VOLUME 48, NUMBER 11 LEGISLATIVE RESEARCH COMMISSION MAY 1, 2022

ADMINISTRATIVE REGISTER OF KENTUCKY

The submission deadline for this edition of the *Administrative Register of Kentucky* was noon, April 15, 2022.

MEETING NOTICES

The **Administrative Regulation Review Subcommittee** is **tentatively** scheduled to meet on May 10, 2022, at 1:00 p .m. in room 149 Capitol Annex.

ARRS Tentative Agenda - 2679 Online agenda updated as needed

INDEXES & OTHER INFORMATION

Regulation Review Procedure **2683**
ARRS Report **2893**
Other Committee Reports ..... **NONE**
Locator Index - Effective Dates ..... **K – 2**
KRS Index ..... **K – 20**
Certifications ..... **K – 39**
Technical Amendments ..... **K – 40**
Subject Index ..... **K – 41**

EMERGENCIES

Personnel Cabinet
101 KAR 002:095E. Classified service general requirements. 2684
101 KAR 006:020E. Kentucky Employees Charitable Campaign. 2687
Board of Embalmers and Funeral Directors
201 KAR 015:030E. Fees. 2689
201 KAR 015:040E. Examination. 2692
201 KAR 015:050E. Apprenticeship and supervision requirements. 2693
201 KAR 015:110E. Funeral establishment criteria. 2697
201 KAR 015:125E. Surface transportation permit. 2700
Board of Nursing
201 KAR 020:070E. Licensure by examination. 2702
Board of Emergency Medical Services
202 KAR 007:545E. License classifications. 2704
202 KAR 007:560E. Ground vehicle staff. 2707
Department of Workers' Claims
803 KAR 025:195E. Utilization review, appeal of utilization review decisions, and medical bill audit. 2710

AMENDED IN-PROCESS EMERGENCIES

Office of Inspector General
900 KAR 005:020E. State Health Plan for facilities and services. 2715
900 KAR 006:075E. Certificate of need nonsubstantive review. 2716

AS AMENDED

Board of Licensure for Long-Term Care Administrators
201 KAR 006:040. Renewal, reinstatement, and reactivation of license. 2720
Board of Nursing
201 KAR 020:220. Nursing continuing education provider approval. 2721
201 KAR 020:280. Standards for developmental status, initial status, and approval of prelicensure registered nurse and practical nurse programs. 2723
201 KAR 020:360. Continuing approval and periodic evaluation of prelicensure registered nursing and licensed practical nursing programs. 2724
Board of Physical Therapy
201 KAR 022:001. Definitions for 201 KAR Chapter 022. . 2726
201 KAR 022:053. Code of ethical standards and standards of practice for physical therapists and physical therapist assistants. 2727
Department for Environmental Protection: Ambient Air Quality Standards
401 KAR 051:010. Attainment status designations. 2729
Department of Workforce Investment
787 KAR 003:020. Confidentiality of records of the Office of Employer and Apprenticeship Services. 2732
Horse Racing Commission
810 KAR 007:050. Kentucky Horse Breeders' Incentive Fund. 2732
Department for Public Health
902 KAR 010:120. Kentucky public swimming and bathing facilities. 2735
902 KAR 010:121. Plan review, annual permitting, and inspection fees for public swimming and bathing facilities, including splash pads operated by local governments.. 2756

AMENDED AFTER COMMENTS

Board of Pharmacy
201 KAR 002:440. Legend drug repository. 2758
Board of Education
704 KAR 007:170. Corporal punishment. 2760
704 KAR 019:002. Alternative education programs. 2762
Department of Workplace Standards
803 KAR 001:006. Employer-employee relationship. 2765
803 KAR 001:061. Overtime pay requirements. 2767
803 KAR 001:071. Executive, administrative, supervisory or professional employees; salesmen... 2770
803 KAR 001:091. Workers with Disabilities and Work Activities Centers' employee's wages... 2774
Department for Community Based Services
922 KAR 001:470. Central registry. 2775

PROPOSED AMENDMENTS

Kentucky Higher Education Assistance Authority
011 KAR 004:080. Student aid applications. 2779
011 KAR 005:145. CAP grant award determination procedure. 2781
011 KAR 015:090. Kentucky Educational Excellence Scholarship (KEES) Program. 2783
011 KAR 016:020. Early Childhood Development Scholarship Program disbursement process. 2788
Personnel Cabinet
101 KAR 002:046. Applying for employment, qualifications and examinations. 2790
101 KAR 002:066. Certification and selection of eligible applicants for employment. .. 2792
101 KAR 002:095. Classified service general requirements. 2794
101 KAR 002:102. Classified leave general requirements. 2797
101 KAR 002:190. Employee performance management system. 2802
101 KAR 003:015. Leave requirements for unclassified service. 2805
Kentucky Retirement Systems
105 KAR 001:390. Employment after retirement. 2811
Board of Pharmacy
201 KAR 002:015. Continuing education. 2815
201 KAR 002:020. Examination. 2817
201 KAR 002:050. Licenses and permits; fees. 2819
201 KAR 002:225. Special limited pharmacy permit - Medical gas. 2820
Board of Dentistry
201 KAR 008:520. Fees and fines. 2822
201 KAR 008:550. Anesthesia and sedation related to dentistry. 2824
Real Estate Commission
201 KAR 011:121. Standards of professional conduct... 2830
Board of Embalmers and Funeral Directors
201 KAR 015:030. Fees. 2836
201 KAR 015:040. Examination. 2838
201 KAR 015:050. Apprenticeship and supervision requirements. 2839
201 KAR 015:110. Funeral establishment criteria. 2843
201 KAR 015:125. Surface transportation permit. 2846
Board of Nursing
201 KAR 020:070. Licensure by examination. 2847
201 KAR 020:240. Fees for applications and for services. 2849
Board of Emergency Medical Services
202 KAR 007:545. License classifications. 2851
202 KAR 007:560. Ground vehicle staff. 2853
Department of Fish and Wildlife Services
301 KAR 001:201. Taking of fish by traditional fishing methods. 2856
301 KAR 002:132. Elk hunting seasons, permits, zones, and requirements. 2861
301 KAR 002:172. Deer hunting seasons, zones, and requirements. 2866
301 KAR 002:221. Waterfowl seasons and limits. 2869
Department of Workforce Investment
787 KAR 002:040. Local workforce development area governance. 2872

NEW ADMINISTRATIVE REGULATIONS

Kentucky Higher Education Assistance Authority
011 KAR 022:010. Dual Credit Scholarship Program. 2875
011 KAR 023:010. Optometry Scholarship Program. 2877
Personnel Cabinet
101 KAR 006:020. Kentucky Employees Charitable Campaign. 2878
Department of Workers' Claims
803 KAR 025:195. Utilization review, appeal of utilization review decisions and medical bill audit. 2881
Department of Alcoholic Beverage Control
804 KAR 001:102. General advertising practices. 2884
804 KAR 011:041. Growlers. 2886
804 KAR 014:011. Brewing and winemaking for personal use. 2888
Department of Insurance
806 KAR 009:380. Limited lines self-service storage space insurance requirements. 2889
806 KAR 009:390. Portable electronic retailer license.... 2891

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 removed to complete the public comment process or deferred or withdrawn by promulgating agencies. Deferrals and withdrawals may be made any time prior to or during the meeting.

Administrative Regulation Review Subcommittee
TENTATIVE Meeting Agenda
Tuesday, May 10, 2022 at 1 p.m.
Annex Room 149

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

FINANCE AND ADMINISTRATION CABINET

Executive Branch Ethics Commission

009 KAR 001:070. Standards of ethical conduct for transition team members and disclosure form.

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)

BOARDS AND COMMISSIONS

Board of Pharmacy

201 KAR 002:430. Emergency orders and hearings. (Amended After Comments) (Deferred from February)
201 KAR 002:440. Legend drug repository. (Comments Received; SOC ext. due 04-15-2022)

Board of Dentistry

201 KAR 008:600. Mobile dental facilities and portable dental units.

Board of Speech-Language Pathology and Audiology

201 KAR 017:110. Telehealth and telepractice.

Board of Nursing

201 KAR 020:260E. Organization and administration standards for prelicensure registered nurse or practical nurse programs of nursing. (Emergency Only) ("E" expires 10-08-2022) (Not Amended After Comments) (Deferred from April)
201 KAR 020:480E. Licensure of graduates of foreign nursing schools. ("E" expires 10-30-2022) (Filed with Ordinary) (Deferred from April)
201 AR 020:480. Licensure of graduates of foreign nursing schools. (Filed with Emergency)

Board of Physical Therapy

201 KAR 022:020. Eligibility and credentialing procedure.
201 KAR 022:070. Requirements for foreign-educated physical therapists and physical therapist assistants.
201 KAR 022:170. Physical Therapy Compact Commission.

Board of Licensure and Certification for Dietitians and Nutritionists

201 KAR 033:015. Application; approved programs.

Board of Alcohol and Drug Counselors

201 KAR 035:070. Supervision experience. (Not Amended After Comments)

Board of Medical Imaging and Radiation Therapy

201 KAR 046:060. Continuing education requirements.

Applied Behavior Analysis Licensing Board

201 KAR 043:010. Application procedures for licensure. (Deferred from February)
201 KAR 043:020. Application procedures for temporary licensure. (Not Amended After Comments) (Deferred from April)
201 KAR 043:030. Fees. (Deferred from February)
201 KAR 043:040. Code of ethical standards and standards of practice. (Amended After Comments) (Deferred from April)
201 KAR 043:050. Requirement for supervision. (Amended After Comments) (Deferred from April)
201 KAR 043:060. Complaint and disciplinary process. (Deferred from February)
201 KAR 043:071. Repeal of 201 KAR 043:070. (Deferred from February)
201 KAR 043:080. Renewals. (Amended After Comments) (Deferred from April)
201 KAR 043:090. Voluntary inactive and retired status. (Deferred from February)
201 KAR 043:100. Telehealth and telepractice. (Deferred from February)

TOURISM, ARTS AND HERITAGE CABINET

Department of Fish and Wildlife Resources

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 004:100. Peabody Wildlife Management Area use requirements and restrictions. (Deferred from November)
301 KAR 004:110. Administration of drugs to wildlife. (Deferred from November)

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)

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

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Board of Education
School Administration and Finance
702 KAR 003:090. Depository of board, collateral.

Office of Learning Support Services
704 KAR 007:170. Corporal punishment. (Amended After Comments)

Alternative Education Programs
704 KAR 019:002. Alternative education programs. (Amended After Comments)

Personnel System for Certified and Equivalent Employees
780 KAR 003:020. Compensation plan.
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)

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)

LABOR CABINET

Department of Workplace Standards

Labor Standards; Wages and Hours

803 KAR 001:005. Employer-employee relationship. (Deferred from September)
803 KAR 001:006. Employer-employee relationship. (Amended After Comments)
803 KAR 001:025. Equal pay provisions, meaning and application. (Deferred from September)
803 KAR 001:026. Equal pay provisions, meaning and application. (Not Amended After Comments)
803 KAR 001:060. Overtime pay requirements. (Deferred from September)
803 KAR 001:061. Overtime pay requirements. (Amended After Comments)
803 KAR 001:063. Trading time. (Deferred from September)
803 KAR 001:064. Trading time. (Deferred from April)
803 KAR 001:065. Hours worked. (Deferred from September)
803 KAR 001:066. Recordkeeping requirements. (Deferred from September)
803 KAR 001:067. Hours worked. (Deferred from April)
803 KAR 001:068. Recordkeeping requirements. (Not Amended After Comments)
803 KAR 001:070. Executive, administrative, supervisory or professional employees; salesmen. (Deferred from September)
803 KAR 001:071. Executive, administrative, supervisory or professional employees; salesmen. (Amended After Comments)
803 KAR 001:075. Exclusions from minimum wage and overtime. (Deferred from September)
803 KAR 001:076. Exclusions from minimum wage and overtime. (Not Amended After Comment)
803 KAR 001:080. Board, lodging, gratuities and other allowances. (Deferred from September)
803 KAR 001:081. Board, lodging, gratuities and other allowances. (Deferred from April)
803 KAR 001:090. Workers with disabilities and work activity centers' employee's wages. (Not Amended After Comments) (Deferred from November)
803 KAR 001:091. Workers with Disabilities and Work Activities Centers' employee's wages. (Amended After Comments)

Occupational Safety and Health

803 KAR 002:402. General safety and health provisions.
803 KAR 002:411. Scaffolds.
803 KAR 002:419. Demolition
803 KAR 002:445. Confined spaces in construction.

PUBLIC PROTECTION CABINET

Department of Insurance

Health Insurance Contracts

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

CABINET FOR HEALTH AND FAMILY SERVICES

Office of Inspector General

State Health Plan

900 KAR 005:020E. State Health Plan for facilities and services. ("E" expires 10-24-2022) (Filed with Ordinary) (Emergency Amended After Comments)
900 KAR 005:020. State Health Plan for facilities and services. (Filed with Emergency)

Certificate of Need

900 KAR 006:075E. Certificate of need nonsubstantive review. ("E" expires 10-24-2022) (Filed with Ordinary) (Emergency Amended After Comments)
900 KAR 006:075. Certificate of Need nonsubstantive review. (Filed with Emergency)

Essential Personal Care Visitor Program

900 KAR 014:010E. Essential personal care visitor programs; visitation guidelines. (Filed with Ordinary) ("E" expires 11-18-2022)

Department for Public Health

Health Services and Facilities

902 KAR 020:018. Operation and services; end-stage renal disease facilities. (Not Amended After Comments)

Department for Medicaid Services
Outpatient Pharmacy Program
907 KAR 023:020. Reimbursement for outpatient drugs. (Filed with Emergency - Emergency expired 3-26-2022) (Amended After Comments) (Deferred from December)

Department for Behavioral Health, Developmental and Intellectual Disabilities
Division of Program Integrity
Institutional Care
908 KAR 003:010E. Patient's rights. (Filed with Ordinary) ("E" expires 11-18-2022)

Department for Community Based Services
Child Welfare
922 KAR 001:360. Private child care placement, levels of care, and payment. (Filed with Emergency) (Comments Received; SOC ext. due 05-13-2022)
922 KAR 001:470. Central registry. (Amended After Comments)
922 KAR 001:530. Post-adoption placement stabilization services. (Deferred from April)

Day Care
922 KAR 002:280. Background checks for child care staff members, reporting requirements, and appeals. (Not Amended After Comments)

3. REGULATIONS REMOVED FROM MAY'S AGENDA

COMMUNITY AND TECHNICAL COLLEGE SYSTEM
Board of Emergency Medical Services
202 KAR 007: 545. License classifications. (Withdrawn by Agency)

TOURISM, ARTS, AND HERITAGE CABINET
Heritage Council
300 KAR 006:010. Historic rehabilitation tax credit certifications. (Withdrawn, expired HB4 2019)

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Health Services and Facilities
902 KAR 020:016. Hospitals; operations and services. (Comments Received; SOC ext. due 05-13-2022)
902 KAR 020:106. Operation and services; ambulatory surgical center. (Comments Received; SOC ext. due 05-13-2022)

Office of Inspector General
906 KAR 001:110. Critical access hospital services. (Comments Received; SOC ext. due 05-13-2022)

Department for Community Based Services
Child Welfare
922 KAR 001:360. Private child care placement, levels of care, and payment. (Filed with Emergency) (Comments Received; SOC ext. due 05-13-2022)

Adult Services
922 KAR 005:070. Adult protective services. (Comments Received; SOC ext. due 05-13-2022)

**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
101 KAR 2:095E

This emergency administrative regulation is necessary for compliance with the requirement to promulgate administrative regulations within 30 days of Senate Bill 8, 2022 Regular Session, becoming law. The act, codified as 2022 Ky. Acts ch. 75, sec. 21, was effective April 1, 2022. The requirement of the act is being fulfilled by removing Kentucky Employees Charitable Campaign provisions from this administrative regulation and promulgating as a new, stand-alone regulation, 101 KAR 6:020. This administrative regulation is being promulgated pursuant to KRS 13A.190(1)(a)3. to meet the deadline required by the act. An ordinary administrative regulation is not sufficient because the new administrative regulation for the Kentucky Employees Charitable Campaign, 101 KAR 6:020, will be promulgated as an emergency regulation, necessitating concurrent changes to this administrative regulation. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor
GERINA D. WHETHERS, Secretary, Personnel Cabinet

PERSONNEL CABINET
(Emergency Amendment)

101 KAR 2:095E. Classified service general requirements.

EFFECTIVE: April 15, 2022
RELATES TO: KRS 18A.030(2), 18A.110[~~, 26 U.S.C. 501(c)(3)~~]
STATUTORY AUTHORITY: KRS 18A.030, 18A.110
NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.110 requires the Secretary of Personnel to promulgate comprehensive administrative regulations for the classified service. This administrative regulation establishes requirements for the classified service and governs the maintenance of employee and other records and reports in the cabinet and other conditions of employment.

Section 1. [~~Definitions. (1) "Charitable federation" means a legally constituted grouping, made up of or supporting at least ten (10) health and human welfare organizations, all of which:~~

~~(a) Qualify as exempt voluntary charitable organizations pursuant to 26 U.S.C. 501(c)(3); and~~

~~(b) Have a substantial Kentucky presence.~~

~~(2) "Designated nonprofit agency" means an organization with proof of tax-exempt status pursuant to 26 U.S.C. 501(c)(3) written in on a pledge card by a state employee as a choice to receive contributions.~~

~~(3) "State employee" means a person, including an elected public official, who is employed by a department, board, agency, or branch of state government, except one relating to a state college or university.~~

~~(4) "Substantial Kentucky presence" means a facility, staffed by professionals or volunteers, available to provide its services and open at least fifteen (15) hours a week and with a regional or statewide presence that meets the requirements of Section 2(2) of this administrative regulation.~~

~~Section 2. Requirements for the Kentucky Employees Charitable Campaign. (1) General Purpose. The purpose of the Kentucky Employees Charitable Campaign shall be to:~~

~~(a) Provide an opportunity for employees to contribute to eligible Kentucky organizations through the state's payroll deduction process;~~

~~(b) Ensure accountability for participants in regard to the funds raised;~~

~~(c) Encourage the involvement of state employees as responsible citizens;~~

~~(d) Give recognition to state employee volunteers; and~~

~~(e) Minimize workplace disruption and administrative costs to Kentucky taxpayers by allowing only one (1) statewide payroll deduction charitable solicitation per year.~~

~~(2) An organization shall be considered to have a substantial Kentucky presence if the requirements established in this subsection are met.~~

~~(a) Services shall be available to state employees in the local community.~~

~~(b) Services shall directly benefit human beings whether children, youth, adults, the aged, the ill and infirm, or the mentally or physically disabled.~~

~~(c) Services shall consist of:~~

~~1. Care, research, education, or prevention in the fields of human health or social adjustment and rehabilitation;~~

~~2. Relief for victims of natural disasters and other emergencies; or~~

~~3. Assistance to those who are impoverished and in need of food, shelter, clothing, and basic human welfare services.~~

~~(3) The secretary shall approve a charitable organization for participation in the campaign if the charitable organization demonstrates:~~

~~(a) Proof of tax exempt status pursuant to 26 U.S.C. 501(c)(3);~~

~~(b) Proof of current registration and compliance with the reporting requirements of the Secretary of State and the Office of the Attorney General;~~

~~(c) Proof of financial responsibility, including:~~

~~1. Adoption of a detailed annual budget;~~

~~2. Use of generally accepted accounting principles and procedures;~~

~~3. The board of directors' approval for deviations from the approved budget; and~~

~~4. An annual financial audit;~~

~~(d) Proof of direction by an active volunteer board of directors, which shall meet regularly and whose members shall serve without compensation;~~

~~(e) A written nondiscrimination policy;~~

~~(f) Public disclosure of fundraising administrative costs with a statement demonstrating that, if fund and administrative expenses are in excess of twenty-five (25) percent of total support and revenue, actual expenses for those purposes are reasonable under all the circumstances in its case; and~~

~~(g) Publication of an annual report available to the general public, which includes a full description of the organization's Kentucky activities including fundraising activities.~~

~~(4) A charitable federation may apply on behalf of all its member organizations if both the federation and all federation members meet the criteria established in subsection (3) of this section.~~

~~(5) Authority of the Secretary of Personnel.~~

~~(a) The Secretary of Personnel shall have the full authority over the procedures and policies relating to the operation of the Kentucky Employees Charitable Campaign.~~

~~(b) The secretary shall designate a group of state employees to compose the Kentucky Employees Charitable Campaign Committee to make recommendations on related matters.~~

~~(c) The committee shall be composed of a cross-section of state employees, involving the large cabinets and small agencies.~~

~~(d) The chair of the committee shall be appointed by the secretary.~~

~~(6) Functions of the committee. The committee shall make recommendations on:~~

~~(a) The designation of a campaign administrator who shall:~~

~~1. Serve for a minimum period of two (2) years; and~~

~~2. Be charged to manage and administer the charitable fund campaign for the Commonwealth, subject to the direction and control of the Secretary of Personnel. The campaign administrator shall have statewide workplace campaign experience and have the necessary staff and volunteer support to administer the Kentucky Employees Charitable Campaign;~~

~~(b) The establishment of minimum amount, based on cost effectiveness, that an employee may authorize to be deducted for each approved charitable federation;~~

~~(c) The format of the brochure, pledge card, or other promotional materials for the annual campaign;~~

~~(d) The dates and duration of the campaign;~~

~~(e) The annual campaign budget submitted by the campaign administrator; and~~

~~(f) The costs of the campaign, which shall be:~~

~~1. Detailed in the budget; and~~

~~2. Borne by each recipient organization proportionally.~~

~~(7) Charitable federations to apply for statewide campaign.~~

~~(a) A federation desiring inclusion shall apply by February 15 of each year.~~

~~(b) A federation that has previously participated in the campaign shall update its application with a letter and a copy of the most recent year's audit.~~

~~(c) A charitable organization that has previously participated in the campaign shall be eligible if it fulfills all conditions of eligibility.~~

~~(8) The campaign administrator. The campaign administrator shall:~~

~~(a) Provide staffing to manage and administer the annual campaign, which includes preparing drafts of campaign materials for consideration by the Secretary of Personnel;~~

~~(b) Serve as the central accounting point for both campaign cash and for payroll deductions received from the Personnel Cabinet including:~~

~~1. The preparation and submission of an annual campaign budget. Costs of the campaign shall be divided among recipient organizations; and~~

~~2. A separate account maintained for managing the income and expenses of the campaign;~~

~~(c) Distribute campaign funds received from the Personnel Cabinet to participating organizations in accordance with agreed upon time periods. This shall include distribution of funds to designated nonprofit agencies;~~

~~(d) Provide an end-of-campaign report to the Secretary of Personnel and to participating organizations; and~~

~~(e) Annually furnish a financial statement prepared by a certified public accountant.~~

~~Section 3.~~] Attendance; Hours of Work. (1) The number of hours a full-time employee shall be required to work shall be thirty-seven and one-half (37 1/2) hours per week or forty (40) hours per week, unless specified otherwise by the appointing authority or the statutes.

(2) The normal work day shall be from:

(a) 8 a.m. to 4:30 p.m., local time, Monday through Friday, for a thirty-seven and one-half

(37 1/2) hour work schedule; or

(b) 8 a.m. to 5 p.m., local time, Monday through Friday, for a forty (40) hour work schedule.

(3) An appointing authority may require an employee to work hours and days other than regular days and hours, including an overtime or inclement weather schedule if it is in the best interest of the agency.

(4) An employee who works for an agency that requires more than one (1) shift or seven (7) days a week operation may be reassigned from one (1) shift to another or from one (1) post to another or alternate days off by the agency to meet staffing requirements or to maintain security or provide essential services of the agency.

(5) An employee shall give reasonable notice in advance of absence from an official work station or alternate work station.

Section 2.[~~Section 4.~~] Official Work Station, Alternate Work Station, and Temporary Assignment. (1) Each employee shall be assigned an official work station and may be assigned one (1) or more additional alternate work stations by the appointing authority.

(2) An official work station or alternate work station may be changed to better meet the needs of the agency.

(3) An employee may be temporarily assigned to a different official work station or alternate work station in a different county. The assignment shall be to the same job classification.

(a) If an employee is temporarily assigned to a different official work station or alternate work station in a different county, the assignment shall not last more than sixty (60) calendar days.

(b) Temporary assignment may be renewed with prior approval of the Secretary of Personnel.

(c) A temporarily reassigned employee shall be reimbursed for travel expenses in accordance with 200 KAR 2:006, and the appointing authority shall notify the employee in writing prior to the effective date of the action.

(4) An appointing authority may assign an employee to work in a different site within the county of employment within the same job classification.

Section 3.[~~Section 5.~~] Dual Employment. An employee holding a full-time position covered under KRS Chapter 18A shall not hold another KRS Chapter 18A position except upon recommendation of the appointing authority and the written approval of the secretary.

Section 4.[~~Section 6.~~] Notice of Resignation and Retirement. (1) An employee who decides to terminate his or her service shall submit a written resignation or notice of retirement to the appointing authority.

(2) A resignation or notice of retirement shall be submitted at least fourteen (14) calendar days before the final working day. A copy of an employee's notice shall be attached to the separation personnel action and placed in the personnel files maintained by the agency and the Personnel Cabinet.

(3) Failure of an employee to give fourteen (14) calendar days' notice may result in forfeiture of accrued annual leave, based on:

(a) If the fourteen (14) day deadline was:

1. Practicable under the circumstances;

2. Appropriate for the situation; and

3. Complied with; or

(b) If the appointing authority and the employee have agreed that the employee shall retain the leave.

(4) The effective date of a separation shall be the next calendar day following the last work day unless the employee has been approved for the use of annual, compensatory, or sick leave prior to termination.

Section 5.[~~Section 7.~~] Records and Reports. (1) An appointing authority shall provide a request to the Personnel Cabinet for a personnel action or status change.

(a) The Secretary of the Personnel Cabinet shall determine which personnel actions warrant a Personnel Action Notification to the employee, in accordance with KRS 18A.020 and 18A.095.

(b) The secretary shall provide a Personnel Action Notification to the appointing authority.

(c) The appointing authority shall provide a copy of a Personnel Action Notification to the employee affected by the action.

(2) The secretary shall maintain a leave record showing for each employee:

(a) Annual leave earned, used and unused;

(b) Sick leave earned, used and unused;

(c) Compensatory leave earned, used and unused; and

(d) Special leave or other leave with or without pay.

Section 6.[~~Section 8.~~] Telecommuting. (1) Telecommuting shall be a work arrangement in which a selected state employee is allowed to perform the normal duties and responsibilities of his or her position through the use of computer or telecommunications at home or another place apart from the employee's usual official work station or alternate work station.

(2) An appointing authority may establish a telecommuting program for all or any part of the agency.

(3) Eligibility and selection for participation in a telecommuting program shall be the decision of the agency, with no implied or specific right to participation being granted to an employee.

(4) The telecommuter's conditions of employment shall remain the same as for a nontelecommuting employee.

(a) Employee salary, benefits, and employer-sponsored insurance coverage shall not change as a result of telecommuting.

(b) The telecommuter shall be responsible for the security and confidentiality of data, as well as the protection of state-provided equipment, used and accessed during telecommuting.

(c) The telecommuter shall agree to maintain a clean, safe workplace.

(d) An on-site visit by the employer for monitoring of safety issues shall not require advance notice by the employer.

Section 7.[~~Section 9.~~] Workplace Violence Policy. (1) Workplace violence shall be prohibited and shall include:

(a) The attempted, threatened, or actual conduct of a person who endangers or is likely to endanger the health and safety of state employees or the general public; or

(b) A threatening statement, harassment, or behavior that gives a state employee or member of the general public reasonable cause to believe that his or her health or safety is at risk.

(2) Examples of prohibited workplace violence shall include:

(a) Threats of harm;

(b) Brandishing or displaying a weapon or an object that looks like a weapon in a manner that would present a safety risk to a state employee or a member of the general public or threatens or intimidates them;

(c) Intimidating, threatening, or directing abusive language toward another person, either verbally, in writing or by gesture;

(d) Stalking;

(e) Striking, slapping, or otherwise physically attacking another person; or

(f) Disobeying or failing to follow the reasonable directive of a supervisor to take action or cease actions that create a risk to the health or safety of a state employee or the public or threatens or intimidates them.

(3) Violation of this section shall constitute grounds for disciplinary action and referral for criminal prosecution.

Section 8.[~~Section 10.~~] Issuance of Pay to State Employees. (1) Pay shall be issued to state employees on the 15th and 30th day of each month.

(2) If the regularly scheduled pay date falls on a weekend, state employees shall be issued pay on the preceding Friday.

(3) If the regularly scheduled pay date falls on a state holiday, as defined in KRS 18A.190, pay shall be issued on the workday preceding the holiday.

Section 9.[~~Section 11.~~] Incorporation by Reference. (1) "Personnel Action Notification", PAN, August 2011, is incorporated by reference.

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

GERINA D. WHETHERS, Secretary

APPROVED BY AGENCY: April 11, 2022

FILED WITH LRC: April 15, 2022 at 9:25 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 23, 2022 at 10:00 a.m. at 501 High Street, 3rd floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until 11:59 p.m. on May 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: Rosemary Holbrook, Assistant General Counsel, Office of Legal Services, 501 High Street, 3rd floor, Frankfort, Kentucky 40601, phone (502) 564-7430, fax (502) 564-0224, email RosemaryG.Holbrook@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Rosemary Holbrook

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets forth the requirements governing employee records, the maintenance and handling of these records, and other conditions of employment.

(b) The necessity of this administrative regulation: This administrative regulation is necessary for the oversight and maintenance of the state employment system pursuant to KRS Chapter 18A.

(c) How this administrative regulation conforms to the content of the authorizing statutes: Pursuant to 18A.030(2), the Personnel Cabinet Secretary is required to promulgate comprehensive regulations consistent with the provisions for KRS Chapter 18A. KRS 18A.110 provides that the secretary shall promulgate comprehensive administrative regulations for the classified and unclassified service.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation is necessary to satisfy the statutory requirement of establishing for the state a system of personnel administration based on merit principles. This regulation sets forth general terms and conditions of employment, to assist in the consistent application and treatment of KRS Chapter 18 employees.

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

(a) How the amendment will change this existing administrative regulation: This amendment removes provisions for the Kentucky Employees Charitable Campaign.

(b) The necessity of the amendment to this administrative regulation: Provisions for the Kentucky Employees Charitable Campaign are being promulgated in a new, stand-alone regulation. This amendment is necessary to accommodate that change.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment is consistent with the authority provided in KRS 18A.030 and 18A.110.

(d) How the amendment will assist in the effective administration of the statutes: This amendment removes Kentucky Employees Charitable Campaign provisions to prevent conflict with a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All KRS Chapter 18A employees are affected.

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

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

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no additional costs anticipated to any entity identified above.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): No additional benefits will accrue.

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

(a) Initially: This regulation, as amended, is not anticipated to generate any new or additional costs.

(b) On a continuing basis: This regulation, as amended, 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: This regulation, as amended, is not anticipated to generate any new or additional costs.

(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 regulation, as amended, is not anticipated to generate any new or additional fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation, as amended, is not anticipated to generate any new or additional fees.

(9) TIERING: Is tiering applied? No. This regulation, as amended, treats all impacted entities 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? All state agencies with employees covered under KRS Chapter 18A.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 18A.030(2) and 18A.110.

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

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

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

(c) How much will it cost to administer this program for the first year? There are no estimated additional costs to administer the amendments to this regulation.

(d) How much will it cost to administer this program for subsequent years? There are no estimated additional costs to administer the amendments to 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
101 KAR 6:020E

This emergency administrative regulation is necessary for compliance with the requirement to promulgate administrative regulations within 30 days of Senate Bill 8, 2022 Regular Session, becoming law. The act, codified as 2022 Ky. Acts ch. 75, sec. 21, was effective April 1, 2022. This administrative regulation is being promulgated pursuant to KRS 13A.190(1)(a)3. to meet the deadline required by the act. An ordinary administrative regulation is not sufficient because the effective date of the ordinary regulation would be several months past the deadline to promulgate administrative regulations. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor
GERINA D. WHETHERS, Secretary, Personnel Cabinet

PERSONNEL CABINET
(New Emergency Administrative Regulation)

101 KAR 6:020E. Kentucky Employees Charitable Campaign.

EFFECTIVE: April 15, 2022

RELATES TO: KRS 15.905, 15.935, 41.400, 26 U.S.C. 501(c)(3)

STATUTORY AUTHORITY: KRS 18A.030, 18A.110, 2022 Ky. Acts ch. 75, sec. 21

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.030 and 18A.110 require the Secretary of Personnel to promulgate comprehensive administrative regulations for the classified and unclassified service. 2022 Ky. Acts ch. 75, sec. 21 requires the Personnel Cabinet to promulgate administrative regulations to require the Kentucky Employees Charitable Campaign to include the Child Victims' Trust Fund as a participating charitable organization. This administrative regulation establishes procedures and requirements for the Kentucky Employees Charitable Campaign.

Section 1. Definitions. (1) "Charitable federation" means a legally constituted grouping, made up of or supporting at least ten (10) health and human welfare organizations, all of which:

(a) Qualify as exempt voluntary charitable organizations pursuant to 26 U.S.C. 501(c)(3); and

(b) Have a substantial Kentucky presence.

(2) "Child Victims' Trust Fund" means the fund established by KRS 41.400 and administered in accordance with KRS 15.935 by the State Child Abuse and Neglect Prevention Board established by KRS 15.905.

(3) "Designated nonprofit agency" means an organization with proof of tax-exempt status pursuant to 26 U.S.C. 501(c)(3) written in on a pledge card by a state employee as a choice to receive contributions.

(4) "State employee" means a person, including an elected public official, who is employed by a department, board, agency, or branch of state government, except one (1) relating to a state college or university.

(5) "Substantial Kentucky presence" means a facility, staffed by professionals or volunteers, available to provide its services and open at least fifteen (15) hours a week and with a regional or statewide presence that meets the requirements of Section 2(2) of this administrative regulation.

Section 2. Requirements for the Kentucky Employees Charitable Campaign. (1) General Purpose. The purpose of the Kentucky Employees Charitable Campaign shall be to:

(a) Provide an opportunity for employees to contribute to eligible Kentucky organizations through the state's payroll deduction process;

(b) Ensure accountability for participants in regard to the funds raised;

(c) Encourage the involvement of state employees as responsible citizens;

(d) Give recognition to state employee volunteers; and

(e) Minimize workplace disruption and administrative costs to Kentucky taxpayers by allowing only one (1) statewide payroll deduction charitable solicitation per year.

(2) An organization shall be considered to have a substantial Kentucky presence if the requirements established in this subsection are met.

(a) Services shall be available to state employees in the local community.

(b) Services shall directly benefit human beings whether children, youth, adults, the aged, the ill and infirm, or the mentally or physically disabled.

(c) Services shall consist of:

1. Care, research, education, or prevention in the fields of human health or social adjustment and rehabilitation;

2. Relief for victims of natural disasters and other emergencies; or

3. Assistance to those who are impoverished and in need of food, shelter, clothing, and basic human welfare services.

(3) The secretary shall approve a charitable organization for participation in the campaign if the charitable organization demonstrates:

(a) Proof of tax exempt status pursuant to 26 U.S.C. 501(c)(3);

(b) Proof of current registration and compliance with the reporting requirements of the Secretary of State and the Office of the Attorney General;

(c) Proof of financial responsibility, including:

1. Adoption of a detailed annual budget;

2. Use of generally accepted accounting principles and procedures;

3. The board of directors' approval for deviations from the approved budget; and

4. An annual financial audit;

(d) Proof of direction by an active volunteer board of directors, which shall meet regularly and whose members shall serve without compensation;

(e) A written nondiscrimination policy;

(f) Public disclosure of fundraising administrative costs with a statement demonstrating that, if fund and administrative expenses are in excess of twenty-five (25) percent of total support and revenue, actual expenses for those purposes are reasonable under all the circumstances in its case; and

(g) Publication of an annual report available to the general public, which includes a full description of the organization's Kentucky activities including fundraising activities.

(4) Nothing in subsections (2) or (3) of this section shall prevent the Child Victims' Trust Fund from being eligible to participate in the Kentucky Employees Charitable Campaign as a charitable organization.

(5) A charitable federation may apply on behalf of all their member organizations if both the federation and all federation members meet the criteria established in subsection (3) of this section.

(6) Authority of the Secretary of Personnel.

(a) The Secretary of Personnel shall have the full authority over the procedures and policies relating to the operation of the Kentucky Employees Charitable Campaign.

(b) The secretary shall designate a group of state employees to compose the Kentucky Employees Charitable Campaign Committee to make recommendations on related matters.

(c) The committee shall be composed of a cross-section of state employees, involving the large cabinets and small agencies.

(d) The chair of the committee shall be appointed by the secretary.

(7) Functions of the committee. The committee shall make recommendations on:

(a) The designation of a campaign administrator who shall:

1. Serve for a minimum period of two (2) years; and

2. Be charged to manage and administer the charitable fund campaign for the Commonwealth, subject to the direction and control of the Secretary of Personnel. The campaign administrator shall have statewide workplace campaign experience and have the necessary staff and volunteer support to administer the Kentucky Employees Charitable Campaign;

(b) The establishment of the minimum amount, based on cost effectiveness, that an employee may authorize to be deducted for each approved charitable federation;

(c) The format of the brochure, pledge card, or other promotional materials for the annual campaign;

(d) The dates and duration of the campaign;

(e) The annual campaign budget submitted by the campaign administrator; and

(f) The costs of the campaign, which shall be:

1. Detailed in the budget; and

2. Borne by each recipient organization proportionally.

(8) Charitable federations to apply for statewide campaign.

(a) A federation desiring inclusion shall apply by February 15 of each year.

(b) A federation that has previously participated in the campaign shall update its application with a letter and a copy of the most recent year's audit.

(c) A charitable organization that has previously participated in the campaign shall be eligible if it fulfills all conditions of eligibility.

(9) The campaign administrator. The campaign administrator shall:

(a) Provide staffing to manage and administer the annual campaign, which includes preparing drafts of campaign materials for consideration by the Secretary of Personnel;

(b) Serve as the central accounting point for both campaign cash and for payroll deductions received from the Personnel Cabinet including:

1. The preparation and submission of an annual campaign budget. Costs of the campaign shall be divided among recipient organizations; and

2. A separate account maintained for managing the income and expenses of the campaign;

(c) Distribute campaign funds received from the Personnel Cabinet to participating organizations in accordance with agreed upon time periods. This shall include distribution of funds to designated nonprofit agencies;

(d) Provide an end-of-campaign report to the Secretary of Personnel and to participating organizations; and

(e) Annually furnish a financial statement prepared by a certified public accountant.

GERINA D. WHETHERS, Secretary

APPROVED BY AGENCY: April 15, 2022

FILED WITH LRC: April 15, 2022 at 9:25 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 23, 2022 at 10:00 a.m. at 501 High Street, 3rd floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until 11:59 p.m. on May 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: Rosemary Holbrook, Assistant General Counsel, Office of Legal Services, 501 High Street, 3rd floor, Frankfort, Kentucky 40601, phone (502) 564-7430, fax (502) 564-0224, email: RosemaryG.Holbrook@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Rosemary Holbrook

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets forth the procedures and requirements governing the Kentucky Employees Charitable Campaign.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to set forth the procedures and requirements governing the Kentucky Employees Charitable Campaign.

(c) How this administrative regulation conforms to the content of the authorizing statutes: Pursuant to 18A.030(2), the Personnel Cabinet Secretary is required to promulgate comprehensive regulations consistent with the provisions for KRS Chapter 18A. KRS 18A.110 provides that the secretary shall promulgate comprehensive administrative regulations for the classified and unclassified service. 2022 Ky. Acts ch. 75, sec. 21 requires the Personnel Cabinet to promulgate administrative regulations for inclusion of the Child Victims' Trust Fund as an eligible charitable organization.

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

administrative regulation provides the opportunity for employees to contribute to eligible Kentucky organizations through the state's payroll deduction process, while minimizing workplace disruption and administrative costs to Kentucky taxpayers by allowing only one (1) statewide payroll deduction charitable solicitation per year.

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All state agencies and employees who participate in the Kentucky Employees Charitable Campaign are affected by this regulation, as are charitable organizations that participate or seek to participate.

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

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

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no additional costs anticipated to any entity identified above.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): No additional benefits will accrue.

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

(a) Initially: This regulation is not anticipated to generate any new or additional costs.

(b) On a continuing basis: This 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: This regulation is not anticipated to generate any new or additional costs.

(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 regulation is not anticipated to generate any new or additional fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation is not anticipated to generate any new or additional fees.

(9) TIERING: Is tiering applied? No. This regulation treats all impacted entities 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? All state agencies that participate the Kentucky Employees Charitable Campaign are impacted.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 18A.030(2), 18A.110, and 2022 Ky. Acts ch. 75, sec. 21.

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

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

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

(c) How much will it cost to administer this program for the first year? There are no estimated additional costs to administer the amendments to this regulation.

(d) How much will it cost to administer this program for subsequent years? There are no estimated additional costs to administer the amendments to 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
201 KAR 15:030E

During its 2021 regular session, the General Assembly passed House Bill 220 (attached), an amendment to KRS 316.030, to allow the Board of Embalmers and Funeral Directors to establish fees through the promulgation of administrative regulations and amend KRS 316.030 to remove outdated language and processes. HB 220 was signed by the Governor on March 15, 2021. This emergency regulation is required to ensure the agency is able to be fiscally sound. HB 220 goes into effect June 29, 2021. The renewal period of individuals and establishments for the Kentucky Board of Embalmers and Funeral Directors is July 1 through 31st. The Kentucky Board of Embalmers and Funeral Directors initially filed this emergency regulation, along with an ordinary version of the same, on June 20, 2021; however, due to a change in personnel, the Board deferred those regulations each month and they will now expire, pursuant to KRS 13A.190(3), on March 27, 2022. In accordance with KRS 13A.190(5), this subsequent emergency regulation differs from its initial version because it makes changes to comply with the Board's statutory authority and it makes numerous technical changes to comply with the formatting and drafting requirements of KRS Chapter 13A. This emergency regulation complies with the restrictions on filing subsequent administrative regulations established in KRS 13A.125 and it is necessary to prevent a lapse in the Board's effective administrative regulations. This emergency regulation will be replaced by an ordinary regulation and will be submitted at the same time. The ordinary regulation is identical to the emergency.

ANDY BESHEAR, Governor
KANETHA DORSEY, Executive Director

BOARDS AND COMMISSIONS
Board of Embalmers and Funeral Directors
(Emergency Amendment)

201 KAR 15:030. Fees.

EFFECTIVE: April 7, 2022

RELATES TO: KRS 316.125(2)[~~(a)~~], 316.130(2), (4), (5), 316.132, 316.140(2)

STATUTORY AUTHORITY: KRS 316.125(2)[~~(a)~~], 316.130(2), (4), (5), 316.132, 316.140(2), 316.210(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 316.125(2)(a) and (b) require the board to issue an appropriate establishment license to an applicant who meets the statutory requirements. KRS 316.130(2), (4), and (5) establish the renewal and continuing education requirements for licensure. KRS 316.132 establishes the requirements for continuing education courses, board approval of continuing education courses, and certification for attendance thereof. KRS 316.140(2) establishes the requirements for a person holding an embalmer's or funeral director's license issued in another state or federal district to obtain a courtesy card. KRS 316.210(1) authorizes the board to

promulgate administrative regulations to carry out and enforce the provisions of KRS Chapter 316, and 316.210(6) requires the board to promulgate administrative regulations to establish fees authorized by KRS Chapter 316. This administrative regulation establishes the fees authorized by KRS Chapter 316[~~316.125(2)(a), 316.130(2), (4), and (5), 316.132, 316.140(2), and 316.210(1) require the board to set out in administrative regulations certain fees. This administrative regulation establishes these fees~~].

Section 1. (1) The funeral establishment license fee shall be $500[~~$200~~].

(2) The renewal fee for a funeral establishment license shall be $500[~~$200~~].

(3) The late fee for a funeral establishment license renewal shall be $500.

Section 2. Individual License Fees.

(1) The embalmer's license renewal fee shall be $100.

(2)[~~Section 3.~~] The funeral director's license renewal fee shall be $100.

(3)[~~Section 4. The late fee for a funeral establishment license renewal shall be $200.~~

~~Section 5.~~] The late fee for an embalmer's license renewal or a funeral director's license renewal shall be $100.

Section 3.[~~Section 6.~~] The fee for an annual courtesy card shall be $100 dollars.

Section 4. Apprenticeship Fees.

(1) The registration fee for an embalmer apprenticeship shall be $100.

(2) The registration fee for a funeral directors apprenticeship shall be $100.

(3) The reinstatement fee for an apprenticeship shall be fifty (50) dollars per license.

(4)[~~Section 7. The fee for processing an application for a continuing education program shall be $150 per program; for programs included in a conference or convention setting, the total fee shall not exceed $600.~~

~~Section 8. (1) A processing fee of twenty-five (25) dollars shall apply to all document actions not covered by other fees established by KRS Chapter 316 or this administrative regulation such as national exam score requests, out-of-state verifications, official name change requests, paper submissions of any documents or applications that are available to submit electronically, and revisions to wall licensure.~~

~~(2) A fee of sixty (60) dollars shall be assessed for any payment made to the Board pursuant to KRS Chapter 316 or these administrative regulations, where the check, draft, money order, or other financial instrument is returned by the payor's bank or financial institution for insufficient funds, or cannot otherwise be deposited into the board's account.~~

~~Section 9.~~] The registration fee for Level II funeral director registration shall be fifty (50) dollars.

(5)[~~Section 10.~~] The registration fee for Level II embalmer registration shall be fifty (50) dollars.

(6) The licensure exam fee shall be $100 per license.

Section 5. Surface Transportation Fees.

(1) The surface transportation license fee shall be $150.

(2) The surface transportation renewal fee shall be $150.

(3) The surface transportation course and examination fee shall be seventy-five (75) dollars.

Section 6. Inspection Fees for Establishment.

(1) A routine or requested inspection shall be $100.

(2) A re-inspection within a period of three (3) months following a routine inspection, due to a deficiency found by the Inspector of the Board of Embalmers and Funeral Directors of the Commonwealth of Kentucky on a routine inspection shall be $200.

(3) If an establishment fails three (3) consecutive inspections within a period of six (6) months, any subsequent inspections required to determine if the failures have been cured shall be $300 for each subsequent inspection.

Section 7. The fee for processing an application for a continuing education program shall be $150 per program; for programs included in a conference or convention setting, the total fee shall not exceed $600.

Section 8. Processing and NSF.

(1) A processing fee of twenty-five (25) dollars shall apply to all document actions not covered by other fees established by KRS Chapter 316 or this administrative regulation, including national exam score requests, out-of-state verifications, official name change requests, paper submissions of any documents or applications that are available to submit electronically, and revisions to wall licensure.

(2) A fee of sixty (60) dollars shall be assessed for any payment made to the board pursuant to KRS Chapter 316 or these administrative regulations, where the check, draft, money order, or other financial instrument is returned by the payor's bank or financial institution for insufficient funds, or cannot otherwise be deposited into the board's account.

Section 9.[~~Section 11.~~] All fees assessed under this administrative regulation shall be nonrefundable.

KANETHA DORSEY, Executive Director

APPROVED BY AGENCY: February 24, 2022

FILED WITH LRC: April 7, 2022 at 2:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 24, 2022 at 1:00p.m, Via ZOOM. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of this hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until May 31, 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: Kanetha Dorsey, Executive Director of Kentucky Board of Embalmers and Funeral Directors, 9114 Leesgate Road, Suite 4, Louisville, Kentucky 40222, phone 502-426-4589, fax 502-426-4117, email Kanetha.dorsey@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kanetha Dorsey

(1) Provide a brief summary of:

(a) What this administrative regulation does: Describe all fees for services provided by the Board of Embalmers and Funeral Directors

(b) The necessity of this administrative regulation: This regulation informs potential license holders and providers of fees required for each service or license provided.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation describes all fees as required by HB 220.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation support all other regulations and statutes by setting the fees associated by each statute or 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: All the fees will be located in one regulation.

(b) The necessity of the amendment to this administrative regulation: HB220 removed fees from statutes placing them in administrative regulations. The bill went into effect 6/29/21.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation brings all the fees into one regulation as required by HB220

(d) How the amendment will assist in the effective administration of the statues: This brings all the fees related to funeral services under one regulation for ease of access for end users. In recent years KBEFD has run a deficit averaging $100k seeking the state's assistance to complete the fiscal year. It is the Board's desire to be fiscally responsible and independent.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are currently five hundred eleven (510) funeral related establishments in Kentucky. 3000 License holders (funeral director and/or embalmer), 300 Apprentices, 150 Surface Transport License Holders, 180 Courtesy Card holders, 100 CEU programs per year

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment:

(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:
Fees paid for application, licensure, examination would be submitted electronically or mailed 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): Apprentice Registration $100 per type, Apprentice reinstatement fee $50, Level II Apprenticeship Registration $50 per type, License Examination $100 per license, Establishment licensure or renewal $500, Establishment Late Fee $500, Individual Licensure $100 per type, Individual Late Fee $100 per type, Surface Transport License and renewal $150, Surface Transport Class and Examination $75, Routine Inspection Fee $100, Re-inspection fee $200, Re-Inspection after 3 re-inspections $300, Courtesy Card $100, Continuing Education Processing $150 (not to exceed $600 for conferences), Processing fee $25, Insufficient Funds Assessment $60

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Funeral Directors, Embalmers, Surface Transporters, CEU providers are able utilize their license or program for a period of one year for establishments. Apprentice applications will be processed and presented to the board for consideration to begin their apprenticeship, Examination applicants will be able to sit for licensure.

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

(a) Initially: No additional cost

(b) On a continuing basis: No additional cost

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? No special or additional funding will be required for implementation or enforcement.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: These fees are not necessary to implement the regulation and continue to pay for supplies and tools to provide for oversight.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does increase fees for Establishments and renewals, this regulation does increase fees for apprenticeship.

(9) TIERING: Is tiering applied? No

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Funeral Directors, Embalmers; Funeral Establishments and Embalming Services; Funeral Apprentices; Surface Transporters

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KAR 201 15:030, KRS 316.030(4)(g), KRS 316.030(5)(f), KRS 316.125(2)(a), KAR 201 15:040 Section 1(1), KAR 201 15:040 Section 3(3), KAR 201 15:040 Section 4(1), KAR 201 15.050 Section 4(5), KAR 201 15:110 Section 5(5)b, KAR 201 15:110 Section 5(5)c, KAR 201 15:110 Section 5(5)d, KAR 201 15:110 Section 5(5)e, KAR 201 15:125 Section 1(2)(b), KAR 201 15:125 Section 2(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?

Fee Type	# Licenses	Fee	Income
FD Apprentice	175	$100	$17,500
E Apprentice	130	$100	$13,000
Establishments	510	$500	$255,000
New Establishments	10	$500	$5,000
Funeral Director Only Renewals	750	$100	$75,000
Embalmer Only Renewals	5	$100	$500
Funeral Director and Embalmer Renewals	1150	$100/per	$230,000
Examinations	200	$100	$20,000
Courtesy Card	5	$100	$500
Courtesty Card Renewal	55	$100	$5,500
Continuing Education	100	$150	$15,000

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Roughly the same as above

(c) How much will it cost to administer this program for the first year? No additional cost to the agency

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

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

Revenues (+/-):

PROPOSED

Fee Type	# Licenses	Fee	Income
Establishments	510	$500	$255,000
FD Apprentice	275	$100	$27,500
E Apprentice	150	$100	$15,00

EXISTING

Existing	KBEFD Facilities	Fee	Income
Establishments	510	$200	$102,000
FD Apprentice	275	$50	$13,750
E Apprentice	150	$50	$7,500

Expenditures: None

Other Explanations: None

STATEMENT OF EMERGENCY
201 KAR 15:040E

During its 2021 regular session, the General Assembly passed House Bill 220 (attached), an amendment to KRS 316.030, 316.125, 316.131, 316.170, and 316.210, to allow the Board of Embalmers and Funeral Directors to establish fees through the promulgation of administrative regulations. HB 220 was signed by the Governor on March 15, 2021. This emergency regulation removes fees from this administrative regulation and centralizes all fees in one administrative regulation and updates language and provisions for clarity. HB 220 goes into effect June 29, 2021. The renewal period of individuals and establishments for the Kentucky Board of Embalmers and Funeral Directors is July 1 through 31st. This emergency regulation is necessary to ensure that the Board is able to be fiscally sound. The Kentucky Board of Embalmers and Funeral Directors initially filed this emergency regulation, along with an ordinary version of the same, on June 20, 2021; however, due to a change in personnel, the Board continually deferred the regulations and they will now expire, pursuant to KRS 13A.190(3), on March 27, 2022. In accordance with KRS 13A.190(5), this subsequent emergency regulation differs from its initial version because it makes changes to comply with the Board's statutory authority and it makes numerous technical changes to comply with the formatting and drafting requirements of KRS Chapter 13A. This emergency regulation complies with the restrictions on filing subsequent administrative regulations established in KRS 13A.125 and is necessary to prevent a lapse in the Board's effective administrative regulations. This emergency regulation will be replaced by an ordinary regulation and will be submitted at the same time. The ordinary regulation is identical to the emergency.

ANDY BESHEAR, Governor
KANETHA DORSEY, Executive Director

BOARDS AND COMMISSIONS
Board of Embalmers and Funeral Directors
(Emergency Amendment)

201 KAR 15:040. Examination.

EFFECTIVE: April 7, 2022
RELATES TO: KRS 316.030 4(h), 5(g)
STATUTORY AUTHORITY: KRS 316.030, 316.210(1)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 316.030 (4)(h) and (5)(g) require the board to issue an embalmer's or funeral director's license to examinations an applicant who has met the statutory requirements and passed[~~for an embalmer's license or a funeral director's license to pass an examination~~] prepared or approved by the board. This administrative regulation establishes the administration, content, and evaluation of examinations by the board.

Section 1. Exam administration. (1) The board shall administer examinations for funeral director and embalmer licenses at intervals predefined on a published calendar[~~the regular meetings of the board~~].

(2) An applicant seeking to take an examination administered by the board shall submit the fee established in KRS 316.030[~~required by KRS 316.030(4)(g) or (5)(f)~~] to the board at least forty-five (45) days before the desired examination.

(a) The examination fee shall include a license in good standing for the remainder of the fiscal year if the applicant is successful in the examination.

(b) An applicant shall be entitled to only one (1) examination for each fee paid.

(3) One (1) or more members of the board shall administer the examinations[~~written examination~~] for each[~~a~~] license issued by the board.

(4) An applicant may seek a reasonable accommodation in the manner for which an examination by the board is given.

(a) Accommodations shall[~~will~~] be considered by the board on the same basis as reasonable accommodations that may be available under the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.

(b) An applicant who takes an examination with a reasonable accommodation shall[~~must~~] still perform the essential functions of taking the examination and meet the normal performance requirements for passage.

(5) At the discretion of the board, examinations may be held at other times, if necessary.

Section 2. Content of Examination. (1) The examination for an embalmer's license shall include the following subjects:

(a) Embalming;
(b) Anatomy;
(c) Microbiology;
(d) Pathology;
(e) Chemistry;
(f) Restorative art;
(g) Mortuary administration and law;
(h) Accounting;
(i) Sociology;
(j) Psychology; and
(k) Requirements of KRS Chapter 316 and the administrative regulations promulgated pursuant to KRS Chapter 316.

(2) The examination for a funeral director's license shall include the following subjects:

(a) Mortuary administration;
(b) Ethics;
(c) Accounting;
(d) Sociology;
(e) Business law;
(f) Primary psychology;
(g) Transportation rules;
(h) Hygiene, sanitation, and disinfection; and
(i) Requirements of KRS Chapter 316 and the administrative regulations promulgated pursuant to KRS Chapter 316.

(3) All written questions for the embalmer's and funeral director's examinations are the property of the board and applicants shall return the questions to the board with their answers.

Section 3. Evaluation. A score of seventy-five (75) percent on a board authorized[~~any~~] examination administered by the board shall constitute a passing grade.

Section 4. Alternative to Written Examination by the Board. An applicant who has successfully completed the examination prepared and administered by the Conference of Funeral Service Examining Boards may request exemption from the written embalmer or funeral director examination. The applicant shall successfully complete an oral examination administered by one (1) or more members of the board in lieu of the written embalmer or funeral director examination.

Section 5. All applicants for a Kentucky funeral director or embalmer license shall pass the Kentucky Laws Exam. Individuals who are requesting a reciprocal license shall pass the Kentucky Laws Exam in addition to the requested license exam.

KANETHA DORSEY, Executive Director
APPROVED BY AGENCY: February 24, 2022
FILED WITH LRC: April 7, 2022 at 2:30 p.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 24, 2022 at 1:00 p.m., Via ZOOM. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of this hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until May 31, 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: Kanetha Dorsey, Executive Director of Kentucky Board of Embalmers and Funeral Directors, 9114 Leesgate Road, Suite 4, Louisville, Kentucky 40222, phone 502-426-4589, fax 502-426-4117, email Kanetha.dorsey@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kanetha Dorsey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This describes the process of applying for the licensure examination for funeral directors and embalmers.

(b) The necessity of this administrative regulation: This regulation describes the process to be completed by funeral directors and embalmers to ensure they have the foundational knowledge to care and plan for the care of dead human bodies.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation supports KRS 316 by describing the examination process utilized to ensure funeral directors and embalmers have foundational knowledge to perform their tasks.

(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 corrects phrasing errors within the regulation. This amendment clarifies the necessity to pass the laws examination in order to obtain licensure.

(b) The necessity of the amendment to this administrative regulation: Corrects phrasing errors, Licensure applicants could fail laws examinations and still become a licensed funeral director or embalmer with previous wording.

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 150 examination applicants for year

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment:

(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: Complete apprenticeship or be licensed in another state, Complete application and pay fee, Take examination

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): $100 per licensure type.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be legally licensed for a period of one year for to practice funeral directing or embalming in the State of Kentucky.

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

(a) Initially: No additional cost

(b) On a continuing basis: No additional cost

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? No special or additional funding will be required for implementation or enforcement.

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

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

(9) TIERING: Is tiering applied? No

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Funeral Directors, Embalmers; Funeral Establishments and Embalming Services; Funeral Apprentices

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KAR 201 15:030, KRS 316.030(4)(g), KRS 316.030(5)(f), KRS 316.125(2)(a), KAR 201 15:040 Section 1(1), KAR 201 15:040 Section 3(3), KAR 201 15:040 Section 4(1), KAR 201 15.050 Section 4(5), KAR 201 15:110 Section 5(5)b, KAR 201 15:110 Section 5(5)c, KAR 201 15:110 Section 5(5)d, KAR 201 15:110 Section 5(5)e, KAR 201 15:125 Section 1(2)(b), KAR 201 15:125 Section 2(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. 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? No additional cost to the agency

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

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

Revenues (+/-): No Change due to this regulation

Expenditures: None

Other Explanations: None

STATEMENT OF EMERGENCY
201 KAR 15:050E

During its 2021 regular session, the General Assembly passed House Bill 220 (attached), an amendment to KRS 316.030, 316.125, 316.131, 316.170, and 316.210, to allow the Board of Embalmers and Funeral Directors to establish fees through the promulgation of administrative regulations. HB 220 was signed by the Governor on March 15, 2021. This emergency regulation removes fees from this administrative regulation and centralizes all fees in one administrative regulation, updates the Board's statutory authority, and updates language to make technical changes and clarifications. HB 220 became effective on June 29, 2021. The renewal period of individuals and establishments for the Kentucky Board of Embalmers and Funeral Directors is July 1 through 31st. This emergency regulation is necessary to ensure that the Board is able to be fiscally sound. The Kentucky Board of Embalmers and Funeral Directors initially filed this emergency regulation, along with an ordinary version of the same, on June 20, 2021; however, due to a change in personnel, the Board continually deferred the regulations and they will now expire, pursuant to KRS 13A.190(3), on March 27, 2022. In accordance with KRS 13A.190(5), this subsequent emergency regulation differs from its initial version because it makes changes to comply with the Board's statutory authority and it makes numerous technical changes to comply with the formatting and drafting requirements of KRS Chapter 13A. This emergency regulation complies with the restrictions on filing subsequent administrative regulations established in KRS 13A.125 and is necessary to prevent a lapse in the Board's effective administrative regulations. This emergency regulation will be replaced by an ordinary regulation and will be submitted at the same time. The ordinary regulation is identical to the emergency.

ANDY BESHEAR, Governor
KANETHA DORSEY, Executive Director

BOARDS AND COMMISSIONS
Board of Embalmers and Funeral Directors
(Emergency Amendment)

201 KAR 15:050. Apprenticeship and supervision requirements.

EFFECTIVE: April 7, 2022
RELATES TO: KRS 316.030
STATUTORY AUTHORITY: KRS 316.030, 316.210(1)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 316.210(1) authorizes the Kentucky Board of Embalmers and Funeral Directors to promulgate administrative regulations to carry out and enforce the provisions of KRS Chapter 316. KRS 316.030(4)(e) and (5)(d) require an applicant for an embalmer's license or a funeral director's license to serve an apprenticeship under the supervision of a Kentucky-licensed embalmer or funeral director. KRS 316.030(9) requires an applicant to file sworn statements semiannually during the apprenticeship. This administrative regulation establishes the requirements for apprentices and their supervisors, the time for filing the sworn statements, and the additional information required in the sworn statements.

Section 1. Apprenticeship Application. (1) Prior to beginning an apprenticeship, an applicant shall:
(a) File an Apprenticeship Application Form with the board that includes the sworn statement required by KRS 316.030(7)(c);
(b) Pay the registration fee established in KRS 316.030(7)(b);
(c) Submit a current photograph;
(d) Submit a copy of the applicant's high school transcript or diploma, or high school equivalency diploma;
(e) Submit an official copy of any college transcripts;
(f) Submit an official copy of National Board scores, if available;[~~ and~~]
(g) Submit an official copy of a current (less than ninety (90) days prior to the application) criminal justice information system (CJIS) report obtained from the Federal Bureau of Investigation (FBI); and
(h) Appear before the board with the supervisor at the time and place identified by the board.
(2) The apprenticeship shall begin the day the applicant and supervisor meet with the board.

Section 2. Supervisor Responsibilities. (1) An apprenticeship shall be served under the board-approved supervisor identified on the Apprenticeship Registration Form as the supervisor of record.
(2) Apprenticeships for both embalming and for funeral directing may be served concurrently under:
(a) A single individual acting as the supervisor of record who holds both a funeral director's license and an embalmer's license; or
(b) Two (2) individual licensees acting as the supervisor of record who together hold both a funeral director's license and an embalmer's license.
(3) Licensed embalmers and licensed funeral directors who seek approval from the board as a supervisor of record shall:
(a) Embalm or direct funerals at, and be employed by, the establishment where the apprentice is registered or at another funeral establishment if approved by the board;
(b) Appear before the board for approval with the apprentice; and
(c) Be responsible for ensuring that the apprentice complies with KRS Chapter 316 and 201 KAR Chapter 15.
(4) The board may withdraw approval of a supervisor based upon:
(a) Evidence of the inability to supervise an apprentice properly; or
(b) A violation of KRS Chapter 316 or 201 KAR Chapter 15.
(5) Apprentices may receive supervision by licensees other than the supervisor of record.
(a) Registered embalmer apprentices may be supervised by other licensed embalmers designated by the supervisor of record.
(b) Registered apprentice funeral directors may be supervised by other licensed funeral directors designated by the supervisor of record.
(c) Supervisors of record that designate other licensees to provide supervision for an apprentice shall remain responsible for the actions of the apprentice and for the quality of the designated supervision.
(d) The apprentice shall prepare an Apprentice Travel Form and maintain it with the apprentice calendar.
(6) The supervisor shall instruct an apprentice and ensure that an apprentice receives experience in all aspects of funeral directing or embalming, as applicable to the individual's apprenticeship.
(a) The instruction shall include:
1. The laws relating to the profession, including KRS Chapter 316 and 201 KAR Chapter 15; and
2. The theory and application of funeral directing or embalming.
(b) The training and work assignments for apprentice embalmers shall cover the following service items:
1. Initial call details;
2. Removals;
3. Embalming;
4. Restorative art treatment;
5. Posing body and features;
6. Bathing and cosmetizing of bodies;
7. Dressing and casketing of bodies;
8. Recordkeeping;
9. Purchasing of necessary supplies;
10. Preparation of autopsied bodies;
11. Care and maintenance of equipment and embalming room; and
12. Professional responsibility.
(c) The training and work assignments for apprentice funeral directors shall cover the following service items:
1. Initial call details;
2. Removals;
3. Counseling of families on the types of services and merchandise available;
4. Arrangements of funeral services and merchandise;
5. Preparing death certificates and documents;
6. Preparing applications for certain death benefits, such as Social Security, Veterans Administration, insurance companies, and lodges;
7. Preparing newspaper notices;
8. Conducting visitations or memorial services;
9. Directing funerals and graveside services;
10. Follow-up service to the family after the funeral service has been completed;
11. Recordkeeping;
12. Purchasing of necessary supplies;
13. Caring for equipment and premises; and
14. Professional responsibility.

Section 3. Supervision of Apprentices. (1) Supervision of embalmer apprentices.
(a) For the first twenty-five (25) cases with which an embalmer apprentice assists and throughout the first six (6) months of training, the supervisor or the supervisor's designee shall be present with the apprentice and provide direct supervision of all of the apprentice's embalming activities.
(b) After the apprentice has completed both twenty-five (25) cases and six (6) months of the apprenticeship, the apprentice may perform embalming services if the supervisor or the supervisor's designee is available for consultation and supervision, in accordance with KRS 316.010(14).
(c) The supervisor shall notify the board in writing on the Level II Apprentice Registration Form that the apprentice has completed the required twenty-five (25) cases before allowing the apprentice to embalm without direct supervision. The embalmer Level II registration fee required by 201 KAR 15:030 shall be submitted with the Level II Apprentice Registration Form. The Level II apprenticeship shall commence upon receipt of a Level II

apprentice card issued by the board. The supervisor or the supervisor's designee shall continue to supervise the apprentice, in accordance with KRS 316.010(14) and 316.030(4)(e), for the duration of the apprenticeship.

(d) A Level II apprenticeship may continue for a period of up to three (3) years while the apprentice completes the apprenticeship requirements and takes the licensure examination.

(e) An apprentice should take the first examination for licensure within sixty (60) days of completion of all other apprenticeship requirements.

(f) For any apprenticeship violation of the rules of the apprenticeship, or other rules applicable to the professions of embalming or funeral directing, the board may extend the period of apprenticeship as part of disciplinary action.

(g) The board may grant extensions of any apprenticeship upon application for an extension by an apprentice and demonstration by the apprentice of good cause or extenuating circumstances upon which an extension should be granted.

(2) Supervision of funeral director apprentices.

(a) For the first twenty-five (25) cases with which a funeral director apprentice assists and throughout the first six (6) months of training, the supervisor or the supervisor's designee shall provide direct supervision during all of an apprentice's funeral directing activities.

(b) After the apprentice has completed both twenty-five (25) cases and six (6) months of the apprenticeship, the apprentice may perform funeral directing services if the supervisor or the supervisor's designee is available for consultation and supervision, in accordance with KRS 316.010(14).

(c) The supervisor shall notify the board in writing on the Level II Apprentice Registration Form that the apprentice has completed the required twenty-five (25) cases before allowing the apprentice to practice funeral directing without direct supervision. The funeral director Level II registration fee required by 201 KAR 15:030 shall be submitted with the Level II Apprentice Registration Form. The Level II apprenticeship shall commence upon receipt of a Level II apprentice card issued by the board. The supervisor or the supervisor's designee shall continue to supervise the apprentice, in accordance with KRS 316.010(14) and 316.030(4)(f), for the duration of the apprenticeship.

(d) A Level II apprenticeship may continue for a period of up to three (3) years while the apprentice completes the apprenticeship requirements and takes the licensure examination.

(e) An apprentice should take the first examination for licensure within sixty (60) days of completion of all other apprenticeship requirements.

(f) For any apprenticeship violation of the rules of the apprenticeship, or other rules applicable to the professions of embalming or funeral directing, the board may extend the period of apprenticeship as part of disciplinary action.

(g) The board may grant extensions of any apprenticeship upon application for an extension by an apprentice and demonstration by the apprentice of good cause or extenuating circumstances upon which an extension should be granted.

(3) Removals.

(a) The supervisor or the supervisor's designee shall be present and provide direct supervision during the removal of bodies for the first six (6) months of the apprenticeship and the first twenty-five (25) removals assisted in by the apprentice.

(b) After an apprentice has served six (6) months of apprenticeship and assisted with twenty-five (25) removals, an apprentice may make removals without the direct supervision of the supervisor or the supervisor's designee if the supervisor has determined that the apprentice is competent to perform removals without direct supervision.

(c) The supervisor shall notify the board in writing on the Level II Apprenticeship Registration Form that the apprentice has completed the required twenty-five (25) removals and that the supervisor's approval has been given for the apprentice to make removals without direct supervision before the apprentice may begin making these removals.

(d) An[~~No~~] individual who obtains or holds a permit from this board to transport dead human bodies shall not[~~may~~] use transport removals performed under that permit to accumulate the number of removals required to complete an apprenticeship. All apprenticeship removals shall be performed within the requirements of the apprenticeship and supervision. Hours accumulated performing removals under a Transport Permit shall not count toward an apprentice's average weekly work hours requirement.

(4) Calendar.

(a) The apprentice shall maintain a calendar at the registered location of the apprenticeship that includes[~~of~~] the apprentice's work schedule documenting an average of[~~the~~] forty (40) regular hours per week that he or she has worked. The calendar shall be reviewed and signed on a daily basis by the supervisor to indicate that the supervisor has reviewed and approved the apprentice's work. The calendar shall be available for inspection by the state inspector during any inspection of the establishment. The calendar shall be maintained by an apprentice until [~~such time as~~]the apprentice passes the required examinations and becomes licensed.

(b) The calendar shall identify:

1. The daily work schedule of the apprentice, including beginning and ending times; and

2. The days on which the apprentice does not work.

(5) An apprentice may work at the funeral establishment more hours per week than required by subsection (4) of this section. An apprentice may also attend mortuary school classes or complete mortuary school classwork while serving an apprenticeship, but shall [~~nonetheless~~]still work an average of[~~the required~~] forty (40) hours per[~~hour~~] week under the apprenticeship.

(6) If an apprentice's supervisor of record is replaced during the apprenticeship period, a Change of Supervisor form shall be completed and submitted within thirty (30) days following the change.

Section 4. Terminating and Reestablishing an Apprenticeship. (1) Within five (5) days of the termination of an apprenticeship, the supervisor of record and the apprentice shall notify the board in writing of the termination, including the date on which the apprenticeship ceased.

(2) An apprentice funeral director or embalmer whose apprenticeship is terminated at the establishment originally identified to the board shall, within thirty (30) days of being employed by another funeral director or embalmer:

(a) Notify the board in writing of the change in employment and apprenticeship by completing and submitting a Change of Supervisor form;

(b) Identify the name, street address, and license number of the funeral director or embalmer under which the apprentice is continuing the apprenticeship; and

(c) Complete a new registration as set out in Section 2 of this administrative regulation that is signed by the licensed funeral director or embalmer who is to be the apprentice's new supervisor of record.

(3) An apprentice funeral director or embalmer who is unable to perform the duties of the apprenticeship for a period of two (2) weeks or more because of:

(a) The birth of a child and to care for the newborn child within one (1) year of birth;

(b) The placement with the employee of a child for adoption or foster care and to care for the newly placed child within one (1) year of placement;

(c) To care for the employee's spouse, child, or parent who has a serious health condition;

(d) A serious health condition that makes the employee unable to perform the essential functions of his or her job; or

(e) Any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a military member on covered active duty shall immediately notify the board of:

1. The date on which the apprentice became unable to perform the duties; and

2. The date on which the apprenticeship will be recommenced, not to exceed six (6) months following the commencement of the leave from apprenticeship.

(4) An apprenticeship shall not end later than the administration of the second examination for which the apprentice is eligible.

(5) At any time an apprenticeship ceases, or becomes inactive under these administrative regulations, an apprentice shall[~~does~~] not lose credit for the time served in the[~~an~~] apprenticeship. An[~~Any such~~] apprentice whose apprenticeship has ceased or become inactive may be reinstated to apprenticeship by notice to the board including the name of the apprentice's supervisor upon his or her return to active apprenticeship, the establishment at which the apprentice is employed, and payment of a processing fee [~~of fifty (50) dollars~~]as established in 201 KAR 15:030. The reinstated apprentice shall be responsible for compliance with all other apprenticeship requirements from the date of reinstatement forward.

Section 5. Sworn Statements. (1) An apprentice shall file the Apprenticeship Sworn Statement required by KRS 316.030(7) on or before May 1 and November 1 of each year relating to the six (6) month period ending with the preceding middle of April or middle of October, respectively.

(2) The Apprenticeship Sworn Statement shall include:

(a) The names and dates of funerals in which the apprentice for a funeral director's license assisted in managing during each six (6) month period;

(b) The names and dates of embalming cases in which the apprentice for an embalmer's license assisted during each six (6) month period; and

(c) The names of the service items set forth in Section 3(6) of this administrative regulation specifically identified for each case in which the apprentice assisted during each six (6) month period.

(3) With the initial sworn statement, an apprentice shall file a report written by the applicant summarizing the requirements of KRS Chapter 316 and 201 KAR Chapter 15.

(4) With subsequent sworn statements, an apprentice shall file a report written by the applicant on an article or a book related to embalming or funeral directing read by the applicant during the six (6) month period. It shall contain a reference that includes the author, title, month and year of publication, and page numbers.

(5) The reports required by subsections (3) and (4) of this section shall be two (2) pages at a minimum and typed.

(6) An apprentice in mortuary school shall be exempt from the book report requirements of subsections (3) through (5) of this section if the apprentice submits the number of hours he or she is enrolled on the Apprenticeship Sworn Statements.

(7)(a) The supervisor of record shall sign the sworn statements and certify that the apprentice has completed the cases and service items identified in the statement.

(b) If the apprentice has received supervision from a supervisor's designee, the supervisor of record shall still be responsible for:

1. The activities of the apprentice;

2. Signing the sworn statement; and

3. The certification of completion of cases and service items identified in the statement.

(8) Before the activities of the apprentice can count toward the requirements of KRS 316.030(4)(f) or (5)(e), the case shall include the following service items:

(a) For an embalming case, the apprentice shall have participated in the service items listed in Section 4(6)(b)3 through 7 of this administrative regulation; and

(b) For a funeral directing case, the apprentice shall have participated in the service items listed in Section 4(6)(c)3 through 9 of this administrative regulation.

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

(a) "Apprenticeship Application", 9/ 2019;

(b) "Change of Apprentice Supervisor", 9/2019;

(c) "Apprenticeship Sworn Statement", 9/2019;

(d) "Level II Apprentice Application", 9/2019; and

(e) "Apprentice Travel Form", 2017.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Embalmers and Funeral Directors, 9114 Leesgate Rd, Ste 4, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m.

KANETHA DORSEY, Executive Director

APPROVED BY AGENCY: February 24, 2022

FILED WITH LRC: April 7, 2022 at 2:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 27, 2022 at 1:00 p.m., Via ZOOM. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of this hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until June 30, 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: Kanetha Dorsey, Executive Director of Kentucky Board of Embalmers and Funeral Directors, 9114 Leesgate Road, Suite 4, Louisville, Kentucky 40222, phone 502-426-4589, fax 502-426-4117, email Kanetha.dorsey@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kanetha Dorsey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation prescribes the process to apply for an apprenticeship and requirements and expectations of an apprentice and apprentice supervisor

(b) The necessity of this administrative regulation: This administrative regulation explains the process and expectations to become a funeral director or embalmer.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation prescribes the expectations and requirements of an apprentice and supervisor.

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

(a) How the amendment will change this existing administrative regulation: The fees are removed in accordance with HB 220, the phrasing errors are corrected, the word "average" has been added to make the work week expectation more fair and applicable to the profession.

(b) The necessity of the amendment to this administrative regulation: HB 220 removed fees from statutes placing them in administrative regulations. The bill went into effect 6/29/21. Apprentices will now be able to work hours that will better support their learning experience

(c) How the amendment conforms to the content of the authorizing statutes: This regulation removes the fees in accordance with HB 220.

(d) How the amendment will assist in the effective administration of the statues: The amendments clarify the requirements regarding working time for apprentices.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Board averages five (5) new apprentice applications per month. This regulation will increase application fees from thirty (30) dollars to 100 dollars per application type (embalmer or funeral director). This expense can be paid by the individual or the funeral establishment. In addition, removing fees to the appropriate regulation streamlines the information.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment:

(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: Complete the application, Pay the fee as defined in 201 KAR 15:030, Attend board meeting, Begin apprenticeship

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Apprentices will pay $100 per registration.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be legally registered to train as a funeral director and/or embalmer the specified period of time (3 years for high school graduates, 2 years for college graduates, 1 year for those with embalmer specific degrees).

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

(a) Initially: No additional cost.

(b) On a continuing basis: No additional cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? No special or additional funding will be required for implementation or enforcement.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: This administrative regulation removes fees per HB 220.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation removes fees per HB 220.

