky.R. | 897 | 10-13-2020 |
| Replaced | | 1980 | 6-16-2021 |
| 902 KAR 020:440E | 47 Ky.R. | 908 | 10-13-2020 |
| Replaced | | 1989 | 6-16-2021 |
| 902 KAR 020:460E | 48 Ky.R. | 1479 | 10-1-2021 |
| 902 KAR 030:210E | 47 Ky.R. | 1926 | 3-5-2021 |
| 907 KAR 015:070E | 47 Ky.R. | 915 | 10-13-2020 |
| Replaced | | 1996 | 6-16-2021 |
| 907 KAR 015:080E | 47 Ky.R. | 922 | 10-13-2020 |
| Replaced | | 2001 | 6-16-2021 |
| 907 KAR 023:020E | 48 Ky.R. | 283 | 6-29-2021 |
| Am Comments | | 1099 | 9-15-2021 |
| 921 KAR 001:400E | 48 Ky.R. | 286 | 6-29-2021 |
| Replaced | | 1563 | 11-23-2021 |
| 921 KAR 002:015E | 48 Ky.R. | 289 | 7-1-2021 |
| Replaced | | 1564 | 11-23-2021 |
| 921 KAR 003:025E | | | |
| Resubmitted | 47 Ky.R. | 1535 | 1-15-2021 |
| As Amended | | 2342 | 4-13-2021 |
| 921 KAR 003:026 | 48 Ky.R. | 9 | 6-11-2021 |
| Expired | | | 9-22-2021 |
| 921 KAR 003:027E | 48 Ky.R. | 10 | 6-11-2021 |
| Replaced | | 236 | 10-20-2021 |
| 921 KAR 004:116E | 48 Ky.R. | 295 | 7-1-2021 |
| Replaced | | 689 | 11-23-2021 |
| 921 KAR 004:122E | 48 Ky.R. | 2005 | 12-1-2021 |
| 922 KAR 001:360E | 48 Ky.R. | 2176 | 12-28-2021 |
| 922 KAR 001:490E | | | |
| Resubmitted | 47 Ky.R. | 1737 | 2-8-2021 |
| Am Comments | | 2344 | 4-12-2021 |
| As Amended | | 2560 | 5-11-2021 |
| Replaced | 48 Ky.R. | 377 | 8-26-2021 |
| 922 KAR 002:160E | 48 Ky.R. | 299 | 7-1-2021 |
| Am Comments | | 1102 | 9-14-2021 |
| Replaced | | 1614 | 12-15-2021 |
| 922 KAR 002:415E | 47 Ky.R. | 1928 | 3-15-2021 |
| As Amended | | 2523 | 4-13-2021 |
| Withdrawn | | | 5-10-2021 |

---

**ORDINARY ADMINISTRATIVE REGULATIONS**

| Regulation Number | 46 Ky.R. Page No. | | Effective Date |
|---|---|---|---|
| 011 KAR 016:001 | | | |
| Amended | 48 Ky.R. | 1203 | |
| 011 KAR 016:010 | | | |
| Amended | 48 Ky.R. | 1205 | |
| 013 KAR 001:020 | | | |
| Amended | 47 Ky.R. | 1797 | |
| As Amended | | 2565 | 8-31-2021 |
| 013 KAR 003:010 | | | |
| Amended | 48 Ky.R. | 842 | |
| As Amended | | 2015 | |
| 013 KAR 003:020 | | | |
| Amended | 48 Ky.R. | 843 | |
| As Amended | | 2015 | |
| 013 KAR 003:030 | | | |
| Amended | 48 Ky.R. | 844 | |
| As Amended | | 2016 | |
| 013 KAR 003:040 | | | |
| Amended | 48 Ky.R. | 846 | |
| As Amended | | 2016 | |
| 013 KAR 003:050 | | | |
| Amended | 48 Ky.R. | 847 | |
| As Amended | | 2017 | |
| 013 KAR 003:060 | | | |
| Amended | 48 Ky.R. | 849 | |
| As Amended | | 2017 | |
| 013 KAR 004:010 | | | |
| Amended | 47 Ky.R. | 1805 | |
| As Amended | | 2572 | 8-31-2021 |
| 016 KAR 001:030 | | | |
| Amended | 48 Ky.R. | 1624 | |
| As Amended | | 2188 | |
| 016 KAR 002:180 | | | |
| Amended | 48 Ky.R. | 444 | |
| As Amended | | 1492 | |
| 016 KAR 002:220 | 48 Ky.R. | 704 | |
| As Amended | | 1492 | |
| 016 KAR 002:230 | 48 Ky.R. | 705 | |
| 016 KAR 003:060 | | | |
| Amended | 47 Ky.R. | 2614 | |
| As Amended | 48 Ky.R. | 763 | 11-30-2021 |
| 016 KAR 002:040 | | | |
| Amended | 48 Ky.R. | 1207 | |
| 016 KAR 002:050 | | | |
| Amended | 48 Ky.R. | 1210 | |
| As Amended | | 2018 | |
| 016 KAR 003:070 | | | |
| Amended | 48 Ky.R. | 445 | |
| As Amended | | 1493 | |
| 016 KAR 004:020 | | | |
| Amended | 48 Ky.R. | 1213 | |
| As Amended | | 2019 | |
| 016 KAR 004:050 | | | |
| Amended | 48 Ky.R. | 447 | |
| As Amended | | 1494 | |
| 016 KAR 005:010 | | | |
| Amended | 48 Ky.R. | 449 | |
| As Amended | | 1494 | |
| 016 KAR 005:020 | | | |
| Amended | 47 Ky.R. | 2616 | |
| As Amended | 48 Ky.R. | 764 | 11-30-2021 |
| 016 KAR 006:010 | | | |
| Amended | 48 Ky.R. | 462 | |

# LOCATOR INDEX - EFFECTIVE DATES

| Regulation Number | 46 Ky.R. Page No. | | Effective Date |
|---|---|---|---|
| Am Comments | | 1581 | |
| 016 KAR 009:090 | | | |
| Amended | 47 Ky.R. | 2619 | |
| As Amended | 48 Ky.R. | 766 | 11-30-2021 |
| 030 KAR 001:011 | 48 Ky.R. | 1431 | |
| Withdrawn | | | 11-15-2021 |
| 030 KAR 002:010 | | | |
| Amended | 48 Ky.R. | 2111 | |
| 030 KAR 003:010 | | | |
| Amended | 48 Ky.R. | 1215 | |
| As Amended | | 2021 | |
| 030 KAR 003:020 | | | |
| Amended | 48 Ky.R. | 1217 | |
| As Amended | | 2022 | |
| 030 KAR 003:030 | | | |
| Amended | 48 Ky.R. | 1218 | |
| 030 KAR 005:011 | 48 Ky.R. | 1964 | |
| 030 KAR 005:021 | 48 Ky.R. | 1965 | |
| 030 KAR 005:031 | 48 Ky.R. | 1967 | |
| 030 KAR 005:041 | 48 Ky.R. | 1968 | |
| 030 KAR 005:051 | 48 Ky.R. | 1970 | |
| 030 KAR 005:060 | 48 Ky.R. | 1822 | |
| 030 KAR 006:011 | 48 Ky.R. | 1432 | |
| As Amended | | 2022 | |
| 031 KAR 003:010 | | | |
| Amended | 47 Ky.R. | 2621 | |
| As Amended | | 2024 | |
| 031 KAR 004:195 | 48 Ky.R. | 707 | |
| Withdrawn | | * | 11-15-2021 |
| 031 KAR 004:200 | 48 Ky.R. | 708 | |
| Withdrawn | | * | 11-15-2021 |
| 031 KAR 005:025 | 48 Ky.R. | 709 | |
| Withdrawn | | * | 11-15-2021 |
| 040 KAR 001:040 | 48 Ky.R. | 712 | |
| As Amended | | 1506 | |
| 040 KAR 003:020 | | | |
| Amended | 48 Ky.R. | 850 | |
| 040 KAR 006:010 | | | |
| Amended | 48 Ky.R. | 852 | |
| As Amended | | 1722 | |
| 040 KAR 006:020 | | | |
| Amended | 48 Ky.R. | 856 | |
| As Amended | | 1724 | |
| 040 KAR 006:030 | 48 Ky.R. | 1062 | |
| As Amended | | 1726 | |
| 101 KAR 001:325 | | | |
| Amended | 48 Ky.R. | 1825 | |
| 101 KAR 001:335 | | | |
| Amended | 48 Ky.R. | 1220 | |
| As Amended | | 2190 | |
| 101 KAR 001:345 | | | |
| Amended | 48 Ky.R. | 1223 | |
| As Amended | | 2191 | |
| 101 KAR 001:365 | | | |
| Amended | 48 Ky.R. | 1224 | |
| As Amended | | 2192 | |
| 101 KAR 001:367 | | | |
| Amended | 48 Ky.R. | 1226 | |
| As Amended | | 2193 | |
| 101 KAR 001:375 | | | |
| Amended | 48 Ky.R. | 1229 | |
| As Amended | | 2194 | |
| 101 KAR 001:395 | | | |
| Amended | 48 Ky.R. | 1230 | |
| As Amended | | 2195 | |
| 101 KAR 001:400 | | | |
| Amended | 48 Ky.R. | 1232 | |
| As Amended | | 2196 | |
| 101 KAR 002:095 | | | |
| Amended | 47 Ky.R. | 1807 | |
| As Amended | | 2573 | 8-31-2021 |
| 101 KAR 002:210 | | | |
| Amended | 48 Ky.R. | 1233 | |
| 103 KAR 001:160 | 47 Ky.R. | 1710 | |
| As Amended | | 2356 | 8-3-2021 |
| 103 KAR 008:090 | | | |
| Amended | 48 Ky.R. | 465 | |
| Am Comments | | 1584 | |
| 103 KAR 016:270 | | | |
| Amended | 48 Ky.R. | 466 | |
| Am Comments | | 1585 | |
| 103 KAR 016:320 | | | |
| Amended | 48 Ky.R. | 484 | |
| As Amended | | 1506 | |
| 103 KAR 016:352 | | | |
| Amended | 48 Ky.R. | 486 | |
| As Amended | | 1507 | |
| 103 KAR 018:020 | | | |
| Amended | 48 Ky.R. | 488 | |
| As Amended | | 1508 | |
| 103 KAR 018:090 | | | |
| Amended | 48 Ky.R. | 490 | |
| As Amended | | 1509 | |
| 103 KAR 026:100 | | | |
| Amended | 47 Ky.R. | 1610 | |
| As Amended | | 2357 | 8-3-2021 |
| 103 KAR 026:131 | 47 Ky.R. | 1857 | |
| As Amended | 48 Ky.R. | 20 | 10-5-2021 |
| 103 KAR 027:050 | | | |
| Amended | 48 Ky.R. | 491 | |
| As Amended | | 1509 | |
| 103 KAR 027:150 | | | |
| Amended | 48 Ky.R. | 492 | |
| As Amended | | 1510 | |
| 103 KAR 027:230 | | | |
| Amended | 48 Ky.R. | 495 | |
| 103 KAR 030:091 | | | |
| Amended | 48 Ky.R. | 497 | |
| As Amended | | 1511 | |
| 103 KAR 030:120 | | | |
| Amended | 48 Ky.R. | 501 | |
| As Amended | | 1514 | |
| 103 KAR 030:140 | | | |
| Amended | 48 Ky.R. | 504 | |
| 103 KAR 030:190 | | | |
| Amended | 48 Ky.R. | 506 | |
| As Amended | | 1515 | |
| 103 KAR 030:250 | | | |
| Amended | 48 Ky.R. | 509 | |
| As Amended | | 1517 | |
| 105 KAR 001:210 | | | |
| Amended | 48 Ky.R. | 858 | |
| 105 KAR 001:270 | | | |
| Amended | 47 Ky.R. | 2623 | |
| As Amended | 48 Ky.R. | 767 | 11-30-2021 |
| 105 KAR 001:310 | | | |
| Amended | 48 Ky.R. | 866 | |
| 105 KAR 001:330 | | | |
| Amended | 48 Ky.R. | 873 | |
| 200 KAR 002:006 | | | |
| Amended | 47 Ky.R. | 1811 | 8-31-2021 |
| 200 KAR 003:020 | | | |
| Amended | 48 Ky.R. | 510 | |
| As Amended | | 1517 | |
| 200 KAR 017:100 | 48 Ky.R. | 215 | |
| 201 KAR 001:100 | | | |
| Amended | 47 Ky.R. | 1816 | |
| As Amended | | 2575 | |
| 201 KAR 001:190 | | | |
| Amended | 48 Ky.R. | 2112 | |

# LOCATOR INDEX - EFFECTIVE DATES

| Regulation Number | 46 Ky.R. Page No. | | Effective Date |
|---|---|---|---|
| 201 KAR 002:030 | | | |
| Amended | 48 Ky.R. | 1235 | |
| As Amended | | 2025 | 1-13-2022 |
| 201 KAR 002:040 | | | |
| Amended | 47 Ky.R. | 2029 | |
| As Amended | 48 Ky.R. | 22 | 7-21-2021 |
| 201 KAR 002:050 | | | |
| Amended | 48 Ky.R. | 877 | 12-15-2021 |
| 201 KAR 002:061 | | | |
| Amended | 47 Ky.R. | 2421 | |
| As Amended | 48 Ky.R. | 310 | 8-26-2021 |
| 201 KAR 002:074 | | | |
| Amended | 48 Ky.R. | 1237 | |
| As Amended | | 2026 | 1-13-2022 |
| 201 KAR 002:076 | | | |
| Amended | 48 Ky.R. | 879 | |
| As Amended | | 1726 | 12-15-2021 |
| 201 KAR 002:106 | | | |
| Amended | 48 Ky.R. | 2116 | |
| 201 KAR 002:171 | 47 Ky.R. | 2179 | |
| As Amended | 48 Ky.R. | 23 | 7-21-2021 |
| 201 KAR 002:205 | | | |
| Amended | 47 Ky.R. | 2031 | |
| As Amended | 48 Ky.R. | 23 | 7-21-2021 |
| 201 KAR 002:270 | | | |
| Amended | 48 Ky.R. | 100 | |
| As Amended | | 1112 | 10-20-2021 |
| 201 KAR 002:360 | | | |
| Amended | 48 Ky.R. | 101 | |
| As Amended | | 1112 | 10-20-2021 |
| 201 KAR 002:380 | | | |
| Amended | 47 Ky.R. | 1422 | |
| Am Comments | | 2404 | |
| As Amended | | 2577 | 6-16-2021 |
| 201 KAR 002:390 | | | |
| Amended | 47 Ky.R. | 2032 | |
| As Amended | 48 Ky.R. | 24 | 7-21-2021 |
| 201 KAR 002:420 | 48 Ky.R. | 217 | 10-20-2021 |
| As Amended | | 1113 | |
| 201 KAR 002:430 | 48 Ky.R. | 1063 | |
| Am Comments | | 2239 | |
| 201 KAR 002:440 | 48 Ky.R. | 2131 | |
| 201 KAR 006:020 | | | |
| Amended | 48 Ky.R. | 515 | |
| As Amended | | 1727 | 12-15-2021 |
| 201 KAR 006:040 | | | |
| Amended | 48 Ky.R. | 1828 | |
| 201 KAR 008:520 | | | |
| Amended | 48 Ky.R. | 103 | |
| Am Comments | | 1603 | |
| As Amended | | 1728 | 12-15-2021 |
| 201 KAR 009:270 | | | |
| Amended | 47 Ky.R. | 2424 | |
| Am Comments | 48 Ky.R. | 833 | |
| As Amended | | 1113 | 10-20-2021 |
| 201 KAR 009:290 | 47 Ky.R. | 2495 | |
| As Amended | 48 Ky.R. | 770 | 10-20-2021 |
| 201 KAR 012:082 | | | |
| Amended | 48 Ky.R. | 1627 | |
| As Amended | | 2196 | |
| 201 KAR 014:015 | | | |
| Amended | 48 Ky.R. | 1830 | |
| 201 KAR 014:030 | | | |
| Amended | 48 Ky.R. | 1831 | |
| 201 KAR 014:040 | | | |
| Amended | 48 Ky.R. | 1833 | |
| 201 KAR 014:050 | | | |
| Amended | 48 Ky.R. | 1834 | |
| 201 KAR 014:065 | | | |
| Amended | 48 Ky.R. | 1835 | |
| 201 KAR 014:085 | | | |
| Amended | 48 Ky.R. | 1837 | |
| 201 KAR 014:105 | | | |
| Amended | 48 Ky.R. | 1839 | |
| 201 KAR 014:110 | | | |
| Amended | 48 Ky.R. | 1841 | |
| 201 KAR 014:115 | | | |
| Amended | 48 Ky.R. | 1843 | |
| 201 KAR 014:125 | | | |
| Amended | 48 Ky.R. | 1844 | |
| 201 KAR 014:150 | | | |
| Amended | 48 Ky.R. | 1846 | |
| 201 KAR 014:180 | | | |
| Amended | 48 Ky.R. | 1848 | |
| 201 KAR 015:030 | | | |
| Amended | 48 Ky.R. | 517 | |
| 201 KAR 015:040 | | | |
| Amended | 48 Ky.R. | 519 | |
| 201 KAR 015:050 | | | |
| Amended | 48 Ky.R. | 521 | |
| 201 KAR 015:110 | | | |
| Amended | 48 Ky.R. | 524 | |
| 201 KAR 015:125 | | | |
| Amended | 48 Ky.R. | 527 | |
| 201 KAR 020:057 | | | |
| Amended | 48 Ky.R. | 529 | |
| As Amended | | 1521 | 11-23-2021 |
| 201 KAR 020:065 | | | |
| Amended | 47 Ky.R. | 1819 | |
| As Amended | | 2578 | 6-16-2021 |
| 201 KAR 020:215 | | | |
| Amended | 48 Ky.R. | 533 | |
| As Amended | | 2029 | 1-13-2022 |
| 201 KAR 020:220 | | | |
| Amended | 48 Ky.R. | 1849 | |
| 201 KAR 020:280 | | | |
| Amended | 48 Ky.R. | 1841 | |
| 201 KAR 020:320 | | | |
| Amended | 48 Ky.R. | 537 | |
| Am Comments | | 1773 | |
| As Amended | | 2031 | 1-13-2022 |
| 201 KAR 020:360 | | | |
| Amended | 48 Ky.R. | 1855 | |
| 201 KAR 020:370 | | | |
| Amended | 47 Ky.R. | 1823 | |
| As Amended | | 2581 | 6-16-2021 |
| 201 KAR 020:411 | | | |
| Amended | 47 Ky.R. | 1824 | |
| As Amended | | 2582 | 6-16-2021 |
| 201 KAR 020:471 | 48 Ky.R. | 218 | |
| 201 KAR 020:472 | 48 Ky.R. | 220 | |
| Am Comments | | 1605 | |
| 201 KAR 020:474 | 48 Ky.R. | 224 | |
| 201 KAR 020:476 | 48 Ky.R. | 227 | |
| 201 KAR 020:478 | 48 Ky.R. | 230 | |
| 201 KAR 020:480 | | | |
| Amended | 48 Ky.R. | 1858 | |
| 201 KAR 020:506 | | | |
| Amended | 47 Ky.R. | 2036 | 7-21-2021 |
| 201 KAR 020:660 | | | |
| Amended | 47 Ky.R. | 1827 | |
| As Amended | | 2584 | 6-16-2021 |
| 201 KAR 021:035 | | | |
| Amended | 48 Ky.R. | 105 | |
| As Amended | | 1525 | 11-23-2021 |
| 201 KAR 021:054 | | | |
| Amended | 48 Ky.R. | 106 | |
| As Amended | | 1525 | 11-23-2021 |
| 201 KAR 021:070 | | | |
| Amended | 48 Ky.R. | 108 | 11-23-2021 |

| Regulation Number | 46 Ky.R. Page No. | | Effective Date |
|---|---|---|---|
| 201 KAR 021:090 | | | |
| Amended | 48 Ky.R. | 109 | 11-23-2021 |
| 201 KAR 021:100 | | | |
| Amended | 48 Ky.R. | 110 | 11-23-2021 |
| 201 KAR 022:001 | | | |
| Amended | 48 Ky.R. | 2266 | |
| 201 KAR 022:053 | | | |
| Amended | 48 Ky.R. | 2267 | |
| 201 KAR 022:045 | | | |
| Amended | 48 Ky.R. | 541 | |
| As Amended | | 1525 | 11-23-2021 |
| 201 KAR 022:170 | | | |
| Amended | 47 Ky.R. | 1424 | 6-16-2021 |
| 201 KAR 023:070 | | | |
| Amended | 47 Ky.R. | 1247 | |
| Am Comments | | 1744 | |
| As Amended | | 1933 | 6-16-2021 |
| 201 KAR 023:150 | 47 Ky.R. | 1503 | |
| Am Comments | | 2012 | |
| As Amended | | 2357 | 6-16-2021 |
| 201 KAR 026:115 | | | |
| Amended | 47 Ky.R. | 2037 | |
| As Amended | 48 Ky.R. | 312 | 8-26-2021 |
| Amended | | 1859 | |
| 201 KAR 026:121 | | | |
| Amended | 47 Ky.R. | 2039 | |
| As Amended | 48 Ky.R. | 313 | 8-26-2021 |
| 201 KAR 026:125 | | | |
| Amended | 47 Ky.R. | 2041 | 8-26-2021 |
| Amended | 48 Ky.R. | 1861 | |
| 201 KAR 026:130 | | | |
| Amended | 47 Ky.R. | 2042 | |
| As Amended | 48 Ky.R. | 313 | 8-26-2021 |
| Amended | 48 Ky.R. | 1863 | |
| 201 KAR 026:155 | | | |
| Amended | 47 Ky.R. | 2046 | |
| As Amended | 48 Ky.R. | 316 | 8-26-2021 |
| Amended | 48 Ky.R. | 1866 | |
| 201 KAR 026:160 | | | |
| Amended | 48 Ky.R. | 1868 | |
| 201 KAR 026:171 | | | |
| Amended | 47 Ky.R. | 2048 | |
| As Amended | 48 Ky.R. | 317 | 8-26-2021 |
| 201 KAR 026:175 | | | |
| Amended | 48 Ky.R. | 1870 | |
| 201 KAR 026:180 | | | |
| Amended | 47 Ky.R. | 2052 | |
| As Amended | 48 Ky.R. | 320 | 8-26-2021 |
| Amended | 48 Ky.R. | 1873 | |
| 201 KAR 026:185 | | | |
| Amended | 47 Ky.R. | 2054 | |
| As Amended | 48 Ky.R. | 320 | 8-26-2021 |
| 201 KAR 026:190 | | | |
| Amended | 47 Ky.R. | 2056 | |
| As Amended | 48 Ky.R. | 321 | 8-26-2021 |
| Amended | 48 Ky.R. | 1875 | |
| 201 KAR 026:200 | | | |
| Amended | 47 Ky.R. | 2058 | |
| As Amended | 48 Ky.R. | 323 | 8-26-2021 |
| 201 KAR 026:215 | | | |
| Amended | 48 Ky.R. | 1878 | |
| 201 KAR 026:225 | | | |
| Amended | 48 Ky.R. | 1880 | |
| 201 KAR 026:230 | | | |
| Amended | 47 Ky.R. | 2060 | |
| As Amended | 48 Ky.R. | 324 | 8-26-2021 |
| Amended | 48 Ky.R. | 1882 | |
| 201 KAR 026:250 | | | |
| Amended | 47 Ky.R. | 2063 | |
| As Amended | 48 Ky.R. | 326 | 8-26-2021 |
| Amended | 48 Ky.R. | 1884 | |
| 201 KAR 026:270 | | | |
| Amended | 48 Ky.R. | 1886 | |
| 201 KAR 026:280 | | | |
| Amended | 47 Ky.R. | 2065 | |
| As Amended | 48 Ky.R. | 327 | 8-26-2021 |
| 201 KAR 026:290 | | | |
| Amended | 47 Ky.R. | 2067 | |
| As Amended | 48 Ky.R. | 328 | 8-26-2021 |
| 201 KAR 026:301*(r)* | 47 Ky.R. | 2180 | |
| Withdrawn | | | 6-22-2021 |
| 201 KAR 026:310 | | | |
| Amended | 47 Ky.R. | 2069 | |
| As Amended | 48 Ky.R. | 328 | 8-26-2021 |
| Amended | 48 Ky.R. | 1888 | |
| 201 KAR 030:040 | | | |
| Amended | 47 Ky.R. | 1425 | |
| As Amended | | 1936 | 7-6-2021 |
| 201 KAR 030:190 | | | |
| Amended | 47 Ky.R. | 1428 | 7-6-2021 |
| 201 KAR 032:030 | | | |
| Amended | 47 Ky.R. | 1611 | |
| Am Comments | | 2608 | |
| As Amended | 48 Ky.R. | 329 | 8-26-2021 |
| 201 KAR 032:035 | | | |
| Amended | 47 Ky.R. | 1614 | |
| As Amended | 48 Ky.R. | 330 | 8-26-2021 |
| 201 KAR 032:060 | | | |
| Amended | 47 Ky.R. | 1616 | |
| Am Comments | | 2610 | |
| As Amended | 48 Ky.R. | 332 | 8-26-2021 |
| 201 KAR 034:070 | 47 Ky.R. | 2497 | |
| As Amended | 48 Ky.R. | 1527 | |
| 201 KAR 035:010 | | | |
| Amended | 47 Ky.R. | 2071 | |
| Am Comments | 48 Ky.R. | 62 | |
| As Amended | | 334 | 8-26-2021 |
| 201 KAR 035:020 | | | |
| Amended | 47 Ky.R. | 2073 | |
| Am Comments | 48 Ky.R. | 64 | |
| As Amended | | 335 | 8-26-2021 |
| 201 KAR 035:025 | | | |
| Amended | 47 Ky.R. | 2077 | |
| Am Comments | 48 Ky.R. | 68 | 8-26-2021 |
| 201 KAR 035:040 | | | |
| Amended | 47 Ky.R. | 2078 | |
| Am Comments | 48 Ky.R. | 69 | |
| As Amended | | 338 | 8-26-2021 |
| 201 KAR 035:050 | | | |
| Amended | 47 Ky.R. | 2082 | |
| Am Comments | 48 Ky.R. | 73 | |
| As Amended | | 340 | 8-26-2021 |
| 201 KAR 035:055 | | | |
| Amended | 47 Ky.R. | 2084 | |
| As Amended | 48 Ky.R. | 341 | 8-26-2021 |
| 201 KAR 035:070 | | | |
| Amended | 47 Ky.R. | 2086 | |
| Am Comments | 48 Ky.R. | 76 | |
| As Amended | | 342 | 8-26-2021 |
| Amended | 48 Ky.R. | 2270 | |
| 201 KAR 035:075 | | | |
| Amended | 47 Ky.R. | 2091 | |
| Am Comments | 48 Ky.R. | 80 | |
| As Amended | | 345 | 8-26-2021 |
| 201 KAR 035:080 | | | |
| Amended | 47 Ky.R. | 2092 | |
| Am Comments | 48 Ky.R. | 81 | |
| As Amended | | 346 | 8-26-2021 |
| 201 KAR 042:010 | | | |
| Amended | 48 Ky.R. | 1241 | |

| Regulation Number | 46 Ky.R. Page No. | Effective Date |
|---|---|---|
| 201 KAR 042:020 | | |
| Amended | 48 Ky.R. 1242 | |
| 201 KAR 042:030 | | |
| Amended | 48 Ky.R. 1244 | |
| 201 KAR 042:035 | | |
| Amended | 48 Ky.R. 1246 | |
| 201 KAR 042:040 | | |
| Amended | 48 Ky.R. 1248 | |
| 201 KAR 042:050 | | |
| Amended | 48 Ky.R. 1251 | |
| 201 KAR 042:060 | | |
| Amended | 48 Ky.R. 1253 | |
| 201 KAR 042:061 | 48 Ky.R. 1971 | |
| 201 KAR 042:070 | | |
| Amended | 48 Ky.R. 1255 | |
| 201 KAR 042:080 | | |
| Amended | 48 Ky.R. 1891 | |
| 201 KAR 042:110 | | |
| Amended | 48 Ky.R. 1258 | |
| 201 KAR 043:010 | | |
| Amended | 48 Ky.R. 1894 | |
| 201 KAR 043:020 | | |
| Amended | 48 Ky.R. 1896 | |
| 201 KAR 043:030 | | |
| Amended | 48 Ky.R. 1898 | |
| 201 KAR 043:040 | | |
| Amended | 48 Ky.R. 1900 | |
| 201 KAR 043:050 | | |
| Amended | 48 Ky.R. 1904 | |
| 201 KAR 043:060 | | |
| Amended | 48 Ky.R. 1909 | |
| 201 KAR 043:071 | 48 Ky.R. 1974 | |
| 201 KAR 043:080 | | |
| Amended | 48 Ky.R. 1911 | |
| 201 KAR 043:090 | 48 Ky.R. 1975 | |
| 201 KAR 043:100 | | |
| Amended | 48 Ky.R. 1913 | |
| 201 KAR 046:020 | | |
| Amended | 48 Ky.R. 2274 | |
| 201 KAR 045:130 | | |
| Amended | 47 Ky.R. 1251 | 6-16-2021 |
| 201 KAR 047:010 | | |
| Amended | 48 Ky.R. 543 | |
| As Amended | 1527 | 11-23-2021 |
| 201 KAR 047:030 | 48 Ky.R. 713 | |
| As Amended | 1529 | 11-23-2021 |
| 202 KAR 003:020 | | |
| Amended | 48 Ky.R. 546 | |
| 202 KAR 007:201 | | |
| Amended | 47 Ky.R. 2428 | |
| Am Comments | 48 Ky.R. 390 | 9-22-2021 |
| 202 KAR 007:301 | | |
| Amended | 47 Ky.R. 2433 | |
| Am Comments | 48 Ky.R. 394 | 9-22-2021 |
| 202 KAR 007:330 | | |
| Amended | 47 Ky.R. 2439 | |
| Am Comments | 48 Ky.R. 400 | 9-22-2021 |
| 202 KAR 007:401 | | |
| Amended | 47 Ky.R. 2445 | |
| Am Comments | 48 Ky.R. 406 | 9-22-2021 |
| 202 KAR 007:540 | | |
| Amended | 47 Ky.R. 2453 | |
| Am Comments | 48 Ky.R. 414 | 9-22-2021 |
| 202 KAR 007:560 | | |
| Amended | 48 Ky.R. 2276 | |
| 202 KAR 007:601 | | |
| Amended | 47 Ky.R. 2455 | 9-22-2021 |
| As Amended | | |
| Am Comments | 48 Ky.R. 416 | |
| 301 KAR 001:012 | | |
| Amended | 48 Ky.R. 112 | |
| As Amended | 1117 | 11-17-2021 |
| 301 KAR 001:016 | | |
| Amended | 48 Ky.R. 113 | |
| As Amended | 1117 | 11-17-2021 |
| 301 KAR 001:018 | | |
| Amended | 48 Ky.R. 117 | |
| As Amended | 1120 | 11-17-2021 |
| 301 KAR 001:019 | | |
| Amended | 48 Ky.R. 119 | |
| As Amended | 1121 | 11-17-2021 |
| 301 KAR 001:031 | | |
| Amended | 48 Ky.R. 120 | |
| As Amended | 1121 | 11-17-2021 |
| 301 KAR 001:050 | | |
| Amended | 48 Ky.R. 122 | |
| As Amended | 1122 | 11-17-2021 |
| 301 KAR 001:082 | | |
| Amended | 48 Ky.R. 123 | |
| As Amended | 1122 | 11-17-2021 |
| 301 KAR 001:120 | | |
| Amended | 48 Ky.R. 124 | |
| As Amended | 1122 | 11-17-2021 |
| 301 KAR 001:125 | | |
| Amended | 48 Ky.R. 125 | |
| As Amended | 1123 | 11-17-2021 |
| 301 KAR 001:140 | | |
| Amended | 48 Ky.R. 128 | |
| As Amended | 1124 | 11-17-2021 |
| 301 KAR 001:152 | | |
| Amended | 48 Ky.R. 130 | |
| As Amended | 1125 | 11-17-2021 |
| 301 KAR 001:201 | | |
| Amended | 47 Ky.R. 2627 | |
| As Amended | 48 Ky.R. 782 | 9-15-2021 |
| 301 KAR 001:210 | | |
| Amended | 48 Ky.R. 132 | 11-17-2021 |
| 301 KAR 001:400 | | |
| Amended | 47 Ky.R. 2468 | 8-5-2021 |
| 301 KAR 001:410 | | |
| Amended | 48 Ky.R. 1915 | |
| 301 KAR 002:015 | | |
| Amended | 48 Ky.R. 133 | |
| As Amended | 1730 | |
| 301 KAR 002:041 | | |
| Amended | 48 Ky.R. 135 | 11-17-2021 |
| 301 KAR 002:050 | | |
| Amended | 48 Ky.R. 138 | |
| As Amended | 1127 | 11-17-2021 |
| 301 KAR 002:082 | | |
| Amended | 48 Ky.R. 881 | |
| Am Comments | 2102 | |
| As Amended | 2200 | |
| 301 KAR 002:084 | | |
| Amended | 48 Ky.R. 139 | 11-17-2021 |
| 301 KAR 002:111 | | |
| Amended | 48 Ky.R. 140 | 11-17-2021 |
| 301 KAR 002:132 | | |
| Amended | 47 Ky.R. 2632 | |
| As Amended | 48 Ky.R. 787 | 9-15-2021 |
| 301 KAR 002:142 | | |
| Amended | 48 Ky.R. 886 | |
| 301 KAR 002:221 | | |
| Amended | 47 Ky.R. 1253 | |
| As Amended | 1937 | 6-3-2021 |
| 301 KAR 002:224 | | |
| Amended | 48 Ky.R. 888 | |
| 301 KAR 002:228 | | |
| Amended | 47 Ky.R. 2469 | 8-5-2021 |
| 301 KAR 002:230 | | |