(9) TIERING: Is tiering applied? No

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Funeral Establishments and Embalming Service Establishments, Funeral Apprentices

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KAR 201 15:030, KRS 316.030(4)(g), KRS 316.030(5)(f), KRS 316.125(2)(a), KAR 201 15:040 Section 1(1), KAR 201 15:040 Section 3(3), KAR 201 15:040 Section 4(1), KAR 201 15:050 Section 4(5), KAR 201 15:110 Section 5(5)b, KAR 201 15:110 Section 5(5)c, KAR 201 15:110 Section 5(5)d, KAR 201 15:110 Section 5(5)e, KAR 201 15:125 Section 1(2)(b), KAR 201 15:125 Section 2(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. 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? No additional cost to the agency

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

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

Revenues (+/-):

Expenditures: None

Other Explanations: None

STATEMENT OF EMERGENCY
201 KAR 15:110E

During its 2021 regular session, the General Assembly passed House Bill 220 (attached), an amendment to KRS 316.030, 316.125, 316.131, 316.170, and 316.210, to allow the Board of Embalmers and Funeral Directors to establish fees through the promulgation of administrative regulations. HB 220 was signed by the Governor on March 15, 2021. This emergency regulation removes fees from this administrative regulation and centralizes all fees in one administrative regulation. HB 220 became effective on June 29, 2021. The renewal period of individuals and establishments for the Kentucky Board of Embalmers and Funeral Directors is July 1 through 31st. This emergency regulation is necessary to ensure that the Board is able to be fiscally sound. The Kentucky Board of Embalmers and Funeral Directors initially filed this emergency regulation, along with an ordinary version of the same, on June 20, 2021; however, due to a change in personnel, the Board continually deferred the regulations and they will now expire, pursuant to KRS 13A.190(3), on March 27, 2022. In accordance with KRS 13A.190(5), this subsequent emergency regulation differs from its initial version because it makes changes to comply with the Board's statutory authority and it makes numerous technical changes to comply with the formatting and drafting requirements of KRS Chapter 13A. This emergency regulation complies with the restrictions on filing subsequent administrative regulations established in KRS 13A.125 and is necessary to prevent a lapse in the Board's effective administrative regulations. This emergency regulation will be replaced by an ordinary regulation and will be submitted at the same time. The ordinary regulation is identical to the emergency.

ANDY BESHEAR, Governor
KANETHA DORSEY, Executive Director

BOARDS AND COMMISSIONS
Board of Embalmers and Funeral Directors
(Emergency Amendment)

201 KAR 15:110. Funeral establishment criteria.

EFFECTIVE: April 7, 2022

RELATES TO: KRS 316.010, 316.030, 316.125, 316.127, 316.130, 316.260, 16 C.F.R. 453.2(b)(2)-(5), 29 U.S.C. 651

STATUTORY AUTHORITY: KRS 316.125(1), 316.210(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 316.125(1) prohibits operating a full-service funeral establishment, a visitation and ceremonial funeral service establishment, or an embalming service establishment without first obtaining the applicable license from the board. KRS 316.210(1) authorizes the board to promulgate administrative regulations to carry out and enforce the provisions of KRS Chapter 316. This administrative regulation establishes the minimum requirements for the licensing and operation of a funeral establishment.

Section 1. General Requirements. (1) The interior and exterior of the establishment shall be kept free and clean of litter, dirt, debris, and clutter or other objects or conditions that present a potential or actual hazard to the health, safety, or welfare of the public and the funeral establishment's employees.

(2) Only the following persons shall be permitted in a preparation room during the course of embalming a dead human body:

(a) Employees of the establishment where the human body is being embalmed;

(b) Registered apprentices;

(c) Members of the family of the deceased;

(d) Authorized representatives of the deceased; or

(e) Any other individual otherwise allowed by law.

(3) An establishment shall maintain the following documents, if applicable:

(a) Board approved embalming reports that include:

1. The name of each body embalmed;

2. The date of death;
3. The date and time that the embalming took place;
4. The name and signature of the embalmer; and
5. The embalmer's license number;
(b) Proper documentation of the authorization to embalm; and
(c) Accurate and current copies of:
1. The casket price list;
2. The outer burial container price list;
3. The general price list; and
4. The statement required by the Federal Trade Commission in 16 C.F.R. 453.2(b)(2) through (5), as maintained in the general practice of the establishment.

(4) An establishment shall maintain embalming reports and documentation of authorization to embalm for a minimum of three (3) years.

(5) Establishments located in any public office building, strip mall, public storage, mini-storage, mini-warehouse, multiunit storage complex, or similar facility used by the general public for the storage of goods shall be ineligible for a license.

(6) The building in which an establishment is located, and any sidewalks and parking areas provided adjacent to the establishment, shall be in conformity with the requirements of the applicable federal, state and local statutes, administrative regulations, ordinances, and zoning provisions relating to publicly-accessible buildings and establishments.

(7) An establishment shall display a sign that:
(a) Identifies the name of the establishment; and
(b) Is in a location visible from an adjacent public road.

(8) An establishment shall have adequate rest room facilities for members of the public if public funeral services or visitation or ceremonial services shall[~~will~~] be conducted in the establishment.

Section 2. Visitation and Ceremonial Funeral Service Establishment. An establishment that provides visitation and ceremonial funeral services shall have:

(1) A viewing area or chapel that shall be at least 400 square feet in size; and

(2) The applicable equipment necessary for conducting and arranging funeral services, including:
(a) Tables or desks and chairs for arrangement conferences;
(b) Seating for the viewing room;
(c) Casket bier;
(d) Register book stand;
(e) Officiant stand;
(f) Flower display stands; and
(g) Organ, piano, music-producing equipment, or any suitable combination of these items.

Section 3. Embalming Service Establishment. (1) An establishment that provides embalming services shall:

(a) Have facilities and a preparation room that comply with the requirements of the Occupational Safety and Health Act, 29 U.S.C. 651;

(b) Have at least one (1) approved embalming table and all professional instruments necessary for embalming and the preparation of dead human bodies; and

(c) Ensure that a preparation room shall not be used as a storage area other than for supplies pertaining to the embalming and preparation of dead human bodies.

(2) Human remains shall not be prepared for disposition except by a licensed embalmer or a Level 2 apprentice, in accordance with KRS 316.030, in a preparation room that meets the requirements of this administrative regulation.

(3) All windows and doors shall be constructed or screened to prevent persons from looking into the preparation room.

(4) Each preparation room entrance shall be lockable, shall be locked when not in use, and shall display a sign indicating private or restricted entry.

(5) Licensed embalmers may perform removals and transport dead bodies.

Section 4. Full Service Funeral Establishments. A full service funeral establishment shall have:

(1) An area available to the public devoted to the display of funeral merchandise. Caskets or casket sections may be viewed by sample, computer, catalog, or other display that corresponds to the current general price list for the funeral establishment; and

(2) A separate room or office for arranging funerals. This room may be used to satisfy the requirements of subsection (1) of this section.

Section 5. Inspections. (1) Each establishment shall be subject to inspection at the convenience of the board inspector.

(a) An establishment that is sited on more than one (1) parcel of real estate shall be required to notify the inspector of the location and identity of the separate parcels, and shall[~~will~~] be charged a separate inspection fee as set forth in this administrative regulation for each separate parcel, as if each parcel were a separately-licensed establishment.

(b) Failure of the establishment to be open and available for an inspection within a reasonable period of time after the inspector requests access for inspection shall be deemed by the board to be a violation of KRS Chapter 316, including KRS 316.150(1)(a), and may subject the establishment and its establishment manager to disciplinary action.

(2) The inspector shall inspect the establishment to see if it has suitable and dignified quarters appropriate for the category of services for which it is licensed.

(3) An establishment that provides embalming services shall have completed and signed embalming reports available for inspection upon request.

(4) The following forms shall be available for inspection or copying by the inspector:
(a) A current general price list of charges for services to the public;
(b) A current price list of caskets as charged to the public;
(c) A current price list of outer burial containers as charged to the public; and
(d) All apprentice calendars and apprentice travel forms.

(5)(a) An establishment seeking an initial inspection for the purpose of obtaining a new license under KRS Chapter 316 may request the inspection by the inspector of the Board of Funeral Directors and Embalmers of the Commonwealth of Kentucky, and shall[~~will~~] be assessed a fee, as established in 201 KAR 15:030,[~~ in the amount of $250~~] for the inspection. This fee shall[~~will~~] cover the inspector's initial visit, and one (1) subsequent visit for re-inspection to assure that any initial deficiencies have been cured.

(b) An establishment licensed under KRS Chapter 316 that is routinely inspected by the inspector of the Board of Funeral Directors and Embalmers of the Commonwealth of Kentucky shall be assessed an inspection fee, as established in 201 KAR 15:030, payable to the board[~~, of $100~~]. This fee shall not be assessed more than one (1) time per calendar year.

(c) An establishment licensed under KRS Chapter 316 that requires a re-inspection within a period of three (3) months following a routine inspection, due to a deficiency found by the inspector of the Board of Funeral Directors and Embalmers of the Commonwealth of Kentucky on a routine inspection, shall be assessed a re-inspection fee, as established in 201 KAR 15:030[~~ of $200~~]. This fee shall be paid regardless of any disciplinary action that otherwise may be taken against the establishment for the failure of the inspection.

(d) An establishment licensed under KRS Chapter 316 may request an inspection by the inspector of the Board of Funeral Directors and Embalmers of the Commonwealth of Kentucky, and shall pay a fee, as established in 201 KAR 15:030,[~~ of $100~~] for the inspection.

(e) If an establishment fails three (3) consecutive inspections within a period of six (6) months, any subsequent inspections required to determine if the failures have been cured shall require payment, as established in 201 KAR 15:030,[~~ of a fee of $200~~] for each subsequent inspection. In an instance of three (3) consecutive failures of inspections within six (6) months, the board may also, in its sole discretion, direct that the establishment in question cease operations for an appropriate period of time to

permit the establishment to become compliant, and may assess a fine based upon the violations and failure to correct same.

(f) Inspection fees shall[~~will~~] be invoiced by the board to the licensee, and shall[~~will~~] not be due at the time of the inspection.

Section 6. Establishment Manager. (1) Each establishment shall have a Kentucky-licensed funeral director, a Kentucky-licensed embalmer, or an individual licensee as required by KRS 316.125(2)(b)(5) to manage and supervise the establishment.

(2) The establishment shall notify the board of a change of the funeral director or the establishment manager by submitting the Information and Name Change Application signed by the licensed owner and the new establishment manager within five (5) working days of the change.

(3) An establishment manager who leaves the employment of an establishment shall notify the board in writing within five (5) working days of the departure.

Section 7. Transferability. (1) Establishment licenses shall not be transferable.

(2) If a sale or lease occurs:

(a) The existing establishment license may remain in force by mutual consent of the parties for a period of thirty (30) days or until the next regularly scheduled board meeting, whichever occurs first.

(b) During the transition period, the establishment shall be operated under the name shown on the existing license until a new license is issued.

(c) An application for a new license shall be submitted for review at the next board meeting following the sale or lease.

(3) If a relocation or name change occurs, an Information and Name Change Application shall be submitted to the board.

(4)(a) Following the death of a Kentucky-licensed owner, funeral director, or embalmer, the establishment may operate for ninety (90) days while under temporary supervision by a licensed funeral director or embalmer. A licensee who is already identified as the establishment manager for another establishment under KRS 316.125(4) may act as the temporary establishment manager for the establishment under this section for the limited ninety (90) day period.

(b) The temporary establishment manager shall be identified to the board in writing by letter within fifteen (15) days of the death of the Kentucky-licensed owner, funeral director, or embalmer.

(c) A licensee may be the temporary establishment manager for only one (1) establishment at a time.

Section 8. Opening of an Establishment. (1) An establishment shall not operate or be opened for business prior to passing an inspection by the state board inspector and the issuance of an establishment license by the board for that establishment.

(2) To apply for an establishment license, the following shall be submitted to the board:

(a) A completed Establishment Application;

(b) The fee required by 201 KAR 15:030[~~by administrative regulations~~];

(c) A picture of the establishment and signage;

(d) A picture of the establishment manager;

(e) If purchasing the establishment, a certified copy of the property deed or other document demonstrating the property transfer and applicant's ownership;

(f) If a corporation, the articles of incorporation;

(g) If a partnership, the partnership agreement;

(h) If a limited liability company, the LLC agreement; and

(i) If the property is not owned by the applicant, a commercial lease, certificate of occupancy, or other legal document that demonstrates that the applicant has possession and control of the premises sufficient to be responsible for the property being configured to meet the requirements of these regulations.

(3) Violation of this section shall be grounds for denial of the application for the license by the board.

(4) All establishment licenses shall expire July 31 of each year. Establishments shall renew by submitting the following to the board:

(a) An Establishment Renewal Application;

(b) The renewal fee established in KRS 316.130(4) and 201 KAR 15:030; and

(c) A list of all licensed funeral directors and embalmers affiliated with the establishment.

Section 9. Advertising and Signage. (1) An establishment shall use the exact name listed on the license for the establishment in all advertisements and signage.

(2) Descriptive terms shall be distinctly separated from the name of the establishment in all signage and advertisements unless registered as part of the official name.

(3) Any advertising, designation, or signage for the funeral establishment shall match the classification on the establishment's license.

Section 10. Closure of an Establishment. (1) If an establishment is to be closed, for any reason, the establishment licensee shall notify the board that the establishment is to be closed, and whether the closure is permanent or for a specified period of time.

(2) An establishment that is closing shall give notice of closure to the Office of the Attorney General together with a listing of any pre-need contracts that remain in effect for the closing establishment.

(3) The licensee for a closing establishment shall give written notice of closure to clients with whom the establishment has a pre-need contract, and shall include in that notice how the establishment intends to honor its contractual obligation.

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

(a) "Establishment Application", 9/2019;

(b) "Information and Name Change Application", 9/2019; and

(c) "Establishment Renewal Application", 2017.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Embalmers and Funeral Directors, 9114 Leesgate Rd, Ste 4, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m.

KANETHA DORSEY, Executive Director

APPROVED BY AGENCY: February 24, 2022

FILED WITH LRC: April 7, 2022 at 2:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 24, 2022 at 1:00 p.m., Via ZOOM. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of this hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until May 31, 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: Kanetha Dorsey, Executive Director of Kentucky Board of Embalmers and Funeral Directors, 9114 Leesgate Road, Suite 4, Louisville, Kentucky 40222, phone 502-426-4589, fax 502-426-4117, email Kanetha.dorsey@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kanetha Dorsey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation describes to the process to open and manage a funeral establishment

(b) The necessity of this administrative regulation: This regulation licenses the establishments and sets criteria for said establishments.

(c) How this administrative regulation conforms to the content of the authorizing statutes: HB 220 removed fees from statutes placing them in administrative regulations. The bill went into effect 6/29/21. Board renewals are 7/1/22.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation supports KRS 316:010, 316:030, 316:125, 316: 127, and 316: 260 by providing a place for all funeral business to be managed and housed.

(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: Fees are removed from this regulation per HB 220, Wording and phrases errors are corrected.

(b) The necessity of the amendment to this administrative regulation: HB220 removed fees from statutes placing them in administrative regulations. The bill went into effect 6/29/21. Board renewals are 7/1/22.

(c) How the amendment conforms to the content of the authorizing statutes: This regulation removes the inspection fees from 201 KAR 15:110, along with all fees and puts them all in one, easy to access regulation.

(d) How the amendment will assist in the effective administration of the statues: Correcting phrasing errors, removing fee information.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 510 establishments, 3000 license holders, 150 surface transport licenses, 300 apprentices.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: There are no substantial changes to the regulation Fee information has moved to 201 KAR 15:030.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Must view 201 KAR 15:030 for fees.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be legally licensed for a period of one year for establishments.

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

(a) Initially: No additional cost.

(b) On a continuing basis: No additional cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? No special or additional funding will be required for implementation or enforcement.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: These fees are not increasing; just being moved to a single regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation gathers all the fees into one regulation. There is a fee increase for establishments based on case counts.

(9) TIERING: Is tiering applied? No

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Funeral Directors, Embalmers; Funeral Establishments and Embalming Services; Funeral Apprentices; Surface Transport License Holders

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KAR 201 15:030, KRS 316.030(4)(g), KRS 316.030(5)(f), KRS 316.125(2)(a), KAR 201 15:040 Section 1(1), KAR 201 15:040 Section 3(3), KAR 201 15:040 Section 4(1), KAR 201 15:050 Section 4(5), KAR 201 15:110 Section 5(5)b, KAR 201 15:110 Section 5(5)c, KAR 201 15:110 Section 5(5)d, KAR 201 15:110 Section 5(5)e, KAR 201 15:125 Section 1(2)(b), KAR 201 15:125 Section 2(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. 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? No additional cost to the agency.

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

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

Revenues (+/-): No substantial changes to this regulation. Wording and phrasing errors have been corrected and fees have been removed per HB 220.

Expenditures: None

Other Explanations: None

STATEMENT OF EMERGENCY
201 KAR 15:125E

During its 2021 regular session, the General Assembly passed House Bill 220 (attached), an amendment to KRS 316.030, 316.125, 316.131, 316.170, and 316.210, to allow the Board of Embalmers and Funeral Directors to establish fees through the promulgation of administrative regulations. HB 220 was signed by the Governor on March 15, 2021. This emergency regulation removes fees from this administrative regulation and centralizes all fees in one administrative regulation, updates language, and makes technical changes and clarifications. HB 220 became effective on June 29, 2021. The renewal period of individuals and establishments for the Kentucky Board of Embalmers and Funeral Directors is July 1 through 31st. This emergency regulation is necessary to ensure that the Board is able to be fiscally sound. The Kentucky Board of Embalmers and Funeral Directors initially filed this emergency regulation, along with an ordinary version of the same, on June 20, 2021; however, due to a change in personnel, the Board continually deferred the regulations and they will now expire, pursuant to KRS 13A.190(3), on March 27, 2022. In accordance with KRS 13A.190(5), this subsequent emergency regulation differs from its initial version because it makes changes to comply with the Board's statutory authority and it makes numerous technical changes to comply with the formatting and drafting requirements of KRS Chapter 13A. This emergency regulation complies with the restrictions on filing subsequent administrative regulations established in KRS 13A.125 and is necessary to prevent a lapse in the Board's effective administrative regulations. This emergency regulation will be replaced by an ordinary regulation and will be submitted at the same time. The ordinary regulation is identical to the emergency.

ANDY BESHEAR, Governor
KANETHA DORSEY, Executive Director

BOARDS AND COMMISSIONS
Board of Embalmers and Funeral Directors
(Emergency Amendment)

201 KAR 15:125. Surface transportation permit.

EFFECTIVE: April 7, 2022
RELATES TO: KRS 316.165

STATUTORY AUTHORITY: KRS 316.165, 316.210

NECESSITY, FUNCTION, AND CONFORMITY: KRS 316.210 authorizes the Board of Embalmers and Funeral Directors to promulgate administrative regulations to carry out and enforce the provisions of KRS Chapter 316. KRS 316.165(1) authorizes the board to issue a permit to an applicant for the sole and limited purpose of being allowed to provide surface transportation of dead human bodies. This administrative regulation establishes the criteria for issuance of these permits.

Section 1. Application. (1) An applicant seeking a permit to provide surface transportation for dead human bodies shall be of the age of eighteen (18) prior to submitting an application.

(2) An applicant applying for a permit to provide surface transportation and removal services for dead human bodies shall submit:

(a) A completed and signed application form, "Surface Transportation & Removal Permit Application", 3/2022[~~9/2019~~];

(b) The[A] fee [~~in the amount of $150~~]established in 201 KAR 15:030;

(c) Evidence of training and compliance with the standards of the Occupational Safety and Health Administration for universal precautions and blood-borne pathogens, 29 Code of Federal Regulations (C.F.R.) 1910.1030;

(d) Two (2) passport-sized photographs of the applicant;

(e) An official copy of a criminal justice information system (CJIS) report obtained from the Federal Bureau of Investigation no more than ninety (90) days prior to the application; and

(f) Evidence of possession and control or ownership of an appropriate vehicle and necessary supplies for surface transportation of dead human bodies.

(3)(a) An appropriate vehicle shall have enclosed cargo space of sufficient size to transport a dead human body securely and without exposure to weather.

(b) Necessary supplies shall include:

1. Mortuary or ambulance cot;
2. Collapsible or flexible stretcher;
3. Sheets and cot cover;
4. Pillow or head block;
5. Rubber or plastic sheeting;
6. Towels;
7. Zippered mortuary body bag or disaster pouch;
8. Straps;
9. Protective clothing; and
10. Sanitary accessories.

Section 2. Examination. (1) An applicant seeking a surface transportation permit shall be required to pass an examination on Kentucky laws and transport procedures. The examination fee established in 201 KAR 15:030 shall[~~shall be seventy-five (75) dollars and may~~] be paid at the time of application[~~ or at the time of examination~~].

(2) The examination shall be administered [~~by the board concurrently with other monthly examinations.~~]at the conclusion of the course.

(3) The board shall offer a training course related to the subject matter of the examination.

Section 3. Scope of Permit. (1) Permit holders shall only engage in surface transportation of dead human bodies requested by an authorized person from the establishment by which the permit holder is employed. Surface transportation shall be limited to obtaining the dead human bodies from the location from which the transportation services were requested[~~,~~] and transporting the dead human bodies[~~transport~~] to the establishment by which the permit holder is employed.

(2) To establish that the permit holder is employed by the establishment to which transport is being requested, a permit holder[~~holders~~] shall present a photo identification to the person or establishment requesting transport[~~, to establish that the permit holder is employed by the establishment to which transport is being requested~~].

(3) Permit holders shall not engage in any services of funeral directing or embalming or distribute any documents or materials related to those[~~such~~] services.

(4) Permit holders may only be employed by one (1) establishment at one (1) time.

(5) Permit holders shall not be required to use a casket for transportation of dead human bodies, but shall be required to use a container as may be required by[~~ the above referenced~~] OSHA guidelines.

(6) An[~~No~~] individual who obtains or holds a permit from this board to transport dead human bodies shall not[~~may~~] use transport removals performed under that permit to accumulate the number of removals required to complete an apprenticeship. All apprenticeship removals shall be performed within the requirements of the apprenticeship and under supervision, to the extent set forth in these administrative regulations. Hours accumulated in performing removals under a Transport Permit shall[~~will~~] not be counted toward the apprentice's weekly work hours requirement.

Section 4. Permit Issuance and Renewal. (1) The Surface Transportation Permit issued or renewed under this administrative regulation shall be effective for a period of one (1) year from its date of issuance.

(2) An individual seeking renewal of the Surface Transportation Permit shall submit[~~may be effected by sending~~] to the board:

(a) A completed Surface Transportation and Removal Permit Application with the Renewal box checked[~~. An applicant for renewal need not include any information already given on the original application, but~~] and shall include on the form any new or changed information;

(b) A renewal fee [~~of fifty (50) dollars~~]as established in 201 KAR 15:030; and

(c) Evidence that the permit holder has in his or her possession or control an acceptable vehicle and the requisite equipment and supplies to perform surface transportation of dead human bodies.

Section 5. Incorporation by Reference. (1) "Surface Transportation & Removal Permit Application", 3/2022[~~10/2019~~], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Embalmers and Funeral Home Directors, 9114 Leesgate Rd., Suite 4, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m.

KANETHA DORSEY, Executive Director

APPROVED BY AGENCY: February 24, 2022

FILED WITH LRC: April 7, 2022 at 2:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 27, 2022 at 1:00 p.m., Via ZOOM. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of this hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until June 30, 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: Kanetha Dorsey, Executive Director of Kentucky Board of Embalmers and Funeral Directors, 9114 Leesgate Road, Suite 4, Louisville, Kentucky 40222, phone 502-426-4589, fax 502-426-4117, email Kanetha.dorsey@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kanetha Dorsey

(1) Provide a brief summary of:

(a) What this administrative regulation does: Describes the process to obtain and renew a surface transport license

(b) The necessity of this administrative regulation: This regulation allows citizens to transport dead human bodies

(c) How this administrative regulation conforms to the content of the authorizing statutes: The board is authorized to issue a permit to an applicant for the sole purpose of being allowed to provide surface transportation of dead human bodies.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Allows the board to approve and supervise individuals who may come into contact with dead human bodies for the purpose of transporting them in the employ of funeral establishment owners or managers.

(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: Wording and phrasing errors are corrected, fees are removed as required by HB 220.

(b) The necessity of the amendment to this administrative regulation: HB220 removed fees from statutes placing them in administrative regulations. The bill went into effect 6/29/21. Board renewals are 7/1/22.

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 150 current surface transport license holders, 510 funeral establishments who do or may employ surface transport license holders.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The amendment clarifies wording, the amendment includes updated form that includes the renewal box as outlined in the regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): License application fee $150, Course and examination fee $75, Renewal Fee $150.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Compliance entitles the holder to transport dead human bodies safely for 1 year, Funeral Directors and Embalmers at the establishments can dedicate their time to the specific tasks associated with their roles.

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

(a) Initially: No additional cost

(b) On a continuing basis: No additional cost

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? No special or additional funding will be required for implementation or enforcement.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: These fees are not increasing; just being moved to a single regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are being established or increased with this amendment.

(9) TIERING: Is tiering applied? No,

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Surface Transport License Holders, Funeral Establishments and Embalming Services

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KAR 201 15:030, KRS 316.030(4)(g), KRS 316.030(5)(f), KRS 316.125(2)(a), KAR 201 15:040 Section 1(1), KAR 201 15:040 Section 3(3), KAR 201 15:040 Section 4(1), KAR 201 15:050 Section 4(5), KAR 201 15:110 Section 5(5)b, KAR 201 15:110 Section 5(5)c, KAR 201 15:110 Section 5(5)d, KAR 201 15:110 Section 5(5)e, KAR 201 15:125 Section 1(2)(b), KAR 201 15:125 Section 2(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. 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? Application for Licensure:150-$22,500 (150 applicants in first year), Course and Examination: $75-$11,250 (150 applicants in 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? Annual Renewal: $150-$22,500

(c) How much will it cost to administer this program for the first year? Paper for testing purposes $12.

(d) How much will it cost to administer this program for subsequent years? Paper for testing purposes $12.

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

Revenues (+/-): About $33,750/ year

Expenditures: None

Other Explanations: None

STATEMENT OF EMERGENCY
201 KAR 20:070E

This emergency amendment to an existing administrative regulation is being promulgated to meet an imminent threat to public health and welfare. The Commonwealth of Kentucky is experiencing a critical nursing shortage, as evidenced by the Governor declaring a state of emergency under Executive Order 2021-913. This emergency administrative regulation is being filed on an emergency basis under Kentucky Revised Statutes (KRS) 13A.190, 39A.180, 314.011, 314.041, 314.051, and 314.131(1), to meet an imminent threat to public health, safety and welfare and to address the nursing shortage by easing the provisional licensing requirement for nurse applicants who have not passed the National Council Licensure Examination (NCLEX). The existing regulation provides that a provisional license is revoked after one failed attempt to pass the NCLEX. This emergency administrative regulation differs from the existing administrative regulation because it provides applicants for nurse licensure two opportunities within six months to take and pass the NCLEX, before their provisional license is revoked for failing to pass the exam. It further limits their provisional licenses to a period of six months. This emergency administrative regulation will be replaced by an identical ordinary administrative regulation.

ANDY BESHEAR, Governor
JESSICA WILSON, President

BOARDS AND COMMISSIONS
Board of Nursing
(Emergency Amendment)

201 KAR 20:070E. Licensure by examination.

EFFECTIVE: April 6, 2022

RELATES TO: KRS 194A.540, 314.041, 314.051(3), (6), 314.103, 314.109, 314.475

STATUTORY AUTHORITY: KRS 39A.190, 314.041(2), 314.051(3), 314.103, 314.131(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Kentucky Board of Nursing to promulgate administrative regulations to implement the provisions

of KRS 314.011 to 314.991. KRS 314.041(2) requires an applicant for licensure as a registered nurse to pass an examination prescribed by the board. KRS 314.103 authorizes the board to require a criminal background check investigation of an applicant or nurse. KRS 314.051(3) requires an applicant for licensure as a licensed practical nurse to pass an examination prescribed by the board. This administrative regulation establishes the requirements for the licensure of nurses by examination. This Emergency Amendment is promulgated pursuant to KRS 39A.190.

Section 1. Eligibility for Licensure by Examination for a Graduate of a Kentucky Program or Other State or Territorial Nursing Program.

(1) To be eligible for licensure by examination, an applicant shall:

(a) Submit:

1. A properly executed application for licensure, as required by and incorporated by reference in 201 KAR 20:370, Section 1(1);

2. The licensure application fee as established in 201 KAR 20:240;

3. A criminal record check completed within six (6) months of the date of the application by the Department of Kentucky State Police (KSP) and the Federal Bureau of Investigation (FBI) using the FBI Applicant Fingerprint Card, and including payment of any required fee to the KSP and the FBI;

4. A certified or attested copy of the court record of any misdemeanor or felony conviction as required by 201 KAR 20:370, Section 1(3);

5. A letter of explanation that addresses each conviction, if applicable;

6. A certified copy of any disciplinary action taken on any professional or business license in another jurisdiction with a letter of explanation or a report if there is any disciplinary action pending on any professional or business license in another jurisdiction; and

7. Evidence of completion of the jurisprudence examination required by KRS 314.041(4) for RN applications or KRS 314.051(4) for LPN applications;

(b) Notify the board as soon as a new address is established after submitting the application;

(c) Submit a copy of a marriage certificate, divorce decree, Social Security card, or court order to change the applicant's name, if the applicant's name is changed after the original application is filed;

(d) While taking the examination, abide by and cooperate with security procedures adopted by the board; and

(e) Apply to take and pass the National Council Licensure Examination.

(2) An application for licensure shall be valid for a period of one (1) year from the date the application is filed with the board office or until the board receives the results of the examination.

(3)(a) Except as provided in paragraph (b) of this subsection, the name of the applicant shall appear on the Certified List of Kentucky Program of Nursing Graduates or the Certified List of Out-of-state Program of Nursing Graduates.

(b) If the name does not appear on the list, the applicant shall request that the program submit to the board an official transcript verifying completion of program requirements.

(c) The Certified List of Out-of-state Program of Nursing Graduates shall be submitted by the nurse administrator of the out-of-state program of nursing.

(4)(a) The applicant shall complete the three (3) hour continuing education course on domestic violence within three (3) years of licensure as required by KRS 194A.540.

(b) The applicant shall complete the applicable[~~one and one-half (1.5) contact hour~~] continuing education courses[~~course on pediatric abusive head trauma within three (3) years of licensure~~] as required by 201 KAR 20:215, Section 5[~~(3)~~].

(5) An applicant shall not be licensed until a report is received from the FBI pursuant to the request submitted pursuant to subsection (1)(a)3 of this section and any conviction is addressed by the board.

(6) A graduate of a school of nursing in Puerto Rico after September 1, 2006, in addition to the other requirements of this section, shall provide evidence of evaluation of the graduate's transcript by the Commission on Graduates of Foreign Nursing Schools or a credential evaluation organization that is a member of the National Association of Credentialing Evaluation Services. The evaluation shall indicate that the school of nursing is substantially equivalent to a school of nursing in this state.

Section 2. Retaking the Examination. (1) An examination candidate who fails to achieve a passing result may retake the examination after meeting the requirements of Section 1 of this administrative regulation.

(2) The applicant shall not be eligible to take the examination more often than once every forty-five (45) days.

Section 3. Release of Examination Results. The board shall release examination results to:

(1) The candidate;

(2) Other state boards of nursing;

(3) The National Council of State Boards of Nursing, Inc.;

(4) The candidate's program of nursing; and

(5) An individual or agency who submits an applicant's or licensee's written authorization for their release, if applicable.

Section 4. Provisional License. (1) An applicant shall request a provisional license by completing the application for licensure required by Section 1 of this administrative regulation.

(2)(a) The board shall issue the provisional license to the applicant after Section 1(1)(a) and (3) of this administrative regulation are met, but not until the report is received from the FBI and any conviction is addressed by the board.

(b) In this[~~the~~] case of a graduate of a foreign nursing school, the board shall issue the provisional license after the requirements of 201 KAR 20:480[~~, Section 1(1) and (4),~~] are met.

(3) To qualify as direct supervision pursuant to KRS 314.041(5) and KRS 314.051(6), the nurse responsible for the applicant shall be physically present in the facility and immediately available to the applicant during work hours while the applicant holds a provisional license.

(4) The nurse responsible for the applicant shall be currently licensed or privileged to practice pursuant to KRS 314.475 as a nurse in Kentucky.

(5) Upon notification to the board that the applicant has failed the NCLEX examination after two (2) attempts, the provisional license shall be voided.

(6) A provisional license shall be valid for a period not to exceed six (6) months.

Section 5. (1) An applicant not from a party state under the Nurse Licensure Compact who is issued a license and who does not have permanent residency in Kentucky shall be issued a license that indicates on the license that it is only valid in Kentucky.

(2) The board may request that an applicant provide evidence of the applicant's state of residence.

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

(a) "Certified List of Kentucky Program of Nursing Graduates", 6/10, Kentucky Board of Nursing; and

(b) "Certified List of Out-of-State Program of Nursing Graduates", 6/10, Kentucky Board of Nursing.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m.

JESSICA WILSON, President

APPROVED BY AGENCY: March 25, 2022

FILED WITH LRC: April 6, 2022 at 9:00 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Monday, May 23, 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, May 16,

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) Tuesday, May 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: 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: This administrative regulation establishes the requirements to obtain an RN or LPN license by examination.

(b) The necessity of this administrative regulation: This administrative regulation is necessary because of KRS 314.041 and KRS 314.051.

(c) How this administrative regulation conforms to the content of the authorizing statutes: of KRS 314.041 and KRS 314.051, which requires the Board to promulgate an administrative regulation concerning obtaining an RN or LPN license.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by setting the standards and process for obtaining an RN or LPN license.

(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 amendment includes recent educational requirements under 201 KAR 20:215; expands requirements for graduates of foreign programs of nursing to include passing a English proficiency exam under 201 KAR 20:480 before they are issued a provisional license. Provides that graduates of nursing programs may take two attempts to pass the National Council Licensure Examination (NCLEX) before their provisional license is voided; and it limits provisional licenses to be valid for a period of six months.

(b) The necessity of the amendment to the administrative regulation: To address changes to existing regulations, and to address the nursing shortage by allowing new graduates to stay in the workforce if they fail their first attempt at passing the NCLEX.

(c) How the amendment conforms to the content of the authorizing statutes: The Board is authorized to make these changes

(d) How the amendment to the administrative regulation will assist in the effective administration of the statutes: By clearing up inconsistencies in current regulations.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Applicants for nursing licensure, number unknown.

(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: Nurses of foreign programs of nursing will be required to pass an English proficiency exam before given a provisional license. All graduates of nursing programs will need to pass the NCLEX after a second attempt within 6 months.

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

(c) The benefits that may accrue to the entities referenced in question (3) as a result of compliance: Applicants will be allowed two attempts at the NCLEX to keep their provisional licenses.

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

(a) Initially: No additional costs.

(b) On a continuing basis: None.

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation or amendment: No increase is needed.

(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? There is no tiering.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 314.131.

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

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

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

(c) How much will it cost to administer this program for the first year? No additional cost.

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

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

STATEMENT OF EMERGENCY
202 KAR 7:545E

This emergency administrative regulation is being promulgated in order to meet an imminent threat to public health, safety, and welfare. Specifically, this emergency amendment is necessary to ensure ambulance services remain eligible to obtain a license from the Board more than 90 days after being issued a Certificate of Need ("CON") from the Cabinet for Health and Family Services (the "Cabinet").

Senate Bill 150 (Regular Session 2020) ("SB 150") granted the Kentucky Board of Emergency Medical Services (the "Board") the authority to waive or modify certain statutes and regulations related to the EMS profession during the State of Emergency declared by the Governor in Executive Order 2020-215. *See* SB 150 § 1(13). On or about October 11, 2021, the Board filed an emergency waiver and modification of 202 KAR 7:545 with the Secretary of State, which waived the requirement that ambulance services

obtain a license from the Board within 90 days of being issued a CON from the Cabinet. This waiver and modification was necessary because ambulance services were not able to meet the 90-day requirement due in part to staffing shortages and supply chain delays.

The Board's modification and waiver of 202 KAR 7:545 was ratified and approved by the General Assembly. *See* Senate Bill 25 (Regular Session 2022) § 4(27)(h). Due to the continued impracticability of obtaining a license from the Board within 90 days of the agency being issued a CON, the Board filed an ordinary regulation amendment to 202 KAR 7:545 on February 8, 2022. The amendment would have required agencies to "apply for" rather than "obtain" a license from the Board within 90 days of issuance of a CON and to request a final inspection for licensure within 180 days after applying for a license. However, on January 14, 2022, Senate Bill 25 (Regular Session 2022) ("SB 25") became law. Pursuant to Section 4 of SB 25, the Board's modification and waiver of 202 KAR 7:545 will expire on April 14, 2022. Therefore, an ordinary administrative regulation is not sufficient to address the imminent threat to public health, safety, and welfare because the Board's ordinary amendment to 202 KAR 7:545 filed on February 8, 2022 could not become effective before the Board's modification and waiver expires on April 14, 2022.

EMS agencies seeking a license from the Board continue to experience staffing shortages and supply chain delays, and it remains impractical to satisfy the 90-day requirement. Therefore, the continued ability for EMS agencies to obtain a license from the Board more than 90 days after being issued a CON from the Cabinet is critical to ensuring that new agencies can be licensed by the Board and can begin providing EMS services to underserved communities. Accordingly, EMS staffing shortages, supply chain delays, and the April 14, 2022 expiration of the Board's modification and waiver of 202 KAR 7:545 (which would have the effect of reimposing the 90-day requirement) present an imminent threat to public health, safety, and welfare and this emergency administrative regulation is necessary.

This emergency administrative regulation will be replaced by an ordinary administrative regulation because EMS staffing shortages, supply chain delays, and the impracticability of satisfying the 90-day requirement are expected to continue. The companion ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor
PHILIP DIETZ, Chair

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM
Kentucky Board of Emergency Medical Services
(Emergency Amendment)

202 KAR 7:545E. License classifications.

EFFECTIVE: March 30, 2022
RELATES TO: KRS 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~~]ambulance services and medical first response agencies, except those regulated by the Board of [~~Emergency~~]Medical Licensure[~~Services~~] or the Cabinet for Health and Family Services. KRS 311A.030 requires the board to promulgate administrative regulations to establish requirements for various classes of ambulance and emergency medical service agencies. This administrative regulation establishes requirements for each class of ambulance service and medical first response agencies.

Section 1. License Classifications. (1) In accordance with KRS 311A.030(1), license classifications for ambulance providers shall include:

(a) A Class I ground ambulance agency operating at the Advanced Life Support (ALS), Basic Life Support (BLS), or Adult Critical Care Transport level to provide emergency and nonemergency care and transportation.

(b) A Class II ground ambulance agency operating at the BLS level only to provide nonemergency care and transportation.

(c) A Class III ground ambulance agency operating at the ALS level to provide critical care, specialty care, emergency or nonemergency care, and transportation between health care facilities. Based on the Certificate of Need and scope of care policy, a Class III ground ambulance agency shall be designated as one (1) or more of the following types:

1. A Class III Adult Critical Care agency providing critical care transport services to patients ages twelve (12) and above;

2. A Class III Pediatric Specialty Care agency providing specialty care transport services to patients under the age of twenty-one (21); or

3. A Class III Neonatal Specialty Care agency providing specialty care transport services to patients less than twenty-nine (29) days of age.

(d) A Class IV ground ambulance agency operating at the ALS or BLS level to provide emergency and nonemergency care and transportation for restricted locations, such as industrial sites or other sites that do not provide services outside the designated geographic service area.

(e) A Class VI agency providing medical first response without patient transport at the BLS or ALS level.

1. Each BLS First Response agency shall be licensed separately as a Class VI BLS agency unless a mutual aid agreement is executed with a licensed Class I ambulance agency that provides 911 response services for the geographic service area.

2. A nonlicensed BLS First Response Agency may execute a mutual aid agreement with multiple nonlicensed BLS First Response Agencies that serve the same geographic service area.

3. A mutual aid agreement shall automatically renew at the conclusion of a calendar year.

4. A nonlicensed BLS First Response Agency or a Class I ALS agency may terminate a mutual aid agreement thirty (30) days after written notice is provided to the other party.

5. A mutual aid agreement between a Class I ALS agency and a nonlicensed BLS First Response agency serving the same geographic area shall be updated as changes to the agreement occur and shall include provisions for:

a. Medical direction;
b. BLS protocols;
c. Response protocol;
d. Geographic service areas to be served;
e. Circumstances causing dispatch of the nonlicensed BLS first response agency;
f. Training;
g. Quality assurance processes; and
h. Liability Insurance if applicable.

6. A nonlicensed BLS First Response agency shall not provide BLS care outside of the geographic service area of the Class I ALS agency.

7. A nonlicensed BLS First Response agency unable to secure a written mutual aid agreement with a Class I ALS agency within its geographic service area, may operate within the jurisdiction as a nonlicensed BLS First Response agency if the agency has written correspondence from at least one (1) Class I 911 agency within its geographic service area denying the agency's request to enter into a mutual aid agreement. The correspondence denying the mutual aid request shall be maintained on file at the agency.

8. A license to provide BLS care shall not be issued solely through the execution of a mutual aid agreement between a Class I agency and a nonlicensed BLS First Response agency;

(f) A Class VII rotor wing air ambulance service providing ALS emergency or nonemergency air transportation;

(g) A fixed wing class VII service provides ALS or BLS emergency or nonemergency air transportation; and

(h) A Class VIII agency providing BLS or ALS pre-hospital care above the first-aid level at special events, sports events, concerts, or large social gatherings.

1. A Class VIII agency shall not transport patients beyond the grounds of an event and shall be bound by the geographic service area of its Certificate of Need.

2. A Class VIII agency shall not transport patients independently to a hospital.

3. If transport of a patient is required, a Class VIII agency shall contact 911 for transport by a Class I agency licensed for the geographic service area.

(2) The KBEMS office shall license agencies in accordance with subsection (1) of this section.

(3) An agency shall apply for[~~obtain~~] a license from the board within ninety (90) days of issuance of a Certificate of Need from the Cabinet for Health and Family Services.

(4) An agency that does not apply for[~~receive~~] a license within ninety (90) days of the issuance of its Certification of Need shall not be granted a license by the board.

(5) An agency shall request a final inspection for licensure from the board, in writing, within 180 days after applying for a license from the board.

(6) An agency that does not request a final inspection for licensure from the board, in writing, within 180 days after applying for a license from the board shall not be granted a license by the board.

(7)[~~(5)~~] An agency shall not hold more than one (1) license per level of classification in one (1) defined geographic service area unless each license was obtained prior to January 1, 2018.

Section 2. Public Notice of Negative Action. The board office shall publish on the KBEMS Web site or similar publication of the board, 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, Chair

APPROVED BY AGENCY: March 24, 2022

FILED WITH LRC: March 30, 2022 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 25, 2022 at 1:00 p.m. ET 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 May 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: Michael Poynter, Executive Director, Kentucky Board of Emergency Medical Services, 2464 Fortune Drive, Suite 195, Lexington, Kentucky 40509, phone (859) 256-3584, email michael.poynter@kctcs.edu.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michael Poynter

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements for each class of ambulance service and medical first response agencies.

(b) The necessity of this administrative regulation: KRS 311A.020 requires the Board to exercise all administrative functions in the regulation of ambulance services and medical first response agencies, except those regulated by the Board of Medical Licensure or the Cabinet for Health and Family Services. KRS 311A.030 requires the board to promulgate administrative regulations to establish requirements for various classes of ambulance and emergency medical service agencies. This administrative regulation is necessary to establish requirements for each class of ambulance service 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.020 and 311A.030 by establishing requirements for each class of ambulance service and medical first response agencies.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 311A.020 requires the Board to exercise all administrative functions in the regulation of ambulance services and medical first response agencies, except those regulated by the Board of Medical Licensure or the Cabinet for Health and Family Services. KRS 311A.030 requires the board to promulgate administrative regulations to establish requirements for various classes of ambulance and emergency medical service agencies. This administrative regulation assists in the effective administration of these statutes by establishing requirements for each class of ambulance service and medical first response agencies.

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

(a) How the amendment will change this existing administrative regulation: This amendment removes the requirement that agencies obtain a license from the Board within ninety (90) days after receiving a certificate of need. Instead, agencies will only need to apply for a license from the Board within ninety (90) days of issuance of a certificate of need. After applying for a license, agencies must request a final inspection from the Board within 180 days.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary because it is difficult for agencies to satisfy the requirement that they receive a license within ninety (90) days of issuance of a certificate of need. Before a license may be issued by the Board, new EMS agencies must contract with a medical director, order medications, purchase and acquire ambulances, hire staff, procure physical locations, etc. Were the Board to strictly enforce this requirement, some otherwise qualified agencies would be denied a license.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of KRS 311A.020 and 311A.030 by removing requirements for each class of ambulance service and medical first response agencies.

(d) How the amendment will assist in the effective administration of the statutes: KRS 311A.020 requires the Board to exercise all administrative functions in the regulation of ambulance services and medical first response agencies, except those regulated by the Board of Medical Licensure or the Cabinet for Health and Family Services. KRS 311A.030 requires the board to promulgate administrative regulations to establish requirements for various classes of ambulance and emergency medical service agencies. This amendment will assist in the effective administration of these statutes by removing requirements for each class of ambulance service and medical first response agencies.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All ambulance services and medical first response agencies will be affected by this administrative regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Ambulance services and medical first response agencies will no longer be required to obtain a license from the Board within ninety (90) days after the issuance of a certificate of need.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Compliance with this administrative regulation will not require entities to incur any additional costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Ambulance services and medical

first response agencies will benefit from being permitted to receive a license from the Board more than ninety (90) days after being issued a certificate of need.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: There will be no cost to the administrative body to implement this administrative regulation.

(a) Initially: There will be no cost to the administrative body to implement this administrative regulation.

(b) On a continuing basis: There will be no cost to the administrative body to implement this administrative regulation.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: No funding source is necessary to implement and enforce this administrative regulation.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied to this administrative regulation because this amendment applies to all ambulance services and medical first response agencies.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The administrative regulation will affect all ambulance services and medical first response agencies.

(2) Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 311A.020 requires the Board to exercise all administrative functions in the regulation of ambulance services and medical first response agencies, except those regulated by the Board of Medical Licensure or the Cabinet for Health and Family Services. KRS 311A.030 requires the board to promulgate administrative regulations to establish requirements for various classes of ambulance and emergency medical service agencies. This administrative regulation establishes requirements for each class of ambulance service and medical first response agencies.

(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? Administration of this administrative regulation will not require any costs.

(d) How much will it cost to administer this program for subsequent years? Administration of this administrative regulation will not require any costs.

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 require any additional expenditures.

Other Explanation:

STATEMENT OF EMERGENCY
202 KAR 7:560E

This emergency administrative regulation is being promulgated in order to meet an imminent threat to public health, safety, and welfare. Specifically, this emergency amendment is necessary to ensure adequate staffing of ambulances.

Senate Bill 150 (Regular Session 2020) ("SB 150") granted the Kentucky Board of Emergency Medical Services (the "Board") the authority to waive or modify certain statutes and regulations related to the EMS profession during the State of Emergency declared by the Governor in Executive Order 2020-215. *See* SB 150 § 1(13). On or about April 14, 2020, the Board filed an emergency waiver and modification of 202 KAR 7:560 with the Secretary of State, which waived the requirement that ambulances be driven by an emergency medical technician (EMT) and provided instead that ambulances could be driven by "[a] driver certified in CPR and who has had an emergency vehicle operator's course". This waiver and modification allowed emergency medical responders (EMRs) to drive ambulances during the State of Emergency and was necessary to address EMS staffing shortages across the Commonwealth.

The Board's modification and waiver of 202 KAR 7:560 was ratified and approved by the General Assembly. *See* House Joint Resolution 1 (Special Session 2021) § 4(29)(k); Senate Bill 25 (Regular Session 2022) § 4(27)(k). Due to continued EMS staffing shortages, on January 12, 2022, the Board filed an ordinary regulation amendment to 202 KAR 7:560 to allow EMRs to continue to drive ambulances after the State of Emergency ends. However, on January 14, 2022, Senate Bill 25 (Regular Session 2022) ("SB 25") became law. Pursuant to Section 4 of SB 25, the Board's modification and waiver of 202 KAR 7:560 will expire on April 14, 2022. Therefore, an ordinary administrative regulation is not sufficient to address the imminent threat to public health, safety, and welfare because the Board's ordinary amendment to 202 KAR 7:560 filed on January 12, 2022 could not become effective before the Board's modification and waiver expires on April 14, 2022.

Emergency medical services across the Commonwealth continue to experience staffing shortages and, therefore, the continued ability for EMS agencies to assign EMRs as ambulance drivers is critical to ensuring that agencies can adequately staff the ambulances that serve their communities. Accordingly, EMS staffing shortages and the April 14, 2022 expiration of the Board's modification and waiver of 202 KAR 7:560 pose an imminent threat to public health, safety, and welfare and this emergency administrative regulation is necessary.

This emergency administrative regulation will be replaced by an ordinary administrative regulation because EMS staffing shortages are expected to continue and the requirement the EMTs drive ambulances rather than EMRs is not necessary. The companion ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor
PHILIP DIETZ, Chair

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM
Kentucky Board of Emergency Medical Services
(Emergency Amendment)

202 KAR 7:560E. Ground vehicle staff.

EFFECTIVE: March 30, 2022
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 there is a[~~an on-duty~~] paramedic on-duty at all times[~~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, Chair

APPROVED BY AGENCY: March 24, 2022

FILED WITH LRC: March 30, 2022 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 25, 2022 at 1:00 p.m. ET 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 May 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: Michael Poynter, Executive Director, Kentucky Board of Emergency Medical Services, 2464 Fortune Drive, Suite 195, Lexington, Kentucky 40509, phone (859) 256-3584, email michael.poynter@kctcs.edu.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michael Poynter

(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:

STATEMENT OF EMERGENCY
803 KAR 25:195E

KRS 342.020(1) requires employers to pay for reasonable and necessary medical treatment for the cure and relief from the effects of a work-place injury or occupational disease. KRS 342.020(4) requires the employer to pay the medical provider within thirty (30) days of receipt of a statement for services and requires the commissioner to promulgate administrative regulations establishing conditions under which the thirty (30) day period for payment may be tolled. KRS 342.020(4) further requires the commissioner to promulgate administrative regulations with procedures by which disputes regarding the necessity, effectiveness, frequency, and cost of treatment may be resolved. Utilization review is a procedure by which medical treatment may be evaluated for reasonableness and necessity and disputes may be resolved; the thirty (30) day period for payment is tolled while a treatment is undergoing utilization review. Additionally, KRS 342.020(7)(f) requires employers with a managed care system to establish procedures for utilization review of medical services to assure that a course of treatment is reasonably necessary; diagnostic procedures are not unnecessarily duplicated; the frequency, scope, and duration of treatment is appropriate; pharmaceuticals are not unnecessarily prescribed; and that ongoing and proposed treatment is not experimental, cost ineffective, or harmful to the employee. KRS 342.035(5)(c) requires the commissioner to promulgate administrative regulations governing medical provider utilization review activities conducted by an insurance carrier, self-insured group, or self-insured employer pursuant to KRS Chapter 342. During the 2017 session of the General Assembly, KRS Chapter 13A was amended to state that administrative regulations shall expire seven (7) years after the last effective date. KRS 342.190 was due to expire unless the regulations compiler was notified that the Department of Workers' Claims had reviewed the administrative regulation and certified its desire to keep the administrative regulation in effect or notified the regulations compiler it would amend the administrative regulation; the Department notified the regulations compiler of its intent to amend 803 KAR 25:190. An amendment to 803 KAR 25:190 was filed February 18, 2021, and found deficient by the Administrative Regulation Review Subcommittee during its meeting on November 9, 2021. Governor Andy Beshear determined 803 KAR 25:190 was effective notwithstanding the finding of deficiency. The General Assembly passed Senate Bill 65 on April 13, 2022, over the Governor's veto. Senate Bill 65 provides that 803 KAR 25:190, as amended, expires if not adopted by the time the bill was enacted or, if it had been adopted by the time the bill was enacted, then 803 KAR 25:190 is null, void, and unenforceable at the time the bill was enacted. In contravention to the statutory requirements of KRS Chapter 342, no administrative regulation is in effect to govern medical provider utilization review activities conducted by an insurance carrier, self-insured group, or self-insured employer pursuant to KRS Chapter 342. Additionally, it is not possible to have an ordinary administrative regulation become effective in time to meet these statutory requirements. The guidance provided in this emergency administrative regulation cannot be provided through an ordinary administrative regulation because the ordinary rulemaking process cannot be completed in time to meet the statutory requirements. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor
JAMIE LINK, Secretary

LABOR CABINET
Department of Workers' Claims
(New Emergency Administrative Regulation)

803 KAR 25:195E. Utilization review, appeal of utilization review decisions, and medical bill audit.

EFFECTIVE: April 15, 2022
RELATES TO: KRS Chapter 342
STATUTORY AUTHORITY: KRS 342.035(5), (6), 342.260

NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.260 provides that the Commissioner of the Department of Workers' Claims shall promulgate administrative regulations necessary to carry on the work of the Department of Workers' Claims, and the commissioner may promulgate administrative regulations not inconsistent with the provisions of KRS Chapter 342. KRS 342.035(5) requires the commissioner to promulgate administrative regulations governing medical provider utilization review activities conducted by an insurance carrier, group self-insurer or self-insured employer pursuant to KRS Chapter 342. KRS 342.035(5) provides the commissioner of the Department of Workers' Claims shall promulgate administrative regulations that require each insurance carrier, group self-insurer and individual self-insured employer to certify to the commissioner the program it has adopted to insure compliance with the medical fee schedule provisions of KRS 342.035(1) and (4). KRS 342.035(8) requires the commissioner to adopt or develop a pharmaceutical formulary and treatment guidelines; utilization review assists in the proper implementation of the pharmaceutical formulary and treatment guidelines. This administrative regulation insures that insurance carriers, group self-insurers, and individual self-insured employers implement a utilization review and medical bill audit program.

Section 1. Definitions. (1) "Business day" means any day except Saturday, Sunday or any day which is a legal holiday.

(2) "Calendar day" means all days in a month, including Saturday, Sunday and any day which is a legal holiday.

(3) "Carrier" is defined by KRS 342.0011(6).

(4) "Commissioner" is defined by KRS 342.0011(9).

(5) "Denial" means a determination by the utilization reviewer that the medical treatment, proposed treatment, service, or medication under review is not medically necessary or appropriate and, therefore, payment is not recommended.

(6) "Department" is defined by KRS 342.0011(8).

(7) "Medical bill audit" means the review of medical bills for services which have been provided to assure compliance with adopted fee schedules.

(8) "Medically necessary" or "medical necessity" means healthcare services, including medications, that a medical provider,

exercising prudent clinical judgment, would provide to a patient for the purpose of preventing, evaluating, diagnosing or treating, an illness, injury, disease or its symptoms, and that are:

(a) In accordance with generally accepted standards of medical practice;

(b) Clinically appropriate, in terms of type, frequency, extent site and duration; and

(c) Considered effective for the patient's illness, injury, or disease.

(9) “Medical payment obligor” means any employer, carrier, insurance carrier, self-insurer, or any person acting on behalf of or as an agent of the employer, carrier, insurance carrier, or self-insurer.

(10) “Medical provider” means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, osteopathic and chiropractic practitioners, physician assistants, and advanced practice registered nurses, acting within the scope of their license

(11) “Physician” is defined by KRS 342.0011(32).

(12) "Preauthorization" means a process whereby payment for a medical service or course of treatment is assured in advance by a carrier.

(13) "Utilization review" means a review of the medical necessity and appropriateness of medical care and services for purposes of recommending payments for a compensable injury or disease.

(14) "Utilization review and medical bill audit plan" means the written plan submitted to the commissioner by each medical payment obligor describing the procedures governing utilization review and medical bill audit activities.

(15) "Vendor" means a person or entity which implements a utilization review and medical bill audit program for purposes of offering those services to carriers.

Section 2. Utilization Review and Medical Bill Audit Program. (1) The utilization review program shall assure that:

(a) A utilization reviewer is appropriately qualified;

(b) Treatment rendered to an injured worker is medically necessary and appropriate; and

(c) Necessary medical services are not withheld or unreasonably delayed.

(2) The medical bill audit program shall assure that:

(a) A statement or payment for medical goods and services and charges for a deposition, report, or photocopy comply with KRS Chapter 342 and 803 KAR Chapter 25;

(b) A medical bill auditor is appropriately qualified; and

(c) A statement for medical services is not disputed without reasonable grounds.

Section 3. Utilization Review and Medical Bill Audit Plan Approval. (1) A medical payment obligor shall fully implement and maintain a utilization review and medical bill audit program.

(2) A medical payment obligor shall provide to the commissioner a written plan describing the utilization review and medical bill audit program. The commissioner shall approve each utilization review and medical bill audit plan which complies with the requirements of this administrative regulation and KRS Chapter 342.

(3) A vendor shall submit to the commissioner for approval a written plan describing the utilization review and medical bill audit program. Upon approval, the vendor shall receive written notice from the commissioner.

(4) A medical payment obligor who contracts with an approved vendor for utilization review or medical bill audit services shall notify the commissioner of the contractual arrangement. The contractual arrangement may provide for separate utilization review and medical bill audit vendors.

(5) A plan shall be approved for a period of four (4) years.

(a) At least ninety (90) calendar days prior to the expiration of the period of approval, a medical payment obligor or its approved vendor shall apply for renewal of the approval.

(b) During the term of an approved plan, the commissioner shall be notified as soon as practicable of a material change in the approved plan or a change in the selection of a vendor.

(6) A carrier who contracts with an approved vendor for utilization review services shall provide annually to the commissioner summaries of the number of utilization reviews conducted, utilization reviews waived in accordance with KRS 342.035(5)(c), utilization reviews resulting in an approval, and utilization reviews resulting in a denial. The annual report of the approved vendor shall be filed with the commissioner no later than August 1 for the preceding year, including any fiscal year ending on or before June 30.

Section 4. Utilization Review and Medical Bill Audit Written Plan Requirements. The written utilization review and medical bill audit plan submitted to the commissioner shall include the following elements:

(1) A description of the process, policies and procedures for making decisions;

(2) A statement that medical treatment guidelines adopted by the commissioner pursuant to KRS 342.035 (8)(a) shall be incorporated in the plan as the standard for utilization review medical decision making;

(3) A description of the criteria by which claims, medical services and medical bills shall be selected for review;

(4) A description of the:

(a) Qualifications of internal and consulting personnel who shall conduct utilization review and medical bill audit; and

(b) The manner in which the personnel shall be involved in the review process;

(5) A description of the process to assure that a treatment plan shall be obtained for review by qualified medical personnel if a treatment plan is required by 803 KAR 25:096;

(6) A description of the process to assure that a physician shall be designated by each injured employee as required under 803 KAR 25:096;

(7) A description of the process for rendering and promptly notifying the medical provider and employee of the initial utilization review decision;

(8) A description of the reconsideration process within the structure of the utilization review and medical bill audit program;

(9) An assurance that a database shall be maintained, which shall:

(a) Record:

1. Each instance of utilization review;
2. Each instance of medical bill audit;
3. The name of the reviewer;
4. The extent of the review;
5. The conclusions of the reviewer; and
6. The action, if any, taken as the result of the review;

(b) Be maintained for a period of at least two (2) years; and

(c) Be subject to audit by the commissioner, or his agent, pursuant to KRS 342.035(5)(b); and

(10) A description of the policies and procedures that shall be implemented to protect the confidentiality of patient information.

Section 5. Claim Selection Criteria. (1) Unless the medical payment obligor, in good faith, denies the claim as noncompensable or waives utilization review pursuant to KRS 342.035 (5)(c), medical services reasonably related or asserted to be related to the claim shall be subject to utilization review if:

(a) A medical provider requests preauthorization of a medical treatment or procedure;

(b) Notification of a surgical procedure or resident placement pursuant to an 803 KAR 25:096 treatment plan is received;

(c) The total medical costs cumulatively exceed $3000;

(d) The total lost work days cumulatively exceed thirty (30) days; or

(e) An administrative law judge orders a review.

(2) Utilization review shall commence when the medical payment obligor has notice that a claims selection criteria has been met. The medical payment obligor may waive utilization review pursuant to KRS 342.035(5)(c) within two (2) business days of notice that a claims selection criteria has been met.

(a) The following requirements shall apply if preauthorization has been requested and utilization review has not been waived by

the medical payment obligor:

1. The initial utilization review decision shall be communicated to the medical provider and employee within two (2) business days of the initiation of the utilization review process, unless additional information is required. If additional information is required, a single request shall be made within two (2) additional business days.

2. The requested information shall be submitted by the medical provider within ten (10) business days.

3. The initial utilization review decision shall be rendered and communicated within two (2) business days following receipt of the requested information.

(b) The following requirements shall apply if retrospective utilization review occurs:

1. The initial utilization review decision shall be communicated to the medical provider and employee within ten (10) calendar days of the initiation of the utilization review process, unless additional information is required. If additional information is required, a single request shall be made within two (2) additional business days.

2. The requested information shall be submitted by the medical provider within ten (10) business days.

3. The initial utilization review decision shall be rendered within two (2) business days following receipt of the requested information.

(3) A medical provider may request an expedited utilization review determination for proposed medical treatment or services, the lack of which could reasonably be expected to lead to serious physical or mental disability or death. The expedited utilization review determination shall be rendered and communicated within twenty-four (24) hours following a request for expedited review.

(4) Initiation of utilization review shall toll the thirty (30) day period for challenging or paying medical expenses pursuant to KRS 342.020(4). The thirty (30) day period for paying medical expenses shall commence on the date of the final utilization review decision.

(5) Each medical bill audit shall be initiated within seven (7) calendar days of receipt to assure:

(a) Compliance with applicable fee schedules, in accordance with 803 KAR Chapter 25;

(b) Accuracy; and

(c) That a physician has been designated in accordance with 803 KAR 25:096.

(6) A medical bill audit shall not toll the thirty (30) day period for challenging or paying medical expenses pursuant to KRS 342.020(4).

Section 6. Utilization Review and Medical Bill Audit Personnel Qualifications. (1) Utilization review personnel shall have education, training, and experience necessary for evaluating the clinical issues and services under review. The following professionals shall issue an initial utilization review approval:

(a) A physician;

(b) A registered nurse;

(c) A licensed practical nurse;

(d) A medical records technician; or

(e) Other personnel whose training and experience qualify them to issue decisions on medical necessity or appropriateness.

(2) Only a physician may issue an initial utilization review denial. A physician shall supervise utilization review personnel in making utilization review recommendations. Personnel shall hold the license required by the jurisdiction in which they are employed.

(3) Personnel conducting a medical bill audit shall have the education, training or experience necessary for evaluating medical bills and statements.

Section 7. Written Notice of Denial. (1) Following initial review, a written notice of denial shall:

(a) Be issued to both the medical provider and the employee in a timely manner but no more than ten (10) calendar days from the initiation of the utilization review process;

(b) Be clearly entitled "UTILIZATION REVIEW - NOTICE OF DENIAL"; and

(c) Contain:

1. A statement of the medical reasons for denial;

2. The name, state of licensure and medical license number of the reviewer; and

3. An explanation of utilization review reconsideration rights.

(2) Payment for medical services shall not be denied on the basis of lack of information absent documentation of a good faith effort to obtain the necessary information.

Section 8. Reconsideration. (1) A reconsideration process to appeal an initial decision shall be provided within the structure of utilization review.

(a) A request for reconsideration of the initial utilization review decision shall be made by an aggrieved party within fourteen (14) calendar days of receipt of a written notice of denial.

(b) Reconsideration of the initial utilization review decision shall be conducted by a different reviewer of at least the same qualifications as the medical provider whose treatment is being reconsidered.

(c) A written reconsideration decision shall be rendered within ten (10) calendar days of receipt of a request for reconsideration. The written decision shall be clearly entitled "UTILIZATION REVIEW - RECONSIDERATION DECISION". If the reconsideration decision is made by an appropriate specialist or subspecialist, the written decision shall further be entitled "FINAL UTILIZATION REVIEW DECISION".

(d) Those portions of the medical record that are relevant to the reconsideration, if authorized by the patient and in accordance with state or federal law, shall be considered and providers shall be given the opportunity to present additional information.

(2)(a) If a utilization review denial is upheld upon reconsideration and a board eligible or certified physician in the appropriate specialty or subspecialty area, or a chiropractor qualified pursuant to KRS 312.200(3) and 201 KAR 21:095 has not previously reviewed the matter, an aggrieved party may request further review by:

1. A board eligible or certified physician in the appropriate specialty or subspecialty; or

2. A chiropractor qualified pursuant to KRS 312.200(3) and 201 KAR 21:095.

(b) A written decision shall be rendered within ten (10) calendar days of the request for specialty reconsideration. The specialty decision shall be clearly entitled "FINAL UTILIZATION REVIEW DECISION".

(3) A reconsideration process to appeal an initial decision shall be provided within the structure of medical bill audit.

(a) A request for reconsideration of the medical bill audit decision shall be made by an aggrieved party within fourteen (14) calendar days of receipt of that decision.

(b) Reconsideration shall be conducted by a different reviewer of at least the same qualifications as the initial reviewer.

(c) A written decision shall be rendered within ten (10) calendar days of receipt of a request for reconsideration. The written decision shall be clearly entitled "MEDICAL BILL AUDIT RECONSIDERATION DECISION".

(d) A request for reconsideration of the medical bill audit decision shall not toll the thirty (30) day period for challenging or paying medical expenses pursuant to KRS 342.020(1).

Section 9. Peer-to-Peer Conference. (1) If the medical payment obligor denies preauthorization following utilization review, it shall issue a written notice of denial as required in Section 7 of this administrative regulation.

(2) The medical provider whose recommendation for treatment is denied may request reconsideration, and may require the reconsideration include a peer-to-peer conference with a second utilization review physician.

(3) The request for a peer-to-peer conference shall be made by electronic communication and shall provide:

(a) A telephone number for the reviewing physician to call;

(b) A date or dates for the conference not less than five (5) business days after the date of the request; and

(c) A one (1)-hour period during the date or dates specified during which the requesting medical provider, or a designee, will be available to participate in the conference between the hours of

8:00 a.m. and 6:00 p.m. (Eastern Time), Monday through Friday.

(4) The reviewing physician participating in the peer-to-peer conference shall be of the same specialty as the medical provider requesting reconsideration.

(5) Failure of the reviewing physician to participate during the date and time specified shall result in the approval of the request for preauthorization and approval of the recommended treatment unless good cause exists for the failure to participate. In the event of good cause for failure to participate in the peer-to-peer conference, the reviewing physician shall contact the requesting medical provider to reschedule the peer-to-peer conference. The rescheduled peer-to-peer conference shall be held no later than two (2) business days following the original conference date. Failure of the requesting medical provider or its designee to participate in the peer-to-peer conference during the time he or she specified availability may result in denial of the request for reconsideration.

(6) A written reconsideration decision shall be rendered within five (5) business days of date of the peer-to-peer conference. The written decision shall be entitled "FINAL UTILIZATION REVIEW DECISION."

(7) If a Final Utilization Review Decision is rendered denying authorization for treatment before an award has been entered by or agreement approved by an administrative law judge, the requesting medical provider or the injured employee may file a medical dispute pursuant to 803 KAR 25:012. If a Final Utilization Review Decision is rendered denying authorization for treatment after an award has been entered by or agreement approved by an administrative law judge, the employer shall file a medical dispute pursuant to 803 KAR 25:012.

(8) Pursuant to KRS 342.285(1), a decision of an administrative law judge on a medical dispute is subject to review by the workers' compensation board under the procedures set out in 803 KAR 25:010, Section 22.

This is to certify the Secretary has reviewed and recommended this administrative regulation prior to its adoption, as required by KRS 342.260, 342.270 and 342.285.

JAMIE LINK, Secretary

APPROVED BY AGENCY: April 14, 2022

FILED WITH LRC: April 15, 2022 at 10:10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this emergency administrative regulation shall be held on May 31, 2022, at 10:00 a.m. (EDT) at the Department of Workers' Claims, 500 Mero Street, Frankfort, Kentucky 40601. In keeping with KRS 13A.270, individuals interested in attending or being heard at this hearing shall notify this agency in writing of their intent to attend no later than five (5) workdays prior to the hearing along with contact information. 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 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 proposed emergency administrative regulation. Written comments shall be accepted through May 31, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed emergency administrative regulation to the contact person

CONTACT PERSON: B. Dale Hamblin, Jr., Assistant General Counsel, department of Workers' Claims, Mayo-Underwood Building, 3rd Floor, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 782-4404, fax (502) 564-0681, email Dale.Hamblin@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: B. Dale Hamblin, Jr.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This emergency administrative regulation governs medical provider utilization review activities conducted by an insurance carrier, self-insured group, or self-insured employer pursuant to KRS Chapter 342.

(b) The necessity of this administrative regulation: KRS 342.035(5)(c) requires the commissioner to promulgate administrative regulations governing medical provider utilization review activities conducted by an insurance carrier, self-insured group, or self-insured employer pursuant to KRS Chapter 342.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 342.020 makes employers and their payment obligors responsible for payment of reasonable and necessary medical treatment for the cure and relief of work-place injuries and occupational diseases. Utilization review assists employers and employees in determining whether medical treatment is reasonable and necessary. Additionally, KRS 342.020(7)(f) requires employers with a managed care system to establish procedures for utilization review of medical services to assure that a course of treatment is reasonably necessary; diagnostic procedures are not unnecessarily duplicated; the frequency, scope, and duration of treatment is appropriate; pharmaceuticals are not unnecessarily prescribed; and that ongoing and proposed treatment is not experimental, cost ineffective, or harmful to the employee. This regulation provides guidance to stakeholders regarding the requirements of a utilization review program and its implementation.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This emergency administrative regulation provides guidance to stakeholders regarding the requirements of a statutorily required utilization review program and its implementation.

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

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Insurance carriers, self-insured groups, self-insured employers, and injured 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: Insurance carriers, self-insured groups, and self-insured employers will be required to have a system of utilization review to assess the reasonableness and necessity of medical treatment. Entities utilizing a managed care organization must include utilization review as part of that program. Employees will receive appropriate medical treatment in a timely manner.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Costs are expected to remain consistent with current costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Employers, medical payment obligors, and employees may be assured that a course of treatment is reasonably necessary; diagnostic procedures are not unnecessarily duplicated; the frequency, scope, and duration of treatment is appropriate; pharmaceuticals are not unnecessarily prescribed; and that ongoing and proposed treatment is not experimental, cost ineffective, or harmful to the employee.

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

(a) Initially: No additional costs are associated with implementation.

(b) On a continuing basis: No additional continuing costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Department of Workers' Claims normal budget is the source of funding.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied because the utilization review procedure applies to all parties equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Workers' Claims and all parts of government with employees.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 342.020, 342.035, and 342.260.

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

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

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

(c) How much will it cost to administer this program for the first year? No new administrative costs will be required.

(d) How much will it cost to administer this program for subsequent years? No new administrative costs will be required.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation: There is no fiscal impact on state or local government because the activities associated with the emergency administrative regulation are currently performed by those entities; however, the same cannot be said absent this emergency administrative regulation.

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.

CABINET FOR HEALTH AND FAMILY SERVICES
Office of Inspector General
Division of Certificate of Need
(Emergency Amended After Comments)

900 KAR 5:020E. State Health Plan for facilities and services.

EFFECTIVE: April 15, 2022
PRIOR VERSIONS:
Emergency Amendment - 48 Ky.R. 2368
RELATES TO: KRS 216B.010-216B.130
STATUTORY AUTHORITY: KRS 194A.030, 194A.050(1), 216B.010, 216B.015(28), 216B.040(2)(a)2.a
NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.040(2)(a)2.a requires the cabinet to promulgate an administrative regulation, updated annually, to establish the State Health Plan. The State Health Plan is a critical element of the certificate of need process for which the cabinet is given responsibility in KRS Chapter 216B. This administrative regulation establishes the State Health Plan for facilities and services.

Section 1. The [~~2020-2022~~] State Health Plan shall be used to:
(1) Review a certificate of need application pursuant to KRS 216B.040; and
(2) Determine whether a substantial change to a health service has occurred pursuant to KRS 216B.015(29)(a) and 216B.061(1)(d).

Section 2. Incorporation by Reference. (1) The "2022 Update to the[~~2020-2022~~] State Health Plan", **April 2022[~~January 2022~~]**[~~August 2020~~], is incorporated by reference.
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Inspector General, Division of Certificate of Need, 275 East Main Street, 5E-A, 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/dcn/Pages/cn.aspx.

ADAM MATHER, Inspector General
ERIC C. FRIEDLANDER, Secretary
APPROVED BY AGENCY: April 14, 2022
FILED WITH LRC: April 15, 2022 at 8 a.m.
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
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation incorporates by reference the 2022 Update to the State Health Plan.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with the content of the authorizing statutes, specifically KRS 216B.010, 216B.015(28), and 216B.040(2)(a)2.a.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes, KRS 216B.010, 216B.015(28), and 216B.040(2)(a)2.a., by establishing the State Health Plan's review criteria used for determinations regarding the issuance and denial of certificates of need.
(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 review criteria for certificate of need determinations.
(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: In response to public comments on 900 KAR 5:020E, this emergency amended after comments regulation makes the following changes to the State Health Plan (SHP):
Updates the edition date of the SHP on page i of the Plan;
Updates the language of pages 2 and 3 of the SHP as it relates to using the most recent quality indicators as one of the review criteria for hospitals that wish to transfer existing acute care beds to a new facility under common ownership located in the same county, including state university teaching hospitals;
Adds clarifying language on page 15 of the SHP as it relates to an application to establish new Level III special care neonatal beds by conversion of Level II special care neonatal beds to Level III special care neonatal beds; and
Adds clarifying language to Review Criteria 3 on page 52 of the SHP as it relates to ground ambulance services.
(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to address updates to the State Health Plan as required by KRS 216B.015(28).
(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the contend of the authorizing statutes because it incorporates by reference the State Health Plan.
(d) How the amendment will assist in the effective administration of the statutes: This amendment assists in the effective administration of the statutes by establishing the review criteria for certificate of need determinations.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects entities that submit certificate of need applications and affected persons as defined by KRS 216B.015(3). A total of 70 certificate of need applications were submitted to the cabinet in calendar year 2021 and 60 certificate of need applications were submitted in calendar year 2020.
(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Entities that submit a certificate of need application are subject to the criteria set forth in the State Health Plan.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). The certificate of need application filing fee for nonsubstantive review and formal review is established in a separate administrative regulation, 900 KAR 6:020.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Entities subject to certificate of need approval must demonstrate that their proposal is consistent with the State Health Plan pursuant to KRS 216B.040(2)(a)2.a.
(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: State general funds and agency monies are used to implement and enforce this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary to implement this 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? Yes, tiering is used as there are different certificate of need review criteria for each licensure category addressed in the State Health Plan.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation impacts the Cabinet for Health and Family Services, Office of Inspector General, and may impact any government owned or controlled health care facility.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 216B.010, 216B.015(28), and 216B.040(2)(a)2.a.

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

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

(c) How much will it cost to administer this program for the first year? 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 (+/-): See response above.

Expenditures (+/-): This administrative regulation is anticipated to have minimal fiscal impact to the cabinet.

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES
Office of Inspector General
Division of Certificate of Need
(Emergency Amended After Comments)

900 KAR 6:075E. Certificate of need nonsubstantive review.

RELATES TO: KRS 216B.010, 216B.015, 216B.040, 216B.062, 216B.090, 216B.095, 216B.115, 216B.455, 216B.990

STATUTORY AUTHORITY: KRS 216B.040(2)(a)1., 216B.095

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.040(2)(a)1. requires the Cabinet for Health and Family Services to administer Kentucky's Certificate of Need Program and to promulgate administrative regulations as necessary for the program. KRS 216B.095 authorizes the review of certificate of need applications that are granted nonsubstantive status. This administrative regulation establishes the requirements necessary for consideration for nonsubstantive review of applications for the orderly administration of the Certificate of Need Program.

Section 1. Definitions. (1) "Ambulatory surgical center" is defined by KRS 216B.015(4).

(2) "Cabinet" is defined by KRS 216B.015(6).

(3) "Certificate of Need Newsletter" means the monthly newsletter that is published by the cabinet regarding certificate of need matters and is available on the Certificate of Need Web site at https://chfs.ky.gov/agencies/os/oig/dcn/Pages/cn.aspx.

(4) "Days" means calendar days, unless otherwise specified.

(5) "Formal review" means the review of an application for certificate of need that is reviewed within ninety (90) days from the commencement of the review as provided by KRS 216B.062(1) and that is reviewed for compliance with the review criteria set forth at KRS 216B.040 and 900 KAR 6:070.

(6) "Nonsubstantive review" is defined by KRS 216B.015(18).

(7) "Public notice" means notice given through the cabinet's Certificate of Need Newsletter.

Section 2. Nonsubstantive Review. (1) The cabinet shall grant nonsubstantive review status to an application to change the location of a proposed health facility or to relocate a licensed health facility only if:

(a) There is no substantial change in health services or bed capacity; and

(b)1. The change of location or relocation is within the same county; or

2. The change of location or relocation is for a psychiatric residential treatment facility.

(2) The cabinet shall grant nonsubstantive review status to an application that proposes to establish an ambulatory surgical center pursuant to the conditions specified in KRS 216B.095(7).

(3) In addition to the projects specified in KRS 216B.095(3)(a) through (e), pursuant to KRS 216B.095(3)(f), the Office of Inspector General shall grant nonsubstantive review status to an application for which a certificate of need is required if:

(a) The proposal involves the establishment or expansion of a health facility or health service for which there is not a component in the State Health Plan;

(b) The proposal involves an application to re-establish a licensed healthcare facility or service that was provided at a hospital and was voluntarily discontinued by the applicant under the following circumstances:

1. The termination or voluntary closure of the hospital:

a. Was not the result of an order or directive by the cabinet, governmental agency, judicial body, or other regulatory authority;

b. Did not occur during or after an investigation by the cabinet, governmental agency, or other regulatory authority;

c. Did occur while the facility was in substantial compliance with applicable administrative regulations and was otherwise eligible for re-licensure; and

d. Was not an express condition of any subsequent certificate of need approval;

2. The application to re-establish the healthcare facility or service that was voluntarily discontinued is filed no more than one (1) year from the date the hospital last provided the service that the applicant is seeking to re-establish;

3. A proposed healthcare facility shall be located within the same county as the former healthcare facility and at a single location; and

4. The application shall not seek to re-establish any type of bed utilized in the care and treatment of patients for more than twenty-three (23) consecutive hours; [~~or~~]

(c)1. The proposal involves an application to establish an ambulatory surgical center that does not charge its patients and does not seek or accept commercial insurance, Medicare, Medicaid, or other financial support from the federal government; and

2. The proposed ambulatory surgical center shall utilize the surgical facilities of an existing licensed ambulatory surgical center during times the host ambulatory surgical center is not in operation;

(d) The proposal involves an application **to establish an industrial ambulance service;**

(e) The proposal involves an application by a licensed health facility to establish a Class I ground ambulance service operating at the Advanced Life Support (ALS) or Basic Life Support (BLS) level to provide **[~~nonemergency~~]** transport of individuals if the applicant agrees to the following restrictions to be placed on its proposed certificate of need and ground ambulance license:

1. The applicant shall only transport individuals who are patients of the licensed health facility or a health facility under common ownership; and

2. The applicant shall only transport individuals to or from its health facility or a health facility under common ownership and another licensed health facility, the individual's place of residence, or other community-based setting; **[~~or~~]**

(f)[~~(e)~~] The proposal involves an application to transfer acute care beds from one (1) or more existing Kentucky-licensed hospitals to establish a new hospital under the following circumstances:

1. The existing hospital and new facility shall be under common ownership and located in the same county;

2. **No more than fifty (50) percent of the existing hospital's acute care beds shall be transferred to the new facility; and**

3.a. If the existing hospital is a state university teaching hospital, the existing hospital exceeded, by at least one (1), the minimum number of quality measures required to receive supplemental university directed payments from Kentucky Medicaid for the state fiscal year preceding the date the application was filed; or

b. If the existing hospital is not a state university teaching hospital, the existing hospital's overall rating by the Centers for Medicare and Medicaid Services Hospital Compare was three (3) stars or higher **on the two (2) most recent updates to the overall star ratings [~~for three (3) out of the last four (4) reported quarters~~]** preceding the date the application was filed; **or**

(g)1. The proposal involves an application from a Program of All-Inclusive Care for the Elderly (PACE) program that:

a. Has an approved agreement with the Centers for Medicare and Medicaid Services (CMS) and the Department for Medicaid Services (DMS); and

b. Ensures that services authorized under the PACE agreement are provided exclusively to its members who reside within the service area. The service area shall be:

(i) Located within the Commonwealth of Kentucky; and

(ii) Approved by both CMS and DMS.

2. Only an approved PACE program operating within the applicant's service area shall qualify as an affected person for the purpose of opposing a PACE program application.

3. A PACE program shall not be required to obtain certificate of need (CON) approval if the program:

a. Coordinates health services only and does not provide health services to its members or others; or

b. Provides only services for which it has already obtained CON approval under KRS Chapter 216B within the approved CON service area [~~and 3. No more than fifty (50) percent of the existing hospital's acute care beds shall be transferred to the new facility~~].

(4) A certificate of need approved for an application submitted under subsection (3)(c) of this section shall state the limitations specified under subsection (3)(c)1. and 2. of this section.

(5) If an application is denied nonsubstantive review status by the Office of Inspector General, the application shall automatically be placed in the formal review process.

(6) If an application is granted nonsubstantive review status by the Office of Inspector General, notice of the decision to grant nonsubstantive review status shall be given to the applicant and all known affected persons.

(7)(a) If an application is granted nonsubstantive review status by the Office of Inspector General, any affected person who believes that the application is not entitled to nonsubstantive review status or who believes that the application should not be approved may request a hearing by filing a request for a hearing within ten (10) days of the notice of the decision to conduct nonsubstantive review.

(b) The provisions of 900 KAR 6:090 shall govern the conduct of all nonsubstantive review hearings.

(c)1. Except as provided in subparagraph 2. of this paragraph, nonsubstantive review applications shall not be comparatively reviewed.

2. If the capital expenditure proposed involves the establishment or expansion of a health facility or health service for which there is a component in the State Health Plan, the nonsubstantive review applications shall be comparatively reviewed.

(d) Nonsubstantive review applications may be consolidated for hearing purposes.

(8) If an application for certificate of need is granted nonsubstantive review status by the Office of Inspector General, there shall be a presumption that the facility or service is needed and a presumption that the facility or service is consistent with the State Health Plan.

(9) If each applicable review criterion in the State Health Plan has been met, there shall be a presumption that the facility or service is needed unless the presumption of need has been rebutted by clear and convincing evidence by an affected party.

(10) Unless a hearing is requested pursuant to 900 KAR 6:090, the Office of Inspector General shall approve each application for a certificate of need that has been granted nonsubstantive review status if the exception established in subsection (11)(a) of this section does not apply.

(11) The cabinet shall disapprove an application for a certificate of need that has been granted nonsubstantive review if the cabinet finds that the:

(a) Application is not entitled to nonsubstantive review status; or

(b) Presumption of need or presumption that the facility or service is consistent with the State Health Plan provided for in subsection (8) of this section has been rebutted by clear and convincing evidence by an affected party.

(12) In determining whether an application is consistent with the State Health Plan, the cabinet, in making a final decision on an application, shall apply the latest criteria, inventories, and need analysis figures maintained by the cabinet and the version of the State Health Plan in effect at the time of the public notice of the application.

(13) In determining whether an application is consistent with the State Health Plan following a reconsideration hearing pursuant to KRS 216B.090 or a reconsideration hearing that is held by virtue of a court ruling, the cabinet shall apply the latest criteria, inventories, and need analysis figures maintained by the cabinet and the version of the State Health Plan in effect at the time of the reconsideration decision or decision following a court ruling.

(14) A decision to approve or disapprove an application that has been granted nonsubstantive review status shall be rendered within thirty-five (35) days of the date that nonsubstantive review status has been granted, as required by KRS 216B.095(1). A hearing officer shall prioritize rendering decisions regarding applications granted nonsubstantive review status pursuant to Section 2(3)**(e) or (g)[~~(d)~~]** of this administrative regulation.

(15) If a certificate of need is disapproved following nonsubstantive review, the applicant may:

(a) Request that the cabinet reconsider its decision pursuant to KRS 216B.090 and 900 KAR 6:065;

(b) Request that the application be placed in the next cycle of the formal review process; or

(c) Seek judicial review pursuant to KRS 216B.115.

ADAM MATHER, Inspector General
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: April 14, 2022

FILED WITH LRC: April 15, 2022 at 8 a.m.

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

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes procedures for the nonsubstantive review of certificate of need applications. Nonsubstantive review is an expedited review process granted to certain applications pursuant to KRS 216B.095. This administrative regulation expands upon the types of applications that qualify for nonsubstantive review per the statute.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with the content of the authorizing statutes, specifically KRS 216B.010, 216B.015(18), 216B.040, and 216B.095.

(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 adding types of certificate of need applications that qualify for nonsubstantive review status, setting forth the procedure for granting nonsubstantive review status, and setting forth the procedure for affected parties to request a hearing to dispute the review status or application.

(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 adding types of certificate of need applications that qualify for nonsubstantive review status, setting forth the procedure for granting nonsubstantive review status, and setting forth the procedure for affected parties to request a hearing to dispute the review status or application.

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

(a) How the amendment will change this existing administrative regulation: In accordance with with KRS 216B.095(3)(e), this emergency amended after comments regulation adds industrial ambulance services to the list of categories subject to nonsubstantive review under Section 2(3). This emergency amended after comments regulation also clarifies that proposals from licensed entities under Section 2(3)(e) shall not be limited to nonemergency transportation services only. Additionally, this emergency amended after comments regulation updates the language of Section 2(3)(e) [renumbered as (f)] as it relates to using the most recent quality indicators on CMS Hospital Compare as one of the criteria for granting nonsubstantive review status to certificate of need applications for acute care hospitals that wish to transfer existing acute care beds to a new facility under common ownership located in the same county. Also, in lieu of meeting the overall star ratings in the case of state university teaching hospitals, the cabinet clarified that such hospitals shall exceed the minimum number of quality measures required to receive supplemental university directed payments from Kentucky Medicaid for the state fiscal year preceding the date the application was filed. This emergency amended after comments regulation will permit a Program of All-Inclusive Care for the Elderly (PACE) applicant that has not already obtained certificate of need (CON) approval to provide services such as home health, adult day care, or another service subject to CON to seek approval under nonsubstantive review in Section 2(3)(g).

(b) The necessity of the amendment to this administrative regulation: This amendment is being proposed pursuant to KRS 216B.095(3)(f), which permits the cabinet to grant nonsubstantive review status to a certificate of need application in accordance with circumstances prescribed by the cabinet via administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to KRS 216B.095(3)(f), which permits the cabinet to grant nonsubstantive review status to a certificate of need application in accordance with circumstances prescribed by the cabinet via administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the statutes by establishing the procedures for review of certificate of need applications granted nonsubstantive review status.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects entities that submit certificate of need applications subject to the nonsubstantive review process. The number of entities that submit certificate of need applications subject to nonsubstantive review varies.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This emergency amended after comments regulation will permit nonsubstantive review of certificate of need applications for health facility-based Class I ground ambulance service operating at the ALS or BLS level to provide transport in accordance with the circumstances prescribed by Section 2(3)(e) of this administrative regulation. This amendment will also permit nonsubstantive review of certificate of need applications for acute care hospitals that wish to transfer existing acute care beds to a new facility under common ownership located in the same county and in accordance with additional criteria proposed in Section 2(3)(f) of this administrative regulation. Additionally, the emergency amended after comments regulation will permit PACE programs that have not already obtained approval to provide services such as home health, adult day care, or another service subject to CON to seek approval under nonsubstantive review in Section 2(3)(g).

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). The certificate of need application filing fee is the same for nonsubstantive review and formal review and is established in a separate administrative regulation, 900 KAR 6:020.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The proposed amendment will help improve access to services without a duplication of acute care beds as well as enhance patient care in an effort to address ongoing delays in nonemergency ambulance transportation. The emergency amended after comments regulation will help enable older adults to live in the community as long as medically and socially feasible by adding a new category to allow PACE programs that have not already obtained approval to provide services such as home health, adult day care, or another service subject to CON to seek approval under nonsubstantive review.

(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: State general funds and agency monies are used to implement and enforce this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary to implement this 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 used as certificate of need applications are reviewed under a formal review process (900

KAR 6:070) or nonsubstantive review process (this administrative regulation). The list of applications granted nonsubstantive review is being amended to add three (3) new categories.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation affects entities that are subject to the certificate of need program's nonsubstantive review process. 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.040(2)(a)1., 216B.095

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

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

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

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY AND REVIEWING SUBCOMMITTEE

ARRS = Administrative Regulation Review Subcommittee
IJC = Interim Joint Committee

BOARDS AND COMMISSIONS
Board of Licensure for Long-Term Care Administrators
(As Amended at ARRS, April 13, 2022)

201 KAR 6:040. Renewal, reinstatement, and reactivation of license.

RELATES TO: KRS 36.450, ***216A.070(1)(f),*** 216A.080, 216A.090, 42 U.S.C. 1396***g[~~(g~~]***

STATUTORY AUTHORITY: KRS 216A.070(3), 216A.090

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216A.070(3) authorizes the Board of Licensure for Long-term Care Administrators to promulgate administrative regulations necessary for the proper performance of its duties. KRS 216A.090 requires the holder of a license to renew that license biennially and authorizes the board to refuse renewal for failure to comply with KRS Chapter 216A or ***201 KAR Chapter 6[~~the administrative regulations promulgated thereunder~~]***. This administrative regulation establishes the requirements and procedures for renewal, late renewal, inactive licensure, and reinstatement.

Section 1. License Renewal. (1) A license shall be renewed every two (2) years from date of issue or from date of last renewal. To apply for renewal, a licensee shall:

(a) Submit a completed Renewal Form;

(b) Pay the appropriate renewal fee established in 201 KAR 6:060; and

(c) Provide proof he or she has completed the continuing education requirements established in 201 KAR 6:070, Section 10.

(2) A licensee may renew the license within sixty (60) days of the renewal date by submitting a completed Renewal Form to the board and payment of the late renewal fee established in 201 KAR 6:060. During this sixty (60) day grace period, a licensee may continue to practice as a long-term care administrator.

(3) Except as provided by KRS 36.450, a license not renewed by the end of the sixty (60) day grace period shall expire and the licensee shall not practice in the Commonwealth.

Section 2. Voluntary Inactivation of License. (1) To voluntarily request a license in good standing be placed in inactive status, a licensee shall:

(a) Request inactive status, in writing or through the e-services licensee portal; and

(b) Pay the inactive licensee fee established in 201 KAR 6:060.

(2) A license in inactive status shall expire two (2) years following the date it became inactive unless the licensee renews his or her inactive license biennially by submitting the Renewal Form and submitting payment of the appropriate fee established in 201 KAR 6:060.

Section 3. Expiration Pending Disciplinary Action. (1) A licensee that allows his or her license to expire pursuant to Section 1(3) of this administrative regulation while the licensee is the subject of a ***"***complaint***",*** as defined in 201 KAR 6:090 shall result in the license expiring in bad standing.

(2) A license that has expired in bad standing shall not be reinstated unless the licensee agrees to submit to the complaints procedure established in 201 KAR 6:090 and responds to the complainant's allegations of misconduct that occurred prior to the license expiring in bad standing. Following the complaints procedure established in 201 KAR 6:090, the board may deny reinstatement of the license on the basis that the complainant's allegations have been sustained, the acts constitute a violation of KRS Chapter 216A or ***201 KAR Chapter 6[~~the administrative regulations promulgated thereunder~~]***, and that refusal to reinstate the license is an appropriate penalty.

(3)(a) Any person whose license has expired in bad standing may submit a written and signed petition to the board requesting that ***the[~~their~~]*** licensing file be amended to reflect the person's license expired in good standing and voluntarily submit to the complaint procedure established in 201 KAR 6:090.

(b) Upon receiving a written petition from a person whose license expired in bad standing, and following the complaints procedure established in 201 KAR 6:090, the board shall issue a final order that:

1. Dismisses the underlying complaint and amends the person's licensing file to reflect the license expired in good standing; or

2. Makes findings that the underlying complaint has been substantiated by a preponderance of the evidence and imposes discipline as authorized by KRS 216A.070(1)(f).

(4) The board may, upon the request from a professional licensing board of another state pursuant to the requesting state's laws permitting the transfer or endorsement of a Kentucky long-term care administrator's license, provide the requesting professional licensing board a copy of the full investigative file of the complaint and a statement that the licensee allowed his or her license to expire in bad standing prior to the board fully adjudicating the complaint. The board shall not provide its opinion regarding the merits of the complaint unless the person has voluntarily submitted to the complaints process established in 201 KAR 6:090.

Section 4. Reinstatement of License. (1) To apply for reinstatement of a license expired in good standing, a licensee shall, within two (2) years from the date of expiration:

(a) Submit a completed Application for Licensure, incorporated by reference in 201 KAR 6:020;

(b) Pay the reinstatement fee established in 201 KAR 6:060; and

(c) Provide proof he or she has completed the continuing education requirements established in 201 KAR 6:070, Section 10.

(2) A license shall not be reinstated if the board does not receive the application for reinstatement within two (2) years of the date the license expired. A licensee whose license has been expired for more than two (2) years may apply for a new license pursuant to 201 KAR 6:020.

Section 5. Reactivation of License. (1) To apply for reactivation of a license voluntarily placed in inactive status pursuant to Section 2 of this administrative regulation, a licensee shall, within two (2) years from the date of inactive status:

(a) Submit a completed Application for Licensure, incorporated by reference in 201 KAR 6:020;

(b) Pay the reactivation fee established in 201 KAR 6:060; and

(c) Provide proof he or she has met the continuing education requirements pursuant to 201 KAR 6:070, Section 10.

(2) A license shall not be reactivated if the board does not receive the Application for Licensure within two (2) years of the date the license was either placed in inactive status or renewed in inactive status pursuant to Section ***2(2)[~~2 subsection (2)~~]*** of this administrative regulation.

Section 6. Renewal of a Suspended License. (1) To apply for renewal of a license suspended following the complaints procedure established in 201 KAR 6:090, a licensee shall renew his or her license in accordance with Section 1 of this administrative regulation, ***even if[~~notwithstanding the fact that~~]*** the suspension period has not been fully served at the time of renewal.

(2) Renewal shall not entitle the licensee to engage in the practice until the suspension has ended, or is otherwise removed by the board or a court of competent jurisdiction and the right to practice is restored by the board.

Section 7. Renewal or Reinstatement of a Revoked License Prohibited. (1) A license that has been revoked by the board following the complaints procedure established in 201 KAR 6:090 shall not be renewed or reinstated.

(2) Two (2) years after the date a person's license has been revoked by the board**,** the person may apply for licensure as a new applicant pursuant to 201 KAR 6:020.

(3) The board may deny a new application by a person whose license has been revoked pursuant to KRS 216A.080(1)(c).

(4) If the board denies an application by a person whose license has been revoked pursuant to this section***[~~of this administrative regulation~~]***, the applicant may appeal the board's decision and request a hearing pursuant to KRS Chapter 13B to provide proof that he or she is of good moral character and is otherwise suitable to practice as a long-term care administrator***[~~notwithstanding his or her previously revoked license~~]***.

Section 8. Incorporation by Reference. (1) The "Renewal Form", November 2021[~~following material~~] is incorporated by reference[~~:~~

~~(a) "Renewal Form", March 2014; and~~

~~(b) "Application for Licensure", May 2019~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Licensure for Long-Term Care Administrators, Department of Professional Licensing, 500 Mero Street, 2SC32, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. The material may also be found on the board's Web site at https://ltca.ky.gov/.

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.

BOARDS AND COMMISSIONS
Board of Nursing
(As Amended at ARRS, April 13, 2022)

201 KAR 20:220. Nursing continuing education provider approval.

RELATES TO: KRS 314.011(12), 314.073, 314.131(1), (2)

STATUTORY AUTHORITY: KRS 314.073(3), 314.131(1), (2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(2) and 314.073(3) require the Board of Nursing to promulgate administrative regulations establishing requirements for continuing competency and approval of providers of continuing education. This administrative regulation establishes requirements for providers of continuing education.

Section 1. Definition. "Continuing education activity" means an offering given by a provider of continuing education who has been approved or accepted by the board and that relates to the practice of nursing or contributes to the competency of a nurse extending knowledge beyond that obtained in initial nursing preparation or pertinent to specific work requirements.

Section 2. (1) A provider of continuing education applicant who wants approval by the board to offer a continuing education activity shall submit an:

(a) Application for Continuing Education Provider Approval***[~~, in electronic format~~]***; and

(b) Application fee as established in 201 KAR 20:240.

(2) If an application is approved, the board shall issue a provider number to the applicant.

(3) On or before September 30 of the year in which an approval period expires, an approved provider shall submit the:

(a) Application for Continuing Education Provider Renewal***[~~, in electronic format~~]***; and

(b) Fee as established in 201 KAR 20:240.

(4) Renewal shall be for two (2) years.

(5) (a) A continuing education activity that is given by a continuing education provider that has received approval by one (1) of the following organizations shall be accepted by the board:

1. American Association of Nurse Practitioners;
2. American Association of Critical Care Nurses;
3. American Association of Nurse Anesthetists;
4. American College of Nurse Midwives;
5. American Nurses Credentialing Center;
6. Association of Women's Health, Obstetric and Neonatal Nurses;
7. Nurse Practitioners in Women's Health;
8. National Association of Pediatric Nurse Practitioners;
9. National Association for Practical Nurses Education and Service;
10. National Association of Licensed Practical Nurses;
11. National League for Nursing; or
12. State Boards of Nursing.

(b) Paragraph (a) of this subsection shall include a provider that offers a continuing education activity related to the pharmacology requirement [~~established~~]in 201 KAR 20:215[~~, Section 5(1)(a)~~].

(6)(a) An organization that approves nursing continuing education may request that it be added to this administrative regulation.

(b) An organization shall be included in this administrative regulation if its standards are comparable to the standards established by the provisions of this administrative regulation.

Section 3. (1) The board may review a provider's continuing education activities or approval status at any time.

(2) Except as provided in subsection (3) of this section, if after a review of a provider it is determined that the provider does not comply with this administrative regulation, the board shall send the provider notice of its intent to deny or limit the provider's approval status.

(3) If after a review of a continuing education activity it is determined that the activity does not comply with this administrative regulation, the board shall send the provider notice of its intent to deny approval status for subsequent offerings of that specific continuing education activity.

(4) (a) A request for a hearing before the board shall be filed within ten (10) days of receipt of the board's notice.

(b) If a provider fails to submit a request for a hearing within the time established in paragraph (a) of this subsection, the board shall implement the action proposed in its notice.

Section 4. Providers shall comply with the standards in this section. (1) (a) A registered nurse who meets the qualifications established in paragraph (b) of this subsection shall be administratively responsible for continuing education activities, including:

1. Planning;
2. Development;
3. Implementation; and
4. Evaluation.

(b) A nurse administrator shall:

1. Hold a current license or privilege to practice;
2. Have experience in adult education; and
3. Hold a baccalaureate or higher degree, in nursing.

(c) The provider may designate an alternate nurse administrator who shall meet the requirements established in paragraph (b) of this subsection.

(2) Organized learning activities shall be based upon a reasonable justification supporting the need for the continuing education that:

(a) Enhances the quality, safety, and effectiveness of care provided by nurses; and

(b) Contributes directly to the competence of a nurse.

(3) The content of nursing continuing education shall be designed to:

(a) Present current theoretical knowledge to enhance and expand nursing skills; and

(b) Promote competence in decision making.

(4) Outcomes for continuing education activities shall be:

(a) Related to nursing practice and interventions;

(b) Stated in clearly defined expected learner outcomes; and

(c) Consistent with evidence of a need for the continuing education activity.

(5) The continuing education activity shall reflect planning among the nurse administrator, faculty, and content experts.

(6)(a) The content for each educational activity shall be documented in provider files and shall include the following:

1. The presentation schedule;

2. The name and credentials of the presenter and the topic to be covered;

3. Times for meals and breaks, if applicable;

4. Teaching methods, with corresponding time frames, for each content area; and

5. Learner outcomes.

(b) 1. The content shall be relevant to and consistent with the learner outcomes.

2. The learner outcomes shall provide statements of observable behaviors that present a clear description of the competencies to be achieved by the learner.

(7) Teaching methods shall be consistent with the content and learning outcomes and objectives, and shall reflect the use of adult learning principles. Activities of both the teacher and the learner shall be specified.

(8) Faculty for continuing education activities shall have:

(a) Documented expertise in the subject matter; and

(b) Experience in presenting to adult learners[~~ and facilitating adult learning~~].

(9) The name, title and credentials identifying the educational and professional qualifications for each faculty member shall be retained in the provider offering files.

(10) Resources allocated for the continuing education activity shall be adequate in terms of education unit organization, with fiscal support for adequate staff, facilities, equipment, and supplies to ensure quality teaching and learning in a comfortable environment that is accessible to the target audience.

(11) Participants shall be provided with essential information for review prior to registration. This information shall include:

(a) Learner outcomes;

(b) Content overview;

(c) Date, time, and presentation schedule;

(d) Presenter;

(e) Number of contact hours;

(f) Fee and refund policy;

(g) Target audience and any prerequisites; and

(h) Requirements for successful completion that shall be clearly specified and shall include a statement of policy regarding candidates who fail to successfully complete the continuing education activity.

(12) Published information about continuing education activities offered by providers approved by the board shall include the provider number.

(13)(a) A provider shall notify the board in writing within thirty (30) days of any changes in its administration, such as nurse administrator, mailing address, or telephone number.

(b) Information relevant to the qualifications of the new nurse administrator as established in subsection (1)(b) of this section shall be sent to the board.

(c) If a qualified nurse is not available to serve in the capacity of the administrator, the provider shall not offer any continuing education activity until a qualified nurse administrator is appointed.

(14) A provider shall designate and publish the number of hours of any portion of an offering dedicated to the pharmacology requirement of 201 KAR 20:215[~~, Section 5(1)(a)~~].

(15) Records of continuing education activities shall be maintained for a period of five (5) years, including the following:

(a) Title, date, and format[~~site~~] of the activity;

(b) Name of the person responsible for coordinating and implementing the activity;

(c) Purpose, documentation of planning, learner outcomes, faculty, teaching, and evaluation methods;

(d) Method of verification of participant attendance;[~~Participant roster, with a minimum of:~~

~~1. Name and signature; and~~

~~2. License number;~~]

(e) Participant roster including the participant's name, license number, and signature or similar electronic verification;

(f) Summary of participant evaluations;***[and]***

(g)[~~(f)~~] Number of continuing education contact hours awarded:

1. Contact hours shall be calculated by taking the total number of minutes that the participants will be engaged in the learning activities, excluding breaks, and divide by fifty (50); and

2. Partial hours shall be permissible;

(h) [~~after one (1) contact hour is earned~~

~~(g)~~] Master copy of certificate of completion awarded; and

(i)[~~(h)~~] Identification of required instructional materials and references.

(16) Participants shall receive a certificate of completion that documents participation with the following information:

(a) Name of participant;

(b) Offering title, date, and the format of presentation[~~location~~];

(c) The provider's name, address, telephone number, approval number, and expiration date of the providership;

(d) Name and signature of authorized provider representative; and

(e) Number of continuing education contact hours awarded.

(17) There shall be a clearly defined method for evaluating the continuing education activity, which shall include:

(a) An evaluation tool that includes participant appraisal of achievement of each outcome, teaching effectiveness of each presenter, relevance of content to expected outcomes, effectiveness of teaching methods, and appropriateness of the format of presentation[~~physical facilities~~]; and

(b) A mechanism for periodic, systematic evaluation of the provider's total program of educational activities.

(18) There shall be a summary of the participants' evaluations for each continuing education activity with an action plan with time lines for resolution of identified deficiencies.

(19) The provider shall have current policies and procedures for the management of the providership that demonstrate compliance with the required standards.

(20) For an offering that includes clinical practice, the instructor-student ratio for the clinical experience shall not exceed one (1) to ten (10).

(21) The following constitute in-service education and shall not be considered as a continuing education activity for purposes of this administrative regulation:

(a) An activity that is part of an employing agency's staff development program designed to provide information related to the work setting;

(b) On the job training;

(c) Orientation;

(d) Basic cardiopulmonary resuscitation; and

(e) Equipment demonstration.

Section 5. (1) The following ***material is[~~forms are~~]*** incorporated by reference:

(a) "Application for Continuing Education Provider Approval", [~~1/2017~~]10/2021, Kentucky Board of Nursing; and

(b) "Application for Continuing Education Provider Renewal", [~~1/2017~~]***8/2021[~~10/2021~~]***, Kentucky Board of Nursing.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the board's Web site at https://kbn.ky.gov/General/Pages/Document-Library.aspx.

CONTACT PERSON: Jeffrey R. Prather, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, cell (502) 338-2851, email Jeffrey.Prather@ky.gov.

BOARDS AND COMMISSIONS
Board of Nursing
(As Amended at ARRS, April 13, 2022)

201 KAR 20:280. Standards for developmental status, initial status, and approval of prelicensure registered nurse and practical nurse programs.

RELATES TO: KRS 314.011(5), (9), 314.111(1), (2), (3), 314.131(2)

STATUTORY AUTHORITY: KRS 314.111, 314.131(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.111 requires the board to review schools, approve qualified schools, and, if appropriate, withdraw approval for schools of nursing. KRS 314.131(1) authorizes the board to promulgate administrative regulations necessary to implement KRS Chapter 314.This administrative regulation establishes the standards for the development and approval of programs that prepare graduates for admission to the licensure examination and to facilitate endorsement of licensure status to other states.

Section 1. Definition. "Program of nursing" means the educational unit that prepares a person for licensure as a registered or licensed practical nurse.

Section 2. Establishment of a Program of Nursing. (1) The governing institution may receive consultation from the board prior to establishing a program of nursing.

(2) The governing institution that desires to establish and conduct the program of nursing shall be accredited as established in 201 KAR 20:260, Section 2.

(3) The governing institution shall consider each campus as a separate program of nursing.

Section 3. Letter of Intent. (1) The governing institution shall submit to the board a letter of intent to establish a prelicensure program of nursing and the fee required by 201 KAR 20:240.

(2) The letter of intent shall be completed under the direction or consultation of a registered nurse who meets the qualifications of a program administrator as established in 201 KAR 20:310.

(3) The letter of intent shall include:

(a) Approval from the governing body of the institution proposing the program of nursing or other empowered approval bodies as applicable;

(b) The results of a feasibility study that includes the following information related to the need for the program of nursing:

1. Nursing workforce supply and demand data from the past year for the area within a fifty (50) mile radius and projected supply and demand; and

2. A description of the applicant pool that is being targeted and how this population will be reached;

(c) Evidence that an introductory letter has been sent to all program of nursing administrators within a fifty (50) mile radius;

(d) Documentation from cooperating healthcare agencies within a fifty (50) mile radius that they will provide support for the creation of the program of nursing. This documentation shall include evidence of the agencies' intention to contribute to the achievement of the clinical objectives of the program;

(e) General information about the governing institution including the mission, ownership, method of financing, accreditation, enrollment, area served, and institutional faculty qualifications and resources;

(f) A timeline for the hiring of a full time program administrator, admission of students, and projected graduation of the first class;

(g) Evidence of a sound financial base and demonstrated financial stability available for planning, implementing, and maintaining the proposed program of nursing;

(h) A copy of the curriculum vitae of the registered nurse involved in the planning; and

(i) Description and rationale for the proposed type of program of nursing, including the establishment of an enrollment baseline as required by 201 KAR 20:260, Section 3(1).

(4)(a) If concerns are raised about the need for the program or about the ability of the program to obtain appropriate clinical sites, a hearing shall be held before the board's education committee to act upon the letter of intent.

(b) At the conclusion of the hearing, the committee shall recommend to the board whether or not to approve the letter of intent.

(c) If the letter of intent is approved by the board, the governing institution shall be notified in writing that it may move to the proposal phase. The governing institution shall appoint a qualified program administrator and provide appropriate resources, consultants, and faculty to develop the proposed program plan. The proposal shall be submitted within one (1) year of the date of the approval of the letter of intent or the letter of intent shall expire.

Section 4. Proposal Phase. (1) A completed program proposal shall be submitted to the board by the governing institution for approval.

(2) The program shall not be announced, advertised, or students admitted to the program of nursing until the proposal has been approved and developmental status has been granted by the board.

(3) The program proposal shall include:

(a) Philosophy, mission, and learning outcomes of the governing institution;

(b) An organizational chart of the governing institution and written plan, which describes the organization of the program of nursing and its relationship to the institution;

(c) Proposed philosophy, mission, and learning outcomes for the proposed program;

(d) Curriculum design including proposed courses, description, sequence and credit hours delineating those credits assigned to theory and clinical;

(e) Student recruitment plan and the enrollment baseline as set out in 201 KAR 20:260, Section 3(1);

(f) A five (5) year plan for recruiting and retaining qualified nurse faculty;

(g) A proposed job description for the program administrator reflecting authority and responsibility;

(h) A description of faculty offices, classrooms, clinical skills laboratory, library facilities, conference rooms, and learning resources;

(i) A description of support services for students, to include provision of health services or evidence of an emergency plan for care, academic advisement, student services, mechanism for obtaining learning resources, and financial aid;

(j) Availability and willingness of accredited agencies to provide clinical experiences across the curriculum. This information shall include the:

1. A list of clinical agencies and hours available for clinical experience;

2. Number of students each agency can accept;

3. Clinical experience that will be available from each agency;

4. Other nursing programs that utilize this agency; and

5. Plan to avoid displacement of students from existing programs;

(k) Policies and procedures for student admission to the program of nursing and progression, including the plan to retain students so as to maintain a low attrition rate;

(l) Availability of clerical assistance and support staff as set out in 201 KAR 20:260, Section 2(6);

(m) A general plan for an on-going, research based planning and evaluation process that incorporates a systematic review of the program that results in continuing improvement; and

(n) A description of financial resources to support the program including a budget for the first three (3) years with projected revenues and expenditures and the amount of resources going to institutions or organizations for contractual or support services.

(4) The program of nursing may meet with the board staff to clarify, verify, and amplify materials included in the program proposal.

(5) The governing institution shall be notified in writing of action taken by the board on the proposal.

(a) If the board determines that all requirements have been

met, the program shall be granted developmental status.

(b) The board, in collaboration with the program, shall determine an opening date.

Section 5. Developmental Status. (1) Students may be admitted after developmental status is granted.

(2) Employment of program administrator and faculty.

(a) The program administrator shall be the first faculty member employed, and shall have assumed full time responsibilities for the program prior to opening.

(b) The faculty as established in 201 KAR 20:310 shall be employed in sufficient numbers to prepare for the development of the curriculum component of the program.

(3) Any deviation from the initial curriculum plan approved within the proposal shall be approved by the board before the first class begins course requirements.

(4) Written contracts for use of clinical facilities shall be executed prior to admission to the first nursing course.

(5) The program of nursing shall submit semi-annual progress and evaluation reports or other reports as requested by the board to demonstrate implementation of the approved proposal until the first class graduates.

(6) Site visits shall be conducted by the board as necessary.

(7) Developmental status may be withdrawn if:

(a) A proposed program does not comply with 201 KAR 20:260 through 360;

(b) A class is not enrolled within eighteen (18) months of the date the board granted developmental status; or

(c) The governing institution fails to submit board required reports within the designated time period.

(8) The governing institution shall be notified in writing of the intent to withdraw developmental status. The governing institution may request reconsideration by the board. The request shall be in writing and sent no more than thirty (30) days from the date of the notification.

Section 6. Initial Status and Program Approval. (1) The status of the program shall move automatically from developmental status to initial status upon admission of the first class.

(2) It shall be the responsibility of the program of nursing to notify the board of the admission of the first class.

(3) The program shall notify the board in writing thirty (30) days prior to the graduation of the first class.

(4) Eligibility for program approval occurs after the graduation of the first class. Within sixty (60) days after graduation of the first class, the faculty shall submit a written report that:

(a) Evaluates the implementation of the program of nursing compared to the approved proposal; and

(b) Addresses compliance with the standards set by 201 KAR 20:260 through 360.

(5) The decision to grant or deny program approval shall be based on review of the report submitted by the program of nursing and a site visit report by a representative of the board.

(6) If program approval is denied, the applicant may request a hearing pursuant to KRS Chapter 13B.

Section 7. Initial Status and National Nursing Accrediting Body. (1) A program of nursing shall obtain and maintain accreditation by a national nursing accrediting body ***that includes:***

(a) The Accreditation Commission for Education in Nursing (ACEN);

(b) The Commission for Nursing Education Accreditation (CNEA);

(c) The Commission on Collegiate Nursing Education (CCNE); or

(d) Any other national nursing accrediting body recognized by the United States Department of Education.

(2) The program of nursing that has been approved for initial status by the board shall submit evidence ***to the board*** that it has applied for accreditation. Evidence shall be submitted within ninety (90) days of achieving initial status.

(3) The program of nursing shall submit a copy of all correspondence to and from the national nursing accrediting body to the board within thirty (30) days ***of submission or receipt of the correspondence***.

(4) The program of nursing shall obtain candidacy status from a national nursing accrediting body within three (3) years of achieving initial status. The program of nursing shall obtain full accreditation from a national nursing accrediting body within four (4) years of achieving initial status.

(5) A program of nursing that fails to obtain or maintain accreditation from a national nursing accrediting body may have its approval withdrawn by the board pursuant to 201 KAR 20:360, Section 7.

CONTACT PERSON: Jeffrey R. Prather, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, cell (502) 338-2851, email Jeffrey.Prather@ky.gov.

BOARDS AND COMMISSIONS
Board of Nursing
(As Amended at ARRS, April 13, 2022)

201 KAR 20:360. Continuing approval and periodic evaluation of prelicensure registered nursing and licensed practical nursing programs.

RELATES TO: KRS 314.111

STATUTORY AUTHORITY: KRS 314.131(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations to implement KRS Chapter 314. KRS 314.111 requires nursing programs to be approved by the board. This administrative regulation establishes evaluative standards to assure that the programs of nursing provide the necessary instruction and services to prepare graduates for licensure eligibility ***as registered***[~~as registered~~] nurses or as practical nurses.

Section 1. Program of Nursing Accredited by a National Nursing Accrediting Body. (1)(a)***1.*** A prelicensure registered nursing or licensed practical nursing program that is accredited by a national nursing accrediting body recognized by the United States Department of Education shall be deemed to be in compliance with the standards of 201 KAR 20:260 through 201 KAR 20:360[~~and shall not have to demonstrate compliance every eight (8) years as required by Section 2 of this administrative regulation~~].

2. A national nursing accrediting body shall include:

a. The Accreditation Commission for Education in Nursing (ACEN);

b. The Commission for Nursing Education Accreditation (CNEA);

c. The Commission on Collegiate Nursing Education (CCNE); or

d. Any other national nursing accrediting body recognized by the United States Department of Education.

3. The accredited program shall comply with Sections 3 through 10 of this administrative regulation.

(b) The board shall retain jurisdiction over accredited programs and may conduct site visits or other investigations into any allegation that may constitute a violation of 201 KAR 20:260 through 201 KAR 20:360. The board may also conduct site visits in accordance with Section 5 of this administrative regulation or when a national nursing accreditation board visits the program.

(2) A prelicensure program of nursing that is accredited by a national nursing accrediting body recognized by the United States Department of Education shall submit all correspondence and reports to and from the accrediting body to the board within thirty (30) days of submission or receipt.

Section 2. Programs of Nursing Not Accredited by a National Nursing Accrediting Body. (1) A program of nursing that is not accredited by a national nursing accrediting body on the effective

date of this administrative regulation shall***:***

(a) Obtain candidacy status with a national nursing accrediting body within three (3) years***;*** and

(b) [~~shall~~]Obtain full accreditation within four (4) years of the effective date of this administrative regulation.

(2) A program of nursing that is not accredited by a national nursing accrediting body on the effective date of this administrative regulation shall submit a copy of all correspondence and reports to and from the national nursing accrediting body within thirty (30) days of submission or receipt.

(3) A program of nursing that does not obtain or maintain accreditation from a national nursing accrediting body may have its approval withdrawn by the board pursuant to Section 7 of this administrative regulation.[~~A prelicensure registered nursing or licensed practical nursing program that is not accredited by a national nursing accrediting body recognized by the United States Department of Education shall be required to demonstrate compliance with 201 KAR 20:260 through 201 KAR 20:360 at least every eight (8) years for continued approval.~~

~~(2)(a) A site visit shall be conducted at least every eight (8) years.~~

~~(b) A specific list of information required for review shall be sent by the board to the program of nursing prior to the site visit.~~

~~(3) Prior to the site visit, the program of nursing shall submit:~~

~~(a) A self-evaluation report that provides evidence of compliance with 201 KAR 20:260 through 201 KAR 20:360; and~~

~~(b) Other related information as requested by the board.~~]

Section 3. Reports and Evaluation. (1) A program of nursing shall submit the Annual Report of the Program of Nursing to the board regarding its compliance with 201 KAR 20:260 through 201 KAR 20:360. It shall also submit the benchmarks set out in Section 5(2)(f) of this administrative regulation.

(2) To verify continued compliance with 201 KAR 20:260 through 201 KAR 20:360, the program of nursing shall submit progress reports or periodic supplemental reports, completed questionnaires, surveys, and other related documents as requested by the board.

(3) Pursuant to 201 KAR 20:260, Section 2(7)(a), the faculty shall engage in an evidence based planning and evaluation process that incorporates a systematic review of the program of nursing that results in continuing improvement. This process shall result in an evaluation report that is submitted to the board.

(4) Data collection for the evaluation report shall be on-going and shall reflect aggregate analysis and trending.

(5) The evaluation report shall include specific responsibilities for data collection methods, individuals or groups responsible, frequency of data collection, indicators of achievement, findings, and outcomes for evaluating the following aspects of the program:

(a) Organization and administration of the program of nursing;

(b) Curriculum;

(c) Resources, facilities, and services;

(d) Teaching and learning methods including distance education;

(e) Faculty evaluation;

(f) Student achievement of program outcomes;

(g) Graduation rates;

(h) Licensure examination pass rates;

(i) Employment rates of graduates; and

(j) Clinical resources, including laboratory and simulation.

(6) If a program of nursing utilizes distance education for didactic instruction, it shall evaluate and assess the educational effectiveness of its distance education program to ensure that the distance education program is substantially comparable to a campus based program.

(7) The evaluation report shall provide evidence that the outcomes of the evaluation process are used to improve the quality and strength of the program.

Section 4. Benchmarks. The board shall utilize the following benchmarks to evaluate a program of nursing. Except for the pass rate, the benchmarks shall be calculated annually from July 1 to June 30. The board shall calculate the pass rate for a program of nursing on an annual basis from January 1 to December 31 for all first time takers of the NCLEX.

(1) The pass rate for first time takers of the NCLEX who tested within twelve (12) months of the program completion date as reported on the Certified List of Kentucky Program of Nursing Graduates or the Certified List of Out-of-state Program of Nursing Graduates incorporated by reference in 201 KAR 20:070;

(2) The faculty turnover rate. A faculty member whose employment ends on or before June 30 of any year shall be counted in that year's calculation;

(3) The program administrator turnover rate;

(4) The graduation rate;

(5) The faculty grievance rate; and

(6) The student grievance rate.

Section 5. Site Visits. (1) The board may conduct site visits at any time.

(2) The following situations may be cause for a site visit to determine if the standards of 201 KAR 20:260 through 201 KAR 20:360 are being met:

(a) Denial, withdrawal, or change of status by a national nursing accrediting agency;

(b) Providing false or misleading information to students or the public concerning the program;

(c) A written complaint received from faculty, students, or the general public relating to a violation of 201 KAR 20:260 through 201 KAR 20:360;

(d) A change in physical facilities;

(e) Information received by the board that may indicate a violation of 201 KAR 20:260 through 201 KAR 20:360;

(f) A change in any of the benchmarks listed in Section 4 of this administrative regulation as follows:

1. A pass rate as calculated by Section 4 of this administrative regulation that:

a. Is less than an average of eighty (80) percent for three (3) consecutive years; or

b. Varies above and below eighty (80) percent from year to year over the previous five (5) years;

2. A faculty turnover rate greater than thirty (30) percent for two (2) consecutive years;

3. A program administrator turnover rate of more than three (3) individuals in five (5) years;

4. A graduation rate of less than sixty (60) percent of the original admitted cohort of newly-enrolled students within the maximum time frame allowed for completion. The maximum time frame shall be determined by multiplying the standard program length for normally progressing students by ***one and five-tenths (***1.5***)***. Calculation of the graduation rate shall include students who are enrolled for the first time in the first nursing course of the nursing program curriculum. All students admitted within the original cohort shall be included in the calculation regardless of whether a student may be excluded from the calculation utilized by a national nursing accrediting body;

5. Twenty-five (25) percent or more of the total number of nursing faculty who file grievances or appeals that are substantiated; or

6. Substantiated student grievances and appeals of more than ten (10) percent of the student population enrolled in the nursing program each year; or

(g) Failure to submit reports as required by 201 KAR 20:260 through 201 KAR 20:360.

(3) A program of nursing that fails to meet one (1) or more benchmarks for a year shall submit a report that examines the factors that contributed to the failure to meet and shall provide a description of the corrective measures to be implemented.

(4)(a) The board shall annually compile information on how the programs of nursing met the benchmarks. This information shall be published on the board's Web site ***at www.kbn.gov***.

(b) A program of nursing shall post a link to the information compiled pursuant to paragraph (a) of this subsection on the program of nursing's Web site. The link shall be easy to locate on the program's home page.

Section 6. Action Following Site Visit. (1)(a) Following a site visit and prior to board consideration, a draft of the site visit report shall be made available to the program administrator for review and correction of factual data.

(b) The program administrator shall be available during the discussion of the report at the board committee to provide clarification.

(c) If the site visit results in a finding of non-compliance with 201 KAR 20:260 through 201 KAR 20:360 by the program of nursing, a letter shall be sent to the program administrator regarding any requirements to be met.

(d) The board shall notify the program of nursing of the time frame within which it shall meet the requirements. The board shall verify that the requirements have been met.

(2)(a) If the program of nursing is unable to meet the requirements in the time set by the board, it may request additional time. The board, in its discretion, may grant or deny this request based on the rationale for the request.

(b) If the board denies the request for additional time, it shall begin the process established in Section 7 of this administrative regulation.

Section 7. Withdrawal of Approval. (1) If, in the opinion of the board, the standards established by 201 KAR 20:260 through 201 KAR 20:360 are not being met, the board shall send notice to the program administrator of the affected program of nursing of its intent to withdraw approval. The notice shall be sent return receipt requested.

(2) When making this determination, the board shall consider the following factors:

(a) The number and severity of the deficiencies;

(b) The length of time in which the deficiencies have existed; and

(c) Any exigent circumstances.

(3) Within thirty (30) days of receipt of the notice, the program administrator of the affected program may request an administrative hearing pursuant to KRS Chapter 13B. If an administrative hearing is not requested, program approval shall be withdrawn and the program shall be closed. A closed program shall comply with subsection (5) of this section.

(4)(a) If a program of nursing requests an administrative hearing, that hearing shall be held within sixty (60) days of the request.

(b) The hearing shall be held before a hearing officer or before the full board.

(5)(a) A program of nursing whose approval has been withdrawn by the board shall be removed from the official approved status listing upon the effective date of the decision. Students currently enrolled in the last semester or quarter of the program may complete the program. If the student graduates, he or she may apply for licensure and make take the licensure examination. Any other student shall not be allowed to apply for licensure or take the licensure examination, unless the student graduates from another approved program of nursing.

(b) The program of nursing that has been closed shall assist a currently enrolled student to transfer to an approved program of nursing.

Section 8. Voluntary Closure of a Program.

(1) A governing institution seeking to close a program of nursing shall submit written notification to the board at least six (6) months prior to the planned closing date.

(2) A governing institution may choose one (1) of the following procedures for closing a program of nursing as established in paragraph (a) or (b) of this subsection.

(a) The governing institution shall continue the program of nursing until the last class enrolled has graduated.

1. The program shall continue to meet the standards until all students enrolled in nursing courses have graduated or transferred.

2. The official closing of the program shall be the date on the degree, certificate, or diploma of the last graduate.

3. The governing institution shall notify the board in writing of the official closing date.

(b) The governing institution shall close the program following the transfer of students to other approved programs.

1. The program shall continue to meet the standards until all students have transferred.

2. The names of students who have transferred to approved programs and the date of the last student transfer shall be submitted to the board by the governing institution.

3. The date of the last student transfer shall be the official closing date of the program.

(3) Custody of records.

(a) The governing institution that continues to operate shall retain responsibility for the records of the students and graduates. The board shall be advised of the arrangement made to safeguard the records.

(b) The governing institution that ceases to exist shall transfer the academic transcript of each student and graduate to a third party vendor approved by the Council for Postsecondary Education for safekeeping.

Section 9. Change in Ownership or Organization of the Governing institution. (1) The governing institution shall notify the board in writing of any intent to transfer administrative authority or ownership. The new administrative authority or owner shall inform the board of its plans for immediate and future operation.

(2) The board shall conduct a site visit to ensure adherence by the program of nursing to 201 KAR 20:260 through 201 KAR 20:360.

(3) Following this site visit, approval of the program of nursing shall continue under the new ownership or administrative authority if the approval standards continue to be met.

Section 10. Incorporation by Reference. (1) "Annual Report of the Program of Nursing", 10/18, Kentucky Board of Nursing, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the board's Web site at https://kbn.ky.gov/General/Pages/Document-Library.aspx.

CONTACT PERSON: Jeffrey R. Prather, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, cell (502) 338-2851, email Jeffrey.Prather@ky.gov.

BOARDS AND COMMISSIONS
Board of Physical Therapy
(As Amended at ARRS, April 13, 2022)

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 ***establishes[~~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.

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.

BOARDS AND COMMISSIONS
Board of Physical Therapy
(As Amended at ARRS, April 13, 2022)

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 ***promulgate[~~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; ***and***

(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. ***The reassessment shall:***

(a) ***[~~The reassessment shall~~]***Be in compliance with Section 2(4) of this administrative regulation***; and[.]***

(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.

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.

ENERGY AND ENVIRONMENT CABINET
Department for Environmental Protection
Division for Air Quality
(As Amended at ARRS, April 13, 2022)

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 ***establishes the designation[~~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 ***shall be as[~~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 ***delineates[~~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) 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) 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) 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) The entire county except for 2010 U.S. Census Tracts 706.01 and 706.04	Nonattainment	Marginal
Bullitt County	Nonattainment	Marginal
Campbell County (part) The entire county except for 2010 U.S. Census Tracts 520.01 and 520.02	Nonattainment	Marginal
Jefferson County	Nonattainment	Marginal
Kenton County (part) 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) 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) That portion of Campbell County, which lies south and west of the Ohio River ***and is*** 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 Henderson County (part). Webster County (part). 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 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	Nonattainment [~~Attainment/ Unclassifiable~~]

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. [~~Henderson County (part)~~ ~~Census Block Groups 211010207013, 211010207014, 211010207024, and 211010208004~~]	
Jefferson County (part) 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: 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			X	

Henderson				
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

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.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Department of Workforce Investment
Office of Employer and Apprenticeship Services
(As Amended at ARRS, April 13, 2022)

787 KAR 3:020. Confidentiality of records of the Office of Employer and Apprenticeship Services.

RELATES TO: KRS 151B.280
STATUTORY AUTHORITY: KRS 151B.280(5)(a)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.280(5)(a) requires the secretary of the Education and Workforce Development Cabinet to promulgate administrative regulations to protect the confidential nature of all records and reports which directly or indirectly identify a client or former client of programs administered by the cabinet's Office of Employer and Apprenticeship Services. This administrative regulation establishes which records of the Office of Employer and Apprenticeship Services shall be considered confidential in order to encourage full disclosure of information on the part of job applicants and employers and to provide guidelines to employment service personnel in responding to requests for information.

Section 1. ***Definition. (1) "Personal information" is defined by KRS 61.931(6).***

Section 2. The employment and service records identified in this section shall be confidential and shall not be subject to disclosure, except as provided in KRS 151B.280(5)(a) and (b) ***or[~~and~~]* other applicable law.*[~~:~~]***

(1) Work Opportunity Tax Credit Program:

(a) Form 8850, Pre-Screening Notice and Certification Request for the Work Opportunity Credit;

(b) ETA Form 9061, Individual Characteristics Form Work Opportunity Tax Credit;

(c) ETA Form 9063, Employer Certification Work Opportunity Tax Credit;

(d) ETA Form 9175, Long Term Unemployment Recipient Self-Attestation Form, Work Opportunity Tax Credit Program;

(e) Form 2828, Power of Attorney and Declaration of Representative; and

(f) Documents provided by employers in support of their applications for the Work Opportunity Tax Credit that contain *[~~"~~]*personal information*[~~" as that term is defined in KRS 61.931(6)~~]* to include Form W-4 and DD Form 214.

(2) Registered Apprenticeship:

(a) Kentucky Registered Apprenticeship Registration, Standards, and Agreement (ETA Form 671, Section 1);

(b) Program Registration and Apprenticeship Agreement, Office of Apprenticeship, Apprentice Registration (ETA Form 671, Section 2);

(c) ETA Form 671, Voluntary Disability Disclosure;

(d) Registered Apprenticeship Standards Occupation Page;

(e) RAPIDS Program Registration Form;

(f) Apprentice *[~~"~~]*personal information*[~~" as that term is defined in KRS 61.931(6)~~]* contained in the Commonwealth's Citizen Connect online portal;

(g) Employer Acceptance Agreement (Registered Apprenticeship Appendix D); and

(h) Additional documents provided by employers relevant to apprenticeship program approval that contain private business information to include Approved Job Description and Related Technical Instruction outlines, Vendor Verifications, Citation Requests, and Occupation Support Letters.

(3) Federal Bonding Program:

(a) Kentucky Federal Bonding Program Requests from employers; and

(b) Kentucky Federal Bonding Program Conditional Pre-Approval Letter.

Section *3[~~Section 2~~]*. Publicly Available Information. Notwithstanding the provisions of Section *2[~~1~~]*(2), the following information in possession of the Office of Employer and Apprenticeship Services for Registered Apprenticeship Programs *shall be [~~is~~]* available to the general public: sponsor program number, sponsor program name, sponsor program address (street, city, state, zip code, county), sponsor contact information, occupation title, program standards type, term length minimum, term length maximum, related technical instruction length, hours when related technical instruction is provided, journeyman employee count, female employee count, minority employee count, youth employee count, and active apprentice count.

CONTACT PERSON: Michelle DeJohn, Executive Director, 500 Mero Street, 4th Floor, Frankfort, Kentucky 40601, phone 502-782-3252, email michelle.dejohn@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, April 13, 2022)

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 ***that[~~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 ***that[~~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 ***that[~~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 ***7-050-1[~~HB-1~~]***, ***(10/2021)[~~(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***(3)***~~(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 ***7-050-2***~~[HB-2]~~, ***(10/2021)***~~[(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.

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.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Public Health Protection and Safety
(As Amended at ARRS, February 7, 2022 and April 13, 2022)

902 KAR 10:120. Kentucky public swimming and bathing facilities.

RELATES TO: KRS Chapter 13B, 211.015, 211.090, 211.210, 211.220[~~211.180~~], 211.990(2), 322.110, 323.020, 29 C.F.R. 1910.119, 15 U.S.C. 8003

STATUTORY AUTHORITY: KRS [~~Chapter 13B,~~]194A.050(1), 211.180(1)[~~211.090(3), HB 492 (1988 Acts), EO 96-862~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) authorizes the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of Kentucky citizens and to operate programs and fulfill the responsibilities vested in the cabinet[~~HB 492 (1988 Acts) directs the Cabinet for Health Services to regulate the design and construction of water distribution and treatment systems for swimming pools~~]. KRS 211.180 authorizes[~~directs~~] the cabinet [~~for Health Services~~] to adopt administrative regulations relating to public facilities***[,]*** and their operation and maintenance in a safe and[~~,~~] sanitary manner to protect public health and prevent health hazards. This administrative regulation establishes uniform standards for public swimming pools and [~~other swimming or~~] bathing facilities. [~~The function of this administrative regulation is to assure the proper design and construction of new facilities as related to water distribution and treatment systems, and the proper operation and maintenance of all such facilities in a manner which will protect the public health. Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Public Health and its programs under the Cabinet for Health Services.~~]

Section 1. Definitions. (1) "Accessible" means ***having access[~~, if applied~~]*** to a fixture, connection, appliance or equipment, ***even if it is necessary to remove[~~having access to it, but may require the removal of~~]*** an access panel, door**,** or similar obstruction.

(2) "Agitation" means the mechanical or manual movement to dislodge the filter aid and dirt from the filter element.

(3) "Air gap" means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet conveying water or waste to a tank, plumbing fixture, receptor**,** or other device, and the flood level rim of the receptacle.

(4) "Alkalinity" or "total alkalinity" means the amount of carbonates or bicarbonate present in water solution as expressed in parts per million (ppm).

(5) "Approved" means that which is acceptable to the cabinet.

(6) "Backwash" means the flow of water through the filter element or media in the reverse direction sufficient to dislodge the accumulated dirt and filter aid and remove them from the filter tank.

(7) "Backwash cycle" means the time required to backwash the filter system thoroughly.

(8) "Backwash rate" means the rate of application of water through a filter during the backwash cycle expressed in gallons per minute per square foot of effective filter area.

(9) "Bather" means a person using a public swimming and bathing facility.

(10) "Cabinet" is defined by KRS 211.015(a).

(11) "Cartridge filter" means a filter that utilizes a porous cartridge as its filter media.

(12) "Diatomaceous earth (DE) filter" means a filter that utilizes a thin layer of diatomaceous earth as its filter media that ***will need to[~~must~~]*** be periodically replaced.

(13) "Disinfectant" means an approved chemical compound designed for the destruction of pathogenic organisms in bathing facilities and includes chlorine and bromine.

(14) "Equalizer line" means the connection from the skimmer housing to the pool, spa, or hot tub below the weir box, which***:***

(a) Is sized to satisfy pump demand and prevent air lock or loss of prime***;*** and

(b) Contains a float valve assembly and pop-up valve.

(15) "Facility operator" means a person or employee of that person who is responsible for the proper operation and maintenance of the facility.

(16) "Filter" means a device that separates solid particles from water by recirculating it through a porous substance.

(17) "Filter aid" means an enhancement to the efficiency of the filter media.

(18) "Filter cycle" means the operating time between cleaning or replacing the filter media or backwash cycles.

(19) "Filter element" means a device within a filter tank designed to entrap solids and conduct water to a manifold, collection header, pipe, or similar conduit.

(20) "Filtration rate" means the rate of water flow through a filter while in operation.

(21) "Float valve assembly" means a mechanism designed to disengage the skimmer in order to prevent air from entering the pump if the water level drops below the skimmer level.

(22) "Flow meter" means a device that measures the flow of water through piping.

(23) "Head loss" means the total pressure drop between the inlet and the outlet of a component.

(24) "Holding tank" means a storage vessel to retain water for a spray pad recirculation system.

(25) "Hydrojet" means a fitting which blends air and water**,** creating a high velocity, turbulent stream of air enriched water.

(26) "Inlet" means a fitting or fixture through which filtered water returns to a pool or spa.

(27) "Main outlet" means an outlet fitting at the deepest point of the horizontal bottom of a pool through which water passes to a recirculating pump or surge tank***, and[~~. It~~]*** is often referred to as a "main drain".

(28) "Modulating valve" means a valve that automatically regulates the flow of water from the main drain through the use of a float ball.

(29) "Perimeter overflow system" means a channel at normal water level that extends completely around the pool perimeter and is used to remove surface debris, also known as an overflow or scum gutter.

(30) "Perlite filter" means a filter that utilizes a thin layer of perlite as its filter media deposited on a septum that must be periodically replaced.

(31) "Play feature" means a structure or feature that is added to a pool for the purpose of entertainment.

(32) "Plunge pool" means a pool or area within a pool designed as the termination point for a water slide or water ride.

(33) "Pop-up valve" means a mechanism located under the float valve assembly that opens to allow water to reach the pump when the float valve is activated.

(34) "Positive shutoff valve" means a valve that completely stops the flow of water.

(35) "Precoat" means the process of depositing a layer of diatomaceous earth or perlite on the filter element at the start of a filter cycle.

(36) "Public swimming and bathing facility" means a natural or artificial body or basin of water that is modified, improved, constructed, or installed for the purpose of swimming or bathing***, except for[. It does not include]*** a pool at a private single family residence intended only for the use of the owner and guests.

(37) "Readily accessible" means direct access without the necessity of removing any panel, door, or similar obstruction.

(38) "Septum" means that part of the filter element consisting of cloth, ***[or]*** closely woven fabric***,*** or other porous material on which the filter cake is deposited.

(39) "Skimmer" means a device designed to continuously remove surface film and water and return it through the filter.

(40) "Spray pad" means an area ***that:***

(a) Has[with] aquatic play features that spray or drop water for the purpose of wetting people***;***

(b) Is[, and are] designed so that there is no accumulation or ponding of water on the ground***;[.]*** and

(c) Includes both recirculating and non-recirculating water systems.

(41) ***"State Building Code" means the requirements established in 815 KAR Chapter 7.***

(42) "State Plumbing Code" means the requirements established in 815 KAR Chapter 20.

(43) "Strainer" means a device used to remove hair, lint, leaves, or other coarse material on the suction side of a pump.

(44)[(42)] "Suction piping" means that portion of the circulation piping located between the facility structure and the inlet side of a pump.

(45)[(43)] "Superchlorinate" means the addition to facility water of an amount of chlorine sufficient to produce a free available chlorine that is at least equal to ten (10) times the amount of combined chlorine plus the required minimum level of free available chlorine in order to oxidize the ammonia and nitrogenous materials which may be dissolved in the facility water.

(46)[(44)] "Surge tank" means a storage vessel within the pool recirculation system used to retain the water displaced by bathers.

(47)[(45)] "Total discharge head" means the amount of water that a pump will raise water above its center line.

(48)[(46)] "Total dynamic head" means the arithmetical difference between the total discharge head and total suction head (a vacuum reading is considered as a negative pressure). This value is used to develop the published performance curve.

(49)[(47)] "Total residual chlorine" means the arithmetical sum of free available chlorine and combined chlorine, ***which[and]*** is composed of the following components:

(a) Free available chlorine, which is the amount of chlorine available to inactivate microorganisms and that has not reacted with ammonia, nitrogenous material, and other contaminants in **facility[swimming pool]** water; and

(b) Combined chlorine (also called "chloramine"), which is the amount of chlorine that has reacted and combined with ammonia and other nitrogenous material to form chloro-ammonia compounds.

(50)[(48)] "Total suction head" means the amount of water that a pump will lift by suction.

(51)[(49)] "Turnover rate" means the time ***requirements,*** in hours or minutes, ***[required]*** for the circulation system to filter and recirculate a volume of water equal to the facility volume.

(52)[(50)] "Wading pool" means a pool or area within a pool where the water depth is twenty-four (24) inches or less.

(53)[(41)] "Weir box" means an overflow system placed at normal operating water surface level to remove surface debris and does not form a continuous loop around the pool perimeter.

Section 2. Submission of Plans and Specifications for Approval. (1) ***A[No]*** person shall ***not*** construct, alter, or reconstruct a public swimming and bathing facility until approval of detailed plans and specifications, with supporting design data as required in this administrative regulation, is granted in writing by the state or local agency having jurisdiction.

(2) The original plans and five (5) copies shall be submitted to the local health department with payment pursuant to 902 KAR 10:121.

(3) The front page of the plans submitted for review and approval shall contain the:

(a) Name of the swimming and bathing facility;

(b) Location by city and county;

(c) Name and contact information for the facility owner;

(d) Name of the installer; and

(e) Name of the engineer, architect, or person preparing the plans.

(4) Plans submitted by an engineer or architect shall bear the individual's official seal.

(5) Plans and specifications on public swimming and bathing facilities constructed by the state or local government, or for a facility with surface area greater than 1,600 square feet***,*** shall be prepared by an engineer or architect registered in the State of Kentucky.

(6) The plans shall be:

(a) Drawn to scale;

(b) Accompanied by proper specifications to permit a comprehensive review of the plans***,*** including the piping and hydraulic details; and

(c) Include:

1. A site plan of the general area with a plan and sectional view of the facility complex with all necessary dimensions;

2. A piping diagram showing all appurtenances including treatment facilities in sufficient detail, as well as pertinent elevation data, to permit a hydraulic analysis of the system;

3. The specifications on all treatment equipment, including performance ranges of pumps, disinfecting equipment, chemical feeders, filters, strainers, lights, skimmers, suction outlets or return inlets, diving boards, safety equipment, and other related equipment; and

4. Drawing of equipment room showing placement of equipment.

(7) One (1) set of approved plans shall be kept at the job site and available for inspection.

(8) Upon completion of recirculation piping system construction and prior to ***the[such]*** piping being ***tested for*** air pressure ***[tested]*** at ten (10) pounds per square inch of pressure for fifteen (15) minutes and covered, the owner or builder shall contact the cabinet for inspection.

(9) Upon completion of construction, a notarized statement certifying the facility was constructed in accordance with the approved plans and this administrative regulation shall be submitted to the cabinet.

(10) The facility shall not be used before receiving a final inspection and written approval from the cabinet.

(11) Unless construction is begun within one (1) year from the date of approval, the approval shall expire. Extension of approval may be considered upon written request to the cabinet.

(12) No change in location, construction, design, materials, or equipment shall be made to approved plans or the facility without the written approval of the cabinet.

Section 3. Water Supplies. (1) Potable water from an approved municipal water system or water district shall be supplied to all public swimming and bathing facilities. If these supplies are not available, a potable water supply meeting the approval of the Energy and Environment Cabinet shall be provided.

(2) The water supply shall be capable of providing***:***

(a) Sufficient quantities of water under pressure to all water-using fixtures and equipment at the facility***;[,]*** and

(b) [be capable of providing] Enough water to raise the water level ***by at least one (1) inch in three (3) hours*** in***:***

1. Swimming, diving, or wave pools***;[,]*** and

2. Water slide plunge pools***[, at least one (1) inch in three (3) hours]***.

Section 4. Water Quality and Sanitary Requirements for Bathing Beaches. (1) Prior to the issuance of plan and construction approval, the cabinet shall conduct a sanitary survey of the proposed beach. This survey shall include an evaluation of the physical, chemical, and bacteriological characteristics of the bathing beach area and the watershed.

(2) Physical quality. The following characteristics shall not be present in the beach area or watershed:

(a) Sludge deposits, solid refuse, floating waste solids, oils, grease, and scum; ***or[and]***

(b) Hazardous substances being discharged into bathing beach water or watershed.

(3) Bacteriological quality. The bacteriological quality of water at bathing beaches shall comply with the following criteria:

(a) It shall meet the requirements of 401 KAR 10:031. Satisfactory bacteriological results shall be obtained before approval for construction is considered; and

(b) There shall ***not*** be ***any[no]*** sanitary or combined sewer discharges or other raw or partially treated sewage discharges to the bathing beach area or immediate watershed.

(4) Chemical quality. There shall ***not*** be ***any[no]*** discharges of chemical substances, other than disinfecting agents, capable of creating toxic reactions, or irritations to the skin or mucous membranes of a bather.

Section 5. Sewage and Wastewater Disposal. (1) Sewage or wastewater generated from the operation of a public swimming and bathing facility shall discharge to a public sanitary sewer.

(2) If a public sanitary sewer is not available, sewage or wastewater shall be discharged to a system which complies with 902 KAR 10:085.

(3) Outdoor deck or surface area drainage water may be discharged directly to storm sewers, natural drainage areas, or to the ground surface without additional treatment. ***This[Such]*** drainage shall not result in nuisance conditions that create an offensive odor, a stagnant wet area, or an environment for the breeding of insects.

(4) Filter backwash shall be discharged to public sanitary sewers, or if unavailable, to a system approved by the cabinet.

Section 6. Refuse Disposal. (1) All refuse at a public swimming and bathing facility shall be disposed of in a manner approved by the Energy and Environment Cabinet in KAR Title 401.

(2) An adequate number of refuse containers***[;]*** with tight fitting lids shall be provided at readily accessible locations at all public swimming and bathing facilities.

(3) Refuse containers in women's restrooms shall be kept covered.

(4) Bulk refuse storage areas shall be designed and maintained to prevent rodent harborage.

(5) Bulk refuse containers shall be:

(a) Of approved design and construction;

(b) Kept closed; and

(c) Placed upon an impervious surface within a suitable enclosure to prevent access by animals.

Section 7. Facility Design and Construction. (1) All public swimming and bathing facilities, and attendant structures, such as bathhouses, dressing rooms, or restrooms, except for beach areas at bathing beaches, shall meet the design, materials, fixture, and construction requirements of 815 KAR 7:120 and 815 KAR Chapter 20.

(2) The wading and swimming areas at beaches where the water is less than five (5) feet deep shall be separated from swimming and diving areas by lines securely anchored and buoyed. Safe limits of swimming shall be marked by buoys, poles, or other markers located not over 100 feet apart and visible to bathers from a distance of at least 100 feet. Within ***these[such]*** limits of safe swimming there shall ***not*** be ***any[no]*** boating, underwater obstructions, or other hazards that may be dangerous or cause injury to swimmers. Signs shall be provided on the beach describing these markers and stating that they indicate the limits of safe bathing. The bottom of the swimming area shall consist of sand or gravel and be of a uniform slope.

(3) If diving facilities are provided at beaches, the design and layout of the facilities and associated unobstructed water depths shall be in accordance with the State Building Code requirements for swimming and diving pools. The water surrounding any floats or inflatable features where diving is permitted shall be at least nine (9) and one-half (1/2) feet deep.

(4) Depth markings and lane lines.

(a) On all facilities other than beaches, the depth of the water shall be marked plainly at or above the water surface on the vertical wall of the facility, if possible, and on the edge of the deck next to the facility. Depth markers shall be placed at the following locations:

1. At the points of maximum and minimum depths;

2. At the point of change of slope between deep and shallow portions ***or [(]***transition point***[)]***;

3. At intermediate two (2) feet increments of water depth; and

4. If the facility is designed for diving, at appropriate points to denote the water depths in the diving area.

(b) Depth markers shall be spaced so that the distance between adjacent markers is not greater than twenty-five (25) feet as measured peripherally.

(c) Depth markers shall be in Arabic numerals at least four (4) inches high and of a color contrasting with the background. If depth markers cannot be placed on the vertical walls at or above the water level, other means shall be used, so that markings shall be plainly visible to persons in the facility.

(d) Lane lines or other markings on the bottom of the facility shall be a minimum of ten (10) inches in width and be of a contrasting color.

(e) A safety line supported by buoys shall be provided across the section of the pool where the break between the shallow and deep water occurs (five (5) feet). The line shall be placed one (1) foot toward the shallow end from where the break occurs.

Section 8. Facility Water Treatment Systems. (1)(a) A recirculation system, consisting of pumps, piping, filters, water conditioning, disinfection equipment, and other accessory equipment shall be provided to clarify, chemically balance, and disinfect the water for all swimming and bathing facilities, except bathing beaches.

(b) All system components, including piping, shall bear the **NSF International (NSF)[National Sanitation Foundation]** potable water (NSF-pw) mark.

(c) Pumps greater than seven and five-tenths (7.5) horse power that are not required to meet NSF testing standards shall be considered on a case-by-case basis.

(2) Pumping equipment.

(a) The recirculation pump and motor shall deliver the flow necessary to obtain the turnover required in the table below. A valve for flow control and a flow meter shall be provided in the recirculation pump discharge piping.

(b) The turnover rate shall be:

Type of Facility	Turnover Required
Diving pools	8 hours or less
Wading pools, Spas, Therapy pools, Spray pad holding tanks, Facility equipped with a spray feature not providing additional filtered and disinfected water to the spray feature	30 minutes or less
Wave pools, Lazy rivers, Water rides	2 hours or less
Vortex pools, Plunge pools	1 hour or less
All other pools	6 hours or less

(c) Higher flow rates may be necessary in pools with skimmers so that each skimmer will have a minimum flow rate of thirty (30) gallons per minute.

(d) The pump shall be of sufficient capacity to provide a minimum backwash rate of fifteen (15) gallons per square foot of filter area per minute in sand filter systems.

(e) The pump or pumps shall supply the required recirculation rate of flow to obtain the turnover rate required at a total dynamic head of at least:

1. Fifty (50) feet for all vacuum filters;

2. Seventy (70) feet for pressure sand or cartridge filters; or

3. Eighty (80) feet for pressure diatomaceous earth filters and perlite filters.

(f) If the pump is located at an elevation higher than the facility water line, it shall be self-priming.

(g) If vacuum filters are used, a vacuum limit control shall be provided on the pump suction line. The vacuum limit switch shall be set for a maximum vacuum of eighteen (18) inches of mercury.

(h) A compound vacuum-pressure gauge or vacuum gauge shall be installed on the suction side of the pump.

(i) A pressure gauge shall be installed on the pump discharge line adjacent to the pump.

(j) Valves shall be installed to allow the flow to be shut off during cleaning, switching baskets, or inspection of hair and lint strainers.

(k) A hair or lint strainer with openings no more than one-eighth (1/8) inch is required except for pumps that are used with vacuum filter systems.

(3) Water heaters shall be installed at all indoor swimming and bathing facilities, and shall comply with the following:

(a) A water heater piping system shall be equipped with a bypass. A valve shall be provided at the bypass and on the influent and effluent heater piping. The influent and effluent heater piping shall be metallic and installed in accordance with heater manufacturer's recommendations;

(b) A heating coil, pipe, or steam hose shall not be installed in any swimming and bathing facility;

(c) Thermometers shall be provided in the piping to check the temperature of the water returning from the facility and the temperature of the blended water returning to the facility;

(d) An automatic temperature limiting device with thermostatic control that prevents the introduction of water in excess of 100 degrees Fahrenheit to swimming and diving pools and in excess of 104 degrees Fahrenheit for spas shall be provided***[;]*** and ***shall*** be accessible only to the facility operator;

(e) A pressure relief valve shall be provided and shall be piped to within six (6) inches of the floor;

(f) Venting of gas or other fuel burning water heaters shall be provided in accordance with the State Building Code;

(g) Heaters for indoor swimming and diving pools shall be capable of maintaining an overall pool water temperature between seventy-six (76) degrees Fahrenheit and eighty-four (84) degrees Fahrenheit;

(h) Combustion and ventilation air shall be provided for fuel burning water heaters in accordance with manufacturer recommendations or the State Building Code;

(i) Heaters for indoor swimming and diving pools shall be sized on a basis of 150 British Thermal Units per hour input per square foot of pool water surface area; and

(j) All heaters shall meet the latest standards of applicable recognized testing agencies.

(4) A flow meter shall be:

(a) Located so that the rate of recirculation may be easily read;

(b) Installed on a straight length of pipe at a distance of at least ten (10) pipe diameters downstream, and five (5) pipe diameters upstream from any valve, elbow, or other source of turbulence, except for those specifically designed without separation parameters; and

(c) Installed on each recirculation system, spray pad feature, waterslide, any other type of spray feature, and on multiple filtration units.

(5) Vacuum cleaning system.

(a) A vacuum cleaning system shall be:

1. Provided for all facilities except beaches; and

2. Capable of reaching all parts of the facility bottom.***[;]***

(b) A vacuum system that utilizes the attachment of a vacuum hose to the suction piping through the skimmer may be provided.***[;]***

(c)1. If the vacuum cleaning system is an integral part of the facility recirculation system, a wall fitting shall be provided:

a. Eight (8) to twelve (12) inches below the normal water level; and

b. With a cap or plug that is not removable by bathers.

2. Piping from this connection shall be:

a. To the suction side of the pump ahead of the hair and lint strainer;

b. At least one and one-half (1 1/2) inches in diameter; and

c. Equipped with a control valve near the junction with the pump suction line.

3. The size of the vacuum hose shall be at least one and one-half (1 1/2) inches in diameter and be of sufficient strength to prevent collapsing and allow adequate flow for proper cleaning.***[;]***

(d) Automatic vacuum systems may be used to supplement the built-in vacuum system provided they are capable of removing all debris from the facility bottom.***[; and]***

(e) Vacuum systems shall only be used when the facility is closed to bathers.

(6) Piping, skimmer**,** and overflow system.

(a) Piping shall comply with the material specifications listed in the Kentucky State Plumbing Code for potable water.

(b) All piping, valves, and fittings shall be color coded, suitably labeled, or marked to denote its purpose within the facility water treatment system.

(c) The piping shall be designed to carry the required quantities of water at velocities not exceeding five (5) feet per second in suction piping and ten (10) feet per second in pressure piping.

(d) Gravity piping shall be sized so that the head loss in piping, fittings, and valves does not exceed the difference in water levels between the facility and the maximum operating level in the surge or filter tank.

(e) The following waste lines shall be provided with six (6) inch air gaps at their points of discharge to the waste pump or sewer:

1. Main outlet bypass or other connections to waste;

2. Surge tank drain and overflow lines;

3. Pump discharge to waste lines; and

4. Gutter bypass to waste lines.

(7) Inlets.

(a) Each inlet shall be directionally adjustable.

(b) The velocity of flow through any inlet orifice shall be in the range of five (5) to twenty (20) feet per second, except ***that[in]*** facilities equipped with skimmers ***[it]*** shall ***have a velocity of flow[be]*** in the range of ten (10) to twenty (20) feet per second.

(c) Inlets shall be located and directed to produce uniform circulation of water to facilitate the maintenance of a uniform disinfectant residual throughout the entire facility without the existence of dead spots.

(d) Inlets in facilities with skimmers shall be twelve (12) inches below the midpoint on the skimmer throat.

(e) Inlets in facilities with a prefabricated perimeter overflow system shall be eight (8) inches or more below the lip of the gutter.