| Regulation Number | 46 Ky.R. Page No. | | Effective Date |
|---|---|---|---|
| Amended | 48 Ky.R. | 142 | |
| As Amended | | 1127 | 11-17-2021 |
| 301 KAR 002:251 | | | |
| Amended | 47 Ky.R. | 2637 | |
| As Amended | 48 Ky.R. | 790 | 9-15-2021 |
| 301 KAR 002:260 | | | |
| Amended | 48 Ky.R. | 144 | |
| As Amended | | 1128 | 11-17-2021 |
| 301 KAR 002:300 | | | |
| Amended | 47 Ky.R. | 2640 | |
| As Amended | 48 Ky.R. | 792 | 9-15-2021 |
| 301 KAR 003:010 | | | |
| Amended | 48 Ky.R. | 889 | |
| As Amended | | 2203 | |
| 301 KAR 003:012 | | | |
| Amended | 48 Ky.R. | 892 | |
| 301 KAR 003:026 | | | |
| Amended | 48 Ky.R. | 894 | |
| As Amended | | 2205 | |
| 301 KAR 003:027 | | | |
| Amended | 48 Ky.R. | 895 | |
| 301 KAR 003:030 | | | |
| Amended | 48 Ky.R. | 896 | |
| 301 KAR 003:110 | | | |
| Amended | 48 Ky.R. | 898 | |
| 301 KAR 004:001 | | | |
| Amended | 48 Ky.R. | 899 | |
| 301 KAR 004:010 | | | |
| Amended | 48 Ky.R. | 901 | |
| 301 KAR 004:020 | | | |
| Amended | 48 Ky.R. | 902 | |
| 301 KAR 004:050 | | | |
| Amended | 48 Ky.R. | 903 | |
| 301 KAR 004:070 | | | |
| Amended | 48 Ky.R. | 904 | |
| 301 KAR 004:091 | 48 Ky.R. | 1977 | |
| 301 KAR 004:100 | | | |
| Amended | 48 Ky.R. | 906 | |
| 301 KAR 004:110 | | | |
| Amended | 48 Ky.R. | 908 | 9-22-2021 |
| 301 KAR 005:001 | | | |
| Amended | 48 Ky.R. | 910 | |
| 301 KAR 005:030 | | | |
| Amended | 48 Ky.R. | 911 | |
| 301 KAR 005:100 | | | |
| Amended | 48 Ky.R. | 913 | |
| 301 KAR 006:001 | | | |
| Amended | 48 Ky.R. | 915 | |
| As Amended | | 2033 | |
| 301 KAR 006:070 | | | |
| Amended | 48 Ky.R. | 917 | |
| 302 KAR 004:010 | 47 Ky.R. | 1505 | |
| As Amended | | 1938 | 7-6-2021 |
| 302 KAR 022:150 | | | |
| Amended | 47 Ky.R. | 1435 | |
| As Amended | | 1940 | 7-6-2021 |
| 302 KAR 050:021 | | | |
| Amended | 48 Ky.R. | 1631 | |
| 302 KAR 050:031 | | | |
| Amended | 48 Ky.R. | 1640 | |
| 302 KAR 050:046 | 48 Ky.R. | 1672 | |
| 302 KAR 050:056 | | | |
| Amended | 48 Ky.R. | 1647 | |
| 302 KAR 050:080 | | | |
| Amended | 48 Ky.R. | 1652 | |
| 302 KAR 079:011 | 47 Ky.R, | 1314 | |
| Am Comments | | 2014 | |
| As Amended | | 2360 | 7-8-2021 |
| 302 KAR 079:012 | 47 Ky.R. | 1321 | |
| Am Comments | | 2022 | |
| As Amended | | 2367 | 7-8-2021 |
| 303 KAR 001:005 | | | |
| Amended | 48 Ky.R. | 918 | |
| As Amended | | 2033 | |
| 303 KAR 001:010 | | | |
| Amended | 48 Ky.R. | 920 | |
| As Amended | | 2034 | |
| 303 KAR 001:015 | | | |
| Amended | 48 Ky.R. | 921 | |
| As Amended | | 2034 | |
| 303 KAR 001:075 | | | |
| Amended | 48 Ky.R. | 922 | |
| As Amended | | 2034 | |
| 303 KAR 001:080 | | | |
| Amended | 48 Ky.R. | 923 | |
| As Amended | | 2035 | |
| 303 KAR 001:090 | | | |
| Amended | 48 Ky.R. | 925 | |
| As Amended | | 2036 | |
| 303 KAR 001:100 | | | |
| Amended | 48 Ky.R. | 927 | |
| As Amended | | 2037 | |
| 303 KAR 001:110 | 48 Ky.R. | 1066 | |
| 401 KAR 039:060 | | | |
| Amended | 47 Ky.R. | 2095 | 8-5-2021 |
| 401 KAR 051:010 | | | |
| Amended | 48 Ky.R. | 2278 | |
| 401 KAR 060:005 | | | |
| Amended | 47 Ky.R. | 1443 | |
| As Amended | | 1947 | 6-3-2021 |
| 401 KAR 061:036 | | | |
| Amended | 47 Ky.R. | 1447 | |
| Am Comments | | 2024 | 6-3-2021 |
| 401 KAR 063:002 | | | |
| Amended | 47 Ky.R. | 1449 | |
| As Amended | | 1950 | 6-3-2021 |
| 500 KAR 012:010 | | | |
| Amended | 48 Ky.R. | 548 | |
| 501 KAR 001:050 | | | |
| Amended | 48 Ky.R. | 928 | |
| As Amended | | 1731 | |
| 501 KAR 002:020 | | | |
| Amended | 48 Ky.R. | 549 | |
| As Amended | | 1731 | |
| 501 KAR 002:050 | | | |
| Amended | 48 Ky.R. | 551 | |
| 501 KAR 002:060 | | | |
| Amended | 48 Ky.R. | 552 | |
| Am Comments | | 1610 | |
| As Amended | | 1732 | |
| 501 KAR 002:070 | | | |
| Amended | 48 Ky.R. | 555 | |
| 501 KAR 003:110 | | | |
| Amended | 48 Ky.R. | 930 | |
| As Amended | | 1734 | |
| 501 KAR 003:120 | | | |
| Amended | 48 Ky.R. | 931 | |
| 501 KAR 003:130 | | | |
| Amended | 48 Ky.R. | 934 | |
| As Amended | | 1734 | |
| 501 KAR 003:150 | | | |
| Amended | 48 Ky.R. | 935 | |
| As Amended | | 1735 | |
| 501 KAR 003:170 | | | |
| Amended | 48 Ky.R. | 938 | |
| 501 KAR 003:190 | | | |
| Amended | 48 Ky.R. | 939 | |
| 501 KAR 006:030 | | | |
| Amended | 48 Ky.R. | 2118 | |
| 501 KAR 006:070 | | | |

| Regulation Number | 46 Ky.R. Page No. | Effective Date |
|---|---|---|
| Amended | 47 Ky.R. 1620 | |
| As Amended | 2368 | 8-3-2021 |
| 501 KAR 006:080 | | |
| Amended | 47 Ky.R. 1255 | |
| Am Comment | 1748 | 7-6-2021 |
| 501 KAR 006:190 | | |
| Amended | 48 Ky.R. 939 | |
| As Amended | 1737 | |
| 501 KAR 006:200 | | |
| Amended | 48 Ky.R. 943 | |
| As Amended | 1740 | |
| 501 KAR 006:250 | | |
| Amended | 48 Ky.R. 946 | |
| As Amended | 1742 | |
| 501 KAR 006:290 | 48 Ky.R. 1978 | |
| 501 KAR 007:040 | | |
| Amended | 48 Ky.R. 951 | |
| 501 KAR 007:060 | | |
| Amended | 48 Ky.R. 952 | |
| 501 KAR 007:090 | | |
| Amended | 48 Ky.R. 954 | |
| 501 KAR 007:100 | | |
| Amended | 48 Ky.R. 956 | |
| 501 KAR 007:110 | | |
| Amended | 48 Ky.R. 957 | |
| 501 KAR 007:120 | | |
| Amended | 48 Ky.R. 958 | |
| 501 KAR 007:130 | | |
| Amended | 48 Ky.R. 960 | |
| As Amended | 1746 | |
| 501 KAR 007:140 | | |
| Amended | 48 Ky.R. 962 | |
| As Amended | 1746 | |
| 501 KAR 007:150 | | |
| Amended | 48 Ky.R. 964 | |
| As Amended | 1747 | |
| 501 KAR 014:010 | | |
| Amended | 48 Ky.R. 965 | |
| As Amended | 1748 | |
| 502 KAR 010:010 | | |
| Amended | 48 Ky.R. 1260 | |
| 502 KAR 010:020 | | |
| Amended | 48 Ky.R. 1262 | |
| 502 KAR 010:030 | | |
| Amended | 48 Ky.R. 1263 | |
| Am Comments | 2241 | |
| 502 KAR 010:035 | | |
| Amended | 48 Ky.R. 1264 | |
| 502 KAR 010:040 | | |
| Amended | 48 Ky.R. 1266 | |
| Am Comments | 2243 | |
| 502 KAR 010:050 | | |
| Amended | 48 Ky.R. 1268 | |
| 502 KAR 010:060 | | |
| Amended | 48 Ky.R. 1269 | |
| 502 KAR 010:070 | | |
| Amended | 48 Ky.R. 1270 | |
| Am Comments | 2246 | |
| 502 KAR 010:080 | | |
| Amended | 48 Ky.R. 1272 | |
| 502 KAR 010:090 | | |
| Amended | 48 Ky.R. 1273 | |
| 502 KAR 010:110 | | |
| Amended | 48 Ky.R. 1276 | |
| 502 KAR 010:120 | | |
| Amended | 48 Ky.R. 1278 | |
| 502 KAR 011:010 | | |
| Amended | 48 Ky.R. 1280 | |
| 502 KAR 011:060 | | |
| Amended | 48 Ky.R. 1282 | |
| 502 KAR 011:070 | | |
| Amended | 48 Ky.R. 1284 | |
| 502 KAR 012:010 | | |
| Amended | 48 Ky.R. 1286 | |
| As Amended | 2038 | |
| 502 KAR 013:010 | | |
| Amended | 48 Ky.R. 1289 | |
| Am Comments | 2248 | |
| 502 KAR 013:030 | | |
| Amended | 48 Ky.R. 1291 | |
| 502 KAR 013:040 | | |
| Amended | 48 Ky.R. 1292 | |
| 502 KAR 013:050 | | |
| Amended | 48 Ky.R. 1294 | |
| 502 KAR 013:060 | | |
| Amended | 48 Ky.R. 1295 | |
| 502 KAR 013:080 | | |
| Amended | 48 Ky.R. 1297 | |
| 502 KAR 014:010 | | |
| Amended | 48 Ky.R. 1298 | |
| As Amended | 2040 | |
| 502 KAR 015:010 | | |
| Amended | 48 Ky.R. 1300 | |
| 502 KAR 015:020 | | |
| Amended | 48 Ky.R. 1301 | |
| 502 KAR 020:020 | | |
| Amended | 48 Ky.R. 1303 | |
| As Amended | 2041 | |
| 502 KAR 030:010 | | |
| Amended | 48 Ky.R. 1306 | |
| Am Comments | 2250 | |
| 502 KAR 030:020 | | |
| Amended | 48 Ky.R. 1308 | |
| Am Comments | 2252 | |
| 502 KAR 030:030 | | |
| Amended | 48 Ky.R. 1309 | |
| Am Comments | 2253 | |
| 502 KAR 030:050 | | |
| Amended | 48 Ky.R. 1310 | |
| Am Comments | 2254 | |
| 502 KAR 030:060 | | |
| Amended | 48 Ky.R. 1312 | |
| 502 KAR 030:070 | | |
| Amended | 48 Ky.R. 1314 | |
| Am Comments | 2256 | |
| 502 KAR 031:020 | | |
| Amended | 48 Ky.R. 1316 | |
| As Amended | 2043 | |
| 502 KAR 035:010 | | |
| Amended | 48 Ky.R. 1318 | |
| 502 KAR 035:020 | | |
| Amended | 48 Ky.R. 1320 | |
| 502 KAR 035:030 | | |
| Amended | 48 Ky.R. 1321 | |
| 502 KAR 035:040 | | |
| Amended | 48 Ky.R. 1322 | |
| Am Comments | 2259 | |
| 502 KAR 035:050 | | |
| Amended | 48 Ky.R. 1324 | |
| 502 KAR 040:010 | | |
| Amended | 48 Ky.R. 1325 | |
| As Amended | 2044 | |
| 502 KAR 045:005 | | |
| Amended | 48 Ky.R. 1326 | |
| 502 KAR 045:015 | | |
| Amended | 48 Ky.R. 1328 | |
| Am Comments | 2261 | |
| 502 KAR 045:035 | | |
| Amended | 48 Ky.R. 1329 | |
| 502 KAR 045:045 | | |

| Regulation Number | 46 Ky.R. Page No. | Effective Date |
|---|---|---|
| Amended | 48 Ky.R. 1331 | |
| 502 KAR 045:075 | | |
| Amended | 48 Ky.R. 1332 | |
| 502 KAR 045:085 | | |
| Amended | 48 Ky.R. 1334 | |
| 502 KAR 045:105 | | |
| Amended | 48 Ky.R. 1335 | |
| 502 KAR 045:115 | | |
| Amended | 48 Ky.R. 1336 | |
| 502 KAR 045:150 | | |
| Amended | 48 Ky.R. 1338 | |
| 502 KAR 047:010 | | |
| Amended | 48 Ky.R. 1339 | |
| 502 KAR 050:010 | | |
| Amended | 48 Ky.R. 1340 | |
| As Amended | 2045 | |
| 503 KAR 001:060 | | |
| Amended | 48 Ky.R. 966 | |
| As Amended | 2046 | |
| 503 KAR 001:080 | | |
| Amended | 48 Ky.R. 968 | |
| 503 KAR 001:090 | | |
| Amended | 48 Ky.R. 970 | |
| As Amended | 2046 | |
| 503 KAR 001:100 | | |
| Amended | 48 Ky.R. 971 | |
| As Amended | 2047 | |
| 503 KAR 001:110 | | |
| Amended | 48 Ky.R. 973 | |
| As Amended | 2048 | |
| 503 KAR 001:120 | | |
| Amended | 48 Ky.R. 976 | |
| As Amended | 2050 | |
| 503 KAR 001:140 | | |
| Amended | 48 Ky.R. 979 | |
| As Amended | 2051 | |
| 503 KAR 001:170 | | |
| Amended | 48 Ky.R. 986 | |
| As Amended | 2058 | |
| 503 KAR 003:020 | | |
| Amended | 48 Ky.R. 1342 | |
| As Amended | 2065 | |
| 503 KAR 003:030 | | |
| Amended | 48 Ky.R. 1346 | |
| As Amended | 2068 | |
| 503 KAR 003:050 | | |
| Amended | 48 Ky.R. 1348 | |
| As Amended | 2070 | |
| 503 KAR 004:010 | | |
| Amended | 48 Ky.R. 1350 | |
| As Amended | 2071 | |
| 503 KAR 004:040 | | |
| Amended | 48 Ky.R. 1352 | |
| As Amended | 2071 | |
| 503 KAR 004:050 | | |
| Amended | 48 Ky.R. 1353 | |
| As Amended | 2072 | |
| 503 KAR 005:080 | | |
| Amended | 48 Ky.R. 1355 | |
| As Amended | 2074 | |
| 503 KAR 005:100 | | |
| Amended | 48 Ky.R. 1357 | |
| As Amended | 2074 | |
| 601 KAR 001:005 | | |
| Amended | 47 Ky.R. 2101 | 8-3-2021 |
| 601 KAR 001:030 | | |
| Repealed | 47 Ky.R. 475 | 10-5-2021 |
| 601 KAR 001:113 | | |
| Amended | 47 Ky.R. 1256 | |
| As Amended | 1954 | 7-6-2021 |
| 601 KAR 002:231 | 47 Ky.R. 475 | 10-5-2021 |
| 601 KAR 002:233 | 47 Ky.R. 2499 | |
| Am Comments | 48 Ky.R. 429 | 11-30-2021 |
| 601 KAR 023:030 | 47 Ky.R. 1324 | |
| As Amended | 1957 | 7-6-2021 |
| 603 KAR 003:100 | 48 Ky.R. 1434 | |
| As Amended | 2075 | |
| 603 KAR 004:035 | | |
| Amended | 48 Ky.R. 1359 | |
| Withdrawn | | 12-13-2021 |
| 603 KAR 005:150 | | |
| Amended | 48 Ky.R. 1918 | |
| 603 KAR 005:360 | 48 Ky.R. 1067 | |
| As Amended | 2076 | 1-25-2022 |
| 603 KAR 010:040 | 48 Ky.R. 1069 | |
| Am Comments | 1776 | |
| As Amended | 2077 | 1-25-2022 |
| 605 KAR 001:030 | | |
| Amended | 47 Ky.R. 2643 | |
| As Amended | 48 Ky.R. 1128 | 11-15-2021 |
| 605 KAR 001:035 | 47 Ky.R. 2765 | |
| As Amended | 48 Ky.R. 1128 | 11-15-2021 |
| 605 KAR 001:051 | 48 Ky.R. 1647 | |
| As Amended | 2006 | |
| 605 KAR 001:071 | 48 Ky.R. 1675 | |
| As Amended | 2206 | |
| 605 KAR 001:091 | 48 Ky.R. 1677 | |
| As Amended | 2207 | |
| 605 KAR 001:130 | | |
| Amended | 47 Ky.R. 2646 | |
| 605 KAR 001:131 | 48 Ky.R. 1678 | |
| As Amended | 2207 | |
| 605 KAR 001:191 | 48 Ky.R. 1680 | |
| As Amended | 2208 | |
| 605 KAR 001:211 | 48 Ky.R. 1682 | |
| As Amended | 2209 | |
| 605 KAR 001:215 | 47 Ky.R. 2766 | |
| As Amended | 48 Ky.R. 1130 | 11-15-2021 |
| 701 KAR 005:080 | | |
| Repealed | 47 Ky.R> 2505 | 11-2-2021 |
| 701 KAR 005:081 | 47 Ky.R. 2505 | 11-2-2021 |
| 701 KAR 005:100 | | |
| Amended | 47 Ky.R. 2471 | |
| As Amended | 48 Ky.R. 795 | 11-30-2021 |
| 701 KAR 005:160 | 48 Ky.R. 1075 | |
| As Amended | 1748 | |
| 702 KAR 001:116 | 48 Ky.R. 2133 | |
| 702 KAR 001:191 | 48 Ky.R. 1078 | |
| Am Comments | 2106 | |
| As Amended | 2210 | |
| 702 KAR 003:060 | | |
| Amended | 47 Ky.R. 2474 | |
| As Amended | 48 Ky.R. 347 | 11-2-2021 |
| 702 KAR 005:080 | | |
| Amended | 47 Ky.R. 1454 | |
| As Amended | 1957 | 7-6-2021 |
| 702 KAR 007:065 | | |
| Amended | 48 Ky.R. 1653 | |
| As Amended | 2210 | |
| 702 KAR 007:125 | | |
| Amended | 48 Ky.R. 995 | |
| 702 KAR 007:150 | 48 Ky.R. 233 | |
| Am Comments | 1612 | |
| 703 KAR 005:070 | | |
| Amended | 47 Ky.R. 2476 | |
| As Amended | 48 Ky.R. 796 | 11-30-2021 |
| 703 KAR 005:225 | | |
| Amended | 47 Ky.R. 2478 | |
| As Amended | 48 Ky.R. 797 | 11-30-2021 |
| 703 KAR 005:240 | | |

| Regulation Number | 46 Ky.R. Page No. | Effective Date |
|---|---|---|
| Amended | 47 Ky.R. 2480 | |
| As Amended | 48 Ky.R. 798 | 11-30-2021 |
| 703 KAR 005:270 | | |
| Amended | 47 Ky.R. 1829 | |
| Am Comments | 48 Ky.R. 83 | |
| As Amended | 348 | |
| 703 KAR 005:280 | | |
| Amended | 47 Ky.R. 1458 | |
| Am Comments | 2405 | 8-3-2021 |
| 704 KAR 003:395 | 48 Ky.R. 2135 | |
| 704 KAR 007:121 | 48 Ky.R. 235 | |
| 702 KAR 007:170 | 48 Ky.R. 2139 | |
| 704 KAR 008:110 | 47 Ky.R. 1508 | |
| As Amended | 1960 | 7-6-2021 |
| 704 KAR 019:002 | | |
| Amended | 48 Ky.R. 2120 | |
| 707 KAR 001:340 | | |
| Amended | 47 Ky.R. 2648 | |
| As Amended | 48 Ky.R. 1131 | 1-4-2022 |
| 725 KAR 001:010 | | |
| Amended | 48 Ky.R. 556 | |
| As Amended | 2213 | |
| 725 KAR 001:020 | | |
| Amended | 48 Ky.R. 558 | |
| As Amended | 2214 | |
| 725 KAR 001:025 | | |
| Amended | 48 Ky.R. 559 | |
| 725 KAR 001:030 | | |
| Amended | 48 Ky.R. 561 | |
| As Amended | 2214 | |
| 725 KAR 001:040 | | |
| Amended | 48 Ky.R. 562 | |
| As Amended | 2215 | |
| 725 KAR 001:050 | | |
| Amended | 48 Ky.R. 564 | |
| As Amended | 2215 | |
| 725 KAR 001:061 | | |
| Amended | 48 Ky.R. 566 | |
| As Amended | 2217 | |
| 725 KAR 002:015 | | |
| Amended | 48 Ky.R. 568 | |
| As Amended | 2218 | |
| 725 KAR 002:080 | | |
| Amended | 48 Ky.R. 573 | |
| As Amended | 2221 | |
| 739 KAR 002:060 | | |
| Amended | 48 Ky.R. 574 | |
| As Amended | 1750 | |
| 745 KAR 001:035 | | |
| Amended | 48 Ky.R. 1362 | |
| As Amended | 2082 | |
| 781 KAR 001:010 | | |
| Amended | 48 Ky.R. 999 | |
| 781 KAR 001:020 | | |
| Amended | 48 Ky.R. 1002 | |
| 781 KAR 001:030 | | |
| Amended | 48 Ky.R. 1006 | |
| 781 KAR 001:040 | | |
| Amended | 48 Ky.R. 1008 | |
| 781 KAR 001:050 | | |
| Amended | 48 Ky.R. 1011 | |
| 782 KAR 001:010 | | |
| Amended | 48 Ky.R. 1014 | |
| 782 KAR 001:070 | | |
| Amended | 48 Ky.R. 1020 | |
| 787 KAR 001:010 | | |
| Amended | 48 Ky.R. 578 | |
| As Amended | 1531 | |
| 787 KAR 001:020 | | |
| Amended | 48 Ky.R. 579 | |
| As Amended | 1531 | |
| 787 KAR 001:060 | | |
| Amended | 48 Ky.R. 581 | |
| As Amended | 1532 | |
| 787 KAR 001:080 | | |
| Amended | 48 Ky.R. 582 | |
| 787 KAR 001:090 | | |
| Amended | 48 Ky.R. 584 | |
| As Amended | 1532 | |
| 787 KAR 001:110 | | |
| Amended | 48 Ky.R. 586 | |
| As Amended | 1533 | |
| 787 KAR 001:140 | | |
| Amended | 48 Ky.R. 590 | |
| 787 KAR 001:150 | | |
| Amended | 48 Ky.R. 592 | |
| As Amended | 1536 | |
| 787 KAR 001:210 | | |
| Amended | 48 Ky.R. 593 | |
| As Amended | 1537 | |
| 787 KAR 001:220 | | |
| Amended | 48 Ky.R. 595 | |
| As Amended | 1537 | |
| 787 KAR 001:260 | | |
| Amended | 48 Ky.R. 596 | |
| As Amended | 1538 | |
| 787 KAR 001:290 | | |
| Amended | 48 Ky.R. 598 | |
| 787 KAR 001:300 | | |
| Amended | 48 Ky.R. 599 | |
| As Amended | 1538 | |
| 787 KAR 001:310 | | |
| Amended | 48 Ky.R. 600 | |
| As Amended | 1539 | |
| 787 KAR 001:360 | 47 Ky.R. 2768 | |
| As Amended | 48 Ky.R. 800 | 11-30-2021 |
| 787 KAR 002:040 | | |
| Amended | 48 Ky.R. 1023 | |
| 787 KAR 003:020 | 48 Ky.R. 1980 | |
| 791 KAR 001:010 | | |
| Amended | 48 Ky.R. 1024 | |
| 791 KAR 001:020 | | |
| Amended | 48 Ky.R. 1028 | |
| 791 KAR 001:025 | | |
| Amended | 48 Ky.R. 1032 | |
| 791 KAR 001:027 | | |
| Amended | 48 Ky.R. 1034 | |
| 791 KAR 001:030 | | |
| Amended | 48 Ky.R. 1035 | |
| 791 KAR 001:035 | | |
| Amended | 48 Ky.R. 1037 | |
| 791 KAR 001:040 | | |
| Amended | 48 Ky.R. 1039 | |
| 791 KAR 001:050 | | |
| Amended | 48 Ky.R. 1040 | |
| 791 KAR 001:060 | | |
| Amended | 48 Ky.R. 1042 | |
| 791 KAR 001:070 | | |
| Amended | 48 Ky.R. 1044 | |
| 791 KAR 001:080 | | |
| Amended | 48 Ky.R. 1046 | |
| 791 KAR 001:100 | | |
| Amended | 48 Ky.R. 1048 | |
| 791 KAR 001:150 | | |
| Amended | 48 Ky.R. 1050 | |
| 791 KAR 001:155 | | |
| Amended | 48 Ky.R. 1051 | |
| 791 KAR 001:160 | | |
| Amended | 48 Ky.R. 1053 | |
| 803 KAR 001:005 | | |

| Regulation Number | 46 Ky.R. Page No. | | Effective Date |
|---|---|---|---|
| Amended | 48 Ky.R. | 145 | |
| Expired before Effective | | | 3-1-2020 |
| 803 KAR 001:006 | 48 Ky.R. | 2326 | |
| 803 KAR 001:025 | | | |
| Amended | 48 Ky.R. | 149 | |
| Expired before Effective | | | 3-1-2020 |
| 803 KAR 001:026 | 48 Ky.R. | 2328 | |
| 803 KAR 001:060 | | | |
| Amended | 48 Ky.R. | 154 | |
| 803 KAR 001:061 | 48 Ky.R. | 2331 | |
| 803 KAR 001:063 | | | |
| Amended | 48 Ky.R. | 160 | |
| Expired before Effective | | | 3-1-2020 |
| 803 KAR 001:064 | 48 Ky.R. | 2335 | |
| 803 KAR 001:065 | | | |
| Amended | 48 Ky.R. | 161 | |
| Expired before Effective | | | 3-1-2020 |
| 803 KAR 001:066 | | | |
| Amended | 48 Ky.R. | 164 | |
| 803 KAR 001:067 | 48 Ky.R. | 2336 | |
| 803 KAR 001:068 | 48 Ky.R. | 2337 | |
| 803 KAR 001:070 | | | |
| Amended | 48 Ky.R. | 166 | |
| Expired before Effective | | | 3-1-2020 |
| 803 KAR 001:071 | 48 Ky.R. | 2339 | |
| 803 KAR 001:075 | | | |
| Amended | 48 Ky.R. | 178 | |
| Expired before Effective | | | 3-1-2020 |
| 803 KAR 001:076 | 48 Ky.R. | 2342 | |
| 803 KAR 001:080 | | | |
| Amended | 48 Ky.R. | 180 | |
| Expired before Effective | | | 3-1-2020 |
| 803 KAR 001:081 | 48 Ky.R. | 2344 | |
| 803 KAR 001:090 | | | |
| Amended | 48 Ky.R. | 184 | |
| Expired before Effective | | | 3-1-2020 |
| 803 KAR 001:091 | 48 Ky.R. | 2347 | |
| 803 KAR 002:010 | | | |
| Amended | 47 Ky.R. | 1261 | |
| As Amended | | 1960 | 7-6-2021 |
| 803 KAR 002:011 | 47 Ky.R. | 2769 | 11-30-2021 |
| 803 KAR 002:019 | | | |
| Amended | 47 Ky.R. | 1622 | |
| As Amended | | 2369 | 8-3-2021 |
| 803 KAR 002:021 | | | |
| Amended | 47 Ky.R. | 1465 | |
| 803 KAR 002:041 | 47 Ky.R. | 2770 | 11-30-2021 |
| 803 KAR 002:050 | | | |
| Amended | 47 Ky.R. | 1467 | |
| As Amended | | 2370 | 8-3-2021 |
| 803 KAR 002:060 | | | |
| Amended | 47 Ky.R. | 2655 | |
| As Amended | 48 Ky.R. | 800 | 11-30-2021 |
| 803 KAR 002:062 | | | |
| Amended | 47 Ky.R. | 2658 | |
| As Amended | 48 Ky.R. | 803 | 11-30-2021 |
| 803 KAR 002:070 | | | |
| Amended | 47 Ky.R. | 2660 | |
| As Amended | 48 Ky.R. | 803 | 11-30-2021 |
| 803 KAR 002:080 | | | |
| Amended | 47 Ky.R. | 1469 | |
| As Amended | | 2371 | 8-3-2021 |
| 803 KAR 002:090 | | | |
| Amended | 47 Ky.R. | 1471 | |
| As Amended | | 2371 | 8-3-2021 |
| 803 KAR 002:095 | | | |
| Repealed | 47 Ky.R. | 1509 | 8-3-2021 |
| 803 KAR 002:096*(r)* | 47 Ky.R. | 1509 | 8-3-2021 |
| 803 KAR 002:100 | | | |
| Amended | 47 Ky.R. | 1473 | |
| As Amended | | 2372 | 8-3-2021 |
| 803 KAR 002:110 | | | |
| Amended | 47 Ky.R. | 2663 | |
| As Amended | 48 Ky.R. | 804 | 11-30-2021 |
| 803 KAR 002:115 | | | |
| Amended | 47 Ky.R. | 1475 | |
| As Amended | | 2373 | 8-3-2021 |
| 803 KAR 002:120 | | | |
| Amended | 47 Ky.R. | 1624 | |
| As Amended | | 2373 | 8-3-2021 |
| 803 KAR 002:122 | | | |
| Amended | 47 Ky.R. | 2665 | |
| As Amended | 48 Ky.R. | 805 | 11-30-2021 |
| 803 KAR 002:125 | | | |
| Amended | 47 Ky.R. | 2669 | |
| As Amended | 48 Ky.R. | 807 | 11-30-2021 |
| 803 KAR 002:127 | | | |
| Amended | 47 Ky.R. | 2671 | |
| As Amended | 48 Ky.R. | 808 | 11-30-2021 |
| 803 KAR 002:130 | | | |
| Amended | 47 Ky.R. | 2673 | |
| As Amended | 48 Ky.R. | 809 | 11-30-2021 |
| 803 KAR 002:140 | | | |
| Amended | 47 Ky.R. | 2674 | |
| As Amended | 48 Ky.R. | 809 | 11-30-2021 |
| 803 KAR 002:170 | | | |
| Amended | 47 Ky.R. | 2670 | |
| As Amended | 48 Ky.R. | 810 | 11-30-2021 |
| 803 KAR 002:180 | | | |
| Repealed | 48 Ky.R. | 2531 | 11-2-2021 |
| 803 KAR 002:181 | | | |
| Amended | 47 Ky.R. | 2772 | |
| As Amended | 48 Ky.R. | 2531 | 11-30-2021 |
| 803 KAR 002:220 | | | |
| Amended | 47 Ky.R. | 2684 | |
| As Amended | 48 Ky.R. | 815 | 11-30-2021 |
| 803 KAR 002:230 | | | |
| Amended | 47 Ky.R. | 2685 | 11-30-2021 |
| 803 KAR 002:240 | | | |
| Amended | 47 Ky.R. | 1477 | |
| As Amended | | 2374 | 8-3-2021 |
| 803 KAR 002:250 | | | |
| Amended | 47 Ky.R. | 2687 | |
| As Amended | 48 Ky.R. | 816 | 11-30-2021 |
| 803 KAR 002:306 | | | |
| Amended | 47 Ky.R. | 2690 | |
| Withdrawn | | | 9-5-2014 |
| 803 KAR 002:308 | | | |
| Amended | 47 Ky.R. | 2692 | 11-30-2021 |
| 803 KAR 002:309 | | | |
| Amended | 47 Ky.R. | 1626 | |
| As Amended | | 2374 | 8-3-2021 |
| 803 KAR 002:310 | | | |
| Amended | 47 Ky.R. | 2695 | 11-30-2021 |
| 803 KAR 002:314 | | | |
| Amended | 47 Ky.R. | 1478 | |
| As Amended | | 2375 | 8-3-2021 |
| 803 KAR 002:320 | | | |
| Amended | 47 Ky.R. | 1628 | |
| As Amended | | 2376 | 8-3-2021 |
| 803 KAR 002:321 | 48 Ky.R. | 2141 | |
| 803 KAR 2:325 | | | |
| Amended | 47 Ky.R. | 2697 | |
| As Amended | | 1539 | |
| 803 KAR 002:401 | | | |
| Amended | 47 Ky.R. | 1634 | |
| As Amended | | 2380 | 8-3-2021 |
| 803 KAR 002:405 | | | |
| Amended | 47 Ky.R. | 1636 | |
| As Amended | | 2380 | 8-3-2021 |

| Regulation Number | 46 Ky.R. Page No. | Effective Date |
|---|---|---|
| 803 KAR 002:408 | | |
| Amended | 47 Ky.R. 1638 | |
| As Amended | 2381 | 8-3-2021 |
| 803 KAR 002:409 | | |
| Amended | 47 Ky.R. 1639 | |
| As Amended | 2381 | 8-3-2021 |
| 803 KAR 002:410 | | |
| Amended | 47 Ky.R. 1641 | |
| As Amended | 2381 | 8-3-2021 |
| 803 KAR 002:413 | | |
| Amended | 47 Ky.R. 1480 | |
| As Amended | 2382 | 8-3-2021 |
| 803 KAR 002:414 | | |
| Amended | 47 Ky.R. 1643 | |
| As Amended | 2382 | 8-3-2021 |
| 803 KAR 002:415 | | |
| Amended | 47 Ky.R. 1645 | |
| As Amended | 2383 | 8-3-2021 |
| 803 KAR 002:416 | | |
| Amended | 47 Ky.R. 1647 | |
| As Amended | 2383 | 8-3-2021 |
| 803 KAR 002:417 | | |
| Amended | 47 Ky.R. 1648 | |
| As Amended | 2384 | 8-3-2021 |
| 803 KAR 002:420 | | |
| Amended | 47 Ky.R. 1482 | |
| As Amended | 2384 | 8-3-2021 |
| 803 KAR 002:423 | | |
| Amended | 47 Ky.R. 2708 | |
| Withdrawn | | 9-5-2014 |
| 803 KAR 002:424 | | |
| Amended | 47 Ky.R. 1650 | |
| As Amended | 2386 | 8-3-2021 |
| 803 KAR 002:426 | 48 Ky.R. 2143 | |
| 803 KAR 002:430 | | |
| Repealed | 47 Ky.R. 1509 | 8-3-2021 |
| 803 KAR 2:435 | | |
| Amended | 47 Ky.R. 2710 | |
| As Amended | 48 Ky.R. 817 | 11-30-2021 |
| 803 KAR 2:440 | | |
| Amended | 47 Ky.R. 2712 | |
| As Amended | 48 Ky.R. 818 | 11-30-2021 |
| 803 KAR 002:600 | | |
| Amended | 47 Ky.R. 1652 | |
| As Amended | 2386 | 8-3-2021 |
| 803 KAR 025:015 | | |
| Amended | 47 Ky.R. 2107 | |
| As Amended | 48 Ky.R. 352 | 11-2-2021 |
| 803 KAR 025:021 | | |
| Amended | 47 Ky.R. 2109 | |
| As Amended | 48 Ky.R. 818 | 11-30-2021 |
| 803 KAR 025:091 | | |
| Amended | 47 Ky.R. 803 | |
| Am Comments | 1597 | |
| As Amended | 48 Ky.R. 824 | 11-30-2021 |
| 803 KAR 025:092 | | |
| Amended | 47 Ky.R. 1264 | |
| Am Comments | 2026 | |
| As Amended | 2585 | 8-31-2021 |
| 803 KAR 025:165 | 47 Ky.R. 2774 | |
| Am Comments | 48 Ky.R. 837 | |
| As Amended | 1136 | 1-4-2022 |
| 803 KAR 025:170 | | |
| Amended | 47 Ky.R. 1266 | |
| As Amended | 48 Ky.R. 1137 | 1-4-2022 |
| 803 KAR 025:175 | | |
| Amended | 47 Ky.R. 1268 | |
| As Amended | 48 Ky.R. 1138 | 1-4-2022 |
| 803 KAR 025:185 | | |
| Amended | 47 Ky.R. 1269 | |
| As Amended | 48 Ky.R. 1138 | 1-4-2022 |
| 803 KAR 025:190 | | |
| Amended | 47 Ky.R. 2116 | |
| Am Comments | 48 Ky.R. 435 | |
| As Amended | 1753 | |
| 803 KAR 025:220 | | |
| Amended | 47 Ky.R. 2123 | |
| As Amended | 48 Ky.R. 826 | 11-30-2021 |
| 803 KAR 025:300 | 47 Ky.R. 1511 | |
| As Amended | 1962 | 7-6-2021 |
| 804 KAR 004:212 | 48 Ky.R. 1435 | |
| As Amended | 2082 | |
| 804 KAR 004:221 | 48 Ky.R. 1437 | |
| Am Comments | 2108 | |
| As Amended | 2222 | |
| 804 KAR 004:251 | 48 Ky.R. 1439 | |
| As Amended | 2083 | |
| 804 KAR 004:415 | | |
| Amended | 48 Ky.R. 1919 | |
| 804 KAR 004:480 | 48 Ky.R. 1441 | |
| As Amended | 2083 | |
| 806 KAR 002:060 | 47 Ky.R. 1714 | |
| As Amended | 2387 | 8-3-2021 |
| 806 KAR 004:010 | | |
| Amended | 47 Ky.R. 2714 | |
| As Amended | 48 Ky.R. 1139 | 1-4-2022 |
| 806 KAR 005:025 | | |
| Amended | 48 Ky.R. 1363 | |
| As Amended | 2084 | |
| 806 KAR 009:025 | | |
| Amended | 47 Ky.R. 806 | |
| Am Comments | 1600 | |
| As Amended | 48 Ky.R. 1141 | 1-4-2022 |
| 806 KAR 009:360 | | |
| Amended | 47 Ky.R. 813 | |
| As Amended | 1963 | 7-6-2021 |
| 806 KAR 010:030 | | |
| Amended | 48 Ky.R. 1657 | |
| Withdrawn | | 1-4-2022 |
| 806 KAR 011:020 | | |
| Amended | 48 Ky.R. 602 | |
| As Amended | 1759 | |
| 806 KAR 012:010 | | |
| Amended | 48 Ky.R. 1657 | |
| As Amended | 2222 | |
| 806 KAR 012:095 | | |
| Amended | 47 Ky.R. 2717 | |
| As Amended | 48 Ky.R. 827 | 11-30-2021 |
| 806 KAR 012:120 | | |
| Amended | 47 Ky.R. 815 | |
| Am Comments | 1604 | |
| As Amended | 48 Ky.R. 1144 | 1-4-2022 |
| 806 KAR 013:150 | | |
| Amended | 47 Ky.R. 2721 | |
| As Amended | 48 Ky.R. 1148 | 1-4-2022 |
| 806 KAR 014:005 | | |
| Amended | 47 Ky.R. 1654 | |
| As Amended | 2387 | 8-3-2021 |
| 806 KAR 014:007 | | |
| Amended | 47 Ky.R. 1656 | |
| As Amended | 2388 | 8-3-2021 |
| Amended | 48 Ky.R. 1662 | |
| As Amended | 2224 | |
| 806 KAR 014:090 | | |
| Amended | 47 Ky.R. 1658 | |
| As Amended | 2389 | 8-3-2021 |
| 806 KAR 014:110 | | |
| Amended | 47 Ky.R. 1659 | |
| As Amended | 2390 | 8-3-2021 |
| 806 KAR 014:121 | | |

| Regulation Number | 46 Ky.R. Page No. | Effective Date |
|---|---|---|
| Amended | 47 Ky.R. 1661 | |
| As Amended | 2586 | 8-31-2021 |
| 806 KAR 015:050 | | |
| Amended | 47 Ky.R. 1664 | |
| Am Comments | 2413 | |
| As Amended | 2588 | 8-31-2021 |
| 806 KAR 015:060 | | |
| Amended | 47 Ky.R. 1668 | |
| As Amended | 2390 | 8-3-2021 |
| 806 KAR 015:070 | | |
| Amended | 47 Ky.R. 1673 | |
| As Amended | 2394 | 8-3-2021 |
| 806 KAR 015:090 | | |
| Amended | 47 Ky.R. 2725 | |
| As Amended | 48 Ky.R. 830 | 11-30-2021 |
| 806 KAR 017:070 | | |
| Amended | 47 Ky.R. 2726 | |
| As Amended | 48 Ky.R. 1151 | 1-4-2022 |
| 806 KAR 017:085 | | |
| Amended | 47 Ky.R. 2729 | |
| As Amended | 48 Ky.R. 1153 | 1-4-2022 |
| 806 KAR 017:095 | | |
| Repealed | 48 Ky.R. 1173 | 1-4-2022 |
| 806 KAR 017:100 | | |
| Amended | 47 Ky.R. 2734 | |
| As Amended | 48 Ky.R. 1158 | 1-4-2022 |
| 806 KAR 017:150 | | |
| Amended | 47 Ky.R. 2736 | |
| As Amended | 48 Ky.R. 1159 | 1-4-2022 |
| 806 KAR 017:170 | | |
| Repealed | 48 Ky.R. 1173 | 1-4-2022 |
| 806 KAR 017:230 | | |
| Amended | 47 Ky.R. 2742 | |
| As Amended | 48 Ky.R. 1164 | 1-4-2022 |
| 806 KAR 017:240 | | |
| Amended | 48 Ky.R. 186 | |
| As Amended | 1550 | |
| 806 KAR 017:260 | | |
| Amended | 48 Ky.R. 188 | |
| As Amended | 1164 | |
| 806 KAR 017:270 | | |
| Amended | 48 Ky.R. 190 | |
| As Amended | 1551 | 1-4-2022 |
| 806 KAR 017:280 | | |
| Amended | 48 Ky.R. 191 | |
| As Amended | 1551 | |
| 806 KAR 017:290 | | |
| Amended | 48 Ky.R. 195 | |
| As Amended | 1165 | 1-4-2022 |
| 806 KAR 017:300 | | |
| Amended | 48 Ky.R. 1921 | |
| 806 KAR 017:350 | | |
| Amended | 48 Ky.R. 605 | |
| 806 KAR 017:370 | | |
| Amended | 48 Ky.R. 200 | |
| As Amended | 1169 | 1-4-2022 |
| 806 KAR 017:450 | | |
| Amended | 48 Ky.R. 202 | |
| As Amended | 1171 | 1-4-2022 |
| 806 KAR 017:470 | | |
| Amended | 48 Ky.R. 205 | |
| As Amended | 1554 | |
| 806 KAR 017:510 | | |
| Repealed | 48 Ky.R. 1173 | 1-4-2022 |
| 806 KAR 017:511*(r)* | 47 Ky.R. 2775 | 1-4-2022 |
| As Amended | 48 Ky.R. 1173 | |
| 806 KAR 017:575 | | |
| Amended | 48 Ky.R. 1924 | |
| 806 KAR 017:580 | 47 Ky.R. 2777 | |
| As Amended | 48 Ky.R. 831 | 11-30-2021 |
| 806 KAR 017:590 | 48 Ky.R. 1684 | |
| 806 KAR 018:030 | | |
| Amended | 48 Ky.R. 1926 | |
| 806 KAR 019:050 | | |
| Amended | 47 Ky.R. 1675 | |
| As Amended | 2396 | 8-3-2021 |
| 806 KAR 019:060 | | |
| Amended | 47 Ky.R. 1676 | |
| As Amended | 2396 | 8-3-2021 |
| 806 KAR 039:050 | | |
| Amended | 47 Ky.R. 1678 | |
| As Amended | 2397 | 8-3-2021 |
| 806 KAR 039:070 | | |
| Amended | 48 Ky.R. 607 | |
| As Amended | 1761 | |
| 806 KAR 040:020 | | |
| Amended | 47 Ky.R. 1680 | |
| As Amended | 2398 | 8-3-2021 |
| 806 KAR 046:050 | | |
| Amended | 48 Ky.R. 207 | |
| As Amended | 1173 | 1-4-2022 |
| 806 KAR 052:030 | | |
| Amended | 47 Ky.R. 2744 | |
| As Amended | 48 Ky.R. 831 | 11-30-2021 |
| 807 KAR 005:015 | 47 Ky.R. 2778 | |
| Am Comments | 48 Ky.R. 1181 | |
| As Amended | 1555 | |
| 807 KAR 005:056 | | |
| Amended | 47 Ky.R. 1485 | |
| As Amended | 1965 | 6-3-2021 |
| 810 KAR 002:001 | | |
| Amended | 47 Ky.R. 2125 | |
| As Amended | 48 Ky.R. 353 | 8-12-2021 |
| 810 KAR 002:020 | | |
| Amended | 47 Ky.R. 1271 | 7-6-2021 |
| 810 KAR 3:001 | | |
| Amended | 47 Ky.R. 2127 | |
| As Amended | 48 Ky.R. 354 | 8-12-2021 |
| 810 KAR 004:001 | | |
| Amended | 47 Ky.R. 2130 | |
| As Amended | 48 Ky.R. 355 | 8-12-2021 |
| 810 KAR 004:010 | | |
| Amended | 47 Ky.R. 1274 | |
| As Amended | 1965 | 7-6-2021 |
| 810 KAR 004:030 | | |
| Amended | 47 Ky.R. 1277 | 7-6-2021 |
| 810 KAR 004:040 | | |
| Amended | 48 Ky.R. 610 | |
| As Amended | 1561 | |
| 810 KAR 005:001 | | |
| Amended | 47 Ky.R. 2132 | |
| As Amended | 48 Ky.R. 357 | 8-12-2021 |
| 810 KAR 005:030 | | |
| Amended | 48 Ky.R. 1375 | |
| 810 KAR 005:060 | | |
| Amended | 48 Ky.R. 1378 | |
| 810 KAR 005:070 | | |
| Amended | 48 Ky.R. 1383 | |
| 810 KAR 005:080 | | |
| Amended | 47 Ky.R. 2135 | |
| As Amended | 48 Ky.R. 27 | 10-5-2021 |
| 810 KAR 006:001 | | |
| Amended | 47 Ky.R. 2138 | |
| As Amended | 48 Ky.R. 359 | 8-12-2021 |
| Amended | 1929 | |
| 810 KAR 006:010 | 47 Ky.R. 2181 | |
| As Amended | 48 Ky.R. 362 | 8-12-2021 |
| 810 KAR 006:020 | | |
| Amended | 47 Ky.R. 2142 | |
| As Amended | 48 Ky.R. 363 | 8-12-2021 |

# LOCATOR INDEX - EFFECTIVE DATES

| Regulation Number | 46 Ky.R. Page No. | | Effective Date |
|---|---|---|---|
| 810 KAR 006:030 | 47 Ky.R. | 2184 | |
| As Amended | 48 Ky.R. | 372 | 8-12-2021 |
| 810 KAR 007:050 | | | |
| Amended | 48 Ky.R. | 2282 | |
| 810 KAR 008:010 | | | |
| Amended | 47 Ky.R. | 2152 | |
| As Amended | 48 Ky.R. | 29 | 10-5-2021 |
| 810 KAR 008:020 | | | |
| Amended | 47 Ky.R. | 2159 | |
| 810 KAR 008:025 | 47 Ky.R. | 2188 | |
| As Amended | 48 Ky.R. | 35 | 10-5-2021 |
| Amended | | 1933 | |
| 810 KAR 008:030 | | | |
| Amended | 47 Ky.R. | 2167 | |
| As Amended | 48 Ky.R. | 39 | 10-5-2021 |
| 810 KAR 008:040 | | | |
| Amended | 47 Ky.R. | 2174 | |
| As Amended | 48 Ky.R. | 44 | 10-5-2021 |
| 810 KAR 008:060 | | | |
| Amended | 47 Ky.R. | 1281 | 7-6-2021 |
| 811 KAR 001:250 | | | |
| Repealed | 47 Ky.R. | 1923 | 2-25-2021 |
| 815 KAR 004:010 | | | |
| Amended | 48 Ky.R. | 613 | |
| 815 KAR 004:025 | | | |
| Amended | 48 Ky.R. | 615 | |
| As Amended | | 1762 | |
| 815 KAR 004:027 | | | |
| Amended | 48 Ky.R. | 617 | |
| 815 KAR 007:080 | | | |
| Amended | 48 Ky.R. | 618 | |
| As Amended | | 1763 | |
| 815 KAR 007:110 | | | |
| Amended | 48 Ky.R. | 621 | |
| As Amended | | 1765 | |
| 815 KAR 010:060 | | | |
| Amended | 48 Ky.R. | 623 | |
| As Amended | | 1766 | |
| 815 KAR 010:070 | | | |
| Amended | 48 Ky.R. | 627 | |
| 815 KAR 020:050 | | | |
| Amended | 48 Ky.R. | 629 | |
| 815 KAR 020:150 | | | |
| Amended | 47 Ky.R. | 1098 | |
| As Amended | | 1587 | |
| As Amended | | 1967 | 6-15-2021 |
| 815 KAR 020:195 | | | |
| Amended | 48 Ky.R. | 631 | |
| 815 KAR 030:010 | | | |
| Amended | 48 Ky.R. | 633 | |
| 815 KAR 030:060 | | | |
| Amended | 48 Ky.R. | 635 | |
| As Amended | | 1769 | |
| 815 KAR 035:020 | | | |
| Amended | 48 Ky.R. | 1664 | |
| 900 KAR 006:030 | | | |
| Amended | 47 Ky.R. | 1682 | |
| As Amended | | 2591 | 6-16-2021 |
| 900 KAR 006:055 | | | |
| Amended | 47 Ky.R. | 1683 | |
| Am Comments | | 2417 | |
| As Amended | | 2591 | 6-16-2021 |
| 900 KAR 006:060 | | | |
| Amended | 47 Ky.R. | 1685 | 6-16-2021 |
| 900 KAR 006:065 | | | |
| Amended | 47 Ky.R. | 1687 | |
| As Amended | | 2592 | 6-16-2021 |
| 900 KAR 006:080 | | | |
| Amended | 47 Ky.R. | 1691 | 6-16-2021 |
| 900 KAR 006:090 | | | |
| Amended | 47 Ky.R. | 1693 | |
| As Amended | | 2594 | 6-16-2021 |
| 900 KAR 006:095 | | | |
| Amended | 47 Ky.R. | 1695 | 6-16-2021 |
| 900 KAR 006:100 | | | |
| Amended | 47 Ky.R. | 1698 | |
| As Amended | | 2597 | 6-16-2021 |
| 900 KAR 006:105 | | | |
| Amended | 47 Ky.R. | 1701 | 6-16-2021 |
| 900 KAR 006:110 | | | |
| Amended | 47 Ky.R. | 1702 | |
| Am Comments | | 2419 | |
| As Amended | | 2599 | 6-16-2021 |
| 900 KAR 006:115 | | | |
| Amended | 47 Ky.R. | 1704 | 6-16-2021 |
| 900 KAR 010:111 | 47 Ky.R. | 2194 | 7-21-2021 |
| 900 KAR 010:115 | 47 Ky.R. | 2197 | 7-21-2021 |
| 900 KAR 010:120 | 47 Ky.R. | 2203 | |
| As Amended | 48 Ky.R. | 48 | 7-21-2021 |
| 900 KAR 010:125 | 47 Ky.R. | 2211 | |
| As Amended | 48 Ky.R. | 54 | 7-21-2021 |
| 900 KAR 010:130 | 47 Ky.R. | 2214 | |
| As Amended | 48 Ky.R. | 56 | 7-21-2021 |
| 900 KAR 020:201 | 48 Ky.R. | 2144 | |
| 900 KAR 011:010 | | | |
| Repealed | 47 Ky.R. | 1325 | 6-16-2021 |
| 900 KAR 011:011 | 47 Ky.R. | 1325 | 6-16-2021 |
| 900 KAR 012:005 | 48 Ky.R. | 1079 | |
| Am Comments | | 1782 | |
| As Amended | | 2095 | |
| As Amended | | 2225 | |
| 900 KAR 013:010 | 48 Ky.R. | 2348 | |
| 902 KAR 002:020 | | | |
| Amended | 48 Ky.R. | 1389 | |
| As Amended IJC | | 2226 | 1-13-2022 |
| 902 KAR 004:150 | 47 Ky.R. | 2219 | |
| As Amended | 48 Ky.R. | 59 | 7-21-2021 |
| 902 KAR 010:010 | | | |
| Amended | 47 Ky.R. | 1283 | 6-16-2021 |
| 902 KAR 010:060 | | | |
| Repealed | 47 Ky.R. | 1969 | 6-16-2021 |
| 902 KAR 010:110 | | | |
| Amended | 47 Ky.R. | 1285 | 6-16-2021 |
| 902 KAR 010:120 | | | |
| Amended | 48 Ky.R. | 638 | |
| Am Comments | | 1784 | |
| 902 KAR 010:121 | | | |
| Amended | 48 Ky.R. | 1396 | |
| Am Comments | | 2263 | |
| 902 KAR 010:130 | | | |
| Repealed | 47 Ky.R. | 1969 | 6-16-2021 |
| 902 KAR 010:131*(r)* | 47 Ky.R. | 1326 | |
| As Amended | | 1969 | 6-16-2021 |
| 902 KAR 010:140 | | | |
| Amended | 47 Ky.R. | 1288 | |
| As Amended | | 1970 | 6-16-2021 |
| 902 KAR 010:150 | | | |
| Amended | 47 Ky.R. | 1292 | |
| As Amended | | 1973 | 6-16-2021 |
| 902 KAR 010:160 | | | |
| Amended | 47 Ky.R. | 1295 | |
| As Amended | | 1975 | 6-16-2021 |
| 902 KAR 010:170 | | | |
| Amended | 47 Ky.R. | 1299 | |
| As Amended | | 1978 | 6-16-2021 |
| 902 KAR 010:190 | | | |
| Amended | 48 Ky.R. | 715 | |
| Am Comments | | 1806 | |
| 902 KAR 020:016 | | | |
| Amended | 48 Ky.R. | 2285 | |