(f) Inlets shall be placed completely around the pool with each serving a linear distance of not more than fifteen (15) feet on center. The pipe serving the inlets shall form a loop completely around the pool.

(g) The number of inlets shall be determined by dividing the perimeter of the pool measured in feet, by fifteen (15).***[;]*** Any fraction thereof would represent one (1) additional inlet.

(h) Pools greater than forty-five (45) feet wide shall be equipped with floor inlets in a grid pattern located no more than seven and five-tenths (7.5) feet from a wall and no more than fifteen (15) feet apart. The grid ***shall[must]*** form a continuous loop with no reduction in loop pipe sizing.

(i) A minimum of two (2) inlets is required on all pools, holding tanks, and bathing facilities**,** regardless of size.

(j) At least one (1) inlet shall be located in each recessed stairwell or other space where water circulation might be impaired.

(k) Prefabricated perimeter overflow systems shall be approved on a case-by-case basis by the cabinet.

(8) Outlets.

(a) All facilities, including holding tanks, shall be provided with a minimum of two (2) main outlets at the deepest horizontal point plumbed in parallel to permit the facility to be completely and easily drained.

(b) Openings and grates shall:

1. Conform to 15 U.S.C. 8003;

2. Be covered by a proper grating that is not removable by bathers;

3. Be at least four (4) times the area of the main outlet pipe;

4. Have sufficient area so that the maximum velocity of the water

passing through the grate does not exceed one and one-half (1 1/2) feet per second at maximum flow; and

5. ***Have a[~~The~~]*** maximum ***grate opening*** width of ***[~~grate openings shall be~~]*** one-fourth (1/4) inch***.[~~;~~]***

(c) Additional outlets shall be provided in all facilities where the width of the facility is more than sixty (60) feet. In these cases, outlets shall be spaced not more than thirty (30) feet apart, nor more than fifteen (15) feet from side walls, and shall be connected in parallel, not series***.[~~;~~]***

(d) A hydrostatic relief valve may be provided for in-ground swimming and diving pools. Subsurface drainage, if provided, shall not be directly connected to a sanitary sewer***.[~~; and~~]***

(e) Main outlet piping shall be sized for ***water*** removal ***[~~of the water through it~~]*** at a rate of at least 100 percent of the design recirculation flow rate ***and*** at velocities specified in subsection (6)(c) of this section. It shall function as a part of the recirculation system. The piping system shall be valved to permit adjustment of flow through it.

(9) Perimeter overflow systems.

(a) Swimming and bathing facilities with a water surface area greater than 1,600 square feet shall have a continuous perimeter overflow system.

(b) A perimeter overflow system shall:

1. Extend completely around the facility;

2. Permit inspection, cleaning, and repair;

3. Be designed so that no ponding or retention of water occurs within any portion of the system;

4. Be designed to prevent entrapment of bathers or the passage of small children into an enclosed chamber;

5. Have an overflow lip which is rounded, provides a good handhold, and is level within two-tenths (0.2) inch;

6. Provide for the rapid removal of all water and debris skimmed from the pool's surface;

7. Be designed for removal of water from the pool's upper surface at a rate equal to 100 percent of the design turnover flow rate;

8. Discharge to the recirculation system;

9. Be provided with a minimum of two (2) outlet pipes that will not allow the overflow channel to become flooded when the facility is in normal use;

10. Require additional outlet pipes provided at one (1) per 150 lineal feet of perimeter overflow system or fraction thereof; and

11. Have drain gratings with surface area at least equal to two (2) times the area of the outlet pipe.

(10) All facilities that have perimeter overflow systems shall have a net surge capacity of at least one (1.0) gallon per square foot of water surface area. Surge capacity shall be provided either in a vacuum filter tank, surge tank, or a combination of these. Main drain piping shall terminate eighteen (18) inches above the surge tank floor and be equipped with a modulating valve and a positive shutoff valve. Surge capacity for a diatomaceous earth (DE) filter is measured eighteen (18) inches above the filter media and the bottom of the gutter pipe.

(11) Skimmers are permitted on facilities whose width does not exceed thirty (30) feet and whose water surface area is 1,600 square feet or less. If skimmers are used, the following shall be met:

(a) At least one (1) skimmer shall be provided for each 500 square feet of water surface area or fraction thereof with a minimum of two (2) skimmers provided, except for spas, holding tanks, or wading pools with a water surface area of 144 square feet or less, where a minimum of one (1) skimmer shall be required.

(b) Skimmers shall be located to minimize interference with each other***.[~~;~~]***

(c) The rate of flow per skimmer shall not be less than thirty (30) gallons per minute, and all skimmers shall be capable of handling at least eighty (80) percent of required flow rate***.[~~;~~]***

(d) Surface skimmer piping shall have a separate valve in the equipment room to permit adjustment of flow***.[~~;~~]***

(e) Each skimmer shall be provided with an equalizer line at least one and one-half (1 1/2) inches in diameter, located at least one (1) foot below the lowest overflow level of the skimmer, and be provided with a self-closing valve and cover that conforms to 15 U.S.C. 8003***.[~~;~~]***

(f) ***All overflow water shall pass through a basket that can be removed without the use of tools.[~~A basket that can be removed without the use of tools and through which all overflow water must pass; and~~]***

(g) All pools not equipped with a perimeter overflow system shall have a smoothly contoured handhold coping not over two and one-half (2 1/2) inches thick for the outer two (2) inches or an equivalent approved handhold. The handhold shall be no more than nine (9) inches above the normal water line.

(12) All facilities shall be equipped for the addition of make-up water from a potable water source pursuant to the following:

(a) Discharge through an air gap of at least six (6) inches to a surge tank or a vacuum filter tank. If make-up water is added directly to the facility, the fill-spout shall be located under or immediately adjacent to a ladder rail, grab rail, or lifeguard platform. If added to a surge tank or vacuum filter tank, the six (6) inch air gap shall be measured above the top lip of the tank; and

(b) Through piping with vacuum breaker, antisiphon, or other protection as specified by the State Plumbing Code.

(13) Filtration.

(a) Filters shall comply with the following:

1. Pressure filters shall have:

a. Pressure gauges;

b. An observable free fall, or a sight glass installed on the backwash discharge line; and

c. A manual air-relief valve at the high point;

2. The filter backwash disposal facility shall have sufficient capacity to prevent flooding during the backwash cycle;

3. All filters shall be designed so that they can be completely drained. Filters shall be drained through a six (6) inch air gap to a pump or sanitary sewer; and

4. Filter media shall be listed as NSF approved.

(b) Each facility shall have separate filtration and treatment systems.

(c) Filter equipment and treatment systems shall operate continuously twenty-four (24) hours per day, except if the facility is closed for repairs or at the end of the swimming season.

(d) Rapid sand or gravity sand filters shall be designed for a filter rate not to exceed three (3) gallons per minute per square foot of bed area at time of maximum head loss with sufficient area to meet the design rate of flow required by the prescribed turnover.

(e) At least eighteen (18) inches of freeboard shall be provided between the upper surface of the filter media and the lowest portion of the pipes or drains that serve as overflows during backwashing.

(f) The filter system shall be designed with necessary valves and piping to permit filtering to the pool.

(g) High rate sand filters. The design filtration rate shall be a minimum of five (5) gallons per minute per square foot of filter area. The maximum design filtration rate shall be the lesser of fifteen (15) gallons per minute per square foot of filter area or seventy-five (75) percent of the NSF listed filtration rate. The backwash rate shall be fifteen (15) gallons per minute per square foot of filter area.

(h) Diatomaceous earth filters ***shall comply with the following requirements:[~~:~~]***

1. The design filtration rate shall not exceed one and one-half (1 1/2) gallons per minute per square foot of filter area on diatomaceous earth filters, except that the rate of filtration may be increased to two (2) gallons per minute per square foot of filter area if continuous feeding of diatomaceous earth is employed;

2. A precoat pot shall be provided on the pump suction line for pressure diatomaceous earth systems. All diatomaceous earth filter systems shall have piping arranged to allow recycling of the filter effluent during precoating;

3. If equipment is provided for the continuous feeding of diatomaceous earth to the filter influent, the equipment shall have a capacity to feed at least one and one-half (1 1/2) ounces of this material per square foot of filter area per day;

4. Overflow piping on vacuum diatomaceous earth filters shall be provided on the filter tank to discharge overflow water;

5. All filters shall be equipped for cleaning by one (1) or more of the following methods:

a. Backwashing;

b. Air-pump assist backwashing;

c. Spray wash;

d. Water pressure to wash vacuum filter; or

e. Agitation; and

6. Perlite may be used in filters listed by NSF for perlite, but it may not be substituted for diatomaceous earth without NSF listing.

(i) Vacuum sand filters ***shall comply with the following requirements:[.]***

1. The design filtration rate shall be seventy-five (75) percent of that listed by NSF or fifteen (15) gallons per minute, whichever is lesser. The backwash rate shall be at fifteen (15) gallons per minute per square foot of filter area; and

2. Overflow piping shall be provided in order to drain overflow water.

(j) Cartridge filters ***shall comply with the following requirements:[.]***

1. Cartridge filters shall not be used on facilities with a capacity larger than 80,000 gallons;

2. Cartridge filters shall only be used on indoor pools;

3. The design filtration rate shall not exceed fifteen hundredths (0.15) gallons per minute per square foot of filter surface area; and

4. A clean duplicate set of cartridges shall be maintained at the facility.

(14) Disinfectant and chemical feeders.

(a) The minimum chemical feed equipment required at any facility shall include a unit for feed of a disinfectant and a unit for feed of a chemical for pH control**[~~, except as stated in paragraph (e) of this subsection~~]**.

(b) Equipment capacity.

1. Equipment for supplying chlorine or compounds of chlorine shall be of sufficient capacity to feed the chlorine at a rate of***:***

a. Eight (8) ppm or two and seven-tenths (2.7) pounds per day chlorine gas or its equivalent for each 10,000 gallons of pool volume for outdoor facilities; or

b. Three (3) ppm or one (1) pound per day for chlorine gas or its equivalent for each 10,000 gallons of pool volume for indoor facilities based on the turnover rates specified in subsection (2)(b) of this section***.[;]***

2. The equipment for supplying chlorine shall not be controlled by a day-date clock***.[;]***

3. The injection point for chlorine shall be placed on the discharge side of the pump and downstream of the flow meter unless the chlorine injection point is located within the surge tank***.[;]***

4. Pot feeders for supplying bromochlorodimethylhydantoin sticks shall contain at least five tenths (0.50) a pound of bromochlorodimethylhydantoin per thousand gallons of facility capacity, or fraction thereof. The feeder shall have a method of feed rate adjustment***.[;]***

5. Supplemental NSF listed ultraviolet (UV) light disinfection systems***[~~ shall~~]***:

a. ***Shall*** be provided on all splash pads with a recirculating water system;

b. ***Shall*** be installed on a bypass line; and

c. ***Shall be*** equipped with a flow indicator; and

d. May be used on other facilities as supplemental disinfection.

6. Ozone may be used as a supplement to chlorination or bromination. Ozonation equipment will be considered by the cabinet on a case-by-case basis***.[~~; and~~]***

7. No more than one (1) gram per day of ozone per ten (10) gallons per minute of flow rate will be allowed. The ambient air ozone concentration shall be less than five hundredths (.05) ppm at all times either in the vicinity of the ozonator or at the pool water surface.

(c) If positive displacement pumps***, or [(]***hypochlorinators***,[)]*** are used to inject the disinfectant solution into the recirculation line, they shall be of variable flow type and shall be of sufficient capacity to feed the amount of disinfectant required by paragraph (b)1 of this subsection. If calcium hypochlorite is used, the concentration of calcium hypochlorite in the solution shall not exceed five (5) percent. The solution container shall have a minimum capacity equal to the volume of solution required per day at the feed rate required in paragraph (b)1 of this subsection.

(d) Gas chlorinators shall only be used in a pre-existing facility and shall comply with applicable sections of 29 C.F.R. 1910.119.

(e) pH control feeders. All facilities shall install a chemical feeder of positive displacement type for the purpose of applying chemicals to maintain pH of facility water within the range of seven and two-tenths (7.2) to seven and eight-tenths (7.8). A solution tank of adequate capacity shall be provided.

(15)(a) Testing equipment shall be provided at all swimming and bathing facilities, maintained with fresh reagents, and consist of **[~~at least the following:~~**

~~1.~~] a DPD (Diethyl-P-Phenylene-Diamine) colorimetric test kit used to determine free disinfectant residual, combined disinfectant residual, total alkalinity, and pH of the facility water. Test kits using orthotolidine reagents **shall*[~~are~~]*** not ***be*** acceptable**[~~; and~~**

~~2. At least five (5) chlorine color standards and five (5) pH color standards~~].

(b) Test kits shall be used to determine the total residual chlorine either directly or by summation of free chlorine and combined chlorine test results. Chlorine standards shall range from one-tenth (0.1) to five (5.0) ppm.

(c) pH standards shall range from six and eight-tenths (6.8) to eight and four-tenths (8.4).

(d) Both tests shall be accurate to within two-tenths (0.2) units.

(e) Facilities using cyanurates for stabilization shall have a test kit to measure the cyanuric acid concentration. The cyanuric acid test kit shall permit readings up to 100 ppm.

Section 9. Operational Water Quality Standards. (1) Disinfectant residuals for swimming and diving pools, wading pools, water slides, and wave pools:

(a) Chlorine residual shall be maintained between one (1) and five (5) ppm as free available chlorine.

(b) Bromine residual shall be maintained between two (2) and six (6) ppm as free available disinfectant.

(c) Pools stabilized with cyanuric acid shall meet the following criteria:

1. Be an outdoor facility;

2. Maintain one **and five-tenths (1.5)[~~(1)~~]** to five (5) ppm free available chlorine residual; and

3. Cyanuric acid concentration not to exceed fifty (50) ppm.

(d) If the presence of chloramines is determined, superchlorination is required, and the chloramine level shall not exceed two-tenths (0.2) ppm.

(2) Disinfectant residuals for spas:

(a) Chlorine residual shall be maintained between one (1) and five (5) ppm as free available chlorine;

(b) Bromine residual shall be maintained between two (2) and six (6) ppm as free available disinfectant; and

(c) If the level of chloramines exceeds two-tenths (0.2) ppm, superchlorination is required. During the superchlorination process and until ***the[~~such~~]*** time ***that[~~as~~]*** free chlorine levels return to five (5) ppm or less, the facility shall be closed.

(3) The pH of the facility water shall be maintained in a range of seven and two-tenths (7.2) to seven and eight-tenths (7.8). For corrosive water supplies, the alkalinity level shall be suitably adjusted to allow maintenance of the pH level.

(4) Turbidity. Facility water shall have sufficient clarity at all times so that:

(a) A black disc, six (6) inches in diameter, is readily visible when placed on a white field at the deepest point of the pool; and

(b) The openings of the main outlet grate are clearly visible by an observer on the deck***.[;]***

(5) Total alkalinity. The alkalinity of the facility water shall not be less than fifty (50) nor more than 180 ppm, as determined by suitable test kits.

(6) Temperature.

(a) The water temperature for indoor swimming and bathing facilities other than spas shall not be less than seventy-six (76) degrees Fahrenheit nor more than eighty-four (84) degrees Fahrenheit. The cabinet may allow variances from the above temperature limits for special use purposes as competition, physical therapy, or instruction of children. Variances may be approved if proof is presented showing that a variance from the temperature requirements is necessary for the special uses stated***[,]*** and that the variance will not jeopardize public health.

(b) Air temperature at an indoor facility shall be higher than the water temperature, except for spas.

(c) Water temperatures for any facility including spas shall not exceed 104 degrees Fahrenheit.

(d) All facilities with heated water shall have at least one (1) break proof thermometer located within the facility water in a conspicuous location. The thermometer shall be securely mounted to prevent tampering by bathers.

(7) The facility operator shall perform tests for each of the above water quality characteristics before opening and during all hours of operation based on the frequency schedule listed below, and record all test results on a daily operational log sheet:

(a) Disinfectant residual, temperature, and pH shall be checked at least three (3) times daily with a greater frequency if bather load or climatic conditions warrant.

(b) Turbidity shall be checked daily, or more often as needed.

(c) ***The following[~~Alkalinity, cyanuric acid (if used)~~]*** shall be checked weekly, or more often as needed***:***

1. Alkalinity; and

2. Cyanuric acid, if used.

(8) All spas shall be completely drained, thoroughly cleaned, and refilled with potable water at least once per week. Cleaners used shall be compatible with facility wall and bottom finishes.

Section 10. General Facility Operation and Maintenance. (1) All facilities shall be maintained:

(a) Free from sediment and debris; and

(b) In good repair.

(2) Decks shall be kept clean. Indoor decks shall be disinfected at least weekly.

(3) Perimeter overflow and skimmers. The perimeter overflow system or automatic surface skimmers shall be clean and free of leaves or other debris. The strainer baskets for skimmers shall be cleaned daily. The flow through each skimmer shall be adjusted as often as necessary to maintain a vigorous skimming action. The facility water shall be maintained at an elevation so that effective surface skimming is accomplished. The flow returning from the facility shall be balanced or valved so that the majority of flow is returned through the perimeter overflow or skimmer system.

(4) Inlet fittings. Inlets shall be checked frequently to insure that the rate of flow through each inlet is correct so that a uniform distribution pattern is established.

(5) Bather preparation facilities.

(a) The floors of dressing rooms, shower stalls, and other interior rooms shall be cleaned and disinfected daily.

(b) Toilet rooms and fixtures shall be kept clean, free of dirt and debris, and in good repair.

(c) Floors shall be maintained in a nonslip condition.

(d) Soap dispensers shall be filled and operable.

(e) Adequate supplies of toilet tissue, disposable hand drying towels, or suitable hand drying devices shall be maintained.

(6) Street attire. Street shoes shall not be worn on the facility decks or wet areas of the bather preparation facilities, except for those persons engaged in official duties.

(7) Safety. All public swimming facilities shall have adequate enclosures that meet the specifications of Department of Housing, Buildings and Construction. Doors or gates in the facility enclosure shall be kept closed and locked if the facility is closed.

(8) Electrical systems. Repairs to any electrical system shall be made by an electrician. All repairs shall be in accordance with the National Electrical Code and shall be approved by a certified electrical inspector.

(9) Diving equipment, ladders, hand rails, and other similar equipment, shall be maintained in good repair, be securely anchored, and have a nonslip surface.

(10) Operation of mechanical equipment.

(a) Manufacturers' instructions for operation and maintenance of mechanical and electrical equipment, as well as pump performance curves, shall be kept available at the facility***.[;]***

(b) Pumps, filters, disinfectant feeders, pH controls, flow indicators, gauges, and all related components of the facility water recirculation system shall be kept in continuous operation twenty-four (24) hours a day***.[~~; and~~]***

(c) Recirculation pumps. The pump shall not be throttled on the suction side ***[~~(except the bottom drain line valve)~~]*** during normal operation, ***except for the bottom drain valve,*** and shall be kept in good repair and condition. The flow control valve on the discharge side shall be adjusted as necessary to maintain the design flow rate.

(11) Filtration.

(a) Sand filters.

1. The filter air release valve shall be opened***,*** as necessary, to remove air which collects in the filter***[;]*** and following each backwash***.[~~; and~~]***

2. The filter shall be backwashed if the design flow rate can no longer be achieved, or as specified by the filter manufacturer, whichever occurs first.

(b) Diatomaceous earth filters.

1. The dosage of diatomaceous earth precoat shall be at least one and one-half (1 1/2) ounces per square foot of element surface area. Pressure diatomaceous earth filters shall be backwashed if the design flow rate can no longer be achieved or as specified by the filter manufacturer, whichever occurs first. If the recirculation pump stops or is shut off, the filter shall be thoroughly backwashed and the elements shall be precoated before placing the pump back into operation. Vacuum diatomaceous earth filters shall be washed if the design flow rate can no longer be achieved or as specified by the filter manufacturer, whichever occurs first;

2. Following the precoating operation, the initial filter effluent shall be either recirculated through the filter until the filter effluent is clear, or the initial filter effluent shall be discharged to waste until properly clarified water is produced; and

3. If continuous diatomaceous earth feed is required (filter loading rate exceeds one and five-tenths (1.5) gallons per minute per square foot of filter surface area), it shall be applied at a rate of one-half (1/2) to one and one-half (1 1/2) ounces per square foot of surface area per day, or as needed to extend filter cycles.

(12) Hair and lint strainers. Hair and lint strainers shall be cleaned to prevent clogging of the suction line and cavitation. The pump shall be stopped before the strainer is opened. In all cases, the hair strainer basket shall be cleaned during the time the filter is being backwashed.

(13) Flow meters. Flow meters shall be maintained in an accurate operating condition and readily accessible. The glass and the connecting tubes shall be kept clean.

(14) Vacuum and pressure gauges. The lines leading to the gauges shall be bled occasionally to prevent blockage.

(15) Positive displacement feeders.

(a) Positive displacement feeders shall be periodically inspected and serviced;

(b) To minimize sludge accumulation in the unit, the lowest practicable concentration of solution shall be used. If liquid chlorine solution is used, the dilution with water is not critical to the operation of the unit; and

(c) Sludge accumulations shall be cleaned periodically from the unit.

(16) Chlorinated cyanurates. The use of chlorinated cyanurates ***shall be[~~is~~]*** prohibited.

(17) pH adjustment.

(a) Soda ash or caustic soda may be used to raise the facility water pH***.[;]***

(b) Caustic soda shall only be used in accordance with the manufacturer's instructions. If caustic soda is intended for use, the cabinet shall be notified in writing. Protective equipment and clothing, including rubber gloves and goggles, shall be available for the handling and use of this chemical***.[;]***

(c) Sodium bisulfate or muriatic acid may be used to lower pool water pH***.[;]***

(d) Hydrochloric (muriatic) acid may only be used with proper supervision and care. Protective equipment and clothing, including rubber gloves and goggles, shall be available for handling this chemical***.[~~; and~~]***

(e) The cabinet shall be consulted ***if there are[~~in the event of~~]*** unusual pH problems including corrosion, scaling, or wide fluctuations in pH.

(18) Algae control.

(a) The development of algae shall be eliminated by

superchlorinating. The facility shall not be open for use during this treatment. If superchlorination fails to eliminate the algae, the cabinet shall be consulted for further advice.

(b) Treated algae which cling to the bottom and sides of the facility shall be brushed loose and removed by the suction cleaner and filtration system.

(19) Miscellaneous chemicals.

(a) Chemicals other than approved disinfectants shall be used only with the advice and under the supervision of the cabinet***[;]***

(b) Chemicals shall be kept covered and stored in the original container, away from flammables and heat, and in a clean, dry, and well-ventilated place that prevents unauthorized access to the chemicals***[;]***

(c) The chemicals used in controlling the quality of water shall be used only in accordance with the manufacturer's instructions***[; ~~and~~]***

(d) If polyphosphates are used for sequestering iron, the concentration of polyphosphates shall not exceed ten (10) ppm.

(20) Equipment rooms ***shall comply with the following requirements:[.]***

(a) Equipment necessary for facility operation shall be housed in a lighted, ventilated room that affords protection from the weather, prevents unauthorized access, has ceilings of at least seven (7) feet in height, and is of sufficient size for operation and inspection;

(b) The equipment room floor shall slope toward drains and shall have a nonslip finish;

(c) A hose bib with a vacuum breaker shall be installed in the equipment room;

(d) Suitable space, if not provided in the equipment room, shall be provided for storage of chemicals, tools, equipment, supplies, and records where they can be acquired by the facility operator without leaving the premises. The storage space shall be dry and protected from unauthorized access; and

(e) The equipment room and all other storage areas shall be maintained in a clean, uncluttered condition, and shall not be used for storage of materials not essential to operation and maintenance of the facility.

(21) Maintenance of bathing beaches.

(a) Beach areas shall be maintained free of litter and water borne debris. Beverage containers of glass or metal containers with detachable pull tabs shall be prohibited.

(b) A layer of sand or gravel of sufficient depth to prevent the creation of mud holes or slicks and to reduce shallow water turbidity shall be maintained on all beach areas***[,]*** and shall extend beneath the water of all wading and swimming areas***[; ~~and~~]***

(c) Wading, swimming, and diving areas shall be examined by the facility operator on a routine basis and immediately after high water conditions for floating or sunken debris, obstructions at diving areas, and high water turbidity, which may present safety hazards to bathers.

Section 11. Facility Records. (1) The operator of each facility shall keep a daily record of information regarding operation of the facility on the DFS-352, Swimming Pool Log Sheet. This data shall be kept on file by the operator and submitted to the cabinet as requested. Proper operating records shall be kept showing daily or weekly results, as applicable, for:

(a) Disinfectant residuals;

(b) pH readings, total alkalinity, cyanuric acid level***, [(]***if applicable***[)]***; and

(c) Equipment malfunctions.

(2) If two (2) or more facilities are operated on the same site, separate records shall be maintained for each facility.

Section 12. Personnel. (1) Operator. A facility operator shall be responsible for the operation and maintenance of all swimming and bathing facilities. The operator shall be available at all times when the facility is open for use.

(2) Lifeguards.

(a) Lifeguards shall be on duty at a facility that has 2,000 square feet or greater of water surface area at a rate of one (1) per 2,000 square feet or fraction thereof.

(b) Lifeguards shall be provided at all facilities, regardless of water surface area, that allow bathers seventeen (17) years of age or under to enter the facility area without a responsible adult present at a rate of one (1) lifeguard per 2,000 square feet of water surface area or fraction thereof.

(c) All facilities that are not required to provide lifeguards ***shall[~~must~~]*** post and enforce the following rules at all entrance points: "No Lifeguard on Duty" and "No person may enter the facility area alone or swim alone."

(d) ***[~~All beaches shall provide lifeguards at a rate of one (1) per 100 linear feet of beach front or fraction thereof, and a minimum of one (1) per attraction, with additional lifeguards provided to ensure all areas surrounding the attraction are clearly visible at all times.~~***

(e) ***~~This shall be][is][the minimum lifeguard coverage acceptable under this administrative regulation.~~]*** **Additional lifeguards** ***shall be provided if necessary[~~may be required~~]*** **depending on bather load, bather activities, size, and configuration of the facility, and the amount of surface area for shallow and deep water areas, emergencies, and the lifeguard's ability to see bathers.**

(e) A facility may submit an alternative lifeguard staffing plan that:

1. Has been certified by an independent third-party compliance specialist;

2. Designates the number of lifeguards necessary to ensure each lifeguard is capable of viewing the entire area of the assigned zone of patron surveillance; and

3. Ensures the lifeguard is able to reach the furthest extent of the assigned zone of patron surveillance within twenty (20) seconds.

(f) The alternative lifeguard staffing plan shall be:

1. On file with the Public Safety Branch within the Department for Public Health;

2. Submitted to the local health department of jurisdiction; and

3. Resubmitted if there is a change in:

a. The shape or size of the swimming pool;

b. The surrounding areas that would obstruct the lifeguard's view of the bottom of the pool; or

c. Ownership of the facility.

(g) Lifeguards shall be provided at all bathing beaches that allow bathers seventeen (17) years of age or younger without a responsible adult at a rate of one (1) per 100 linear feet of beach front or a fraction thereof. Bathing beaches that do not provide lifeguards shall post the following warnings: "No lifeguard on duty. Swim at your own risk. No person seventeen (17) years of age or younger may swim without a responsible adult present.".

(h) A bathing beach that has an inflatable water attraction shall have a minimum of one (1) lifeguard per attraction, with additional lifeguards provided to ensure all areas surrounding the attraction are clearly visible at all times.

(3)[~~(f)~~] Lifeguards shall comply with the following:

(a)[~~1.~~] Lifeguards shall have a current lifesaving certificate. Current training as a lifesaver or water safety instructor by the American Red Cross or equivalent shall satisfy this requirement. The certificate of competency shall be prominently posted;

(b)[~~2.~~] Lifeguards shall be dressed in swimming attire; and

(c)[~~3.~~] Lifeguards assigned to the supervision of the facility shall not be subject to duties that would***:***

1.[~~a.~~] Distract their attention from proper observation of persons in the facility area***;[,]*** or

[~~b.~~] [~~that would~~] Prevent immediate assistance to persons in distress in the water.

Section 13. Safety Equipment. (1) Facilities requiring lifeguards shall have a minimum of one (1) elevated lifeguard chair per on-duty lifeguard. A lifeguard chair shall be provided for each 2,000 square feet of water surface area or major fraction more than half thereof. They shall be located to provide a clear view of the facility bottom in the area under surveillance.

(2) Beaches ***requiring lifeguards*** shall ***provide[~~be provided with~~]*** an elevated lifeguard chair for each 100 linear feet of beach front, with an additional lifeguard chair for each additional 100 linear feet of beach front or fraction thereof. The chairs shall be located on

the beach to provide a clear view of all areas under surveillance and to provide the quickest response time.

(3) One (1) unit consisting of the following lifesaving equipment shall be provided for 2,000 square feet of water surface area and an additional unit for each additional 2,000 square feet or fraction thereof:

(a) A U.S. Coast Guard approved ring buoy no more than fifteen (15) inches in diameter with a three-sixteenths (3/16) inch rope attached that measures one and one-half (1 1/2) times the maximum pool width;

(b) **Rescue tubes may be used when lifeguards are present;**

(c) A shepherd's hook securely attached to a one piece pole not less than twelve (12) feet in length; and

(d)[~~(c)~~] One (1) backboard with head immobilizer and at least three (3) straps, for back and neck injuries.

(4) Facilities limited to small spas, with less than 144 square feet of water surface area, shall not be required to provide the equipment listed in subsection (3) of this section, but shall meet the requirements of subsections (7), (10), and (11) of this section.

(5) In addition to subsection ***[~~three~~]***(3) of this section, a beach shall provide the following lifesaving equipment:

(a) Paddle board or surfboard;

(b) At least one (1) lifeboat***[~~,~~]*** and one (1) unit of lifesaving equipment; and

(c) A torpedo shaped buoy.

(6) All facilities shall be equipped with a minimum of one (1) standard twenty-four (24) unit first aid kit or its equivalent that is kept filled and ready for use. Additional units shall be provided for each additional 2,000 square feet of facility area or major fraction thereof.

(7) Lifesaving equipment shall be mounted in conspicuous places at lifeguard chairs or other readily accessible locations. Its function shall be plainly marked, and this equipment shall be kept in repair and ready condition. Bathers or other persons shall not be permitted to tamper with, use for any purpose other than its intended use, or remove ***this[~~such~~]*** equipment from its established location. This equipment at beaches shall be ***centrally located in a conspicuous place that is readily accessible[~~located at each lifeguard chair~~]***, with the lifeboat required by subsection (5)(b) of this section being located ***in the most central location[~~at the most centrally stationed lifeguard chair~~]***.

(8) The hydrojet auxiliary air or water pump for a spa shall be controlled by an on-off switch with a fifteen (15) minute timer located and labeled at least five (5) feet away from the spa.

(9) All facilities shall provide an emergency automatic pump shut off located adjacent to the telephone.

(10)(a) All facilities shall have a non-pay landline telephone**, continuously connected to a power source and operational at all times,** capable of direct dialing 911 without going through a switchboard located on the deck that is readily accessible and conspicuously located. **A cordless telephone shall be prohibited.**

(b) A two (2) way radio communication system to a manned telephone system may be substituted at an isolated beach facility.

(c) The **address of the facility and the** telephone number of the police department, fire department, emergency medical service, or a hospital shall be posted in a conspicuous place near the telephone.

(11) All drownings and injuries requiring hospitalization shall be immediately reported to the local health department and the Department for Public Health.

Section 14. Spectator and Bather Administrative Regulations. (1) Management of each facility shall adopt rules for controlling of food, drink, and smoking in the facility and surrounding areas.

(2) Rules governing the use of the facility and instructions to bathers shall be displayed on placards at the entrance to dressing rooms and enforced by the facility operator. Posting of rules and other instructions shall provide that:

(a) Admission to the facility shall be refused to a person:

1. Having any contagious disease ***or[~~,~~]*** infectious conditions**,** such as colds, fever, ringworm, foot infections, skin lesions, carbuncles, boils, inflamed eyes, ear discharges, or any other condition that has the appearance of being infectious;

2. Having excessive sunburn, abrasions that have not healed, corn plasters, bunion pads, adhesive tape, rubber bandages, or other bandages of any kind; and

3. Under the influence of alcohol, illegal substances, or exhibiting erratic behavior;

(b) ***[~~No~~]*** Food, drink, gum, tobacco, or vapor producing ***products shall not[~~product, will~~]*** be allowed**,** other than in specially designated and controlled sections of the facility area;

(c) Personal conduct within the facility shall assure that the safety of self and others is not jeopardized;

(d) ***[~~No~~]*** Running and ***[~~no~~]*** boisterous or rough play ***shall not be permitted,[~~(~~]***except ***for*** supervised water sports***[~~) are permitted~~]***;

(e) Spitting, spouting of water, blowing the nose, or otherwise introducing contaminants into the facility water ***shall[~~is~~]*** not ***be*** permitted;

(f) Glass, soap, or other material that creates hazardous conditions or interferes with efficient operation of the facility shall not be permitted in the facility or on the deck;

(g) All apparel worn in the facility shall be clean;

(h) Diving in shallow water ***shall[~~is~~]*** not ***be*** permitted;

(i) Caution shall be exercised in the use of diving boards; and

(j) **Service animals may be allowed in the deck area but shall be excluded from the water[**~~Animals shall be excluded from the facility area~~]**.**

(3)[~~(2)~~] Due to the nature of bathing beaches, subsection (2)(c), and (f) of this section shall not apply. ***[~~Subsection (2)(a) and (b) of this section shall be enforced at the discretion of the facility operator, except subsections (2)(a)2. and 3., which shall be enforced at all facilities.~~]***

(4)[~~(3)~~] In addition to the requirements of subsection (2) of this section, a caution sign shall be mounted adjacent to all spas and contain the following warnings:

"CAUTION

Pregnant women, elderly persons, and persons suffering from any heart condition or disease, diabetes, or high or low blood pressure should not enter the spa without prior medical consultation and permission from their doctor.

Do not use the spa while under the influence of alcohol, tranquilizers, or other drugs that cause drowsiness, or that raise or lower blood pressure.

Do not use at water temperatures greater than 104 degrees Fahrenheit.

Do not use alone.

Unsupervised use by children is prohibited.

Enter and exit slowly.

Observe reasonable time limits (that is, ten (10) to fifteen (15) minutes), then leave the water and cool down before returning for another brief stay.

Long exposure may result in nausea, dizziness, fainting, or death.

Keep all breakable objects out of the area.

Shower before entering the spa."

(5)[~~(4)~~] A sign shall be posted in the immediate vicinity of the spa stating the location of the nearest telephone and indicating that emergency telephone numbers are posted at that location.

Section 15. Swimming Suits and Towels Furnished by Management. All swimming suits and towels used by swimmers and maintained for public use shall be cleaned after each use. These items shall be handled in a sanitary manner.

Section 16. Facility Inspection. (1) Seasonal facilities.

(a) All owners or operators of seasonal facilities, prior to opening to the public, shall certify to the cabinet, in writing, that the facility is in compliance with the requirements of this administrative regulation**,** except in instances where the cabinet has made an inspection prior to its opening. For seasonal facilities, the cabinet shall make at least two (2) full facility inspections during the operating season. The cabinet may require one (1) of the full facility inspections to be performed prior to a facility's opening***[~~; and~~]***

(b) The facility owner or operator shall be responsible for notifying the cabinet of the proposed opening date.

(2) Continuous operation indoor facilities shall receive a full facility inspection by the cabinet at least once each six (6) months.

(3) New facilities shall receive final construction approval inspections by the cabinet, and other affected state and local

regulatory agencies, prior to placing the facility in operation. It shall be the owner or operator's responsibility to notify the cabinet and other involved agencies of construction completion and call for inspection.

(4) Facilities other than beaches shall be inspected at a minimum of once each thirty (30) day period by the cabinet on a monitoring basis. The monitoring inspection shall consist of:

(a) Disinfectant residual testing ***[(free available residual)]*** and combined disinfectant in ppm;

(b) pH testing;

(c) Total alkalinity testing;

(d) Cyanuric acid testing***, [(***if cyanuric acid stabilizers are used***)]***;

(e) Turbidity assessment;

(f) Temperature testing***, [(***if heated water facility***)]***;

(g) Review of operator's daily log;

(h) Visual scanning for algae or debris; and

(i) Other checks as necessary.

(5) Beaches shall be monitored once each month or anytime immediately after periods of heavy rainfall. Monitoring inspections for beaches shall include general sanitation, bacteriological water sampling, and safety checks as necessary.

(6) The cabinet may make as many additional inspections and reinspections as necessary for the enforcement of this administrative regulation.

(7) When an agent of the cabinet makes an inspection of a public swimming and bathing facility, the findings shall be recorded on the DFS-349, Public Swimming and Bathing Facilities Inspection, or DFS-350, Public Swimming and Bathing Facilities Beach Inspection Report, and a copy provided to the facility owner or operator. The inspection report shall:

(a) Set forth any violation observed;

(b) Establish a specific and reasonable period of time for the correction of the violation observed; and

(c) State that failure to comply with any notice issued pursuant to the provisions of this administrative regulation may result in closure of the facility.

Section 17. Water Sampling and Testing. (1) A water sample may be collected from facilities if inspections or monitoring indicates water quality standards are not being maintained, or there is a suspected water borne disease outbreak***. These samples[, and]*** shall be submitted to the Division of Laboratory Services in an approved container and by approved sampling procedures for analysis.

(2) Samples shall be collected and analyzed for any of the following or other contaminants:

(a) Total coliform;

(b) E. coli; and

(c) Pseudomonad organisms.

(3) Multiple samples shall be collected at beaches to assure adequate representation of the entire facility water area.

(4) If a sample ***tests[is]*** positive ***[test]*** for a contaminant, the test shall be repeated within one (1) to seven (7) days.

(5) For a facility other than a bathing beach, no more than two (2) consecutive samples shall be positive for:

(a) More than two (2) coliform organisms per 100 milliliter (mL);

(b) Pseudomonas organisms; or

(c) E. coli.

(6) Beaches shall comply with the requirements of Section 4 of this administrative regulation prior to opening for the season and during the operating season.

(7) Additional samples may be requested to ensure compliance with this administrative regulation.

Section 18. Bacteriological Quality of Facility Water. (1) For facilities other than beaches, no more than two (2) consecutive samples shall:

(a) Contain more than 200 bacteria per mL;

(b) Have a positive confirmatory test for coliform organisms in any of the five (5) ten (10) mL portions of a sample or more than two (2) coliform organisms per 100 mL when the membrane filter test is used;

(c) Have a positive confirmatory test for pseudomonas organisms; or

(d) Have a positive test for fecal coliform organisms.

(2) Beaches shall comply with the standards ***established[set forth]*** in Section 4(3)(a) of this administrative regulation.

Section 19. Conditions requiring Closure of a Facility and Enforcement Provisions. (1) The cabinet shall immediately order the closure of a facility and prohibit any person from using the facility by written notice to the facility owner or operator if:

(a) There is an immediate danger to health or safety;

(b) **Violations of the Virginia Graham Baker Act;**

(c) The water does not conform to the bacteriological standards contained in this administrative regulation;

(d)[(c)] An environmental survey of the area shows evidence of sewage, ***[or]*** other pollutants**,** or toxic materials being discharged to waters tributary to a beach;

(e)[(d)] Turbidity levels of facility water do not meet the requirements of Section 9(4) of this administrative regulation;

(f)[(e)] The disinfectant residual is outside the range prescribed in this administrative regulation;

(g)[(f)] The pH is outside the range prescribed by this administrative regulation;

(h)[(g)] The cyanuric acid level exceeds fifty (50) ppm;

(i)[(h)] There is no pool operator available;

(j)[(i)] There has been a fecal accident in the pool;

(k)[(j)] ***[In any instance where]*** The owner, operator, an employee, or representative of the owner interferes with duly authorized agents of the cabinet ***who bear[, bearing]*** proper identification, in the performance of their duties;

(l)[(k)] If recirculation systems, filtration systems, or disinfectant systems are not in operation, with exceptions for maintenance***[,]*** and seasonal shut down; or

(m)[(l)] If serious or repeated violations of any of the requirements of the administrative regulations are found.

(2) The notice shall state the reasons prompting the closing of the facility**,** and a copy of the notice shall be posted conspicuously at the facility by the owner or operator.

(3) Any owner or operator affected by an order may request an administrative conference in accordance with 902 KAR 1:400.

(4) If the conditions rendering closure are abated or further analyses prove to not render closure, the cabinet may authorize reopening the facility.

(5) If a source of sewage, pollution, or toxic material discovered as a result of an environmental survey is eliminated, the cabinet may authorize the reopening of a beach.

(6) In all other instances of a violation of the provisions of this administrative regulation, or 902 KAR 10:121 for the nonpayment of fees, the cabinet shall serve upon the owner or operator a written notice specifying the violation in question and afford a reasonable opportunity to correct ***the violation[same]***. An owner or operator who fails to comply with any written notice issued under the provisions of this administrative regulation or 902 KAR 10:121 shall be notified in writing that the facility shall be closed at the end of ten (10) days following service of ***the[such]*** notice, unless a written request for a conference pursuant to 902 KAR 1:400 is filed with the cabinet***[,]*** by the owner or operator***[,]*** within the ten (10) day period.

(7) All administrative hearings shall be conducted in accordance with KRS Chapter 13B.

(8) Any person whose facility has been closed may, at any time, make application for a reinspection for the purpose of reopening the facility. Within ten (10) days following receipt of a written request, including a statement signed by the applicant that in his or her opinion the conditions causing closure of the facility have been corrected, the cabinet shall make a reinspection. If the facility is found to be in compliance with the requirements of this administrative regulation, the facility shall be reopened.

(9)(a) For serious or repeated violations of any of the requirements of this administrative regulation, or for interference with the agents of the cabinet in the performance of their duties, the facility may be permanently closed after an opportunity for a conference has been provided in accordance with 902 KAR 1:400.

(b) Prior to the action, the cabinet shall notify the owner or

operator, in writing, stating the reasons for which the facility is subject to closure and advising that the facility shall be permanently closed at the end of ten (10) days following service of the notice unless a request for a conference is filed with the cabinet by the owner or operator, within the ten (10) day period.

Section 20. Existing Facilities and Equipment. (1) ***[Notwithstanding the other provisions of this administrative regulation,]*** Existing facilities and equipment being used prior to August 1, 1996, that do not fully meet the design, construction, and materials requirements of this administrative regulation, may continue to be used if ***the facilities and equipment:***

(a) Are in good repair***;***

(b) Are[,] capable of being maintained in a sanitary condition***;***

(c)[,] Meet facility water quality standards***; [,]*** and

(d) Create no health or safety hazard.

(2) If existing equipment, components, piping, or fittings involved in the facility water treatment system are replaced to effect repairs, the replacement equipment, components, piping, or fittings shall meet the requirements of this administrative regulation. If replacement occurs, it shall be the owner's or operator's responsibility to notify the cabinet as to what was replaced and what was used for a replacement.

Section 21. Effect on Local Administrative Regulations. Compliance with this administrative regulation ***shall[does]*** not relieve any person from compliance with any other state or local laws dealing with pool operation and maintenance matters or zoning requirements that may also be applicable.

Section 22. Variances for Construction Requirements. (1) All facilities shall be constructed or remodeled in compliance with the provisions of ***this[these]*** administrative ***regulation[regulations]***, except that an applicant may request a variance ***if the cabinet determines[in those cases where it is determined]*** that the variance would not affect seriously the safe and healthful operation of the facility.

(2) Before granting a variance, the cabinet shall require ***[adequate]*** proof from the applicant ***documenting*** that the requested variance will comply with the basic intent of these administrative regulations and that no safety or health hazard would be created if the variance is granted.

Section 23. Incorporated by Reference. (1) The following material is incorporated by reference:

(a) "DFS-349, Public Swimming and Bathing Facilities Inspection" 5/2021;

(b) "DFS-350 Public Swimming and Bathing Facilities Beach Inspection Report" 5/2021; and

(c) "DFS-352 Swimming Pool Log Sheet" 5/2021.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Public Health Protection and Safety, Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. and online at https://chfs.ky.gov/agencies/dph/dphps/emb/Pages/pools.aspx.

[~~(1) "Accessible" means, if applied to a fixture, connection, appliance or equipment, having access to it, but may require the removal of an access panel, door or similar obstruction. "Readily accessible" means direct access without the necessity of removing any panel, door, or similar obstruction.~~

~~(2) "Agitation" means the mechanical or manual movement to dislodge the filter aid and dirt from the filter element.~~

~~(3) "Air gap" means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet conveying water or waste to a tank, plumbing fixture, receptor or other device, and the flood level rim of the receptacle.~~

~~(4)"Air induction system" means a system whereby a volume of air (only) is induced into hollow ducting built into a spa floor, bench, or other location. The air induction system is activated by a separate air power unit (blower).~~

~~(5) "Alkalinity or total alkalinity" means the amount of carbonates or bicarbonate present in water solution as expressed in parts per million (p.p.m.).~~

~~(6) "Approved" means accepted or acceptable under the applicable specifications stated or cited in the administrative regulation or accepted as suitable for the proposed use by the State Building Code~~

~~(7) "Backwash" means the flow of water through the filter element or media in the reverse direction sufficient to dislodge the accumulated dirt and filter aid and remove them from the filter tank.~~

~~(8) "Backwash cycle" means the time required to backwash the filter system thoroughly.~~

~~(9) "Backwash rate" means the rate of application of water through a filter during the backwash cycle expressed un U.S. gallons per minute per square foot (liters per minute per square meter) of effective filter area.~~

~~(10) "Bather" means any person using a public swimming and bathing facility, and adjoining deck or beach area for the purpose of therapy, relaxation, recreation, competitive water sports or events, or related activities.~~

~~(11) "Bather load" means the maximum number of persons which may use the swimming and bathing facility as defined in the State Building Code.~~

~~(12) "Body feed" means the continuous addition of controlled amounts of filter aid during the operation of a diatomite type filter to maintain a permeable filter cake. If added as a slurry, this may be referred to as a slurry feed.~~

~~(13) "Cabinet" means the Cabinet for Health Services and its authorized agents.~~

~~(14) "Cartridge" means a replaceable porous filter element which can be the depth type or the surface type:~~

~~(a) "Depth type cartridge" means a filter cartridge with media not less than three-fourths (3/4) inch (.18 cm) thick which relies on penetration of particulates into the media to achieve their removal and to provide adequate holding capacity for the cartridge; and~~

~~(b) "Surface type cartridge" means a filter cartridge with media less than three-fourths (3/4) inch (.18 cm) thick which relies on retention of particulates on the surface of the cartridge to achieve their removal.~~

~~(15) "Chemical feeder output rate" means the weight or volume of active ingredients delivered by a chemical feeder expressed in units of time.~~

~~(16) "Chemical feed rate indicator" means a mechanism which will produce reproducible results expressed in units of weight or volume of chemical per unit of time, or per unit of volume of water; the mechanism may be a direct reading instrument, or may require the use of a reference chart.~~

~~(17) Circulation piping system" means the piping between the facility structure and the mechanical equipment.~~

~~(18) "Corrosion resistant" means capable of maintaining original surface characteristics under the prolonged influence of the environment in which it is used.~~

~~(19) "Design head" means the total head requirement of the circulation system at the design rate of flow.~~

~~(20) "Design rate of flow (design filter rate)" means the rate of flow in a system which is used for design calculation. (The volume of the facility in gallons divided by the number of minutes in the turnover time.)~~

~~(21) "Diving pool" means a pool designed and intended for use exclusively by divers.~~

~~(22) "Effective filter area" means:~~

~~(a) "Permanent media type" - the effective filter area is the cross-section area of the filter surface that is perpendicular to the flow direction;~~

~~(b) "Diatomaceous earth type" - the effective filter area of the septum is that part of the septum which will accept the full thickness of precoat and through which the design filter flow will be maintained during filtration; and~~

~~(c) "Cartridge filter" - the total effective filter area is that cartridge area which is exposed to the direct flow of water. This excludes cartridge ends, seals, supports, and other areas where flow is impaired.~~

~~(23) "Factor of safety" means the ultimate load divided by the safe load or the ultimate strength divided by the allowable stress.~~

~~(24) "Filter" means a device that separates solid particles from~~

~~water by recirculating it through a porous substance (a filter media or element):~~

~~(a) "Permanent media filter" means a filter that utilizes a media that can be backwashed and reused;~~

~~(b) "Diatomaceous earth filter" means a filter that utilizes a thin layer of diatomaceous earth as its filter media that must be periodically replaced; and~~

~~(c) "Cartridge filter" means a filter that utilizes a porous cartridge as its filter media.~~

~~(25) "Filter aid" refers to any means used to enhance the efficiency of the filter media. Alum, as used on the bed of a sand filter, is also referred to as a filter aid.~~

~~(26) "Filter cycle" means the operating time between cleaning or replacing the filter media or backwash cycles.~~

~~(27) "Filter element" means a device within a filter tank designed to entrap solids and conduct water to a manifold, collection header, pipe, or similar conduit. Filter elements usually consist of a septum and septum support:~~

~~(a) "Permanent filter media" means finely graded material (such as sand, anthracite, etc.) which removes suspended filterable particles from the water.~~

~~(b) "Nonpermanent filter media" means any type of finely graded media used to coat a septum type filter usually diatomaceous earth, processed perlite or similar material for the purpose of removing fine particulates from the water.~~

~~(28) "Filter waste discharge piping" means piping that conducts wastewater from a filter to a drainage system. Connection to drainage system is made through an air gap or other approved method.~~

~~(29) "Filtration rate" means the rate of water flow through a filter while in operation, expressed in U.S. gallons per minute per square foot (liters per minute per square meter) of effective filter area.~~

~~(30) "Flow balance valve" means a device to regulate the effluent from the skimmer housing of each of a combination of two (2) or more surface skimmers.~~

~~(31) "Flume" means an inclined channel which conveys the water and the bather from the top of the slide to the plunge pool of a water slide.~~

~~(32) "Friction loss" means the pressure drop expressed in feet (meters) of water or psi (pascals) caused by liquid flowing through the piping and fittings.~~

~~(33) "Handicap pool" means a swimming pool which is designed specifically for the use of persons who are physically or mentally disabled or impaired, and is equipped with devices, appliances, ramps and other means of assisted access to the pool.~~

~~(34) "Head loss" means the total pressure drop in psi (kilopascals) or feet (meters) or head between the inlet and the outlet of a component.~~

~~(35) "Hydrojet booster pump system" means a system whereby one (1) or more hydrojets are activated by the use of a pump which is completely independent of the filtration and heating system of a spa.~~

~~(36) "Hydrojets" means a fitting which blends air and water creating a high velocity, turbulent stream of air enriched water.~~

~~(37) "Indirect waste pipe" means a pipe that does not connect directly with the drainage system, but conveys liquid wastes by discharging into a plumbing fixture, interceptor, or receptacle which is directly connected to the drainage system.~~

~~(38) "Inlet fitting" means a fitting or fixture through which filtered water enters a pool or spa.~~

~~(39) "Listed" means equipment or materials included in a list published by a listing agency that maintains periodic inspection on current production of listed equipment or materials, and whose listing states either that the equipment or material complies with approved standards or has been tested and found suitable for use in a specified manner.~~

~~(40) "Main outlet" means the outlet fitting(s) at the bottom of a facility through which passes water to a recirculating pump. It is often referred to as a "main drain."~~

~~(41) "Multiport valve" means a valve for various recirculation related operations, which combines in one (1) unit the function of two (2) or more single direct flow valves.~~

~~(42) "National Sanitation Foundation (NSF)" is based at 3475 Plymouth Road, P.O. Box 1468, Ann Arbor, MI 48106. It publishes a list of manufacturers and their equipment which has been approved as having satisfied NSF standards.~~

~~(43) "Perimeter overflow systems" means a channel at normal water level which normally extends completely around the pool perimeter. Also, known as an overflow or scum gutter.~~

~~(44) "Person" means any individual, firm, association, club, organization, partnership, business trust, corporation, company, or any state or local governmental agency.~~

~~(45) "Precoat" means the process of depositing a layer of diatomaceous earth on filter septa at the start of a filter cycle.~~

~~(46) "Public swimming and bathing facility" means an natural or artificial body or basin of water which is modified, improved, constructed, or installed for the purpose of swimming or bathing under the control of any person and includes, but is not limited to, the following:~~

~~(a) Beaches;~~

~~(b) Swimming pools, wading pools, wave pools;~~

~~(c) Competition swimming pools and diving pools;~~

~~(d) Water slides and spray pools; and~~

~~(e) Spas, therapeutic pools, hydrotherapy pools, and whirlpools. It includes those operated by communities, subdivisions, apartment complexes, condominiums, clubs, camps, schools, institutions, parks, mobile home parks, hotels, recreational areas, or similar public facilities. It does not include any of the above facilities which are at private single family residences intended only for the use of the owner and guests.~~

~~(47) "Public swimming and bathing facilities operator" means any "person" as defined above or any employees of that person who are delegated responsibility for the proper operation and maintenance of the facility.~~

~~(48) "Pump discharge pressure" means the actual gauge reading measured in psi taken at the discharge outlet of a pump.~~

~~(49) "Receptor" means an approved plumbing fixture or device of material, shape, and capacity to adequately receive the discharge from indirect waste piping, constructed and located to be readily cleaned.~~

~~(50) "Recirculation system" means the interconnected system traversed by the recirculated water from the pool until it is returned to the pool.~~

~~(51) Residual chlorine" shall mean the amount of measurable chlorine remaining in water following chlorination and is composed of the following components:~~

~~(a) Free available residual chlorine shall mean the amount of chlorine which is available to inactivate microorganisms and which has not reacted with ammonia, nitrogenous material, and other material in swimming pool water;~~

~~(b) Combined residual chlorine (also called "chloramine") shall mean the amount of chlorine which has reacted and combined with ammonia and other nitrogenous material to form chloro-ammonia compounds;~~

~~(c) Total residual chlorine shall mean the arithmetic sum of free available residual chlorine and combined residual chlorine; and~~

~~(d) The word "disinfectant" may be substituted for "chlorine" in the above.~~

~~(52) "Return piping" means that part of the piping between the filter and the facility through which passes the filtered water.~~

~~(53) "Separation tank" means a device used to clarify filter rinse or wastewater.~~

~~(54) "Septum" means that part of the filter element consisting of cloth, or closely woven fabric or other porous material on which the filter cake is deposited.~~

~~(61) "Surface skimmer" means a device designed to continuously remove surface film and water (and return it through the filter) as part of the recirculation system, usually incorporating a self-adjusting floating weir, strainer basket, a collection tank, and a means to prevent air lock of the pump. It is sometimes referred to as a "recirculating overflow," a "mechanical" or an "automatic skimmer."~~

~~(55) "Spa" means a special facility designed for recreational and therapeutic use, and which is not drained, cleaned, or refilled after each individual use. It may include, but not be limited to, units designed for hydrojet circulation, hot water, cold water, mineral bath, air induction bubbles, or any combination thereof. Common~~

~~terminology for a spa includes, but is not limited to, "therapeutic pool," "hydrotherapy pool," "whirlpool," "hot spa."~~

~~(56) "Static suction lift" means the vertical distance in feet (meters) from the center line of the pump impeller to the level of water in the pool.~~

~~(57) "Spray pool" means an artificially constructed area over which water is sprayed but is not allowed to pool. Sprayed water flows to waste and is not recirculated.~~

~~(58) "Strainer" means a device used to remove hair, lint, leaves, or other coarse material on the suction side of a pump.~~

~~(59) "Suction piping" means that portion of the circulation piping located between the facility structure and the inlet side of the pump and usually includes the following: main outlet piping, skimmer or gutter piping, vacuum piping, and surge tank piping.~~

~~(60) "Superchlorinate" means the addition to facility water of an amount of chlorine sufficient to produce a free available residual which is at least equal to ten (10) times the amount of combined chlorine plus the required minimum level of free available chlorine in order to oxidize the ammonia and nitrogenous materials which may be dissolved in the facility water.~~

~~(62) "Total dynamic head" means the arithmetical difference between the total discharge head and total suction head (a vacuum reading is considered as a negative pressure). This value is used to develop the published performance curve.~~

~~(63) "Total discharge head" means the value in feet (meters) of water that a pump will raise water above its center line.~~

~~(64) "Total suction head" means the value in feet (meters) of water that a pump will lift by suction.~~

~~(65) "Total dynamic suction lift (TDSL)" means the arithmetical total of static suction lift, friction head loss, and velocity head loss working on the suction side of the pump.~~

~~(66) "Trimmer valve" means a flow adjusting device which is used to proportion flow among multiple skimmers on a single line.~~

~~(67) "Turnover time" means the time in hours or minutes, required for the circulation system to filter and recirculate a volume of water equal to the facility volume.~~

~~(68) "Vacuum piping" means the piping from the suction side of a pump connected to a vacuum fitting located at the facility and below the water level to which underwater cleaning equipment may be attached.~~

~~(69) "Velocity" means a measurement of the motion of liquids expressed in feet per second.~~

~~(70) "Wading pool" means a pool intended only for small children. The maximum depth is less than twenty-four (24) inches.~~

~~(71) "Water slide" means a slide which consists of one (1) or more flumes, a plunge pool, a pump reservoir, and water treatment facilities, where water is pumped to the top of the slide and allowed to flow down the flume to the plunge pool.~~

~~(72) "Wave pool" means a swimming pool designed for the purpose of producing wave action in the water.~~

~~(73) "Working pressure" means the normal operating pressure recommended by the manufacturer.~~

~~Section 3. Submission of Plans and Specifications for Approval. (1) No person shall begin construction, or construct, or substantially change alter or reconstruct any public swimming and bathing facility until plans and specifications, with supporting design data as required in this administrative regulation for the proposed review of the plans, have first been submitted in quintuplicate (five (5) sets) to the cabinet through the Department of Housing, Buildings and Construction and have been approved in writing by all state or local agencies having jurisdiction. All construction shall be in accordance with approved plans. The front page of the plans shall contain the name of the swimming and bathing facility, location by city and county, name of its owner and name of the engineer, architect, or person preparing the plans. Plans submitted by an engineer or architect shall bear his seal. Plans and specifications on public swimming and bathing facilities constructed by the state or political subdivision, or on facilities designed for a bather load of 100 or more, shall be prepared by an engineer or architect registered in the State of Kentucky and comply with the provisions of KRS 322.010 and 323.010. Plans and specifications, reports and other information shall be submitted in form and content as may be specified by the cabinet.~~

~~(2) The plans shall be drawn to scale and accompanied by proper specifications to permit a comprehensive engineering review of the plans including the piping and hydraulic details and shall include:~~

~~(a) A site plan of the general area with a plan and sectional view of the facility complex with all necessary dimensions;~~

~~(b) A piping diagram showing all appurtenances including treatment facilities in sufficient detail, as well as pertinent elevation data, to permit a hydraulic analysis of the system;~~

~~(c) The specifications shall contain details on all treatment equipment, including performance ranges of pumps, chlorinators, chemical feeders, filters, strainers, lights, skimmers, inlet and outlet fittings, diving boards, safety equipment and other related equipment;~~

~~(d) A statement of the design, bather load expected to use the facility at any given time; and~~

~~(e) Drawing of equipment room showing placement of equipment.~~

~~(3) Owners shall keep one (1) set of approved plans available for inspection at the job site in the possession of the actual builder of the facility.~~

~~(4) Upon completion of the recirculation piping system and prior to such piping being covered with dirt or concrete, the owner or builder shall contact affected agencies for inspection.~~

~~(5) Upon completion of the swimming and bathing facility, a notarized statement certifying completion of the facility in accordance with the approved plans and specifications and this administrative regulation shall be submitted to the cabinet by the engineer, architect, or person who prepared plans, and shall be accompanied by a request for inspection prior to occupancy. The facility shall not be used until final inspection by affected agencies demonstrates compliance with this administrative regulation.~~

~~(6) Unless construction is begun within one (1) year from date of approval, the approval shall expire. Extension of approval may be granted upon written request to the cabinet.~~

~~(7) No change in location, construction, design, materials, or equipment shall be made to approved plans or the facility without the written approval of the cabinet and all other agencies having jurisdiction.~~

~~Section 4. Water Supplies. (1) Potable water from an approved municipal water system or water district shall be supplied to all public swimming and bathing facilities. If these supplies are not available, a potable water supply meeting the approval of the Natural Resources and Environmental Protection Cabinet shall be provided.~~

~~(2) The water supply shall be capable of providing sufficient quantities of water under pressure to all water-using fixtures and equipment at the facility, and be capable of providing enough water to raise the water level in swimming, diving, or wave pools, and water slide plunge pools at least one (1) inch in three (3) hours.~~

~~Section 5. Water Quality and Sanitary Requirements for Bathing Beaches. (1) Prior to the issuance of plan and construction approval, the cabinet shall conduct a sanitary survey of the proposed beach. This survey shall include an evaluation of the physical, chemical, and bacteriological characteristics of the bathing beach area and the watershed.~~

~~(2) Physical quality. The following characteristics shall not be present in the beach area or watershed:~~

~~(a) Sludge deposits, solid refuse, floating waste solids, oils, grease, and scum; and~~

~~(b) Hazardous substances being discharged into bathing beach water or watershed.~~

~~(3) Bacteriological quality. The bacteriological quality of water at bathing beaches shall comply with the following criteria:~~

~~(a) It shall meet the requirements of 401 KAR 5:031, Section 6, recreational waters, as adopted by the Natural Resources and Environmental Protection Cabinet. Bacterial levels exceeding those standards shall be considered sufficient grounds to require additional investigation, survey, special analyses, and correction of any problems determined to be causing the high counts. Subsequent evaluation and satisfactory bacteriological results shall be obtained before approval for construction will be issued; and~~

~~(b) There shall be no sanitary or combined sewer discharges or~~

~~other raw or partially treated sewage discharges to the bathing beach area or immediate watershed.~~

~~(4) Chemical quality. There shall be no discharges of chemical substances, other than disinfecting agents, capable of creating toxic reactions, or irritations to the skin or mucous membranes of a bather.~~

~~Section 6. Sewage and Wastewater Disposal. Sewage or wastewater generated from the operation of a public swimming and bathing facility shall discharge to a public sanitary sewer. If a public sanitary sewer is not available, sewage or wastewater shall be discharged to a system which complies with 902 KAR 10:085, on-site sewage disposal systems administrative regulation.~~

~~(1) Outdoor deck or surface area drainage water may be discharged directly to storm sewers, natural drainage areas, or to the ground surface without additional treatment. Such drainage shall not result in nuisance conditions, which create an offensive odor, or which produce a stagnant wet area, or which produce an environment for the breeding of insects;~~

~~(2) Wash or backwash water from sand filters or diatomaceous earth filters shall be discharged to public sanitary sewers, or if unavailable to a system approved by the cabinet.~~

~~Section 7. Refuse Disposal. (1) All refuse at a public swimming and bathing facility shall be disposed of in a manner approved by Natural Resources and Environmental Protection Cabinet.~~

~~(2) Refuse containers of approved design and construction, with tight fitting lids, adequate in number, shall be provided at readily accessible locations at all public swimming and bathing facilities. These containers shall be mounted upon an approved rack or holder in all outdoor locations, and shall be maintained to prevent the creation of a health or safety hazard.~~

~~(3) Refuse containers in rest rooms or bather preparation and dressing areas may be of open-top or swing-lid design, except in women's rest rooms where swing-lid or other covered top containers shall be required.~~

~~(4) Bulk refuse storage areas shall be designed, constructed, drained, and maintained to prevent rodent and vermin harborage, breeding sites, or insanitary conditions. Bulk refuse containers shall be of approved design and construction, with tight fitting lids, adequate in number, and shall be placed upon an impervious surface within a suitable enclosure to prevent access by animals.~~

~~(5) If the facility is not in use after seasonal operation or for any other reason, the facility shall not be allowed to accumulate debris, give off objectional odors, become a breeding site for insects, or create any other nuisance situation.~~

~~Section 8. Facility Design and Construction. (1) All public swimming and bathing facilities and attendant structures such as bathhouses, dressing rooms, or rest rooms, except for beach areas at bathing beaches, shall meet the design, materials, fixture, and construction requirements of the Kentucky State Building Code and the State Plumbing Code of the Department of Housing, Buildings, and Construction, Public Protection and Regulation Cabinet.~~

~~(2) The wading and swimming areas at beaches where the water is less than five (5) feet deep shall be separated from swimming and diving areas by lines securely anchored and buoyed. Safe limits of swimming shall be marked by buoys, poles, or other markers located not over 100 feet apart and visible to bathers from a distance of at least 100 feet. Within such limits of safe swimming there shall be no boating, underwater obstructions, or other hazards which may be dangerous or cause injury to swimmers. Signs shall be provided on the beach describing these markers and stating that they indicate the limits of safe bathing. The bottom of the swimming area shall consist of sand or gravel and be of a uniform slope.~~

~~(3) If diving facilities are provided at beaches, the design and layout of the facilities and associated unobstructed water depths shall be in accordance with the State Building Code requirements for swimming and diving pools. The water surrounding any floats where diving is permitted shall be at least nine (9) and one-half (1/2) feet deep.~~

~~(4) Depth markings and lane lines.~~

~~(a) On all facilities other than beaches, the depth of the water shall be marked plainly at or above the water surface on the vertical wall of the facility if possible and on the edge of the deck next to the facility. Depth markers shall be placed at the following locations:~~

~~1. At the points of maximum and minimum depths;~~

~~2. At the point of change of slope between deep and shallow portions (transition point);~~

~~3. At intermediate two (2) feet increments of water depth; and~~

~~4. If the facility is designed for diving, at appropriate points to denote the water depths in the diving area.~~

~~(b) Depth markers shall be spaced so that the distance between adjacent markers is not greater than twenty-five (25) feet or seven and five-tenths (7.5) m as measured peripherally.~~

~~(c) Depth markers shall be in Arabic numerals at least four (4) inches (ten (10) cm) high and of a color contrasting with the background. If depth markers cannot be placed on the vertical walls at or above the water level, other means shall be used, so that markings shall be visible plainly to persons in the facility.~~

~~(d) Lane lines or other markings on the bottom of the facility shall be a minimum of ten (10) inches in width and be of a contrasting color.~~

~~(e) A safety line supported by buoys shall be provided across the section of the pool where the break between the shallow and deep water occurs (five (5) feet). The line shall be placed one (1) foot toward the shallow end from where the break occurs.~~

~~Section 9. Facility Water Treatment Systems. (1) A recirculation system, consisting of pumps, piping, filters, water conditioning, disinfection equipment, and other accessory equipment shall be provided to clarify, chemically balance, and disinfect the water for all swimming and bathing facilities except bathing beaches. All system components shall bear the seal of approval of the National Sanitation Foundation (NSF). (Pumps greater than seven and five-tenths (7.5) HP which are not required to meet NSF testing standards shall be considered on a case-by-case basis.)~~

~~(2) Pumping equipment.~~

~~(a) The recirculation pump and motor shall deliver the flow necessary to obtain the turnover required in the table below. A valve for flow control shall be provided in the recirculation pump discharge piping.~~

~~Turnover Rate. The turnover rate shall be as shown in the following table:~~	
~~Type of Facility~~	~~Turnover Required~~
~~Diving Pools~~	~~8 hours or less~~
~~Wading Pools, Spas~~	~~30 minutes or less~~
~~Water Slides, Handicap Pools~~	~~2 hours or less~~
~~Vortex Pools~~	~~1 hour or less~~
~~All Other Pools~~	~~6 hours or less~~
~~Higher flow rates may be necessary in pools with skimmers so that each skimmer will have a minimum flow rate of thirty (30) gallons per minute.~~	

~~(b) The pump shall be of sufficient capacity to provide a minimum backwash rate of fifteen (15) gallons per square foot of filter area per minute in sand filter systems. The pump or pumps shall supply the required recirculation rate of flow to obtain the turnover rate required at a total dynamic head of at least:~~

~~1. Fifty (50) feet for all vacuum filters;~~

~~2. Seventy (70) feet for pressure sand or cartridge filters; or~~

~~3. Eighty (80) feet for pressure diatomaceous earth filters.~~

~~(c) If the pump is located at an elevation higher than the facility water line, it shall be self-priming.~~

~~(d) If vacuum filters are used, a vacuum limit control shall be provided on the pump suction line. The vacuum limit switch shall be set for a maximum vacuum of eighteen (18) inches of mercury.~~

~~(e) A compound vacuum-pressure gauge shall be installed on the pump line. A vacuum gauge may be used for pumps with suction lift. A pressure gauge shall be installed on the pump discharge line adjacent to the pump.~~

~~(f) Valves shall be installed to allow the flow to be shut off during cleaning, switching baskets, or inspection of hair and lint strainers.~~

~~(g) A hair or lint strainer with openings no more than one-eighth (1/8) inch is required except for pumps that are located downstream of the filter.~~

~~(3) Water heaters shall be installed at all indoor swimming and bathing facilities. If a water heater is installed, the following shall~~

~~apply:~~

~~(a) A water heater piping system shall be equipped with a bypass. A valve shall be provided at the bypass and on the influent and effluent heater piping. The influent and effluent heater piping shall be metallic in accordance with heater manufacturer's recommendations;~~

~~(b) A heating coil, pipe, or steam hose shall not be installed in any swimming and bathing facility;~~

~~(c) Thermometers shall be provided in the piping to check the temperature of the water returning from the facility and the temperature of the blended water returning to the facility;~~

~~(d) An automatic temperature limiting device with thermostatic control, which will prevent the introduction of water in excess of 100° Fahrenheit to swimming and diving pools and in excess of 104° Fahrenheit for spas shall be provided, and be accessible only to the facility operator;~~

~~(e) A pressure relief valve shall be provided and shall be piped to within six (6) inches of the floor;~~

~~(f) Venting of gas or other fuel burning water heaters shall be provided in accordance with the applicable State Building Codes;~~

~~(g) Heaters for indoor swimming and diving pools shall be capable of maintaining an overall pool water temperature between seventy-six (76) degrees Fahrenheit and eighty-four (84) degrees Fahrenheit;~~

~~(h) Combustion and ventilation air shall be provided for fuel burning water heaters in accordance with manufacturer's recommendations or the State Building Code;~~

~~(i) Heaters for indoor swimming and diving pools shall be sized on a basis of 150 BTU's/hour input per square foot of pool water surface area; and~~

~~(j) All heaters shall meet the latest standards of applicable recognized testing agencies.~~

~~(4) A flow meter shall be located so that the rate of recirculation may be easily read. Flow meters shall be installed on a straight length of pipe at a distance of at least ten (10) pipe diameters downstream, and five (5) pipe diameters upstream from any valve, elbow, or other source of turbulence.~~

~~(5) Vacuum cleaning system.~~

~~(a) A vacuum cleaning system shall be provided for all facilities except beaches, and small indoor spas designed for six (6) or less bathers. A vacuum cleaning system capable of reaching all parts of the facility bottom shall be provided;~~

~~(b) A vacuum system may be provided which utilizes the attachment of a vacuum hose to the suction piping through the skimmer. Vacuumed water must pass through the skimmer's strainer basket;~~

~~(c) If the vacuum cleaning system is an integral part of the facility recirculation system, a wall fitting(s) shall be provided eight (8) to twelve (12) inches below the normal water level and be provided with a cap or plug. Piping from this connection shall be to the suction side of the pump ahead of the hair and lint strainer, shall be at least one and one-half (1 1/2) inches in diameter and be equipped with a control valve near the junction with the pump suction line. The size of the vacuum hose shall be at least one and one-half (1 1/2) inches in diameter and be of sufficient strength to prevent collapsing and allow adequate flow for proper cleaning;~~

~~(d) Automatic vacuum systems may be used to supplement the built-in vacuum system provided they are capable of removing all debris from the facility bottom; and~~

~~(e) Vacuum systems are to be used only when the facility is closed to bathers.~~

~~(6) Piping, skimmer and overflow system.~~

~~(a) Piping shall comply with the material specifications listed in the Kentucky State Plumbing Code for potable water. All piping, valves, or fittings shall be color coded, or suitably labeled, or marked to denote its purpose within the facility water treatment system.~~

~~(b) The piping shall be designed to carry the required quantities of water at velocities not exceeding five (5) feet per second in suction piping, and ten (10) feet per second in pressure piping. Gravity piping shall be sized so that the head loss in piping, fittings, and valves does not exceed the difference in water levels between the facility and the maximum operating level in the surge or filter tank.~~

~~(c) The following waste lines shall be provided with six (6) inch air gaps at their points of discharge to the waste pump or sewer:~~

~~1. Main outlet bypass or other connections to waste;~~

~~2. Surge tank drain and overflow lines;~~

~~3. Pump discharge to waste lines; and~~

~~4. Gutter bypass to waste lines.~~

~~(7) Inlets.~~

~~(a) Each inlet shall be flow adjustable.~~

~~(b) The velocity of flow through any inlet orifice shall be in the range of five (5) to twenty (20) feet per second, except in facilities equipped with skimmers it shall be in the range of ten (10) to twenty (20) feet per second.~~

~~(c) Inlets shall be located and permanently directed to produce uniform circulation of water to facilitate the maintenance of a uniform disinfectant residual throughout the entire facility without the existence of dead spots. Inlets in facilities with skimmers shall be twelve (12) inches below the midpoint on the skimmer throat. Inlets in facilities with a prefabricated perimeter overflow system shall be eight (8) inches or more below the lip of the gutter.~~

~~(d) Inlets for swimming and diving pools, wave pools, large spas, and water slide plunge pools shall be spaced as follows:~~

~~1. Inlets shall be placed completely around the pool, each serving a linear distance of not more than fifteen (15) feet on center. The pipe serving the inlets shall form a loop completely around the pool; and~~

~~2. If inlets are to be placed on the bottom of the pool, the number of inlets shall be determined by dividing the perimeter of the pool measured in feet, by fifteen (15), any fraction thereof would represent one (1) additional inlet.~~

~~(e) Inlets for wading pools, and small spas for six (6) or less bathers, shall be at least two (2) in number, and placed so as to meet the requirements of paragraph (c) of this subsection.~~

~~(f) At least one (1) inlet shall be located in each recessed stairwell or other space where water circulation might be impaired.~~

~~(g) A continuous flume, tubing, or other arrangement near the pool water surface which serves as inlet supply piping and employs multiple "jet" inlets is approved provided the individual components of the system meet the requirements of paragraphs (a), (b) and (c) of this subsection and subsections (9)(a), (b) and (10) of this section.~~

~~(h) Prefabricated perimeter overflow systems shall be approved on a case-by-case basis by the cabinet.~~

~~(8) Outlets.~~

~~(a) All facilities shall be provided with a main outlet at the deepest point to permit the facility to be completely and easily drained. Openings shall be covered by a proper grating which is not removable by bathers without the use of tools, and which cannot entrap their fingers. Openings of the grating shall be at least four (4) times the area of the main outlet pipe and have sufficient area so that the maximum velocity of the water passing through the grate does not exceed one and one-half (1 1/2) feet per second at maximum flow. The maximum width of grate openings shall be one-fourth (1/4) inch;~~

~~(b) Multiple outlets shall be provided in all facilities where the width of the facility is more than thirty (30) feet. In these cases, outlets shall be spaced not more than thirty (30) feet apart, nor more than fifteen (15) feet from side walls, and shall be connected in parallel, not series. All spas and wading pools shall have at least two (2) outlets;~~

~~(c) A hydrostatic relief valve may be provided for in-ground swimming and diving pools, wave pools, and water slide plunge pools. Subsurface drainage, if provided, shall not be directly connected to a sanitary sewer; and~~

~~(d) Main outlet piping shall be sized for removal of the water through it at a rate of at least 100 percent of the design recirculation flow rate at velocities specified in subsection (6)(b) of this section. It shall function as a part of the recirculation system. The piping system shall be valved to permit adjustment of flow through it.~~

~~(9) Perimeter overflow systems.~~

~~(a) Swimming and bathing facilities other than pools designed and used exclusively for diving, having a water surface area greater than 1,600 square feet shall have a continuous perimeter overflow system. Swimming and bathing facilities less than 1,600 square feet in area and thirty (30) feet or less in width may use surface skimmers.~~

~~(b) A perimeter overflow system shall:~~

~~1. Extend completely around the facility;~~

~~2. Permit inspection, cleaning, and repair;~~

~~3. Be designed so that no ponding or retention of water occurs within any portion of the system; or the passage of small children into an enclosed chamber;~~

~~4. Be designed to prevent the entrapment of bather's arms, legs, and feet;~~

~~5. Have an overflow lip which is rounded, provides a good handhold, and is level within two-tenths (0.2) inch;~~

~~6. Provide for the rapid removal of all water and debris skimmed from the pool's surface;~~

~~7. Be designed for removal of water from the pool's upper surface at a rate equal to 100 percent of the design turnover flow rate. If the surge volume is to be stored in the perimeter overflow system, the system shall have the capacity to carry 100 percent of the design flow while maintaining the surge storage capacity;~~

~~8. Discharge to the recirculation system;~~

~~9. Be provided with sufficient drains and piping which will not allow the overflow channel to become "flooded" when the facility is in normal use; and~~

~~10. Have drain gratings with surface area at least equal to two (2) times the area of the outlet pipe.~~

~~(10) All facilities which have perimeter overflow systems shall be provided with a net surge capacity of at least one (1.0) gallon per square foot of water surface area. Surge capacity shall be provided either in a vacuum filter tank, in the perimeter overflow system, in a surge tank, or a combination of these. Valving shall be provided where necessary, to automatically retain water during periods of facility use and to discharge water during the periods of nonuse so that the proper operating water level in the facility is maintained at all times.~~

~~(11) Skimmers are permitted on facilities whose width does not exceed thirty (30) feet and whose water surface area is 1,600 square feet or less. If skimmers are used, the following shall be met:~~

~~(a) At least one (1) skimmer shall be provided for each 500 square feet of water surface area or fraction thereof; with a minimum of two (2) skimmers provided, except for small spas, or wading pools with a water surface area of 144 square feet or less, where a minimum of one (1) skimmer shall be required.~~

~~(b) Skimmers shall be located to minimize interference with each other;~~

~~(c) The rate of flow per skimmer shall not be less than thirty (30) gallons per minute, and all skimmers shall be capable of handling at least eighty (80) percent of required flow rate;~~

~~(d) The surface skimmer piping shall have both a trimmer valve and a separate valve in the equipment room to permit adjustment of flow;~~

~~(e) Each skimmer shall be provided with an equalizer line at least one and one-half (1 1/2) inches in diameter, located at least one (1) foot below the lowest overflow level of the skimmer, and be provided with a self-closing valve;~~

~~(f) A basket which can be removed without the use of tools and through which all overflow water must pass, shall be provided; and~~

~~(g) Skimmer equipped swimming and diving pools, wave pools, water slide plunge pools, and large spas shall have a smoothly contoured handhold coping not over two and one-half (2 1/2) inches thick for the outer two (2) inches or an equivalent approved handhold. The handhold shall be no more than nine (9) inches above the normal water line.~~

~~(12) All facilities shall be equipped for the addition of make-up water from a potable water source pursuant to the following:~~

~~(a) Discharge through an air gap of at least six (6) inches to the facility to a surge tank, or a vacuum filter tank. If make-up water is added directly to the facility, the fill-spout shall be located under or immediately adjacent to a ladder rail, grab rail, or lifeguard platform. If added to a surge tank or vacuum filter tank, the six (6) inch air gap shall be measured above the top lip of the tank; and~~

~~(b) Through piping with vacuum breaker, antisiphon or other protection as specified by the State Plumbing Code.~~

~~(13) Filtration.~~

~~(a) Filters shall comply with the following:~~

~~1. Pressure filters shall have pressure gauges;~~

~~2. Pressure filters shall have an observable free fall, or a sight glass shall be installed on the backwash discharge line;~~

~~3. Pressure filters shall have a manual air-relief valve at the high point;~~

~~4. The filter backwash disposal facility shall have sufficient capacity to prevent flooding during the backwash cycle;~~

~~5. All filters shall be designed so that they can be completely drained. Filters shall be drained through a six (6) inch air gap to a pump or sanitary sewer;~~

~~6. Filter media shall meet NSF specifications;~~

~~7. Each facility shall have separate filtration and treatment systems;~~

~~8. Filter equipment and treatment systems shall operate continuously twenty-four (24) hours per day except if the facility is closed for repairs or at the end of the swimming season; and~~

~~9. Individual filters shall be designed with necessary valves and piping to permit isolation of individual filters for repairs while other units are in service.~~

~~(b) Rapid sand or gravity sand filters:~~

~~1. Rapid sand filters shall be designed for a filter rate not to exceed three (3) gallons per minute per square foot of bed area at time of maximum head loss with sufficient area to meet the design rate of flow required by the prescribed turnover. Open gravity type filters shall be designed for a filter rate not exceeding two (2) gallons per square foot per minute.~~

~~2. Filtering media shall consist of at least twenty (20) inches of graded, sharp filter sand with an effective size between four-tenths (0.4) and 0.55 mm and a uniformity coefficient not exceeding one and 1.75, supported by at least ten (10) inches of graded filter gravel. Anthracite with effective size of six-tenths (0.6) to eight-tenths (0.8) mm with a uniformity coefficient of not greater than one and eight-tenths (1.8) may be used in lieu of the sand. A reduction in gravel depth or an elimination of gravel may be permitted where equivalent performance and service are demonstrated.~~

~~3. At least twelve (12) inches of freeboard shall be provided between the upper surface of the filter media and the lowest portion of the pipes or drains which serve as overflows during backwashing.~~

~~4. The filter system shall be designed with necessary valves and piping to permit:~~

~~a. Filtering to pool; and~~

~~b. Individual backwashing of filters to waste at a rate of not less than fifteen (15) gallons per minute per square foot of filter area. A backwash rate of eight (8) gallons per square foot per minute shall be provided for anthracite filters;~~

~~5. Each filter shall be provided with an access opening of not less than a standard eleven (11) inch by fifteen (15) inch manhole and cover.~~

~~6. The filter tank and its integral parts shall be constructed of substantial material capable of withstanding continuous anticipated usage and shall be designed for a pressure safety factor of four (4) based on the maximum shutoff head of the pump. This shutoff head for design purposes shall in no case be considered less than fifty (50) pounds per square inch.~~

~~(c) High rate sand filters. The design filtration rate shall be a minimum of five (5) gallons per minute per square foot of filter area. The maximum design filtration rate shall be the lesser of fifteen (15) gallons per minute per square foot of filter area or seventy-five (75) percent of the NSF listed filtration rate. The backwash rate shall be fifteen (15) gallons per minute per square foot of filter area.~~

~~(d) Diatomaceous earth filters.~~

~~1. The design filtration rate shall not exceed one and one-half (1 1/2) gallons per minute per square foot of filter area on diatomaceous earth filters, except that the rate of filtration may be increased to two (2) gallons per minute per square foot of filter area if continuous feeding of diatomaceous earth is employed;~~

~~2. A precoat pot shall be provided on the pump suction line for pressure diatomaceous earth systems. All diatomaceous earth filter systems shall have piping arranged to allow recycling of the filter effluent during precoating;~~

~~3. If equipment is provided for the continuous feeding of diatomaceous earth to the filter influent, the equipment shall have a capacity to feed at least one and one-half (1 1/2) ounces of this material per square foot of filter area per day;~~

~~4. Overflow piping on vacuum diatomaceous earth filters shall be provided on the filter tank to discharge overflow water; and~~

~~5. All filters shall be equipped for cleaning by one (1) or more of the following methods: backwashing; air-pump assist backwashing; spray wash; water pressure to wash vacuum filter; or agitation.~~

~~(e) Vacuum sand filters.~~

~~1. The design filtration rate shall be seventy-five (75) percent of that listed by NSF or fifteen (15) gallons per minute whichever is lesser. The backwash rate shall be at fifteen (15) gallons per minute per square foot of filter area; and~~

~~2. Overflow piping shall be provided in order to drain overflow water.~~

~~(f) Cartridge filters.~~

~~1. Cartridge filters shall not be used on facilities with a capacity larger than 80,000 gallons;~~

~~2. Cartridge filters shall only be used on indoor pools;~~

~~3. The design filtration rate shall not exceed 0.15 gallons per minute per square foot of filter surface area; and~~

~~4. A clean duplicate set of cartridges shall be maintained at the facility.~~

~~(14) Disinfectant and chemical feeders.~~

~~(a) The minimum chemical feed equipment required at any facility shall include a unit for feed of a disinfectant and a unit for feed of a chemical for pH control, except as stated in paragraph (e) of this subsection.~~

~~(b) Equipment capacity.~~

~~1. Equipment for supplying chlorine or compounds of chlorine shall be of sufficient capacity to feed the chlorine at a rate of eight (8) p.p.m. (two and seven-tenths (2.7) lbs/day chlorine gas or its equivalent for each 10,000 gallons of pool volume) for outdoor facilities and three (3) p.p.m. (one (1) lbs/day for chlorine gas or its equivalent for each 10,000 gallons of pool volume) for indoor facilities based on the flow rates specified in subsection (2)(a) of this section;~~

~~2. The equipment for supplying chlorine shall not be controlled by a day-date clock;~~

~~3. The injection point for chlorine shall be placed on the discharge side of the pump and downstream of the flow meter;~~

~~4. Pot feeders for supplying bromo-chlorodimethylhydantoin sticks shall contain at least 0.50 pounds of bromo-chlorodimethylhydantoin per thousand gallons of facility capacity, or fraction thereof. The feeder shall have a method of feed rate adjustment;~~

~~5. Ozone may be used as a supplement to chlorination or bromination as required in subparagraph 1 or 4 of this paragraph. Ozonation equipment will be considered by the cabinet on a case-by-case basis for experimental use; and~~

~~6. No more than one (1) gram per day of ozone per ten (10) gallons per minute of flow rate will be allowed. The ambient air ozone concentration shall be less than .05 p.p.m. at all times either in the vicinity of the ozonator or at the pool water surface.~~

~~(c) If positive displacement pumps (hypochlorinators) are used to inject the disinfectant solution into the recirculation line, they shall be of variable flow type and shall be of sufficient capacity to feed the amount of disinfectant required by paragraph (b)1 of this subsection. If calcium hypochlorite is used, the concentration of calcium hypochlorite in the solution shall not exceed five (5) percent. The solution container shall have a minimum capacity equal to the volume of solution required per day at the feed rate required in paragraph (b)1 of this subsection.~~

~~(d) Gas chlorinators.~~

~~1. The chlorine supply and gas feeding equipment shall be housed in a separate, relatively airtight room. The room shall be provided with an exhaust system which takes its suction not more than eight (8) inches from the floor and discharges out-of-doors in a direction to minimize exposure to toxic fumes. The fan shall be capable of producing one (1) air change per minute. Means for introducing a fresh air supply to the enclosure through appropriate openings such as filters, grill openings, or other similar openings, at a high point opposite the exhaust fan intake shall be provided. The room shall have a window at least eighteen (18) inches square, and shall have artificial lighting. Electrical switches for lighting and ventilation shall be outside and adjacent to the door. Scales for weighing chlorine cylinders in service shall be provided. Automatic changeover chlorinators may be substituted for scales.~~

~~2. Chlorine cylinders either full or empty shall be anchored, or chained in a vertical position. The valve protection hoods shall be kept in place, except when the cylinders are connected. Chlorine feed devices should be located directly on the tank if practical;~~

~~3. The chlorine feeding device shall be designed so that during interruptions of the flow of the water supply, gas feed is automatically terminated. In addition, the release of chlorine shall be terminated if the recirculation pump is shut off. If other than facility recirculated water is used, the supply line shall be equipped with an electric shut off valve wired to the recirculation pump and shall be equipped with an approved backflow preventer. If two (2) or more cylinders are in use, an automatic changeover valve shall be used;~~

~~4. Chlorinator vent lines shall be conducted to the out-of-doors similar to the chlorinator room exhaust system;~~

~~5. The gas chlorinator shall be the solution feed type capable of delivering chlorine at its maximum rate without releasing chlorine gas to the atmosphere;~~

~~6. The water supply for the gas feeding equipment shall produce the flow rate and pressure required according to the manufacturer's specifications for proper operation of the equipment;~~

~~7. A self-contained breathing apparatus (SCBA) designed for use in a chlorine atmosphere and of a type approved by the Mine Safety and Health Administration (MSHA) or the National Institute for Occupational Safety and Health (NIOSH), shall be provided. This SCBA shall have sufficient capacity for the purpose intended. In addition a written respirator program shall be provided and employees shall be trained in the use and maintenance of such equipment to insure operability and safety. The SCBA shall be kept in a closed cabinet, accessible without a key, and located outside of the chlorine room. Installation of chlorinator equipment, and its operation, shall be carried on by and under the supervision of personnel experienced with installation and operation of such equipment. A chlorine valve shut off wrench shall be kept on the cylinder valve stem that is in use; and~~

~~8. In the event of a chlorine leak, the fire department or an agency trained in the handling of chlorine spills shall be immediately contacted. The phone numbers of the fire department or above agency shall be posted on the outside of the chlorine room door.~~

~~(e) pH control feeders. At facilities with a volume greater than 100,000 gallons, or at facilities utilizing gas chlorine as a disinfectant, a chemical feeder of positive displacement type shall be installed for the purpose of applying chemicals to maintain pH of facility water within the range of seven and two-tenths (7.2) to seven and eight-tenths (7.8). A solution tank of adequate at least forty (40) gallons capacity shall be provided.~~

~~(f) Erosion type chlorine feeders shall be prohibited.~~

~~(15) Testing equipment shall be provided at all swimming and bathing facilities, maintained with fresh reagents, and consist of at least the following:~~

~~(a) A DPD (Diethyl-P-Phenylene Diamine) colorimetric test kit shall be provided, which will determine free disinfectant residual, combined disinfectant residual, total alkalinity, and pH of the facility water. Test kits using orthotolidine reagents are not acceptable;~~

~~(b) There shall be At least five (5) chlorine color standards and at least five (5) pH color standards. Chlorine standards shall range from one-tenth (0.1) to three (3.0) p.p.m. and pH standards shall range from six and eight-tenths (6.8) to eight and four-tenths (8.4), as a minimum.~~ **Both tests shall be accurate to within two-tenths (0.2) units**~~; and~~

~~(c) Facilities using cyanurates for stabilization shall have a test kit to measure the cyanuric acid concentration. The cyanuric acid test kit shall permit readings up to 100 p.p.m.~~

~~Section 10. Operational Water Quality Standards. (1) Disinfectant residuals for swimming and diving pools, wading pools, water slides, and wave pools:~~

~~(a) Chlorine residual shall be maintained between one (1.0) p.p.m. and two and five-tenths (2.5) p.p.m. as free available chlorine.~~

~~(b) Bromine residual shall be maintained between one (1.0) p.p.m. and two and five-tenths (2.5) p.p.m. as free available disinfectant.~~

~~(c) Pools stabilized with cyanuric acid shall meet the following~~

~~criteria:~~

~~1. Be an outdoor facility;~~

~~2. Maintain one and five-tenths (1.5) to two and five-tenths (2.5) p.p.m. free available chlorine residual; and~~

~~3. Cyanuric acid concentration twenty-five (25) p.p.m. to fifty (50) p.p.m.~~

~~(d) If the presence of chloramines is determined, superchlorination is required, and the chloramine level shall not exceed two-tenths (0.2) p.p.m.~~

~~(2) Disinfectant residuals for spas:~~

~~(a) Chlorine residual shall be maintained between one (1.0) two (2.0) p.p.m. and three (3.0) p.p.m. as free available chlorine;~~

~~(b) Bromine residual shall be maintained between two (2.0) p.p.m. and three (3.0) p.p.m. as free available disinfectant; and~~

~~(c) If the level of chloramines exceeds two-tenths (0.2) p.p.m., superchlorination is required. During the superchlorination process and until such time as free chlorine levels return to three (3) p.p.m. or less, the facility shall be closed.~~

~~(3) pH. The pH of the facility water shall be maintained in a range of seven and two-tenths (7.2) to seven and eight-tenths (7.8). For corrosive water supplies, the alkalinity level shall be suitably adjusted to allow maintenance of the pH level.~~

~~(4) Turbidity. Facility water shall have sufficient clarity at all times to meet one (1) of the following:~~

~~(a) A black disc, six (6) inches in diameter, is readily visible when placed on a white field at the deepest point of the pool;~~

~~(b) The openings of the main outlet grate are clearly visible by an observer on the deck; and~~

~~(c) For wading pools the bottom of the pool shall be clearly visible.~~

~~(5) Total alkalinity. The alkalinity of the facility water shall not be less than fifty (50) nor more than 180 p.p.m., as determined by suitable test kits.~~

~~(6) Temperature. The water temperature for indoor swimming and bathing facilities other than spas shall not be less than seventy-six (76) degrees Fahrenheit nor more than eighty-four (84) degrees Fahrenheit. The cabinet may allow variances from the above temperature limits for special use purposes as competition, physical therapy, or instruction of children. Variances may be approved if proof is presented showing that a variance from the temperature requirements is necessary for the special uses stated, and that the variance will not jeopardize public health. Air temperature at an indoor facility shall be higher than the water temperature, except for spas. In no instance will water temperatures for any facility including spas be permitted to exceed 104 degrees Fahrenheit. All facilities with heated water shall be provided with at least one (1) breakproof thermometer located within the facility water in a conspicuous location. The thermometer shall be securely mounted to prevent tampering by bathers.~~

~~(7) The facility operator shall perform tests for each of the above water quality characteristics before opening and during all hours of operation based on the frequency schedule listed below, and record all test results on a daily operational log sheet:~~

~~(a) Disinfectant residual, and pH shall be checked at least three (3) times daily with a greater frequency if bather load or climatic conditions warrant.~~

~~(b) Turbidity - daily, or more often as needed.~~

~~(c) Alkalinity, cyanuric acid (if used) - weekly, or more often as needed.~~

~~(d) Temperature:~~

~~1. Spas - daily, or more often as needed; and~~

~~2. All other indoor facilities - daily.~~

~~(8) All spas shall be completely drained, thoroughly cleaned, and refilled with potable water at least once per week. Cleaners used shall be compatible with facility wall and bottom finishes.~~

~~Section 11. General Facility Operation and Maintenance. (1) Facility and facility area.~~

~~(a) All facilities shall be maintained free from sediment, lint, dirt, and hair. Cracks and other defects in the facility shall be repaired. The walls, ceilings, floors, and equipment shall be painted as often as necessary so that they are protected from deterioration. The bottom and sides of the facility shall be maintained so that they are free from deterioration;~~

~~(b) Decks shall be rinsed as necessary to be kept clean. Indoor decks shall be disinfected at least weekly. The walk areas, overflow gutters, counters, lockers, equipment, furniture, interior partitions, and walls shall be kept in good repair, clean, and sanitary; and~~

~~(c) Management of each facility shall adopt rules for controlling of food, drink, and smoking in the facility and surrounding areas.~~

~~(2) Perimeter overflow and skimmers. The perimeter overflow system or automatic surface skimmers shall be clean and free of leaves or other obstacles which would restrict flow. The strainer baskets for skimmers shall be cleaned daily. The flow through each skimmer shall be adjusted as often as necessary to maintain a vigorous skimming action. The facility water shall be maintained at an elevation so that effective surface skimming is accomplished. The flow returning from the facility shall be balanced or valved so that the majority of flow is returned through the perimeter overflow or skimmer system.~~

~~(3) Inlet fittings. Inlets shall be checked frequently to insure that the rate of flow through each inlet is correct so that a uniform distribution pattern is established.~~

~~(4) Bather preparation facilities.~~

~~(a) The floors of dressing rooms, shower stalls, and other interior rooms shall be cleaned and disinfected daily; and~~

~~(b) Toilet rooms and fixtures shall be kept clean, free of dirt and debris, and in good repair. Floors shall be maintained in a nonslip condition. Soap dispensers shall be filled and operable. Adequate supplies of toilet tissue, disposable hand drying towels, roll type cloth towels, or suitable hand drying devices shall be maintained.~~

~~(5) Street attire. Street shoes shall not be worn on the facility decks or wet areas of the bather preparation facilities, except for those persons engaged in official duties.~~

~~(6) Safety. All public swimming facilities shall have adequate enclosures that meet the specifications of Department of Housing, Buildings and Construction. Doors or gates in the facility enclosure shall be kept closed and locked if the facility is closed.~~

~~(7) Electrical systems. Repairs to any electrical system shall be made by an electrician. All repairs shall be in accordance with the National Electrical Code and shall be approved by a certified electrical inspector.~~

~~(8) Diving equipment, ladders, hand rails, and other similar equipment, shall be maintained in good repair, be securely anchored, and have a nonslip surface.~~

~~(9) Operation of mechanical equipment.~~

~~(a) Manufacturers' instructions for operation and maintenance of mechanical and electrical equipment, as well as pump performance curves, shall be kept available at the facility;~~

~~(b) Pumps, filters, disinfectant feeders, pH controls, flow indicators, gauges, and all related components of the facility water recirculation system shall be kept in continuous operation twenty-four (24) hours a day; and~~

~~(c) Recirculation pumps. The pump shall not be throttled on the suction side (except the bottom drain line valve) during normal operation, and shall be kept in good repair and condition. The flow control valve on the discharge side shall be adjusted as necessary to maintain the design flow rate.~~

~~(10) Filtration.~~

~~(a) Sand filters.~~

~~1. The filter air release valve shall be opened as necessary, to remove air which collects in the filter, and following each backwash; and~~

~~2. The filter shall be backwashed if the design flow rate can no longer be achieved, or as specified by the filter manufacturer, whichever occurs first.~~

~~(b) Diatomaceous earth filters.~~

~~1. The dosage of diatomaceous earth precoat shall be at least one and one-half (1 1/2) ounces per square foot of element surface area. Pressure diatomaceous earth filters shall be backwashed if the design flow rate can no longer be achieved or as specified by the filter manufacturer, whichever occurs first. If the recirculation pump stops or is shut off, the filter shall be thoroughly backwashed and the elements shall be precoated before placing the pump back into operation. Vacuum diatomaceous earth filters shall be washed if the design flow rate can no longer be achieved or as specified by the filter manufacturer, whichever occurs first;~~

~~2. Following the precoating operation, the initial filter effluent shall be either recirculated through the filter until the filter effluent is clear, or the initial filter effluent shall be discharged to waste until properly clarified water is produced; and~~

~~3. If continuous diatomaceous earth feed is required (filter loading rate exceeds one and five-tenths (1.5) gallons per minute per square foot of filter surface area), it shall be applied at a rate of one-half (1/2) - one and one-half (1 1/2) ounces per square foot of surface area per day, or as needed to extend filter cycles.~~

~~(11) Hair and lint strainers. Hair and lint strainers shall be cleaned to prevent clogging of the suction line and cavitation. The pump shall be stopped before the strainer is opened. In all cases, the hair strainer basket shall be cleaned during the time the filter is being backwashed.~~

~~(12) Flow meters. Flow meters shall be maintained in an accurate operating condition and readily accessible. The glass and the connecting tubes shall be kept clean.~~

~~(13) Vacuum and pressure gauges. The lines leading to the gauges shall be bled occasionally to prevent blockage.~~

~~(14) Gas chlorinators.~~

~~(a) Gas chlorinators shall be repaired only by a person trained in servicing these units. The facility operator shall determine the appropriate emergency personnel to contact in the event of a chlorine gas emergency and have the telephone number of said personnel conspicuously posted;~~

~~(b) Chlorine cylinders shall be stored indoors in the area designed for that purpose and away from a direct source of heat. Cylinders shall not be moved unless the protection cap is secured over the valve; and~~

~~(c) Chlorinator, gas line, injector, and cylinders shall be checked daily for leaks. Chlorine will produce a white smoke in the presence of ammonia. In case of a chlorine leak, corrective measures shall be undertaken only by trained persons wearing proper safety equipment. All other persons shall leave the dangerous area until conditions are again safe.~~

~~(15) Self-contained breathing apparatus (SCBA).~~

~~(a) A record shall be kept of SCBA usage to insure that the unit will be serviceable when needed. The SCBA shall be kept in a closed cabinet, accessible without a key, located outside of the room in which the chlorinator is located, and preferably outside the entrance to the equipment room; and~~

~~(b) The SCBA shall be serviced regularly as per manufacturer's recommendations.~~

~~(16) Positive displacement feeders.~~

~~(a) Positive displacement feeders shall be periodically inspected and serviced;~~

~~(b) To minimize sludge accumulation in the unit, the lowest practicable concentration of solution shall be used. If liquid chlorine solution is used, the dilution with water is not critical to the operation of the unit; and~~

~~(c) Sludge accumulations shall be cleaned periodically from the unit.~~

~~(17) Chlorinated cyanurates. The use of chlorinated cyanurates is prohibited.~~

~~(18) pH adjustment.~~

~~(a) Soda ash or caustic soda may be used to raise the facility water pH;~~

~~(b) Caustic soda shall only be used in accordance with the manufacturer's instructions. If caustic soda is intended for use, the cabinet shall be notified in writing. Protective equipment and clothing, including rubber gloves and goggles, shall be available for the handling and use of this chemical;~~

~~(c) Sodium bisulfate or muriatic acid may be used to lower pool water pH;~~

~~(d) Hydrochloric (muriatic) acid may only be used with proper supervision and care. Protective equipment and clothing, including rubber gloves and goggles, shall be available for handling this chemical; and~~

~~(e) The cabinet shall be consulted in the event of unusual pH problems including corrosion or scaling or wide fluctuations in pH.~~

~~(19) Algae control.~~

~~(a) The development of algae shall be eliminated by superchlorinating. The facility shall not be open for use during this treatment. If superchlorination fails to eliminate the algae, the cabinet shall be consulted for further advice.~~

~~(b) Treated algae which cling to the bottom and sides of the facility shall be brushed loose, and removed by the suction cleaner and filtration system.~~

~~(20) Miscellaneous chemicals.~~

~~(a) Chemicals other than disinfectants shall be used only with the advice and under the supervision of the cabinet;~~

~~(b) Chemicals shall be kept covered and stored in the original container, away from flammables and heat and in a clean, dry, and well-ventilated place which prevents unauthorized access to the chemicals;~~

~~(c) The chemicals used in controlling the quality of water shall be used only in accordance with the manufacturer's instructions; and~~

~~(d) If polyphosphates are used for sequestering iron, the concentration of polyphosphates shall not exceed ten (10) p.p.m.~~

~~(21) Equipment rooms.~~

~~(a) Equipment necessary for facility operation shall be housed in a lighted, ventilated room which affords protection from the weather, prevents unauthorized access, and is of sufficient size for operation and inspection;~~

~~(b) The equipment room floor shall slope toward drains and shall have a nonslip finish;~~

~~(c) A hose bib with a vacuum breaker shall be installed in the equipment room;~~

~~(d) Suitable space, if not provided in the equipment room, shall be provided for storage of chemicals, tools, equipment, supplies, and records where they can be acquired by the facility operator without leaving the premises. The storage space shall be dry and protected from unauthorized access; and~~

~~(e) The equipment room and all other storage areas mentioned above shall be maintained in a clean, uncluttered condition, and shall not be used for storage of materials not essential to operation and maintenance of the facility.~~

~~(22) Maintenance of bathing beaches.~~

~~(a) Beach areas shall be maintained free of litter and waterborne debris. Beverage containers of glass or metal containers with detachable pull tabs shall be prohibited.~~

~~(b) A layer of sand or gravel of sufficient depth to prevent the creation of mud holes or slicks and to reduce shallow water turbidity shall be maintained on all beach areas, and shall extend beneath the water of all wading and swimming areas; and~~

~~(c) Wading, swimming, and diving areas shall be examined by the facility operator on a routine basis, and immediately after high water conditions for floating or sunken debris, and obstructions at diving areas and high water turbidity which may present safety hazards to bathers.~~

~~Section 12. Facility Records. (1) The operator of each facility shall keep a daily record of information regarding operation including disinfectant residuals, pH, maintenance procedures, and recirculation, together with other data as may be required on form DFS-352 - Swimming Pool Log Sheet furnished by the cabinet. This data shall be kept on file by the operator and submitted to the cabinet as requested. Proper operating records, which include the following shall be kept showing daily or weekly results as applicable:~~

~~(a) Disinfectant residuals;~~

~~(b) pH readings, total alkalinity, cyanuric acid level (if applicable); and~~

~~(c) Malfunctioning of equipment.~~

~~(2) If two (2) or more facilities are operated on the same site, separate records shall be maintained for each facility.~~

~~Section 13. Personnel. (1) Operator. A facility operator shall be responsible for the operation and maintenance of all swimming and bathing facilities. The operator shall be available at all times when the facility is open for use.~~

~~(2) Lifeguards.~~

~~(a) A lifeguard or Lifeguards shall be provided at all facilities, regardless of square footage which allow bathers sixteen (16) years of age or under to enter the facility area without a responsible person seventeen (17) years of age or older present~~

~~(b) All facilities which do not provide a lifeguard must post and~~

~~enforce the following rule: "No person may enter the facility area alone or swim alone."~~

~~(c) If lifeguards are required, lifeguards shall comply with the following:~~

~~1. Lifeguards shall have a current lifesaving certificate. Current training as a lifesaver or water safety instructor by the American Red Cross, YMCA, or equivalent shall satisfy this requirement. The certificate of competency shall be prominently posted;~~

~~2. More than one (1) lifeguard shall be on duty at large facilities or facilities with a large number of bathers. Lifeguards shall be provided at a ratio of one (1) per 200 bathers or one (1) per 2,000 square feet of water surface area, whichever is less;~~

~~3. Lifeguards shall be dressed in swimming attire; and~~

~~4. Lifeguards assigned to the supervision of the facility shall not be subject to duties that would distract their attention from proper observation of persons in the facility area, or that would prevent immediate assistance to persons in distress in the water.~~

~~Section 14. Safety Equipment. (1) Facilities other than beaches having an area of more than 2,000 square feet of water surface area shall be provided with an elevated lifeguard chair. An additional lifeguard chair shall be provided for each additional 2,000 square feet of water surface area or major fraction more than half thereof. They shall be located to provide a clear view of the facility bottom in the area under surveillance.~~

~~(2) Beaches shall be provided with an elevated lifeguard chair for each 100 linear feet of beach front, with an additional lifeguard chair for each additional 100 linear feet of beach front or fraction thereof. The chairs shall be located on the beach to provide a clear view of all areas under surveillance and to provide the quickest response time.~~

~~(3) The following lifesaving equipment shall be provided:~~

~~(a) A U.S. Coast Guard approved ring buoy not more than fifteen (15) inches in diameter to which shall be attached a three-sixteenths (3/16) inch rope of length one and one-half (1 1/2) times the maximum pool width;~~

~~(b) A life pole or shepherd's crook type of pole having blunted ends with a minimum length of twelve (12) feet; and~~

~~(c) One (1) plywood backboard with straps, made to the specifications of the American Red Cross for back and neck injuries.~~

~~(4) The equipment listed in subsection (3) of this section shall be considered as one (1) unit (except paragraph (c)) and shall be considered as adequate for 2,000 square feet of facility water surface area. An additional unit shall be provided for each additional 2,000 square feet or major fraction thereof.~~

~~(5) Facilities limited to small spas, of less than 144 square feet of water surface area, shall not be required to provide the equipment listed in subsection (3) of this section, but shall meet the requirements of subsections (7), (10), and (11) of this section.~~

~~(6) Bathing beach facilities shall provide the following lifesaving equipment in addition to that listed in subsection (3) of this section:~~

~~(a) Paddle board or surfboard;~~

~~(b) At least one (1) lifeboat, containing one (1) unit of lifesaving equipment and outfitted to meet state water safety administrative regulations; and~~

~~(c) A torpedo shaped buoy.~~

~~(7) All facilities shall be equipped with a minimum of one (1) standard twenty-four (24) unit first aid kit or its equivalent, which shall be kept filled and ready for use. Additional units shall be provided for each additional 2,000 square feet of facility area or major fraction thereof.~~

~~(8) Lifesaving equipment shall be mounted in conspicuous places at lifeguard chairs or other readily accessible locations. Its function shall be plainly marked, and this equipment shall be kept in repair and ready condition. Bathers or other persons shall not be permitted to tamper with, use for any purpose other than its intended use, or remove such equipment from its established location. This equipment at beaches shall be located at each lifeguard chair, with the lifeboat mentioned in subsection (6)(b) of this section being located at the most centrally stationed lifeguard chair.~~

~~(9) The hydrojet auxiliary air or water pump for a spa shall be controlled by an on-off switch with a fifteen (15) minute timer located and labeled at least five (5) feet away from the spa.~~

~~(10) All facilities shall have a nonpay telephone on the premises which is readily accessible and conspicuously located; for isolated facilities two (2) way radio communication systems to a manned telephone system may be substituted. The telephone number of a police, fire department, emergency medical service, or a hospital shall be posted in a conspicuous place near the telephone.~~

~~(11) All drownings and injuries requiring hospitalization shall be immediately reported to the cabinet.~~

~~Section 15. Spectator and Bather Administrative Regulations. (1) Rules governing the use of the facility and instructions to bathers shall be displayed on placards at the entrance to dressing rooms and shall be enforced by the facility operator. Posting of rules and other instructions shall provide that:~~

~~(a) Admission to the facility is refused to all persons having any contagious disease, infectious conditions as colds, fever, ringworm, foot infections, skin lesions, carbuncles, boils, inflamed eyes, ear discharges, or any other condition which has the appearance of being infectious. Persons with excessive sunburn, abrasions which have not healed, corn plasters, bunion pads, adhesive tape, rubber bandages, or other bandages of any kind are not permitted. A person under the influence of alcohol or exhibiting erratic behavior shall not be permitted in the facility area;~~

~~(b) No food, drink, gum, tobacco will be allowed in other than specially designated and controlled sections of the facility area;~~

~~(c) Personal conduct within the facility shall assure that the safety of self and others is not jeopardized. No running and no boisterous or rough play (except supervised water sports) are permitted;~~

~~(d) People in street shoes and other spectators are not allowed in the facility, on the deck, and in the "wet" areas of the bathhouse, except those engaged in official duties;~~

~~(e) Spitting, spouting of water, blowing the nose, or otherwise introducing contaminants into the facility water is not permitted;~~

~~(f) Glass, soap, or other material which might create hazardous conditions or interfere with efficient operation of the facility shall not be permitted in the facility or on the deck;~~

~~(g) All apparel worn in the facility shall be clean;~~

~~(h) Diving in shallow water is not permitted;~~

~~(i) Caution shall be exercised in the use of diving boards; and~~

~~(j) Animals shall be excluded from the facility area.~~

~~(2) Due to the nature of bathing beaches, subsection (1)(c), (d), and (g) of this section shall not apply. Subsection (1)(a) and (b) of this section shall be enforced at the discretion of the facility operator, except for parts dealing with those persons with excessive sunburn or those under the influence of alcohol or exhibiting erratic behavior, which shall be enforced at all facilities.~~

~~(3) In addition to the requirements of subsection (1) of this section, a caution sign shall be mounted adjacent to all spas which contain the following warnings:~~

~~CAUTION~~

~~Pregnant women, elderly persons, and persons suffering from any heart condition or disease, diabetes, or high/low blood pressure should not enter the spa without prior medical consultation and permission from their doctor.~~

~~Do not use the spa while under the influence of alcohol, tranquilizers, or other drugs that cause drowsiness, or that raise or lower blood pressure.~~

~~Do not use at water temperatures greater than 104 degrees Fahrenheit.~~

~~Do not use alone.~~

~~Unsupervised use by children is prohibited.~~

~~Enter and exit slowly.~~

~~Observe reasonable time limits (that is, ten (10) to fifteen (15) minutes), then leave the water and cool down before returning for another brief stay.~~

~~Long exposure may result in nausea, dizziness, fainting, or death.~~

~~Keep all breakable objects out of the area.~~

~~Shower before entering the spa.~~

~~(4) A sign shall be posted in the immediate vicinity of the spa stating the location of the nearest telephone and indicating that emergency telephone numbers are posted at that location.~~

~~Section 16. Swimming Suits and Towels Furnished by Management. All swimming suits and towels used by swimmers and~~

~~maintained for public use shall be cleaned after each use. These items shall be handled in a sanitary manner.~~

~~Section 17. Facility Inspection. (1) Seasonal facilities.~~

~~(a) All owners or operators of seasonal facilities, prior to opening to the public, shall certify to the cabinet, in writing, that the facility is in compliance with the requirements of this administrative regulation except in instances where the cabinet has made an inspection prior to its opening. For seasonal facilities, the cabinet shall make at least two (2) full facility inspections during the operating season. The cabinet, at its discretion, may require one (1) of the full facility inspections to be performed prior to a facility's opening; and~~

~~(b) The facility owner or operator shall be responsible for notifying the cabinet of the proposed opening date.~~

~~(2) Continuous operation (indoor) facilities shall receive a full facility inspection by the cabinet at least once each six (6) months.~~

~~(3) New facilities shall receive final construction approval inspections by the cabinet, and other affected state and local regulatory agencies, prior to placing the facility in operation. It shall be the owner or operator's responsibility to notify the cabinet and other involved agencies of construction completion and call for inspection.~~

~~(4) Facilities other than beaches shall be inspected at a minimum of once each thirty (30) day period by the cabinet on a monitoring basis. The monitoring inspection shall consist of the following:~~

~~(a) Disinfectant residual testing (free available residual) and combined disinfectant in p.p.m.;~~

~~(b) pH testing;~~

~~(c) Total alkalinity testing;~~

~~(d) Cyanuric acid testing (if cyanuric acid stabilizers are used);~~

~~(e) Turbidity assessment;~~

~~(f) Temperature testing (if heated water facility);~~

~~(g) Review of operator's daily log;~~

~~(h) Visual scanning for algae or debris; and~~

~~(i) Other checks as necessary.~~

~~(5) Beaches shall receive monitoring inspections once each month or anytime immediately after periods of heavy rainfall. Monitoring inspections for beaches shall include general sanitation and safety checks as necessary.~~

~~(6) The cabinet may make as many additional inspections and reinspections as are necessary for the enforcement of this administrative regulation.~~

~~(7) If an agent of the cabinet makes an inspection of a public swimming and bathing facility, he shall record his findings on an official cabinet inspection report form DFS-349 - Public Swimming and Bathing Facilities Inspection or DFS-350 - Public Swimming and Bathing Facilities Beach Inspection Report and provide the facility owner or the operator with a copy. The inspection report shall:~~

~~(a) Set forth any violation(s) if found;~~

~~(b) Establish a specific and reasonable period of time for the correction of the violation(s) found; and~~

~~(c) State that failure to comply with any notice issued pursuant to the provisions of this administrative regulation may result in closure of the facility.~~

~~Section 18. Water Sampling and Testing. (1) A water sample may be collected from facilities if inspections or monitoring indicates water quality standards are not being maintained, or there is a suspected water borne disease outbreak, and shall be submitted to the Health Services Laboratory or other laboratory licensed by the Natural Resources and Environmental Protection Cabinet for analysis. Samples shall be collected in approved containers and by approved sampling procedures.~~

~~(2) Samples shall be collected and analyzed for any of the following or other contaminants:~~

~~(a) Total coliform;~~

~~(b) Fecal coliform; and~~

~~(c) Pseudomonad organisms.~~

~~(3) Multiple samples may be collected at bathing beaches to assure adequate representation of the entire facility water area.~~

~~(4) Need for additional samples at other times shall be triggered by the results of monitoring inspections, reported disease outbreaks associated with the facility, or failure of previous samples to meet the standards outlined in Sections 5 and 19 of this administrative regulation. If a sample shows a positive test for contaminants as specified in subsection (2)(a), (b), and (c) of this section, the sample shall be repeated within one (1) to seven (7) days.~~

~~Section 19. Bacteriological Quality of Facility Water. (1) For facilities other than bathing beaches, no more than two (2) consecutive samples shall contain either:~~

~~(a) More than 200 bacteria per milliliter, as determined by the standard (thirty-five (35) degrees Centigrade) agar plate count;~~

~~(b) Show a positive test (confirmed test) for coliform organisms in any of the five (5) ten (10) milliliter portions of a sample or more than two (2.0) coliform organism per 100 ml when the membrane filter test is used;~~

~~(c) Show a positive test (confirmed test) for pseudomonas organisms; or~~

~~(d) Show a positive test for fecal coliform organisms.~~

~~(2) Bathing beaches shall comply with the standards set forth in Section 5(3)(a) of this administrative regulation.~~

~~Section 20. Conditions requiring Closure of a Facility and Enforcement Provisions. (1) If the cabinet finds any of the following conditions, it may immediately order by written notice the owner or operator to close the facility and to prohibit any person from using the facility:~~

~~(a) If conditions at a facility and appurtenances, including bathhouse facilities, upon inspection and investigation by a representative of the cabinet, create an immediate danger to health or safety;~~

~~(b) If the cabinet upon review of results of bacteriological analyses of water samples collected from a facility, finds that the water does not conform to the bacteriological standards promulgated by the cabinet for proper swimming and bathing water quality;~~

~~(c) If an environmental survey of an area shows evidence of sewage or other pollutional or toxic materials being discharged to waters tributary to a beach creating an immediate danger to health or safety;~~

~~(d) If Turbidity levels of facility water do not meet the requirements of Section 10(4) of this administrative regulation;~~

~~(e) If in such cases as it is required, the presence of a satisfactory disinfectant residual, prescribed by the cabinet is absent;~~

~~(f) In any instance where the owner, operator, or any other employee or representative of the owner interferes with duly authorized agents of the cabinet, bearing proper identification, in the performance of their duties;~~

~~(g) If recirculation system(s), filtration system(s), or disinfectant system(s) are not in operation (with exceptions for maintenance, and seasonal shut down); or~~

~~(h) If serious or repeated violations of any of the requirements of the administrative regulations are found.~~

~~(2) The notice shall state the reasons prompting the closing of the facility and a copy of the notice shall be posted conspicuously at the facility by the owner or operator.~~

~~(3) Any owner or operator affected by an order is entitled, upon written request on form DFS-212 - Request for Hearing to the cabinet, to a hearing in accordance with 902 KAR 1:400.~~

~~(4) If the conditions are abated or if the results of analyses of water samples collected from the facility, in the opinion of the cabinet, comply with the cabinet's bacteriological standards for acceptable water quality, or if the turbidity decreases to the permissible limit, or if the disinfectant residual reaches a satisfactory level as prescribed by administrative regulation, the cabinet may authorize reopening the facility. If sources of sewage, pollution, or toxic materials discovered as a result of an environmental survey are eliminated the cabinet may authorize reopening of such beach.~~

~~(5) In all other instances of violation of the provisions of this administrative regulation, including nonpayment of fees, the cabinet shall serve upon the owner or operator a written notice specifying the violation(s) in question and afford a reasonable opportunity to correct same. If an owner or operator has failed to comply with any written notice issued under the provisions of this administrative regulation, the owner or operator shall be notified in writing that the facility shall be closed at the end of ten (10) days following service of such notice, unless a written request for a hearing is filed with the cabinet, by the~~

~~owner or operator, within such ten (10) day period.~~

~~(6) All administrative hearings shall be conducted in accordance with 902 KAR 1:400.~~

~~(7) Any person whose facility has been closed may, at any time make application for a reinspection on form DFS-215 - Application for Reinstatement of Suspended Permits for the purpose of reopening the facility. Within ten (10) days following receipt of a written request, including a statement signed by the applicant that in his opinion the conditions causing closure of the facility have been corrected, the cabinet shall make a reinspection. If the facility is found to be in compliance with the requirements of this administrative regulation, the facility shall be reopened.~~

~~(8) For serious or repeated violations of any of the requirements of this administrative regulation or for interference with the agents of the cabinet in the performance of their duties, the facility may be permanently closed after an opportunity for a hearing has been provided in accordance with 902 KAR 1:400. Prior to the action, the cabinet shall notify the owner or operator, in writing, stating the reasons for which the facility is subject to closure and advising that the facility shall be permanently closed at the end of ten (10) days following service of the notice unless a request for a hearing is filed with the cabinet by the owner or operator, within such ten (10) day period.~~

~~Section 21. Existing Facilities and Equipment. (1) Notwithstanding the other provisions of this administrative regulation, existing facilities and equipment being used prior to the effective date of this administrative regulation, which do not fully meet the design, construction, and materials requirements of this administrative regulation, may be continued in use, if in good repair, capable of being maintained in a sanitary condition, meet facility water quality standards, and create no health or safety hazard.~~

~~(2) If existing equipment, components, piping, or fittings involved in the facility water treatment system are replaced to effect repairs, the replacement equipment, components, piping, or fittings shall meet the requirements of this administrative regulation. If replacement occurs, it shall be the owner's or operator's responsibility to notify the cabinet as to what was replaced and what was used for a replacement.~~

~~Section 22. Effect on Local Administrative Regulations. Compliance with this administrative regulation does not relieve any person from compliance with any other state or local laws, dealing with pool operation and maintenance matters, or zoning requirements which may also be applicable.~~

~~Section 23. Variances. (1) All facilities shall be constructed or remodeled in compliance with the provisions of these administrative regulations, except that an applicant may request and the cabinet may grant a variance in those cases where it is determined that the variance would not affect seriously the safe and healthful operation of the facility.~~

~~(2) Before granting a variance, the cabinet shall require adequate proof from the applicant that the requested variance will comply with the basic intent of these administrative regulations and that no safety or health hazard would be created if the variance is granted.~~]

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 Public Health
Division of Public Health Protection and Safety
(As Amended at ARRS, April 13, 2022)

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.~~]

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.

ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING OR RECEIPT OF WRITTEN COMMENTS

BOARDS AND COMMISSIONS
Board of Pharmacy
(Amended After Comments)

201 KAR 2:440. Legend drug repository.

RELATES TO: 315.191, 315.450, 315.452, 315.454, 315.456, 315.458, 315.460

STATUTORY AUTHORITY: 315.191, 315.458

NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.191(1) authorizes the board to promulgate administrative regulations pursuant to KRS Chapter 13A necessary to regulate and control all matters relating to pharmacists, pharmacist interns, pharmacy technicians, pharmacies, wholesale distributors, and manufacturers. KRS 315.458 requires the board to promulgate regulations to establish the legend drug repository program. This administrative regulation establishes the legend drug repository program and the requirements to participate in the program.

Section 1. Definitions. (1) "Authorized recipient" means a recipient that has received authorization from the board to participate in the legend drug repository program pursuant to Section 2 and whose authorization has not been revoked by the board pursuant to Section 3.

(2) "Board" means the Kentucky Board of Pharmacy.

(3) "Controlled substance" has the same meaning as defined in KRS 218A.010.

(4) "Dispense" has the same meaning as defined in KRS 315.010.

(5) "Distribute" has the same meaning as defined in KRS 315.400.

(6) "Donor" shall mean any entity legally authorized and permitted to possess drugs, including but not limited to a wholesaler or distributor, third party logistic provider, pharmacy, clinic, surgical or health center, detention and rehabilitation center, laboratory, medical or pharmacy school, prescriber or other health care provider, or health facility. Donor shall also mean government agencies and entitles that are federally authorized to possess drugs including but not limited to drug manufacturers, repackagers, relabelers, outsourcing facilities, Veteran Affairs hospitals, FDA authorized importers such as those under Federal FD&C Section 801, 804, or similar provisions, and prisons.

(7) "Drug" has the same meaning as defined in KRS 315.010.

(8) "Eligible patient" means an individual who is indigent, uninsured or underinsured. Other patients shall be considered eligible if a need for the donated drugs is not identified among indigent, uninsured and underinsured individuals.

(9) "Health care provider" has the same meaning as in KRS 304.17A-005.

(10) "Heath facility" has the same meaning as in KRS 216B.015.

(11) "Original packaging" shall mean the packaging in which the drug was donated by the donor.

(12) "Pharmacist" has the same meaning as defined in KRS 315.010.

(13) "Recipient" means a pharmacy as defined by KRS 315.010.

(14) "Relabeler" has the same meaning as defined in 201 KAR 2:320.

(15) "Repackager" has the same meaning as defined in KRS 315.400.

(16) "Returns processor" shall have the same meaning as in 21 U.S.C. Section 360eee(18) and shall include but is not limited to a reverse distributor.

(17) "Unopened tamper-evident packaging" shall have the same meaning as United States Pharmacopeia (USP) General Chapter 659, Packaging and Storage Requirements including but not limited to unopened unit-dose, multiple dose, immediate, secondary, and tertiary packaging.

Section 2. Participation in the Legend Repository Program.

(1) Donors may donate drugs to an authorized recipient. An authorized recipient may receive donated drugs from donors. Prior to the first donation from a new donor, an authorized recipient must verify and record the following:

(a) The donor meets the definition provided in Section 1;

(b) The donor's name, address, phone number, and permit **or license** number;

(c) The donor will only make donations of drugs in accordance with Section 3;

(d) If applicable, the donor will remove or redact any patient names and prescription numbers on donated drugs or otherwise maintain patient confidentiality by executing a confidentiality agreement with the authorized recipient.

(2) Any recipient seeking to become an authorized recipient in the program shall complete and provide to the Board the Legend Drug Repository Authorized Recipient Form that includes the specific policies and procedures of the recipient for planned implementation of the repository program. The policies and procedures shall include drug acceptance, destruction or transfer for unauthorized unaccepted drugs, quarantine of donated drugs, the electronic or written maintenance of inventory, storage and maintenance of donated drugs, recordkeeping of dispensed drugs and patient eligibility affidavit forms, separation of donated drugs and repackaging of donated drugs.

(3) The board may revoke the authorization of a recipient to participate in the program by issuing a written notice to the recipient. Such revocation shall include references to the specific requirements that were violated and the corrective actions necessary for the recipient to resume its participation in the program.

(4) Nothing in this chapter shall require a health facility, pharmacy, pharmacist, or practitioner to participate in the program established by this section.

(5) A drug manufacturer, repackager, or wholesaler other than a returns processor participating in this program shall comply with the requirements of 21 U.S.C. Sections 360-1 through 360-4 relating to drug supply chain security.

Section 3. Accepting, Inspecting, and Storing Drugs. (1) An authorized recipient may only accept into inventory donated drugs that:

(a) Are in original, unopened, sealed, and tamper-evident packaging; or have been repackaged under this program in accordance with Section 4.4;

(b) If in a single unit dose, the packaging of that dose must be unopened;

(c) Are not classified as a controlled substance;

(d) Are not visually adulterated or misbranded;

(e) Are not samples;

(f) Have an expiration date of ninety days or greater**, unless the drug is in high demand, as determined by the professional judgement of the authorized recipient and can be dispensed for use prior to the drug's expiration date**;

(g) **[~~Have packaging that lists the lot number of the drug;~~**

~~(h)~~] Are not considered to be medical supplies;

(h)[~~(i)~~] Do not require only being dispensed to a patient registered with the drug's manufacturer in accordance with federal Food and Drug Administration requirements; and

(i)[~~(j)~~] Have a USP-recognized method to detect improper temperature variations if the drugs require temperature control other than "room temperature storage."

(2) Donated drugs that do not meet the requirements of Section 3.1 must be disposed by returning it to the drug donor, destroying it by incinerator, medical waste hauler, or other lawful method, or transferring it to a return processor. A record of disposed drugs shall consist of the disposal method as described above, the date of the disposal, and the name, strength, and quantity of each drug disposed. No other record of disposal shall be required.

(3) All drugs received but not yet accepted into repository

inventory shall be quarantined in a separate, designated area.

(4) Prior to or upon accepting a donation or transfer into inventory, an authorized recipient shall maintain a written or electronic inventory of the donation, consisting of the name, strength, and quantity of each accepted drug, and the name address, phone number, and permit **or license** number, if applicable, of the donor. This record shall not be required if the two **(2)** parties are under common ownership. No other record of donation shall be required.

(5) An authorized recipient shall store and maintain donated drugs **in a manner that distinguishes them[~~physically separated~~]** from other non-donated inventory and in a secure and temperature-controlled environment that meets the drug manufacturers' recommendations and USP standards.

Section 4. Safe Distribution and Dispensing of Drugs. (1) Notwithstanding any other law or rule, an authorized recipient may:

(a) Distribute donated drugs to another authorized recipient or to an entity participating in a drug donation program operated by another state.

(b) Repackage donated drugs as necessary for storage, dispensing, administration, or distribution in accordance with Section 4.4.

(c) Replenish drugs of the same drug name and strength previously dispensed or administered to eligible patients in accordance with 21 U.S.C. 340B.

(2) An authorized recipient may only administer or dispense drugs that:

(a) Meet the requirements of Section 3.1, including not being visually adulterated or misbranded, as determined by a pharmacist employed by, or under contract, with the health facility or pharmacy;

(b) Are, if dispensed to a patient, repackaged into a new container or have all previous patient information on the donated container redacted or removed;

(c) Are properly labeled in accordance with KRS 217.816;

(d) Have an expiration date that will not expire before the full use by the patient based on the prescribing practitioner's directions for use; and

(e) Are prescribed by a physician, advanced registered nurse or a physician assistant and dispensed by a pharmacist KRS 315.454(1)(d).

(3) An authorized recipient may dispense or administer drugs to an eligible patient only if otherwise permitted by law. Prescription drugs may only be dispensed or administered to patients pursuant to a valid prescription drug order and shall have patient-specific written or electronic records maintained in accordance with KRS Chapter 315 and 201 KAR Chapter 2.

(4) Repackaged drugs shall be labeled with the drug name, strength, and expiration date, and shall be kept in a separate designated area until inspected and initialed by a pharmacist. If multiple packaged donated drugs with varied expiration dates are repackaged together, the shortest expiration date shall be used.

(5) The donation, distribution, transfer, receipt, or facilitation of donations, distribution, transfers, and receipt of drugs pursuant to this chapter shall not be considered wholesale distribution and shall not require licensing as a wholesale distributor.

(6) An entity participating in a drug donation or repository program operated by another state may participate in this program, and in the case of a pharmacy, may dispense donated drugs to residents of this state. This entity is required to comply with all laws and rules in this state.

(7) Indigent and uninsured patients shall have priority access to drugs dispensed through the repository program. If a drug is available and no indigent or uninsured patient requests dispensing of the drug, the drug shall be made available to underinsured patients before dispensing to others. All authorized recipients shall use the Patient Eligibility Affidavit Form provided by the board **or a substantively similar physical or electronic form** when confirming a patient's status as indigent, uninsured, underinsured or other.

(8) No legend drug or supply needed to administer a legend drug that are donated for use under this program may be resold.

(9) All legend drugs, with the exception of controlled substances and extemporaneously compounded drugs, are eligible for dispensing under this program.

(10) No handling fee shall be charged to a patient for pharmacy dispensing of a repository drug.

(11) Drugs specified in a recall notice shall be considered recalled unless the drug has an affixed lot number to exclude it from the recall.

(12) An authorized recipient may dispense a therapeutic equivalent drug product under the following conditions:

(a) The ordering practitioner has indicated "formulary compliance approval" on the prescription, in one (1) of the following ways:

1. In the practitioner's own handwriting; or

2.By checking a "formulary compliance approval" box on a preprinted form;

(b) The pharmacist, within twenty-four (24) hours of the formulary compliance substitution, shall notify the ordering practitioner, in an original writing or by facsimile:

1.That the pharmacist engaged in formulary compliance; and

2.The therapeutic equivalent drug product that was dispensed.

(c) The pharmacist may make adjustments in the quantity and directions to provide for an equivalent dose of the preferred formulary therapeutic alternative.

Section 5. Forms and Recordkeeping. (1) All records required by this chapter shall be retained in physical or electronic format, on or off the authorized recipient's premise for a period of five (5) years. A donor or authorized recipient may contract with one another or a third-party to create and/or maintain records on each other's behalf. An identifier, such as a serial number or barcode, may be used in place of any or all information required by a record or label pursuant to this chapter if it allows for such information to be readily retrievable. Upon request by the board, the identifier used for requested records shall be replaced with the original information. An identifier shall not be used on patient labels when dispensing or administering a drug.

(2) An entity which chooses to participate in the program shall make all records available to audit by the board within forty-eight (48) hours.

(3) When performing any action associated with this program or otherwise processing donated drugs for tax, manufacturer, or other credit, an authorized recipient is considered to be acting as a returns processor and shall comply with all recordkeeping requirements for nonsaleable returns under federal law.

(4) A donation, or other transfer of possession or control, shall not be construed as a change of ownership unless it is specified as such by the authorized recipient. If a record of the donation's transaction information or history is required, the history shall begin with the donor of the drugs, shall include all prior donations, and, if the drugs were previously dispensed, shall only include drug information required to be on the patient label in accordance with KRS Chapter 315 and 201 KAR Chapter 2.

Section 6. Authority. This chapter shall have sole authority over the program and shall supersede any inconsistent law or rule.

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

(a) "USP 659 Packaging and Storage Requirements," 05/2017;

(b) "Legend Drug Repository Authorized Recipient Form," Form Rep. 1121A (12/2021);

(c) "Legend Drug Repository Patient Eligibility Affidavit Form," Form Rep. 1121B (12/2021).

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Pharmacy, State Office Building Annex, Suite 300, 125 Holmes Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CHRISTOPHER P. HARLOW, Pharm.D., Executive Director

APPROVED BY AGENCY: April 4, 2022

FILED WITH LRC: April 5, 2022 at 8:30 a.m.

CONTACT PERSON: Christopher Harlow, Executive Director, Kentucky Board of Pharmacy, 125 Holmes Street, Suite 300, State Office Building Annex, Frankfort, Kentucky 40601, phone (502) 564-7913, fax (502) 696-3806, email Christopher.Harlow@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Larry Hadley

(1) What this administrative regulation does:

(a) This administrative regulation establishes the legend drug repository program for pharmacies within the Commonwealth and sets requirements relating to the ability for a pharmacy to accept drugs as partof the legend drug repository program.

(b) The necessity of this administrative regulation: KRS 315.191(1)(a) authorizes the Board of Pharmacy to promulgate administrative regulations. Moreover, KRS 315.482 directs the Board to create by administrative regulation a legend drug repository program.

(c) How this administrative regulation conforms to the content of the authorizing statues: This administrative regulation establishes the legend drug repository program and sets forth requirements relating to requirements of the legend drug repository program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administration regulation will ensure the intent of the legislature is followedand the legend drug repository program is created. .

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

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

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

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

(d) How the amendment will assist in the effective administration of the statutes: Not applicable. This is a new regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The board anticipates pharmacies will be affected by this amendment, but participation in the legend drug repository program is completely optional.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Pharmacies will have to familiarize themselves with amended language and ensure they follow the requirements if they choose to participate in the legend drug repository program.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no expected costs for the identities to comply with the regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This regulation will ensure that the patients of pharmacies are provided with free medication in the case that a pharmacy participates in the program and patients meet the eligibility requirements. For pharmacies, this ensures drugs are not wasted.

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

(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 anyfees.

(9) TIERING: Is tiering applied? Tiering is not applied because the regulation is applicable to all pharmacies equally thatchoose to participate in the program.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Pharmacy will be the only entity impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 315.191(1)(a) and KRS 315.458.

(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 localgovernment (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate revenue for the Board in subsequent years.

(c) How much will it cost to administer this program for the first year?No costs are required to administer this program for the first year.

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

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

Revenues (+/-): 0

Expenditures (+/-): 0

Other Explanation:

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Board of Education
Department of Education
(Amended After Comments)

704 KAR 7:170. Corporal punishment.

RELATES TO: KRS 156.160, **[**~~KRS~~ **]**158.6451, **[**~~KRS 503.110, KRS~~ **]**503.050, **[**~~KRS~~ **]**503.070**, 503.110**

STATUTORY AUTHORITY: KRS 156.070, 156.160, 158.444

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.070 **authorizes[**~~grants~~**]** the Kentucky Board of Education **to manage[**~~the management~~**]** and control **[**~~of~~ **]**the common schools and all programs operated within those schools. KRS 156**.**160(1)(h) requires the Kentucky Board of Education to promulgate administrative regulations necessary or advisable for the protection of the physical welfare and safety of public school students. KRS 158.444 requires the Kentucky Board of Education to promulgate administrative regulations relating to school safety, student discipline, and related matters. **This administrative regulation establishes the conditions under which corporal punishment may be used in public schools.**

Section 1. Definitions. (1) "Corporal punishment" means the deliberate infliction of physical pain by any means upon the whole or any part of a student's body as a penalty or punishment for student misbehavior**.[;]**

(2) "Qualified mental health professional" **is[~~means the same as~~]** defined **by[~~in~~]** KRS 202A.011(12)**.[;]**

(3) "Dangerous instrument" **is [~~means the same as~~]** defined **by[~~in~~]** KRS 500.080**(3).[;]**

(4) "Deadly weapon" **is[~~means the same as~~]** defined **by[~~in~~]** KRS 500.080**(4).[;]**

(5) "Physical injury" **is[~~means the same as~~]** defined **by[~~in~~]** KRS 500.080**(13).[~~; and~~]**

(6) "Serious physical injury" **is[~~means the same as~~]** defined **by[~~in~~]** KRS 500.080**(15)**.

(7) "Trauma-informed approach" is defined by KRS 158.4416(1).

(8) "Evidence-based" is defined by 34 C.F.R.77.1.

Section 2. **A[~~No~~]** student with an Individual Education Program (IEP) pursuant to 707 KAR Chapter 1, 504 plan pursuant to Section 504 of the Rehabilitation Act of 1973, or identified as a homeless or foster care youth pursuant to 704 KAR 7:090 shall **not** be subjected to corporal punishment.

Section 3. (1) **Except for a local board of education that prohibits corporal punishment pursuant to Section 7(1)(a) of this administrative regulation,** within the first five (5) days of enrollment each school year, the school shall request written consent from the legal guardian of each student to use corporal punishment as a behavior intervention for their child. The written consent shall inform the legal guardian of how to access the student code of conduct, describe the code of conduct violations that may result in corporal punishment, and notify the legal guardian that consent may be withdrawn at any point during the school year. Absent valid written consent signed by the legal guardian, corporal punishment shall not be administered.

(2) Before administering corporal punishment to a pupil, the school shall contact the child's legal guardian to provide prior notification and receive affirmative verbal consent.

Section 4. **[~~Notwithstanding the provisions of KRS 503.070 and KRS 503.050,~~]**Prior to administering corporal punishment to a pupil, the school shall attempt to remedy problematic behavior through **the use of evidence-based practices consistent with a trauma-informed approach [~~other non-physical means~~].**

Section 5. (1) Corporal punishment may only be administered by the Principal or Assistant Principal. Corporal punishment shall only be administered in the presence of at least one **(1)** additional certified staff member who is the same gender as the student.

(2) Corporal punishment shall not be administered in a location where another student, staff member other than those described in subsection (1) of this section, or adult visitor to the school can see or hear the corporal punishment.

(3)[(~~2~~)] A[~~No~~] staff member shall **not** be compelled to administer or witness corporal punishment.

Section 6. (1) After administering corporal punishment, the school shall ensure that the student receives a minimum of thirty (30) minutes of counseling provided by the school's guidance counselor, school social worker, school psychologist, or other qualified mental health professional no later than the end of the next school day.

(2) Each incidence of corporal punishment **shall[~~must~~]** be recorded in the student information system. Schools shall report:

(a) The time and date **[~~which~~]**the punishment was administered;

(b) The name and position of the individual who administered the punishment;

(c) The names and positions of any witnesses to the punishment;

(d) The time and date of the prior consent required under Section 3 **of this administrative regulation**;

(e) The name and relationship of the individual providing consent under Section 3 **of this administrative regulation**;

(f) The behavioral interventions deployed prior to corporal punishment as required under Section 4 **of this administrative regulation**; and

(g) The time and date of the student counseling appointment required under Section 5 **of this administrative regulation**.

Section 7. (1) Each local board of education shall adopt a policy that either:

(a) Prohibits the use of corporal punishment in the district; or

(b) Allows the use of corporal punishment in the district.

(2) If the local board of education adopts a policy allowing the use of corporal punishment, its policy shall:

(a) Define the circumstances under which corporal punishment may be deployed which shall not exceed the justification included in KRS 503.110;

(b) Define the procedures for deploying **corporal[~~such~~]** punishment;

(c) Define the tool or instrument to be used when administering corporal punishment and include a prohibition on the use of dangerous instruments or deadly weapons;

(d) Define the limits on corporal punishment and **ensure[~~ensures~~]** that corporal punishment **shall[~~does~~]** not result in physical injury or serious physical injury; and

(e) Define the procedures for documenting and reporting **corporal[~~such~~]** punishment.

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).

JASON GLASS, Commissioner
LU YOUNG, Chair

APPROVED BY AGENCY: March 18, 2022

FILED WITH LRC: April 14, 2022 at 11:30 a.m.

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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Todd G. Allen

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 503.110 allows for the use of physical force upon a student when the school "believes that the force used is necessary to promote the welfare of a minor… or maintain discipline in a school, class, or other group." This practice is commonly referred to as corporal punishment. This regulation seeks to establish minimum requirements for the use of corporal punishment including a requirement to attain parental consent prior to use, requirements for the deployment of additional behavior management best practices and supports, and requirements for documentation and reporting.

(b) The necessity of this administrative regulation: The American Academy of Child and Adolescent Psychiatry states that corporal punishment may be harmful to children. As such, this regulation seeks to reduce the potential for harm by providing foundational requirements, requiring parental notification and consent, and establishing reporting procedures.

(c) How this administrative regulation conforms to the content of the authorizing statute: The regulation conforms to the authority given to the Kentucky Board of Education in KRS 156.070, 156.160, and 158.444.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation creates uniformity in the deployment of corporal punishment across the Commonwealth. It seeks to protect the public's right to provide input by mandating that local school districts adopt policies related to corporal punishment. Additionally, it seeks to protect the parent's rights by requiring prior notification and consent. Finally, the

regulation establishes minimum reporting requirements so that relevant administrative bodies and the public can better understand how corporal punishment is being deployed.

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

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will impact approximately thirty five public schools 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: Districts will be required to adopt corporal punishment policies and report details of corporal punishment in the student information system.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There should be no additional cost to districts as a result of this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Schools and districts will have uniform corporal punishment procedures and the public will have greater access to detailed information about the use of corporal punishment in Kentucky.

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

(a) Initially: There is no additional cost to administer this program.

(b) On a continuing basis: KDE incurs an ongoing cost of staff and resources already in place.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Enforcement of this regulation is funded by the KDE General Fund.

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

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

(9) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all schools and districts.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Local education agencies and the Kentucky Department of Education.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 156.070, KRS 156.160, KRS 158.444

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. No additional expenditures are anticipated because of this amendment.

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

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

(c) How much will it cost to administer this program for the first year? There is no initial cost to administer this program.

(d) How much will it cost to administer this program for subsequent years? KDE incurs an ongoing cost of staff and resources already in place.

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 (+/-): NA

Other Explanation: N/A

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Board of Education
Department of Education
(Amended After Comments)

704 KAR 19:002. Alternative education programs.

RELATES TO: KRS 156.070, 156.160, 160.380

STATUTORY AUTHORITY: KRS 156.070, 156.160

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.070 **authorizes[~~grants~~]** the Kentucky Board of Education **to manage[~~the authority over the management~~]** and control **the[~~of~~]** programs operated in the common schools. KRS 156.160 grants the Kentucky Board of Education the specific authority to promulgate administrative regulations establishing standards which school districts shall meet in program service to students. This administrative regulation establishes minimum requirements for the operation of alternative education programs in school districts.

Section 1. Definitions. (1) **"A1 school" is defined by 703 KAR 5:240.**

(2) "Alternative education program" is defined by KRS 160.380(1)(b)[~~(a)~~].

(3)[~~(2)~~] "Child with a disability" means a child evaluated in accordance with 707 KAR 1:300, as meeting the criteria listed in the definitions in 707 KAR 1:002 for autism, deaf-blindness, developmental delay, emotional-behavior disability, hearing impairment, mental disability, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, or visual impairment which has an adverse effect on the child's educational performance and who, as a result, needs special education and related services.

(4) "Education record" means the same as 20 U.S.C. 1232g.

(5) "Long term placement" means a student enrolled in an alternative education program for more than ten school days.

(6)[~~(3)~~] "Individual education program" or "IEP" means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with 707 KAR 1:320.

(7)[~~(4)~~] "Individual learning plan" or "ILP" means a comprehensive framework for advising students in grades **6[~~six (6)~~]** through **12[~~twelve (12)~~]** to engage in coursework and activities that will best prepare them to both realize college and career success and become contributing members of their communities.

(8)[~~(5)~~] "Individual learning plan addendum" or "ILPA" means an action plan that addresses the changed educational needs of a student based upon entry into or exit from an alternative education program that includes[~~, as appropriate,~~] academic and behavioral needs of the student, criteria for the student's re-entry into the traditional program, and provisions for regular review of the student's progress throughout the school year while in an alternative education program.

(9)[~~(6)~~] "Involuntary placement" means the placement of a

student in an alternative education program by local district school personnel:

(a)1. To ensure the safety of the individual student, the student body, or staff;

2. To meet the educational needs of the student;

3. To transition the student to a placement as a state agency child pursuant to KRS 158.135 and 505 KAR 1:080; or

4. For disciplinary purposes; and

(b) Not made at the request of the parent or emancipated student.

[~~(7) "A1 school" is defined by 703 KAR 5:240(1)(1).~~]

(10)[~~(8)~~] "Off-site program" means an alternative education program located in a separate and dedicated program facility not located within [~~the student's assigned school~~] an existing A1 school.

(11)[~~(9)~~][~~(8)~~] "On-site program" means an alternative education program located within [~~the student's assigned school~~]an existing A1 school.

(12)[~~(10)~~][~~(9)~~] "Voluntary placement" means the placement of a student in an alternative education program at the request of the parent or emancipated student and with the agreement of school personnel to better meet the educational needs of the student.

[~~(11) "Long term placement" means a student enrolled in an alternative education program for more than ten school days.~~]

Section 2. General Requirements. (1)(a) A district shall ensure that each alternative education program is not limited in scope or design and is aligned to the academic program of the district.[~~:~~

~~1. Aligns with college and career readiness outcomes;~~

~~2. Is not limited in scope or design; and~~

~~3. Includes training to build capacity of staff and administrators to deliver high-quality services and programming that conform with best practices and guide all students to college and career readiness.~~]

(b) A student enrolled in an alternative education program may be eligible to participate in one (1) or more types of programs to address student learning needs that may include an alternative digital learning environment, credit recovery, or an innovative path to graduation.

(2) Each local board of education shall adopt and annually review policies and procedures for the operation of each alternative education program within the district. Locally-adopted policies and procedures shall include the:

(a) Purpose of the program, including the ways the program supports the district's college and career readiness goals for students;

(b) Eligibility criteria, as appropriate;

(c) Process for entering students into the program;

(d) Process for transitioning students out of the program;

(e) Process for developing the ILPA for students with long term placements, including the composition of the team to develop the ILPA, which shall include an invitation to the [~~parents~~]guardian to participate and, as appropriate, an invitation to the student to participate;[~~ and~~]

(f) Procedures for collaboration with outside agencies involved with involuntary placements, including courts or other social service agencies to address student transitions between programs;[~~.~~]

(g) Procedures for regular, periodic monitoring of the alternative education program by the district; and

(h) Procedures for selecting, implementing, and monitoring the impact of professional learning designed to meet the needs of the teachers and students served by the alternative education program.

(3) An alternative education program shall be either an on-site program or an off-site program.

(4) Alternative education program curriculum shall be aligned with the Kentucky [~~Core~~]Academic Standards established in 704 KAR 3:303 and 704 KAR Chapter 8, and the student learning goals in the ILP.

(5) Each alternative education program student shall be subject to the minimum graduation requirements established in 704 KAR 3:305 and any additional local district graduation requirements.

(6) An alternative education program shall be subject to any applicable requirements of Kentucky's Consolidated State Plan[~~703 KAR 5:225 and Kentucky's Elementary and Secondary Education Act Flexibility Waiver~~], or its successor.

(7) Each student participating in an alternative education program shall be eligible to access extracurricular activities as allowed by local district and school council policies and by 702 KAR 7:065 or other applicable organization rules.

(8) Each student participating in an alternative education program shall continue to be able to access resources and services already available in the district, including instructional materials, tutoring, intervention, transportation, library and media services, specialty course work, and counseling services, in furtherance of each student's educational program as determined through the development of the ILPA.

Section 3. Placement of Students. (1)(a) The placement of students by the district in an alternative education program shall be either voluntary or involuntary.

(b) A student entering an alternative education program shall meet the eligibility requirements for the program established by the local board pursuant to Section 2 of this administrative regulation.

(c) The district shall ensure that an ILP, as required by 704 KAR 3:305, exists prior to placement of a student in an alternative education program.

(2)(a) The placement decision for all students with an IEP shall be made through the admissions and release committee (ARC) process pursuant to 707 KAR 1:320.

(b) For a child with a disability, the IEP shall address the changed educational delivery needs of the student based upon entry into or exit from an alternative education program.

(c) The placement decisions for a student who has been identified under 29 U.S.C. §794, Section 504 of the Rehabilitation Act of 1973, as amended, shall be made through a team process consistent with the applicable requirements outlined in 34 C.F.R. Part 104.

Section 4. Costs and Expenditures. Each district shall use the statewide financial management system and chart of accounts to track costs and expenditures associated with each alternative education program operating in the district.

Section 5. Data. (1) Each district shall utilize the student information system to enter data regarding each student enrolled in an alternative education program.

(2) Data collected shall include demographic, programmatic, or other data fields contained in the student information system or required by the department to track and report student participation, educational programming, achievement, and transition to and from alternative education programs.

(3) Districts **[~~are~~]shall be** responsible for ensuring that **[~~student~~]education** records are maintained and recorded in the student information system for each student in an alternative education program**[~~ regardless of whether services are provided by district staff or non-district staff~~]**.

Section 6. Personnel. Alternative education program teachers and administrators shall be subject to the teacher certification requirements established in KRS 161.020. School districts[~~, and~~] shall comply with the classified and certified assignment restrictions established in KRS 160.380(3) when operating alternative education programs.

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).

JASON GLASS, Commissioner
LU YOUNG, Chair
APPROVED BY AGENCY: March 18, 2022

FILED WITH LRC: April 14, 2022 at 11:30 a.m.

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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Todd G. Allen

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 160.380 defines an alternative education program as "a program that exists to meet the needs of students that cannot be addressed in a traditional classroom setting but through the assignment of students to alternative classrooms, centers, or campuses that are designed to remediate academic performance, improve behavior, or provide an enhanced learning experience. Alternative education programs do not include career or technical centers or departments." This regulation supports the districts in the operation of alternative education programs by creating standard definitions, outlining requirements for district level policies, providing foundational entry criteria, and establishing data collection requirements.

(b) The necessity of this administrative regulation: This regulation ensures that students across the Commonwealth have access to alternative education programs and that those programs are governed following the same set of foundational principles.

(c) How this administrative regulation conforms to the content of the authorizing statute: The regulation conforms to the authority given to the Kentucky Board of Education in KRS 156.070, 156.160.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation outlines the foundational requirements for the operation of alternative education programs. Districts use this regulation as a starting point when crafting their own local policies.

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

(a) How the amendment will change this existing administrative regulation: These amendments seek to provide clarity and uniformity to alternative education programs. The definitions section has been updated to clarify the definition of an on-site versus off-site program and to create a uniform definition of a long term placement. Additionally, the amendment creates a new requirement for additional procedures within district level policies that encourage greater monitoring and interaction between district level staff and alternative education program staff. Finally, the amendment clarifies the expectation that districts ensure that partnering organizations are providing appropriate data for inclusion in the student information system.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to resolve frequent issues identified through the comprehensive monitoring processes deployed by the Kentucky Department of Education. Collectively, these amendments address roughly eighty percent of monitoring findings over the past five years.

(c) How the amendment conforms to the content of the authorizing statute: KRS 160.380 defines the alternative education program. The Kentucky Board of Education promulgated this regulation under the authority granted by KRS 156.070 and 156.160.

(d) How the amendment will assist in the effective administration of the statutes: These amendments seek to resolve frequent findings from KDE's consolidated monitoring process. Each amendment is the direct result of audit findings and will help to provide clarity for districts seeking to run alternative education programs.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Those affected by the amendments made in this regulation include: All public school districts operating alternative education programs.

(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: School districts operating alternative education programs will be required to create two new procedures within policies related to the periodic local monitoring of alternative education programs and the selection of professional learning for teachers working in alternative education programs. The alterations to definitions may require school districts to amend existing policies or practices to align with the changes.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There should be no additional cost to districts as a result of this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Compliance with the amended regulation will ensure that students assigned to alternative education programs have equal access to quality teachers and rigorous coursework. Additionally, the changes will provide greater uniformity in data collection and reporting that will allow the KDE to better support alternative education programs in the future.

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

(a) Initially: KDE will incur initial training costs to update alternative education providers on the new requirements.

(b) On a continuing basis: KDE incurs an ongoing cost of staff and resources that are already in place.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Enforcement of this regulation is funded by the KDE General Fund.

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

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

(9) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all schools and districts.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Local education agencies and the Kentucky Department of Education (KDE)

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 156.070, KRS 156.160

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

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

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

(c) How much will it cost to administer this program for the first year? KDE will incur initial training costs to update alternative education providers on the new requirements.

(d) How much will it cost to administer this program for subsequent years? KDE incurs an ongoing cost of staff and resources that are already in place.

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 (+/-): NA

Other Explanation: N/A

LABOR CABINET
Department of Workplace Standards
(Amended After Comments)

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 **own**[~~on~~] pay;
(g) **How**[~~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 **independent contractor**[~~employee~~] must rely entirely on tips, if other indications of employment are present; and
(f) Whether the alleged **independent contractor**[~~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: April 14, 2022

FILED WITH LRC: April 13, 2022 at 2:15 p.m.

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: The amendments will fix typographical and language errors in the regulation.

(b) The necessity of the amendment to this administrative regulation: The amendments are necessary to ensure clarity in the regulation.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 337.295 authorizes the commissioner to promulgate administrative regulations under KRS Chapter 337. These amendments fix typographical and language errors to ensure that there is clarity in the regulation.

(d) How the amendment will assist in the effective administration of the statutes: The regulation will fix typographical and language errors and ensure there is greater clarity in what constitutes the employer-employee relationship under KRS Chapter 337.

(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 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 explanations: 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
(Amended After Comments)

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, **base[~~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: April 13, 2022

FILED WITH LRC: April 13, 2022 at 2:15 p.m.

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: The amendments will correct typographical errors in the regulation.

(b) The necessity of the amendment to this administrative regulation: Fixing the typographical errors in the regulation will ensure greater clarity in understanding of the regulation.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 337.295 authorizes the Commissioner to issue regulations and therefore these amendments.