# LOCATOR INDEX - EFFECTIVE DATES

| Regulation Number | 46 Ky.R. Page No. | | Effective Date |
|---|---|---|---|
| 902 KAR 020:018 | | | |
| Amended | 48 Ky.R. | 2123 | |
| 902 KAR 020:081 | | | |
| Amended | 48 Ky.R. | 1399 | |
| 902 KAR 020:016 | | | |
| Amended | 48 Ky.R. | 2298 | |
| 902 KAR 020:160 | | | |
| Amended | 47 Ky.R. | 1103 | |
| Am Comment | | 1749 | |
| As Amended | | 1980 | 6-16-2021 |
| 902 KAR 020:440 | | | |
| Amended | 47 Ky.R. | 1114 | |
| Am Comments | | 1760 | |
| As Amended | | 1989 | 6-16-2021 |
| 902 KAR 030:210 | 47 Ky.R. | 2220 | |
| As Amended | 48 Ky.R. | 60 | 7-21-2021 |
| 902 KAR 045:160 | | | |
| Amended | 47 Ky.R. | 1488 | 6-16-2021 |
| 902 KAR 045:190 | 47 Ky.R. | 1157 | |
| Am Comments | | 1767 | |
| As Amended | | 1995 | |
| As Amended IJC | 48 Ky.R. | 60 | 6-16-2021 |
| 902 KAR 048:010 | | | |
| Amended | 48 Ky.R. | 661 | 11-23-2021 |
| 902 KAR 048:020 | | | |
| Amended | 48 Ky.R. | 665 | 11-23-2021 |
| 902 KAR 048:030 | | | |
| Amended | 48 Ky.R. | 668 | 11-23-2021 |
| 902 KAR 048:040 | | | |
| Amended | 48 Ky.R. | 673 | 11-23-2021 |
| 902 KAR 95:040 | | | |
| Amended | 47 Ky.R. | 1493 | |
| As Amended | | 2599 | 6-16-2021 |
| 906 KAR 001:110 | | | |
| Amended | 48 Ky.R. | 2302 | |
| 906 KAR 001:180 | | | |
| Amended | 48 Ky.R. | 1403 | |
| As Amended | | 2232 | |
| 907 KAR 001:005 | | | |
| Amended | 48 Ky.R. | 1409 | |
| 907 KAR 001:030 | | | |
| Amended | 48 Ky.R. | 1411 | |
| As Amended | | 2096 | 1-13-2022 |
| 907 KAR 001:038 | | | |
| Amended | 47 Ky.R. | 2483 | |
| As Amended | 48 Ky.R. | 374 | 8-26-2021 |
| 907 KAR 001:604 | | | |
| Amended | 48 Ky.R. | 1414 | 1-13-2022 |
| 907 KAR 003:005 | | | |
| Amended | 47 Ky.R. | 1834 | |
| Am Comments | 48 Ky.R. | 838 | 10-20-2021 |
| 907 KAR 003:010 | | | |
| Amended | 47 Ky.R. | 1839 | |
| Am Comments | 48 Ky.R. | 89 | |
| As Amended | | 1174 | 10-20-2021 |
| 907 KAR 003:060 | 47 Ky.R. | 2507 | 10-20-2021 |
| 907 KAR 003:170 | | | |
| Amended | 48 Ky.R. | 1667 | |
| 907 KAR 007:020 | 47 Ky.R. | 1859 | |
| As Amended | | 2602 | 6-16-2021 |
| 907 KAR 010:815 | | | |
| Amended | 48 Ky.R. | 1055 | |
| Am Comments | | 1814 | |
| As Amended | | 2098 | 1-13-2022 |
| 907 KAR 010:830 | | | |
| Amended | 48 Ky.R. | 1417 | 1-13-2022 |
| 907 KAR 015:070 | | | |
| Amended | 47 Ky.R. | 1121 | |
| Am Comments | | 1769 | |
| As Amended | | 1996 | 6-16-2021 |
| 907 KAR 015:080 | | | |
| Amended | 47 Ky.R. | 1127 | |
| Am Comments | | 1776 | |
| As Amended | | 2001 | 6-16-2021 |
| 907 KAR 017:005 | | | |
| Amended | 48 Ky.R. | 1939 | |
| 907 KAR 017:010 | | | |
| Amended | 48 Ky.R. | 1942 | |
| 907 KAR 020:001 | | | |
| Amended | 48 Ky.R. | 1948 | |
| 907 KAR 020:020 | | | |
| Amended | 48 Ky.R. | 1953 | |
| 907 KAR 023:020 | | | |
| Amended | 48 Ky.R. | 678 | |
| Am Comments | | 1818 | |
| 908 KAR 001:390 | 47 Ky.R. | 2222 | |
| Am Comments | 48 Ky.R. | 441 | |
| 908 KAR 002:270 | 47 Ky.R. | 1328 | |
| As Amended | | 2011 | 6-16-2021 |
| 910 KAR 001:190 | | | |
| Amended | 48 Ky.R. | 1956 | |
| 910 KAR 004:010 | 48 Ky.R. | 1442 | |
| As Amended | | 2237 | |
| 921 KAR 001:020 | | | |
| Amended | 48 Ky.R. | 209 | |
| As Amended | | 1178 | 10-20-2021 |
| 921 KAR 001:390 | | | |
| Amended | 48 Ky.R. | 212 | |
| As Amended | | 1179 | 10-20-2021 |
| 921 KAR 001:400 | | | |
| Amended | 48 Ky.R. | 681 | |
| As Amended | | 1563 | 11-23-2021 |
| 921 KAR 002:015 | | | |
| Amended | 48 Ky.R. | 684 | |
| As Amended | | 1564 | 11-23-2021 |
| 921 KAR 003:027 | 48 Ky.R. | 236 | |
| 921 KAR 003:010 | | | |
| Amended | 47 Ky.R. | 1497 | 6-16-2021 |
| 921 KAR 003:025 | | | |
| Amended | 47 Ky.R. | 1706 | |
| As Amended | | 2398 | 8-3-2021 |
| 921 KAR 003:035 | | | |
| Amended | 47 Ky.R. | 591 | |
| Am Comments | | 1416 | |
| As Amended | | 1594 | |
| As Amended | | 2401 | 7-21-2021 |
| 921 KAR 003:045 | | | |
| Amended | 47 Ky.R. | 1499 | 6-16-2021 |
| 921 KAR 003:060 | | | |
| Amended | 47 Ky.R. | 2746 | |
| Am Comments | 48 Ky.R. | 1188 | 11-23-2021 |
| 921 KAR 004:116 | | | |
| Amended | 48 Ky.R. | 689 | 11-23-2021 |
| 9221 KAR 004:122 | 48 Ky.R. | 2146 | |
| 922 KAR 001:300 | | | |
| Amended | 47 Ky.R. | 2749 | |
| Am Comments | 48 Ky.R. | 1191 | |
| As Amended | | 1569 | 11-23-2021 |
| 922 KAR 001:360 | | | |
| Amended | 48 Ky.R. | 2306 | |
| 922 KAR 001:380 | | | |
| Amended | 47 Ky.R. | 2759 | |
| As Amended | 48 Ky.R. | 1579 | 11-23-2021 |
| 922 KAR 001:390 | | | |
| Amended | 47 Ky.R. | 2760 | |
| Withdrawn | | | 11-23-2021 |
| 922 KAR 001:470 | | | |
| Amended | 48 Ky.R. | 2128 | |
| 922 KAR 001:490 | | | |
| Amended | 47 Ky.R. | 1844 | |

| Regulation Number | 46 Ky.R. Page No. | | Effective Date | Regulation Number | 46 Ky.R. Page No. | Effective Date |
|---|---|---|---|---|---|---|
| Am Comments | 48 Ky.R. | 94 | | | | |
| As Amended | | 377 | 8-26-2021 | | | |
| 922 KAR 001:530 | | | | | | |
| Amended | 48 Ky.R. | 2313 | | | | |
| 922 KAR 001:540 | | | | | | |
| Amended | 47 Ky.R. | 1849 | | | | |
| As Amended | | 2603 | 6-16-2021 | | | |
| 922 KAR 001:565 | | | | | | |
| Amended | 48 Ky.R. | 1426 | 1-13-2022 | | | |
| 922 KAR 001:580 | | | | | | |
| Amended | 47 Ky.R. | 1851 | | | | |
| As Amended | | 2604 | 6-16-2021 | | | |
| 922 KAR 002:120 | | | | | | |
| Amended | 47 Ky.R. | 1145 | | | | |
| Am Comments | | 1787 | 6-16-2021 | | | |
| 922 KAR 002:160 | | | | | | |
| Amended | 48 Ky.R. | 693 | | | | |
| Am Comments | | 1614 | 12-15-2021 | | | |
| 922 KAR 002:230 | | | | | | |
| Amended | 47 Ky.R. | 1303 | 6-16-2021 | | | |
| 922 KAR 002:240 | | | | | | |
| Amended | 47 Ky.R. | 1304 | 6-16-2021 | | | |
| 922 KAR 002:250 | | | | | | |
| Amended | 47 Ky.R. | 1310 | | | | |
| 922 KAR 002:280 | | | | | | |
| Amended | 48 Ky.R. | 2316 | | | | |
| 922 KAR 002:300 | 47 Ky.R. | 2509 | | | | |
| As Amended | 48 Ky.R. | 380 | 8-26-2021 | | | |
| 922 KAR 005:020 | | | | | | |
| Amended | 47 Ky.R. | 2486 | | | | |
| As Amended | 48 Ky.R. | 382 | 8-26-2021 | | | |
| 922 KAR 005:070 | | | | | | |
| Amended | 48 Ky.R. | 2311 | | | | |
| 923 KAR 002:470 | | | | | | |
| Amended | 48 Ky.R. | 1059 | | | | |
| As Amended | | 1771 | 12-15-2021 | | | |

---

**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.

# KRS INDEX


| KRS SECTION | REGULATION |
|---|---|
| 2.015 | 922 KAR 001:565 |
| 11.065 | 800 KAR 001:020E |
| 11.160 | 502 KAR 030:060 |
| 12.270 | 800 KAR 001:020E |
| 12.355 | 201 KAR 022:045 |
| 13A.010 | 902 KAR 010:190 |
| 13A.310 | 921 KAR 003:026E |
| 13B | 016 KAR 001:030 |
| | 101 KAR 001:365 |
| | 501 KAR 003:150 |
| | 725 KAR 002:015 |
| | 782 KAR 001:010 |
| | 791 KAR 001:030 |
| | 810 KAR 005:070 |
| | 902 KAR 010:120 |
| | 902 KAR 010:190 |
| | 902 KAR 020:081 |
| | 906 KAR 001:180 |
| | 907 KAR 017:005 |
| | 907 KAR 017:010 |
| | 921 KAR 004:122E |
| | 921 KAR 004:122 |
| | 922 KAR 005:070 |
| 13B.050 | 201 KAR 002:430 |
| 13B.125 | 201 KAR 002:430 |
| 13B.140 | 907 KAR 010:815 |
| | 907 KAR 010:830 |
| 13.310 | 030 KAR 006:011E |
| | 030 KAR 006:011 |
| 14.300 | 030 KAR 006:011E |
| | 030 KAR 006:011 |
| 14.302 | 030 KAR 006:011E |
| | 030 KAR 006:011 |
| 14.304 | 030 KAR 006:011E |
| | 030 KAR 006:011 |
| 14.306 | 030 KAR 006:011E |
| | 030 KAR 006:011 |
| 14A.1-070 | 030 KAR 001:011 |
| 14A.2-010 | 030 KAR 001:011 |
| 14A.2-060 | 030 KAR 001:011 |
| 14A.2-130 | 030 KAR 001:011 |
| 14A.2-140 | 030 KAR 001:011 |
| 14A.2-160 | 030 KAR 001:011 |
| 14A.3-010 | 030 KAR 001:011 |
| 15.247 | 040 KAR 006:010 |
| 15.310 | 503 KAR 001:060 |
| 15.315 | 503 KAR 001:060 |
| 15.320 | 503 KAR 001:060 |
| 15.325 | 503 KAR 001:060 |
| 15.330 | 503 KAR 001:060 |
| | 503 KAR 001:080 |
| | 503 KAR 001:090 |
| | 503 KAR 001:100 |
| | 503 KAR 001:110 |
| | 503 KAR 001:120 |
| | 503 KAR 001:140 |
| | 503 KAR 001:170 |
| 15.334 | 503 KAR 001:060 |
| 15.335 | 503 KAR 001:060 |
| 15.340 | 503 KAR 001:060 |
| | 503 KAR 003:030 |
| 15.350 | 503 KAR 001:060 |
| 15.360 | 503 KAR 001:060 |
| 15.367 | 503 KAR 001:060 |
| 15.380 | 503 KAR 001:060 |
| | 503 KAR 001:140 |
| 15.382 | 503 KAR 001:060 |
| | 503 KAR 001:140 |
| 15.383 | 502 KAR 013:010 |
| 15.384 | 503 KAR 001:060 |
| | 503 KAR 001:140 |
| 15.386 | 503 KAR 001:060 |
| | 503 KAR 001:110 |
| 15.388 | 503 KAR 001:060 |
| 15.390 | 503 KAR 001:060 |
| 15.391 | 503 KAR 001:060 |
| 15.392 | 503 KAR 001:060 |
| | 503 KAR 001:140 |
| 15.394 | 503 KAR 001:060 |
| | 503 KAR 001:140 |
| 15.396 | 503 KAR 001:060 |
| | 503 KAR 001:140 |
| 15.3971 | 503 KAR 001:060 |
| | 503 KAR 001:140 |
| 15.3973 | 503 KAR 001:060 |
| 15.3975 | 503 KAR 001:060 |
| 15.3977 | 503 KAR 001:060 |
| 15.3979 | 503 KAR 001:060 |
| 15.398 | 503 KAR 001:060 |
| 15.400 | 503 KAR 001:060 |
| | 503 KAR 001:140 |
| 15.402 | 503 KAR 001:060 |
| 15.404 | 503 KAR 001:060 |
| | 503 KAR 001:110 |
| | 503 KAR 001:120 |
| 15.410 | 503 KAR 005:080 |
| 15.430 | 503 KAR 001:060 |
| 15.440 | 503 KAR 001:090 |
| | 503 KAR 001:110 |
| | 503 KAR 001:440 |
| | 503 KAR 001:140 |
| | 503 KAR 003:020 |
| 15.450 | 503 KAR 001:060 |
| 15.460 | 503 KAR 005:100 |
| 15.470 | 503 KAR 005:100 |
| 15.490 | 503 KAR 005:100 |
| 15.500 | 503 KAR 005:100 |
| 15.510 | 503 KAR 005:080 |
| 15.530 | 503 KAR 003:050 |
| 15.540 | 502 KAR 030:060 |
| | 503 KAR 001:140 |
| 15.550 | 503 KAR 003:050 |
| 15.560 | 503 KAR 003:050 |
| 15.565 | 503 KAR 001:140 |
| | 503 KAR 003:050 |
| 15.580 | 503 KAR 001:140 |
| 15.900 | 040 KAR 006:020 |
| 15.920 | 040 KAR 006:020 |
| 15.935 | 040 KAR 006:020 |
| 15A.070 | 503 KAR 003:020 |
| 15A.160 | 502 KAR 012:010 |
| | 502 KAR 030:010 |
| 16.040 | 502 KAR 045:005 |
| | 502 KAR 045:015 |
| | 502 KAR 045:035 |
| | 502 KAR 045:085 |
| | 502 KAR 045:150 |
| 16.050 | 502 KAR 045:005 |
| | 502 KAR 045:015 |
| | 502 KAR 045:035 |
| | 502 KAR 045:045 |
| | 502 KAR 045:075 |
| | 502 KAR 045:105 |
| | 502 KAR 045:115 |
| 16.060 | 502 KAR 040:010 |
| 16.080 | 502 KAR 045:015 |
| | 502 KAR 045:035 |
| | 502 KAR 045:045 |
| 16.132 | 502 KAR 012:010 |
| 16.140 | 502 KAR 050:010 |
| 16.505-16.652 | 105 KAR 001:210 |
| 16.545 | 105 KAR 001:330 |

| KRS SECTION | REGULATION |
|---|---|
| 16.645 | 105 KAR 001:330 |
| | 105 KAR 001:310 |
| 17.110 | 502 KAR 030:020 |
| | 502 KAR 040:010 |
| 17.115 | 502 KAR 030:020 |
| | 502 KAR 030:060 |
| 17.140 | 502 KAR 030:010 |
| | 502 KAR 030:050 |
| | 502 KAR 030:060 |
| | 502 KAR 030:070 |
| 17.147 | 502 KAR 030:060 |
| 17.150 | 502 KAR 030:030 |
| | 502 KAR 030:070 |
| 17.151 | 502 KAR 030:060 |
| 17.152 | 502 KAR 030:060 |
| 17.160 | 502 KAR 030:060 |
| 17.165 | 922 KAR 001:470 |
| | 922 KAR 002:280 |
| 17.167 | 502 KAR 030:060 |
| 17.180 | 502 KAR 014:010 |
| 17.450 | 502 KAR 035:010 |
| | 502 KAR 035:020 |
| | 502 KAR 035:030 |
| | 502 KAR 035:040 |
| | 502 KAR 035:050 |
| 17.460 | 502 KAR 035:010 |
| | 502 KAR 035:020 |
| | 502 KAR 035:030 |
| | 502 KAR 035:040 |
| | 502 KAR 035:050 |
| 17.500-17.540 | 502 KAR 031:020 |
| 17.500-17.580 | 922 KAR 002:280 |
| 17.550-17.991 | 501 KAR 006:190 |
| 18A.005 | 101 KAR 001:325 |
| 18A.020 | 101 KAR 001:345 |
| 18A.030 | 101 KAR 002:210E |
| | 101 KAR 002:210 |
| 18A.075 | 101 KAR 001:335 |
| | 101 KAR 001:345 |
| | 101 KAR 001:365 |
| | 101 KAR 001:367 |
| | 101 KAR 001:375 |
| | 101 KAR 001:400 |
| 18A.0751 | 101 KAR 001:325 |
| | 101 KAR 001:335 |
| | 101 KAR 001:345 |
| | 101 KAR 001:365 |
| | 101 KAR 001:367 |
| | 101 KAR 001:375 |
| | 101 KAR 001:400 |
| 18A.095 | 101 KAR 001:345 |
| | 101 KAR 001:365 |
| | 101 KAR 001:367 |
| 18A.111 | 101 KAR 001:325 |
| 18A.115 | 101 KAR 001:400 |
| 18A.225 | 101 KAR 002:210E |
| | 101 KAR 002:210 |
| 18A.2254 | 101 KAR 002:210E |
| | 101 KAR 002:210 |
| 36.450 | 201 KAR 006:040 |
| 39A.180 | 201 KAR 002:411E |
| | 201 KAR 002:412E |
| | 800 KAR 001:020E |
| 39A.350-39A.366 | 902 KAR 002:230E |
| 39F.180 | 603 KAR 005:360 |
| 39F.200 | 603 KAR 005:360 |
| 41.400 | 040 KAR 006:020 |
| 42.019 | 200 KAR 003:020E |
| | 200 KAR 003:020 |
| 42.425 | 200 KAR 003:020E |
| | 200 KAR 003:020 |
| 45.031 | 200 KAR 017:110E |
| | 200 KAR 017:110 |
| 45.237-45.241 | 922 KAR 001:565 |

| KRS SECTION | REGULATION |
|---|---|
| 45.357 | 921 KAR 004:116E |
| | 921 KAR 004:116 |
| 45A | 603 KAR 004:035 |
| | 910 KAR 001:190 |
| | 921 KAR 001:020 |
| 49 | 502 KAR 012:010 |
| 56.010 | 200 KAR 003:020E |
| | 200 KAR 003:020 |
| 56.463 | 200 KAR 003:020E |
| | 200 KAR 003:020 |
| 61.365 | 502 KAR 013:010 |
| 61.371-61.379 | 101 KAR 001:395 |
| 61.505 | 105 KAR 001:330 |
| 61.505-61.705 | 105 KAR 001:210 |
| | 105 KAR 001:310 |
| 61.543 | 105 KAR 001:330 |
| 61.552 | 105 KAR 001:330 |
| 61.592 | 105 KAR 001:330 |
| 61.685 | 105 KAR 001:330 |
| 61.805-61.850 | 702 KAR 007:065 |
| 61.870 | 725 KAR 001:020 |
| 61.870-61.884 | 302 KAR 050:021 |
| | 302 KAR 050:031 |
| | 782 KAR 001:010 |
| | 791 KAR 001:155 |
| 61.872 | 502 KAR 030:070 |
| | 922 KAR 005:070 |
| 61.876 | 040 KAR 001:040E |
| | 040 KAR 001:040 |
| | 922 KAR 001:470 |
| 61.878 | 502 KAR 030:070 |
| | 725 KAR 001:025 |
| | 791 KAR 001:155 |
| 61.884 | 502 KAR 030:070 |
| 67A | 815 KAR 007:110 |
| 67C | 815 KAR 007:110 |
| 72.020 | 502 KAR 012:010 |
| 72.025 | 501 KAR 007:090 |
| 72.210-72.280 | 500 KAR 012:010 |
| 75.400 | 739 KAR 002:060 |
| 78.510-78.852 | 105 KAR 001:210 |
| | 105 KAR 001:310 |
| 78.545 | 105 KAR 001:330 |
| 78.5520 | 105 KAR 001:330 |
| 78.610 | 105 KAR 001:330 |
| 82.105 | 815 KAR 007:110 |
| 83 | 815 KAR 007:110 |
| 83A | 815 KAR 007:110 |
| 95.010 | 739 KAR 002:060 |
| 95A.040 | 739 KAR 002:060 |
| 95A.210 | 739 KAR 002:060 |
| 117.001 | 031 KAR 005:025E |
| | 031 KAR 005:025 |
| 117.015 | 031 KAR 004:195 |
| 117.066 | 031 KAR 004:195E |
| 117.085 | 031 KAR 005:025E |
| | 031 KAR 005:025 |
| 117.086 | 031 KAR 005:025E |
| | 031 KAR 005:025 |
| 117.087 | 031 KAR 005:025E |
| | 031 KAR 005:025 |
| 117.145 | 031 KAR 005:025E |
| | 031 KAR 005:025 |
| 117.225 | 031 KAR 005:025E |
| | 031 KAR 005:025 |
| 117.228 | 031 KAR 005:025E |
| | 031 KAR 005:025 |
| 118.105 | 030 KAR 002:010 |
| 120.205 | 031 KAR 004:200E |
| | 031 KAR 004:200 |
| 120.215 | 031 KAR 004:200E |
| 131.130 | 103 KAR 016:352 |
| | 103 KAR 018:090 |
| 131.570 | 787 KAR 001:110 |

| KRS SECTION | REGULATION |
|---|---|
| 136.120 | 103 KAR 008:090 |
| | 103 KAR 008:090 |
| 139.010 | 103 KAR 027:050 |
| | 103 KAR 027:150 |
| | 103 KAR 027:230 |
| | 103 KAR 030:091 |
| | 103 KAR 030:120 |
| | 103 KAR 030:140 |
| | 103 KAR 030:190 |
| | 103 KAR 030:250 |
| 139.105 | 103 KAR 027:050 |
| | 103 KAR 030:190 |
| 139.200 | 103 KAR 027:050 |
| | 103 KAR 027:150 |
| | 103 KAR 027:230 |
| | 103 KAR 030:250 |
| 139.215 | 103 KAR 027:150 |
| | 103 KAR 027:230 |
| 139.240 | 103 KAR 027:230 |
| 139.250 | 103 KAR 027:230 |
| 139.260 | 103 KAR 027:150 |
| | 103 KAR 027:230 |
| | 103 KAR 030:091 |
| | 103 KAR 030:190 |
| | 103 KAR 030:250 |
| 139.270 | 103 KAR 027:150 |
| | 103 KAR 027:230 |
| | 103 KAR 030:250 |
| 139.280 | 103 KAR 027:150 |
| | 103 KAR 027:230 |
| | 103 KAR 030:250 |
| 139.290 | 103 KAR 027:150 |
| | 103 KAR 027:230 |
| | 103 KAR 030:250 |
| 139.310 | 103 KAR 027:050 |
| | 103 KAR 027:150 |
| | 103 KAR 027:230 |
| | 103 KAR 030:250 |
| 139.330 | 103 KAR 027:050 |
| | 103 KAR 027:150 |
| | 103 KAR 027:230 |
| | 103 KAR 030:250 |
| 139.340 | 103 KAR 030:190 |
| 139.470 | 103 KAR 027:230 |
| | 103 KAR 030:091 |
| | 103 KAR 030:190 |
| | 103 KAR 030:250 |
| 139.480 | 103 KAR 027:230 |
| | 103 KAR 030:091 |
| | 103 KAR 030:120 |
| | 103 KAR 030:140 |
| | 103 KAR 030:250 |
| 139.486 | 103 KAR 030:190 |
| 139.531 | 810 KAR 005:030 |
| 141.010 | 103 KAR 016:270 |
| | 103 KAR 016:352 |
| 141.0101 | 103 KAR 016:352 |
| 141.012 | 103 KAR 016:352 |
| 141.039 | 103 KAR 016:320 |
| | 103 KAR 016:352 |
| 141.040 | 103 KAR 016:270 |
| | 103 KAR 016:352 |
| 141.044 | 103 KAR 016:352 |
| 141.050 | 103 KAR 016:320 |
| | 103 KAR 018:090 |
| 141.120 | 103 KAR 016:270 |
| | 103 KAR 016:352 |
| 141.121 | 103 KAR 016:270 |
| 141.160 | 103 KAR 016:352 |
| 141.170 | 103 KAR 016:352 |
| 141.206 | 103 KAR 016:270 |
| | 103 KAR 016:352 |
| 141.210 | 103 KAR 016:352 |
| 141.310 | 103 KAR 018:090 |

| KRS SECTION | REGULATION |
|---|---|
| 141.315 | 103 KAR 018:090 |
| 141.325 | 103 KAR 018:090 |
| 141.330 | 103 KAR 018:020 |
| 141.355 | 103 KAR 018:020 |
| 141.420 | 725 KAR 001:020 |
| 141.990 | 103 KAR 016:352 |
| 142.303 | 907 KAR 010:830 |
| 150.010 | 301 KAR 001:050 |
| | 301 KAR 001:125 |
| | 301 KAR 001:140 |
| | 301 KAR 001:152 |
| | 301 KAR 001:120 |
| | 301 KAR 001:410 |
| | 301 KAR 002:041 |
| | 301 KAR 002:050 |
| | 301 KAR 002:082 |
| | 301 KAR 002:224 |
| | 301 KAR 003:012 |
| | 301 KAR 003:030 |
| | 301 KAR 004:010 |
| | 301 KAR 004:020 |
| | 301 KAR 004:050 |
| | 301 KAR 004:070 |
| | 301 KAR 004:091 |
| 150.015 | 301 KAR 002:015 |
| | 301 KAR 002:082 |
| | 301 KAR 002:260 |
| | 301 KAR 004:050 |
| 150.022 | 301 KAR 004:001 |
| | 301 KAR 004:010 |
| 150.023 | 301 KAR 004:001 |
| 150.025 | 301 KAR 001:019 |
| | 301 KAR 001:031 |
| | 301 KAR 002:050 |
| | 301 KAR 002:111 |
| | 301 KAR 002:224 |
| | 301 KAR 002:230 |
| | 301 KAR 003:010 |
| | 301 KAR 003:026 |
| | 301 KAR 003:030 |
| | 301 KAR 004:010 |
| | 301 KAR 004:020 |
| | 301 KAR 004:110 |
| 150.090 | 301 KAR 001:012 |
| | 301 KAR 001:016 |
| | 301 KAR 001:031 |
| | 301 KAR 005:030 |
| 150.105 | 301 KAR 002:260 |
| 150.170 | 301 KAR 001:031 |
| | 301 KAR 001:050 |
| | 301 KAR 001:125 |
| | 301 KAR 001:152 |
| | 301 KAR 001:410 |
| | 301 KAR 002:041 |
| | 301 KAR 002:050 |
| | 301 KAR 002:111 |
| | 301 KAR 002:230 |
| | 301 KAR 002:260 |
| | 301 KAR 003:026 |
| | 301 KAR 003:110 |
| | 301 KAR 005:030 |
| | 301 KAR 004:070 |
| 150.175 | 301 KAR 001:031 |
| | 301 KAR 001:050 |
| | 301 KAR 001:082 |
| | 301 KAR 001:120 |
| | 301 KAR 001:152 |
| | 301 KAR 001:410 |
| | 301 KAR 002:142 |
| | 301 KAR 002:230 |
| | 301 KAR 002:260 |
| | 301 KAR 003:026 |
| | 301 KAR 003:110 |
| | 301 KAR 005:030 |

| KRS SECTION | REGULATION |
|---|---|
| 150.180 | 301 KAR 002:041 |
| | 301 KAR 004:070 |
| | 301 KAR 004:091 |
| 150.183 | 301 KAR 002:082 |
| 150.186 | 301 KAR 002:082 |
| 150.190 | 301 KAR 001:120 |
| 150.195 | 301 KAR 002:082 |
| | 301 KAR 004:070 |
| | 301 KAR 005:001 |
| | 301 KAR 005:030 |
| 150.235 | 301 KAR 001:120 |
| | 301 KAR 001:125 |
| | 301 KAR 001:410 |
| | 301 KAR 002:082 |
| | 301 KAR 002:260 |
| | 301 KAR 005:030 |
| 150.236 | 301 KAR 005:100 |
| 150.240 | 301 KAR 003:012 |
| 150.250 | 301 KAR 001:031 |
| | 301 KAR 002:050 |
| | 301 KAR 004:100 |
| 150.280 | 301 KAR 002:041 |
| | 301 KAR 002:084 |
| 150.290 | 301 KAR 002:084 |
| 150.300 | 301 KAR 004:020 |
| 150.305 | 301 KAR 002:142 |
| | 301 KAR 002:224 |
| 150.320 | 301 KAR 002:082 |
| 150.330 | 301 KAR 002:082 |
| | 301 KAR 002:224 |
| | 301 KAR 002:230 |
| | 301 KAR 002:260 |
| 150.340 | 301 KAR 001:031 |
| | 301 KAR 001:050 |
| | 301 KAR 002:224 |
| | 301 KAR 002:260 |
| 150.360 | 301 KAR 001:031 |
| | 301 KAR 001:082 |
| | 301 KAR 002:050 |
| | 301 KAR 003:027 |
| | 301 KAR 003:030 |
| | 301 KAR 003:110 |
| 150.362 | 301 KAR 003:110 |
| 150.365 | 301 KAR 003:110 |
| 150.370 | 301 KAR 001:031 |
| | 301 KAR 002:111 |
| | 301 KAR 003:030 |
| | 301 KAR 003:110 |
| 150.390 | 301 KAR 002:111 |
| | 301 KAR 003:027 |
| | 301 KAR 003:110 |
| 150.411 | 301 KAR 004:091 |
| 150.445 | 301 KAR 001:152 |
| | 301 KAR 001:410 |
| 150.450 | 301 KAR 001:140 |
| | 301 KAR 001:152 |
| 150.470 | 301 KAR 001:031 |
| 150.485 | 301 KAR 001:120 |
| | 301 KAR 001:125 |
| 150.600 | 301 KAR 002:224 |
| | 301 KAR 002:260 |
| | 301 KAR 004:020 |
| | 301 KAR 004:050 |
| 150.620 | 301 KAR 001:012 |
| | 301 KAR 001:018 |
| | 301 KAR 001:019 |
| | 301 KAR 001:050 |
| | 301 KAR 001:410 |
| | 301 KAR 003:010 |
| | 301 KAR 003:012 |
| | 301 KAR 003:026 |
| | 301 KAR 003:027 |
| | 301 KAR 004:100 |
| 150.625 | 301 KAR 001:012 |

| KRS SECTION | REGULATION |
|---|---|
| | 301 KAR 001:016 |
| | 301 KAR 001:019 |
| 150.630 | 301 KAR 002:041 |
| | 301 KAR 002:260 |
| 150.640 | 301 KAR 001:012 |
| | 301 KAR 001:016 |
| | 301 KAR 001:019 |
| | 301 KAR 002:050 |
| | 301 KAR 003:010 |
| | 301 KAR 003:012 |
| 150.680 | 301 KAR 002:050 |
| 150.990 | 301 KAR 001:050 |
| | 301 KAR 001:152 |
| | 301 KAR 001:410 |
| | 301 KAR 002:041 |
| | 301 KAR 002:142 |
| | 301 KAR 002:082 |
| | 301 KAR 002:224 |
| | 301 KAR 002:260 |
| | 301 KAR 003:012 |
| | 301 KAR 003:030 |
| | 301 KAR 003:110 |
| | 301 KAR 004:070 |
| | 301 KAR 004:100 |
| | 301 KAR 005:030 |
| 151.601 | 200 KAR 017:110E |
| | 200 KAR 017:110 |
| 151.605 | 200 KAR 017:110E |
| | 200 KAR 017:110 |
| 151B.020 | 787 KAR 002:040 |
| 151B.185 | 781 KAR 001:020 |
| 151B.190 | 781 KAR 001:010 |
| | 781 KAR 001:020 |
| | 781 KAR 001:030 |
| | 781 KAR 001:040 |
| | 781 KAR 001:050 |
| 151B.200 | 781 KAR 001:010 |
| | 781 KAR 001:020 |
| 151B.280 | 787 KAR 003:020 |
| 151B.402 | 013 KAR 003:040 |
| 151B.403 | 013 KAR 003:010 |
| | 013 KAR 003:030 |
| | 013 KAR 003:050 |
| | 013 KAR 003:060 |
| 151B.408 | 013 KAR 003:020 |
| | 013 KAR 003:030 |
| | 013 KAR 003:040 |
| | 013 KAR 003:060 |
| 154A.060 | 202 KAR 003:020 |
| 154A.120 | 202 KAR 003:020 |
| 156.029 | 701 KAR 005:160 |
| 156.070 | 702 KAR 001:191E |
| | 702 KAR 001:192E |
| | 702 KAR 001:195E |
| | 702 KAR 007:065 |
| | 704 KAR 003:395 |
| | 704 KAR 019:002 |
| 156.160 | 702 KAR 001:191E |
| | 701 KAR 001:191 |
| | 702 KAR 001:192E |
| | 704 KAR 007:170 |
| | 704 KAR 019:002 |
| 156.496 | 922 KAR 001:565 |
| 157.200 | 016 KAR 004:020 |
| 157.250 | 016 KAR 004:020 |
| 157.3175 | 016 KAR 002:040 |
| 157.320 | 702 KAR 007:125E |
| | 702 KAR 007:125 |
| 157.350 | 702 KAR 007:125E |
| | 702 KAR 007:125 |
| 157.360 | 702 KAR 007:125E |
| | 702 KAR 007:125 |
| 158.030 | 702 KAR 007:125E |
| | 702 KAR 007:125 |