(d) How the amendment will assist in the effective administration of the statutes: By addressing typographical errors, the amendment will ensure greater clarity in the understanding of the regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all 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
(Amended After Comments)

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) **Business owner. The term "employee employed in a bona fide executive capacity" in KRS 337.010(2)(a)2 also include any employee who owns at least a bona fide twenty (20) percent equity interest in the enterprise in which the employee is employed, regardless of whether the business is a corporate or other type of organization, and who is actively engaged in its management. The salary requirements of Section 8 of this administrative regulation shall not apply to business owners described in this subsection.**

(3) "Management" shall include activities as established in 29 C.F.R. 541.102.

(4)~~**[(3)]**~~ The phrase "a customarily-recognized department or subdivision" is as established in 29 C.F.R. 541.103.

(5)[~~(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.

(6)[~~(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.

(7)[~~(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(2)(a)2[~~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 **(c)[~~(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: April 13, 2022

FILED WITH LRC: April 13, 2022 at 2:15 p.m.

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: The amendments will fix typographical errors and add a descriptor of business owner.

(b) The necessity of the amendment to this administrative regulation: The amendments are necessary to ensure that the regulation is accurate and to comply with the provisions of KRS 337.010.

(c) How the amendment conforms to the content of the authorizing statutes: 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. The amendments provide clarity as to how business owners fit into the exemptions of KRS 337.010 or fix typographical errors that will avoid confusion in the regulation.

(d) How the amendment will assist in the effective administration of the statutes: The amendments will fix typographical errors in the regulation which help to avoid confusion. They will also provide clarification on what type of business owners are eligible for the exemption outlined in KRS 337.010(2)(a)2.

(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
(Amended After Comments)

803 KAR 1:091. Workers with Disabilities and Work Activities Centers' employee's wages.

RELATES TO: KRS 337.275**, 337.285**[~~, 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: April 13, 2022

FILED WITH LRC: April 13, 2022 at 2:15 p.m.

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: The amendment will fill a typographical error with respect to the statutes the regulation relates to.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to ensure accuracy with respect to the statutes that relate to the regulation.

(c) How the amendment conforms to the content of the authorizing statutes: The regulation relates to KRS 337.275 and KRS 337.285 and not the other statutes listed. Therefore, the amendment is proper under KRS 337.295.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will ensures parties understand which statutes the regulation relates to.

(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
Department for Community Based Services
Division of Protection and Permanency
(Amended After Comments)

922 KAR 1:470. Central registry.

RELATES TO: KRS 17.165(6), 61.876, 160.151, 160.380,[~~194A.050(1),~~] 194A.380-194A.383, 199.466, 199.896(19), 199.8982(1)(a), 211.684(1)(a), 403.352, 600.020(1), (40), (61), (62), [~~605.130(7), 605.150(1),~~] 620.050, 620.051, 625.050-625.120, 42 U.S.C. 671(a)(20), 5106a(b), 9858f

STATUTORY AUTHORITY: KRS 194A.050(1), 605.130(7), 605.150(1), 620.051(2)

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 the programs and fulfill the responsibilities vested in the cabinet. KRS 605.150(1) authorizes the cabinet to promulgate administrative regulations to implement the provisions of KRS Chapter 605, including KRS 605.130(7), which authorizes the cabinet to perform services necessary for the protection of children. KRS 620.051(2) requires the cabinet to promulgate administrative regulations to establish the central registry and the process for a background check of the cabinet's child abuse and neglect records. This administrative regulation establishes the procedure by which the cabinet shall conduct a child abuse or neglect check using information in the central registry.

Section 1. Definitions. (1) "Abused or neglected child" is defined by KRS 600.020(1).

(2) "Administrative review" means that the status of the individual subject to the central registry check is pending the outcome of an:

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

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

(3) "Child fatality" is defined by KRS 211.684(1)(a).

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

(5) "Sexual abuse" is defined by KRS 600.020(61).

(6) "Sexual exploitation" is defined by KRS 600.020(62).

Section 2. Central Registry. (1) The central registry shall include the name of each individual:

(a) Who has been found by the cabinet to have abused or neglected a child on or after October 1, 1998; and

(b)1. Who waived the right to appeal a substantiated finding of child abuse or neglect in accordance with:

a. 922 KAR 1:480;

b. 922 KAR 1:320; or

c. 922 KAR 1:330, Section 11; or

2. Whose substantiated incident was upheld upon appeal.

(2) Each name shall:

(a) Remain on the central registry for a period of at least seven (7) years; and

(b) Be removed from the central registry after a period of seven (7) years if:

1. No additional incident of child abuse or neglect has been substantiated by the cabinet since the time of the incident for which the individual's name was placed on the registry; and

2. Cabinet records indicate that the incident for which the individual's name was placed on the registry did not relate to:

a. Sexual abuse or sexual exploitation of a child;

b. A child fatality related to abuse or neglect;

c. A near fatality related to abuse or neglect; or

d. Involuntary termination of parental rights in accordance with KRS 625.050 through 625.120.

(3) This administrative regulation shall not apply to cabinet background checks required by 922 KAR 1:490.

(4) This administrative regulation shall not limit the cabinet's ability to disclose information in accordance with KRS 620.050 and 42 U.S.C. 5106a(b)(2)(B)(viii), (ix), or (x).

Section 3. Procedure for Requesting a Central Registry Check. (1) If information from the central registry is required **or authorized** by law, a request for a central registry check may be made by an:

(a) Individual;

(b) Organization; or

(c) Other entity.

(2) The cabinet shall conduct a check of the central registry for each individual who:

(a) Submits a request for a check of the central registry in accordance with subsection (4) of this section; and

(b)1. Applies for initial licensure;

2. Is hired by, or volunteers with, an entity required by law to obtain information contained in the central registry; or

3. Is hired by, or volunteers with, an entity that may require a central registry check as a condition for working with children on a regular basis.

(3) An individual who is not required **or authorized** by law to obtain information contained in the central registry shall **not receive a completed check and may instead** submit an open records request in accordance with 922 KAR 1:510.

(4) A request for a central registry check shall be made:

(a) By electronically submitting to the cabinet through the Kentucky Online Gateway:

1.a. A completed DCC-374, Child Care Central Registry Check, for an individual in child care as specified by 42 U.S.C. 9858f, KRS 199.466, or 922 KAR 2:280; or

b. A completed DPP-156, Central Registry Check, for an individual required by a law not specified in clause a. of this subparagraph no later than five (5) working days after:

(i) The date of employment of an individual required by law to submit to a central registry check; or

(ii) A volunteer's first day, if the volunteer is required by law to submit to a central registry check; and

2. A nonrefundable fee of ten (10) dollars paid by credit or debit card; or

(b) Through another cabinet system, including the Kentucky National Background Check Program established by 906 KAR 1:190.

(5) **A parent or guardian shall be required to consent to the central registry check of an individual that is under the age of eighteen (18).**

(6) A state requesting a child abuse or neglect check from the cabinet as required by 42 U.S.C. 671(a)(20) shall follow the procedures described in 922 KAR 1:490, Section 5[4].

Section 4. Administrative Review. (1) The cabinet shall indicate on a central registry check if the individual is pending administrative review by the cabinet.

(2) An individual subject to administrative review in accordance with this section may submit a request for the disclosure of records in accordance with 922 KAR 1:510 to be fulfilled once the administrative review process is complete.

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

(a) "DPP-156, Central Registry Check," **4/2022[~~12/2021~~]**[~~8/2019~~]; and

(b) "DCC-374, Child Care Central Registry Check," **4/2022[~~12/2021~~]**[~~8/2019~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. 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: April 7, 2022

FILED WITH LRC: April 12, 2022 at 11:45 a.m.

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: Krista Quarles or Laura Begin

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the procedures by which the cabinet shall conduct a child abuse and neglect check using information in the central registry.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish cabinet procedures for child abuse and neglect checks of the central registry.

(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 conducting child abuse and neglect checks of the central registry, as required by KRS 620.051(2).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation currently assists in the effective administration of the statutes through its establishment of cabinet procedures for child abuse and neglect checks of the central registry.

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

(a) How the amendment will change this existing administrative regulation: This amendment updates the material incorporated by reference, the DPP-156 and DCC-374, for consistency between electronic and hard-copy formats. The forms are being amended to address checks submitted by out of state employers and minors and to allow other forms of identifying information to be submitted. The administrative regulation is being further amended to clarify

that a central registry check may be authorized, not just required, by law; a check of an individual for whom it is not required or authorized by law shall not be completed; and that a parent or guardian's consent is required for a check of an individual under the age of eighteen. None of this is a new practice or requirement, but is being clarified in the administrative regulation in response to public comment. Incorporated material is also being amended to make clarifications and corrections in response to public comment.

(b) The necessity of the amendment to this administrative regulation: The cabinet's CA/N registry database was moved from being solely a paper-based process to an online database in order to improve background check efficiency. Minor changes in the forms are necessary to make the electronic versions more intuitive and easier to use. Years ago, the department experienced a backlog in completing these checks, but since moving to an electronic format, the department has been able to complete checks in a timely and responsive manner. In calendar year 2020, over 77,000 child abuse and neglect central registry checks were processed.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes through its update of cabinet procedures for child abuse and neglect checks of the central registry. KRS 620.051(2) requires the cabinet to promulgate administrative regulations to establish the central registry and the process for a background check of the cabinet's child abuse and neglect records.

(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 enhancement of the cabinet's child abuse and neglect check procedures to provide a more efficient background check process.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Individuals who are subject to statutory and regulatory requirements involving a child abuse and neglect check conducted by the cabinet are impacted by this administrative regulation. In calendar year 2020, over 77,000 child abuse and neglect central registry checks were processed.

(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 central registry system is now available through an electronic format that is efficient and user-friendly. This amendment makes minor changes in the hard-copy and electronic forms. The electronic format allows for a much more timely background check to be completed, necessary for certain employment and volunteer opportunities.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no new or additional cost to regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Minor form changes are being accomplished through this amendment, which will provide clarification and more options to individuals completing the form.

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

(a) Initially: There is no cost to implement these form changes.

(b) On a continuing basis: There is no cost to implement these form changes. The electronic format that is used in conducting these background checks saves the department in office supplies and postage costs, which was approximately $8,000 per year.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: General fund dollars.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The fee charged by the cabinet for a child abuse and neglect check is unchanged and is consistent with KRS 620.051(1). The fees collected support cabinet programing.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: The administrative regulation includes a fee established by the General Assembly and codified in KRS 620.051(1). The fee is unchanged through this amendment.

(9) TIERING: Is tiering applied? Tiering is not applied, because this administrative regulation will be implemented in a like manner statewide.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 42 U.S.C. 671(a)(20), 5106a(b), 9858f

(2) State compliance standards. KRS 194A.050(1), 605.130(7), 605.150(1), 620.051(2)

(3) Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 671(a)(20), 5106a(b), 9858f

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

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter requirements, or additional or different responsibilities of 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 is impacted by this administrative regulation. Public school districts are impacted by this administrative regulation through the statutory mandate for personnel and others on the grounds of a public school or on the site based decision making council to undergo a child abuse and neglect check conducted by the cabinet. Other governmental organizational units that require staff or providers to undergo child abuse and neglect central registry checks, such as the Department of Juvenile Justice or the Department for Medicaid Services, are impacted by this administrative regulation, but this amendment is minor and only provides clarification and alternatives for submitting identification.

(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), 605.130(7), 605.150(1), 620.051(2), 42 U.S.C. 671(a)(20), 5106a(b), 9858f

(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 includes the fee codified in KRS 620.051(1) for child abuse and neglect background checks. The fees collected support cabinet programing. This amendment does not change the fee.

(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 enforces the fee codified in KRS 620.051(1) for child abuse and neglect background checks. The fees collected support cabinet programing. This amendment does not change the fee.

(c) How much will it cost to administer this program for the first year? This electronic format for background checks has minimal maintenance costs, offset by savings in office supplies and

postage. This amendment has no cost associated.

(d) How much will it cost to administer this program for subsequent years? This program has minimal maintenance costs, offset by savings in office supplies and postage. This amendment has no cost associated.

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*.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Division of Student and Administrative Services
(Amendment)
11 KAR 4:080. Student aid applications.

RELATES TO: KRS 164.518, 164.744(2), 164.748(4),(7),(8), 164.753(3),(4),(6), 164.7535, 164.769, 164.780, 164.785, 164.7890, 164.7894, 34 C.F.R. 654.1-654.5, 654.30-654.52, 20 U.S.C. 1070d-31 - 1070d-41

STATUTORY AUTHORITY: KRS 164.518(3), 164.746(6), 164.748(4), 164.753(3),(6), 164.7535, 164.769(5),(6)(f), 164.7894(6), 34 C.F.R. 654.30, 654.41, 20 U.S.C. 1070d-37, 1070d-38

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.748(4) authorizes the Authority to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.7891. KRS 164.7894(6) requires the Authority to promulgate administrative regulations as may be needed for the administration of the Kentucky Coal County College Completion Program. This administrative regulation designates and incorporates the applications to be utilized under the grant, scholarship, and work-study programs administered by KHEAA.

Section 1. Applications. In order to participate in a specified grant, scholarship, or work-study program administered by the Kentucky Higher Education Assistance Authority, the following application forms shall be completed for the appropriate academic year in which an award is sought in accordance with their instructions:

(1) For the KHEAA Grant Program established in 11 KAR 5:130, the Free Application for Federal Student Aid (FAFSA);

(2) For the KHEAA Work-Study Program established in 11 KAR 6:010, the KHEAA Work-Study Program Student Application;

(3) For the Teacher Scholarship Program established in 11 KAR 8:030, the Teacher Scholarship Application;

(4) For the Early Childhood Development Scholarship Program established in 11 KAR 16:010:

(a) The Free Application for Federal Student Aid (FAFSA); and

(b) The Early Childhood Development Scholarship Application;

(5) For the Robert C. Byrd Honors Scholarship Program established in 11 KAR 18:010:

(a) For high school and home school students, the Robert C. Byrd Honors Scholarship Program; and

(b) For GED recipients, the Robert C. Byrd Honors Scholarship Program GED Recipients;

(6) For the Go Higher Grant Program established in 11 KAR 5:200;

(a) The Free Application for Federal Student Aid (FAFSA); and

(b) The Go Higher Grant Program Application;

(7) For the Coal County Scholarship Program for Pharmacy Students established in 11 KAR 19:010, the Coal County Scholarship Program for Pharmacy Students Application;[~~and~~]

(8) For the Kentucky Coal County College Completion Scholarship Program established in 11 KAR 20:020:

(a) The Free Application for Federal Student Aid (FAFSA); and

(b) The Kentucky Coal County College Completion Scholarship Application;[~~.~~]

(9) For the Optometry Scholarship Program established in KRS 164.7870, the Optometry Scholarship Application;

(10) For the Dual Credit Scholarship Program established in KRS 164.786, the Dual Credit Scholarship Application; and

(11) For the Work Ready Kentucky Scholarship Program established in KRS 164.787:

(a) The Free Application for Federal Student Aid (FAFSA); and

(b) The Work Ready Kentucky Scholarship Application.

Section 2. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) The "Free Application for Federal Student Aid July 1, 2022[~~2019~~] - June 30, 2023[~~2020~~]" (FAFSA), October 2021[~~2018~~];

(b) The "Free Application for Federal Student Aid July 1, 2021[~~2018~~] - June 30, 2022[~~2019~~]" (FAFSA), October 2020[~~2017~~];

(c) The "KHEAA Work-Study Program Student Application", July 2001;

(d) The "Teacher Scholarship Application", June 2006;

(e) The "Early Childhood Development Scholarship Application", April 2006;

(f) The "Robert C. Byrd Honors Scholarship Program", June 2009;

(g) The "Robert C. Byrd Honors Scholarship Program-GED Recipients", June 2009;

(h) The "Go Higher Grant Program Application", January 2008;

(i) The "Coal County Scholarship Program for Pharmacy Students Application", February 2011;[~~ and~~]

(j) The "Kentucky Coal County College Completion Scholarship Application", October 2014;[~~.~~]

(k) The "Optometry Scholarship Application", January 2022;

(l) The "Dual Credit Scholarship Application", July 2021; and

(m) The "Work Ready Kentucky Scholarship Application", August 2019.

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

CATHE DYKSTRA, Chair

APPROVED BY AGENCY: March 17, 2022

FILED WITH LRC: March 25, 2022 at 11:25 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Tuesday, June 22, 2022, at 10:00 a.m. Eastern Time at 100 Airport Road, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 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: Hon. Diana L. Barber, General Counsel, Kentucky Higher Education Assistance Authority, P.O. Box 798, Frankfort, Kentucky 40602-0798, phone (502) 696-7298, fax (502) 696-7293, email dbarber@kheaa.com.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Rebecca Gilpatrick

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation designates and incorporates the applications to be utilized under the grant, scholarship, and work-study programs administered by the Authority.

(b) The necessity of this administrative regulation: The Authority is required to promulgate administrative regulations pertaining to the administration of the College Access Program (CAP), Kentucky Tuition Grant (KTG) Program, KHEAA Work-Study Program,

Teacher Scholarship Program, Early Childhood Development Scholarship Program, Go Higher Grant Program, Coal County Scholarship Program for Pharmacy Students, the Kentucky Coal County College Completion Scholarship Program, the Optometry Scholarship Program, the Dual Credit Scholarship Program, and the Work Ready Kentucky Scholarship Program pursuant to KRS 164.518(3), 164.744(2), 164.746(6), 164.748(4),(7)(8), 164.753(3),(4),(6), 164.7535, 164.769, 164.780, 165.785, 164.7890, 164.7894, 34 C.F.R. 654.1-654.5, 654.30-654.42, and 20 U.S.C. 1070d-31 - 1070d-41.

(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 prescribing the applications to be utilized under the grant, scholarship and work-study programs administered by the Authority.

(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 prescribing and incorporating the various application forms to be used by students to apply for the financial aid programs administered by the authority.

(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 the existing regulation by incorporating the latest versions of the Free Application for Federal Student Aid (FAFSA) for the 2021-2022 and 2022-2023 academic years that are to be completed by applicants for participation in the student aid programs administered by the Authority during that academic year. Additionally, the amendment will change the existing regulation by adding the Optometry Scholarship Program, Dual Credit Scholarship Program and the Work Ready Kentucky Scholarship Programs and the associated applications.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary in order to require student recipients to complete the correct versions of the FAFSA for the desired academic year for which aid is sought as well as to specify applications for newly-created student aid programs.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes by specifying the versions of the FAFSA applications to be used as well as the applications for new student aid programs when applying for an award under one of the student aid programs administered by the Authority.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the state student aid programs by requiring completion of the correct version of the FAFSA based on academic year for which an award is sought as well as the applications for newly-created student aid programs in order to participate in said programs.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The proposed amendment to this administrative regulation will affect all those individuals who seek to apply for student financial aid programs administered by the Authority.

(4) Provide an analysis of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Those individuals who seek to participate in the various student financial aid programs administered by KHEAA will be required to complete the correct version of the FAFSA application as specified in this regulation in order to be considered for any award for a specific academic year. Additionally, those individuals who seek to participate in the newly-created student aid programs will be required to complete the applications specified in the regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to the applicants in complying with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance, applicants will be considered for awards under the KHEAA-administered student aid programs.

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

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

(b) On a continuing basis: See 5(a) above.

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

No funding source is required in order to implement this administrative regulation since it merely specifies the required version of the FAFSA as well as other student assistance programs to be used by program participants.

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees, nor does it directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering was not applied. It is not applicable to this amendment. This administrative regulation is intended to provide equal opportunity to participate, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities. The “equal protection” and “due process” clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Finance and Administration Cabinet, Kentucky Higher Education Assistance Authority.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 164.518(3), 164.744(2), 164.746(6), 164.748(4),(7)(8), 164.753(3),(4),(6), 164.7535, 164.769, 164.780, 165.785, 164.7890, 164.7894, 34 C.F.R. 654.1-654.5, 654.30-654.42, and 20 U.S.C. 1070d-31 - 1070d-41.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. The administrative regulation will result in no additional expenditures by or revenues to the Authority during the first full year of its effectiveness.

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

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

(c) How much will it cost to administer this program for the first year? No costs are associated with this regulation.

(d) How much will it cost to administer this program for subsequent years? No costs are associated with this regulation.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Division of Student and Administrative Services
(Amendment)

11 KAR 5:145. CAP grant award determination procedure.

RELATES TO: KRS 164.744(2), 164.753(4), 164.7535, 164.7889(3)

STATUTORY AUTHORITY: KRS 164.748(4), 164.753(4), 164.7889(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.748(4) requires the authority to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.7891. KRS 164.753(4) requires the authority to promulgate administrative regulations pertaining to grants. KRS 164.7889(3) requires the authority to promulgate an administrative regulation that establishes[~~increases both~~] the maximum amount available under the grant programs, and[~~ increases~~] the average income level for qualification for the grant programs if sufficient funds are available. This administrative regulation prescribes the award determination procedures for the CAP Grant Program.

Section 1. Each application submitted pursuant to 11 KAR 4:080 and 11 KAR 5:130 shall be reviewed for determination that all eligibility requirements established in 11 KAR 5:034 are met. To qualify for a CAP award based on financial need, the applicant's expected family contribution shall be $5,846[~~5,576~~] or less.

Section 2. CAP Grant Award. (1) Except as provided in subsection (2) of this section, the maximum CAP grant in any semester for an applicant accepted for enrollment on a full-time basis as determined by the educational institution in an eligible program shall be the lesser of:

(a) $1,100[~~1,000~~] for an applicant enrolled in a two-year institution;[~~ or~~]

(b) $1,450 for an applicant enrolled in a four-year institution; or

(c) The amount of eligibility the student has remaining within the aggregate KHEAA grant limit.

(2) The maximum CAP grant in any semester for an applicant accepted for enrollment on less than a full-time basis as determined by the educational institution in an eligible program shall be:

(a) The amount specified in subsection (1)(a) or (b) of this section:

1. Divided by twelve (12); and

2. Multiplied by the number of credit hours in which the applicant is accepted for enrollment; and

(b) Not in excess of the maximum specified in subsection (1)(c)[~~(b)~~] of this section.

(3) For any academic year, a student shall not receive more than $2,200 if enrolled in a two-year institution or $2,900 if enrolled in a four-year institution[~~2,000~~] for an aggregate CAP grant award.

Section 3. (1) A KHEAA grant awarded to an incarcerated individual shall be considered an overaward to the extent that the KHEAA grant, in combination with financial assistance received from other sources, exceeds the student's actual cost for tuition, fees, and books.

(2) A KHEAA grant award shall not be made for a summer academic term.

Section 4. (1) A KHEAA grant award shall not exceed the applicant's cost of education less expected family contribution and other anticipated student financial assistance.

(2) The authority shall reduce or revoke a KHEAA grant upon receipt of documentation that financial assistance from other sources in combination with the KHEAA grant exceeds the determination of financial need for that student.

(3) The KHEAA Grant Program Officer (KGPO) and the grant recipient shall make every reasonable effort to provide the authority the information needed to prevent an overaward.

(4) If the applicant's expected family contribution, disbursed KHEAA grant amount, plus other student financial assistance exceeds his or her need, the excess shall be considered to be an overaward. If an overaward occurs, this amount shall be returned to the authority immediately.

Section 5. (1) If the authority receives revised data that, upon recomputation, results in the student becoming ineligible for a KHEAA grant that has already been offered, but not disbursed, the grant shall be revoked.

(2) If the student is determined to be ineligible after the KHEAA grant has been disbursed, the student shall repay to the authority the entire amount of the KHEAA grant.

Section 6. If the educational institution receives revised data that, upon recomputation, necessitates reduction of the KHEAA grant, and:

(1) If the grant has not yet been disbursed for the fall academic term, the reduction shall be made to both the fall and spring disbursements and the educational institution shall notify the student of the reduction;

(2) If the grant for the fall academic term has already been disbursed and the student enrolls for the spring academic term, the reduction shall be made to the spring disbursement and the educational institution shall notify the student of the reduction;

(3) If the grant for the fall academic term has already been disbursed and the student does not enroll for the spring academic term, the educational institution shall notify the student of the fall overaward and the student shall repay the overaward to the authority; or

(4) If both the fall and spring disbursements have been made, the educational institution shall notify the student of the overaward and the student shall repay the overaward to the authority.

Section 7. (1) Students requested by the institution to provide verification of data for any financial assistance program shall provide the verification before receiving disbursement of a KHEAA grant.

(2) Any student who is awarded a KHEAA grant who fails to provide verification requested by the participating institution shall be deemed ineligible, and the grant shall be revoked.

CATHE DYKSTRA, Chair

APPROVED BY AGENCY: March 17, 2022

FILED WITH LRC: March 25, 2022 at 11:25 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Tuesday, June 22, 2022, at 10:00 a.m. Eastern Time at 100 Airport Road, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 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: Hon. Diana L. Barber, General Counsel, Kentucky Higher Education Assistance Authority, P.O. Box 798, Frankfort, Kentucky 40602-0798, phone (502) 696-7298, fax (502) 696-7293, email dbarber@kheaa.com.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Rebecca Gilpatrick

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation prescribes the award determination procedures for the CAP Grant Program.

(b) The necessity of this administrative regulation: KRS 164.748(4) requires the authority to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.785. KRS 164.753(4) requires the authority to promulgate administrative regulations pertaining to grants.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation prescribes the award determination procedures for the CAP Grant Program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures that students applying for a CAP grant meet the required financial need criteria and that those applicants receive the maximum CAP grant allowed for any academic period.

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

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation will increase the maximum expected family contribution level necessary to demonstrate financial need for eligibility for the CAP grant program as well as increase the overall annual maximum award amount based on whether a recipient is attending a two-year or four-year institution.

(b) The necessity of the amendment to this administrative regulation: The amendment conforms to the content of the authorizing statutes by establishing the maximum expected family contribution limit for participation in the CAP grant program as well as the maximum award amount.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by both establishing the maximum expected family contribution limit and the maximum award amount under the CAP Grant program.

(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 providing notice to the public of the expected family contribution limit and maximum award amount for this program as required by the enabling statute.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Students at a total of fifty-four (54) Kentucky postsecondary institutions currently participate in the CAP grant program. In the academic year ending June 30, 2021, there were 229,800 applicants for CAP grant awards. A total of 56,700 students met the eligibility criteria and received CAP grant awards during that period.

(4) Provide an analysis of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment, including:

List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The individuals are not required to take any actions in order to comply with the amendment to this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost to applicants to comply with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Those individuals who seek to participate in the CAP grant program will benefit by the increase in the expected family contribution (EFC) limit. Specifically, students with a higher EFC will be eligible to participate in the program up to the maximum limit established in the amendment. Likewise, all applicants will benefit from an increase in the maximum award amount.

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

(a) Initially: The amendment to this administrative regulation increases the maximum expected family contribution level necessary to demonstrate financial need, making grants potentially available to more students. Likewise, the award amount to each recipient would be increased to some extent depending upon the type of institution in which the recipient is enrolled. However, the funds available for grants, and, in general, the overall cost of administering the program will neither increase nor decrease.

(b) On a continuing basis: See 5(a) above.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Grants for students under the College Access Program are funded from net lottery revenues transferred to the authority for grant and scholarship programs, while administrative costs have, to this point, been borne by the authority through agency receipts.

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees, nor does it directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering was not applied. It is not applicable to this amendment. This administrative regulation is intended to provide equal opportunity to participate, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities. The “equal protection” and “due process” clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Finance and Administration Cabinet, Kentucky Higher Education Assistance Authority.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 164.748(4), 164.753(4), 164.7889(3).

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. The administrative regulation will result in no additional expenditures by or revenues to the Authority during the first full year of its effectiveness.

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

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

(c) How much will it cost to administer this program for the first year? No additional costs are associated with this regulation.

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

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Division of Student and Administrative Services
(Amendment)

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

RELATES TO: KRS 154A.130(4), 156.010, 158.007(8), 164.002(1), (2), 164.7871,
164.7874, 164.7877, 164.7879, 164.7881, 164.7885, 164.7889, 42 U.S.C. 1751, et seq.
STATUTORY AUTHORITY: KRS 164.7874(3), (16), 164.7877(3), 164.7879(1), (2), (3), 164.7881(4)(a), (c), (6)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.7877(3) requires the Kentucky Higher Education Assistance Authority to administer the Kentucky Educational Excellence Scholarship (KEES) trust fund. KRS 164.7874(16) requires the authority to promulgate administrative regulations establishing the KEES curriculum's courses of study. KRS 164.7879(3)(e) requires the authority to promulgate administrative regulations to determine the eligibility of a noncertified, nonpublic high school graduate and of a GED recipient for a supplemental award. KRS 164.7874(3) requires the authority to establish score equivalents between the SAT and ACT. KRS 164.7881(6) requires the authority to promulgate administrative regulations establishing a five (5) year postsecondary education program standard. KRS 164.7881(4)(a) requires the authority to establish overall award levels for the program. KRS 164.7879(2)(c) requires the authority to promulgate administrative regulations determining eligibility for children of parents who are in the military and who claim Kentucky as their home of record. KRS 164.7881(4)(c) requires the authority to promulgate administrative regulations identifying equivalent undergraduate programs of study. This administrative regulation establishes those requirements relating to the Kentucky Educational Excellence Scholarship (KEES) Program.

Section 1. Definitions. (1) "Academic term":
(a) Means the fall or spring semester or their equivalence under a trimester or quarter system at a postsecondary education institution; and
(b) Does not mean summer sessions.
(2) "Accredited out-of-state high school" means a high school that is:
(a) Located in a state other than Kentucky or in another country; and
(b) A member of an organization belonging to the Commission on International and Trans-Regional Accreditation.
(3) "ACT" means the test:
(a) Administered to a student for entrance to a Kentucky postsecondary education institution; and
(b) Owned by the ACT Corporation of Iowa City, Iowa.
(4) "Advanced placement" or "AP" is defined by KRS 164.002(1).
(5) "Cambridge Advanced International" or "CAI" is defined by KRS 164.002(2).
(6) "Course" means the equivalent of one (1) credit as determined by the Kentucky Department of Education (KDE) in 704 KAR 3:305.
(7) "Department of Defense school" means a school operated by the U.S. Department of Defense for the purpose of providing a high school education to a child whose custodial parent or guardian is in active military or diplomatic service in a state other than Kentucky or in another country.
(8) "Dual credit" is defined by KRS 158.007(8).
(9) "Enrolled" means the status of a student who has completed the registration requirements, except for the payment of tuition and fees, at a participating postsecondary education institution that the student is attending.
(10) "Free and reduced price lunch" means the National School Lunch program established by the United States Department of Agriculture, Richard B. Russell National School Lunch Act, 42 U.S.C. 1751, et. seq., to provide subsidized meals to lower income students.
(11) "GED" means a general educational development diploma awarded to a student.
(12) "International Baccalaureate" or "IB" is defined by KRS 164.002(7).
(13) "SAT" means the test:
(a) Administered to a student for entrance to a Kentucky postsecondary education institution; and
(b) Owned by the College Board.

Section 2. High School Grade Point Average Calculation and Reporting. (1) An eligible high school student's grade point average for an academic year shall be calculated using each letter grade awarded for all courses taken during an academic year. The grading scale cutoff scores used to determine the letter grade for each course shall be the same as those used to determine the letter grade for each course reported on the student's official high school transcript.
(2)(a) Except as established in paragraphs (b) and (c) of this subsection, an eligible high school student's grade point average shall be calculated by:
1. Taking the number of units in a course multiplied by the course grade as expressed on a 4.0 point grading scale where 4.0 is an "A", 3.0 is a "B", 2.0 is a "C", 1.0 is a "D", and 0.0 is an "F";
2. Adding the total number of points accumulated for an academic year; and
3. Dividing the total number of points accumulated in subparagraph 2 of this paragraph by the total number of units for the academic year.
(b) For an eligible high school student taking an AP, IB, or CAI course during the academic year, the course grade assigned shall be calculated using a 5.0 point scale where 5.0 is an "A", 4.0 is a "B", 3.0 is a "C", 2.0 is a "D", and 1.0 is an "F".
(c) Beginning with the academic year 2015-2016, for an eligible high school student taking a dual credit course during the academic year, the course grade assigned by the college shall be used by the high school in calculating the KEES grade point average, and shall be included in the KEES calculation using a 5.0 point scale where 5.0 is an "A", 4.0 is a "B", 3.0 is a "C", 2.0 is a "D", and 1.0 is an "F". This weighted scale shall not be applicable to a remedial course.
(3) The grade point average reported for an eligible high school student for each academic year shall include all information as set forth in KRS 164.7885(1) and be submitted to the authority in either an electronic or hard copy format.
(4) A high school student who participated in an educational high school foreign exchange program or the Congressional Page School that was approved by the student's local high school shall have the student's grade point average reported in accordance with KRS 164.7879(2)(b).

Section 3. High School Students of Custodial Parents or Guardians in Active Military Service.
(1)(a) For purpose of determining eligibility under the provisions of KRS 164.7879(2)(c), a high school student shall establish that the custodial parent or guardian meets the requirements of KRS 164.7879(2)(c)1.a. and b. and shall submit the Home of Record Certification form to the authority.
(b) The authority annually shall notify the eligible high school student and the custodial parent or guardian of the student's eligibility.
(2)(a) A high school student, determined to be eligible for the KEES program under the terms of KRS 164.7879(2)(c) and subsection (1)(a) of this section, shall be responsible for requesting:
1. Grade and curriculum information from the local school; and
2. That the local school submit the information to the authority using the Curriculum Certification form and the Data Submission form.
(b) Upon receipt of curriculum and grade information from an accredited out-of-state high school or Department of Defense school for a student determined to be eligible for the KEES Program under this section, the authority shall:
1. Verify that the submitted curriculum meets the requirements

of Section 4 of this administrative regulation;

2. Verify that the out-of-state high school or Department of Defense school is an accredited high school; and

3. Retain the Curriculum Certification form on file until the student's eligibility has expired.

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

(a) Has earned a base scholarship award in high school;

(b) Has completed the KEES curriculum as set forth in subsection (2) of this section;

(c) Has graduated from a Kentucky high school, except as established in Section 2(4) or 3 of this administrative regulation; and

(d) Is enrolled in a participating institution in an eligible program.

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

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

(a) Completion of no fewer than three (3) courses of study; and

(b) Satisfying the provisions of KRS 164.7879.

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

(a) Provides the same or greater academic rigor and the course covers or exceeds the minimum required content areas established in 703 KAR 4:060; or

(b) Is an honors course, cooperative education course, AP course, IB course, CAI course, dual credit course, or a course taken at a postsecondary education institution.

(5) Beginning with the 2018-2019 academic year, each cooperative education course taken during an academic year shall satisfy KEES curriculum requirements if the course has been approved by the Office of Career and Technical Education as a work-based learning experience in a career pathway pursuant to 705 KAR 4:123 and 705 KAR 4:041. For all other cooperative education coursework, only one (1) course per academic year shall count for purposes of satisfying KEES curriculum requirements.

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

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

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

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

~~(a) Landscape architecture (04.0601); and~~

~~(b) Engineering if enrollment in the engineering program has been continuous (14.0101, 14201, 14.0301, 14401, 14501, 14.0701, 14.0801, 14.0901, 14.1001, 14.1201, 14.1301, 14.1401, 14.1701, 14.1801, 14.1901, 14.2101, 14.2301, 14.2401, 14.2801, 14.9999.01, 14.3501).~~

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

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

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

1. Pharm. D;

2. A[~~The optometry or~~] veterinary medicine program[~~s~~] at an institution that participates in[~~, which is a part of~~] the Kentucky Contract Spaces Program; or

3. An optometric medicine program at an institution that participates in the Optometry Scholarship Program[~~A program contained on the Equivalent Undergraduate Programs List~~]; and

(c) Has not completed a baccalaureate degree.

Section 6. Postsecondary Grade Point Average Calculation and Reporting. (1) Each participating institution shall report to the Authority the cumulative grade point average for each KEES recipient enrolled in that institution no later than June 30 after the completion of the award period.

(2) The cumulative grade point average shall be reported to the hundredths decimal place. Any cumulative grade point average which contains a number of five (5) or greater in the thousandths place shall be rounded up to the nearest hundredth. Any cumulative grade point average which contains a number less than five (5) in the thousandths place shall be rounded down to the nearest hundredth.

(3) If a KEES recipient had an incomplete grade when the cumulative grade point average was initially reported to the Authority and subsequently receives a final grade, the participating institution shall recalculate the recipient's cumulative grade point average as of the end of the appropriate award period and report the updated cumulative grade point average to the Authority.

Section 7. SAT Conversion Table. (1) Pursuant to KRS 164.7874(3), the[~~ following~~] SAT to ACT Conversion Table included in this subsection shall be used to convert scores for SAT exams taken prior to the 2011-2012 academic year.[~~:~~]

Table C-2
Concordance Between SAT I Recentered V+M Score and ACT Composite Score

SAT I V+M	ACT Composite	SAT I V+M	ACT Composite	SAT I V+M	ACT Composite	SAT I V+M	ACT Composite	SAT I V+M	ACT Composite
1600	35-36	1370	31	1140	25	910	19	680	14
1590	35	1360	31	1130	25	900	19	670	14
1580	35	1350	30	1120	24	890	18	660	14
1570	35	1340	30	1110	24	880	18	650	13
1560	35	1330	30	1100	24	870	18	640	13
1550	34	1320	30	1090	24	860	18	630	13
1540	34	1310	29	1080	23	850	17	620	13
1530	34	1300	29	1070	23	840	17	610	13
1520	34	1290	29	1060	23	830	17	600	13
1510	34	1280	29	1050	22	820	17	590	13
1500	33	1270	28	1040	22	810	17	580	12
1490	33	1260	28	1030	22	800	16	570	12
1480	33	1250	28	1020	22	790	16	560	12
1470	33	1240	28	1010	21	780	16	550	12

1460	33	1230	27	1000	21	770	16	540	12
1450	32	1220	27	990	21	760	16	530	12
1440	32	1210	27	980	21	750	15	520	12
1430	32	1200	26	970	20	740	15	510	11
1420	32	1190	26	960	20	730	15	500	11
1410	32	1180	26	950	20	720	15		
1400	31	1170	26	940	20	710	15		
1390	31	1160	25	930	19	700	14		
1380	31	1150	25	920	19	690	14		

This table may be used to relate SAT I V+M scores to ACT Composite scores.
The estimates are based on the test scores of 103,525 students from fourteen (14) universities and two (2) states who took both the ACT and the SAT I between October 1994 and December 1996. Because the ACT and the SAT I have different content, students' actual scores on the ACT could differ significantly from the concordance estimates in the table.
Source: ACT, Inc. Questions about the concordance study may be directed to ACT's Research Division (319/337-1471).
January, 1998

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

Table C-2
Concordance Between SAT I Recentered V+M Score and ACT Composite Score

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

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

(3) Pursuant to KRS 164.7874(3), the SAT and ACT Conversion Table included in this subsection shall be used to convert scores for SAT exams taken during or after the March 2016-2017 academic year, but prior to July 2018[~~March 2016~~]. Only the scores from the Evidence-Based Reading and Writing Sections (ERW+M) of the SAT within a single exam administration shall be considered for KEES supplemental awards.

Table C-2
Concordance Between SAT ERW+M[~~EBR+M~~] Score and ACT Composite Score

SAT ERW+M	ACT Composite	SAT ERW+M	ACT Composite	SAT ERW+M	ACT Composite	SAT ERW+M	ACT Composite	SAT ERW+M	ACT Composite
1600	36	1380	29	1160	24	940	18	720	13
1590	35	1370	29	1150	23	930	17	710	12
1580	35	1360	29	1140	23	920	17	700	12
1570	35	1350	29	1130	23	910	17	690	12
1560	35	1340	28	1120	22	900	17	680	12
1550	34	1330	28	1110	22	890	16	670	12
1540	34	1320	28	1100	22	880	16	660	12
1530	34	1310	28	1090	21	870	16	650	12
1520	34	1300	27	1080	21	860	16	640	12

1510	33	1290	27	1070	21	850	15	630	12
1500	33	1280	27	1060	21	840	15	620	11
1490	32	1270	26	1050	20	830	15	610	11
1480	32	1260	26	1040	20	820	15	600	11
1470	32	1250	26	1030	20	810	15	590	11
1460	32	1240	26	1020	20	800	14	580	11
1450	32	1230	25	1010	19	790	14	570	11
1440	31	1220	25	1000	19	780	14	560	11
1430	31	1210	25	990	19	770	14		
1420	31	1200	25	980	19	760	14		
1410	30	1190	24	970	18	750	13		
1400	30	1180	24	960	18	740	13		
1390	30	1170	24	950	18	730	13		

(4) Pursuant to KRS 164.7874(3), the SAT and ACT Conversion Table included in this subsection shall be used to convert scores for SAT exams taken during or after July 2018. Only the scores from the Evidence-Based Reading and Writing Sections (ERW+M) of the SAT within a single exam administration shall be considered for KEES supplemental awards.

Table C-2
Concordance Between SAT ERW+M Score and ACT Composite Score

SAT ERW+M	ACT Composite	SAT ERW+M	ACT Composite	SAT ERW+M	ACT Composite	SAT ERW+M	ACT Composite	SAT ERW+M	ACT Composite
1600	36	1400	31	1200	25	1000	19	800	14
1590	36	1390	31	1190	24	990	19	790	14
1580	36	1380	30	1180	24	980	18	780	14
1570	36	1370	30	1170	24	970	18	770	13
1560	35	1360	30	1160	24	960	18	760	13
1550	35	1350	29	1150	23	950	17	750	13
1540	35	1340	29	1140	23	940	17	740	13
1530	35	1330	29	1130	23	930	17	730	13
1520	34	1320	28	1120	22	920	17	720	12
1510	34	1310	28	1110	22	910	16	710	12
1500	34	1300	28	1100	22	900	16	700	12
1490	33	1290	27	1090	21	890	16	690	12
1480	33	1280	27	1080	22	880	16	680	11
1470	33	1270	27	1070	21	870	15	670	11
1460	33	1260	27	1060	21	860	15	660	11
1450	33	1250	26	1050	20	850	15	650	11
1440	32	1240	26	1040	20	840	15	640	10
1430	32	1230	26	1030	20	830	15	630	10
1420	32	1220	25	1020	19	820	14	620	10
1410	31	1210	25	1010	19	810	14	610	10

Section 8. Criteria for Supplemental Award to Noncertified, Nonpublic High School Students and to GED Students. (1) A Kentucky resident who is a citizen, national, or permanent resident of the United States and who graduates from a nonpublic Kentucky high school not certified by the Kentucky Board of Education shall be eligible for a supplemental award if:

(a) The student is not a convicted felon;

(b) The date of the student's graduation is May 1999 or thereafter;

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

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

(2) A Kentucky resident who is a citizen, national, or permanent resident of the United States and who has not graduated from any Kentucky or out-of-state public or nonpublic high school shall be eligible for a supplemental award if:

(a) The student is not a convicted felon;

(b) The student's 18th birthday occurs on or after January 1, 1999;

(c) The student takes and receives a GED diploma in Kentucky:

1. Prior to being admitted to a participating institution; and

2. Within five (5) years after attaining eighteen (18) years of age;

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

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

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

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

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

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

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

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

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

Section 9. Supplemental Award. An eligible high school student who receives a supplemental award as a result of taking and receiving a GED within five (5) years of attaining eighteen (18) years of age shall have a maximum of five (5) years eligibility beyond the date the GED is received.

Section 10. Supplemental Award for Achievement on Examinations. (1) Pursuant to KRS 164.7879(3)(c) and (d), a supplemental award shall be provided for achievement on AP, IB, or CAI examinations to an eligible high school student whose family was eligible for free and reduced price lunch during any year of high school.

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

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

Section 11. Administrative Responsibilities and Expenses of Program. (1) The authority annually shall determine the level of funding for expenses associated with the program and shall allocate funds from the Wallace G. Wilkinson Kentucky Educational Excellence Scholarship Trust Fund established by KRS 164.7877(1) and (3).

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

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

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

(a) "Home of Record Certification", June 2005;

(b) "Curriculum Certification", June 2005; and

(c) "Data Submission", June 2005.[~~; and~~

~~(d) "Equivalent Undergraduate Programs List", June 2005.~~]

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

CATHE DYKSTRA, Chair

APPROVED BY AGENCY: March 17, 2022

FILED WITH LRC: March 25, 2022 at 11:25 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Tuesday, June 22, 2022, at 10:00 a.m. Eastern Time at 100 Airport Road, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify the agency in writing by 5 workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 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: Hon. Diana L. Barber, General Counsel, Kentucky Higher Education Assistance Authority, P.O. Box 798, Frankfort, Kentucky 40602-0798, phone (502) 696-7298, fax (502) 696-7293, email dbarber@kheaa.com.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Rebecca Gilpatrick

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets forth the procedures for administering the Kentucky Educational Excellence Scholarship (KEES) Program.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the requirements relating to the Kentucky Educational Excellence Scholarship (KEES) Program pursuant to the authorizing statute.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 164.7877(3) requires KHEAA to administer the funds appropriated to the trust fund for the program; KRS 164.7874(14) requires KHEAA to determine the KEES curriculum's courses of study; KRS 164.7879(3)(c) requires KHEAA to determine the eligibility of a noncertified, nonpublic high school graduate and for a GED recipient for a supplemental award; KRS 164.7874(3) requires KHEAA to establish a table to convert an SAT score to an ACT standard; KRS 164.7881(6) requires KHEAA to establish a five (5) year postsecondary education program standard; KRS 164.7881(4)(a) requires KHEAA to establish overall award levels for the program; KRS 164.7879(2)(c) requires KHEAA to determine eligibility for children of parents who are in the military and who claim Kentucky as their home of record; and KRS 164.7535 and 164.7881 (4)(c) require KHEAA to identify equivalent undergraduate programs of study. This administrative regulation establishes these requirements related to the KEES program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing program eligibility criteria for administration of the KEES program by the Authority.

(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 change the existing regulation by adding a new SAT Conversion Table to document the newest concordance for examinations taken on or after July 2018. Additionally, the amendment will eliminate subsection 3 of Section 5 regarding five-year baccalaureate degree programs as none have been offered in Kentucky is several years. Finally, the amendment will eliminate the references to both Optometry Contract Spaces program as well as the "Equivalent Undergraduate Programs List" in Section 5, subsection 4 as neither of these exists any longer.

(b) The necessity of the amendment to this administrative regulation: This amendment to the administrative regulation is necessary to insure accurate calculation of supplemental KEES awards based on the standardized SAT exam for students who test on or after July 2018 as well as to eliminate moot provisions contained in the current version of the regulation.

(c) How the amendment conforms to the content of the authorizing statutes: The authorizing statutes require KHEAA to promulgate regulations for the administration of the KEES program including the determination of supplemental awards based upon standardized test scores as well as eligible program requirements. This amendment conforms to the authorizing statues by incorporating the most recent concordance for SAT examinations taken on or after July 2018 and by removing inapplicable provisions from the regulation.

(d) How the amendment will assist in the effective administration of the statutes: This amendment to the administrative regulation will assist in the effective administration of the statutes by enabling the authority to make determinations of supplemental KEES awards based on the most current and accurate concordance of SAT examination scores. Further, it will clarify program eligibility for the public.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The proposed amendment to this administrative regulation will affect those high school students who sat for the SAT examination on or after July 2018. The other provisions being removed pursuant to this amendment will have no impact as any individuals since those sections have not been relevant for a number of years.

(4) Provide an analysis of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment, including:

(a) List the actions that each of the regulated entities identified

in question (3) will have to take to comply with this administrative regulation or amendment: No actions will be required by award recipients in order to comply with the amendment to this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to award recipients in complying with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Those students who sat for the SAT on or after July 2018 will benefit by this amendment in that their ACT equivalent will be calculated accurately as a result of the addition of the most recent grade concordance table.

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

(a) Initially: No cost.

(b) On a continuing basis: No cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The KEES program is funded through net lottery revenues transferred in accordance with KRS 154A.130.

(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: Any increase in funding as a result of the amendment to this administrative regulation would be nominal at most. Although the changes could increase the overall KEES award of a participating student, this would be negligible.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees nor increase any existing fees.

(9) TIERING: Is tiering applied? Tiering was not applied. It is not applicable to this amendment. This administrative regulation is intended to provide equal opportunity to participate, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Finance and Administration Cabinet, Kentucky Higher Education Assistance Authority.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 164.7874, 164.7877(3), 164.7879(1), (2), (3), 164.7881(4)(a), (c), (6).

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. The administrative regulation will result in no additional expenditures by or revenues to the Authority during the first full year of its effectiveness.

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

(c) How much will it cost to administer this program for the first year? No costs are associated with this regulation for the first year.

(d) How much will it cost to administer this program for subsequent years? No costs are associated with this regulation for subsequent years.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Division of Student and Administrative Services
(Amendment)

11 KAR 16:020. Early Childhood Development Scholarship Program disbursement process.

RELATES TO: KRS 164.518

STATUTORY AUTHORITY: KRS 164.518(3), 164.748(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.518(3) requires the authority to promulgate administrative regulations for administration of the Early Childhood Development Scholarship Program. This administrative regulation establishes procedures for disbursement of the monies awarded under the Early Childhood Development Scholarship Program.

Section 1. Eligibility Verification. [~~Disbursement Process.~~] Once the census date for each academic term has passed, the institution shall verify the eligibility of each student and submit to the authority a complete and accurate eligibility verification record that shall include the following:

(1) The student's enrollment status; and

(2) The number of credit hours in which the student is enrolled for the academic term.

Section 2. Disbursement and Delivery of Funds. (1) Within thirty (30) days following receipt by the authority of the eligibility verification data[~~information required by 11 KAR 16:010, Section 3(4)~~], the authority shall disburse[~~remit monies awarded under the~~] Early Childhood Development Scholarship[~~ Program by electronic~~] funds[~~ transfer delivered~~] to the participating institution[~~ on behalf of the scholarship recipient~~] for subsequent delivery to the eligible scholarship recipient.

(2) [~~The authority shall send to the participating educational institution a disbursement roster indicating each recipient's name, Social Security number, and scholarship amount.~~

~~(3) The participating educational institution shall hold the funds solely for the benefit of the scholarship recipient and the authority until the student has registered for classes for the academic term for which the scholarship is awarded.~~

~~(4)(a)~~] Scholarship proceeds shall be used by the recipient only for payment of tuition and mandatory fees to the participating educational institution.

[~~(b) Upon the scholarship recipient's registration, the participating educational institution shall:~~

~~1. Credit the scholarship recipient's account; and~~

~~2. Notify the recipient in writing that it has credited the account.~~]

(3)[~~(c)~~] The participating institution shall:

(a) Return to the authority scholarship funds that exceed the amount of tuition and mandatory fees charged by the institution to the scholarship recipient for the academic term based upon the recipient's enrollment status at the time of eligibility verification;[~~registration.~~]

(b) Be responsible for proper disbursement of scholarship funds to each eligible student during the academic term for which each award is intended;

(c) Be liable for disbursement to the wrong individual or to an ineligible student, or for untimely disbursement pursuant to this section; and

(d) [~~The authority may, without precluding other remedies provided in 11 KAR 4:020, recover from the participating institution scholarship funds not returned pursuant to paragraph (c) of this~~

~~subsection by setoff against any other funds payable to the participating institution by the authority.~~

~~Section 2. Disbursement Roster (1) The participating educational institution shall indicate the following on the disbursement roster:~~

~~(a) The date funds were either credited to the scholarship recipient's account or disbursed to the recipient;~~

~~(b) The name of a recipient for whom funds are being returned;~~

~~(c) The amount being returned; and~~

~~(d) The reason funds are being returned.~~

~~(2) The participating educational institution shall return to the authority, according to instructions attached to the roster, all funds advanced that remain undisbursed to students who were awarded scholarships. The participating institution shall retain a copy of the disbursement roster for its records. The participating educational institution shall return the undisbursed scholarship funds to the authority by electronic funds transfer.~~

~~(3) The instructions accompanying the disbursement roster shall specify:~~

~~(a) Conditions under which the scholarship shall be disbursed to the benefit of the scholarship recipient;~~

~~(b) Conditions under which the scholarship funds shall be returned to the authority; and~~

~~(c) The date by which the roster and any undisbursed funds shall be returned to the authority.~~

~~(4) A participating educational institution that has not returned a disbursement roster or completed it according to the instructions shall not receive additional scholarship funds until it has complied with the instructions identified in subsection (3) of this section. The authority may withhold any services and funds from the educational institution from the due date until the roster and all funds advanced, that remain undisbursed to eligible students, are received by the authority.~~

~~Section 3. Misdelivery of Funds. The participating institution shall be liable to the authority for delivery of scholarship funds to the wrong person or to an ineligible student and shall~~] Make restitution to the authority of <u>any</u>[~~an~~] amount improperly delivered.

<u>(4)</u> Failure of the participating institution to make restitution as required shall, without precluding other remedies, be deemed cause for limitation, suspension, or termination of the participation of the institution in accordance with 11 KAR 4:020.

CATHE DYKSTRA, Chair

APPROVED BY AGENCY: March 17, 2022

FILED WITH LRC: March 25, 2022 at 11:25 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Tuesday, June 22, 2022, at 10:00 a.m. Eastern Time at 100 Airport Road, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 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: Hon. Diana L. Barber, General Counsel, Kentucky Higher Education Assistance Authority, P.O. Box 798, Frankfort, Kentucky 40602-0798, phone (502) 696-7298, fax (502) 696-7293, email dbarber@kheaa.com.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Rebecca Gilpatrick

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the disbursement process for the Early Childhood Development Scholarship program as authorized by KRS 164.518(3).

(b) The necessity of this administrative regulation: This administrative regulation is necessary to set forth the disbursement process for the Early Childhood Development Scholarship program.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 164.518(3) requires the authority to promulgate administrative regulations pertaining to the Early Childhood Development Scholarship program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing the disbursement process for the Early Childhood Development Scholarship program.

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

(a) How the amendment will change this existing administrative regulation: The amendment will change this existing administrative regulation by incorporating the electronic disbursement process the Authority has developed and utilized for the past few academic years.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary in order to bring the regulation into conformity with the current processes in place for disbursement of program funds.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment to this administrative regulation conforms to the content of the authorizing statutes by codifying the administrative processes for the Early Childhood Development Scholarship program as concerns the disbursement of funds.

(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation will assist in the effective administration of the authorizing statutes by codifying the administrative processes for the Early Childhood Development Scholarship program disbursement of funds.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The proposed amendment could potentially affect all participating educational institutions. However, since the changes have already been in place for the past few academic years, the net impact will be negligible.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No actions are required to be taken by the participating educational institutions in order to comply with the amendment to this administrative regulation as the electronic disbursement process has already been implemented.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to the impacted entities in order to comply with the this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The participating educational institutions will be able to continue utilizing the electronic funds disbursement process previously implemented for this program.

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

(a) Initially: None.

(b) On a continuing basis: See 5(a) above.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funding for the Early Childhood Development Scholarship Program is provided by appropriations from the Tobacco Settlement Fund. The Authority does retain some of the funds for

the costs associated in administering the Early Childhood Development Scholarship Program.

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

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

(9) TIERING: Is tiering applied? Tiering was not applied. It is not applicable to this amendment. This administrative regulation is intended to provide equal opportunity to participate, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Finance and Administration Cabinet, Kentucky Higher Education Assistance Authority.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 164.7874, 164.7877(3), 164.7879(1), (2), (3), 164.7881(4)(a), (c), (6).

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. The administrative regulation will result in no additional expenditures by or revenues to the Authority during the first full year of its effectiveness.

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

(c) How much will it cost to administer this program for the first year? No costs are associated with this regulation for the first year.

(d) How much will it cost to administer this program for subsequent years? No costs are associated with this regulation for subsequent years.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

PERSONNEL CABINET
(Amendment)

101 KAR 2:046. Applying for employment, qualifications and examinations.

RELATES TO: KRS 18A.030(2), 18A.032, 18A.110(1)(a), (7)(c), 18A.120, 18A.150

STATUTORY AUTHORITY: KRS 18A.030(2), 18A.110(1)(a), (7)(c)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.110(1)(a) and (7)(c) requires the Secretary of Personnel to promulgate administrative regulations that govern open competitive exams to determine the relative fitness of applicants and for the rejection of candidates or eligibles who fail to meet reasonable requirements of the secretary. This administrative regulation establishes the process and requirements to apply for employment.

Section 1. Notices of Examinations. (1) An examination for entrance to the classified service shall be conducted on an open-competitive basis.

(2) The recruitment program shall:

(a) Accept an applicant's submission for employment; and

(b) Hold an examination whenever and wherever the secretary reasonably determines it to be in the best interests of the Merit System.

(3) Eligibles shall be listed in rank order upon certification of a register based on their highest valid scores.

(4) The public notice of examination required by KRS 18A.110(7)(c) shall specify:

(a) The title and minimum salary of the job classification;

(b) The minimum qualifications required;

(c) The opening date on which application may be made for placement of the applicant on the register; and

(d) All other pertinent information and requirements.

Section 2. Minimum Qualifications for Applying. An open-competitive examination shall be available to each applicant who meets the minimum requirements determined by the secretary with regard to:

(1) Education;

(2) Experience;

(3) Training;

(4) Licensure;

(5) Certification; or

(6) Other factors that relate to the ability of the candidate to perform the essential functions of the position with reasonable efficiency.

Section 3. Applying for Employment. (1) An applicant shall apply for employment electronically as required by instructions at https://careers.ky.gov.

(2) An applicant shall provide information concerning:

(a) Personal characteristics;

(b) Education;

(c) Experience;

(d) References; and

(e) Other pertinent information specific to the position sought.

(3) The truth of the statements provided pursuant to subsection (2) of this section shall be certified by the applicant's act of electronic submission.

(4) An applicant shall:

(a) Meet the minimum qualifications established in the job class specification as to education and experience; and

(b) Not be guaranteed a passing grade by admission to an examination.

(5) For a job classification for which there is to be continuous recruitment, a statement shall be included in the announcement to the effect that submissions shall be received until further notice.

Section 4. Advance Eligibility. An applicant shall be eligible to apply to a specific vacancy within thirty (30) calendar days of completing the education required in the job classification or anytime thereafter. Except as requested in writing by the appointing authority and authorized by the secretary, all applicants shall comply with this section.

Section 5. Character of Examinations. An examination shall:

(1) Be practical in nature;

(2) Be constructed to reveal the capacity of the candidate for the particular job classification for which the applicant is competing;

(3) Consider the applicant's general background and related knowledge; and

(4) Be rated impartially.

Section 6. Conduct of Examinations. (1) An examination shall

be conducted in as many places in the commonwealth as are found convenient for applicants and practicable for administration.

(2) Reasonable accommodation in testing shall be provided upon timely request and receipt of verification of need.

(3) The secretary may:

(a) Designate monitors in various parts of the commonwealth to conduct an examination under instructions prescribed by the secretary;

(b) Provide for the compensation of the monitors; and

(c) Make arrangements for the use of a public building in which to conduct an examination.

(4) Retest procedures. For open continuous testing, an applicant shall not:

(a) Be admitted to the same exam or its alternate more than two (2) times within a regular workweek; or

(b) Take the same exam or its alternate more than twelve (12) times in a twelve (12) month period beginning with the original date the test is taken.

Section 7. Rating Examinations. (1) The secretary shall determine the rating or standing of an applicant on the register for each examination at the time of certification of a register.

(2) The secretary shall determine the passing score of each examination.

(3) All applicants for the same job classification shall be accorded uniform and equal treatment in all phases of the examination procedure.

Section 8. Rating Education and Experience. (1) If the selection method is rating of education and experience, the secretary shall determine a procedure for the evaluation of the education and experience qualifications of an applicant.

(2) The formula used in appraisal shall give due regard to recency and quality as well as quantity of experience and the pertinence of the education.

(3) The secretary shall investigate the candidate's educational documentation.

(4) The secretary shall investigate the candidate's work history.

(5) If the results of this investigation disclose information affecting the rating of education and experience, the secretary shall:

(a) Rate the candidate accordingly;

(b) Make the necessary revision of the rating; and

(c) Notify the candidate.

(6) The secretary shall determine the selection method for a qualifying job classification based upon the knowledge, skills, and abilities necessary for the job classification.

(a) The secretary shall notify the Personnel Board of the job classification and the minimum requirements for a qualifying selection method.

(b) The secretary shall maintain for public review a list of those job classifications that are qualifying along with the minimum requirements for each job classification.

Section 9. Notice of Examination Results. (1) Each applicant shall be notified of the examination score as soon as the rating of the examination has been completed.

(2) An eligible shall be entitled to information concerning his or her relative position on the register upon request and presentation of proper identification.

Section 10. Adjustment of Errors. (1) The secretary shall correct a clerical error in the rating of an examination, if the error is called to the attention of the secretary within thirty (30) calendar days after receipt of the notice of examination results. Further, the secretary may correct an applicant's submission error, if the error is called to the attention of the secretary within thirty (30) calendar days of the issuance of a register certificate.

(2) A correction shall not invalidate a certification and appointment previously made.

[~~Section 11. Examination Records. The secretary shall maintain all records pertinent to an applicant's submission for employment or examination for a period of three (3) years.~~]

GERINA D. WHETHERS, Secretary

APPROVED BY AGENCY: April 11, 2022

FILED WITH LRC: April 15, 2022 at 9:25 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 21, 2022 at 10:00 a.m. at 501 High Street, 3rd floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until 11:59 p.m. on June 30, 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: Rosemary Holbrook, Assistant General Counsel, Office of Legal Services, 501 High Street, 3rd floor, Frankfort, Kentucky 40601, phone (502) 564-7430, fax (502) 564-0224, email RosemaryG.Holbrook@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Rosemary Holbrook

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the application and examination requirements for state employment.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to communicate requirements for application and eligibility for classified employment.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation complies with KRS 18A.030(2), 18A.110 (1)(a) and (7)(c).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the procedures for personnel recruitment and certification.

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

(a) How the amendment will change this existing administrative regulation: This amendment adds language to allow an appointing authority to seek an exception to the thirty (30) day education completion requirement for future graduates, to assist agencies in recruiting new hires. Other changes include minor clean-up and removal of the section pertaining to the retention period for applicant submissions, which is already addressed in the retention schedule on file with the Kentucky Department for Libraries and Archives.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to provide an exception to advance eligibility in the application process for future graduates, potentially making agencies more competitive in hiring endeavors.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment complies with KRS 18A.030(2), 18A.110(1)(a) and (7)(c).

(d) How the amendment will assist in the effective administration of the statutes: This amendment assists with the secretary's duty of personnel recruitment per KRS 18A.030.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Applicants for state employment, the Personnel Cabinet and all Commonwealth Executive Branch agencies are affected by this regulation.

(4) Provide an analysis of how the entities identified in question

(3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: An agency must formally request an exception to advance eligibility if an exception is desired. No additional actions are required.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no additional costs anticipated to any entity identified above.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): No additional benefits will accrue.

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

(a) Initially: This regulation, as amended, is not anticipated to generate any new or additional costs.

(b) On a continuing basis: This regulation, as amended, 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: This regulation, as amended, is not anticipated to generate any new or additional costs.

(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 regulation, as amended, is not anticipated to generate any new or additional fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation, as amended, is not anticipated to generate any new or additional fees.

(9) TIERING: Is tiering applied? No. This regulation, as amended, treats all impacted entities 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? All state agencies with employees and applicants covered under KRS Chapter 18A.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 18A.030(2), 18A.110(1)(a), (7)(c).

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

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

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

(c) How much will it cost to administer this program for the first year? There are no estimated additional costs to administer the amendments to this regulation.

(d) How much will it cost to administer this program for subsequent years? There are no estimated additional costs to administer the amendments to 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:

PERSONNEL CABINET
(Amendment)

101 KAR 2:066. Certification and selection of eligible applicants for appointment.

RELATES TO: KRS 18A.030(2), 18A.110(1)(b), (7), 18A.113, 18A.135, 18A.165

STATUTORY AUTHORITY: KRS 18A.030(2), 18A.110(1)(b), (7)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.110(1)(b) and (7) requires the Secretary of Personnel to promulgate administrative regulations that govern the establishment of eligibility lists for appointment, and for consideration for appointment of persons whose scores are included in the five (5) highest scores on the examination. This administrative regulation establishes the requirements for certification and selection of eligible applicants for appointment.

Section 1. Request for Certification of Eligible Applicants. To fill a vacant position in the classified service that is not filled by lateral transfer, reinstatement, reversion, or demotion, the appointing authority shall submit a request for a register to the secretary. The request shall:

(1) Be for one (1) or more positions in the same:

(a) Job classification; or

(b) County;

(2) Indicate:

(a) The number and identity of the positions to be filled;

(b) The title of the job classification for each position; and

(c) Other pertinent information that the appointing authority and the secretary reasonably determine are necessary; and

(3) Be made by the appointing authority as far in advance as possible of the date the position is to be filled.

Section 2. Certification of Eligible Applicants. (1) Upon receipt of a request for a register, the secretary shall certify and submit to the appointing authority the names of eligible applicants for the position who have applied.

(a) If one (1) position is involved, the secretary shall certify the names of:

1. Each applicant who:

a. Applied for the vacant position; and

b. If it is a tested position, has a score included in the highest five (5) scores earned through the selection method; and

2. All internal mobility candidates who are eligible and have applied for the vacant position.

(b) If more than one (1) vacancy is involved, the secretary may certify sufficient additional names for the agency's consideration in filling the total number of vacancies.

(c) Each appointment shall be made from:

1. The internal mobility candidate listing of eligible applicants who have applied for the vacant position; or

2. The eligible applicants with the five (5) highest scores who have applied for the vacant position, if applicable.

(2) The life of a certificate during which action may be taken shall be ninety (90) days from the date of issue unless otherwise specified on the certificate or job requisition. An appointment made from the certificate during that time shall not be subject to a change in the condition of the register taking place during that period.

(3) Subject to the provisions of KRS 18A.113 and KRS 18A.135, a vacancy associated with an active register certificate may be filled by an eligible who did not apply if filled by lateral transfer, reinstatement, reversion, or demotion.

Section 3. Prescreening[~~Preferences and Skills~~] Questions. (1) The secretary shall approve prescreening[~~a list of preferences and skills~~] questions to assist in the determination of an applicant's qualifications and availability for a job vacancy.

(2) The appointing authority may identify prescreening[~~preferences and skills questions from the approved list of~~] questions that relate to the specific job classification. The appointing authority may request that an applicant answer those

prescreening[~~preferences and skills~~] questions when applying for employment. After an appointing authority has received a register, the appointing authority may consider the answers to the prescreening[~~preferences and skills~~] questions to assist in applicant selection.

Section 4. Selection. The appointing authority shall report to the secretary the recommended candidate for appointment.

GERINA D. WHETHERS, Secretary

APPROVED BY AGENCY: April 11, 2022

FILED WITH LRC: April 15, 2022 at 9:25 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 21, 2022 at 10:00 a.m. at 501 High Street, 3rd floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until 11:59 p.m. on June 30, 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: Rosemary Holbrook, Assistant General Counsel, Office of Legal Services, 501 High Street, 3rd floor, Frankfort, Kentucky 40601, phone: (502) 564-7430, fax: (502) 564-0224, email: RosemaryG.Holbrook@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Rosemary Holbrook

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements for certification and selection of eligibles for appointment.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to set forth the requirements for certification and selection of eligibles for appointment.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation complies with KRS 18A.030(2), 18A.110(1)(b) and (7).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes the requirements for certification and selection of eligibles for appointment.

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

(a) How the amendment will change this existing administrative regulation: This administrative regulation changes terminology used in Section 3. “Preferences and skills” is replaced with “prescreening.”

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to reflect language used in the current applicant tracking system.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment complies with KRS 18A.030(2), 18A.110(1)(b) and (7).

(d) How the amendment will assist in the effective administration of the statutes: This amendment promotes consistency and clarifies requirements for certification and selection of eligibles.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Applicants for state employment, the Personnel Cabinet and all Commonwealth Executive Branch agencies are affected by this regulation.

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

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

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no additional costs anticipated to any entity identified above.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): No additional benefits will accrue.

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

(a) Initially: This regulation, as amended, is not anticipated to generate any new or additional costs.

(b) On a continuing basis: This regulation, as amended, 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: This regulation, as amended, is not anticipated to generate any new or additional costs.

(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 regulation, as amended, is not anticipated to generate any new or additional fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation, as amended, is not anticipated to generate any new or additional fees.

(9) TIERING: Is tiering applied? No. This regulation, as amended, treats all impacted entities 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? All state agencies with employees and applicants covered under KRS Chapter 18A.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 18A.030(2), 18A.110(1)(b) and (7).

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

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

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

(c) How much will it cost to administer this program for the first year? There are no estimated additional costs to administer the amendments to this regulation.

(d) How much will it cost to administer this program for subsequent years? There are no estimated additional costs to administer the amendments to 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:

PERSONNEL CABINET
(Amendment)

101 KAR 2:095. Classified service general requirements.

RELATES TO: KRS 18A.030(2), 18A.110[~~, 26 U.S.C. 501(c)(3)~~]

STATUTORY AUTHORITY: KRS 18A.030, 18A.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.110 requires the Secretary of Personnel to promulgate comprehensive administrative regulations for the classified service. This administrative regulation establishes requirements for the classified service and governs the maintenance of employee and other records and reports in the cabinet and other conditions of employment.

Section 1. [~~Definitions. (1) "Charitable federation" means a legally constituted grouping, made up of or supporting at least ten (10) health and human welfare organizations, all of which:~~

~~(a) Qualify as exempt voluntary charitable organizations pursuant to 26 U.S.C. 501(c)(3); and~~

~~(b) Have a substantial Kentucky presence.~~

~~(2) "Designated nonprofit agency" means an organization with proof of tax-exempt status pursuant to 26 U.S.C. 501(c)(3) written in on a pledge card by a state employee as a choice to receive contributions.~~

~~(3) "State employee" means a person, including an elected public official, who is employed by a department, board, agency, or branch of state government, except one relating to a state college or university.~~

~~(4) "Substantial Kentucky presence" means a facility, staffed by professionals or volunteers, available to provide its services and open at least fifteen (15) hours a week and with a regional or statewide presence that meets the requirements of Section 2(2) of this administrative regulation.~~

~~Section 2. Requirements for the Kentucky Employees Charitable Campaign. (1) General Purpose. The purpose of the Kentucky Employees Charitable Campaign shall be to:~~

~~(a) Provide an opportunity for employees to contribute to eligible Kentucky organizations through the state's payroll deduction process;~~

~~(b) Ensure accountability for participants in regard to the funds raised;~~

~~(c) Encourage the involvement of state employees as responsible citizens;~~

~~(d) Give recognition to state employee volunteers; and~~

~~(e) Minimize workplace disruption and administrative costs to Kentucky taxpayers by allowing only one (1) statewide payroll deduction charitable solicitation per year.~~

~~(2) An organization shall be considered to have a substantial Kentucky presence if the requirements established in this subsection are met.~~

~~(a) Services shall be available to state employees in the local community.~~

~~(b) Services shall directly benefit human beings whether children, youth, adults, the aged, the ill and infirm, or the mentally or physically disabled.~~

~~(c) Services shall consist of:~~

~~1. Care, research, education, or prevention in the fields of human health or social adjustment and rehabilitation;~~

~~2. Relief for victims of natural disasters and other emergencies; or~~

~~3. Assistance to those who are impoverished and in need of food, shelter, clothing, and basic human welfare services.~~

~~(3) The secretary shall approve a charitable organization for participation in the campaign if the charitable organization demonstrates:~~

~~(a) Proof of tax exempt status pursuant to 26 U.S.C. 501(c)(3);~~

~~(b) Proof of current registration and compliance with the reporting requirements of the Secretary of State and the Office of the Attorney General;~~

~~(c) Proof of financial responsibility, including:~~

~~1. Adoption of a detailed annual budget;~~

~~2. Use of generally accepted accounting principles and procedures;~~

~~3. The board of directors' approval for deviations from the approved budget; and~~

~~4. An annual financial audit;~~

~~(d) Proof of direction by an active volunteer board of directors, which shall meet regularly and whose members shall serve without compensation;~~

~~(e) A written nondiscrimination policy;~~

~~(f) Public disclosure of fundraising administrative costs with a statement demonstrating that, if fund and administrative expenses are in excess of twenty-five (25) percent of total support and revenue, actual expenses for those purposes are reasonable under all the circumstances in its case; and~~

~~(g) Publication of an annual report available to the general public, which includes a full description of the organization's Kentucky activities including fundraising activities.~~

~~(4) A charitable federation may apply on behalf of all its member organizations if both the federation and all federation members meet the criteria established in subsection (3) of this section.~~

~~(5) Authority of the Secretary of Personnel.~~

~~(a) The Secretary of Personnel shall have the full authority over the procedures and policies relating to the operation of the Kentucky Employees Charitable Campaign.~~

~~(b) The secretary shall designate a group of state employees to compose the Kentucky Employees Charitable Campaign Committee to make recommendations on related matters.~~

~~(c) The committee shall be composed of a cross-section of state employees, involving the large cabinets and small agencies.~~

~~(d) The chair of the committee shall be appointed by the secretary.~~

~~(6) Functions of the committee. The committee shall make recommendations on:~~

~~(a) The designation of a campaign administrator who shall:~~

~~1. Serve for a minimum period of two (2) years; and~~

~~2. Be charged to manage and administer the charitable fund campaign for the Commonwealth, subject to the direction and control of the Secretary of Personnel. The campaign administrator shall have statewide workplace campaign experience and have the necessary staff and volunteer support to administer the Kentucky Employees Charitable Campaign;~~

~~(b) The establishment of minimum amount, based on cost effectiveness, that an employee may authorize to be deducted for each approved charitable federation;~~

~~(c) The format of the brochure, pledge card, or other promotional materials for the annual campaign;~~

~~(d) The dates and duration of the campaign;~~

~~(e) The annual campaign budget submitted by the campaign administrator; and~~

~~(f) The costs of the campaign, which shall be:~~

~~1. Detailed in the budget; and~~

~~2. Borne by each recipient organization proportionally.~~

~~(7) Charitable federations to apply for statewide campaign.~~

~~(a) A federation desiring inclusion shall apply by February 15 of each year.~~

~~(b) A federation that has previously participated in the campaign shall update its application with a letter and a copy of the most recent year's audit.~~

~~(c) A charitable organization that has previously participated in the campaign shall be eligible if it fulfills all conditions of eligibility.~~

~~(8) The campaign administrator. The campaign administrator shall:~~

~~(a) Provide staffing to manage and administer the annual campaign, which includes preparing drafts of campaign materials for consideration by the Secretary of Personnel;~~

~~(b) Serve as the central accounting point for both campaign cash and for payroll deductions received from the Personnel Cabinet including:~~

~~1. The preparation and submission of an annual campaign budget. Costs of the campaign shall be divided among recipient organizations; and~~

~~2. A separate account maintained for managing the income and expenses of the campaign;~~

~~(c) Distribute campaign funds received from the Personnel Cabinet to participating organizations in accordance with agreed upon time periods. This shall include distribution of funds to designated nonprofit agencies;~~

~~(d) Provide an end-of-campaign report to the Secretary of Personnel and to participating organizations; and~~

~~(e) Annually furnish a financial statement prepared by a certified public accountant.~~

~~Section 3.~~] Attendance; Hours of Work. (1) The number of hours a full-time employee shall be required to work shall be thirty-seven and one-half (37 1/2) hours per week or forty (40) hours per week, unless specified otherwise by the appointing authority or the statutes.

(2) The normal work day shall be from:

(a) 8 a.m. to 4:30 p.m., local time, Monday through Friday, for a thirty-seven and one-half (37 1/2) hour work schedule; or

(b) 8 a.m. to 5 p.m., local time, Monday through Friday, for a forty (40) hour work schedule.

(3) An appointing authority may require an employee to work hours and days other than regular days and hours, including an overtime or inclement weather schedule if it is in the best interest of the agency.

(4) An employee who works for an agency that requires more than one (1) shift or seven (7) days a week operation may be reassigned from one (1) shift to another or from one (1) post to another or alternate days off by the agency to meet staffing requirements or to maintain security or provide essential services of the agency.

(5) An employee shall give reasonable notice in advance of absence from an official work station or alternate work station.

Section 2.[~~Section 4.~~] Official Work Station, Alternate Work Station, and Temporary Assignment. (1) Each employee shall be assigned an official work station and may be assigned one (1) or more additional alternate work stations by the appointing authority.

(2) An official work station or alternate work station may be changed to better meet the needs of the agency.

(3) An employee may be temporarily assigned to a different official work station or alternate work station in a different county. The assignment shall be to the same job classification.

(a) If an employee is temporarily assigned to a different official work station or alternate work station in a different county, the assignment shall not last more than sixty (60) calendar days.

(b) Temporary assignment may be renewed with prior approval of the Secretary of Personnel.

(c) A temporarily reassigned employee shall be reimbursed for travel expenses in accordance with 200 KAR 2:006, and the appointing authority shall notify the employee in writing prior to the effective date of the action.

(4) An appointing authority may assign an employee to work in a different site within the county of employment within the same job classification.

Section 3.[~~Section 5.~~] Dual Employment. An employee holding a full-time position covered under KRS Chapter 18A shall not hold another KRS Chapter 18A position except upon recommendation of the appointing authority and the written approval of the secretary.

Section 4.[~~Section 6.~~] Notice of Resignation and Retirement. (1) An employee who decides to terminate his or her service shall submit a written resignation or notice of retirement to the appointing authority.

(2) A resignation or notice of retirement shall be submitted at least fourteen (14) calendar days before the final working day. A copy of an employee's notice shall be attached to the separation personnel action and placed in the personnel files maintained by the agency and the Personnel Cabinet.

(3) Failure of an employee to give fourteen (14) calendar days' notice may result in forfeiture of accrued annual leave, based on:

(a) If the fourteen (14) day deadline was:

1. Practicable under the circumstances;

2. Appropriate for the situation; and

3. Complied with; or

(b) If the appointing authority and the employee have agreed that the employee shall retain the leave.

(4) The effective date of a separation shall be the next calendar day following the last work day unless the employee has been approved for the use of annual, compensatory, or sick leave prior to termination.

Section 5.[~~Section 7.~~] Records and Reports. (1) An appointing authority shall provide a request to the
Personnel Cabinet for a personnel action or status change.

(a) The Secretary of the Personnel Cabinet shall determine which personnel actions warrant a Personnel Action Notification to the employee, in accordance with KRS 18A.020 and 18A.095.

(b) The secretary shall provide a Personnel Action Notification to the appointing authority.

(c) The appointing authority shall provide a copy of a Personnel Action Notification to the employee affected by the action.

(2) The secretary shall maintain a leave record showing for each employee:

(a) Annual leave earned, used and unused;

(b) Sick leave earned, used and unused;

(c) Compensatory leave earned, used and unused; and

(d) Special leave or other leave with or without pay.

Section 6.[~~Section 8.~~] Telecommuting. (1) Telecommuting shall be a work arrangement in which a selected state employee is allowed to perform the normal duties and responsibilities of his or her position through the use of computer or telecommunications at home or another place apart from the employee's usual official work station or alternate work station.

(2) An appointing authority may establish a telecommuting program for all or any part of the agency.

(3) Eligibility and selection for participation in a telecommuting program shall be the decision of the agency, with no implied or specific right to participation being granted to an employee.

(4) The telecommuter's conditions of employment shall remain the same as for a nontelecommuting employee.

(a) Employee salary, benefits, and employer-sponsored insurance coverage shall not change as a result of telecommuting.

(b) The telecommuter shall be responsible for the security and confidentiality of data, as well as the protection of state-provided equipment, used and accessed during telecommuting.

(c) The telecommuter shall agree to maintain a clean, safe workplace.

(d) An on-site visit by the employer for monitoring of safety issues shall not require advance notice by the employer.

Section 7.[~~Section 9.~~] Workplace Violence Policy. (1) Workplace violence shall be prohibited and shall include:

(a) The attempted, threatened, or actual conduct of a person who endangers or is likely to endanger the health and safety of state employees or the general public; or

(b) A threatening statement, harassment, or behavior that gives a state employee or member of the general public reasonable cause to believe that his or her health or safety is at risk.

(2) Examples of prohibited workplace violence shall include:

(a) Threats of harm;

(b) Brandishing or displaying a weapon or an object that looks like a weapon in a manner that would present a safety risk to a state employee or a member of the general public or threatens or intimidates them;

(c) Intimidating, threatening, or directing abusive language toward another person, either verbally, in writing or by gesture;

(d) Stalking;

(e) Striking, slapping, or otherwise physically attacking another person; or

(f) Disobeying or failing to follow the reasonable directive of a

supervisor to take action or cease actions that create a risk to the health or safety of a state employee or the public or threatens or intimidates them.

(3) Violation of this section shall constitute grounds for disciplinary action and referral for criminal prosecution.

Section 8.[~~Section 10.~~] Issuance of Pay to State Employees. (1) Pay shall be issued to state employees on the 15th and 30th day of each month.

(2) If the regularly scheduled pay date falls on a weekend, state employees shall be issued pay on the preceding Friday.

(3) If the regularly scheduled pay date falls on a state holiday, as defined in KRS 18A.190, pay shall be issued on the workday preceding the holiday.

Section 9.[~~Section 11.~~] Incorporation by Reference. (1) "Personnel Action Notification", PAN, August 2011, is incorporated by reference.

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

GERINA D. WHETHERS, Secretary

APPROVED BY AGENCY: April 11, 2022

FILED WITH LRC: April 15, 2022 at 9:25 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 21, 2022 at 10:00 a.m. at 501 High Street, 3rd floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until 11:59 p.m. on June 30, 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: Rosemary Holbrook, Assistant General Counsel, Office of Legal Services, 501 High Street, 3rd floor, Frankfort, Kentucky 40601, phone (502) 564-7430, fax (502) 564-0224, email RosemaryG.Holbrook@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Rosemary Holbrook

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets forth the requirements governing employee records, the maintenance and handling of these records, and other conditions of employment.

(b) The necessity of this administrative regulation: This administrative regulation is necessary for the oversight and maintenance of the state employment system pursuant to KRS Chapter 18A.

(c) How this administrative regulation conforms to the content of the authorizing statutes: Pursuant to 18A.030(2), the Personnel Cabinet Secretary is required to promulgate comprehensive regulations consistent with the provisions for KRS Chapter 18A. KRS 18A.110 provides that the secretary shall promulgate comprehensive administrative regulations for the classified and unclassified service.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation is necessary to satisfy the statutory requirement of establishing for the state a system of personnel administration based on merit principles. This regulation sets forth general terms and conditions of employment, to assist in the consistent application and treatment of KRS Chapter 18 employees.

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

(a) How the amendment will change this existing administrative regulation: This amendment removes provisions for the Kentucky Employees Charitable Campaign.

(b) The necessity of the amendment to this administrative regulation: Provisions for the Kentucky Employees Charitable Campaign are being promulgated in a new, stand-alone regulation. This amendment is necessary to accommodate that change.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment is consistent with the authority provided in KRS 18A.030 and 18A.110.

(d) How the amendment will assist in the effective administration of the statutes: This amendment removes Kentucky Employees Charitable Campaign provisions to prevent conflict with a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All KRS Chapter 18A employees are affected.

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

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

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no additional costs anticipated to any entity identified above.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): No additional benefits will accrue.

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

(a) Initially: This regulation, as amended, is not anticipated to generate any new or additional costs.

(b) On a continuing basis: This regulation, as amended, 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: This regulation, as amended, is not anticipated to generate any new or additional costs.

(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 regulation, as amended, is not anticipated to generate any new or additional fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation, as amended, is not anticipated to generate any new or additional fees.

(9) TIERING: Is tiering applied? No. This regulation, as amended, treats all impacted entities 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? All state agencies with employees covered under KRS Chapter 18A.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 18A.030(2) and 18A.110.

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

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

revenue will be generated.

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

(c) How much will it cost to administer this program for the first year? There are no estimated additional costs to administer the amendments to this regulation.

(d) How much will it cost to administer this program for subsequent years? There are no estimated additional costs to administer the amendments to 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:

PERSONNEL CABINET
(Amendment)

101 KAR 2:102. Classified leave general requirements.

RELATES TO: KRS 18A.020, 18A.030, 18A.095, 18A.110, 18A.140, 18A.145, 18A.195, 18A.990, 61.373, 61.394, 118.035, 344.030, 29 C.F.R. 825, 29 U.S.C. 8, 29 U.S.C. 201 – 219, 2601 – 2654

STATUTORY AUTHORITY: KRS 18A.030(2)(b), 18A.110, 29 U.S.C. 201 – 219, 2601 – 2654

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.030(2)(b) requires the Secretary of Personnel to promulgate administrative regulations, consistent with KRS Chapter 18A and federal standards, for the administration of a personnel system. KRS 18A.110(7)(g) requires the secretary, with the approval of the Governor, to promulgate administrative regulations that govern annual leave, sick leave, special leaves of absence, and other conditions of leave. This administrative regulation establishes the leave requirements for classified employees.

Section 1. Annual Leave. (1) Accrual of annual leave.

(a) Each full-time employee shall accumulate annual leave at the following rate:

Months of Service	Annual Leave Days
0-59 months	1 leave day per month; 12 per year
60-119 months	1 1/4 leave days per month; 15 per year
120-179 months	1 1/2 leave days per month; 18 per year
180-239 months	1 3/4 days per month; 21 per year
240 months& over	2 leave days per month; 24per year

(b) A full-time employee shall have worked, or been on paid leave, other than educational leave with pay, for 100 or more regular hours per month to accrue annual leave. This does not include hours worked in excess of the prescribed hours of duty.

(c) Accrued leave shall be credited on the first day of the month following the month in which the annual leave is earned.

(d) In computing months of total service for the purpose of earning annual leave, only the months for which an employee earned annual leave shall be counted.

(e) A former employee who has been rehired shall receive credit for months of prior service, unless the employee had been dismissed for cause or has retired from a position covered by a state retirement system.

(f) A part-time employee shall not be entitled to accrue annual leave.

(2) Use and retention of annual leave.

(a) Annual leave shall be used in increments of one-quarter (1/4) hours.

(b) Except as provided in paragraph (c) of this subsection, an employee who makes a timely request for annual leave shall be granted annual leave by the appointing authority, during the calendar year, up to at least the amount of time earned that year, if the operating requirements of the agency permit.

(c) An appointing authority may require an employee who has a balance of at least 100 hours of compensatory leave to use compensatory leave before the employee's request to use annual leave is granted, unless the employee's annual leave balance exceeds the maximum number of hours that may be carried forward pursuant to this administrative regulation.

(d) Absence due to sickness, injury, or disability in excess of the amount available for those purposes shall, at the request of the employee, be charged against annual leave.

(e) An employee shall be able to use annual leave for an absence on a regularly scheduled workday.

(f) An employee who is transferred or otherwise moved from the jurisdiction of one (1) agency to another shall retain accumulated annual leave in the receiving agency.

(g) An employee who is eligible for state contributions for life insurance pursuant to KRS Chapter 18A shall have worked or been on paid leave, other than holiday or educational leave, during any part of the previous month.

(h) An employee who is eligible for state contributions for health benefits pursuant to KRS Chapter 18A shall have worked or been on paid leave, other than holiday or educational leave, during any part of the previous pay period.

(i) Annual leave may be carried from one (1) calendar year to the next. If annual leave is carried from one (1) calendar year to the next, the leave shall be calculated as established in the following table:

Months of Service	Maximum Amount	37.5 Hour Week Equivalent	40 Hour Week Equivalent
0-59	30 work-days	225 hours	240 hours
60-119 months	37 work-days	277.50 hours	296 hours
120- 179 months	45 work-days	337.50 hours	360 hours
180- 239 months	52 work-days	390 hours	416 hours
240 months and over	60 work-days	450 hours	480 hours

(j) Leave in excess of the maximum amounts specified in paragraph (i) of this subsection shall be converted to sick leave at the end of the calendar year or upon retirement.

(k) The amount of annual leave that may be carried forward and the amount of annual leave that may be converted to sick leave shall be determined by computing months of service as provided by subsection (1)(d) of this section.

(3) Annual leave on separation.

(a)1. If an employee is separated by proper resignation or retirement, <u>or terminated from initial probation other than for cause,</u> the employee shall be paid in a lump sum for accumulated annual leave.

2. The accumulated annual leave for which the employee is paid shall not exceed the amounts established by subsection (2)(i) of this section.

3. Following payment of annual leave at resignation, any remaining annual leave after the payment of the maximum shall:

a. Not be paid to the employee or converted to sick leave; and

b. Be removed from the balance.

(b) If an employee is laid off, the employee shall be paid in a lump sum for all accumulated annual leave.

(c) An employee in the unclassified service who reverts to the classified service, or an employee who resigns one (1) day and is employed the next workday, shall retain the accumulated leave in the receiving agency.

(d) An employee who has been dismissed for cause shall not be paid for accumulated annual leave.

(e) An appointing authority may withhold payment of accumulated annual leave for an employee who has failed to give proper notice of resignation or retirement as described in 101 KAR 2:095 Section 6, or who has submitted notice of resignation or retirement after receiving an intent to dismiss letter. <u>Annual leave withheld pursuant to this paragraph shall result in a determination that the employee resigned not in good standing.</u>

(f) Upon the death of an employee, the employee's estate shall

be entitled to receive pay for the unused portion of the employee's accumulated annual leave.

(g) An employee may request in writing that accumulated annual leave not be paid upon resignation, and that all or part of the amount of accumulated annual leave that does not exceed the amount established by this section be waived, if:

1. The employee resigns, or is laid off, because of an approved plan of privatization of the services performed; and

2. The successor employer has agreed to credit the employee with an equal amount of annual leave.

Section 2. Sick Leave. (1) Accrual of sick leave.

(a) An employee, except a part-time employee, shall accumulate sick leave with pay at the rate of one (1) working day per month.

(b) An employee shall have worked or been on paid leave, other than educational leave, for 100 or more regular hours in a month to accrue sick leave. This does not include hours worked in excess of the prescribed hours of duty.

(c) An employee shall be credited with additional sick leave upon the first day of the month following the month in which the sick leave is earned.

(d) A full-time employee who completes 120 months of total service with the state shall be credited with ten (10) additional days of sick leave upon the first day of the month following the completion of 120 months of service.

(e) A full-time employee who completes 240 months of total service with the state shall be credited with another ten (10) additional days of sick leave upon the first day of the month following the completion of 240 months of service.

(f) In computing months of total service for the purpose of crediting sick leave, only the months for which an employee earned sick leave shall be counted.

(g) A former employee who has been rehired shall receive credit for months of prior service, and shall be credited with the unused sick leave balance that existed at the time of the previous separation, unless the employee had been dismissed for cause or has retired from a position covered by a state retirement system.

(h) The total service shall be verified by the Personnel Cabinet before the leave is credited to the employee's record.

(i) Sick leave may be accumulated with no maximum.

(2) Use and retention of sick leave.

(a) An appointing authority shall grant or may require the use of sick leave with or without pay if an employee:

1. Is unable to work due to medical, dental, or optical examination or treatment;

2. Is disabled by illness or injury. If requested by the appointing authority, the employee shall provide a statement from an appropriate medical health professional certifying the employee's inability to perform the employee's duties for the days or hours sick leave is requested. Before an employee is permitted to return to work, if requested by the appointing authority, the employee shall obtain and present a fitness-for-duty certification from an appropriate medical health care professional indicating the employee is able to resume work;

3. Is required to care for or transport a member of the employee's immediate family in need of medical attention for a reasonable period of time. If requested by the appointing authority, the employee shall provide a statement from an appropriate medical health professional certifying the employee's need to care for a family member;

4. Would jeopardize the health of the employee or others at the employee's work station because of a contagious disease or communicable condition. Before an employee is permitted to return to work, if requested by the appointing authority, the employee shall obtain and present a fitness-for-duty certification from an appropriate medical health care professional indicating the employee is able to resume work; or

5. Demonstrates behavior that might endanger the employee or others. Before an employee is permitted to return to work, if requested by the appointing authority, the employee shall obtain and present a fitness-for-duty certification from an appropriate medical health care professional indicating the employee is able to resume work.

(b) At the termination of sick leave with pay, the appointing authority shall return the employee to the employee's former position.

(c) An employee eligible for state contributions for life insurance pursuant to the provisions of KRS Chapter 18A shall have worked or been on paid leave, other than holiday or education leave, during any part of the previous month.

(d) An employee who is eligible for state contributions for health benefits pursuant to the provisions of KRS Chapter 18A shall have worked or been on paid leave, other than holiday or educational leave, during any part of the previous pay period.

(e) Sick leave shall be used in increments of one-quarter (1/4) hours.

(f) An employee who is transferred or otherwise moved from the jurisdiction of one (1) agency to another shall retain accumulated sick leave in the receiving agency.

(g) An employee shall be credited for accumulated sick leave if separated by proper resignation, layoff, or retirement.

(3) Sick leave without pay.

(a) An appointing authority shall grant sick leave without pay, without a change in the employee's personnel status, for the duration of an employee's impairment by injury or illness, if:

1. The leave does not exceed thirty (30) continuous calendar days; and

2. The employee has used or been paid for all accumulated annual, sick, and compensatory leave unless the employee has requested to retain up to ten (10) days of accumulated sick leave.

(b) Within an employee's first twelve (12) months of employment after initial appointment, an appointing authority shall grant sick leave without pay to an employee who does not qualify for family and medical leave due to lack of service time and who has exhausted all accumulated paid leave if the employee is required to care for a member of the immediate family, or for the duration of the employee's impairment by illness or injury, for a period not to exceed thirty (30) working days in a calendar year.

(4) Sick leave by personnel action.

(a) If the duration of an employee's impairment by illness or injury exceeds the sick leave without pay allotment of thirty (30) continuous calendar days, including holidays, the appointing authority shall place the employee on sick leave without pay by personnel action.

(b) The appointing authority shall notify the employee in writing that the employee is being placed on sick leave by personnel action.

(c) Sick leave by personnel action shall not exceed one (1) year.

(d) If requested by the appointing authority, the employee shall provide statements during
the year from an appropriate medical health professional attesting to the employee's continued inability to perform the essential functions of the employee's duties with or without reasonable accommodation.

(e) If an employee has given notice of the employee's ability to resume duties following sick leave by personnel action, the appointing authority shall return the employee to the original position or to a position for which the employee is qualified and which resembles the former position as closely as circumstances permit. The appointing authority shall notify the employee in writing of the following:

1. The effective date of the employee's return;

2. The position to which the employee is being returned;

3. The employee's salary upon return to work; and

4. The employee's new annual increment date, if applicable.

(f) If reasonable accommodation is requested, the employee shall:

1. Inform the employer; and

2. Upon request, provide supportive documentation from a certified professional.

(g) An employee shall be deemed resigned if the employee:

1. Has been on one (1) year continuous sick leave by personnel action;

2. Has been requested by the appointing authority in writing to

return to work at least ten (10) days prior to the expiration of leave;

3. Is unable to return to the employee's former position or to a position for which the employee is qualified and which resembles the former position as closely as circumstances permit;

4. Has been given priority consideration by the appointing authority for a vacant, budgeted position with the same agency, for which the employee is qualified and is capable of performing its essential functions with or without reasonable accommodation; and

5. Has not been placed by the appointing authority in a vacant position.

(h) Sick leave granted pursuant to this subsection shall not be renewable after the employee has been medically certified as able to return to work.

(i) An employee with status who is deemed resigned pursuant to paragraph (g) of this subsection shall retain reinstatement privileges that were accrued during service in the classified service.

(5) Application for sick leave and supporting documentation.

(a) An employee shall file a written application for sick leave with or without pay within a reasonable time.

(b) Except for an emergency illness, an employee shall request advance approval for sick leave for medical, dental, or optical examinations, and for sick leave without pay.

(c) If the employee is too ill to work, the employee shall notify the immediate supervisor or other designated person. Failure, without good cause, to do so in a reasonable period of time shall be cause for denial of sick leave for the period of absence.

(d) An appointing authority may, for good cause and on notice, require an employee to supply supporting evidence in order to receive sick leave.

(e) A medical certificate may be required, signed by a licensed practitioner and certifying to the employee's incapacity, examination, or treatment.

(f) An appointing authority shall grant sick leave if the application is supported by acceptable evidence but may require confirmation if there is reasonable cause to question the authenticity of the certificate or its contents.

Section 3. Family and Medical Leave. (1) An appointing authority shall comply with the requirements of the Family and Medical Leave Act (FMLA) of 1993, 29 U.S.C. 2601 – 2654, and the federal regulations implementing the Act, 29 C.F.R. Part 825.

(2) An employee in state service shall qualify for twelve (12) weeks of unpaid family leave if the employee has:

(a) Completed twelve (12) months of service; and

(b) Worked or been on paid leave at least 1,250 hours in the twelve (12) months immediately preceding the first day of family and medical leave.

(3) Family and medical leave shall be awarded on a calendar year basis.

(4) An employee shall be entitled to a maximum of twelve (12) weeks of unpaid family and medical leave for the birth, placement, or adoption of the employee's child.

(5) While an employee is on unpaid family and medical leave, the state contribution for health and life insurance shall be maintained by the employer.

(6) An employee shall use accrued paid leave concurrently with FMLA leave, except an employee may reserve up to ten (10) days of accumulated sick leave while on FMLA leave. If an employee reserves accumulated sick leave, the remaining FMLA leave will be unpaid. The employee shall satisfy any procedural requirements of this administrative regulation for use of accrued paid leave only in connection with the receipt of such payment.

Section 4. Court Leave. (1) With prior notification to their supervisor, an employee shall be entitled to court leave during the employee's scheduled working hours without loss of time or pay for the amount of time necessary to:

(a) Comply with a subpoena by a court, administrative agency, or body of the federal or state government or any political subdivision thereof; or

(b) Serve as a juror.

(2) Court leave shall include necessary travel time.

(3) If relieved from duty as a juror or released from subpoena during the employee's normal working hours, the employee shall return to work or use annual or compensatory leave.

(4) An employee shall not be required to report as court leave attendance at a proceeding that is part of the employee's assigned duties.

(5) An employee shall not be eligible for court leave to comply with a subpoena if the employee or a member of the employee's family is a party to the proceeding.

Section 5. Compensatory Leave and Overtime. (1) Accrual of compensatory leave and overtime.

(a) An appointing authority shall comply with the overtime and compensatory leave provisions of the Fair Labor Standards Act (FLSA), 29 U.S.C. Chapter 8.

(b) An employee who is directed to work, or who requests and is authorized to work, in excess of the prescribed hours of duty shall be granted compensatory leave and paid overtime subject to the provisions of the Fair Labor Standards Act, 29 U.S.C. Chapter 8, the Kentucky Revised Statutes, and this administrative regulation.

(c) An employee deemed to be "nonexempt" by the provisions of the FLSA shall be compensated for hours worked in excess of forty (40) per week as provided by subparagraphs 1 through 3 of this paragraph.

1. An employee who has not accumulated the maximum amount of compensatory leave shall have the option to accumulate compensatory leave at the rate of an hour and one-half (1 1/2) for each hour worked in excess of forty (40) per week in lieu of paid overtime.

2. An employee's[~~The~~] election to receive compensatory leave in lieu of paid overtime shall be in writing on the Overtime Compensation Form and shall remain in force for a minimum of three (3) months. The employee's election shall be changed by the submission of a new form. The effective date of a change shall be the first day of the next work week following receipt of the election. The employing agency shall not mandate an employee's election of compensatory leave or paid overtime.

3. An employee who does not elect compensatory leave in lieu of paid overtime shall be paid one and one-half (1 1/2) times the regular hourly rate of pay for all hours worked in excess of forty (40) hours per week.

(d) An employee deemed to be "exempt" pursuant to the provisions of the FLSA shall accumulate compensatory time on an hour-for-hour basis for hours worked in excess of the regular work schedule.

(e) Compensatory leave shall be accumulated or used in increments of one-quarter (1/4) hours.

(f) The maximum amount of compensatory leave that may be carried forward from one (1) pay period to another shall be:

1. 239.99 hours by an employee in a nonpolicy-making position; or

2. 240 hours by an employee in a policy-making position.

(g) An employee who is transferred or otherwise moved from the jurisdiction of one (1) agency to another shall retain the compensatory leave in the receiving agency.

(2) Reductions in compensatory leave balances.

(a) An appointing authority may require an employee who has accrued at least 100 hours compensatory leave to use compensatory leave before annual leave and shall otherwise allow the use of compensatory leave if it will not unduly disrupt the operations of the agency.

(b) An appointing authority may require an employee who has accrued 200 hours of compensatory leave to take off work using compensatory leave in an amount sufficient to reduce the compensatory leave balance below 200 hours.

(c) An employee who is not in a policy-making position may, after accumulating 151 hours of compensatory leave, request payment for fifty (50) hours at the regular rate of pay. If the appointing authority or the designee approves the payment, an employee's leave balance shall be reduced accordingly.

(d) An employee who is not in a policy-making position shall be paid for fifty (50) hours at the regular hourly rate of pay upon

accumulation of 240 hours of compensatory leave at the end of a pay period. In the event a work week is split between pay periods, then the 240 hours of compensatory leave required for payment must be accrued at the end of the pay period following the split pay period week. The employee's leave balance shall be reduced accordingly.

(e) If an employee's prescribed hours of duty are normally less than forty (40) hours per week, the employee shall receive compensatory leave for the number of hours worked that:

1. Exceed the number of normally prescribed hours of duty; and

2. Do not exceed the maximum amount of compensatory time that is permitted.

(f) Only hours actually worked shall be used for computing paid overtime or time and one-half (1 1/2) compensatory time.

(g) Upon separation from state service, an employee shall be paid for all unused compensatory leave at the greater of the employee's:

1. Regular hourly rate of pay; or

2. Average regular rate of pay for the final three (3) years of employment.

Section 6. Military Leave. (1) Upon request, an employee who is an active member of the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Public Health Service Reserve, or the National Guard shall be relieved from the civil duties, to serve under order or training duty without loss of the regular compensation for a period not to exceed the number of working days specified in KRS 61.394 for a federal fiscal year.

(2) The absence shall not be charged to leave.

(3) Absence that exceeds the number of working days specified in KRS 61.394 for a federal fiscal year shall be charged to annual leave, compensatory leave, or leave without pay.

(4) If requested by the appointing authority, the employee shall provide a copy of the orders requiring the attendance of the employee before military leave is granted.

(5) An appointing authority shall grant an employee entering military duty a leave of absence without pay for the period of duty in accordance with KRS 61.373. Upon receiving military duty leave of absence, all accumulated annual and compensatory leave shall be paid in a lump sum, if requested by the employee.

Section 7. Voting and Election Leave. (1) An employee who is eligible and registered to vote shall be allowed, upon prior request and approval, leave up to four (4) hours for the purpose of voting or to appear before the county clerk to request an application for or to execute an absentee ballot. A supervisor, manager, or appointing authority may specify the hours an employee may be absent.

(2) An employee casting an absentee ballot shall record the leave on the day the employee's vote is cast by mail or in-person submission. An employee shall be regularly scheduled to work on the day the vote is cast in order to receive the leave.

(3) An election officer shall receive additional leave if the total leave for election day does not exceed a regular workday.

(4) The absence shall not be charged against leave.

(5) An employee who is permitted or required to work during the employee's regular work hours, in lieu of voting leave, shall be granted compensatory leave on an hour-for-hour basis for the hours during the times the polls are open, up to a maximum of four (4) hours.

Section 8. Funeral and Bereavement Leave. (1) Upon the approval of the appointing authority, an employee who has lost an immediate family member by death may utilize five (5) days of accrued sick leave, compensatory leave, annual leave, or leave without pay if the employee does not have accrued leave, or a combination thereof.

(2) An appointing authority may approve the use of additional sick leave, compensatory leave, annual leave, or leave without pay if the employee does not have accrued leave, or a combination thereof, at the request of the employee following the loss of an immediate family member.

(3) For purposes of funeral and bereavement leave, an immediate family member shall include the employee's spouse, parent, grandparent, child, brother, or sister, or the spouse of any of them, and may include other relatives of close association if approved by the appointing authority.

Section 9. Special Leave of Absence. (1) If approved by the secretary, an appointing authority may grant a leave of absence for continuing education or training.

(a) Leave may be granted for a period not to exceed twenty-four (24) months.

(b) If granted, leave shall be granted either with pay (if the employee contractually agrees to a service commitment) or without pay.

(c) Leave shall be restricted to attendance at a college, university, vocational, or business school for training in subjects that relate to the employee's work and will benefit the state.

(2) An appointing authority, with approval of the secretary, may grant an employee a leave of absence without pay for a period not to exceed one (1) year for purposes other than specified in this administrative regulation that are of tangible benefit to the state.

(3) If approved by the secretary, an appointing authority may place an employee on special leave with pay for investigative purposes pending an investigation of a work-related incident, or an allegation of employee misconduct, lack of good behavior, or unsatisfactory performance of duties.

(a) Leave shall not exceed sixty (60) working days.

(b) The employee shall be notified in writing by the appointing authority that the employee is being placed on special leave for investigative purposes, and the reasons for being placed on leave.

(c) If the investigation reveals no misconduct by the employee, records relating to the investigation shall be purged from agency and Personnel Cabinet files maintained in accordance with KRS 18A.020(2)(a).

(d) The appointing authority shall notify a current employee, in writing, of the completion of the investigation and the action taken.

(4) An appointing authority may place an employee on administrative leave with pay upon the employee's receipt of an intent to dismiss letter as authorized by KRS 18A.095(2)(c).

(5) Discretionary leave with pay.

(a) An appointing authority may grant, or the secretary may direct, discretionary leave with pay to an employee for a period not to exceed ten (10) working days in a calendar year when it is considered necessary for the welfare of the employee.

(b) Reasons for discretionary leave with pay are limited to work-related events.

(c) An appointing authority, with approval of the secretary, may renew discretionary leave with pay, not to exceed an additional twenty (20) working days.

(d) Leave granted pursuant to this subsection may be taken intermittently if authorized by the appointing authority.

Section 10. Absence Without Leave. (1) An employee who is absent from duty without prior approval shall report the reason for the absence to the supervisor immediately.

(2) Unauthorized or unreported absence shall:

(a) Be considered absence without leave;

(b) Be treated as leave without pay for an employee covered by the provisions of the Fair Labor Standards Act, 29 U.S.C. Chapter 8; and

(c) Constitute grounds for disciplinary action.

(3) An employee who has been absent without leave or notice to the supervisor for a period of five (5) working days shall be deemed resigned.

Section 11. Absences Due to Adverse Weather. (1) An employee, who is not designated for mandatory operations and chooses not to report to work or chooses to leave early if there are adverse weather conditions, such as tornado, flood, blizzard, or ice storm, shall have the time of the absence reported as:

(a) Charged to annual or compensatory leave;

(b) Taken as leave without pay, if annual and compensatory

leave has been exhausted; or

(c) Deferred in accordance with subsections (4) [~~(3)~~] and (5) [~~(4)~~] of this section.

(2) An employee who is on prearranged annual, compensatory, or sick leave shall charge leave as originally requested.

(3) An employee who is approved to telecommute shall not be eligible for adverse weather leave unless his or her telecommuting equipment is not operational or cannot be accessed during scheduled telecommuting hours due to adverse weather conditions.

(4) If operational needs allow, except for an employee in mandatory operations, management shall make every reasonable effort to arrange schedules whereby an employee shall be given an opportunity to make up time not worked rather than charging it to leave.

(5)[~~(4)~~] An employee shall not make up work if the work would result in the employee working more than forty (40) hours in a workweek.

(a) Time lost shall be made up within 123 calendar days[~~four (4) months~~] of the occurrence of the absence. If it is not made up within 123 calendar days[~~four (4) months~~], leave shall be deducted from compensatory leave, followed by annual leave, and if no compensatory or annual leave is available, time lost shall be charged to leave without pay and deducted from an employee's wages.

(b) If an employee transfers or separates from employment before the leave is made up, the leave shall be charged to annual or compensatory leave or deducted from the final paycheck.

(6)[~~(5)~~] If catastrophic, life-threatening weather conditions occur, as created by a tornado, flood, ice storm, or blizzard, and it becomes necessary for authorities to order evacuation or shut-down of the place of employment, the provisions established in paragraphs (a) and (b) of this subsection shall apply.

(a) An employee who is required to evacuate or who would report to a location that has been shutdown shall not be required to make up the time that is lost from work during the period officially declared hazardous to life and safety.

(b) An employee who is required to work in an emergency situation shall be compensated pursuant to the provisions of Section 5 of this administrative regulation and the Fair Labor Standards Act, 29 U.S.C. Chapter 8.

Section 12. Blood Donation Leave. (1) An employee who, during scheduled work[~~regular working~~] hours, donates whole blood at a licensed blood center certified by the Food and Drug Administration shall receive four (4) hours leave time, with pay, for the purpose of donating and recuperating from the donation.

(2) Leave granted pursuant to this section shall be used when the blood is donated unless circumstances as specified by the supervisor required the employee to return to work. If the employee returns to work, the unused portion of the leave time shall be credited as compensatory leave.

(3) An employee shall request leave in advance to qualify for blood donation leave.

(4) An employee who is deferred from donating blood shall not:

(a) Be charged leave time for the time spent in the attempted donation; and

(b) Qualify for the remainder of the blood donation leave.

(5) A donation initiated or attempted during an employee's lunch period is outside of scheduled work hours and shall not qualify for any amount of blood donation leave.

Section 13. Incorporation by Reference. (1) "Overtime Compensation Form", May 2013, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Personnel Cabinet, 501 High Street, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. The material incorporated by reference is also available on the Personnel Cabinet's Web site on the Documents in Demand page at: https://personnel.ky.gov/.

GERINA D. WHETHERS, Secretary
ANDY BESHEAR, Governor

APPROVED BY AGENCY: April 14, 2022

FILED WITH LRC: April 15, 2022 at 9:25 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 21, 2022 at 10:00 a.m. at 501 High Street, 3rd floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until 11:59 p.m. on June 30, 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: Rosemary Holbrook, Assistant General Counsel, Office of Legal Services, 501 High Street, 3rd floor, Frankfort, Kentucky 40601, phone (502) 564-7430, fax (502) 564-0224, email RosemaryG.Holbrook@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Rosemary Holbrook

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation details the various types of leave available to KRS Chapter 18A classified employees.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the various types of leave available to KRS Chapter 18A classified employees, and the requirements for these types of leave.

(c) How this administrative regulation conforms to the content of the authorizing statutes: Pursuant to 18A.030(2), the Personnel Cabinet Secretary is required to promulgate comprehensive regulations consistent with the provisions for KRS Chapter 18A. KRS 18A.110(7)(g) requires the Secretary of Personnel, with the approval of the Governor, to promulgate administrative regulations which govern annual leave, sick leave, special leaves of absence, and other conditions of leave.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation assists in the consistent application and treatment for classified employees on all employment leave matters.

(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: In the annual leave section, a provision is added to clarify circumstances for payout of annual leave upon termination from initial probation. A provision is also added to clarify character of service upon resignation. The court leave section is amended to address the responsibility of an employee to provide prior notice to qualify for paid leave eligibility. The compensatory leave section is amended to clarify that a non-exempt employee's election of compensatory leave or overtime pay is solely the choice of the employee. The voting leave section is amended to clarify when to record leave for absentee voting. In the special leave section, the subsection for investigative leave is amended to allow for the appointing authority to temporarily remove an employee from the workplace while an investigation of alleged lack of good behavior or unsatisfactory performance of duties is being conducted. A new subsection is added for discretionary leave with pay to address instances where an employee is exposed to a situation that requires leave from work for the employee's welfare, such as a social worker who experiences a threat of physical harm in the course of employment. The adverse weather leave section is amended to clarify eligibility and the length of time to make up work. The blood donation leave section is amended to clarify eligibility for leave.

(b) The necessity of the amendment to this administrative

regulation: This amendment is necessary to ensure the continued consistent application and handling of the multiple types of leave for KRS Chapter 18A classified service.

(c) How the amendment conforms to the content of the authorizing statutes: Pursuant to 18A.030(2), the Personnel Cabinet Secretary is required to promulgate comprehensive regulations consistent with the provisions for KRS Chapter 18A. KRS 18A.110(7)(g) requires the Secretary of Personnel, with the approval of the Governor, to promulgate administrative regulations which govern annual leave, sick leave, special leaves of absence, and other conditions of leave.

(d) How the amendment will assist in the effective administration of the statutes: This amendment updates provisions to assist with the continued consistent application and handling of paid and unpaid leave for KRS Chapter 18A classified service.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All KRS Chapter 18A classified employees and their agencies are affected.

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

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

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Affected agencies will be responsible for payment of discretionary leave. The specific cost cannot be determined, except that discretionary leave with pay will not exceed 30 working days for each impacted employee, per event. There are no additional costs anticipated to any entity for the other provisions of this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): No additional benefits will accrue, though a subset of employees may receive discretionary leave with pay related to specific events.

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

(a) Initially: This regulation, as amended, is not anticipated to generate any new or additional costs.

(b) On a continuing basis: This regulation, as amended, 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: This regulation, as amended, is not anticipated to generate any new or additional costs.

(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 regulation, as amended, is not anticipated to generate any new or additional fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation, as amended, is not anticipated to generate any new or additional fees.

(9) TIERING: Is tiering applied? No. This regulation, as amended, treats all impacted entities 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? All state agencies with employees covered under KRS Chapter 18A.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 18A.030(2)(b), 18A.110, 29 U.S.C. 201 – 219, 2601 – 2654

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

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

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

(c) How much will it cost to administer this program for the first year? Affected agencies will be responsible for payment of discretionary leave. The specific cost cannot be determined, except that discretionary leave with pay will not exceed 30 working days for each impacted employee, per event. There are no additional costs anticipated to any entity for the other provisions of this amendment.

(d) How much will it cost to administer this program for subsequent years? Affected agencies will be responsible for payment of discretionary leave. The specific cost cannot be determined, except that discretionary leave with pay will not exceed 30 working days for each impacted employee, per event. There are no additional costs anticipated to any entity for the other provisions of this amendment.

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

Revenues (+/-): N/A

Expenditures (+/-): Unknown

Other Explanation: Specific dollar estimates cannot be determined. The cost of discretionary leave with pay will depend on the number of employees approved for leave, their salaries, and the number of working days for each incident.

PERSONNEL CABINET
(Amendment)

101 KAR 2:190. Employee performance management system.

RELATES TO: KRS 18A.005, 18A.110

STATUTORY AUTHORITY: KRS 18A.110(1)(i), (2), (7)(j)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.110(1)(i) and (7)(j) require the Secretary of the Personnel Cabinet to promulgate comprehensive administrative regulations for classified service employees to establish a uniform system of annual employee evaluations for classified employees. KRS 18A.110(2) requires the secretary to promulgate comprehensive administrative regulations for the unclassified service. This administrative regulation establishes the uniform employee performance evaluation system for performance years beginning in 2020.

Section 1. General Provisions. (1) The provisions of this administrative regulation shall be effective beginning with 2020 performance year activities.

(2) The annual performance period shall be one (1) calendar year beginning on January 1.

(3) Annual[~~Except as provided in subsection (5)(d) of this section,~~] performance evaluations shall be completed no later than January 31 after the end of the annual performance period.

(4) All agencies shall use the Annual [~~Employee~~]Performance Evaluation process[~~procedure~~] established by the secretary.

(5)(a) Except as provided in paragraph (b) or (c) of this subsection, the first line supervisor of an employee when the evaluation is due shall be the evaluator unless otherwise directed by the appointing authority and approved by the Personnel Cabinet.

(b) If the first line supervisor has not supervised the employee for at least sixty (60) calendar days during the performance year, the next line supervisor who meets the sixty (60) day requirement shall be the evaluator for the final evaluation.

(c) If an employee changes jobs or reports to a different

supervisor on or before November 1 of the performance year, the agency shall transfer all performance evaluation documentation for the performance year to the new evaluator for incorporation in the year-end interim review and final[~~annual~~] evaluation.

(d) If an employee changes jobs or reports to a different supervisor after November 1 of the performance year, the year-end interim review and final[~~annual~~] evaluation shall be completed by the former supervisor[~~ prior to the job change~~].

(6)(a) Except as provided in paragraph (b) of this subsection, the evaluator shall establish an annual[~~a~~] performance plan for each eligible employee no later than January 31 after the start of the annual performance period.

(b) If an employee's position or job title changes during the performance year, the evaluator shall establish a new performance plan no later than thirty (30) calendar days after the start of the position or job title change unless otherwise directed by the appointing authority and approved by the Personnel Cabinet, or directed by the Personnel Cabinet. The new performance plan shall become a part of the original annual performance [~~year~~]evaluation documentation.

(7) The evaluator shall meet with the employee when completing the performance plan to discuss job duties and expectations.

(8) The evaluator shall present and explain all documentation relevant to an employee's annual performance evaluation.

(9) The Personnel Cabinet or approved agency personnel shall provide supervisor evaluation training on the annual performance evaluation process[~~system~~].

(a) The appointing authority shall require that supervisor evaluation training is completed prior to completing performance planning, interim reviews, and final[~~annual~~] evaluations of employees.

(b) The Personnel Cabinet and participating agencies shall monitor compliance with supervisor evaluation training requirements.

(10) An employee shall complete orientation to the performance evaluation process[~~system~~] prior to January 1 of the employee's initial performance evaluation period.

Section 2. Employee Eligibility. Annual performance evaluations shall be completed for all full-time classified employees with status at the beginning of the performance year who have remained in continuous merit status throughout the performance year.

Section 3. Performance Planning. (1) The annual performance plan shall specify job competencies, goals, and expectations for the employee in categories established by the secretary.

(2) The employee's job duties and goals shall be consistent with the position description.

(3) The evaluator shall develop the annual performance plan in[~~after~~] consultation with the employee.

(a) The employee and evaluator shall certify that the employee has met with the evaluator and is aware of the annual performance plan.

(b) The next line supervisor shall certify that he or she has reviewed the competencies and goals.

Section 4. Performance Coaching and Feedback. (1) Modification of the performance plan may occur during the annual performance [~~evaluation~~]period if the changes are consistent with the duties reflected on an employee's position description. The evaluator shall meet with the employee to review changes to the performance plan[~~employee shall be given notice of changes to the performance plan~~].

(2) Interim reviews shall be required during a performance year as specified by the secretary.

(a) The evaluator shall document the interim reviews.

1. Interim reviews shall not contain a rating.

2. The interim reviews[~~section of the evaluation~~] shall contain comments by the evaluator for each competency and goal.

(b) The evaluator shall schedule interim reviews to discuss performance. The employee and evaluator shall certify that the interim reviews occurred.

(c) For consideration in the final[~~annual year~~] evaluation, the employee may submit pertinent comments relating to the interim review within five (5) working days of the interim review meeting. The appointing authority may extend the comment period if the employee is unable to submit pertinent comments within five (5) working days.

(d) The mid-year interim period is January 1 through June 30, and the year-end interim period is July 1 through December 31.

(e) The mid-year interim review shall be completed no later than July 31 after the end of the interim review period, and the year-end interim review shall be completed no later than January 31 after the end of the interim review period.

(f)[~~(e)~~] Interim reviews shall document performance to justify the annual performance evaluation rating.

Section 5. Final[~~Performance~~] Evaluations and Ratings. (1) [~~Except as provided in Section 1(5)(d) of this administrative regulation, ~~]The evaluator and the employee shall meet no later than January 31 after the performance period ends to discuss and explain the final[~~performance~~] evaluation.

(2) Eligible employees shall be evaluated on job competencies, goals, and expectations set forth in his or her performance plan.

(3) The final [~~performance~~]evaluation shall consist of a defined rating as established by the secretary.

(4) Unresolved disagreements on ratings or any aspect of the annual performance evaluation shall be reviewed through the reconsideration process established in Section 7 of this administrative regulation.

(5) Signatures of the evaluator, employee, and next line supervisor shall be required on the final evaluation. For the purpose of evaluating or managing the performance of the evaluator, the next line supervisor's signature shall certify that he or she is aware of the evaluation and has reviewed it.

Section 6. Performance Incentives. Annual leave shall be awarded as a performance incentive as specified in KRS 18A.110(7)(j).

Section 7. Reconsideration and Appeal Process. (1) Within five (5) working days of the final[~~annual performance~~] evaluation meeting, an employee may request reconsideration of the annual performance evaluation by the evaluator.

(2) If the employee refuses to sign the final evaluation, the evaluation shall not be eligible for reconsideration.

(3) Within five (5) working days of the receipt of the request for reconsideration, the initial reconsideration shall be conducted by the evaluator.

(4) The next line supervisor shall review the request for reconsideration within ten (10) working days of receipt of the request for reconsideration.

(5) The next line supervisor shall inform both the employee and evaluator of the decision.

(6) If either[~~neither~~] the evaluator or[~~nor~~] the next line supervisor does not respond to the request for reconsideration in the designated time period, the employee may submit a written request to their[~~the~~] appointing authority for response to the request for reconsideration and compliance with this section. The written request to the appointing authority shall be submitted within ten (10) working days after expiration of the time periods established in subsections (3) and (4) of this section.

(7) Within sixty (60) calendar days after an employee has received the reconsideration decision, the employee who has complied with this administrative regulation may appeal a final evaluation which has an overall rating in either of the two (2) lowest overall ratings to the Personnel Board.

Section 8. Evaluation-based Agency Action. If an employee receives an overall rating of unacceptable, the agency shall:

(1) Demote the employee to a position commensurate with the employee's skills and abilities; or

(2) Terminate the employee.

Section 9. Exceptions. (1) Except as requested in writing by the appointing authority and authorized by the secretary, all agencies shall comply with the provisions of this administrative regulation.

(2) If the secretary approves an exception, the exception decision shall be sent, in writing, to the appointing authority within ten (10) working days of receiving the request for exception.

(3) The written justification and the secretary's approval of the exception request shall be placed in the employee's agency personnel file.

Section 10. Applicability to the Unclassified Service. (1) Within an organizational unit, all unclassified employees in KRS Chapter 18A federally funded time-limited or grant funded time-limited positions may be subject to the provisions of this administrative regulation at the option of the appointing authority, except unclassified employees shall not be eligible for the performance incentive award specified in KRS 18A.110(7)(j).

(2) Evaluations performed pursuant to this section are final and shall not be appealable to the Personnel Board except as provided by KRS 18A.005(15).

Section 11. Applicability to Non-KRS Chapter 18A State Employees. (1) With approval of the Personnel Cabinet, and at the request of the appointing authority, non-KRS Chapter 18A state employees may be subject to the provisions of this administrative regulation.

(2) Evaluations performed pursuant to this section are final and shall not be appealable to the Kentucky Personnel Board except as provided by KRS 18A.095(14)(a).

GERINA D. WHETHERS, Secretary

APPROVED BY AGENCY: April 11, 2022

FILED WITH LRC: April 15, 2022 at 9:25 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 21, 2022 at 10:00 a.m. at 501 High Street, 3rd floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until 11:59 p.m. on June 30, 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: Rosemary Holbrook, Assistant General Counsel, Office of Legal Services, 501 High Street, 3rd floor, Frankfort, Kentucky 40601, phone (502) 564-7430, fax (502) 564-0224, email RosemaryG.Holbrook@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Rosemary Holbrook

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes the uniform employee performance management system.

(b) The necessity of this administrative regulation: This regulation is necessary to establish a uniform system of annual employee evaluations for classified employees and fulfills the secretary's statutory requirements to promulgate comprehensive regulations regarding the evaluation system.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 18A.030 requires the secretary to promulgate comprehensive administrative regulations consistent with the provisions of KRS Chapters 13A and 18A. Regulations which establish a uniform employee performance evaluation system are required pursuant to KRS 18A.110(1)(i) and (7)(j). KRS 18A.110(2) requires the secretary to promulgate comprehensive administrative regulations for the unclassified service.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes the uniform employee performance management system and explains how it is to be administered.

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

(a) How the amendment will change this existing administrative regulation: The amendments to this administrative regulation update and clarify procedures. Language is added to allow an employee's variance from standard procedures, with Personnel Cabinet approval, should facts arise to create such a need, especially due to various employee turnover-related scenarios or unknown variables. A requirement is added to require agencies to monitor supervisor training requirements, in addition to monitoring conducted by the Personnel Cabinet. Also, a new section is added to provide for participation in the electronic performance management system by non-KRS Chapter 18A agencies.

(b) The necessity of the amendment to this administrative regulation: This administrative regulation was originally promulgated effective September 6, 2019, to facilitate a change from a written to an electronic evaluation system for KRS Chapter 18A classified employees. The amendments are necessary to clarify procedures, to update regulatory requirements to ensure consistency with the recently implemented electronic evaluation system, to build in exceptions for various scenarios that sometimes result due to unknown variables or employee turnover, and to expand optional use of the evaluation system to non-KRS Chapter 18A agencies.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 18A.030 requires the secretary to promulgate comprehensive administrative regulations consistent with the provisions of KRS Chapters 13A and 18A. Regulations which establish a uniform employee performance evaluation system are required pursuant to KRS 18A.110(1)(i) and (7)(j). KRS 18A.110(2) requires the secretary to promulgate comprehensive administrative regulations for the unclassified service.

(d) How the amendment will assist in the effective administration of the statutes: This regulation and the amendments establish the uniform employee performance management system and explain how it is to be administered.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All KRS Chapter 18A classified employees and their agencies are affected. In addition, unclassified employees in KRS Chapter 18A federally funded time-limited or grant funded time-limited positions, and participating non-chapter agencies and employees, may be subject to the provisions of 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 Personnel Cabinet is responsible for communicating the changes to employees and agencies. Non-KRS Chapter 18A agencies must request approval from the Personnel Cabinet to participate in the performance management system established under this administrative regulation. No additional action is required for compliance by each regulated entity.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no additional costs anticipated to any entity identified above.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): No additional benefits will accrue.

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

(a) Initially: This regulation, as amended, is not anticipated to generate any new or additional costs.

(b) On a continuing basis: This regulation, as amended, 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: This regulation, as amended, is not anticipated to generate any new or additional costs.

(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 regulation, as amended, is not anticipated to generate any new or additional fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation, as amended, is not anticipated to generate any new or additional fees.

(9) TIERING: Is tiering applied? No. This regulation, as amended, treats all impacted entities 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? All state agencies with classified employees covered under KRS Chapter 18A and all other state agencies approved to participate.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 18A.030 and KRS 18A.110(1)(i), (2), and (7)(j)

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

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

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

(c) How much will it cost to administer this program for the first year? There are no estimated additional costs to administer the amendments to this regulation.

(d) How much will it cost to administer this program for subsequent years? There are no estimated additional costs to administer the amendments to 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:

PERSONNEL CABINET
(Amendment)

101 KAR 3:015. Leave requirements for unclassified service.

RELATES TO: KRS 18A.020, 18A.030, 18A.110, 18A.140, 18A.145, 18A.195, 18A.990, 61.373, 61.394, 118.035, 344.030, 29 C.F.R. 825, 29 U.S.C. 8, 29 U.S.C. 201 – 219, 2601 – 2654

STATUTORY AUTHORITY: KRS 18A.030(2)(b), 18A.110(2), (7)(g), 18A.155, 29 U.S.C. 201 – 219, 2601 – 2654

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.030(2)(b) requires the Secretary of Personnel to promulgate administrative regulations, consistent with KRS Chapter 18A and federal standards, for the administration of a personnel system. KRS 18A.110(2) and 18A.155 require the secretary to promulgate administrative regulations for the unclassified service. KRS 18A.110(7)(g) requires the secretary, with the approval of the Governor, to promulgate administrative regulations to govern annual leave, sick leave, special leaves of absence, and other conditions of leave. This administrative regulation establishes the leave requirements for unclassified employees.

Section 1. Annual Leave. (1) Accrual of annual leave.

(a) Each full-time employee shall accumulate annual leave at the following rate:

Months of Service	Annual Leave Days
0-59 months	1 leave day per month; 12 per year
60-119 months	1 1/4 leave days permonth; 15 per year
120-179 months	1 1/2 leave days per month; 18 per year
180-239 months	1 3/4 days per month; 21 per year
240 months & over	2 leave days per month; 24 per year

(b) A full-time employee shall have worked, or been on paid leave, other than educational leave with pay, for 100 or more regular hours per month to accrue annual leave. This does not include hours worked in excess of the prescribed hours of duty.

(c) Accrued leave shall be credited on the first day of the month following the month in which the annual leave is earned.

(d) In computing months of total service for the purpose of earning annual leave, only the months for which an employee earned annual leave shall be counted.

(e) A former employee who has been rehired shall receive credit for months of prior service, unless the employee had been dismissed for cause or has retired from a position covered by a state retirement system.

(f) A part-time employee shall not be entitled to accrue annual leave.

(2) Use and retention of annual leave.

(a) Annual leave shall be used in increments of one-quarter (1/4) hours.

(b) Except as provided in paragraph (c) of this subsection, an employee who makes a timely request for annual leave shall be granted annual leave by the appointing authority, during the calendar year, up to at least the amount of time earned that year, if the operating requirements of the agency permit.

(c) An appointing authority may require an employee who has a balance of at least 100
hours of compensatory leave to use compensatory leave before the employee's request to use annual leave is granted, unless the employee's annual leave balance exceeds the maximum number of hours that may be carried forward pursuant to this administrative regulation.

(d) Absence due to sickness, injury, or disability in excess of the amount available for those purposes shall, at the request of the employee, be charged against annual leave.

(e) An employee shall be able to use annual leave for an absence on a regularly scheduled workday.

(f) An employee who is transferred or otherwise moved from the jurisdiction of one (1) agency to another shall retain accumulated annual leave in the receiving agency.

(g) An employee who is eligible for state contributions for life insurance pursuant to KRS Chapter 18A shall have worked or been on paid leave, other than holiday or educational leave, during any part of the previous month.

(h) An employee who is eligible for state contributions for health benefits pursuant to KRS Chapter 18A shall have worked or been on paid leave, other than holiday or educational leave, during any part of the previous pay period.

(i) Annual leave may be carried from one (1) calendar year to the next. If annual leave is carried from one (1) calendar year to the next, leave shall be calculated as established in the following table:

Months of Service	Maximum Amount	37.5 Hour Week Equivalent	40 Hour Week Equivalent
0-59	30 work-days	225 hours	240 hours
60-119 months	37 work-days	277.50 hours	296 hours
120-179 months	45 work-days	337.50 hours	360 hours

180-239 months	52 work-days	390 hours	416 hours
240 months and over	60 work-days	450 hours	480 hours

(j) Leave in excess of the maximum amounts specified in paragraph (i) of this subsection shall be converted to sick leave at the end of the calendar year or upon retirement.

(k) The amount of annual leave that may be carried forward and the amount of annual leave that may be converted to sick leave shall be determined by computing months of service as provided by subsection (1)(d) of this section.

(3) Annual leave on separation.

(a)1. If an employee is separated by proper resignation or retirement, or terminated other than for cause, the employee shall be paid in a lump sum for accumulated annual leave.

2. The accumulated annual leave for which the employee is paid shall not exceed the amounts established by subsection (2)(i) of this section.

3. Following payment of annual leave at resignation, any remaining annual leave after the payment of the maximum shall:

a. Not be paid to the employee or converted to sick leave; and

b. Be removed from the balance.

(b) If an employee is laid off, the employee shall be paid in a lump sum for all accumulated annual leave.

(c) An employee in the unclassified service who reverts to the classified service, or an employee who resigns one (1) day and is employed the next workday, shall retain the accumulated leave in the receiving agency.

(d) An employee who has been dismissed for cause shall not be paid for accumulated annual leave.

(e) An appointing authority may withhold payment of accumulated annual leave for an employee who has failed to give proper notice of resignation or retirement as described in 101 KAR 3:050 Section 8, or who has submitted notice of resignation or retirement after receiving an intent to dismiss letter. Annual leave withheld pursuant to this paragraph shall result in a determination that the employee resigned not in good standing.

(f) Upon the death of an employee, the employee's estate shall be entitled to receive pay for the unused portion of the employee's accumulated annual leave.

(g) An employee may request in writing that accumulated annual leave not be paid upon resignation, and that all or part of the amount of accumulated annual leave that does not exceed the amount established by this section be waived, if:

1. The employee resigns, or is laid off, because of an approved plan of privatization of the services performed; and

2. The successor employer has agreed to credit the employee with an equal amount of annual leave.

Section 2. Sick Leave. (1) Accrual of sick leave.

(a) An employee, except a part-time employee, shall accumulate sick leave with pay at the rate of one (1) working day per month.

(b) An employee shall have worked or been on paid leave, other than educational leave, for 100 or more regular hours in a month to accrue sick leave. This does not include hours worked in excess of the prescribed hours of duty.

(c) An employee shall be credited with additional sick leave upon the first day of the month following the month in which the sick leave is earned.

(d) A full-time employee who completes 120 months of total service with the state shall be credited with ten (10) additional days of sick leave upon the first day of the month following the completion of 120 months of service.

(e) A full-time employee who completes 240 months of total service with the state shall be credited with another ten (10) additional days of sick leave upon the first day of the month following the completion of 240 months of service.

(f) In computing months of total service for the purpose of crediting sick leave, only the months for which an employee earned sick leave shall be counted.

(g) A former employee who has been rehired shall receive credit for months of prior service, and shall be credited with the unused sick leave balance that existed at the time of the previous separation, unless the employee had been dismissed for cause or has retired from a position covered by a state retirement system.

(h) The total service shall be verified by the Personnel Cabinet before the leave is credited to the employee's record.

(i) Sick leave may be accumulated with no maximum.

(2) Use and retention of sick leave.

(a) An appointing authority shall grant or may require the use of sick leave with or without pay if an employee:

1. Is unable to work due to medical, dental, or optical examination or treatment;

2. Is disabled by illness or injury. If requested by the appointing authority, the employee

shall provide a statement from an appropriate medical health professional certifying the employee's inability to perform the employee's duties for the days or hours sick leave is requested. Before an employee is permitted to return to work, if requested by the appointing authority, the employee shall obtain and present a fitness-for-duty certification from an appropriate medical health care professional indicating the employee is able to resume work;

3. Is required to care for or transport a member of the employee's immediate family in need of medical attention for a reasonable period of time. If requested by the appointing authority, the employee shall provide a statement from an appropriate medical health professional certifying the employee's need to care for a family member;

4. Would jeopardize the health of the employee or others at the employee's work station because of a contagious disease or communicable condition. Before an employee is permitted to return to work, if requested by the appointing authority, the employee shall obtain and present a fitness-for-duty certification from an appropriate medical health care professional indicating the employee is able to resume work; or

5. Demonstrates behavior that might endanger the employee or others. Before an employee is permitted to return to work, if requested by the appointing authority, the employee shall obtain and present a fitness-for-duty certification from an appropriate medical health care professional indicating the employee is able to resume work.

(b) At the termination of sick leave with pay, the appointing authority shall return the employee to the employee's former position.

(c) An employee eligible for state contributions for life insurance pursuant to the provisions of KRS Chapter 18A shall have worked or been on paid leave, other than holiday or education leave, during any part of the previous month.

(d) An employee who is eligible for state contributions for health benefits pursuant to the provisions of KRS Chapter 18A shall have worked or been on paid leave, other than holiday or educational leave, during any part of the previous pay period.

(e) Sick leave shall be used in increments of one-quarter (1/4) hours.

(f) An employee who is transferred or otherwise moved from the jurisdiction of one (1) agency to another shall retain accumulated sick leave in the receiving agency.

(g) An employee shall be credited for accumulated sick leave if separated by proper resignation, layoff, or retirement.

(h) The duration of an interim employee's appointment shall not be extended by the use or approval for sick leave with or without pay.

(3) Sick leave without pay.

(a) An appointing authority shall grant sick leave without pay, without a change in the employee's personnel status, for the duration of an employee's impairment by injury or illness, if:

1. The leave does not exceed thirty (30) continuous calendar days; and

2. The employee has used or been paid for all accumulated annual, sick, and compensatory leave unless the employee has requested to retain up to ten (10) days of accumulated sick leave.

(b) Within an employee's first twelve (12) months of employment after initial appointment, an appointing authority shall grant sick leave without pay to an employee who does not qualify

for family and medical leave due to lack of service time and who has exhausted all accumulated paid leave if the employee is required to care for a member of the immediate family, or for the duration of the employee's impairment by illness or injury, for a period not to exceed thirty (30) working days in a calendar year.

(4) Sick leave by personnel action.

(a) If the duration of an employee's impairment by illness or injury exceeds the sick leave without pay allotment of thirty (30) continuous calendar days, including holidays, the appointing authority shall place the employee on sick leave without pay by personnel action.

(b) The appointing authority shall notify the employee in writing that the employee is being placed on sick leave by personnel action.

(c) Sick leave by personnel action shall not exceed one (1) year.

(d) If requested by the appointing authority, the employee shall provide statements during the year from an appropriate medical health professional attesting to the employee's continued inability to perform the essential functions of the employee's duties with or without reasonable accommodation.

(e) If an employee has given notice of the employee's ability to resume duties following sick leave by personnel action, the appointing authority shall return the employee to the original position or to a position for which the employee is qualified and which resembles the former position as closely as circumstances permit. The appointing authority shall notify the employee in writing of the following:

1. The effective date of the employee's return;
2. The position to which the employee is being returned;
3. The employee's salary upon return to work; and
4. The employee's new annual increment date, if applicable.

(f) If reasonable accommodation is requested, the employee shall:

1. Inform the employer; and
2. Upon request, provide supportive documentation from a certified professional.

(g) An employee shall be deemed resigned if the employee:

1. Has been on one (1) year continuous sick leave by personnel action;
2. Has been requested by the appointing authority in writing to return to work at least ten (10) days prior to the expiration of leave;
3. Is unable to return to the employee's former position or to a position for which the employee is qualified and which resembles the former position as closely as circumstances permit;
4. Has been given priority consideration by the appointing authority for a vacant, budgeted position with the same agency, for which the employee is qualified and is capable of performing its essential functions with or without reasonable accommodation; and
5. Has not been placed by the appointing authority in a vacant position.

(h) Sick leave granted pursuant to this subsection shall not be renewable after the employee has been medically certified as able to return to work.

(i) An employee who is deemed resigned pursuant to paragraph (g) of this subsection shall retain reinstatement privileges that were accrued during service in the classified service.

(5) Application for sick leave and supporting documentation.

(a) An employee shall file a written application for sick leave with or without pay within a reasonable time.

(b) Except for an emergency illness, an employee shall request advance approval for sick leave for medical, dental, or optical examinations, and for sick leave without pay.

(c) If the employee is too ill to work, an employee shall notify the immediate supervisor or other designated person. Failure, without good cause, to do so in a reasonable period of time shall be cause for denial of sick leave for the period of absence.

(d) An appointing authority may, for good cause and on notice, require an employee to supply supporting evidence in order to receive sick leave.

(e) A medical certificate may be required, signed by a licensed practitioner and certifying to the employee's incapacity, examination, or treatment.

(f) An appointing authority shall grant sick leave if the application is supported by acceptable evidence but may require confirmation if there is reasonable cause to question the authenticity of the certificate or its contents.

Section 3. Family and Medical Leave. (1) An appointing authority shall comply with the requirements of the Family and Medical Leave Act (FMLA) of 1993, 29 U.S.C. 2601 – 2654, and the federal regulations implementing the Act, 29 C.F.R. Part 825.

(2) An employee in state service shall qualify for twelve (12) weeks of unpaid family leave if the employee has:

(a) Completed twelve (12) months of service; and

(b) Worked or been on paid leave at least 1,250 hours in the twelve (12) months immediately preceding the first day of family and medical leave.

(3) Family and medical leave shall be awarded on a calendar year basis.

(4) An employee shall be entitled to a maximum of twelve (12) weeks of unpaid family and medical leave for the birth, placement, or adoption of the employee's child.

(5) While an employee is on unpaid family and medical leave, the state contribution for health and life insurance shall be maintained by the employer.

(6) An employee shall use accrued paid leave concurrently with FMLA leave, except an employee may reserve up to ten (10) days of accumulated sick leave while on FMLA leave. If an employee reserves accumulated sick leave, the remaining FMLA leave will be unpaid. The employee shall satisfy any procedural requirements of this administrative regulation for use of accrued paid leave only in connection with the receipt of such payment.

Section 4. Court Leave. (1) With prior notice to their supervisor, an employee shall be entitled to court leave during the employee's scheduled working hours without loss of time or pay for the amount of time necessary to:

(a) Comply with a subpoena by a court, administrative agency, or body of the federal or state government or any political subdivision thereof; or

(b) Serve as a juror.

(2) Court leave shall include necessary travel time.

(3) If relieved from duty as a juror or released from subpoena during the employee's normal working hours, the employee shall return to work or use annual or compensatory leave.

(4) An employee shall not be required to report as court leave attendance at a proceeding that is part of the employee's assigned duties.

(5) An employee shall not be eligible for court leave to comply with a subpoena if the employee or a member of the employee's family is a party to the proceeding.

Section 5. Compensatory Leave and Overtime. (1) Accrual of compensatory leave and overtime.

(a) An appointing authority shall comply with the overtime and compensatory leave provisions of the Fair Labor Standards Act (FLSA), 29 U.S.C. Chapter 8.

(b) An employee who is directed to work, or who requests and is authorized to work, in excess of the prescribed hours of duty shall be granted compensatory leave and paid overtime subject to the provisions of the Fair Labor Standards Act, 29 U.S.C. Chapter 8, KRS Chapter 337, and this administrative regulation.

(c) An employee deemed to be "nonexempt" by the provisions of the FLSA shall be compensated for hours worked in excess of forty (40) per week as provided by subparagraphs 1 through 3 of this paragraph.

1. An employee who has not accumulated the maximum amount of compensatory leave shall have the option to accumulate compensatory leave at the rate of an hour and one-half (1 1/2) for each hour worked in excess of forty (40) per week in lieu of paid overtime.

2. An employee's[~~The~~] election to receive compensatory leave in lieu of paid overtime shall be in writing on the Overtime Compensation Form and shall remain in force for a minimum of three (3) months. The employee's election shall be changed by the

submission of a new form. The effective date of a change shall be the first day of the next workweek following receipt of the election. The employing agency shall not mandate an employee's election of compensatory leave or paid overtime.

3. An employee who does not elect compensatory leave in lieu of paid overtime shall be paid one and one-half (1 1/2) times the regular hourly rate of pay for all hours worked in excess of forty (40) hours per week.

(d) An employee deemed to be "exempt" pursuant to the provisions of the FLSA shall accumulate compensatory time on an hour-for-hour basis for hours worked in excess of the regular work schedule.

(e) Compensatory leave shall be accumulated or used in increments of one-quarter (1/4) hours.

(f) The maximum amount of compensatory leave that may be carried forward from one (1) pay period to another shall be:

1. 239.99 hours by an employee in a nonpolicy-making position; or

2. 480[~~240~~] hours by an employee in a policy-making position.

(g) An employee who is transferred or otherwise moved from the jurisdiction of one (1) agency to another shall retain the compensatory leave in the receiving agency.

(2) Reductions in compensatory leave balances.

(a) An appointing authority may require an employee who has accrued at least 100 hours compensatory leave to use compensatory leave before annual leave and shall otherwise allow the use of compensatory leave if it will not unduly disrupt the operations of the agency.

(b) An appointing authority may require an employee who is not in a policy-making position and has accrued 200 hours of compensatory leave to take off work using compensatory leave in an amount sufficient to reduce the compensatory leave balance below 200 hours.

(c) An employee who is not in a policy-making position may, after accumulating 151 hours of compensatory leave, request payment for fifty (50) hours at the regular rate of pay. If the appointing authority or the designee approves the payment, an employee's leave balance shall be reduced accordingly.

(d) An employee who is not in a policy-making position shall be paid for fifty (50) hours at the regular hourly rate of pay upon accumulation of 240 hours of compensatory leave at the end of a pay period. In the event a work week is split between pay periods, then the 240 hours of compensatory leave required for payment must be accrued at the end of the pay period following the split pay period week. The employee's leave balance shall be reduced accordingly.

(e) If an employee's prescribed hours of duty are normally less than forty (40) hours per week, the employee shall receive compensatory leave for the number of hours worked that:

1. Exceed the number of normally prescribed hours of duty; and

2. Do not exceed the maximum amount of compensatory time that is permitted.

(f) Only hours actually worked shall be used for computing paid overtime or time and one-half (1 1/2) compensatory time.

(g) Upon separation from state service, an employee shall be paid for all unused compensatory leave at the greater of the employee's:

1. Regular hourly rate of pay; or

2. Average regular rate of pay for the final three (3) years of employment.

Section 6. Military Leave. (1) Upon request, an employee who is an active member of the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Public Health Service Reserve, or the National Guard shall be relieved from the civil duties, to serve under order or training duty without loss of the regular compensation for a period not to exceed the number of working days specified in KRS 61.394 for a federal fiscal year.

(2) The absence shall not be charged to leave.

(3) Absence that exceeds the number of working days specified in KRS 61.394 for a federal fiscal year shall be charged to annual leave, compensatory leave, or leave without pay.

(4) If requested by the appointing authority, the employee shall provide a copy of the orders requiring the attendance of the employee before military leave is granted.

(5) An appointing authority shall grant an employee entering military duty a leave of absence without pay for the period of duty in accordance with KRS 61.373. Upon receiving military duty leave of absence, all accumulated annual and compensatory leave shall be paid in a lump sum, if requested by the employee.

Section 7. Voting and Election Leave. (1) An employee who is eligible and registered to vote shall be allowed, upon prior request and approval, leave up to four (4) hours for the purpose of voting or to appear before the county clerk to request an application for or to execute an absentee ballot. A supervisor, manager, or appointing authority may specify the hours an employee may be absent.

(2) An employee casting an absentee ballot shall record the leave on the day the employee's vote is cast by mail or in-person submission. An employee shall be regularly scheduled to work on the day the vote is cast in order to receive the leave.

(3) An election officer shall receive additional leave if the total leave for Election Day does not exceed a regular workday.

(4) The absence shall not be charged against leave.

(5) An employee who is permitted or required to work during the employee's regular work hours, in lieu of voting leave, shall be granted compensatory leave on an hour-for-hour basis for the hours during the times the polls are open, up to a maximum of four (4) hours.

Section 8. Funeral and Bereavement Leave. (1) Upon the approval of the appointing authority, an employee who has lost an immediate family member by death may utilize five (5) days of accrued sick leave, compensatory leave, annual leave, or leave without pay if the employee does not have accrued leave, or a combination thereof.

(2) An appointing authority may approve the use of additional sick leave, compensatory leave, annual leave, or leave without pay if the employee does not have accrued leave, or a combination thereof, at the request of the employee following the loss of an immediate family member.

(3) For purposes of funeral and bereavement leave, an immediate family member shall include the employee's spouse, parent, grandparent, child, brother, or sister, or the spouse of any of them, and may include other relatives of close association if approved by the appointing authority.

Section 9. Special Leave of Absence. (1) If approved by the secretary, an appointing authority may grant a leave of absence for continuing education or training.

(a) Leave may be granted for a period not to exceed twenty-four (24) months or the conclusion of the administration in which the employee is serving, whichever comes first.

(b) If granted, leave shall be granted either with pay (if the employee contractually agrees to a service commitment) or without pay.

(c) Leave shall be restricted to attendance at a college, university, vocational, or business school for training in subjects that relate to the employee's work and will benefit the state.

(2) An appointing authority, with approval of the secretary, may grant an employee a leave of absence without pay for a period not to exceed one (1) year for purposes other than specified in this administrative regulation that are of tangible benefit to the state.

(3) If approved by the secretary, an appointing authority may place an employee on special leave with pay for investigative purposes pending an investigation of a work-related incident, or an allegation of employee misconduct, lack of good behavior, or unsatisfactory performance of duties.

(a) Leave shall not exceed sixty (60) working days.

(b) The employee shall be notified in writing by the appointing authority that the employee is being placed on special leave for investigative purposes, and the reasons for being placed on leave.

(c) If the investigation reveals no misconduct by the employee,

records relating to the investigation shall be purged from agency and Personnel Cabinet files maintained in accordance with KRS 18A.020(2)(a).

(d) The appointing authority shall notify a current employee, in writing, of the completion of the investigation and the action taken.

(4) An appointing authority may place a career unclassified employee on administrative leave with pay upon the employee's receipt of an intent to dismiss for cause letter.

(5) Discretionary leave with pay. (a) An appointing authority may grant, or the secretary may direct, discretionary leave with pay to an employee for a period not to exceed ten (10) working days in a calendar year when it is considered necessary for the welfare of the employee.

(b) Reasons for discretionary leave with pay are limited to work-related events.

(c) An appointing authority, with approval of the secretary, may renew discretionary leave with pay, not to exceed an additional twenty (20) working days.

(d) Leave granted pursuant to this subsection may be taken intermittently if authorized by the appointing authority.

Section 10. Absence Without Leave. (1) An employee who is absent from duty without prior approval shall report the reason for the absence to the supervisor immediately.

(2) Unauthorized or unreported absence shall:

(a) Be considered absence without leave;

(b) Be treated as leave without pay for an employee covered by the provisions of the Fair Labor Standards Act, 29 U.S.C. Chapter 8; and

(c) Constitute grounds for disciplinary action.

(3) An employee who has been absent without leave or notice to the supervisor for a period of five (5) working days shall be deemed resigned.

Section 11. Absences Due to Adverse Weather. (1) An employee, who is not designated for mandatory operations and chooses not to report to work or chooses to leave early if there are adverse weather conditions, such as tornado, flood, blizzard, or ice storm, shall have the time of the absence reported as:

(a) Charged to annual or compensatory leave;

(b) Taken as leave without pay, if annual and compensatory leave has been exhausted; or

(c) Deferred in accordance with subsections (4)[~~(3)~~] and (5)[~~(4)~~] of this section.

(2) An employee who is on prearranged annual, compensatory, or sick leave shall charge leave as originally requested.

(3) An employee who is approved to telecommute shall not be eligible for adverse weather leave unless his or her telecommuting equipment is not operational or cannot be accessed during scheduled telecommuting hours due to adverse weather conditions.

(4) If operational needs allow, except for an employee in mandatory operations, management shall make every reasonable effort to arrange schedules whereby an employee shall be given an opportunity to make up time not worked rather than charging it to leave.

(5)[~~(4)~~] An employee shall not make up work if the work would result in the employee working more than forty (40) hours in a workweek.

(a) Time lost shall be made up within 123 calendar days[~~four (4) months~~] of the occurrence of the absence. If it is not made up within 123 calendar days[~~four (4) months~~], leave shall be deducted from compensatory leave, followed by annual leave, and if no compensatory or annual leave is available, time lost shall be charged to leave without pay and deducted from an employee's wages.

(b) If an employee transfers or separates from employment before the leave is made up, the leave shall be charged to annual or compensatory leave or deducted from the final paycheck.

(6)[~~(5)~~] If catastrophic, life-threatening weather conditions occur, as created by a tornado, flood, ice storm, or blizzard, and it becomes necessary for authorities to order evacuation or shut-down of the place of employment, the provisions established in paragraphs (a) and (b) of this subsection shall apply.

(a) An employee who is required to evacuate or who would report to a location that has been shut down shall not be required to make up the time that is lost from work during the period officially declared hazardous to life and safety.

(b) An employee who is required to work in an emergency situation shall be compensated pursuant to the provisions of Section 5 of this administrative regulation and the Fair Labor Standards Act, 29 U.S.C. Chapter 8.

Section 12. Blood Donation Leave. (1) An employee who, during scheduled work[~~regular working~~] hours, donates whole blood at a licensed blood center certified by the Food and Drug Administration shall receive four (4) hours leave time, with pay, for the purpose of donating and recuperating from the donation.

(2) Leave granted pursuant to this section shall be used when the blood is donated, unless circumstances as specified by the supervisor required the employee to return to work. If the employee returns to work, the unused portion of the leave time shall be credited as compensatory leave.

(3) An employee shall request leave in advance to qualify for blood donation leave.

(4) An employee who is deferred from donating blood shall not:

(a) Be charged leave time for the time spent in the attempted donation; and

(b) Qualify for the remainder of the blood donation leave.

(5) A donation initiated or attempted during an employee's lunch period is outside of scheduled work hours and shall not qualify for any amount of blood donation leave.

Section 13. Incorporation by Reference. (1) "Overtime Compensation Form", May 2013, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Personnel Cabinet, 501 High Street, 3rd Floor, Frankfort Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. The material incorporated by reference is also available on the Personnel Cabinet's Web site on the Documents in Demand page at: https://personnel.ky.gov/.

GERINA D. WHETHERS, Secretary
ANDY BESHEAR, Governor

APPROVED BY AGENCY: April 14, 2022

FILED WITH LRC: April 15, 2022 at 9:25 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 21, 2022 at 10:00 a.m. at 501 High Street, 3rd floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until 11:59 p.m. on June 30, 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: Rosemary Holbrook, Assistant General Counsel, Office of Legal Services, 501 High Street, 3rd floor, Frankfort, Kentucky 40601, phone (502) 564-7430, fax (502) 564-0224, email RosemaryG.Holbrook@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Rosemary Holbrook

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation details the various types of leave available to KRS Chapter 18A unclassified employees.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the various

types of leave available to KRS Chapter 18A unclassified employees, and the requirements for these types of leave.

(c) How this administrative regulation conforms to the content of the authorizing statutes: Pursuant to 18A.030(2), the Personnel Cabinet Secretary is required to promulgate comprehensive regulations consistent with the provisions for KRS Chapter 18A. KRS 18A.110(7)(g) and KRS 18A.155 require the Secretary of Personnel to promulgate administrative regulations which govern leave.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation assists in the consistent application and treatment for unclassified employees on all employment leave matters.

(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: In the annual leave section, a provision is added to clarify circumstances for payout of annual leave upon termination other than for cause. A provision is also added to clarify character of service upon resignation. The court leave section is amended to address the responsibility of an employee to provide prior notice to qualify for paid leave eligibility. The compensatory leave section is amended to clarify that a non-exempt employee's election of compensatory leave or overtime pay is solely the choice of the employee. The amount of compensatory leave that may be carried to the next pay period is changed to 480 hours for employees in policy-making positions. The voting leave section is amended to clarify when to record leave for absentee voting. In the special leave section, the subsection for investigative leave is amended to allow for the appointing authority to temporarily remove an employee from the workplace while an investigation of alleged lack of good behavior or unsatisfactory performance of duties is being conducted. A new subsection is added to provide that an appointing authority may place a career unclassified employee on administrative leave with pay upon the employee's receipt of an intent to dismiss for cause letter. A new subsection is added for discretionary leave with pay to address instances where an employee is exposed to a situation that requires leave from work for the employee's welfare, such as a social worker who experiences a threat of physical harm in the course of employment. The adverse weather leave section is amended to clarify eligibility and the length of time to make up work. The blood donation leave section is amended to clarify eligibility for leave.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to ensure the continued consistent application and handling of the multiple types of leave for KRS Chapter 18A unclassified service.