| KRS SECTION | REGULATION |
|---|---|
| 158.070 | 702 KAR 007:125E |
| | 702 KAR 007:125 |
| | 704 KAR 003:395 |
| 158.100 | 702 KAR 007:125E |
| | 702 KAR 007:125 |
| 158.135 | 013 KAR 003:050 |
| 158.143 | 013 KAR 003:050 |
| 158.160 | 902 KAR 002:221E |
| 158.240 | 702 KAR 007:125E |
| | 702 KAR 007:125 |
| 158.6451 | 704 KAR 003:395 |
| | 704 KAR 007:170 |
| 158.6453 | 704 KAR 003:395 |
| 158.6645 | 013 KAR 003:050 |
| 158.792 | 704 KAR 003:395 |
| 159.010 | 702 KAR 007:125E |
| | 702 KAR 007:125 |
| 159.030 | 702 KAR 007:125E |
| | 702 KAR 007:125 |
| | 704 KAR 007:121 |
| 159.035 | 702 KAR 007:125E |
| | 702 KAR 007:125 |
| 159.140 | 702 KAR 007:125E |
| | 702 KAR 007:125 |
| 159.170 | 702 KAR 007:125E |
| | 702 KAR 007:125 |
| 160.151 | 922 KAR 001:470 |
| 160.180 | 702 KAR 001:116 |
| 160.290 | 702 KAR 001:191E |
| | 702 KAR 001:191 |
| | 702 KAR 001:192E |
| | 702 KAR 007:150 |
| | 704 KAR 007:121 |
| 160.380 | 016 KAR 001:030 |
| | 702 KAR 007:065 |
| | 704 KAR 019:002 |
| | 922 KAR 001:470 |
| 160.445 | 702 KAR 007:065 |
| 160.613 | 103 KAR 030:140 |
| 161.010-161.100 | 016 KAR 001:030 |
| 161.011 | 013 KAR 003:030 |
| 161.020 | 016 KAR 002:040 |
| | 016 KAR 002:050 |
| | 016 KAR 002:180 |
| | 016 KAR 002:220E |
| | 016 KAR 002:220 |
| | 016 KAR 002:230E |
| | 016 KAR 002:230 |
| | 016 KAR 002:180 |
| | 016 KAR 003:070 |
| | 016 KAR 004:020 |
| | 016 KAR 004:050 |
| | 016 KAR 005:010 |
| | 016 KAR 006:010 |
| 161.028 | 016 KAR 002:050 |
| | 016 KAR 002:220E |
| | 016 KAR 002:220 |
| | 016 KAR 002:230E |
| | 016 KAR 002:230 |
| | 016 KAR 003:070 |
| | 016 KAR 004:020 |
| | 016 KAR 004:050 |
| | 016 KAR 005:010 |
| | 016 KAR 006:010 |
| 161.030 | 016 KAR 002:040 |
| | 016 KAR 002:050 |
| | 016 KAR 002:180 |
| | 016 KAR 002:220E |
| | 016 KAR 002:220 |
| | 016 KAR 002:230E |
| | 016 KAR 002:230 |
| | 016 KAR 003:070 |
| | 016 KAR 004:020 |
| | 016 KAR 004:050 |

| KRS SECTION | REGULATION |
|---|---|
| | 016 KAR 005:010 |
| | 016 KAR 006:010 |
| 161.053 | 016 KAR 002:050 |
| 161.120 | 016 KAR 001:030 |
| 161.1211 | 016 KAR 002:180 |
| 161.155 | 702 KAR 001:191 |
| 161.200 | 702 KAR 007:125E |
| | 702 KAR 007:125 |
| 161.661 | 102 KAR 001:360E |
| 163.470 | 782 KAR 001:010 |
| 164.518 | 011 KAR 016:001 |
| | 011 KAR 016:010 |
| 164.740 | 011 KAR 016:001 |
| 164.945 | 016 KAR 005:010 |
| 164.946 | 016 KAR 005:010 |
| 164.947 | 016 KAR 005:010 |
| 164A.575 | 745 KAR 001:035 |
| 165A.310 | 502 KAR 010:035 |
| | 791 KAR 001:020 |
| | 791 KAR 001:070 |
| 165A.330 | 791 KAR 001:010 |
| | 791 KAR 001:020 |
| | 791 KAR 001:040 |
| | 791 KAR 001:050 |
| | 791 KAR 001:060 |
| | 791 KAR 001:070 |
| | 791 KAR 001:080 |
| | 791 KAR 001:100 |
| 165A.340 | 791 KAR 001:020 |
| | 791 KAR 001:155 |
| 165A.350 | 791 KAR 001:010 |
| | 791 KAR 001:020 |
| | 791 KAR 001:025 |
| | 791 KAR 001:030 |
| | 791 KAR 001:070 |
| | 791 KAR 001:150 |
| 165A.360 | 791 KAR 001:010 |
| | 791 KAR 001:020 |
| | 791 KAR 001:025 |
| | 791 KAR 001:030 |
| | 791 KAR 001:150 |
| | 791 KAR 001:160 |
| 165A.370 | 791 KAR 001:020 |
| | 791 KAR 001:027 |
| | 791 KAR 001:030 |
| | 791 KAR 001:040 |
| | 791 KAR 001:050 |
| | 791 KAR 001:060 |
| | 791 KAR 001:070 |
| | 791 KAR 001:080 |
| | 791 KAR 001:100 |
| | 791 KAR 001:155 |
| | 791 KAR 001:160 |
| 165A.380 | 791 KAR 001:025 |
| | 791 KAR 001:070 |
| 165A.390 | 791 KAR 001:020 |
| | 791 KAR 001:030 |
| | 791 KAR 001:155 |
| 165A.420 | 791 KAR 001:025 |
| 165A.450 | 791 KAR 001:020 |
| | 791 KAR 001:035 |
| | 791 KAR 001:050 |
| 165A.460 | 502 KAR 010:070 |
| | 502 KAR 010:090 |
| | 791 KAR 001:040 |
| | 791 KAR 001:070 |
| 165A.460-165A.515 | 791 KAR 001:060 |
| 165A.465 | 791 KAR 001:050 |
| | 791 KAR 001:070 |
| 165A.470 | 791 KAR 001:050 |
| | 791 KAR 001:070 |
| 165A.475 | 791 KAR 001:050 |
| | 791 KAR 001:070 |
| 165A.480 | 791 KAR 001:050 |

| KRS SECTION | REGULATION |
|---|---|
| | 791 KAR 001:070 |
| 165A.485 | 791 KAR 001:070 |
| 165A.500 | 791 KAR 001:080 |
| 165A.510 | 791 KAR 001:080 |
| | 791 KAR 001:100 |
| 165A.990 | 791 KAR 001:030 |
| 171 | 725 KAR 001:010 |
| | 725 KAR 001:050 |
| 171.027 | 725 KAR 002:015 |
| 171.125 | 725 KAR 002:015 |
| 171.221 | 725 KAR 002:080 |
| 171.420 | 725 KAR 001:025 |
| | 725 KAR 001:061 |
| 171.450 | 725 KAR 001:020 |
| | 725 KAR 001:030 |
| | 725 KAR 001:061 |
| 171.470 | 725 KAR 001:025 |
| 171.480 | 725 KAR 001:025 |
| 171.500 | 725 KAR 001:025 |
| | 725 KAR 001:040 |
| 171.520 | 725 KAR 001:025 |
| 171.550 | 725 KAR 001:025 |
| 171.580 | 725 KAR 001:025 |
| 171.590 | 725 KAR 001:025 |
| 171.600 | 725 KAR 001:020 |
| 171.670 | 725 KAR 001:020 |
| 173.040 | 725 KAR 002:015 |
| 173.340 | 725 KAR 002:015 |
| 173.480 | 725 KAR 002:015 |
| 173.725 | 725 KAR 002:015 |
| 176.050 | 603 KAR 005:150 |
| 176.051 | 603 KAR 003:100 |
| 177.047 | 603 KAR 005:150 |
| 177.0734-177.0738 | 603 KAR 004:035 |
| 177.103 | 603 KAR 005:150 |
| 177.106 | 603 KAR 005:150 |
| 177.572-177.576 | 603 KAR 010:011E |
| | 603 KAR 010:040E |
| | 603 KAR 010:040 |
| 177.830-177.890 | 603 KAR 010:011E |
| | 603 KAR 010:040E |
| | 603 KAR 010:040 |
| 177.990 | 603 KAR 010:011E |
| | 603 KAR 010:040E |
| | 603 KAR 010:040 |
| 186.021 | 806 KAR 039:070 |
| 186.412 | 502 KAR 013:010 |
| | 502 KAR 013:040 |
| 186.480 | 782 KAR 001:070 |
| 186.570 | 921 KAR 001:390 |
| 186.576 | 782 KAR 001:070 |
| 186.577 | 782 KAR 001:070 |
| 186.578 | 782 KAR 001:070 |
| 186.579 | 782 KAR 001:070 |
| 186A.040 | 806 KAR 039:070 |
| 186A.042 | 806 KAR 039:070 |
| 186A.095 | 806 KAR 039:070 |
| 189A.010 | 782 KAR 001:070 |
| 189.450 | 502 KAR 015:020 |
| 189.635 | 502 KAR 015:010 |
| 189.751 | 502 KAR 015:020 |
| 189.752 | 502 KAR 015:020 |
| 189.753 | 502 KAR 015:020 |
| 189.910-189.950 | 202 KAR 007:560 |
| 190.010 | 605 KAR 001:051 |
| | 605 KAR 001:211 |
| 190.010-190.990 | 605 KAR 001:191 |
| 190.030 | 605 KAR 001:051 |
| | 605 KAR 001:071 |
| 190.032 | 605 KAR 001:211 |
| 190.040 | 605 KAR 001:091 |
| 190.058 | 605 KAR 001:131 |
| 190.062 | 605 KAR 001:131 |
| 194.010 | 921 KAR 004:116E |

| KRS SECTION | REGULATION |
|---|---|
| | 921 KAR 004:116 |
| 194.025 | 907 KAR 017:010 |
| 194.030 | 787 KAR 001:310 |
| 194.060 | 921 KAR 004:116E |
| | 921 KAR 004:116 |
| | 922 KAR 002:160E |
| | 922 KAR 002:160 |
| 194.070 | 921 KAR 004:116E |
| | 921 KAR 004:116 |
| 194A | 921 KAR 002:015E |
| | 921 KAR 002:015 |
| 194A.005 | 907 KAR 020:001 |
| | 922 KAR 001:565 |
| 194A.010 | 922 KAR 005:070 |
| 194A.025 | 907 KAR 017:005 |
| 194A.050 | 900 KAR 010:201 |
| | 902 KAR 002:230E |
| | 902 KAR 002:240E |
| | 902 KAR 002:250E |
| 194A.060 | 907 KAR 003:170 |
| | 910 KAR 001:190 |
| 194A.070 | 921 KAR 004:122E |
| | 921 KAR 004:122 |
| 194A.380-194A.383 | 922 KAR 001:470 |
| 194A.540 | 201 KAR 020:320 |
| 196 | 501 KAR 006:030 |
| | 501 KAR 006:290 |
| 197 | 501 KAR 006:030 |
| | 501 KAR 006:290 |
| 196.035 | 501 KAR 002:060 |
| 196.020 | 501 KAR 002:060 |
| 196.030 | 501 KAR 006:250 |
| 197.045 | 501 KAR 002:060 |
| | 725 KAR 002:015 |
| 198B.032 | 725 KAR 002:015 |
| 198B.040 | 815 KAR 007:110 |
| 198B.050 | 725 KAR 002:015 |
| | 815 KAR 004:025 |
| | 815 KAR 007:110 |
| | 815 KAR 010:060 |
| | 815 KAR 020:195 |
| | 815 KAR 035:020 |
| 198B.060 | 815 KAR 007:110 |
| 198B.070 | 815 KAR 007:110 |
| 198B.260 | 902 KAR 020:016 |
| 198B.400 | 815 KAR 004:010 |
| | 815 KAR 004:027 |
| 198B.400-198B.0540 | 815 KAR 004:025 |
| 198B.470 | 815 KAR 004:010 |
| 198B.480 | 815 KAR 004:010 |
| 198B.490 | 815 KAR 004:027 |
| 198B.500 | 815 KAR 004:010 |
| 198B.510 | 815 KAR 004:010 |
| 198B.540 | 815 KAR 004:010 |
| 198B.550-198B.630 | 815 KAR 007:080 |
| 199.011 | 922 KAR 001:360E |
| | 922 KAR 001:360 |
| | 922 KAR 001:530 |
| | 922 KAR 001:565 |
| | 922 KAR 002:280 |
| 199.462 | 922 KAR 001:565 |
| 199.466 | 922 KAR 001:470 |
| | 922 KAR 002:280 |
| 199.470-199.590 | 922 KAR 001:565 |
| 199.555 | 907 KAR 017:005 |
| 199.640-199.680 | 922 KAR 001:360E |
| | 922 KAR 001:360 |
| 199.801 | 922 KAR 001:360E |
| | 922 KAR 001:360 |
| 199.894 | 922 KAR 002:160E |
| | 922 KAR 002:160 |
| | 922 KAR 002:280 |
| 199.896 | 922 KAR 001:470 |
| | 922 KAR 002:160E |

| KRS SECTION | REGULATION |
|---|---|
| | 922 KAR 002:160 |
| 199.898 | 922 KAR 002:160E |
| | 922 KAR 002:160 |
| 199.8982 | 922 KAR 001:470 |
| | 922 KAR 002:160E |
| | 922 KAR 002:160 |
| 199.899 | 922 KAR 002:160E |
| | 922 KAR 002:160 |
| 200.575 | 922 KAR 001:530 |
| 202A | 907 KAR 017:005 |
| 202A.011 | 702 KAR 007:150 |
| | 921 KAR 002:015E |
| | 921 KAR 002:015 |
| 202A.051 | 922 KAR 005:070 |
| 202A.410 | 501 KAR 014:010 |
| 202B.100 | 922 KAR 005:070 |
| 205.175 | 921 KAR 001:020 |
| 205.177 | 921 KAR 001:020 |
| 205.201 | 910 KAR 001:190 |
| 205.2005 | 921 KAR 003:026E |
| | 921 KAR 003:027E |
| | 921 KAR 003:027 |
| 205.203 | 910 KAR 001:190 |
| 205.211 | 922 KAR 001:565 |
| 205.240 | 921 KAR 004:122E |
| | 921 KAR 004:122 |
| 205.245 | 921 KAR 002:015E |
| | 921 KAR 002:015 |
| | 923 KAR 002:470 |
| 205.455 | 910 KAR 001:190 |
| 205.465 | 910 KAR 001:190 |
| 205.510 | 900 KAR 012:005E |
| | 900 KAR 012:005 |
| | 907 KAR 003:170 |
| | 907 KAR 010:815 |
| | 907 KAR 010:830 |
| 250.520 | 907 KAR 020:020 |
| 205.5510-205.5520 | 907 KAR 023:020E |
| | 907 KAR 023:020 |
| 205.559 | 900 KAR 012:005E |
| | 900 KAR 012:005 |
| | 907 KAR 003:170 |
| 205.5591 | 900 KAR 012:005E |
| | 900 KAR 012:005 |
| | 907 KAR 003:170 |
| 205.560 | 907 KAR 001:604 |
| | 907 KAR 003:170 |
| | 907 KAR 023:020E |
| | 907 KAR 023:020 |
| 205.561 | 907 KAR 023:020E |
| | 907 KAR 023:020 |
| 205.5631 | 907 KAR 023:020E |
| | 907 KAR 023:020 |
| 205.5632 | 907 KAR 023:020E |
| | 907 KAR 023:020 |
| 205.5634 | 907 KAR 023:020E |
| | 907 KAR 023:020 |
| 205.5636 | 907 KAR 023:020E |
| | 907 KAR 023:020 |
| 205.5638 | 907 KAR 023:020E |
| | 907 KAR 023:020 |
| 205.5639 | 907 KAR 023:020E |
| | 907 KAR 023:020 |
| 205.565 | 907 KAR 010:830 |
| 205.624 | 907 KAR 001:005 |
| | 907 KAR 017:010 |
| 205.6312 | 907 KAR 001:005 |
| | 907 KAR 001:604 |
| 205.6316 | 907 KAR 023:020E |
| | 907 KAR 023:020 |
| 205.637 | 907 KAR 010:815 |
| | 907 KAR 010:830 |
| 205.638 | 907 KAR 010:830 |
| 205.639 | 906 KAR 001:110 |

| KRS SECTION | REGULATION |
|---|---|
| | 907 KAR 010:815 |
| | 907 KAR 010:830 |
| 205.640 | 907 KAR 010:815 |
| | 907 KAR 010:830 |
| 205.6405 | 907 KAR 010:815 |
| 205.6406 | 907 KAR 010:815 |
| 205.6407 | 907 KAR 010:815 |
| 205.6408 | 907 KAR 010:815 |
| 204.6485 | 907 KAR 001:604 |
| 205.710 | 921 KAR 001:020 |
| | 921 KAR 001:390 |
| | 921 KAR 001:400E |
| | 921 KAR 001:400 |
| 205.712 | 921 KAR 001:020 |
| | 921 KAR 001:390 |
| 205.721 | 921 KAR 001:390 |
| 205.730 | 921 KAR 001:020 |
| | 921 KAR 001:390 |
| 205.735 | 921 KAR 001:020 |
| 205.7685 | 921 KAR 001:020 |
| 205.772 | 921 KAR 001:020 |
| 205.774 | 921 KAR 001:020 |
| 205.776 | 921 KAR 001:020 |
| 205.800 | 921 KAR 001:020 |
| 205.802 | 921 KAR 001:400E |
| | 921 KAR 001:400 |
| 205.8451 | 907 KAR 001:604 |
| | 907 KAR 020:001 |
| 205.8451-205.8483 | 907 KAR 017:005 |
| 205.990 | 921 KAR 001:020 |
| | 921 KAR 001:400E |
| | 921 KAR 001:400 |
| 209 | 902 KAR 020:016 |
| | 922 KAR 002:280 |
| | 922 KAR 005:070 |
| 209.020 | 502 KAR 012:010 |
| | 921 KAR 002:015E |
| | 921 KAR 002:015 |
| 209.030 | 502 KAR 012:010 |
| | 906 KAR 001:180 |
| 209.032 | 902 KAR 020:081 |
| | 906 KAR 001:180 |
| 209A.020 | 502 KAR 012:010 |
| 209A.030 | 502 KAR 012:010 |
| | 910 KAR 001:190 |
| 209A.100 | 502 KAR 012:010 |
| 209A.110 | 502 KAR 012:010 |
| 209A.130 | 502 KAR 012:010 |
| 210.366 | 201 KAR 026:175 |
| 211.015 | 902 KAR 010:120 |
| | 902 KAR 010:190 |
| 211.090 | 902 KAR 010:120 |
| 211.180 | 902 KAR 002:212E |
| | 902 KAR 002:213E |
| | 902 KAR 002:230E |
| | 902 KAR 002:240E |
| | 902 KAR 002:250E |
| | 902 KAR 010:190 |
| | 902 KAR 048:010 |
| | 902 KAR 048.020 |
| | 902 KAR 048:030 |
| | 902 KAR 048:040 |
| 211.185 | 902 KAR 010:121 |
| 211.332 | 900 KAR 012:005E |
| | 900 KAR 012:005 |
| 211.600 | 502 KAR 012:010 |
| 211.990 | 902 KAR 010:120 |
| | 902 KAR 010:121 |
| 211.994 | 902 KAR 048:010 |
| | 902 KAR 048:010 |
| 211.210 | 902 KAR 010:120 |
| 211.220 | 902 KAR 010:120 |
| 211.350 | 815 KAR 035:020 |
| 211.684 | 922 KAR 001:470 |

| KRS SECTION | REGULATION |
|---|---|
| 211.842-211.852 | 902 KAR 020:016 |
| | 902 KAR 020:106 |
| | 906 KAR 001:110 |
| 211.900-211.905 | 902 KAR 048:010 |
| | 902 KAR 048:010 |
| 211.990 | 902 KAR 010:120 |
| | 902 KAR 048:010 |
| 211.994 | 902 KAR 048:010 |
| | 902 KAR 048:010 |
| 211.9061-200.9079 | 902 KAR 048:010 |
| 211.9063 | 902 KAR 048:030 |
| | 902 KAR 048:040 |
| 211.9069 | 902 KAR 048:030 |
| 211.9071 | 902 KAR 048:030 |
| | 902 KAR 048:040 |
| 211.9075 | 902 KAR 048:030 |
| 212.626 | 815 KAR 007:110 |
| 213.036 | 921 KAR 001:390 |
| 213.046 | 921 KAR 001:390 |
| | 921 KAR 001:400E |
| | 921 KAR 001:400 |
| 213.071 | 921 KAR 001:390 |
| 214 | 902 KAR 020:016 |
| 214.010 | 902 KAR 002:212E |
| | 902 KAR 002:213E |
| | 902 KAR 002:221E |
| 214.020 | 902 KAR 002:221E |
| 214.036 | 922 KAR 002:160E |
| | 922 KAR 002:160 |
| 214.623 | 902 KAR 002:020 |
| 214.645 | 902 KAR 002:020 |
| | 902 KAR 002:212E |
| | 902 KAR 002:213E |
| 214.990 | 902 KAR 002:020 |
| 215.520 | 902 KAR 002:020 |
| 216.2970 | 902 KAR 020:016 |
| 216.378 | 906 KAR 001:110 |
| 216.379 | 906 KAR 001:110 |
| 216.380 | 906 KAR 001:110 |
| | 907 KAR 010:815 |
| | 907 KAR 010:830 |
| 216.510 | 902 KAR 020:460E |
| 216.530 | 921 KAR 002:015E |
| | 921 KAR 002:015 |
| 216.557 | 921 KAR 002:015E |
| | 921 KAR 002:015 |
| 216.710-216.716 | 906 KAR 001:180 |
| | 910 KAR 004:010 |
| 216.765 | 921 KAR 002:015E |
| | 921 KAR 002:015 |
| 216.935 | 902 KAR 020:081 |
| | 907 KAR 001:030 |
| 216.936 | 907 KAR 001:030 |
| 216.937 | 902 KAR 020:081 |
| | 907 KAR 001:030 |
| 216.9375 | 902 KAR 020:081 |
| | 907 KAR 001:030 |
| 216.935-216.939 | 910 KAR 004:010 |
| 216.939 | 907 KAR 001:030 |
| 216A.070 | 201 KAR 006:020 |
| 216A.080 | 201 KAR 006:020 |
| | 201 KAR 006:040 |
| 216A.090 | 201 KAR 006:040 |
| 216B | 921 KAR 002:015E |
| | 921 KAR 002:015 |
| 216B.010 | 902 KAR 020:016 |
| | 902 KAR 020:018 |
| 216B.010-216B.130 | 902 KAR 020:081 |
| 216B.015 | 502 KAR 012:010 |
| | 902 KAR 002:020 |
| | 902 KAR 002:230E |
| | 902 KAR 020:016 |
| | 902 KAR 020:018 |
| | 902 KAR 020:106 |

| KRS SECTION | REGULATION |
|---|---|
| | 906 KAR 001:110 |
| | 906 KAR 001:180 |
| 216B.040 | 902 KAR 020:016 |
| | 902 KAR 020:018 |
| | 906 KAR 001:110 |
| 216B.042 | 902 KAR 020:016 |
| | 902 KAR 020:018 |
| | 902 KAR 020:106 |
| 216B.0425 | 902 KAR 020:016 |
| 216B.045 | 902 KAR 020:016 |
| | 902 KAR 020:018 |
| 216B.050 | 902 KAR 020:016 |
| | 902 KAR 020:018 |
| 216B.055 | 902 KAR 020:016 |
| | 902 KAR 020:018 |
| 216B.075 | 902 KAR 020:016 |
| | 902 KAR 020:018 |
| 216B.085 | 902 KAR 020:016 |
| | 902 KAR 020:018 |
| 216B.105 | 906 KAR 001:110 |
| 216B.105-216B.125 | 902 KAR 020:016 |
| | 902 KAR 020:018 |
| 216B.140-216B.175 | 902 KAR 020:016 |
| 216B.153 | 902 KAR 020:106 |
| | 906 KAR 001:110 |
| 216B.165 | 902 KAR 020:106 |
| | 906 KAR 001:110 |
| 216B.185 | 902 KAR 020:016 |
| 216B.190 | 902 KAR 020:016 |
| 216B.230-216B.239 | 902 KAR 020:016 |
| 216B.250 | 902 KAR 020:016 |
| 216B.400 | 502 KAR 012:010 |
| 216B.400-216B.402 | 902 KAR 020:016 |
| 216B.990 | 502 KAR 012:010 |
| | 902 KAR 020:016 |
| | 902 KAR 020:018 |
| | 902 KAR 020:081 |
| | 902 KAR 020:106 |
| | 906 KAR 001:110 |
| 217.015 | 907 KAR 023:020E |
| | 907 KAR 023:020 |
| 217.055 | 201 KAR 002:076 |
| 217.065 | 201 KAR 002:076 |
| 217.186 | 201 KAR 002:360 |
| 217.211 | 806 KAR 017:280 |
| 217.660 | 902 KAR 048:010 |
| 217.801 | 902 KAR 048:010 |
| | 902 KAR 048:010 |
| | 902 KAR 048:040 |
| 217B | 302 KAR 050:021 |
| | 302 KAR 050:046 |
| | 302 KAR 050:056 |
| 218A.010 | 016 KAR 001:030 |
| 218A.1431 | 502 KAR 047:010 |
| 218A.172 | 201 KAR 020:057 |
| 218A.205 | 201 KAR 002:050 |
| | 201 KAR 002:430 |
| | 201 KAR 008:520 |
| | 201 KAR 020:057 |
| | 201 KAR 020:215 |
| 224A.011 | 200 KAR 017:110E |
| | 200 KAR 017:110 |
| 224A.020 | 200 KAR 017:110E |
| | 200 KAR 017:110 |
| 224A.035 | 200 KAR 017:110E |
| | 200 KAR 017:110 |
| 224A.040 | 200 KAR 017:110E |
| | 200 KAR 017:110 |
| 224A.050-224A.314 | 200 KAR 017:110E |
| | 200 KAR 017:110 |
| 224.1-010-410 | 502 KAR 047:010 |
| 224.20-100 | 401 KAR 051:010 |
| 224.20-110 | 401 KAR 051:010 |
| 224.20.120 | 401 KAR 051:010 |

| KRS SECTION | REGULATION |
|---|---|
| 224.60-105 | 815 KAR 030:060 |
| 224.60-135 | 815 KAR 030:060 |
| 224.99-010 | 502 KAR 047:010 |
| 227.300 | 725 KAR 002:015 |
| | 815 KAR 010:060 |
| | 815 KAR 030:060 |
| 227.320 | 815 KAR 010:060 |
| 227.330 | 815 KAR 010:060 |
| 227.460 | 815 KAR 035:020 |
| 227.480 | 815 KAR 035:020 |
| 227.487 | 815 KAR 035:020 |
| 227.489 | 815 KAR 007:110 |
| 227.491 | 815 KAR 035:020 |
| 227.700 | 815 KAR 010:070 |
| 227.702 | 815 KAR 010:070 |
| 227.704 | 815 KAR 010:070 |
| 227.708 | 815 KAR 010:070 |
| 227.710 | 815 KAR 010:070 |
| 227.715 | 815 KAR 010:070 |
| 227.750 | 815 KAR 010:070 |
| 227.752 | 815 KAR 010:070 |
| 227.990 | 815 KAR 010:060 |
| 230 | 810 KAR 006:001 |
| 230.215 | 810 KAR 004:040 |
| | 810 KAR 005:030 |
| | 810 KAR 005:060 |
| | 810 KAR 005:070 |
| | 810 KAR 008:025E |
| | 810 KAR 008:025 |
| 230.225 | 810 KAR 007:050 |
| | 810 KAR 008:025E |
| | 810 KAR 008:025 |
| 230.240 | 810 KAR 008:025E |
| | 810 KAR 008:025 |
| 230.260 | 810 KAR 004:040 |
| | 810 KAR 005:030 |
| | 810 KAR 005:060 |
| | 810 KAR 005:070 |
| | 810 KAR 008:025E |
| | 810 KAR 008:025 |
| 230.265 | 810 KAR 008:025E |
| | 810 KAR 008:025 |
| 230.280 | 810 KAR 005:070 |
| 230.290 | 810 KAR 005:070 |
| | 810 KAR 008:025E |
| | 810 KAR 008:025 |
| 230.300 | 810 KAR 005:070 |
| 230.310 | 810 KAR 005:070 |
| 230.320 | 810 KAR 005:070 |
| | 810 KAR 008:025E |
| | 810 KAR 008:025 |
| 230.330 | 810 KAR 007:050 |
| 230.370 | 810 KAR 008:025E |
| | 810 KAR 008:025 |
| 230.804 | 810 KAR 007:050 |
| 234.120 | 815 KAR 030:010 |
| 234.130 | 815 KAR 030:010 |
| 234.140 | 815 KAR 010:060 |
| 235 | 301 KAR 006:001 |
| 235.40 | 301 KAR 006:070 |
| 235.220 | 301 KAR 006:070 |
| 235.315 | 301 KAR 001:018 |
| 237.110 | 502 KAR 011:010 |
| | 502 KAR 011:060 |
| | 502 KAR 011:070 |
| | 502 KAR 013:030 |
| | 502 KAR 013:040 |
| | 502 KAR 013:050 |
| | 502 KAR 013:060 |
| | 502 KAR 013:080 |
| | 502 KAR 030:060 |
| | 503 KAR 004:010 |
| | 503 KAR 004:040 |
| | 503 KAR 004:050 |

| KRS SECTION | REGULATION |
|---|---|
| | 921 KAR 001:390 |
| 237.120 | 503 KAR 004:040 |
| 237.122 | 503 KAR 004:040 |
| 237.124 | 503 KAR 004:040 |
| | 503 KAR 004:050 |
| 237.126 | 503 KAR 004:040 |
| 237.138 | 502 KAR 013:030 |
| | 502 KAR 013:040 |
| | 502 KAR 013:050 |
| | 502 KAR 013:060 |
| | 502 KAR 013:080 |
| 237.140 | 502 KAR 013:030 |
| | 502 KAR 013:040 |
| | 502 KAR 013:050 |
| | 502 KAR 013:060 |
| | 502 KAR 013:080 |
| 237.142 | 502 KAR 013:030 |
| | 502 KAR 013:040 |
| | 502 KAR 013:050 |
| | 502 KAR 013:060 |
| | 502 KAR 013:080 |
| 237.138-237.142 | 502 KAR 013:010 |
| 241.010 | 103 KAR 030:120 |
| 243.027 | 804 KAR 004:415 |
| 243.028 | 804 KAR 004:415 |
| 243.029 | 804 KAR 004:415 |
| 243.030 | 103 KAR 030:120 |
| | 804 KAR 004:212 |
| 243.040 | 103 KAR 030:120 |
| 243.100 | 804 KAR 004:480 |
| 243.220 | 804 KAR 004:221 |
| 243.260 | 804 KAR 004:251 |
| 243.520 | 804 KAR 004:480 |
| 247.100 | 303 KAR 001:110 |
| 247.145 | 303 KAR 001:005 |
| | 303 KAR 001:010 |
| | 303 KAR 001:015 |
| | 303 KAR 001:075 |
| | 303 KAR 001:080 |
| | 303 KAR 001:090 |
| | 303 KAR 001:100 |
| 217.147 | 303 KAR 001:110 |
| 247.153 | 303 KAR 001:005 |
| 247.154 | 303 KAR 001:005 |
| | 303 KAR 001:010 |
| | 303 KAR 001:015 |
| 247.160 | 303 KAR 001:075 |
| 258.065 | 902 KAR 002:020 |
| 258.990 | 902 KAR 002:020 |
| 260.850-260.869 | 302 KAR 050:021 |
| | 302 KAR 050:031 |
| | 302 KAR 050:046 |
| | 302 KAR 050:056 |
| | 302 KAR 050:080 |
| 278.0154 | 921 KAR 004:122E |
| | 921 KAR 004:122 |
| 281A.120 | 502 KAR 010:120 |
| 281A.130 | 502 KAR 010:120 |
| 281A.150 | 502 KAR 010:120 |
| 281A.160 | 502 KAR 010:035 |
| | 502 KAR 010:110 |
| | 502 KAR 010:120 |
| 281A.170 | 502 KAR 010:120 |
| 285.065 | 301 KAR 002:082 |
| 285.085 | 301 KAR 002:082 |
| 302.31 | 921 KAR 001:390 |
| 302.33 | 921 KAR 001:390 |
| 302.34 | 921 KAR 001:020 |
| 302.50 | 921 KAR 001:400E |
| | 921 KAR 001:400 |
| 302.56 | 921 KAR 001:400E |
| | 921 KAR 001:400 |
| 302.80 | 921 KAR 001:400E |
| | 921 KAR 001:400 |

| KRS SECTION | REGULATION |
|---|---|
| 303.107 | 921 KAR 001:020 |
| 303.21 | 921 KAR 001:020 |
| 303.4 | 921 KAR 001:400E |
| | 921 KAR 001:400 |
| 303.5 | 921 KAR 001:390 |
| 303.70 | 921 KAR 001:020 |
| 303.8 | 921 KAR 001:400E |
| | 921 KAR 001:400 |
| 303.30-303.32 | 921 KAR 001:400E |
| | 921 KAR 001:400 |
| 304 | 806 KAR 011:020 |
| | 921 KAR 001:020 |
| | 921 KAR 001:390 |
| 304.1-010 | 806 KAR 014:007 |
| 304.1-050 | 806 KAR 011:020 |
| | 806 KAR 014:007 |
| | 806 KAR 017:575 |
| | 806 KAR 017:590 |
| | 806 KAR 046:050 |
| 304.1-070 | 806 KAR 010:030 |
| 304.1-120 | 806 KAR 011:020 |
| 304.2-100 | 806 KAR 017:290 |
| | 806 KAR 017:350 |
| 304.2-110 | 806 KAR 017:470 |
| 304.2-140 | 806 KAR 017:280 |
| 304.2-160 | 806 KAR 011:020 |
| | 806 KAR 017:575 |
| 304.2-165 | 806 KAR 011:020 |
| | 806 KAR 017:575 |
| 304.2-230 | 806 KAR 017:290 |
| 304.2-310 | 806 KAR 017:290 |
| | 806 KAR 017:450 |
| 304.3-240 | 806 KAR 012:010 |
| 304.3-270 | 806 KAR 014:007 |
| 304.4-010 | 806 KAR 014:007 |
| 304.5-040 | 806 KAR 011:020 |
| 304.5-140 | 806 KAR 005:025 |
| 304.9-020 | 806 KAR 011:020 |
| | 806 KAR 017:575 |
| | 806 KAR 017:590 |
| 304.9-051 | 806 KAR 011:020 |
| 304.9-052 | 806 KAR 017:450 |
| 304.9-055 | 806 KAR 017:590 |
| 304.10-030 | 806 KAR 010:030 |
| 304.10-040 | 806 KAR 010:030 |
| 304.10-050 | 806 KAR 010:030 |
| 304.10-170 | 806 KAR 010:030 |
| 304.10-180 | 806 KAR 010:030 |
| 304.11-030 | 806 KAR 011:020 |
| 304.11-045 | 806 KAR 011:020 |
| 304.12-010 | 806 KAR 012:010 |
| 304.12-020 | 806 KAR 012:010 |
| 304.12-060 | 806 KAR 012:010 |
| 304.12-120 | 806 KAR 012:010 |
| 304.12.130 | 806 KAR 012:010 |
| 304.13-011 | 806 KAR 046:050 |
| 304.13-051 | 806 KAR 046:050 |
| 304.14-120 | 806 KAR 014:007 |
| | 806 KAR 046:050 |
| 304.14-190 | 806 KAR 014:007 |
| 304.14-640 | 907 KAR 020:001 |
| 304.17-042 | 806 KAR 018:030 |
| 304.17-380 | 806 KAR 014:007 |
| 304.17-412 | 806 KAR 017:280 |
| 304.17A | 806 KAR 017:260 |
| 304.17A-005 | 806 KAR 011:020 |
| | 806 KAR 017:370 |
| | 806 KAR 017:470 |
| | 806 KAR 017:590 |
| 304.17A-095 | 806 KAR 014:007 |
| 304.17A-096 | 806 KAR 014:007 |
| 304.17A-138 | 806 KAR 017:270 |
| | 900 KAR 012:005E |
| | 900 KAR 012:005 |

| KRS SECTION | REGULATION |
|---|---|
| 304.17A-150 | 806 KAR 017:300 |
| 304.17A-161 | 806 KAR 017:575 |
| 304.17A-162 | 806 KAR 017:575 |
| 304.17A-200 | 806 KAR 017:450 |
| 304.17A-230 | 806 KAR 017:240 |
| 304.17A-235 | 806 KAR 017:300 |
| 304.17A-250 | 806 KAR 018:030 |
| 304.17A-330 | 806 KAR 017:240 |
| 304.17A-410 | 806 KAR 011:020 |
| 304.17A-500 | 806 KAR 017:300 |
| 304.17A-527 | 806 KAR 017:300 |
| 304.17A-530 | 806 KAR 017:300 |
| 304.17A-532 | 806 KAR 017:300 |
| 304.17A-560 | 806 KAR 017:300 |
| 304.17A-575 | 806 KAR 017:300 |
| 304.17A-578 | 806 KAR 017:300 |
| 304.17A-600 | 806 KAR 011:020 |
| | 806 KAR 017:280 |
| | 806 KAR 017:290 |
| 304.17A-607 | 806 KAR 017:370 |
| 304.17A-619 | 806 KAR 017:280 |
| 304.17A-621 | 806 KAR 017:290 |
| 304.17A-623 | 806 KAR 017:280 |
| 304.17A-631 | 806 KAR 017:290 |
| 304.17A-633 | 806 KAR 011:020 |
| 304.17A-700 | 806 KAR 017:370 |
| | 806 KAR 017:470 |
| | 806 KAR 017:590 |
| 304.17A-728 | 806 KAR 017:300 |
| 304.17A-730 | 806 KAR 017:370 |
| 304.17A-732 | 806 KAR 017:590 |
| 304.17A-750 | 806 KAR 017:450 |
| 304.17A-770 | 806 KAR 017:450 |
| 304.17A-802 | 806 KAR 011:020 |
| 304.17A-812 | 806 KAR 011:020 |
| 304.17A-846 | 806 KAR 017:470 |
| 304.17B-001 | 806 KAR 017:350 |
| | 900 KAR 013:010 |
| 304.17B-021 | 806 KAR 017:350 |
| | 900 KAR 013:010 |
| 304.17B-023 | 806 KAR 017:350 |
| | 900 KAR 013:010 |
| 304.17C-010 | 806 KAR 014:007 |
| | 806 KAR 017:280 |
| | 806 KAR 017:370 |
| 304.17C-030 | 806 KAR 017:280 |
| 304.17C-060 | 806 KAR 017:300 |
| 304.17C-070 | 806 KAR 017:300 |
| 304.17C-090 | 806 KAR 017:370 |
| 304.18-032 | 806 KAR 018:030 |
| 304.18-045 | 806 KAR 017:280 |
| 304.18-085 | 806 KAR 018:030 |
| 304.18-114 | 806 KAR 017:260 |
| 304.18-120 | 806 KAR 017:260 |
| 304.32-145 | 806 KAR 018:030 |
| 304.32-147 | 806 KAR 017:280 |
| 304.32-185 | 806 KAR 018:030 |
| 304.32-330 | 806 KAR 017:280 |
| 304.38-225 | 806 KAR 017:280 |
| 304.38-240 | 907 KAR 003:170 |
| 304.39-010 | 806 KAR 017:370 |
| 304.39-080 | 806 KAR 039:070 |
| 304.39-083 | 806 KAR 039:070 |
| 304.39-085 | 806 KAR 039:070 |
| 304.39-087 | 806 KAR 039:070 |
| 304.39-090 | 806 KAR 039:070 |
| 304.39-117 | 806 KAR 039:070 |
| 304.39-340 | 806 KAR 017:370 |
| 304.40-320 | 900 KAR 012:005E |
| | 900 KAR 012:005 |
| 304.47-020 | 806 KAR 017:450 |
| 304.48-020 | 806 KAR 046:050 |
| 304.48-180 | 806 KAR 046:050 |
| 304.99 | 806 KAR 017:300 |

| KRS SECTION | REGULATION |
|---|---|
| 304.99-020 | 806 KAR 011:020 |
| 304.99-085 | 806 KAR 010:030 |
| 307.13 | 921 KAR 001:020 |
| 309.0814 | 201 KAR 035:070 |
| 309.083 | 201 KAR 035:070 |
| 309.0830 | 201 KAR 035:070 |
| 309.0831 | 201 KAR 035:070 |
| 309.0832 | 201 KAR 035:070 |
| 309.0833 | 201 KAR 035:070 |
| 309.0834 | 201 KAR 035:070 |
| 309.0841 | 201 KAR 035:070 |
| 309.0842 | 201 KAR 035:070 |
| 309.350 | 201 KAR 042:010 |
| 309.351 | 201 KAR 042:050 |
| | 201 KAR 042:110 |
| 309.352 | 201 KAR 042:080 |
| 309.355 | 201 KAR 042:010 |
| | 201 KAR 042:030 |
| | 201 KAR 042:050 |
| | 201 KAR 042:060 |
| | 201 KAR 042:061 |
| | 201 KAR 042:080 |
| | 201 KAR 042:110 |
| 309.357 | 201 KAR 042:010 |
| | 201 KAR 042:040 |
| 309.358 | 201 KAR 042:035 |
| 309.359 | 201 KAR 042:035 |
| | 201 KAR 042:070 |
| 309.361 | 201 KAR 042:040 |
| | 201 KAR 042:110 |
| 309.362 | 201 KAR 042:035 |
| | 201 KAR 042:040 |
| | 201 KAR 042:050 |
| | 201 KAR 042:060 |
| | 201 KAR 042:061 |
| 309.363 | 201 KAR 042:035 |
| | 201 KAR 042:080 |
| 309.3631 | 201 KAR 042:080 |
| 309.404 | 201 KAR 047:010 |
| 309.406 | 201 KAR 047:010 |
| | 201 KAR 047:030 |
| 309.412 | 201 KAR 047:010 |
| | 201 KAR 047:030 |
| 309.414 | 201 KAR 047:010 |
| | 201 KAR 047:030 |
| 309.416 | 201 KAR 047:010 |
| | 201 KAR 047:030 |
| 309.418 | 201 KAR 047:010 |
| | 201 KAR 047:030 |
| 309.420 | 201 KAR 047:010 |
| | 201 KAR 047:030 |
| 310 | 902 KAR 020:016 |
| 310.005 | 910 KAR 001:190 |
| 310.021 | 902 KAR 020:018 |
| | 910 KAR 001:190 |
| 310.031 | 910 KAR 001:190 |
| 311 | 906 KAR 001:110 |
| 311.282 | 902 KAR 002:020 |
| 311.400 | 902 KAR 020:106 |
| 311.550 | 907 KAR 017:005 |
| | 907 KAR 020:001 |
| 311.560 | 902 KAR 020:016 |
| 311.571 | 902 KAR 002:020 |
| | 902 KAR 020:106 |
| 311.5975 | 900 KAR 012:005E |
| | 900 KAR 012:005 |
| 311.621 | 906 KAR 001:180 |
| 311.621-311.643 | 907 KAR 017:010 |
| 311.710-311.810 | 902 KAR 020:106 |
| 311.840 | 902 KAR 020:081 |
| 311.992 | 902 KAR 020:016 |
| 311A.030 | 202 KAR 007:560 |
| 311A.100 | 502 KAR 030:060 |
| 311A.190 | 202 KAR 007:560 |

| KRS SECTION | REGULATION |
|---|---|
| 311B | 902 KAR 020:016 |
| 311B.050 | 201 KAR 046:020E |
| | 201 KAR 046:020 |
| 311B.100 | 201 KAR 046:020E |
| | 201 KAR 046:020 |
| 311B.110 | 201 KAR 046:020E |
| | 201 KAR 046:020 |
| 311B.120 | 201 KAR 046:020E |
| | 201 KAR 046:020 |
| 311B.130 | 201 KAR 046:020E |
| | 201 KAR 046:020 |
| 311B.140 | 201 KAR 046:020E |
| | 201 KAR 046:020 |
| 311B.180 | 201 KAR 046:020E |
| | 201 KAR 046:020 |
| 311B.190 | 201 KAR 046:020E |
| | 201 KAR 046:020 |
| 312.019 | 201 KAR 021:035 |
| | 201 KAR 021:054 |
| | 201 KAR 021:070 |
| | 201 KAR 021:090 |
| | 201 KAR 021:100 |
| 312.085 | 201 KAR 021:090 |
| 312.115 | 201 KAR 021:070 |
| 313.010 | 902 KAR 020:106 |
| 313.022 | 201 KAR 008:520 |
| 313.030 | 201 KAR 008:520 |
| | 902 KAR 020:106 |
| 313.100 | 201 KAR 008:520 |
| 314.011 | 201 KAR 020:057 |
| | 201 KAR 020:215 |
| | 201 KAR 020:220 |
| | 201 KAR 020:280 |
| | 201 KAR 020:320 |
| | 502 KAR 012:010 |
| | 702 KAR 007:150 |
| | 902 KAR 020:016 |
| | 902 KAR 020:081 |
| | 907 KAR 017:005 |
| | 907 KAR 020:001 |
| | 922 KAR 002:160E |
| | 922 KAR 002:160 |
| 314.021 | 201 KAR 020:320 |
| | 201 KAR 020:478 |
| 314.035 | 201 KAR 020:472 |
| | 201 KAR 020:474 |
| | 201 KAR 020:476 |
| | 201 KAR 020:478 |
| 314.041 | ccc |
| | 201 KAR 020:320 |
| | 201 KAR 020:480 |
| | 902 KAR 020:018 |
| | 902 KAR 020:106 |
| 314.042 | 201 KAR 020:057 |
| | 902 KAR 020:016 |
| | 902 KAR 020:081 |
| | 902 KAR 020:106 |
| 314.051 | 201 KAR 020:480 |
| | 902 KAR 020:106 |
| 314.073 | 201 KAR 020:215 |
| | 201 KAR 020:220 |
| 314.089 | 201 KAR 020:478 |
| 314.091 | 201 KAR 020:478 |
| 314.111 | 201 KAR 020:260E |
| | 201 KAR 020:280 |
| | 201 KAR 020:320 |
| | 201 KAR 020:360 |
| 314.103 | 201 KAR 020:476 |
| | 201 KAR 020:478 |
| 314.131 | 201 KAR 020:220 |
| | 201 KAR 020:260E |
| | 201 KAR 020:280 |
| | 201 KAR 020:320 |
| | 201 KAR 020:472 |

| KRS SECTION | REGULATION |
|---|---|
| | 201 KAR 020:474 |
| | 201 KAR 020:476 |
| 314.137 | 201 KAR 020:470 |
| | 201 KAR 020:472 |
| | 201 KAR 020:474 |
| | 201 KAR 020:476 |
| | 201 KAR 020:478 |
| 314.193 | 201 KAR 020:057 |
| 314.195 | 201 KAR 020:057 |
| 314.991 | 201 KAR 020:215 |
| | 201 KAR 020:478 |
| 315.010 | 201 KAR 002:074 |
| | 201 KAR 002:411E |
| | 201 KAR 002:412E |
| | 201 KAR 002:420 |
| | 902 KAR 002:020 |
| 315.020 | 201 KAR 002:074 |
| | 201 KAR 002:076 |
| | 201 KAR 002:411E |
| | 201 KAR 002:412E |
| 315.030 | 201 KAR 002:074 |
| 315.035 | 201 KAR 002:050 |
| | 201 KAR 002:076 |
| | 201 KAR 002:106E |
| | 201 KAR 002:106 |
| | 906 KAR 001:110 |
| 315.0351 | 201 KAR 002:050 |
| | 201 KAR 002:076 |
| | 201 KAR 002:106E |
| | 201 KAR 002:106 |
| 315.036 | 201 KAR 002:050 |
| | 201 KAR 002:106E |
| | 201 KAR 002:106 |
| 315.050 | 201 KAR 002:050 |
| | 201 KAR 002:411E |
| | 201 KAR 002:412E |
| | 201 KAR 002:420 |
| 315.060 | 201 KAR 002:050 |
| 315.065 | 201 KAR 002:411E |
| | 201 KAR 002:412E |
| 315.110 | 201 KAR 002:050 |
| 315.120 | 201 KAR 002:050 |
| 315.121 | 201 KAR 002:074 |
| | 201 KAR 002:106E |
| | 201 KAR 002:106 |
| | 201 KAR 002:270 |
| | 201 KAR 002:430 |
| 315.131 | 201 KAR 002:430 |
| 315.135 | 201 KAR 002:411E |
| | 201 KAR 002:412E |
| 315.136 | 201 KAR 002:420 |
| 315.191 | 201 KAR 002:030 |
| | 201 KAR 002:050 |
| | 201 KAR 002:076 |
| | 201 KAR 002:270 |
| | 201 KAR 002:440 |
| 315.205 | 201 KAR 002:411E |
| | 201 KAR 002:412E |
| 315.210 | 201 KAR 002:030 |
| 315.340 | 201 KAR 002:106E |
| | 201 KAR 002:106 |
| 315.342 | 201 KAR 002:106E |
| | 201 KAR 002:106 |
| 315.350 | 201 KAR 002:106E |
| | 201 KAR 002:106 |
| 315.402 | 201 KAR 002:050 |
| | 201 KAR 002:106E |
| | 201 KAR 002:106 |
| 315.4102 | 201 KAR 002:106E |
| | 201 KAR 002:106 |
| 315.450 | 201 KAR 002:440 |
| 315.452 | 201 KAR 002:440 |
| 315.454 | 201 KAR 002:440 |
| 315.456 | 201 KAR 002:440 |

| KRS SECTION | REGULATION |
|---|---|
| 315.458 | 201 KAR 002:440 |
| 315.460 | 201 KAR 002:440 |
| 315.500 | 201 KAR 002:411E |
| | 201 KAR 002:412E |
| 316.010 | 201 KAR 015:110E |
| | 201 KAR 015:110 |
| 316.030 | 201 KAR 015:040E |
| | 201 KAR 015:040 |
| | 201 KAR 015:050E |
| | 201 KAR 015:050 |
| | 201 KAR 015:110E |
| | 201 KAR 015:110 |
| 316.125 | 201 KAR 015:030E |
| | 201 KAR 015:030 |
| | 201 KAR 015:110E |
| | 201 KAR 015:110 |
| 316.127 | 201 KAR 015:110E |
| | 201 KAR 015:110 |
| 316.130 | 201 KAR 015:030E |
| | 201 KAR 015:030 |
| | 201 KAR 015:110E |
| | 201 KAR 015:110 |
| 316.132 | 201 KAR 015:030E |
| | 201 KAR 015:030 |
| 316.140 | 201 KAR 015:030E |
| | 201 KAR 015:030 |
| 316.165 | 201 KAR 015:125E |
| | 201 KAR 015:125 |
| 316.260 | 201 KAR 015:110E |
| | 201 KAR 015:110 |
| 317.410 | 201 KAR 014:030 |
| | 201 KAR 014:085 |
| | 201 KAR 014:105 |
| | 201 KAR 014:110 |
| | 201 KAR 014:115 |
| | 201 KAR 014:150 |
| 317.440 | 201 KAR 014:015 |
| | 201 KAR 014:040 |
| | 201 KAR 014:065 |
| | 201 KAR 014:085 |
| | 201 KAR 014:105 |
| | 201 KAR 014:110 |
| | 201 KAR 014:115 |
| | 201 KAR 014:125 |
| 317.450 | 201 KAR 014:015 |
| | 201 KAR 014:030 |
| | 201 KAR 014:040 |
| | 201 KAR 014:050 |
| | 201 KAR 014:065 |
| | 201 KAR 014:105 |
| | 201 KAR 014:125 |
| | 201 KAR 014:150 |
| | 201 KAR 014:180 |
| 317.570 | 201 KAR 014:015 |
| 317.590 | 201 KAR 014:040 |
| 317A.020 | 201 KAR 012:082E |
| | 201 KAR 012:082 |
| 317A.050 | 201 KAR 012:082E |
| | 201 KAR 012:082 |
| 317A.090 | 201 KAR 012:082E |
| | 201 KAR 012:082 |
| 318.010 | 815 KAR 020:195 |
| 318.030 | 815 KAR 020:050 |
| 318.134 | 815 KAR 020:050 |
| | 815 KAR 020:195 |
| 318.160 | 815 KAR 020:050 |
| 319.005 | 201 KAR 026:130 |
| 319.010 | 201 KAR 026:115 |
| 319.015 | 201 KAR 026:215 |
| 319.032 | 201 KAR 026:130 |
| | 201 KAR 026:175 |
| | 201 KAR 026:185 |
| | 201 KAR 026:230 |
| | 201 KAR 026:250 |

| KRS SECTION | REGULATION |
|---|---|
| 319.050 | 201 KAR 026:125 |
| | 201 KAR 026:155 |
| | 201 KAR 026:160 |
| | 201 KAR 026:175 |
| | 201 KAR 026:185 |
| | 201 KAR 026:190 |
| | 201 KAR 026:230 |
| 319.053 | 201 KAR 026:175 |
| | 201 KAR 026:190 |
| | 201 KAR 026:230 |
| | 201 KAR 026:270 |
| 319.056 | 201 KAR 026:190 |
| | 201 KAR 026:270 |
| 319.064 | 201 KAR 026:160 |
| | 201 KAR 026:175 |
| | 201 KAR 026:190 |
| | 201 KAR 026:230 |
| | 201 KAR 026:250 |
| 319.071 | 201 KAR 026:160 |
| | 201 KAR 026:175 |
| | 201 KAR 026:225 |
| 319.082 | 201 KAR 026:130 |
| | 201 KAR 026:215 |
| 319.118 | 201 KAR 026:130 |
| 319.140 | 201 KAR 026:310 |
| 319.990 | 201 KAR 026:130 |
| 319A.010 | 902 KAR 020:081 |
| | 907 KAR 001:604 |
| 319C | 201 KAR 043:090 |
| 319C.050 | 201 KAR 043:050 |
| | 201 KAR 043:060 |
| | 201 KAR 043:080 |
| 319C.060 | 201 KAR 043:030 |
| | 201 KAR 043:040 |
| | 201 KAR 043:050 |
| | 201 KAR 043:060 |
| | 201 KAR 043:071 |
| | 201 KAR 043:080 |
| 319C.070 | 201 KAR 043:010 |
| | 201 KAR 043:060 |
| 319C.080 | 201 KAR 043:010 |
| | 201 KAR 043:020 |
| | 201 KAR 043:030 |
| 319C.110 | 201 KAR 043:060 |
| 319C.140 | 201 KAR 043:100 |
| 321.181 | 902 KAR 002:020 |
| 322.010 | 725 KAR 002:015 |
| 323.010 | 725 KAR 002:015 |
| 323.020 | 725 KAR 002:015 |
| 324B.030 | 201 KAR 047:010 |
| 324B.040 | 201 KAR 047:010 |
| 325.261 | 201 KAR 001:190 |
| 325.270 | 201 KAR 001:190 |
| 327.010 | 201 KAR 022:001 |
| | 201 KAR 022:045 |
| | 902 KAR 020:081 |
| | 907 KAR 001:604 |
| 327.040 | 201 KAR 022:053 |
| 327.050 | 201 KAR 022:001 |
| 327.070 | 201 KAR 022:045 |
| | 201 KAR 022:053 |
| 327.00 | 201 KAR 022:001 |
| 329.010-329.030 | 502 KAR 020:020 |
| 322.110 | 902 KAR 010:120 |
| 323.020 | 902 KAR 010:120 |
| 333.030 | 902 KAR 020:016 |
| | 902 KAR 020:106 |
| 332.015 | 502 KAR 010:010 |
| 332.095 | 791 KAR 001:070 |
| 332.204 | 502 KAR 010:030 |
| | 502 KAR 010:035 |
| 332.216 | 502 KAR 010:020 |
| | 502 KAR 010:050 |
| | 502 KAR 010:060 |

| KRS SECTION | REGULATION |
|---|---|
| | 502 KAR 010:080 |
| 333 | 902 KAR 020:018 |
| 333.020 | 902 KAR 002:020 |
| 333.030 | V |
| 333.130 | 902 KAR 002:020 |
| | 902 KAR 002:212E |
| | 902 KAR 002:213E |
| 334A.020 | 016 KAR 002:050 |
| | 902 KAR 020:081 |
| | 907 KAR 001:604 |
| 334A.033 | 016 KAR 002:050 |
| 334A.035 | 016 KAR 002:050 |
| 334A.060 | 016 KAR 002:050 |
| 334A.190 | 016 KAR 002:050 |
| 335.100 | 902 KAR 020:018 |
| 336.220 | 922 KAR 002:280 |
| 337 | 803 KAR 001:006 |
| 337.010 | 803 KAR 001:076 |
| 337.275 | 803 KAR 001:063 |
| | 803 KAR 001:064 |
| | 803 KAR 001:065 |
| | 803 KAR 001:066 |
| | 803 KAR 001:067 |
| | 803 KAR 001:068 |
| | 803 KAR 001:070 |
| | 803 KAR 001:071 |
| | 803 KAR 001:075 |
| | 803 KAR 001:076 |
| | 803 KAR 001:080 |
| | 803 KAR 001:081 |
| | 803 KAR 001:090 |
| | 922 KAR 002:160E |
| | 922 KAR 002:160 |
| 337.275-337.325 | 803 KAR 001:005 |
| | 803 KAR 001:091 |
| 337.285 | 803 KAR 001:060 |
| | 803 KAR 001:061 |
| | 803 KAR 001:063 |
| | 803 KAR 001:064 |
| | 803 KAR 001:065 |
| | 803 KAR 001:066 |
| | 803 KAR 001:067 |
| | 803 KAR 001:068 |
| | 803 KAR 001:070 |
| | 803 KAR 001:071 |
| | 803 KAR 001:075 |
| | 803 KAR 001:076 |
| | 803 KAR 001:080 |
| | 803 KAR 001:081 |
| | 803 KAR 001:090 |
| 337.345 | 803 KAR 001:005 |
| | 803 KAR 001:091 |
| 337.385-337.405 | 803 KAR 001:005 |
| | 803 KAR 001:091 |
| 337.420-337.433 | 803 KAR 001:025 |
| | 803 KAR 001:026 |
| 338 | 803 KAR 002:321E |
| | 803 KAR 002:321 |
| | 803 KAR 002:426E |
| | 803 KAR 002:426 |
| 338.015 | 803 KAR 002:330E |
| 341 | 725 KAR 002:015 |
| 341.070 | 787 KAR 001:010 |
| | 787 KAR 001:020 |
| | 787 KAR 001:220 |
| | 787 KAR 001:260 |
| | 787 KAR 001:290 |
| | 787 KAR 001:300 |
| 341.115 | 787 KAR 001:020 |
| 341.145 | 787 KAR 001:150 |
| 341.190 | 787 KAR 001:010 |
| | 787 KAR 001:020 |
| | 787 KAR 001:060 |
| | 787 KAR 001:220 |

| KRS SECTION | REGULATION |
|---|---|
| 341.243 | 787 KAR 001:010 |
| 341.250 | 787 KAR 001:010 |
| | 787 KAR 001:220 |
| | 787 KAR 001:260 |
| 341.262 | 787 KAR 001:010 |
| | 787 KAR 001:220 |
| 341.270 | 787 KAR 001:210 |
| 341.272 | 787 KAR 001:210 |
| | 787 KAR 001:290 |
| 341.350 | 787 KAR 001:090 |
| | 787 KAR 001:150 |
| | 787 KAR 001:310 |
| 341.360 | 787 KAR 001:060 |
| | 787 KAR 001:080 |
| | 787 KAR 001:090 |
| | 787 KAR 001:150 |
| 341.370 | 787 KAR 001:060 |
| | 787 KAR 001:090 |
| | 787 KAR 001:150 |
| 341.380 | 787 KAR 001:090 |
| | 787 KAR 001:150 |
| 341.420 | 787 KAR 001:110 |
| 341.430 | 787 KAR 001:110 |
| 341.440 | 787 KAR 001:110 |
| 341.450 | 787 KAR 001:110 |
| 341.500 | 787 KAR 001:140 |
| 341.540 | 787 KAR 001:300 |
| 341.510 | 787 KAR 001:140 |
| 341.530 | 787 KAR 001:060 |
| 342 | 725 KAR 002:015 |
| 342.0011 | 803 KAR 025:305E |
| 342.020 | 803 KAR 025:305E |
| 342.040 | 803 KAR 025:305E |
| 342.270 | 803 KAR 025:305E |
| 342.730 | 803 KAR 025:305E |
| 344 | 725 KAR 002:015 |
| 344.030 | 101 KAR 001:365 |
| | 105 KAR 001:210 |
| 349.3401 | 501 KAR 014:010 |
| 355.9 | 030 KAR 005:011E |
| | 030 KAR 005:011 |
| | 030 KAR 005:021E |
| | 030 KAR 005:021 |
| 355.9-513A | 030 KAR 005:031E |
| | 030 KAR 005:031 |
| 355.9-515 | 030 KAR 005:031E |
| | 030 KAR 005:031 |
| | 030 KAR 005:041E |
| | 030 KAR 005:041 |
| | 030 KAR 005:051E |
| | 030 KAR 005:051 |
| 355.9-516 | 030 KAR 005:021E |
| | 030 KAR 005:021 |
| | 030 KAR 005:031E |
| | 030 KAR 005:031 |
| 355.9-516A | 030 KAR 005:031E |
| | 030 KAR 005:031 |
| 355.9-519 | 030 KAR 005:041E |
| | 030 KAR 005:041 |
| | 030 KAR 005:051E |
| | 030 KAR 005:051 |
| | 030 KAR 005:060E |
| | 030 KAR 005:060 |
| 355.9-520 | 030 KAR 005:031E |
| | 030 KAR 005:031 |
| 355.9-521 | 030 KAR 005:021E |
| | 030 KAR 005:021 |
| 355.9-523 | 030 KAR 005:060E |
| | 030 KAR 005:060 |
| 355.9-525 | 030 KAR 005:060E |
| | 030 KAR 005:060 |
| 355.9-526 | 030 KAR 005:041E |
| | 030 KAR 005:041 |
| | 030 KAR 005:051E |

| KRS SECTION | REGULATION |
|---|---|
| | 030 KAR 005:051 |
| 365.571 | 030 KAR 003:010 |
| 365.573 | 030 KAR 003:010 |
| 365.581 | 030 KAR 003:020 |
| 365.593 | 030 KAR 003:010 |
| | 030 KAR 003:030 |
| 367.110-367-360 | 791 KAR 001:010 |
| 387 | 922 KAR 001:565 |
| 387.500-387.800 | 907 KAR 017:010 |
| 387.510 | 907 KAR 017:005 |
| 387.540 | 922 KAR 005:070 |
| 400.203 | 907 KAR 003:170 |
| 403.160 | 921 KAR 001:400E |
| | 921 KAR 001:400 |
| 403.210-403.240 | 921 KAR 001:400E |
| | 921 KAR 001:400 |
| 403.211 | 921 KAR 001:020 |
| 403.270-403.355 | 922 KAR 001:565 |
| 403.352 | 922 KAR 001:470 |
| 403.707 | 502 KAR 012:010 |
| 405.024 | 922 KAR 001:565 |
| 405.430 | 921 KAR 001:020 |
| | 921 KAR 001:390 |
| | 921 KAR 001:400E |
| | 921 KAR 001:400 |
| 405.440 | 921 KAR 001:400E |
| | 921 KAR 001:400 |
| 405.991 | 921 KAR 001:400E |
| | 921 KAR 001:400 |
| 406.011 | 921 KAR 001:390 |
| 406.021 | 921 KAR 001:390 |
| | 921 KAR 001:400E |
| | 921 KAR 001:400 |
| 406.025 | 921 KAR 001:390 |
| | 921 KAR 001:400E |
| | 921 KAR 001:400 |
| 406.035 | 921 KAR 001:020 |
| 406.180 | 921 KAR 001:390 |
| 411.32 | 806 KAR 017:370 |
| 415.174 | 907 KAR 003:170 |
| 415.184 | 907 KAR 003:170 |
| 416.120 | 921 KAR 002:015E |
| | 921 KAR 002:015 |
| 416.212 | 921 KAR 002:015E |
| | 921 KAR 002:015 |
| 416.2030 | 921 KAR 002:015E |
| | 921 KAR 002:015 |
| 416.2095 | 921 KAR 002:015E |
| | 921 KAR 002:015 |
| 416.2096 | 921 KAR 002:015E |
| | 921 KAR 002:015 |
| 416.2099 | 921 KAR 002:015E |
| | 921 KAR 002:015 |
| 421.570 | 502 KAR 012:010 |
| 422.317 | 907 KAR 003:170 |
| 431.215 | 501 KAR 002:060 |
| 431.300-431.307 | 907 KAR 003:170 |
| 431.600-431.660 | 040 KAR 003:020 |
| 434.757 | 301 KAR 001:018 |
| 434.840-434.860 | 907 KAR 003:170 |
| 434.845 | 921 KAR 001:020 |
| 438.310 | 782 KAR 001:010 |
| 439 | 501 KAR 006:030 |
| | 501 KAR 006:290 |
| 439.179 | 501 KAR 003:130 |
| 439.250 | 501 KAR 006:250 |
| 439.352 | 501 KAR 001:050 |
| 439.356 | 501 KAR 001:050 |
| 439.358 | 501 KAR 001:050 |
| 439.551 | 501 KAR 006:250 |
| 439.553 | 501 KAR 006:250 |
| 439.3105-439.3108 | 501 KAR 006:250 |
| 440.050 | 907 KAR 003:170 |
| 440.120 | 907 KAR 023:020E |

| KRS SECTION | REGULATION |
|---|---|
| | 907 KAR 023:020 |
| 441 | 501 KAR 003:150 |
| 441.045 | 501 KAR 002:060 |
| | 501 KAR 003:110 |
| | 501 KAR 003:120 |
| | 501 KAR 003:170 |
| | 501 KAR 007:040 |
| | 501 KAR 007:060 |
| | 501 KAR 007:090 |
| | 501 KAR 007:120 |
| | 501 KAR 007:140 |
| | 501 KAR 007:150 |
| 441.046 | 502 KAR 014:010 |
| 441.055 | 501 KAR 003:110 |
| | 501 KAR 003:120 |
| | 501 KAR 003:130 |
| | 501 KAR 003:170 |
| | 501 KAR 007:040 |
| | 501 KAR 007:060 |
| | 501 KAR 007:090 |
| | 501 KAR 007:100 |
| | 501 KAR 007:110 |
| | 501 KAR 007:120 |
| | 501 KAR 007:130 |
| | 501 KAR 007:140 |
| | 501 KAR 007:150 |
| 441.075 | 501 KAR 002:060 |
| 441.115 | 501 KAR 007:120 |
| 441.125 | 501 KAR 003:130 |
| | 501 KAR 007:120 |
| 441.203 | 806 KAR 017:370 |
| 441.206 | 806 KAR 017:370 |
| 441.207 | 806 KAR 017:370 |
| 441.208 | 806 KAR 017:370 |
| 441.250 | 806 KAR 017:370 |
| 441.255 | 806 KAR 017:370 |
| 441.256 | 806 KAR 017:370 |
| 441.258 | 806 KAR 017:370 |
| 441.510 | 501 KAR 002:060 |
| 441.560 | 501 KAR 007:090 |
| 446.010 | 501 KAR 006:250 |
| | 502 KAR 013:010 |
| 446.030 | 030 KAR 005:031E |
| | 030 KAR 005:031 |
| 446.400 | 902 KAR 020:016 |
| 447.500-447.520 | 907 KAR 023:020E |
| | 907 KAR 023:020 |
| 454.220 | 921 KAR 001:400E |
| | 921 KAR 001:400 |
| 503.050 | 704 KAR 007:170 |
| 503.070 | 704 KAR 007:170 |
| 503.110 | 704 KAR 007:170 |
| 506 | 922 KAR 002:280 |
| 510.010-510.140 | 502 KAR 012:010 |
| 511 | 922 KAR 002:280 |
| 514 | 921 KAR 002:015E |
| | 921 KAR 002:015 |
| 515 | 922 KAR 002:280 |
| 520 | 922 KAR 002:280 |
| 524.140 | 502 KAR 012:010 |
| 525 | 922 KAR 002:280 |
| 527 | 922 KAR 002:280 |
| 527.100 | 922 KAR 001:565 |
| 527.110 | 922 KAR 001:565 |
| 529 | 922 KAR 002:280 |
| 529.010 | 040 KAR 006:030 |
| | 502 KAR 012:010 |
| 529.100 | 502 KAR 012:010 |
| 529.130 | 040 KAR 006:030 |
| 529.140 | 040 KAR 006:030 |
| 529.150 | 040 KAR 006:030 |
| 530 | 922 KAR 002:280 |
| 530.020 | 502 KAR 012:010 |
| 530.064 | 502 KAR 012:010 |

| KRS SECTION | REGULATION |
|---|---|
| 531.310 | 502 KAR 012:010 |
| 532.043 | 501 KAR 001:050 |
| 532.060 | 501 KAR 002:020 |
| | 501 KAR 001:050 |
| 532.100 | 501 KAR 002:020 |
| | 501 KAR 002:050 |
| | 501 KAR 002:060 |
| | 501 KAR 002:070 |
| | 501 KAR 003:130 |
| | 501 KAR 007:120 |
| 533.010 | 501 KAR 002:070 |
| 533.025 | 501 KAR 002:070 |
| 533.200 | 013 KAR 003:020 |
| 533.210 | 013 KAR 003:020 |
| 600.020 | 502 KAR 012:010 |
| | 922 KAR 001:360E |
| | 922 KAR 001:360 |
| | 922 KAR 001:470 |
| | 922 KAR 001:530 |
| | 922 KAR 001:565 |
| | 922 KAR 002:160E |
| | 922 KAR 002:160 |
| 605.090 | 922 KAR 001:360E |
| | 922 KAR 001:360 |
| 605.100 | 922 KAR 001:530 |
| 605.120 | 922 KAR 001:565 |
| | 922 KAR 002:160E |
| | 922 KAR 002:160 |
| 605.130 | 922 KAR 001:530 |
| 610.110 | 922 KAR 001:360E |
| | 922 KAR 001:360 |
| | 922 KAR 001:565 |
| 620 | 902 KAR 020:016 |
| 620.020 | 201 KAR 020:320 |
| | 907 KAR 017:005 |
| | 907 KAR 020:001 |
| | 922 KAR 001:565 |
| | 922 KAR 002:160E |
| 620.020-620.050 | 040 KAR 003:020 |
| | 922 KAR 002:160 |
| 620.030 | 502 KAR 012:010 |
| | 906 KAR 001:180 |
| 620.050 | 922 KAR 001:470 |
| 620.050-620.120 | 922 KAR 002:280 |
| 620.051 | 922 KAR 001:470 |
| 620.090 | 922 KAR 001:565 |
| 620.140 | 922 KAR 001:565 |
| 620.142 | 922 KAR 001:565 |
| 620.170 | 922 KAR 001:530 |
| | 922 KAR 001:565 |
| 625.050-625.120 | 922 KAR 001:470 |
| | 922 KAR 002:280 |
| 7 C.F.R. | 302 KAR 050:021 |
| | 302 KAR 050:046 |
| | 302 KAR 050:056 |
| | 921 KAR 003:026E |
| | 921 KAR 003:027E |
| | 921 KAR 003:027 |
| | 922 KAR 002:160E |
| | 922 KAR 002:160 |
| 16 C.F.R. | 201 KAR 015:110E |
| | 201 KAR 015:110 |
| 20 C.F.R. | 907 KAR 017:005 |
| | 907 KAR 020:001 |
| | 921 KAR 002:015E |
| | 921 KAR 002:015 |
| | 922 KAR 002:160E |
| | 922 KAR 002:160 |
| | 923 KAR 002:470 |
| 23 C.F.R. | 603 KAR 010:011E |
| | 603 KAR 010:040E |
| | 603 KAR 010:040 |
| 29 C.F.R. | 105 KAR 001:210 |
| | 803 KAR 002:321E |

| KRS SECTION | REGULATION |
|---|---|
| | 803 KAR 002:321 |
| | 803 KAR 002:330E |
| | 803 KAR 002:426E |
| | 803 KAR 002:426 |
| | 806 KAR 017:260 |
| | 902 KAR 010:120 |
| | 902 KAR 020:016 |
| 34 C.F.R. | 016 KAR 004:020 |
| | 781 KAR 001:010 |
| | 781 KAR 001:020 |
| | 781 KAR 001:030 |
| | 781 KAR 001:040 |
| | 781 KAR 001:050 |
| | 782 KAR 001:010 |
| | 922 KAR 002:160E |
| | 922 KAR 002:160 |
| 40 C.F.R. | 401 KAR 051:010 |
| | 902 KAR 020:016 |
| | 902 KAR 048:010 |
| | 902 KAR 048:040 |
| 42 C.F.R. | 902 KAR 020:016 |
| | 902 KAR 020:018 |
| | 906 KAR 001:110 |
| | 907 KAR 001:005 |
| | 907 KAR 001:030 |
| | 907 KAR 001:604 |
| | 907 KAR 003:170 |
| | 907 KAR 010:815 |
| | 907 KAR 010:830 |
| | 907 KAR 017:005 |
| | 907 KAR 017:010 |
| | 907 KAR 020:001 |
| | 907 KAR 020:020 |
| | 907 KAR 023:020E |
| | 907 KAR 023:020 |
| 45 C.F.R. | 502 KAR 012:010 |
| | 806 KAR 017:470 |
| | 900 KAR 010:201 |
| | 902 KAR 020:016 |
| | 902 KAR 020:018 |
| | 902 KAR 020:081 |
| | 902 KAR 020:106 |
| | 906 KAR 001:110 |
| | 907 KAR 001:030 |
| | 907 KAR 017:010 |
| | 921 KAR 001:020 |
| | 921 KAR 001:390 |
| | 921 KAR 001:400E |
| | 921 KAR 001:400 |
| | 921 KAR 003:026E |
| | 921 KAR 003:027E |
| | 921 KAR 003:027 |
| | 921 KAR 004:116E |
| | 921 KAR 004:116 |
| | 922 KAR 001:530 |
| | 922 KAR 002:160E |
| | 922 KAR 002:160 |
| | 922 KAR 002:280 |
| 49 C.F.R. | 502 KAR 010:035 |
| | 502 KAR 010:110 |
| | 502 KAR 010:120 |
| | 791 KAR 001:060 |
| 59 C.F.R. | 301 KAR 002:224 |
| 7 U.S.C. | 302 KAR 050:021 |
| | 302 KAR 050:031 |
| | 302 KAR 050:046 |
| | 302 KAR 050:056 |
| | 302 KAR 050:080 |
| | 921 KAR 003:026E |
| | 921 KAR 003:027E |
| | 921 KAR 003:027 |
| | 922 KAR 002:160E |
| | 922 KAR 002:160 |
| 8 U.S.C. | 907 KAR 020:001 |

| KRS SECTION | REGULATION |
|---|---|
| | 921 KAR 002:015E |
| | 921 KAR 002:015 |
| 15 U.S.C. | 810 KAR 007:050 |
| | 902 KAR 010:120 |
| 18 U.S.C. | 502 KAR 013:010 |
| | 502 KAR 013:030 |
| | 502 KAR 013:040 |
| | 502 KAR 013:050 |
| | 502 KAR 013:060 |
| | 502 KAR 013:080 |
| 20 U.S.C. | 016 KAR 004:020 |
| | 016 KAR 005:010 |
| | 702 KAR 007:065 |
| | 782 KAR 001:010 |
| | 921 KAR 003:026E |
| | 921 KAR 003:027E |
| | 921 KAR 003:027 |
| 21 U.S.C. | 302 KAR 050:031 |
| | 902 KAR 002:230E |
| 23 U.S.C. | 603 KAR 010:011E |
| | 603 KAR 010:040E |
| 25 U.S.C. | 922 KAR 002:160E |
| | 922 KAR 002:160 |
| 26 U.S.C. | 103 KAR 016:320 |
| | 105 KAR 001:330 |
| | 301 KAR 004:091 |
| | 921 KAR 001:020 |
| 29 U.S.C. | 101 KAR 001:345 |
| | 201 KAR 015:110E |
| | 201 KAR 015:110 |
| | 781 KAR 001:010 |
| | 781 KAR 001:020 |
| | 781 KAR 001:030 |
| | 781 KAR 001:040 |
| | 781 KAR 001:050 |
| | 787 KAR 002:040 |
| | 806 KAR 011:020 |
| | 910 KAR 001:190 |
| | 922 KAR 002:160E |
| | 922 KAR 002:160 |
| 31 U.S.C. | 900 KAR 012:005E |
| | 900 KAR 012:005 |
| | 921 KAR 001:020 |
| 34 U.S.C. | 502 KAR 012:010 |
| | 922 KAR 002:160E |
| | 922 KAR 002:160 |
| | 922 KAR 002:280 |
| 38 U.S.C. | 907 KAR 020:001 |
| | 922 KAR 002:160E |
| | 922 KAR 002:160 |
| 42 U.S.C. | 105 KAR 001:210 |
| | 201 KAR 002:411E |
| | 201 KAR 002:412E |
| | 201 KAR 006:040 |
| | 401 KAR 051:010 |
| | 502 KAR 031:020 |
| | 725 KAR 002:015 |
| | 787 KAR 001:310 |
| | 803 KAR 001:064 |
| | 806 KAR 017:370 |
| | 806 KAR 018:030 |
| | 900 KAR 010:201 |
| | 900 KAR 012:005E |
| | 900 KAR 012:005 |
| | 902 KAR 020:016 |
| | 902 KAR 020:018 |
| | 902 KAR 020:081 |
| | 902 KAR 020:106 |
| | 906 KAR 001:110 |
| | 907 KAR 001:005 |
| | 907 KAR 001:604 |
| | 907 KAR 003:170 |
| | 907 KAR 010:815 |
| | 907 KAR 010:830 |

| KRS SECTION | REGULATION | KRS SECTION | REGULATION |
|---|---|---|---|
| | 907 KAR 017:005 | | |
| | 907 KAR 017:010 | | |
| | 907 KAR 020:001 | | |
| | 907 KAR 020:020 | | |
| | 907 KAR 023:020E | | |
| | 907 KAR 023:020 | | |
| | 910 KAR 001:190 | | |
| | 921 KAR 001:020 | | |
| | 921 KAR 001:390 | | |
| | 921 KAR 001:400E | | |
| | 921 KAR 001:400 | | |
| | 921 KAR 002:015E | | |
| | 921 KAR 002:015 | | |
| | 921 KAR 004:116E | | |
| | 921 KAR 004:116 | | |
| | 921 KAR 004:122E | | |
| | 921 KAR 004:122 | | |
| | 922 KAR 001:360E | | |
| | 922 KAR 001:360 | | |
| | 922 KAR 001:470 | | |
| | 922 KAR 001:530 | | |
| | 922 KAR 001:565 | | |
| | 922 KAR 002:160E | | |
| | 922 KAR 002:160 | | |
| | 922 KAR 002:280 | | |
| | 922 KAR 005:070 | | |
| 45 U.S.C. | 803 KAR 001:063 | | |
| | 907 KAR 003:170 | | |
| 49 U.S.C. | 502 KAR 010:120 | | |

## 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" or "eff." 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 |
|---|---|---|
| 016 KAR 02:120 | 01-03-2022 | Remain in Effect without Amendment |
| 301 KAR 002:140 | 01-24-2022 | Remain in Effect without Amendment |
| 301 KAR 002:144 | 01-24-2022 | Remain in Effect without Amendment |
| 702 KAR 007:140 | 12-01-2021 | Remain in Effect without Amendment |
| 908 KAR 002:220 | 12-28-2021 | Remain in Effect without Amendment |
| 908 KAR 002:230 | 12-28-2021 | Remain in Effect without Amendment |
| 908 KAR 002:260 | 12-28-2021 | Remain in Effect without Amendment |

## TECHNICAL AMENDMENT INDEX

The Technical Amendment Index is a list of administrative regulations that have had technical, nonsubstantive amendments made during the 48th year of the *Administrative Register of Kentucky*. These technical changes have been made by the Regulations Compiler pursuant to KRS 13A.040(9) and (10), 13A.2255(2), 13A.312(2), or 13A.320(1)(d). Since these changes were not substantive in nature, administrative regulations appearing in this index will NOT be published to show the technical corrections in the *Register*. NOTE: Technical amendments may be available online for a short period of time before finalized versions of the technically amended regulations are available. To view regulations on the Legislative Research Commission Web site go to https://apps.legislature.ky.gov/law/kar/titles.htm.

‡ - A technical change was made to this administrative regulation during the promulgation process, pursuant to KRS 13A.320(1)(e).
† - A nonsubstantive change was made by the Compiler pursuant to KRS 13A.040(9).

| Regulation Number | Date Corrected | Regulation Number | Date Corrected |
|---|---|---|---|
| 401 KAR 048:320 | 8-4-2021 | | |
| 806 KAR 006:070 | 10-6-2021 | | |
| 806 KAR 009:360 | 10-6-2021 | | |
| 806 KAR 017:480 | 10-6-2021 | | |
| 810 KAR 008:060 | 10-11-2021 | | |
| 902 KAR 008:170 | 12-6-2021 | | |
| 921 KAR 003:020 | 6-24-2021 | | |
| 921 KAR 003:030 | 6-24-2021 | | |
| 921 KAR 003:035 | 6-24-2021 | | |
| 921 KAR 003:042 | 6-24-2021 | | |
| 921 KAR 003:090 | 6-24-2021 | | |
| 921 KAR 002:090 | 6-24-2021 | | |
| 922 KAR 001:510 | 11-23-2021 | | |
| 922 KAR 002:190 | 6-24-2021 | | |

**AGRICULTURE**
Industrial Hemp
Department's reports to the USDA; records retention for three years; 302 KAR 050:046
Materials incorporated by reference; 302 KAR 050:080
Procedures and policies for hemp growers; 302 KAR 050:021
Procedures and policies for hemp processors and handlers; 302 KAR 050:031
Sampling and THC testing; disposal of non-compliant harvests; post-testing actions; 302 KAR 050:056

**AGING AND INDEPENDENT LIVING**
Aging Services
Nutrition program for older persons; 910 KAR 001:190Office of Dementia Services
Alzheimer's and dementia services curriculum review and approval; 910 KAR 004:010

**ALCOHOL AND DRUG COUNSELORS**
Supervision experience; 201 KAR 035:070

**ALCOHOLIC BEVERAGE CONTROL**
Licensing
Alternating proprietorship agreements; 804 KAR 004:221
Direct shipper license; 804 KAR 004:415
In-State Distilled Spirits Supplier License; 804 KAR 004:212
License surrender; 804 KAR 004:480
Special temporary licenses; 804 KAR 004:251

**APPLIED BEHAVIOR ANALYSIS LICENSING BOARD**
Application procedures for licensure; 201 KAR 043:010
Application procedures for temporary licensure; 201 KAR 043:020
Code of ethical standards and standards of practice; 201 KAR 043:043
Complaint and disciplinary process; 201 KAR 043:060
Fees; 201 KAR 043:030
Renewals; 201 KAR 043:080
Repeal of 201 KAR 043:070; 201 KAR 043:071
Requirement for supervision; 201 KAR 043:050
Telehealth and telepractice; 201 KAR 043:100
Voluntary inactive and retired status; 201 KAR 043:090

**ATTORNEY GENERAL**
Attorney General
Standardized Open Records Request Form; 040 KAR 001:040
Kentucky Victim and Witness Protection Program
Funding assistance from the child victims' trust fund; 040 KAR 006:020
Human Trafficking Victims Fund; 040 KAR 006:030
Kentucky Victim and Witness Protection Program; 040 KAR 006:010

**BARBERING**
Apprentice license; qualifications; 201 KAR 014:050
Barbering school enrollment and postgraduate requirements; 201 KAR 014:105
Examinations; school and board; 201 KAR 014:115
Fees; 201 KAR 014:180
Inspection of shops and schools; 201 KAR 014:040
Instructor requirements; 201 KAR 014:125
Place of business requirements; 201 KAR 014:065
Retaking of examination; 201 KAR 014:015
Sanitation requirements; 201 KAR 014:085
School equipment; plant layout; 201 KAR 014:110
School records; 201 KAR 014:150

**BOARDS AND COMMISSIONS**
*See also Occupations and Professions*
*See listing below for specific subject headings:*
Alcohol and Drug Counselors; 201 KAR Chapter 022
Applied Behavior Analysis Licensing; 201 KAR Chapter 043
Barbering; 201 KAR Chapter 014
Chiropractic Examiners; 201 KAR Chapter 021
Dentistry, 201 KAR Chapter 008
Durable Medical Equipment; 201 KAR Chapter 047
Embalmers and Funeral Directors, 201 KAR Chapter 015
Examiners of Psychology; 201 KAR Chapter 026
Licensure for Long-Term Care Administrators, 201 KAR Chapter 006
Licensure for Massage Therapy; 201 KAR Chapter 042
Medical Imaging and Radiation Therapy; 201 KAR Chapter 046
Nursing, 201 KAR Chapter 020
Pharmacy; 201 KAR Chapter 002
Physical Therapy; 201 KAR Chapter 022
State Board of Accountancy; 201 KAR Chapter 001

**CERTIFICATE OF NEED**
Certificate of Need
Application process; 900 KAR 006:065
Expenditure minimums; 900 KAR 006:030
Filing, hearing, and show cause hearing; 900 KAR 006:090
Forms; 900 KAR 006:055
Notification requirements; 900 KAR 006:110
Standards for implementation and biennial review; 900 KAR 006:100
Telehealth terminology and requirements; 900 KAR 012:005E
Guaranteed Acceptance Program (GAP)
Guaranteed Acceptance Program (GAP) reporting requirements; 900 KAR 3:010
Kentucky Health Benefit Exchange
Repeal of 900 KAR 010:200; 900 KAR 010:201
Telehealth
Telehealth terminology and requirements; 900 KAR 012:005

**CHIROPRACTIC EXAMINERS**
Emergency orders; 201 KAR 021:054
Licensing examination requirements; 201 KAR 021:070
Minimum standards for recordkeeping or itemized statements; 201 KAR 021:100
Pre-chiropractic education requirements; 201 KAR 021:090
Seal; 201 KAR 021:035

**COMMISSION ON FIRE PROTECTION PERSONNEL STANDARDS AND EDUCATION**
Certification and qualifications of fire and emergency services instructors; 739 KAR 002:060

**COMMUNITY BASED SERVICES**
Child Welfare *(922 KAR Chapter 001)*
Daycare *(922 KAR Chapter 002)*
Supplemental Nutrition Assistance Program *(921 KAR Chapter 003)*
Adult Services
Adult protective services; 922 KAR 005:070
Child Care
Child Care Assistance Program; 922 KAR 002:160
Child Welfare
Central registry; 922 KAR 001:470
Post-adoption placement stabilization services; 922 KAR 001:530
Private child care placement, levels of care, and payment; 922 KAR 001:360
Service array for a relative or fictive kin caregiver; 922 KAR 001:565Energy Assistance Program/Weatherization
Assistance for low-income households with water or wastewater utility arrears Low Income Home Energy Assistance Program or "LIHEAP"; 921 KAR 004:122
Low Income Home Energy Assistance Program or "LIHEAP"; 921 KAR 004:116
Day Care
922 KAR 002:280. Background checks for child care staff members, reporting requirements, and appeals.
Family Support
Child Support Enforcement Program; confidentiality, program administration contracts, and agreements; 921 KAR 001:020

Child Support Enforcement Program paternity establishment; 921 KAR 001:390
Five (5) year expiration of license; 201 KAR 014:030
medical support orders; 921 KAR 001:400
K-TAP, Kentucky Works, Welfare to Work, State Supplementation
Supplemental programs for persons who are aged, blind, or have a disability; 921 KAR 002:015
Supplemental Nutrition Assistance Program
Technical requirements; 921 KAR 003:027

**CORRECTIONS**
Class D and Class C Felons
Definitions for 501 KAR Chapter 2; 501 KAR 002:020
Procedures for housing of Class C and D felons; 501 KAR 002:060
Transfer requests; 501 KAR 002:050
Work release; 501 KAR 002:070
Kentucky Parole Board
Granting final discharge from parole; 501 KAR 001:050
Jail Standards for Full-service Facilities
Admission; searches and release; 501 KAR 003:120
Classification; 501 KAR 003:110
Classifications; 501 KAR 003:170
Hearings, procedures, disposition; 501 KAR 003:150
Prison programs; services; 501 KAR 003:130
Jail Standards for Restricted Custody Center Facilities
Admission; searches and release; 501 KAR 007:120
Classification; 501 KAR 007:110
Food services; 501 KAR 007:100
Medical services; 501 KAR 007:090
Personnel; 501 KAR 007:040
Prisoner programs; services; 501 KAR 007:130
Prisoner rights; 501 KAR 007:140
Security; control; 501 KAR 007:060
Training; 501 KAR 007:150
Office of the Secretary
Approval process for mental health professionals performing comprehensive sex offender presentence evaluations and treatment of sex offenders; 501 KAR 006:190
Comprehensive sex offender presentence evaluation procedure; 501 KAR 006:200
Graduated sanctions for technical violations of probation and compliance incentives system; 501 KAR 006:250
Kentucky State Reformatory; 501 KAR 006:030
Southeast State Correctional Complex; 501 KAR 006:290
Psychiatric or Forensic Psychiatric Facility Victim Notification System
Psychiatric or Forensic Psychiatric Facility Victim Notification System; 501 KAR 014:010

**COSMETOLOGY**
Education requirements and school administration; 201 KAR 012:082

**CRIMINAL JUSTICE TRAINING**
Concealed Deadly Weapons
Definitions for 503 KAR Chapter 4; 503 KAR 004:010
Required content and conduct of applicant training course; 503 KAR 004:050
Required instructor training; 503 KAR 004:040
General Training Provision
Law enforcement training course trainee requirements; misconduct; penalties; discipline procedures; 503 KAR 003:020
Telecommunications (Public Safety Dispatch) Academy graduation requirements; records; 503 KAR 003:050
Training charges; 503 KAR 003:030
Law Enforcement Foundation Program Fund
Definitions for 503 KAR Chapter 5; 503 KAR 005:080
Disbursement of salary supplement funds; audits; 503 KAR 005:100

**DENTISTRY**
Fees and fines; 201 KAR 008:520

**DISABILITY DETERMINATION SERVICES**
Disability Determination
Disability Determinations Program; 923 KAR 002:470

**DURABLE MEDICAL EQUIPMENT**
Compliant and disciplinary process; 201 KAR 047:030
Home medical equipment and supplier licenses, requirements, and fees; 201 KAR 047:010

**EDUCATION**
*See also: Postsecondary Education (KAR Title 013)*
Alternative Education Programs
Alternative education programs; 704 KAR 019:002
General Administration
Annual in-service training of district board members; 702 KAR 001:116
District employee quarantine leave; 702 KAR 001:191
District employee quarantine leave; 702 KAR 001:192E
Face coverings in school facilities; 702 KAR 001:195E
Office of Chief State School Officer
Selection and Appointment of Non-Voting Kentucky Board of Education Members; 701 KAR 005:160
Office of Instruction
Extended school services; 704 KAR 003:395
Office of Learning Support Services
Corporal punishment; 704 KAR 007:170
Repeal of 704 KAR 007:120; 704 KAR 007:121
School Terms, Attendance, and Operation
Designation of agent to manage middle and high school interscholastic athletics; 702 KAR 007:065
Home or hospital instruction; 702 KAR 007:150
Pupil attendance; 702 KAR 007:125

**EDUCATION PROFESSIONAL STANDARDS BOARD**
Administrative Certificates
Assessment prerequisites for teacher certification; 016 KAR 006:010
Dating of certifications; 016 KAR 004:050
Emeritus Certificate; 016 KAR 002:220
Endorsement for individual intellectual assessment; 016 KAR 003:070
Exception Certificate; 016 KAR 002:230
One (1) year conditional certificate; 016 KAR 002:180
Standards for accreditation of educator preparation providers and approval of programs; 016 KAR 005:010
Certification Procedures
Certification requirements for teachers of exceptional children; 016 KAR 004:020
General Administration
Procedures for educator certificate surrender, revocation, suspension, reinstatement, and reissuance, and for application denial; 016 KAR 001:030
Teaching Certificates
Certificates for teachers of exceptional children/communication disorders; 016 KAR 002:050
Interdisciplinary early childhood education, birth to primary; 016 KAR 002:040

**EMBALMERS AND FUNERAL DIRECTORS**
Apprenticeship and supervision requirements; 201 KAR 015:050
Examination; 201 KAR 015:040
Fees; 201 KAR 015:030
Funeral establishment criteria; 201 KAR 015:110
Surface transportation permit; 201 KAR 015:125

**EMERGENCY MEDICAL SERVICES**
Ground vehicle staff; 202 KAR 007:560

**EMPLOYMENT AND TRAINING; OFFICE OF**
Unemployment Insurance
Appeals; 787 KAR 001:110
Application for employer account; reports; 787 KAR 001:010

Change of status; discontinuance of business; 787 KAR 001:020
Claimant profiling; 787 KAR 001:310
Contract construction rates; 787 KAR 001:290
Employer contribution rates; 787 KAR 001:210
Interstate claimants; 787 KAR 001:150
Labor dispute or strike; notification; 787 KAR 001:080
Required reports and due dates; 787 KAR 001:220
Separation for cause; reports; 787 KAR 001:060
Successorship; 787 KAR 001:300
Unemployed worker's reporting requirements; 787 KAR 001:090
Unemployment insurance fund payments; 787 KAR 001:140
Voluntary election of coverage; 787 KAR 001:260

**ENVIRONMENTAL PROTECTION**
Attainment status designations; 401 KAR 051:010

**EXAMINERS OF PSYCHOLOGY**
Change of license status; 201 KAR 026:270
Continuing education; 201 KAR 026:175
Employment of a psychological associate, a temporarily licensed psychological associate, or temporarily licensed psychologist; 201 KAR 026:250
Examinations and applications; 201 KAR 026:230
Definition of psychological testing; 201 KAR 026:115
Fee schedule; 201 KAR 026:160
Grievances and administrative complaints; 201 KAR 026:130
Health service provider designation; 201 KAR 026:125
Licensed psychologist: application and temporary license; 201 KAR 026:155
Nonresident status201 KAR 026:215
Renewal and reinstatement; 201 KAR 026:225
Requirements for granting licensure as a psychologist to an applicant licensed in another state; 201 KAR 026:185
Requirements for supervised professional experience; 201 KAR 026:190
Telehealth and telepsychology; 201 KAR 026:310

**FINANCE AND ADMINISTRATION**
State-owned Buildings and Grounds
Use of state-owned facilities and grounds; 200 KAR 003:020

**FISH AND WILDLIFE RESOURCES**
Fish
Cedar Creek Lake; 301 KAR 001:019
Free fishing days; 301 KAR 001:210
Frog season; limits; 301 KAR 001:082
Harvest and sale of Asian carp; 301 KAR 001:152
Land between the Lakes provisions; 301 KAR 001:031
Live fish scales and handling; licensure; 301 KAR 001:120
Small state-owned lakes, special administrative requirements of; 301 KAR 001:050
Special commercial fishing permit for Kentucky and Barkley lakes; 301 KAR 001:140
Taking of fish by nontraditional fishing methods; 301 KAR 001:410
Taking of fish by traditional fishing methods; 301 KAR 001:201
Transportation of fish; 301 KAR 001:125
Use of boating access areas; 301 KAR 001:018
Use of lands and waters on lakes owned or controlled by the department; 301 KAR 001:016
Game
Black bear seasons and requirements; 301 KAR 002:300
Crow hunting season; 301 KAR 002:260
Deer and turkey hunting on special areas; 301 KAR 002:111
Elk hunting seasons, permits, zones, and requirements; 301 KAR 002:132
Feeding of wildlife; 301 KAR 002:015
Hunting and trapping seasons and limits for furbearers; 301 KAR 002:251
Importation of game birds; 301 KAR 002:084
Land between the Lakes hunting requirements; 301 KAR 002:050
Shooting areas, dog training areas, commercial foxhound training enclosures, and bobwhite shoot-to-train season; 301 KAR 002:041
Shoot-to-retrieve field permits and procedures; 301 KAR 002:230
Spring wild turkey hunting; 301 KAR 002:142
Waterfowl hunting zones; 301 KAR 002:224
Hunting and Fishing
Access to Wildlife Management Areas for mobility-impaired individuals; 301 KAR 003:026
Hunting and fishing method exemptions for disabled persons; 301 KAR 003:027
Mobility-impaired hunts for deer, turkey and waterfowl; 301 KAR 003:110
Public use of Otter Creek Outdoor Recreation Area; 301 KAR 003:012
Public use of Wildlife Management Areas; 301 KAR 003:010
Year-round season for wildlife; 301 KAR 003:030
Licensing
Definitions for 301 KAR Chapter 5; 301 KAR 005:001
Interstate Wildlife Violators Compact; 301 KAR 005:100
Purchasing licenses and permits; 301 KAR 005:030
Water Patrol
Boat dealers; 301 KAR 006:070
Definitions for 301 KAR Chapter 6; 301 KAR 006:001
Wildlife
Administration of drugs to wildlife; 301 KAR 004:110
Ballard Wildlife Management Area restrictions; 301 KAR 004:020
Buying and selling mounted wildlife specimens; 301 KAR 004:091
Districts; 301 KAR 004:010
Selection of Fish and Wildlife Resources Commission nominees; 301 KAR 004:001
Scientific and educational collecting permits; 301 KAR 004:070
Swan Lake Unit of Boatwright Wildlife Management Area; 301 KAR 004:050
Peabody Wildlife Management Area use requirements and restrictions; 301 KAR 004:100

**HIGHER EDUCATION ASSISTANCE AUTHORITY**
Early Childhood Development Scholarship Program
Definitions for 11 KAR Chapter 16; 011 KAR 016:001
Early Childhood Development Scholarship Program applicant selection process; 011: KAR 016:010

**FOOD STAMPS**
*See Supplemental Nutritional Assistance Program, 921 KAR Chapter 003*

**HORSE RACING COMMISSION**
Flat and Steeplechase Racing
Running of the race; 810 KAR 004:040
Incentive and Development Funds
Kentucky Horse Breeders' Incentive Fund; 810 KAR 007:050
Medication Guidelines
Drug, medication, and substance withdrawal guidelines; 810 KAR 008:025
Pari-Mutuel Wagering
810 KAR 006:001. Definitions for 810 KAR Chapter 006.
Standardbred Racing
Claiming races; 810 KAR 005:030
Entries and starters; 810 KAR 005:060
Running of the race; 810 KAR 005:070

**HOUSING, BUILDINGS AND CONSTRUCTION**
Electrical
Electrical inspections; 815 KAR 035:020
Elevator Safety
Annual inspection of elevators, chairlifts, fixed guideway systems, and platform lifts; 815 KAR 004:010
Permit and inspection fees for new and altered elevators, chairlifts, fixed guideway systems, and platform lifts; 815 KAR 004:025

Reporting incidents involving personal injury or death; 815 KAR 004:027
Hazardous Materials
Certification of underground petroleum storage tank contractors; 815 KAR 030:060
LP gas license; financial responsibility required; 815 KAR 030:010
Kentucky Building Code
Criteria for expanded local jurisdiction; 815 KAR 007:110
Licensing of fire protection sprinkler contractors; 815 KAR 007:080
Plumbing
Installation permits; 815 KAR 020:050
Medical gas piping installations; 815 KAR 020:195
Standards of Safety
Consumer fireworks retailer registration and fees; 815 KAR 010:070
Kentucky standards of safety; 815 KAR 010:060

**INFRASTRUCTURE AUTHORITY**
Guidelines for Kentucky Infrastructure Authority Drinking Water and Wastewater Grant Program; 200 KAR 017:110

**INSURANCE**
Health Insurance Contracts
Annual report on providers prescribing medication for addiction treatment; 806 KAR 017:590
Certificate of filing for provider-sponsored networks; 806 KAR 017:100
Conversion policy minimum benefits; 806 KAR 017:260
Data reporting requirements; 806 KAR 017:240
Data reporting to an employer-organized association health benefit plan; 806 KAR 017:470
Definition of health care provider; 806 KAR 017:580
Filing procedures for health insurance rates; 806 KAR 017:070
Health benefit plan rate filing requirements; 806 KAR 017:150
Independent External Review Program; 806 KAR 017:290
Insurance purchasing outlet requirements; 806 KAR 017:450
Life insurance and managed care; 806 KAR 017:350
Minimum standards for short-term nursing home insurance policies; 806 KAR 017:085
Pharmacy benefit managers; 806 KAR 017:575
Provider agreement and risk-sharing agreement filing requirements; 806 KAR 017:300
Registration, utilization review, and internal appeal; 806 KAR 017:280
Repeal of 806 KAR 017:005, 806 KAR 017:095, 806 KAR 017:170, 806 KAR 017:180, and 806 KAR 017:510; 806 KAR 017:511
Requirements regarding medical director's signature on health care benefit denials; 806 KAR 017:230
Standardized health claim attachments; 806 KAR 017:370
Telehealth claim forms and records; 806 KAR 017:270
Group and Blanket Health Insurance
Group health insurance coordination of benefits;
806 KAR 018:030
Insurance Contract
Minimum standards for the readability and intelligibility of insurance contracts; 806 KAR 014:121
Kinds of Insurance; Limits of Risk; Reinsurance
Credit for reinsurance; 806 KAR 005:025
Life Insurance and Annuity Contracts
Reporting and general requirements for settlement providers and brokers; 806 KAR 015:050
Motor Vehicle Reparations (No-fault)
Proof of motor vehicle insurance; 806 KAR 039:070
Surplus Lines
Surplus lines reporting and tax payment structure; 806 KAR 010:030
Trade Practices and Frauds
Advertising of accident and sickness benefits; 806 KAR 012:010
Unauthorized Insurers' Prohibitions, Process and Advertising
Multiple employer welfare arrangements; 806 KAR 011:020

**KENTUCKY STATE UNIVERSITY**
Board of Regents
Procurement procedures; 745 KAR 001:035

**LAW ENFORCEMENT COUNCIL**
Approval of course curriculums; 503 KAR 001:090
Career Development Program; 503 KAR 001:170
Certification of instructors; 503 KAR 001:100
Certification of schools; 503 KAR 001:080
Definitions for 503 KAR Chapter 1; 503 KAR 001:060
Department of Criminal Justice Training Basic training: graduation requirements; records; 503 KAR 001:110
Peace officer, telecommunicator, and court security officer professional standards; 503 KAR 001:140
Professional development in-service training: training requirements; recognized courses; records; 503 KAR 001:120

**LIBRARIES AND ARCHIVES**
Archives
Collection and distribution of reports and publications; 725 KAR 001:040
Recording and reproducing public records; 725 KAR 001:020
Records management program; 725 KAR 001:050
Records officers; duties; 725 KAR 001:010
Records retention schedules; authorized schedules; 725 KAR 001:061
Scheduling public records for retention and disposal; procedures; 725 KAR 001:030
Transfer of public records; 725 KAR 001:025
Libraries
Public library facilities construction; 725 KAR 002:015
Interstate Library Compact; 725 KAR 002:080

**LICENSURE FOR LONG-TERM CARE ADMINISTRATORS**
Other requirements for licensure; 201 KAR 006:020
Renewal, reinstatement, and reactivation of license; 201 KAR 006:040

**LICENSURE FOR MASSAGE THERAPY**
Application process, exam, and curriculum requirements; 201 KAR 042:035
Code of ethics and standards of practice for massage therapists; 201 KAR 042:061
Complaint procedure and disciplinary action; 201 KAR 042:050
Continuing education requirements; 201 KAR 042:110
Endorsement; 201 KAR 042:070
Fees; 201 KAR 042:020
Goals for massage therapy sessions; 201 KAR 042:010
Licensee's change of name, home address, or place of business; 201 KAR 042:030
Programs of massage therapy instruction; 201 KAR 042:080
Renewal and reinstatement; 201 KAR 042:040

**LOTTERY CORPORATION**
Procurement procedures; 202 KAR 003:020

**MEDICAID SERVICES**
Hospital Services Coverage and Reimbursement
Acute care inpatient hospital reimbursement; 907 KAR 010:830
Per Diem inpatient hospital reimbursement; 907 KAR 010:815
Managed Care
Definitions for 907 KAR Chapter 017; 907 KAR 017:005
Managed care organization requirements and policies relating to enrollees; 907 KAR 017:010
Medicaid Eligibility
Definitions for 907 KAR Chapter 020; 907 KAR 020:001
Income standards for Medicaid other than Modified Adjusted Gross Income (MAGI) standards or for former foster care individuals; 907 KAR 020:020
Medicaid Services
Cost-sharing prohibited within the Medicaid program; 907 KAR 001:604

Home health agency services; 907 KAR 001:030
Nonduplication of payments; 907 KAR 001:005.
Outpatient Pharmacy Program
Reimbursement for outpatient drugs; 907 KAR 023:020
Payments and Services
Telehealth service coverage and reimbursement; 907 KAR 003:170

**MEDICAL EXAMINER**
Duplicate records request fee schedule; 500 KAR 012:010

**MEDICAL IMAGING AND RADIATION THERAPY**
Fees; 201 KAR 046:020

**NURSING**
Continuing approval and periodic evaluation of dialysis technician training programs; 201 KAR 020:474
Continuing approval and periodic evaluation of prelicensure registered nursing and licensed practical nursing programs; 201 KAR 020:360
Dialysis technician credentialing requirements for initial credentialing, renewal, and reinstatement; 201 KAR 020:476
Dialysis technician scope of practice, discipline, and miscellaneous requirements; 201 KAR 020:478
Initial approval for dialysis technician training programs; 201 KAR 020:472
Licensure of graduates of foreign nursing schools; 201 KAR 020:480
Nursing continuing education provider approval; 201 KAR 020:220
Organization and administration standards for prelicensure registered nurse or practical nurse programs of nursing; 201 KAR 020:260E
Repeal of 201 KAR 020:470; 201 KAR 020:471
Standards for developmental status, initial status, and approval of prelicensure registered nurse and practical nurse programs; 201 KAR 020:280

**OCCUPATIONAL SAFETY AND HEALTH**
*See Workplace Standards, 803 KAR Chapter 2*

**OFFICE OF INSPECTOR GENERAL**
Division of Health Care
Operation and services; personal services agencies; 906 KAR 001:180

**PERSONNEL**
Personnel Board
Appeal and hearing procedures; 101 KAR 001:365
Disciplinary actions; 101 KAR 001:345
Employee actions; 101 KAR 001:335
Employee grievances and complaints; 101 KAR 001:375
Probationary periods; 101 KAR 001:325
Promotion; 101 KAR 001:400
Restoration from military duty; 101 KAR 001:395
Standards of conduct and technology governing recording board proceedings; 101 KAR 001:367
Personnel Board, Classified
2022 Plan Year Handbook for the Public Employee Health Insurance Program; 101 KAR 002:210

**PHARMACY**
Administration of vaccines; 201 KAR 002:420
Compounding; 201 KAR 002:076
Emergency orders and hearings; 201 KAR 002:430
Expungement; 201 KAR 002:270
Legend drug repository; 201 KAR 002:440
Licensed or permitted facility closures; 201 KAR 002:106
Licenses and permits; fees; 201 KAR 002:050
Naloxone dispensing; 201 KAR 002:360
Ordering and administering vaccinations; 201 KAR 002:412E
Pharmacy services in hospitals; 201 KAR 002:074

**PHYSICAL THERAPY**
Code of ethical standards and standards of practice for physical therapists and physical therapist assistants; 201 KAR 022:053
Continued competency requirements and procedures; 201 KAR 022:045
Definitions for 201 KAR Chapter 022; 201 KAR 022:001

**POSTSECONDARY EDUCATION**
Adult Education and Literacy
GED eligibility requirements; 013 KAR 003:050
GED Incentives Program; 013 KAR 003:040
GED Testing Program; 013 KAR 003:010
High school equivalency diploma awarded for credit hour completion at Kentucky Community and Technical College Systems institutions; 013 KAR 003:060
Provision of instruction for individuals sentenced by a court to participate in educational programs; 013 KAR 003:020
Qualifications for progressing satisfactorily through a GED preparation program; 013 KAR 003:030

**PUBLIC HEALTH**
Communicable Diseases
COVID-19 antibody administration center; 902 KAR 002:230E
COVID-19 test acquisition and distribution; 902 KAR 002:240E
COVID-19 vaccine storage; 902 KAR 002:250E
Reportable disease surveillance; 902 KAR 002:020
Health Services and Facilities
Hospitals; operations and services; 902 KAR 020:016
Operation and services; ambulatory surgical center; 902 KAR 020:106
Operation and services; end-stage renal disease facilities; 902 KAR 020:018
Operations and services; home health agencies; 902 KAR 020:081
K-TAP, Kentucky Works, Welfare to Work, State Supplementation
Childcare standards for covering the face in response to declared national or state public health emergency; 902 KAR 002:213E
Lead Abatement
Accreditation of training programs and providers of educational programs for individuals who perform lead-hazard detection and abatement; 902 KAR 048:030
Definitions for 902 KAR Chapter 48; 902 KAR 048:010
Lead-hazard abatement permit fees, permit requirements and procedures, and standards for performing lead-hazard detection and abatement; 902 KAR 048:040
Training and certification requirements for persons who perform lead-hazard detection or abatement; 902 KAR 048:020
Sanitation
Kentucky public swimming and bathing facilities; 902 KAR 010:120
Plan review, annual permitting, and inspection fees for public swimming and bathing facilities, including splash pads operated by local governments; 902 KAR 010:121
Splash pads operated by local governments; 902 KAR 010:190

**PUBLIC SERVICE COMMISSION**
Utilities
Access and attachments to utility poles and facilities; 807 KAR 005:015

**RETIREMENT**
*See Kentucky Retirement Systems (KAR Title 105)*
*Teachers' Retirement System (KAR Title 102)*

**REVENUE**
Ad Valorem Tax; State Assessment
Classification of property; public service corporations; 103 KAR 008:090
Income Tax; Corporations
Apportionment; receipts factor; 103 KAR 016:270
Claim of right doctrine; 103 KAR 016:320
Corporation income taxes policies and circulars; 103 KAR

016:352
Income Tax; Withholding
Payroll records; 103 KAR 018:090
Withholding return adjustment; 103 KAR 018:020
Sales and Use Tax; Miscellaneous Retailer Occupations
Motor vehicle body shops; 103 KAR 027:230
Sourcing of retail sales by florists; 103 KAR 027:050
Repairers and reconditioners of tangible personal property; 103 KAR 027:150
Sales and Use Tax; General Exemptions
Energy and energy-producing fields; 103 KAR 030:140
Interstate and foreign commerce; 103 KAR 030:190
Machinery for new and expanded industry; 103 KAR 030:120
Property used in the publication of newspapers; 103 KAR 030:25
Sales to farmers; 103 KAR 030:091

**SECRETARY OF STATE**
Address Confidentiality Program
Kentucky address confidentiality program; 030 KAR 006:011
Certifications
Certification of vacancy in nominations; 030 KAR 002:010
Corporations
Repeal of 30 KAR 1:010, 30 KAR 1:020, 30 KAR 1:040, and 30 KAR 1:050; 030 KAR 001:011
Trademarks and Service Marks
Application for registration of trademarks and service marks; 030 KAR 003:010
Application for renewal of registration; 030 KAR 003:020
Classification of goods and services for registration of trademarks and service marks; 030 KAR 003:030

**STATE BOARD OF ACCOUNTANCY**
Examination sections, applications, and procedures; 201 KAR 001:190

**STATE BOARD OF ELECTIONS**
Forms and Procedures
Chain of custody for records during an election contest; 031 KAR 004:200
Consolidation of precincts and precinct election officers; 031 KAR 004:195.
Implementation of Revised Article 9
Acceptance and refusal of records; 030 KAR 005:031
Definitions for 030 KAR Chapter005; 030 KAR 005:011
Filing, indexing, and data entry procedures; 030 KAR 005:051
Filing methods and forms; 030 KAR 005:021
Search requests, reports, and copies; 030 KAR 005:060
UCC information management system; 030 KAR 005:041
Voting
Ballot standards and election security; 031 KAR 005:025

**STATE FAIR BOARD**
Fairgrounds and Exhibition Center
Conduct and operation of concessions and exhibits; 303 KAR 001:075
Exhibition Center, dissemination of material; demonstrations; 303 KAR 001:090
Exposition Center, grounds; dissemination of material; demonstrations; 303 KAR 001:080
Exposition Center, grounds; sales and dissemination of real property, fixtures ad goods, solicitation of contribution or sales during annual State Fair; rental of space; use of sound amplification equipment; 303 KAR 001:100
Procurement procedures; 303 KAR 001:110
Traffic flow; 303 KAR 001:015
Vehicle parking; 303 KAR 001:010
Vehicle speed; 303 KAR 001:005

**STATE EMPLOYEES**
*See also: Kentucky Retirement Systems (KAR Title 105)*
*Personnel (KAR Title 101)*
*Teachers' Retirement System (KAR Title 102)*

**STATE POLICE**
Automated Fingerprint Identification System
Provision and maintenance of automated fingerprint identification system equipment and programs in detention centers. Submission of fingerprints by jailers to the Kentucky State Police; 502 KAR 014:010
Candidate Selection
Appeals; 502 KAR 045:115
Application and selection process; 502 KAR 045:035
Appointment; 502 KAR 045:105
Aptitude examination; 502 KAR 045:045
Definitions; 502 KAR 045:005
Medical examination; 502 KAR 045:085
Qualifications; 502 KAR 045:015
Register; 502 KAR 045:075
Physical Fitness Test (PFT); 502 KAR 045:150
Concealed Deadly Weapons
Application for license to carry concealed deadly weapon; 502 KAR 011:010
License denial and reconsideration process; 502 KAR 011:060.
License revocation and suspension notice and reinstatement process; 502 KAR 011:070
Criminal History Record Information System
Arrest and disposition reporting procedure; 502 KAR 030:020
Audit of Criminal History Record Information System; 502 KAR 030:030
Definitions for 502 KAR Chapter 30; 502 KAR 030:010
Dissemination of criminal history record information; 502 KAR 030:060
Security of centralized criminal history record information; 502 KAR 030:050
Inspection of criminal history record information by record subject; 502 KAR 030:070
Driver Training
Commercial driver's license skill testing; 502 KAR 010:035
Contracts and agreements; 502 KAR 010:050
Definitions; 502 KAR 010:010
Department facilities; facility inspection; conflict of interest; 502 KAR 010:020
Instructor's license; 502 KAR 010:030
License suspension, revocation, denial; 502 KAR 010:080
Procedure for denial, suspension, nonrenewal or revocation hearings; 502 KAR 010:090
School advertising; 502 KAR 010:060
Third-party CDL skills test examiner standards; 502 KAR 010:110
Training school facilities; 502 KAR 010:040
Training vehicle, annual inspection; 502 KAR 010:070
Hazardous materials endorsement requirements; 502 KAR 010:120
General Traffic
Traffic collision; 502 KAR 015:010
Abandoned vehicles; 502 KAR 015:020
Kentucky Missing Child Information Center
Capabilities of the Missing Child Information Center computer system; 502 KAR 035:020
Definitions; 502 KAR 035:010
Quality of information reported to the Kentucky Missing Child Information Center; 502 KAR 035:030
Reporting of missing children by law enforcement agencies; 502 KAR 035:040
Statistical analysis of information related to missing children; 502 KAR 035:050
Law Enforcement Officers Safety Act of 2004
Application for certification under the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers; 502 KAR 013:010
Change of personal information regarding certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 296C, for honorably retired elected or appointed peace officers; 502 KAR 013:060
Incomplete application for certification to carry a concealed

deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 296C, for honorably retired elected or appointed peace officers; 502 KAR 013:080
Issuance, expiration, and renewal of certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 296C, for honorably retired elected or appointed peace officers; 502 KAR 013:040
Range qualification for certification under the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers; 502 KAR 013:030
Replacement of licenses to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 296C, for honorably retired elected or appointed peace officers; 502 KAR 013:050
Law Information Network of Kentucky
Law Information Network of Kentucky; 502 KAR 040:010
Medical Examiner Protocols
Sexual assault forensic-medical examination protocol; 502 KAR 012:010
Methamphetamine
Methamphetamine; 502 KAR 047:010
Polygraph
Detection of deception examiners; 502 KAR 020:020
Sex Offender Registration System
502 KAR 031:020. Sex Offender Registration System.
Trial Board Proceedings
Admissibility of evidence; 502 KAR 050:010

**TEACHERS' RETIREMENT SYSTEM**
Disability benefits for members who enter on, or after, January 1, 2022; 102 KAR 001:360E

**TEAM WESTERN KENTUCKY TORNADO RELIEF FUND**
Team Western Kentucky Tornado Relief Fund; 800 KAR 001:020E

**TRANSPORTATION**
Billboards
Advertising devices; 603 KAR 010:040
Repeal of 603 KAR 010:002, 010:010, and 010:021; 603 KAR 010:011E
Maintenance
Noxious weeds and invasive plants to be eradicated from rights-of-way; 603 KAR 003:100
Motor Vehicle Commission
Applications; 605 KAR 001:030
Change of ownership; 605 KAR 001:071
Dealer and salesman; 605 KAR 001:051
Facilities requirements; 605 KAR 001:035
Licensing fees; 605 KAR 001:215
Motor vehicle dealership names; 605 KAR 001:091
Motor vehicle advertising; 605 KAR 001:191
Nonprofit motor vehicle dealer requirements and licensing; 605 KAR 001:211
Procedures; 605 KAR 001:131
Right-of-way
Logo sign panels; placement along fully controlled and partially controlled access highways; 603 KAR 004:035
Traffic
Encroachment permits; 603 KAR 005:150
Transportation Cabinet use of interstate and parkway signs to locate missing persons; 603 KAR 005:360

**WORKERS' CLAIMS**
Electronic data interchange vendor approval; 803 KAR 025:165
Pharmacy; 803 KAR 025:092
Workers' compensation expedited hearings pursuant to occupational exposure to COVID-19; 803 KAR 025:305E

**WORKFORCE INVESTMENT**
Apprenticeship Standards
Confidentiality of records of the Office of Employer and Apprenticeship Services; 787 KAR 003:020
Kentucky Commission on Proprietary Education
Application for license for commercial driver license training school; 791 KAR 001:050
Application for renewal of license for commercial driver license training school; 791 KAR 001:060
Applications, permits, and renewals; 791 KAR 001:010
Bond requirements for agents and schools; 791 KAR 001:150
Commercial driver license training school curriculum and refresher course; 791 KAR 001:040
Commercial driver license training school instructor and agency application and renewal procedures; 791 KAR 001:070
Fees; 791 KAR 001:025
Maintenance of student records, schedule of fees charged to students, contracts and agreements involving licensed commercial driver license training schools; 791 KAR 001:080
Procedures for hearings; 791 KAR 001:030
School closing process; 791 KAR 001:155
School record keeping requirements; 791 KAR 001:027
Standards for licensure; 791 KAR 001:020
Standards for Kentucky resident commercial driver training school facilities; 791 KAR 001:100
Student protection fund; 791 KAR 001:035
Transfer of ownership, change of location, change of name, revision of existing programs; 791 KAR 001:160
Office for the Blind
Certified driver training program; 782 KAR 001:070
Kentucky Business Enterprises; 782 KAR 001:010
Office of Employment and Training
Local workforce development area governance; 787 KAR 002:040
Office of Vocational Rehabilitation
Carl D. Perkins Vocational Training Center; 781 KAR 001:050
General provisions for operation of the Office of Vocational Rehabilitation; 781 KAR 001:020.
Order of selection and economic need test for vocational rehabilitation services; 781 KAR 001:030
Office of Vocational Rehabilitation appeal procedures; 781 KAR 001:010
Rehabilitation technology services; 781 KAR 001:040

**WORKPLACE STANDARDS**
Labor Standards; Wages and Hours
Board, lodging, gratuities and other allowances; 803 KAR 001:081
Employer-employee relationship; 803 KAR 001:006
Equal pay provisions, meaning and application; 803 KAR 001:026
Exclusions from minimum wage and overtime; 803 KAR 001:076
Executive, administrative, supervisory or professional employees; salesmen; 803 KAR 001:071
Hours worked; 803 KAR 001:065
Overtime pay requirements; 803 KAR 001:061
Recordkeeping requirements; 803 KAR 001:066
Trading time; 803 KAR 001:068
Workers with Disabilities and Work Activities Centers' employee's wages; 803 KAR 001:091
Occupational Safety and Health
Abatement; 803 KAR 002:122
Contest of citation; 803 KAR 002:140
Cranes and derricks in construction; 803 KAR 002:440
Discrimination; 803 KAR 002:250
Employer and employee representatives; 803 KAR 002:110
Employer responsibility to post notice; 803 KAR 002:060
Employer responsibility when employee is exposed to toxic substances or harmful physical agents; 803 KAR 002:062
Failure to correct violation; 803 KAR 002:127
General industry standards; 803 KAR 002:325
Informal conference; 803 KAR 002:130
Inspections; 803 KAR 002:070
Medical services and first aid; 803 KAR 002:310
Pay during inspection activity; 803 KAR 002:230

Personal protective equipment; 803 KAR 002:308
Posting of citation; 803 KAR 002:125
Occupational exposure to COVID-19; 803 KAR 002:330E
Occupational health and environmental control; 803 KAR 002:321
Occupational health and environmental control; 803 KAR 002:306
Recordkeeping and reporting occupational injuries and illnesses; 803 KAR 002:181
Refusal to work when dangerous condition exist; 803 KAR 002:220
Repeal of 803 KAR 002:018; 803 KAR 002:011
Repeal of 803 KAR 002:040; 803 KAR 002:041
Repeal of 803 KAR 002:180; 803 KAR 002:182E
Stairways and ladders; 803 KAR 002:426
Variance and interim order; 803 KAR 002:170