(c) How the amendment conforms to the content of the authorizing statutes: Pursuant to 18A.030(2), the Personnel Cabinet Secretary is required to promulgate comprehensive regulations consistent with the provisions for KRS Chapter 18A. KRS 18A.110(7)(g) and KRS 18A.155 require the Secretary of Personnel to promulgate administrative regulations which govern leave.

(d) How the amendment will assist in the effective administration of the statutes: This amendment updates provisions to assist with the continued consistent application and handling of paid and unpaid leave for KRS Chapter 18A unclassified service.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All KRS Chapter 18A unclassified employees and their agencies are affected.

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

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

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Affected agencies will be responsible for payment of discretionary leave. The specific cost cannot be determined, except that discretionary leave with pay will not exceed 30 working days for each impacted employee, per event. There are no additional costs anticipated to any entity for the other provisions of this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): No additional benefits will accrue, though a subset of employees may receive discretionary leave with pay related to specific events.

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

(a) Initially: This regulation, as amended, is not anticipated to generate any new or additional costs.

(b) On a continuing basis: This regulation, as amended, 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: This regulation, as amended, is not anticipated to generate any new or additional costs.

(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 regulation, as amended, is not anticipated to generate any new or additional fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation, as amended, is not anticipated to generate any new or additional fees.

(9) TIERING: Is tiering applied? No. This regulation, as amended, treats all impacted entities 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? All state agencies with employees covered under KRS Chapter 18A.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 18A.030(2)(b), 18A.110, 29 U.S.C. 201–219, 2601–2654

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

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

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

(c) How much will it cost to administer this program for the first year? Affected agencies will be responsible for payment of discretionary leave. The specific cost cannot be determined, except that discretionary leave with pay will not exceed 30 working days for each impacted employee, per event. There are no additional costs anticipated to any entity for the other provisions of this amendment.

(d) How much will it cost to administer this program for subsequent years? Affected agencies will be responsible for payment of discretionary leave. The specific cost cannot be determined, except that discretionary leave with pay will not exceed 30 working days for each impacted employee, per event. There are no additional costs anticipated to any entity for the other provisions of this amendment.

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

Revenues (+/-): N/A

Expenditures (+/-): Unknown

Other Explanation: Specific dollar estimates cannot be determined. The cost of discretionary leave with pay will depend on the number of employees approved for leave, their salaries, and the number of days for each incident.

FINANCE AND ADMINISTRATION CABINET
Kentucky Retirement Systems
(Amendment)

105 KAR 1:390. Employment after retirement.

RELATES TO: KRS 15.420(2)(a), 16.010, 16.505[~~(15)~~], 61.505, 61.510, 61.565, 61.590, 61.637, 61.675, 61.702, 70.291 - 70.293, 78.510[~~(3), (18)~~], 78.545, 78.5540, 78.625, 78.635, 95.022, 158.441, 164.952, 26 U.S.C. 401(a), 26 C.F.R. 1.401-1, 1.401(a)-1

STATUTORY AUTHORITY: KRS 61.505(1)(f), 61.590, 61.637(18), 78.5540(5)[~~61.645(9)(e)~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.505(1)(f) authorizes the Kentucky Public Pensions Authority[~~61.645(9)(e) requires the Board of Trustees of Kentucky Retirement Systems~~] to promulgate administrative regulations on behalf of the Kentucky Retirement Systems and the County Employees Retirement System that are consistent with[~~necessary or proper in order to carry out the purposes and provisions of~~] KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852. KRS 61.637(18) and 78.5540(5) requires the[~~requires~~] Kentucky Public Pensions Authority[~~Retirement Systems~~] to promulgate administrative regulations to implement the requirements of KRS 61.637 and 78.5540. This administrative regulation concerns the administration of KRS 61.637 and 78.5540 in conjunction with federal law regarding bona fide separation from service and changes in employment relationship if a retired member returns to employment with a [~~Kentucky Retirement Systems~~]participating employer in a retirement system operated by the Kentucky Public Pensions Authority. 26 C.F.R. 1.401-1(a)(2) requires that a qualified plan expressly provide in its statutes and administrative regulations (plan documents) how it shall administer its plan in accordance with federal law in order to maintain the tax qualified status of the plan. This administrative regulation is necessary to maintain the tax qualified status of the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System under 26 U.S.C. 401(a), and to comply with the provisions established in 26 C.F.R. 1.401-1(b)(1)(i) and 1.401(a)-1.[~~This administrative regulation establishes provisions relating to employment after retirement.~~]

Section 1. Definitions.

(1) Unless otherwise defined in this section, the definitions contained in KRS 16.505, 61.510, and 78.510 shall apply to this administrative regulation.

(2) Prior to April 1, 2021, "agency" means the Kentucky Retirement Systems, which administered the State Police Retirement System, the Kentucky Employees Retirement System, and the County Employees Retirement System. Effective April 1, 2021, "agency" means the Kentucky Public Pensions Authority, which is authorized to carry out the day-to-day administrative needs of the Kentucky Retirement Systems (comprised of the State Police Retirement System and the Kentucky Employees Retirement System) and the County Employees Retirement System.

(3) "File" means a form has been received at the retirement office by mail, fax, secure email, in-person delivery, or upload via Self Service on the Web site maintained by the agency (if available).

(4) "Retirement[~~Initial retirement~~] date" means the member's effective retirement date as described in KRS 61.590(5) and 78.545.

(5) "Non-participating position" means any position of employment with a participating employer other than a regular full-time position as defined by KRS 61.510(21), 78.510(21), and 61.680(6) or a regular full-time officer position as defined by KRS 16.505(22).

(6)[~~(2)~~] "Participating employer" means any employer that participates in one (1) of the systems operated[~~administered~~] by the agency[~~Kentucky Retirement Systems~~].

(7)[~~(3)~~] "Participating position" means a regular full-time position as defined by KRS 61.510(21),[~~ and~~] 78.510(21), and 61.680(6) or a regular full-time officer position as defined by KRS 16.505(22).

(8)[~~(4)~~] "Reemployment" means the retired member's first date of employment with a participating employer following his or her most recent[~~initial~~] retirement date.

(9) "Systems" means the State Police Retirement System, the Kentucky Employees Retirement System, and the County Employees Retirement System.

Section 2. Form 6000 Certification.

(1) In order to retire with the systems operated by the agency[~~Kentucky Retirement Systems~~], an eligible member shall submit a Form 6000, Notification of Retirement, as incorporated by reference in 105 KAR 1:200. The Form 6000, Notification of Retirement, shall comply with the requirements of KRS 61.590, KRS 78.545, and 105 KAR 1:200.

(2) The agency[~~Kentucky Retirement Systems~~] shall not process a Form 6000, Notification of Retirement, until the member certifies on the Form 6000 that there is no prearranged agreement for reemployment with a participating employer after the member's [~~initial~~]retirement date.

Section 3. Employment After Retirement.

(1) A retired member who is reemployed with a participating employer in any position, including participating positions and non-participating positions, shall have:

(a) A bona fide separation from service as provided in subsection (2) of this section; and

(b) A break in service as provided in subsection (3) of this section.

(2)(a) "Bona fide separation from service" as provided in this section shall include a cessation of the employment relationship between the member and the member's employer without a prearranged agreement when the member retires that he or she will return to work for any participating employer in any capacity.

(b) "Prearranged agreement" as provided in this section shall not include reemployment accepted more than twelve (12) calendar months after the member's [~~initial~~]retirement date.

(c) An elected official's retirement shall be voided due to the existence of a prearranged agreement if, within twelve (12) months of [~~initial~~]retirement, the official is reelected and takes office in the same position as the elected official held prior to retirement[~~from which the official retired~~].

(3) "Break in service" as provided in this section shall require that:

(a) A member who retired from a hazardous position shall have a one (1) calendar month break in service before returning to work with any participating employer in a hazardous participating position.

(b) Except as provided in paragraph (a) of this subsection, a member who retired from a hazardous or nonhazardous position shall have a three (3) calendar month break in service before returning to work with any participating employer.

(4)[~~(a)~~] If a retired member seeks reemployment with a participating employer within twelve (12) months of his or her [~~initial~~]retirement date, then the following shall be filed at the retirement office:

(a) The[~~the~~] participating employer shall certify that there was no prearranged agreement on[~~. The participating employer shall file at the retirement office~~] a completed Form 6751, Employer Certification Regarding Reemployment;[~~.~~]

(b) A[~~The retired member shall file at the retirement office a completed~~] Form 6754, Member Reemployment Certification, completed by the retired member; and

(c) Any other information requested by the agency from the participating employer and the retired member.

(5)(a)The agency[~~Kentucky Retirement Systems~~] shall issue a final determination to the retired member no later than thirty (30) days after receipt of all required forms and additional requested information.

(b) If the agency[~~Kentucky Retirement Systems~~] determines that the retired member failed to have a bona fide separation from service or a break in service and returned to work with any participating employer in any position, including a participating

position or a non-participating position, the retired member's retirement shall be voided and he or she shall repay all retirement allowances, dependent child payments, and health plan premiums paid by the systems[~~Kentucky Retirement Systems~~].

Section 4. Independent Contractors and Leased Employees.

(1)[~~(a)~~] If a retired member seeks to provide services to a participating employer as an independent contractor, under a professional services contract, or as a leased employee[~~Both the retired member and the participating employer shall file written notice at the retirement office if,~~] within twelve (12) months of the retired member's [~~initial~~]retirement date, then the following shall be filed at the retirement office:[~~the retired member provides services to a participating employer as an independent contractor or as a leased employee.~~]

(a)[~~(b)~~] A[~~The participating employer shall file at the retirement office a~~] Form 6752, Employer Certification of Independent Contractor/Leased Employee, completed by the participating employer,[~~.~~]

(b)[~~(c)~~] A[~~The retired member shall file at the retirement office a completed~~] Form 6754, Member Reemployment Certification, completed by the member;

(c) A[~~and a~~] complete copy of any contract under which services are provided by the retired member to the participating employer; and

(d) Any other information requested by the agency from the participating employer and the retired member.

(2) The agency shall apply common law factors used by the Internal Revenue Service to determine whether a retired member is an employee of the participating employer or an independent contractor of the participating employer.

(3)(a) The agency[~~Kentucky Retirement Systems~~] shall issue a final determination to the retired member no later than thirty (30) days after receipt of all required forms and requested information.

(b) If the agency[~~Kentucky Retirement Systems~~] determines that the retired member is an employee of the participating employer, rather than an independent contractor or leased employee through a leasing company, staffing agency, or other entity, the retired member shall be subject to the provisions of Section 3 of this administrative regulation and shall be required to have a "bona fide separation from service" and "break in service."

(c) If the agency determines that the retired member is an employee of the participating employer, rather than an independent contractor or leased employee through a leasing company, staffing agency, or other entity, the employer shall be required to do the following:

1. Report the retired member as required by KRS 61.675, KRS 78.625, and 105 KAR 1:145;

2. Pay employer contributions for the retired member as specified by KRS 61.565, 61.702, and 78.635; and

3. Reimburse the systems for the cost of health insurance premiums paid by the systems for the retired member.

Section 5. Volunteers.

(1)[~~(a)~~] If a retired member seeks to volunteer with a participating employer[~~Both the retired member and participating employer shall file written notice at the retirement office if,~~] within twelve (12) months of the retired member's [~~initial~~]retirement date, then the following shall be filed at the retirement office:[~~the retired member seeks to volunteer with a participating employer.~~]

(a)[~~(b)~~] A[~~The participating employer shall file at the retirement office a completed~~] Form 6753, Employer Certification of Volunteer, completed by the participating employer;[~~.~~]

(b)[~~(c)~~] A[~~The retired member shall file at the retirement office a completed~~] Form 6754, Member Reemployment Certification, completed by the retired member; and

(c) Any other information requested by the agency from the participating employer and retired member.

(2)(a) The agency[~~Kentucky Retirement Systems~~] shall issue a final determination to the retired member no later than thirty (30) days after receipt of all required forms and requested information.

(b) If the Agency[~~Kentucky Retirement Systems~~] determines that the retired member is an employee of the participating employer, rather than a volunteer, the retired member shall be subject to the provisions of Section 3 of this administrative regulation and shall be required to have a "bona fide separation from service" and "break in service."

(c) If the agency determines that the retired member is an employee of the participating employer, rather than a volunteer, the employer shall be required to do the following:

1. Report the retired member as required by KRS 61.675, 78.625, and 105 KAR 1:145;

2. Pay employer contributions for the retired member as specified by KRS 61.565, 61.702, and 78.635; and

3. Reimburse the systems for the cost of health insurance premiums paid by the systems for the retired member.

Section 6. Health Insurance Premium Reimbursements for Retired Members Reemployed by Multiple Participating Employers. If a retired member is reemployed by multiple participating employers in a calendar month in positions that qualify as regular full-time pursuant to KRS 61.510(21), 61.680(6), 78.510(21), and 78.545(16), each participating employer shall be responsible for reimbursing the systems for a portion of the health insurance premium paid by the systems to provide coverage for the retired member for that calendar month that is equal to the cost of the premium divided by the number of participating employers that are not exempt from reimbursement of health insurance premiums. Participating employers that are exempt from reimbursement of health insurance premiums under Section 7 of this administrative regulation, or by virtue of being a school board employing the retired member for eighty (80) days or less during the fiscal year, are not responsible for health insurance premiums under this Section.

Section 7. Exemption for Payment Of Employer Contributions and Reimbursement of Health Insurance Premiums for Retired Members Reemployed as Police Officers and School Resource Officers.

(1)(a) A participating employer shall be exempt from paying employer contributions and from reimbursing the systems for the cost of the health insurance premiums paid by the systems for a retired member reemployed as a police officer pursuant to KRS 70.291 to 70.293 for a term of appointment of no more than one (1) year if a completed Form 6760, County Police or Sheriff Appointment of Retired Police Officer, and the supporting documentation required by the Form 6760 are on file at the retirement office prior to the start of the retired member's term of appointment.

(b) If a completed Form 6760, County Police or Sheriff Appointment of Retired Police Officer, and the supporting documentation required by the Form 6760 are not on file at the retirement office prior to the start of the retired member's term of appointment as a police officer pursuant to KRS 70.291 to 70.293, then the participating employer shall be exempt from paying employer contributions and reimbursements of health insurance premiums for a retired member reemployed as a police officer pursuant to KRS 70.291 to 70.293 effective in the calendar month after a completed Form 6760 and supporting documentation are on file at the retirement office.

(2)(a) For each subsequent term of reappointment after the initial term of appointment listed on the completed Form 6760, County Police or Sheriff Appointment of Retired Police Officer, described in subsection (1) of this Section, the participating employer shall be exempt from paying employer contributions and from reimbursing the systems for the cost of the health insurance premiums paid by the systems for a retired member reemployed as a police officer pursuant to KRS 70.291 to 70.293 for a term of reappointment of no more than one (1) year if a completed Form 6764, Recertification of Retired Police Officer, is on file at the retirement office prior to the start of the retired member's term of reappointment.

(b) If a completed Form 6764, Recertification of Retired Police Officer, is not on file at the retirement office prior to the start of the retired member's term of reappointment as a police officer pursuant to KRS 70.291 to 70.293, then the participating employer

shall be exempt from paying employer contributions and reimbursements of health insurance premiums for a retired member reemployed as a police officer pursuant to KRS 70.291 to 70.293 effective in the calendar month after a completed Form 6764 and supporting documentation are on file at the retirement office.

(3)(a) A participating employer shall be exempt from paying employer contributions and from reimbursing the systems for the cost of the health insurance premiums paid by the systems to provide coverage for a retired member reemployed as a school resource officer pursuant to KRS 158.441 for a term of appointment of no more than one (1) year if a completed Form 6766, Appointment of Retired School Resource Officer, and the supporting documentation required by the Form 6766 are on file at the retirement office prior to the start of the retired member's term appointment.

(b) If a completed Form 6766, Appointment of Retired School Resource Officer, and the supporting documentation required by the Form 6766 are not on file at the retirement office prior to the start of the retired member's term appointment, then the participating employer shall be exempt from paying employer contributions and reimbursements of health insurance premiums for a retired member reemployed as a school resource officer pursuant to KRS 158.441 effective in the calendar month after a completed Form 6766 and supporting documentation are on file at the retirement office.

(4)(a) A participating employer shall be exempt from paying employer contributions and from reimbursing the systems for the cost of the health insurance premiums paid by the systems for a retired member reemployed as a Kentucky State Police school resource officer pursuant to KRS 158.441 for a term of appointment of no more than one (1) year if a completed Form 6767, Appointment of Kentucky State Police School Resource Officer, and the supporting documentation required by the Form 6767 are on file at the retirement office prior to the start of the retired member's term appointment.

(b) If a completed Form 6767, Appointment of Kentucky State Police School Resource Officer, and the supporting documentation required by the Form 6767 are not on file at the retirement office prior to the start of the retired member's term appointment, then the participating employer shall be exempt from paying employer contributions and reimbursements of health insurance premiums for a retired member reemployed as a Kentucky State Police school resource officer pursuant to KRS 158.441 effective in the calendar month after a completed Form 6767 and supporting documentation are on file at the retirement office.

(5)(a) A participating employer shall be exempt from paying employer contributions and from reimbursing the systems for the cost of the health insurance premiums paid by the systems for a retired member reemployed as a police officer by a postsecondary institution pursuant to KRS 164.952 for a term of appointment of no more than one (1) year if a completed Form 6768, Postsecondary Institution Appointment of Retired Police Officer, and the supporting documentation required by the Form 6768 are on file at the retirement office prior to the start of the retired member's term appointment.

(b) If a completed Form 6768, Postsecondary Institution Appointment of Retired Police Officer, and the supporting documentation required by the Form 6768 are not on file at the retirement office prior to the start of the retired member's term appointment, then the participating employer shall be exempt from paying employer contributions and reimbursements of health insurance premiums for a retired member reemployed as a police officer by a postsecondary institution pursuant to KRS 164.952 in the calendar month after a completed Form 6768 and supporting documentation are on file at the retirement office.

(6) A participating employer shall not be eligible for exemption from payment of employer contributions or from reimbursing the systems for the costs of health insurance premiums for any retired members reemployed as a police officer pursuant to KRS 95.022 unless a Form 6769, Certification of Employed Police Officers Calendar Year 2015, is on file at the retirement office.

(7)(a) A participating employer with a Form 6769, Certification of Employed Police Officers Calendar Year 2015, on file at the retirement office shall be exempt from paying employer contributions and from reimbursing the systems for the costs of health insurance premiums for a retired member reemployed as a police officer pursuant to KRS 95.022 for a term of appointment of no more than one (1) year if a completed Form 6770, City Appointment of Retired Police Officer, and the supporting documentation required by the Form 6770 are on file at the retirement office prior to the start of the retired member's term of appointment.

(b) If a completed Form 6770, City Appointment of Retired Police Officer, and the supporting documentation required by the Form 6770 are not on file at the retirement office prior to the start of the retired member's term of appointment, then the participating employer with a Form 6769, Certification of Employed Police Officers Calendar Year 2015, on file at the retirement office shall be exempt from paying employer contributions and reimbursements of health insurance premiums for a retired member reemployed as a police officer pursuant to KRS 95.022 effective in the calendar month after a completed Form 6770 and supporting documentation are on file at the retirement office.

(8)(a) Each subsequent term of reappointment after the initial term of appointment listed on the completed Form 6770, City Appointment of Retired Police Officer, described in subsection (7) of this Section, the participating employer with a Form 6769, Certification of Employed Police Officers Calendar Year 2015, on file shall be exempt from paying employer contributions and health insurance premiums paid by the systems for a retired member reemployed as a police officer pursuant to KRS 95.022 for a term of reappointment of no more than one (1) year if a completed Form 6774, City Recertification of Retired Police Officer, is on file at the retirement office prior to the start of the retired member's term of reappointment.

(b) If a completed Form 6774, City Recertification of Retired Police Officer, is not on file at the retirement office prior to the start of the retired member's term of reappointment, then the participating employer shall be exempt from paying employer contributions and reimbursements of health insurance premiums for retired member reemployed as a police officer pursuant to KRS 95.022 in the calendar month after a completed Form 6764 is on file at the retirement office.

Section 8.[~~Section 6.~~] Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) Form 6751, "Employer Certification Regarding Reemployment," March 2022[~~June 2019~~];

(b) Form 6752, "Employer Certification of Independent Contractor/Leased Employee," April 2021[~~June 2019~~];

(c) Form 6753, "Employer Certification of Volunteer," April 2021;[~~June 2019; and~~]

(d) Form 6754, "Member Reemployment Certification," April 2021;

(e) Form 6760, "County Police or Sheriff Appointment of Retired Police Officer," March 2022;

(f) Form 6766, "Appointment of Retired School Resource Officer," March 2022;

(g) Form 6767, "Appointment of Kentucky State Police School Resource Officer," March 2022;

(h) Form 6768, "Postsecondary Institution Appointment of Retired Police Officer," March 2022;

(i) Form 6769, "Certification of Employed Police Officers Calendar Year 2015," July 2016;

(j) Form 6770, "City Appointment of Retired Police Officer," March 2022; and

(k) Form 6774, "City Recertification of Retired Police Officer," July 2016.[~~June 2019.~~]

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Public Pensions Authority[~~Retirement Systems~~], 1260 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, from 8:00 a.m. to 4:30 p.m. This material is also available on the Authority's Web site at kyret.ky.gov.

DAVID L. EAGER, Executive Director

APPROVED BY AGENCY: April 12, 2022

FILED WITH LRC: April 13, 2022 at 10:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Tuesday, June 28, 2022 at 2:00 p.m. at the Kentucky Public Pensions Authority, 1270 Louisville Road, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given the opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until June 30, 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: Michael Board, Executive Director Office of Legal Services, Kentucky Public Pensions Authority, 1260 Louisville Road, Frankfort, Kentucky 40601, email Legal.Non-Advocacy@kyret.ky.gov, telephone (502) 696-8800 ext. 8647, facsimile (502) 696-8801.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Michael Board

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the forms, procedures, and requirements for the reemployment of retired members by employers that participate in the systems operated by the Kentucky Public Pensions Authority.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the forms, procedures, and requirements for both members and participating employers when a member is reemployed by a participating employer after retirement. Additionally, KRS 61.637(18) and 78.5540(5) require the promulgation of administrative regulations to implement KRS 61.637 and 78.5540.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the authorizing statute by establishing the forms, procedures, and requirements for reemployment of a retired member by a participating employer in accordance with KRS 15.420(2)(a), 16.010, 16.505, 61.505, 61.510, 61.565, 61.590, 61.637, 61.675, 61.702, 70.291 - 70.293, 78.510, 78.545, 78.5540, 78.625, 78.635, 95.022, 158.441, 164.952, and 26 U.S.C. 401(a) and 26 C.F.R. 1.401-1, 1.401(a)-1. In particular, KRS 61.637(18) and 78.5540(5) require the promulgation of administrative regulations to implement KRS 61.637 and 78.5540.

(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 forms, procedures, and requirements for both members and participating employers when a member is reemployed by a participating employer after retirement. Specifically, KRS 61.637(18) and 78.5540(5) require the promulgation of administrative regulations to implement KRS 61.637 and 78.5540.

(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 this administrative regulation to reflect the changes enacted by the General Assembly in House Bill 484 (2020) and House Bill 9 (2021). The amendment also clarifies the existing regulation and incorporates by reference additional forms related to reemployment after retirement.

(b) The necessity of the amendment to this administrative regulation: The amendment updates this administrative regulation to reflect the changes enacted by the General Assembly in House Bill 484 (2020) and House Bill 9 (2021). The amendment also clarifies the existing regulation and incorporates by reference additional forms related to reemployment after retirement.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the authorizing statute by updating the forms, procedures, and requirements for reemployment of a retired member by a participating employer in accordance with KRS 15.420(2)(a), 16.010, 16.505, 61.505, 61.510, 61.565, 61.590, 61.637, 61.675, 61.702, 70.291 - 70.293, 78.510, 78.545, 78.5540, 78.625, 78.635, 95.022, 158.441, 164.952, and 26 U.S.C. 401(a) and 26 C.F.R. 1.401-1, 1.401(a)-1.

(d) How the amendment will assist in the effective administration of the statutes: This amendment assists in the effective administration of the statutes by updating the forms, procedures, and requirements for reemployment of a retired member by a participating employer in accordance with KRS 15.420(2)(a), 16.010, 16.505, 61.505, 61.510, 61.565, 61.590, 61.637, 61.675, 61.702, 70.291 - 70.293, 78.510, 78.545, 78.5540, 78.625, 78.635, 95.022, 158.441, 164.952, and 26 U.S.C. 401(a) and 26 C.F.R. 1.401-1, 1.401(a)-1.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: One (1) entity that provides day-to-day operations for the three (3) public pensions systems: Kentucky Public Pensions Authority (the public pension systems are the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System). Potentially, as many as 401,043 individuals who are members of the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System. 124,061 participating employers, including local governments (county and city), school boards, other local agencies, state departments, state boards, other executive and quasi-governmental agencies, and the Kentucky State Police.

(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: These amendments will require participating employers seeking exemption from paying employer contributions and health insurance reimbursements for certain reemployed retired police officers and school resource officers to submit forms and other documentation in order to qualify for the exemption. Additionally, participating employers employing retired members that are also employed by other participating employers will have to reimburse a portion of the health insurance premiums paid by the systems operated by the Kentucky Public Pensions Authority for the retired member, unless the participating employer qualifies for an exemption. All other amendments made are for the purpose of clarifying the existing regulation and do not require additional action by any of the regulated entities.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The cost of compliance with the amendments for regulated entities should be negligible. However, upon compliance with the amendments to this administrative regulation, some participating employers may experience a change in the employer contributions and health insurance premium reimbursements owed to the systems operated by the Kentucky Public Pensions Authority. Whether the employer contributions and health insurance premium reimbursements owed by the various affected participating employers will increase or decrease and the amount of the fluctuations in costs are not known (and are expected to vary by participating employer).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Entities will have greater assurance that they are reemploying retired police officers and school resource officers that meet the statutory requirements for exemption from employer contributions and health insurance premium reimbursements. Accordingly, these entities are less

likely to owe potentially significant back payments of employer contributions and health insurance premium reimbursements when the entity accidentally hires a retired police officer or school resource officer that does not meet the statutory requirements to allow the entity to be exempt from paying employer contributions and health insurance premium reimbursements. Additionally, splitting the cost of health insurance premium reimbursements evenly based on the number of participating employers employing the retired member is a fair way for the participating employer hiring a retired member that works for multiple participating employers to anticipate the hiring costs up front.

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

(a) Initially: The costs associated with the implementation of the amendments to this administrative regulation should be negligible.

(b) On a continuing basis: The costs associated with the implementation of the amendments to this administrative regulation should be negligible.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Administrative expenses of the Kentucky Public Pensions Authority are paid from the Retirement Allowance Account (trust and agency funds).

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

(9) TIERING: Is tiering applied? Tiering is not applied. All members and participating employers are subject to the same processes and procedures.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation impacts 124,061 employers that participate in the systems operated by the Kentucky Public Pensions Authority, including local governments (county and city), school boards, other local agencies, state departments, state boards, other executive and quasi-governmental agencies, and the Kentucky State Police. Additionally, this administrative regulation impacts the Kentucky Public Pensions Authority and the three systems for which it provides day-to-day operations (the County Employees Retirement System, the Kentucky Employees Retirement System, and the State Police Retirement System).

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 61.505, 61.637, and 78.5540.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. This administrative regulation will not affect revenues of a state or local government agency. However, expenditures of state and local government agencies may fluctuate based on the incorporation of forms and other documentation required for certain participating employers to claim exemption from paying employer contributions and health insurance reimbursements for certain reemployed retired police officers and school resource officers. Whether expenditures of the various affected participating employers will increase or decrease and the amount of the fluctuations in expenditures are not known (and are expected to vary by participating employer).

(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? The cost to Kentucky Public Pensions Authority to administer this administrative regulation should be negligible.

(d) How much will it cost to administer this program for subsequent years? The cost to Kentucky Public Pensions Authority to administer this administrative regulation should be negligible.

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: Expenditures of state and local government agencies may fluctuate based on the incorporation of forms and other documentation required for certain participating employers to claim exemption from paying employer contributions and health insurance reimbursements for certain reemployed retired police officers and school resource officers. Whether expenditures of the various affected participating employers will increase or decrease and the amount of the fluctuations in expenditures are not known (and are expected to vary by participating employer).

BOARDS AND COMMISSIONS
Board of Pharmacy
(Amendment)

201 KAR 2:015. Continuing education.

RELATES TO: KRS 315.065, 315.120

STATUTORY AUTHORITY: KRS 315.065, 315.110(1), 315.191(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.065(2) and (3) requires[~~require~~] the Board of Pharmacy to establish continuing education requirements for pharmacists. This administrative regulation establishes requirements for the continuing pharmacy education of registered pharmacists and requires all registered pharmacists holding a license issued by the board to participate in continuing pharmacy education as a means of renewal of their licenses.

Section 1. Definitions. (1) "Continuing education unit" or "CEU" is defined by KRS 315.010(7)[~~(8)~~].

(2) "Sponsor" means a person, school, association, company, corporation, or group who wishes to develop a continuing education program.

Section 2. (1) Continuing education hours for credit shall be relevant to the practice of pharmacy and free of commercial bias.

(2) Continuing education hours shall be approved if approved by:

(a) The Accreditation Council for Pharmacy Education (ACPE); or

(b) The board.

Section 3. (1) Continuing education sponsors shall submit an Application for Provider CE Approval to the board:

(a) At least sixty (60) days prior to the presentation date, if pre-approval is sought; or

(b) Between sixty (60) days prior and thirty (30) days after the presentation date, if pre-approval is not sought.

(2) Program changes shall be submitted to and approved by the board, or the approval of the program shall be void.

(3) Continuing education credit shall be given only once for each program per participant.

(4) Sponsors shall retain a file of each participant's program completion for three (3) years.

(5) Board approval of each program shall expire three (3) years after the date of approval.

Section 4. (1) Pharmacists requesting approval of individually obtained continuing pharmacy education shall submit an Application for Pharmacist CE Approval to the board within thirty (30) days of completion of the educational presentation.

(2) The board shall notify the requesting pharmacist whether the application request has been approved or denied.

(3) Continuing education that has not been approved by ACPE or the board shall not be used to meet continuing education requirements for renewal or issuance of a license.

Section 5. (1) A pharmacist shall:

(a) Complete a minimum of one and five-tenths (1.5) CEU (fifteen (15) contact hours) annually between January 1 and December 31; and

(b) For licensing years 2023 through 2028, one (1) contact hour of the fifteen (15) contact hours shall be on the opioid epidemic or opioid use disorder.

(c) Not transfer or apply excess hours or units for future years.

(2) A pharmacist may be granted a deferral on a year-to-year basis at the discretion of the board for illness, incapacity, or other extenuating circumstances.

(3) A pharmacist first licensed by the board within twelve (12) months immediately preceding the annual renewal date shall be exempt from the continuing pharmacy education provisions for that year.

(4) Pharmacists shall:

(a) Keep valid records, receipts, and certifications of continuing pharmacy education programs completed for three (3) years; and

(b) Submit that documentation to the board on[~~upon~~] request.

(5) Submission of a fraudulent statement or certificate concerning continuing pharmacy education shall subject the pharmacist to discipline as provided in KRS 315.121.

Section 6. All pharmacists shall keep the board informed of their correct address[~~addresses~~].

Section 7. CEU may be transferred from another state to Kentucky if the transfer state recognizes Kentucky CEU.

Section 8. A licensee who failed to timely renew his or her license shall:

(1) Comply with the applicable provisions of KRS 315.120(2) or (3); and

(2) Complete fifteen (15) hours of continuing education for each year the applicant failed to renew his or her license, up to a maximum of seventy-five (75) hours.

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

~~(a)~~] "Application for Provider CE Approval", June 2018, is incorporated by reference[~~; and~~].

(2)[~~(b)~~] The "Application for Pharmacist CE Approval", June 2018, is incorporated by reference.

(3)[~~(2)~~] This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Pharmacy, 125 Holmes Street, Suite 300, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CHRISTOPHER HARLOW, Pharm.D., Executive Director

APPROVED BY AGENCY: April 4, 2022

FILED WITH LRC: April 5, 2022 at 8:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 22,2022 at 9 a.m. at the Board's office, State Office Building Annex, Suite 300, 125 Holmes Street, Frankfort, Kentucky 40601 and via zoom teleconference. Individuals interested in attending this hearing shall notify this agency in writing five workdays prior to this hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2022.

Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Christopher Harlow

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes continuing education requirements.

(b) The necessity of this administrative regulation: KRS 315.065(2) and (3) requires the board to promulgate a regulation that includes guidelines and criteria for reviewing and approving acceptable continuing education programs.

(c) How this administrative regulation conforms to the content of the authorizing statues: This regulation establishes guidelines and criteria for reviewing and approving acceptable continuing education programs as required by KRS 315.065(2) and (3).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Pharmacists will understand continuing education requirements necessary for renewal of 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 specifies that one hour of each licensing period's continuing education must be on the opioid epidemic or opioid use disorder.

(b) The necessity of the amendment to this administrative regulation: Due to the increasing rates of opioid use disorder, pharmacists need to have this knowledge to adequately counsel patients and understand treatments.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 315.065(2) and (3) requires the board to promulgate a regulation that includes guidelines and criteria for reviewing and approving acceptable continuing education programs; the amendments does create a new one hour guideline.

(d) How the amendment will assist in the effective administration of the statutes: The amendments will help pharmacists to better understand the opioid epidemic and will prepare them to adequately counsel patients and understand possible treatment options.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Only pharmacists will be impacted by this regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Pharmacists will need to ensure that one hour of each yearly continuing education licensing requirements be on the topic of the opioid epidemic or opioid use disorder.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no expected costs for the identities identified in question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Pharmacists will receive continuing education credit required for renewal.

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

(a) Initially: No costs will be incurred.

(b) On a continuing basis: No costs will be incurred.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Board revenues from pre-existing fees provide the funding to enforce the regulation.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied because the regulation is applicable to all pharmacists.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 315.065(3) requires the board to establish continuing education requirements.

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

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

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

(c) How much will it cost to administer this program for the first year? No costs are required to administer this program for the first year.

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

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

Revenues (+/-): 0

Expenditures (+/-): 0

Other Explanation:

BOARD AND COMMISSIONS
Board of Pharmacy
(Amendment)

201 KAR 2:020. Examination.

RELATES TO: KRS 218A.205(7), 315.050

STATUTORY AUTHORITY: KRS 218A.205(7), 315.050(2), 315.191(1), (2), (4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.050(2) and 315.191(1)(c) authorize the board to promulgate administrative regulations to prescribe the time, place, method, manner, scope, and subjects of examinations. KRS 218A.205 (7) requires the board to establish requirements for background checks for licensees. This administrative regulation establishes the examination and application requirements for obtaining a license to practice pharmacy in Kentucky.

Section 1. The examination for licensure shall include:

(1) The North American Pharmacist Licensure Examination (NAPLEX); and

(2) The Multistate Pharmacy Jurisprudence Examination (MPJE).

Section 2. Both the NAPLEX and the MPJE examinations are graded as pass or fail.[~~The passing score on the required examinations shall be:~~

~~(1) At least seventy-five (75) on the basis of the NAPLEX and the MPJE grades shall not be used in computing the NAPLEX; and~~

~~(2) At least seventy-five (75) on the basis of the MPJE.~~]

Section 3. If an applicant fails an examination[~~to obtain the necessary scores in any of the tests~~] described in Section 2 of this administrative regulation, the applicant may upon proper application retake the examination[~~tests upon the payment of the fee set forth in 201 KAR 2:050 plus any direct costs for test materials and supplies~~]. An applicant is limited to three attempts for each examination without further board approval. An applicant is limited to a lifetime limit of five (5) attempts on each examination[~~who has failed any test may retake that test within one (1) year of the date the applicant first failed the test without having to reapply~~].

Section 4. If after three (3) examination attempts, the applicant has not passed, to qualify for two additional attempts, the applicant must:

(1) For the NAPLEX, complete a refresher course and submit to the Board of Pharmacy a certificate of completion; and

(2) For the MPJE, submit to the Board of Pharmacy:

(a) Proof of (5) five hours of ACPE or Board approved continuing education in the topic of pharmacy law, or

(b) A certificate of completion of a refresher course.

Section 5. All results of examinations shall be preserved according to the Board of Pharmacy Record Retention Schedule.

Section 6.[~~Section 5. Fees submitted with an application shall be nonrefundable.~~

~~Section 6.~~] Prior to approval for examination, an applicant shall:

(1) Submit to a nation-wide criminal background investigation by means of fingerprint check by the Department of Kentucky State Police and the Federal Bureau of Investigation; and

(2) Submit to a query to the National Practitioner Data Bank of the United States Department of Health and Human Services.

(3) Submit an initial application for pharmacist licensure that reports:

(a) Name, maiden, and other names used currently or previously;

(b) Address and telephone number;

(c) Date of birth;

(d) Social Security number;

(e) Citizenship;

(f) Sex;

(g) Name of pharmacy school;

(h) Intern Registration Number;

(i) Record of any conviction for any felony or misdemeanor offense;

(j) Record of any state licensing agency refusal of licensure, failure of examination or refusal of examination; and

(k) Certificate of moral standing.

(4) Submit a certification of pharmacy school graduation;

(5) Submit a certification of intern hours.

Section 7. [~~License,~~]Fee. An applicant shall submit[~~:~~

~~(1) An Initial Application for Pharmacist Licensure pursuant to KRS 315.050; and~~

~~(2) As appropriate,~~] the fee established by 201 KAR 2:050, Section 1(1).

Section 8. Incorporation by Reference.

(1) "Initial Application for Pharmacist Licensure", Form 1, 3/2022[~~12/2019~~], is incorporated by reference.

(2) "Certification of College Graduation", Form 2, 03/2022 is incorporated by reference.

(3) "Certification of Intern Hours", Form 3, 03/2022 is incorporated by reference.

(4) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Pharmacy, State Office Building Annex, Suite 300, 125 Holmes Street, Frankfort, Kentucky 40601, Monday through Friday 8:00 a.m. to 4:30 p.m.

Christopher P. Harlow, Executive Director

APPROVED BY AGENCY: April 4, 2022

FILED WITH LRC: April 5, 2022 at 8:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 22,2022 at 9:00 a.m. Eastern Time at the Kentucky Board of Pharmacy, 125 Holmes Street, Suite 300, State Office Building Annex, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 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: Christopher P. Harlow, 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 Christopher.harlow@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Christopher P. Harlow

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for the examinations.

(b) The necessity of this administrative regulation: KRS 315.050(2) and 315.191(1)(c)authorizes the Board of Pharmacy to promulgate administrative regulations to prescribe the time, place, method, manner, scope, and subjects of examinations. KRS 218(A)205(7) requires the board to establish requirements for background checks for licensees. This administrative regulation establishes the examination and application requirements for obtaining a license to practice pharmacy in Kentucky.

(c) How this administrative regulation conforms to the content of the authorizing statues: This administrative regulation establishes the examination and application requirements for obtaining a license to practice pharmacy in Kentucky.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Incorporate by reference new initial pharmacist application for licensure.

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

(a) How the amendment will change this existing administrative regulation: Retitle this regulation; Updates language on how scores are reported to the Board of Pharmacy. Establishes limits on the number of attempts a candidate may take the exams. Adds requirements for requesting multiple attempts to an examination.

(b) The necessity of the amendment to this administrative regulation: The criteria needed to be updated based on score reporting by the agency that administers the examination. Adding limits to the examination protects the integrity of the examination and provides the Board of Pharmacy the ability to certify additional training for unsuccessful attempts.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 315.050(2) and 315.191(1)(c) authorizes the Board of Pharmacy to promulgate administrative regulations to prescribe the time, place, method, manner, scope, and subjects of examinations.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will further promote, preserve, and protect public health through effective regulation of pharmacists by ensuring appropriate licensing standards.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The board anticipates pharmacies and pharmacists will be affected minimally by this regulation amendment.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Pharmacist applicants will have to familiarize themselves with amended language. The board will help to educate pharmacist applicants in these changes.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no new costs for the identities to comply with the amendment except multiple failed attempts would require additional training which may insure some cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This will provide better integrity of the examination process for all applicants.

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

(a) Initially: No costs will be incurred.

(b) On a continuing basis: No costs will be incurred.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Board revenues from pre-existing fees provide the funding to enforce the regulation.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied because the regulation is applicable to all applicants desiring to apply for Kentucky pharmacist licensure.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Pharmacy will be the only entity impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 315.050(2).

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

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

(b) How much revenue will this administrative regulation generate for the state or local government (including cities,

counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate revenue for the Board in subsequent years.

(c) How much will it cost to administer this program for the first year? No costs are required to administer this program for the first year.

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

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

Revenues (+/-): 0

Expenditures (+/-): 0

Other Explanation:

BOARDS AND COMMISSIONS
Board of Pharmacy
(Amendment)

201 KAR 2:050. Licenses and permits; fees.

RELATES TO: KRS 218A.205(3)(g), 315.035(1), (2), (4), 315.0351(1), 315.036(1), 315.050(5), 315.060, 315.110, 315.120, 315.191, 315.402

STATUTORY AUTHORITY: KRS 218A.205(3)(g), 315.035(1), (2), (4), 315.036(1), 315.050(5), 315.060, 315.110(1), 315.120(4), 315.191(1)(i), 315.402(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.191(1)(i) authorizes the board to assess reasonable fees for services rendered to perform its duties and responsibilities. This administrative regulation establishes reasonable fees for the board to perform all the functions for which it is responsible.

Section 1. The following fees shall be paid in connection with pharmacist examinations and licenses, pharmacy permits, intern certificates, and the issuance and renewal of licenses and permits:

(1) Application for initial pharmacist license[~~a licensee for pharmacist examination~~] - $150;

(2) Application and initial license for a pharmacist license by license transfer - $250;

(3) Annual renewal of a pharmacist license - ninety-five (95) dollars;

(4) Delinquent renewal penalty for a pharmacist license - ninety-five (95) dollars;

(5) Annual renewal of an inactive pharmacist license - ten (10) dollars;

(6) Pharmacy intern certificate valid six (6) years - twenty-five (25) dollars;

(7) Duplicate of original pharmacist license wall certificate - seventy-five (75) dollars;

(8) Application for a permit to operate a pharmacy - $125;

(9) Renewal of a permit to operate a pharmacy - $125;

(10) Delinquent renewal penalty for a permit to operate a pharmacy - $100 dollars;

(11) Change of location or change of ownership of a pharmacy or manufacturer permit - seventy-five (75) dollars;

(12) Application for a permit to operate as a manufacturer - $125;

(13) Renewal of a permit to operate as a manufacturer - $125;

(14) Delinquent renewal penalty for a permit to operate as a manufacturer - $125;

(15) Change of location or change of ownership of a wholesale distributor license - seventy-five (75) dollars;

(16) Application for a license to operate as a wholesale distributor - $125;

(17) Renewal of a license to operate as a wholesale distributor - $125;

(18) Delinquent renewal penalty for a license to operate as a wholesale distributor - $125; and

(19) Query to the National Practitioner Data Bank of the United States Department of Health and Human Services - twenty-five (25) dollars.

CHRISTOPHER HARLOW, Pharm.D., Executive Director

APPROVED BY AGENCY: April 4, 2022

FILED WITH LRC: April 5, 2022 at 8:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 22,2022 at 9:00 a.m. Eastern Time via zoom teleconference with the physical address of the meeting being at 125 Holmes Street, Suite 300, Frankfort, Kentucky 40601. A link to the public hearing shall be provided on the Board's website no fewer than (5) days before the hearing. 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 is received. 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 June 30, 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: Christopher Harlow, 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 Christopher.harlow@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Christopher Harlow

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the fees associated with Board of Pharmacy licensure.

(b) The necessity of this administrative regulation: KRS 315.191(1)(i) authorizes the Board of Pharmacy to assess reasonable fees for services rendered to perform its duties and responsibilities. This administrative regulation establishes reasonable fees for the board to perform all the functions for which it is responsible.

(c) How this administrative regulation conforms to the content of the authorizing statues: This administrative regulation establishes reasonable fees for the board to perform all the functions for which it is reasonable.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation amendment cleans up the language and does not change the fee for the initial licensure of pharmacists. It simply changes the language from "application for a licensee for pharmacist examination" to "application for initial pharmacist license."

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

(a) How the amendment will change this existing administrative regulation: It simply changes the language from "application for a licensee for pharmacist examination" to "application for initial pharmacist license."

(b) The necessity of the amendment to this administrative regulation: This administrative regulation amendment cleans up the language to be more appropriate to board licensure processes.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 315.191(1)(i) authorizes the Board of Pharmacy to assess reasonable fees for services rendered to perform its duties and responsibilities. This administrative regulation amendment does not change fees, it just amends language to more clearly articulate what the fee is utilized for.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will further promote, preserve, and protect public health through effective characterization of the initial pharmacist license fees.

(3) List the type and number of individuals, businesses,

organizations, or state and local governments affected by this administrative regulation: The board anticipates pharmacists will be affected minimally by this regulation amendment.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Pharmacists will have to familiarize themselves with amended language. The board will help to educate pharmacists and pharmacies in these changes.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no increased cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Pharmacists will be better served by the Board of Pharmacy with a more active characterization of what the initial fee is utilized for.

(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 is necessary.

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

(9) TIERING: Is tiering applied? Tiering is not applied because the regulation is applicable to all pharmacists and pharmacies.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Pharmacy will be the only entity impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 315.191(1)(i); 315.035(4); 315.036(1); 315.110(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 does not impact fees.

(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 does not impact fees.

(c) How much will it cost to administer this program for the first year? No costs are required to administer this program for the first year.

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

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

Revenues (+/-): 0

Expenditures (+/-): 0

Other Explanation:

BOARDS AND COMMISSIONS
Board of Pharmacy
(Amendment)

201 KAR 2:225. Special limited pharmacy permit – Medical gas.

RELATES TO: KRS 217.015(11), 315.010(9), 315.020, 315.035, 315.191(1)(a)

STATUTORY AUTHORITY: KRS 315.020, 315.035, 315.191(1)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.191(1)(a) authorizes the board to promulgate administrate[~~administrative~~] regulations to regulate and control all matters set forth in KRS Chapter 315 relating to pharmacists and pharmacies. This administrative regulation establishes, consistent with the requirements of KRS 315.191(1)(a), minimum requirements for the permitting of those entities that distribute medical gases.

Section 1. Definitions. (1) "Medical gases" means gases (including liquefied gases) classified by FDA as drugs or devices that are used for medical applications and which may be stored and administered through the use of Medical Gas Related Equipment, which may or may not be required under Federal or State law for the immediate container to bear the label, “Rx only” or “Caution: Federal or State law prohibits dispensing without a prescription.

(2) "Special limited pharmacy permits[~~permit~~]" means a permit issued to a pharmacy that provides miscellaneous specialized pharmacy service and functions.

Section 2. General Requirements. (1)(a) An applicant for a special limited pharmacy permit for medical gases shall comply with the requirements of 201 KAR 2:180, except Section 5 and 201 KAR 2:205, except that the pharmacist-in-charge designated on the special permit shall be exempt from the requirements of 201 KAR 2:205, Section 2(2).

(b) The pharmacist-in-charge shall review the records and do an onsite visit of the special limited pharmacy permit application[~~applicant~~] for medical gases not less than once each quarter.

(2) An applicant for a special limited pharmacy permit for medical gases shall prepare and adopt a policy and procedures manual that sets forth a detailed description of how the:

(a) Operation will comply with applicable federal, state, or local laws or administrative regulations; and

(b) Licensee will maintain the premises so that the medical gas remains secure and complies with applicable compendial monographs of official pharmacopoeias.

(3) An applicant for a special limited pharmacy permit for medical gas[~~gases~~] shall be inspected by the board prior to the issuance of the license.

Section 3. Qualifications for License. (1) The board shall consider the following in reviewing the qualifications of an applicant for a special limited pharmacy permit for medical gases:

(a) The applicant's experience in the sale or distribution of prescription drugs, including controlled substances;

(b) A felony conviction of the applicant under federal, state, or local laws;

(c) The furnishing by the applicant of false or fraudulent material in a previous application for:

1. A special limited pharmacy permit for medical gases; or

2. A federal or state medical assistance program;

(d) Suspension or revocation of an applicant's license or permit by federal, state, or local government; and

(e) Compliance with requirements under a previously granted license or permit.

(2) The board shall deny an application for a special limited pharmacy permit for medical gases, if an applicant has:

(a) Been convicted for a violation of federal, state, or local laws relating to:

1. The practice of pharmacy;
2. Drugs; or
3. Federal or state medical assistance programs.

(b) Furnished false or fraudulent material in the application for a special limited pharmacy permit for medical gases;

(c) Failed to maintain or make available required records to the:

1. Board; or
2. Federal, state, or local law enforcement officials;

(d) Failed to comply with applicable federal, state, and local laws and regulations relating to medical gas; or

(e) Failed to provide appropriate land, buildings, and security necessary to properly carry on the business described in his application.

Section 4. License Fees; Renewals. An applicant shall submit:

(1) An initial or renewal application for a special limited pharmacy permit [~~for~~]medical gases on either the "Application for Special Limited Pharmacy Permit[~~-~~] Medical Gas or the "Application for Special Limited Pharmacy Permit – Medical Gas Renewal"; and

(2) As appropriate, the:

(a) Initial application fee established by 201 KAR 2:050, Section 1(8); or

(b) Renewal fee established by 201 KAR 2:050, Section 1(9).

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

(a) "Application for Special Limited Pharmacy Permit – Medical Gas", March 2022[~~May 2020~~]; and

(b) "Application for Special Limited Pharmacy Permit – Medical Gas Renewal", March 2022[~~May 2020~~].

(2) This form[~~material~~] may be obtained, inspected, or copied,[~~inspected, copied, or obtained, subject to applicable copyright law,~~] at the Kentucky Board of Pharmacy, 125 Holmes Street[~~,~~] Suite 300, Frankfort, Kentucky 40601-8204, 8 a.m. to 4:30 p.m., Monday through Friday[~~, 8 a.m. to 4:30 p.m~~].

CHRISTOPHER HARLOW, Pharm.D., Executive Director

APPROVED BY AGENCY: April 4, 2022

FILED WITH LRC: April 5, 2022 at 8:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 22, 2022, at 9:00 a.m. Eastern Time via zoom teleconference with the physical location being at the Kentucky Board of Pharmacy, 125 Holmes Street, Suite 300, State Office Building Annex, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 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: Christopher Harlow, 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 Christopher.harlow@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Christopher Harlow

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for the special limited pharmacy permit for medical gas.

(b) The necessity of this administrative regulation: KRS 315.191(1)(a) authorizes the Board of Pharmacy to promulgate administrative regulations with minimum requirements for the permitting of those entities that provide non-dispensing pharmacy services. This administrative regulation establishes the requirements for the special limited pharmacy permit medical gas.

(c) How this administrative regulation conforms to the content of the authorizing statues: This administrative regulation establishes the requirements for the special limited pharmacy permit medical gas.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Changes the terms utilized on the form from "consultant pharmacist" to "pharmacist in charge" to properly reference the regulation. Moreover, it removed the statement that out of state pharmacies do not need a pharmacist in charge since that is not reflected in the 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: This amendment only changes the forms incorporated by reference to remove "consultant pharmacist" and add "pharmacist in charge." Moreover, it removed the statement that out of state pharmacies do not need a pharmacist in charge since that is not reflected in the regulation.

(b) The necessity of the amendment to this administrative regulation: The forms needed to be congruent with the regulation.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 315.191(1)(a) authorizes the board to promulgate administrative regulations pertaining to pharmacists and pharmacies.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will further promote, preserve, and protect public health through effective regulation of pharmacists and pharmacies by ensuring the forms comply with the provisions in the law.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The board anticipates pharmacies and pharmacists will be affected minimally by this regulation amendment.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Pharmacies and pharmacists will have to familiarize themselves with amended language. The board will help to educate pharmacists and pharmacies in these changes.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no expected costs for the identities to comply with the amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This amendment will clarify previous statutory language.

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

(a) Initially: No costs will be incurred.

(b) On a continuing basis: No costs will be incurred.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Board revenues from pre-existing fees provide the funding to enforce the regulation.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied because the regulation is applicable to all special limited medical gas permit holders.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 315.191(1)(a).

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

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

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

(c) How much will it cost to administer this program for the first year? No costs are required to administer this program for the first year.

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

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

Revenues (+/-): 0

Expenditures (+/-): 0

Other Explanation:

BOARDS AND COMMISSIONS
Board of Dentistry
(Amendment)

201 KAR 8:520. Fees and fines.

RELATES TO: KRS 218A.205(3)(e)4., 313.022, 313.030, 313.100(2)(c)

STATUTORY AUTHORITY: KRS 218A.205(3)(e)4., 313.022(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 313.022(1) requires the board to promulgate administrative regulations to prescribe a reasonable schedule of fees, charges, and fines. This administrative regulation establishes fees, charges, and fines for the issuance, renewal, and reinstatement of licenses, for services and materials provided by the board, for investigations, and for infractions.

Section 1. Dentists. (1) The initial licensure fee for a dental license applied for in the first year of the biennial license period shall be $325.

(2) The initial licensure fee for a dental license applied for in the second year of the biennial license period shall be $175.

(3) The renewal fee for a dental license appropriately renewed before the expiration of the license shall be $295.

(4) The reinstatement fee for an expired dental license reinstated between January 1 and January 15 of the year following the expiration of the license shall be $575.

(5) The reinstatement fee for an expired dental license reinstated between January 16 and January 31 of the year following the expiration of the license shall be $835.

(6) The reinstatement fee for an expired dental license reinstated on or after February 1 of the year following the expiration of the license shall be $1,415.

(7) The reinstatement fee for a properly retired dental license shall be $325.

(8) The initial licensure fee for a dental specialty license shall be $100.

(9) The renewal fee for a dental specialty license properly renewed before the expiration of the license shall be fifty (50) dollars in addition to the renewal fee for a standard dental license.

(10) The reinstatement fee for an expired a dental specialty license shall be fifty (50) dollars in addition to the reinstatement fee for an expired standard dental license.

(11) The reinstatement fee for a properly retired dental specialty license shall be fifty (50) dollars in addition to the reinstatement fee for a retired standard dental license.

(12) The initial licensure fee and renewal fee for a charitable limited dental license shall be twenty-five (25) dollars.

(13) The initial fee for a dental anesthesia or sedation permit shall be $250.

(14) The renewal fee for a dental anesthesia or sedation permit properly renewed before the expiration of the permit shall be seventy-five (75) dollars.

(15) The reinstatement fee for an expired dental anesthesia or sedation permit shall be seventy-five (75) dollars.

Section 2. Dental Hygienists. (1) The initial licensure fee for a dental hygiene license applied for in the first year of the biennial license period shall be $125.

(2) The initial licensure fee for a dental hygiene license applied for in the second year of the biennial license period shall be seventy-five (75) dollars.

(3) The renewal fee for a dental hygiene license appropriately renewed before the expiration of the license shall be $110.

(4) The reinstatement fee for an expired dental hygiene license reinstated between January 1 and January 15 of the year following the expiration of the license shall be $240.

(5) The reinstatement fee for an expired dental hygiene license reinstated between January 16 and January 31 of the year following the expiration of the license shall be $370.

(6) The reinstatement fee for an expired dental hygiene license reinstated on or after February 1 of the year following the expiration of the license shall be $630.

(7) The initial licensure fee and renewal fee for a charitable limited dental hygiene license shall be twenty-five (25) dollars.

(8) The initial registration fee to administer local anesthesia shall be fifty (50) dollars.

(9) The initial registration fee to practice under general supervision shall be fifty (50) dollars.

(10) The initial registration fee to administer an intravenous access line shall be fifty (50) dollars.

(11) The initial registration fee to perform laser debridement shall be fifty (50) dollars.

(12) The initial registration fee to be a public health registered dental hygienist shall be fifty (50) dollars.

(13) The reinstatement fee for a properly retired dental hygiene license shall be $125.

Section 3. Anesthesia and Sedation Facilities. (1) The initial certification fee for an anesthesia or sedation facility shall be $250.

(2) The renewal fee for an anesthesia or sedation facility certificate shall be seventy-five (75) dollars.

(3) The reinstatement fee for an expired anesthesia or sedation facility certificate reinstated between January 1 and January 15 of the year following the expiration of the certificate shall be $125.

(4) The reinstatement fee for an expired anesthesia or sedation facility certificate reinstated between January 16 and January 31 of the year following the expiration of the certificate shall be $175.

(5) The reinstatement fee for an expired anesthesia or sedation facility certificate reinstated on or after February 1 of the year following the expiration of the certificate shall be $225.

Section 4. Dental Laboratories. (1) The initial registration fee for a commercial dental laboratory shall be $150.

(2) The renewal fee for a dental laboratory registration

appropriately renewed on or before the expiration of the registration shall be $150.

(3) The reinstatement fee for an expired dental laboratory registration reinstated between August 1 and August 15 following the expiration of the certificate shall be $250.

(4) The reinstatement fee for an expired dental laboratory registration reinstated between August 16 and August 31 following the expiration of the certificate shall be $300.

(5) The reinstatement fee for an expired dental laboratory registration reinstated on or after September 1 following the expiration of the certificate shall be $350.

Section 5. Mobile Dental Facilities and Portable Dental Units. (1) The initial registration fee for a mobile dental facility or portable dental unit shall be $150.

(2) The renewal fee for a mobile dental facility or portable dental unit registration shall be seventy-five (75) dollars.

(3) The reinstatement fee for an expired mobile dental facility or portable dental unit registration reinstated between January 1 and January 15 of the year following the expiration of the registration shall be $150.

(4) The reinstatement fee for an expired mobile dental facility or portable dental unit registration reinstated between January 16 and January 31 of the year following the expiration of the registration shall be $175.

(5) The reinstatement fee for an expired mobile dental facility or portable dental unit registration reinstated on or after February 1 of the year following the expiration of the registration shall be $225.

Section 6. General Fees. (1) The fee for the verification of a license shall be forty (40) dollars.

(2) The fee for a contact list for either currently licensed dentists, currently licensed dental hygienists, or currently registered dental assistants shall be:

(a) $100 for lists obtained for not-for-profit use; and

(b) $1,000 for lists obtained for profit use.

(3) The fee for any returned check or rejected electronic payment shall be equal to the fee charged to the board by the bank.

Section 7.[~~Section 6.~~] General Fines. (1) The payment of reinstatement fees shall not be construed to exempt licensees and other entities regulated by the board from additional penalties associated with practicing or operating without an appropriate license, permit, or registration.

(2) Fines shall be determined by settlement or agreed order as negotiated by the Law Enforcement Committee or as issued by a hearing panel in accordance with KRS 313.100.

Section 8.[~~Section 7.~~] All fines and fees paid to the board shall be nonrefundable.

JEFF ALLEN, Executive Director

APPROVED BY AGENCY: March 22, 2023

FILED WITH LRC: March 23, 2022 at 11:45 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this Amendment shall be held on June 23, 2022 at 4:00 p.m., Eastern Time at the Kentucky Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, Kentucky 40222. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed Amendment. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed Amendment. Written comments shall be accepted through June 30, 2022. Send written notification of intent to be heard at the public hearing, or written comments on the proposed Amendment to the contact person below.

CONTACT PERSON: Jeff Allen, Executive Director, Kentucky Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, Kentucky 40222, phone (502) 429-7280, fax (502) 429-7282, email jeffrey.allen@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Jeff Allen

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation sets amounts for the various fees and fines issued by the board.

(b) The necessity of this administrative regulation: KRS 313.022(1) requires the board to promulgate administrative regulations regarding fees and fines.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation establishes a schedule of reasonable fees, fines, and other charges that do not exceed the national average of other state dental boards, as required by statute.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes standardized fees and fines in conformity with its authorizing statute.

(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 creates fee schedule for registration of mobile dental facilities.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary in order to create fee schedules for a new administrative registration established within 201 KAR Chapter 8.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment updates the schedule of fees and fines in conformity with its authorizing statute.

(d) How the amendment will assist in the effective administration of the statutes: The amendment ensures that the schedule of fees and fines issued by the board is clear, appropriate, and uniformly applied in compliance with applicable law.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation affects the approximately six thousand dentists and dental hygienists licensed in Kentucky, as well as future applicants for such licenses. Dental labs doing business in Kentucky will also be affected.

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

(a) List the actions that each of the related entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This regulation will continue to require that entities pay all applicable fee(s). The vast majority of entities will experience no changes as a result of the amendment. Only the operators of mobile dental facilities will be affected by the amendment, which requires them to pay a registration fee.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The costs for most entities will be unchanged as a result of this amendment. The only exception is more operators of mobile dental facilities, who will now pay an initial $150 registration fee as well as a biennial $75 renewal fee. Penalties for the late renewal/ reinstatement of lapsed registrations range from $150 to $225.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): All entities will benefit from the transparency and detail this amendment adds to the existing administrative regulation, thereby reducing non-compliance and associated costs.

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

(a) Initially: Added costs are anticipated to be minor as a result of the amendment.

(b) On a continuing basis: Added costs as a result of this amendment are anticipated to be minor increases in expenses.

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The new fee categories will generate minimal revenue but should still cover the negligible expenses associated with implementation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: Yes, this administrative regulation is specifically intended to provide a fee schedule in accordance with its authorizing statute.

(9) TIERING: Is tiering applied? No, this amendment impacts all similarly situated practitioners equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? None.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 313.022.

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amendment is will result in a minor increase in the revenue generated by the existing administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment is will result in a minor increase in the revenue generated by the existing administrative regulation.

(c) How much will it cost to administer this program for the first year? This amendment will result in a minor increase in costs associated with the existing administrative regulation.

(d) How much will it cost to administer this program for subsequent years? This amendment will result in a minor increase in costs associated with the existing administrative regulation.

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

Revenues (+/-): This amendment will require operators of mobile dental facilities to pay a reasonable registration fee that is comparable to other states. We do not expect this revenue to be significant.

Expenditures (+/-): This amendment will require negligible increases in overhead expenses and minor increases in legal and investigative expenses associated with enforcing the regulation.

Other explanation: Not applicable.

BOARDS AND COMMISSIONS
Board of Dentistry
(Amendment)

201 KAR 8:550. Anesthesia and sedation related to dentistry.

RELATES TO: KRS 313.035

STATUTORY AUTHORITY: KRS 313.035(1)

NECESSITY, FUNCTION AND CONFORMITY: KRS 313.035(1) requires the board to promulgate administrative regulations related to anesthesia and sedation permits. The administration of local anesthesia, sedation, and general anesthesia is an integral part of dentistry and the foundation of pain control. This administrative regulation establishes requirements for permits to perform sedation or anesthesia associated with dentistry.

Section 1. Definitions. (1) "Analgesia" means the diminution or elimination of pain.

(2) "ADA" means American Dental Association.

(3) "ASA" means American Society of Anesthesiologists.

(4) "Continual" means repeated regularly and frequently in steady succession.

(5) "Continuous" means prolonged without any interruption.

(6) "Deep sedation" means a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function could be impaired. The patient might require assistance in maintaining a patent airway, and spontaneous ventilation could be inadequate. Cardiovascular function is usually maintained.

(7) "Enteral" means a technique of administration in which the agent is absorbed through the gastrointestinal (GI) tract or oral mucosa (oral, rectal, or sublingual).

(8) "General anesthesia" means a drug-induced loss of consciousness during which a patient is not arousable, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation could be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function might be impaired.

(9) "Immediately available" means onsite at the facility and available for immediate use.

(10) "Local anesthesia" means the elimination or diminution of sensation, especially pain, in one (1) part of the body by the topical application or regional injection of a drug.

(11) "Maximum Recommended Dose" or "MRD" means the maximum FDA-recommended dose of a drug for minimal sedation, as printed in FDA-approved labeling for unmonitored home use.

(12) "Minimal sedation" means a minimally depressed level of consciousness produced by a pharmacological method that retains the patient's ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive function and coordination might be modestly impaired, ventilatory and cardiovascular functions are unaffected.

(13) "Moderate sedation" means a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. Intervention is not required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained. This term includes the enteral administration of drugs exceeding the maximum recommended dose during a single appointment.

(14) "Nitrous oxide sedation" or "N2O sedation" means a technique of inhalation sedation with nitrous oxide and oxygen.

(15) "Operating dentist" means a licensed dentist with primary responsibility for providing dental care during a procedure.

(16) "Pediatric patient" means a patient twelve (12) years of age or younger.

(17) "Qualified anesthesia provider" means a licensed anesthesiologist, Certified Registered Nurse Anesthetist, or dentist with an applicable sedation permit.

(18) "Qualified dentist" means a licensed dentist with an applicable sedation permit. A qualified dentist can also be an operating dentist if they fulfill the requirement of subsection (15) of this section.

(19) "Time-oriented anesthesia record" means documentation at appropriate time intervals of drugs administered, doses of drugs administered, and physiologic patient data obtained during patient monitoring.

(20) "Trained individual" means personnel with an active certification in Basic Life Support for Healthcare Providers, who has been trained in monitoring EKG's, pulse oximetry, blood pressures, airway management, and capnography. Training,

whether formal or internal, is documented in employee records.

Section 2. Scope and Applicability. (1) The board shall be committed to the safe and effective use of sedation and anesthesia by licensed, educated, and trained dentists.

(2) Because large doses of local anesthetics, especially in combination with sedative agents, carry the risk of central nervous system depression, each licensed dentist shall be aware of the maximum, safe dosage limits for each patient.

(3) Level of sedation shall be independent of the route of administration. Moderate or deep sedation, or general anesthesia, may be achieved via any route of administration.

(4) Because sedation and general anesthesia are a continuum and it is not always possible to predict how an individual patient will respond, each licensed dentist intending to produce a given level of sedation shall be able to diagnose and manage the physiologic consequences for patients whose level of sedation becomes deeper than initially intended. For all levels of sedation, the qualified dentist shall have the training, skills, drugs, and equipment to identify and manage such an occurrence until either:

(a) Assistance arrives; or

(b) The patient returns to the intended level of sedation without airway or cardiovascular complications.

(5) Because new indications, agents, and techniques lead to changes in anesthesia and sedation practices, the board shall evaluate changes for safety, efficacy, and to what extent changes become accepted practice within the profession of dentistry.

Section 3. Nitrous Oxide Sedation. (1) Nitrous oxide sedation may be used by a Kentucky-licensed dentist without a sedation permit or by a Kentucky-licensed dental hygienist who is registered to deliver nitrous oxide analgesia under the direct supervision of a dentist as per KRS 313.060(10).

(2) Equipment used in the administration of nitrous oxide sedation shall have functional safeguard measures that:

(a) Limit the minimum oxygen concentration to thirty (30) percent; and

(b) Provide for scavenger elimination of nitrous oxide gas.

(3) The dentist shall:

(a) Ensure that a patient receiving nitrous oxide is constantly monitored; and

(b) Be present in the office while nitrous oxide is being used.

(4) A Kentucky-registered dental assistant shall not independently administer nitrous oxide sedation, but may initiate nitrous oxide sedation if the dentist is in the office and gives the dental assistant specific instructions regarding the mode of administration and the titration, rate, and dosage of the anesthetic agent.

Section 4. Minimal Sedation. (1) A sedation permit shall not be required for a Kentucky-licensed dentist to provide minimal sedation as defined by Section 1(12) of this administrative regulation.

(2) A patient whose only response is reflex withdrawal from repeated painful stimuli shall not be considered to be in a state of minimal sedation.

(3) The enteral administration of drugs exceeding the maximum recommended dose during a single appointment is considered to be moderate sedation, and Section 5 of this administrative regulation shall apply.

(4) Nitrous oxide, if used in combination with a sedative agent, may be considered to produce minimal, moderate, or deep sedation, or general anesthesia.

(5) If more than one (1) drug is administered enterally to achieve the desired sedation effect, with or without the concomitant use of nitrous oxide, Section 5 of this administrative regulation shall apply.

(6) A dentist who administers minimal sedation shall do so within a sufficient margin of safety to avoid an unintended loss of consciousness. The use of the MRD to guide dosing for minimal sedation is intended to create this margin of safety.

(7) If minimal sedation is administered to a patient who is taking another substance known to increase the sedative effects on the patient, Section 5 of this administrative regulation shall apply.

(8) An operating dentist shall not be required to complete additional training to administer minimal sedation.

(9) The administration of minimal sedation by another dentist or qualified anesthesia provider shall require the operating dentist to maintain current certification in Basic Life Support for Healthcare Providers.

(10) Clinical guidelines.

(a) Patient history and evaluation. Patients considered for minimal sedation shall be evaluated prior to the start of any sedative procedure. In healthy or medically stable individuals (ASA I, II), this evaluation shall consist of a review of the patient's current medical history and medication use. In addition, patients with significant medical considerations (ASA III, IV) shall, unless otherwise documented by the provider, require consideration of a consultation with their treating physician prior to being administered minimal sedation.

(b) Pre-operative evaluation and preparation.

1. The patient or the patient's parent, legal guardian, or caregiver, shall be advised regarding the planned procedure and any other anticipated possible procedures associated with the delivery of any sedative agents. Informed consent for the proposed sedation shall be obtained prior to its administration.

2. Adequate oxygen supply and the equipment necessary to deliver oxygen under positive pressure shall be determined prior to the administration of minimal sedation.

3. The patient shall be physically examined prior to the administration of minimal sedation. Baseline vital signs including body weight, height, blood pressure, and pulse rate shall be obtained unless rendered impractical by the nature of the patient, procedure, or equipment. Body temperature shall be measured if clinically indicated.

4. Preoperative dietary restrictions shall be considered based on the sedative technique prescribed.

5. The patient or the patient's parent, legal guardian, or caregiver, shall be given preoperative verbal and written instructions regarding the patient's sedation and procedure.

(c) Personnel and equipment requirements.

1. Personnel. All clinical staff participating in the care of a minimally sedated patient shall be certified in Basic Life Support for Healthcare Providers.

2. Equipment.

a. A positive-pressure oxygen delivery system suitable for the patient being treated shall be immediately available.

b. All equipment shall be examined for proper performance prior to each administration of sedation.

c. If inhalation equipment is used, it shall have a fail-safe system that shall be examined and calibrated and a functioning device that shall prohibit the delivery of less than thirty (30) percent oxygen, or a calibrated and functioning in-line oxygen analyzer with audible alarm.

d. A scavenging system shall be used if gases other than oxygen or air are delivered to a patient.

3. Monitoring and documentation.

a. Monitoring. The dentist or a trained individual chosen by the dentist, shall remain in the treatment room during active dental treatment to monitor the patient continuously until the patient meets the criteria for discharge to the recovery area. The following shall be monitored unless precluded or invalidated by the nature of the patient:

(i) Consciousness. The patient's level of sedation and responsiveness to verbal commands shall be continually assessed;

(ii) Oxygenation. Oxygen saturation by pulse oximetry shall be continually evaluated;

(iii) Ventilation. The patient's chest excursions shall be monitored and respirations shall be verified; and

(iv) Circulation. Blood pressure and heart rate shall be evaluated preoperatively and postoperatively.

b. Documentation. A sedative record shall be maintained for each patient to whom sedation is administered. The sedative record shall include the names of all drugs administered including local anesthetics, the time administered, the route of

administration, dosages, and monitored physiological parameters.

4. Recovery and discharge.

a. Oxygen and suction equipment shall be immediately available if a separate recovery area is utilized.

b. The dentist or a trained individual chosen by the dentist shall monitor the patient during recovery until the patient is ready for discharge.

c. The dentist shall examine the patient and document the patient's level of consciousness, oxygenation, ventilation, and circulation prior to discharge.

d. The patient, parent, escort, legal guardian, or caregiver shall be given post-operative verbal and written instructions prior to or upon discharge.

(d) Emergency management.

1. If a patient enters a deeper level of sedation than the dentist is qualified to provide, the dentist shall stop the dental procedure until the patient is returned to the intended level of sedation.

2. The operating dentist shall be responsible for the sedative management, adequacy of the facility and staff, equipment, protocols, and diagnosis and treatment of emergencies related to the administration of minimal sedation and patient rescue.

Section 5. Moderate Sedation. (1) A Moderate Sedation Permit issued by the board shall be required for a Kentucky-licensed dentist to administer moderate sedation as defined by Section 1(13) of this administrative regulation.

(2) A dentist who administers moderate sedation shall do so within a sufficient margin of safety to avoid an unintended loss of consciousness.

(3) A qualified dentist shall be aware that repeated dosing of an agent before the effects of previous dosing can be fully appreciated could result in a greater alteration of the state of consciousness than intended. A dentist who administers moderate sedation shall refrain from administering an additional drug increment before the previous dose has taken full effect.

(4) A patient whose only response is reflex withdrawal from a painful stimulus shall not be considered to be in a state of moderate sedation.

(5) To qualify for a Moderate Sedation Permit, a dentist shall:

(a) Submit an Application for Sedation or Anesthesia Permit;

(b) Pay the fee required by 201 KAR 8:520; and

(c) Provide documentation that the dentist meets the educational requirements of paragraphs[~~subsection~~] (6)(a) and (b)[~~or (7)~~] of this section.

(6) Education requirements for moderate sedation.

(a) To administer moderate sedation to an adult patient, a dentist shall have current certifications in Basic Life Support for Healthcare Providers and Advanced Cardiac Life Support, and complete:

1. A comprehensive training program in moderate sedation that complies with the requirements established in the Moderate Sedation section of the ADA Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students at the time training was commenced; or

2. An advanced education program accredited by the Commission on Dental Accreditation that provides comprehensive training necessary to administer and manage moderate sedation commensurate with this administrative regulation.

(b) To administer moderate sedation to a pediatric patient, a dentist shall have successfully completed:

1. An advanced education program accredited by the Commission on Dental Accreditation that provides comprehensive training necessary to administer and manage moderate sedation commensurate with this administrative regulation; and

2. Current certifications in Basic Life Support for Healthcare Providers and Pediatric Advanced Life Support.

(c) To authorize a qualified anesthesia provider to administer moderate sedation to an adult patient, the operating dentist shall maintain current certifications in Basic Life Support for Healthcare Providers and Advanced Cardiac Life Support.[~~The operating dentist or the facility at which the moderate sedation is being administered shall maintain a current certification in Basic Life Support for Healthcare Providers in order for a qualified anesthesia provider to provide moderate sedation.~~]

(d) To authorize a qualified anesthesia provider to administer moderate sedation to a pediatric patient, the operating dentist shall maintain current certifications in Basic Life Support for Healthcare Providers and Pediatric Advanced Life Support.

(e) Any valid moderate sedation permits issued prior to this administrative regulation shall[~~ remain active until their expiration date and shall comply with the requirements of this section, except that moderate adult enteral and parenteral permit holders shall~~] have until December 31, 2023 to comply with subsection (6)(a)1. and 2. of this section.

(7) Clinical guidelines; patient history and evaluation.

(a) Patients considered for moderate sedation shall be evaluated prior to the start of any sedative procedure. In healthy or medically stable individuals (ASA I, II), this evaluation shall consist of a review of the patient's current medical history, medication use, body mass index, airway evaluation, and ASA status.

(b) Patients with significant medical considerations (ASA III, IV) shall, unless otherwise documented by the provider, require consideration of a consultation with their treating physician prior to being administered moderate sedation.

(8) Pre-operative evaluation and preparation.

(a) The patient or the patient's parent, legal guardian, or caregiver, shall be advised regarding the planned procedure and any other anticipated possible procedures associated with the delivery of any sedative agents. Informed consent for the proposed sedation shall be obtained prior to its administration.

(b) Adequate oxygen supply and the equipment necessary to deliver oxygen under positive pressure shall be determined prior to the administration of moderate sedation.

(c) The patient shall be physically examined prior to the administration of minimal sedation. Baseline vital signs including body weight, height, blood pressure, and pulse rate shall be obtained unless rendered impractical by the nature of the patient, procedure, or equipment. Body temperature shall be measured if clinically indicated.

(d) Preoperative dietary restrictions shall be considered based on the sedative technique prescribed.

(e) The patient or the patient's parent, legal guardian, or caregiver, shall be given preoperative verbal and written instructions regarding the patient's sedation and procedure, including pre-operative fasting instructions based on the ADA Guidelines for the Use of Sedation and General Anesthesia by Dentist, adopted October 2016.

(9) Personnel and equipment requirements.

(a) Personnel. All clinical staff participating in the care of a moderately sedated patient shall be certified in Basic Life Support for Healthcare Providers.

(b) Equipment.

1. A positive-pressure oxygen delivery system suitable for the patient being treated shall be immediately available.

2. All equipment shall be examined for proper performance prior to each administration of sedation.

3. If inhalation equipment is used, it shall have a fail-safe system that shall be examined and calibrated and a functioning device that shall prohibit the delivery of less than thirty (30) percent oxygen, or a calibrated and functioning in-line oxygen analyzer with audible alarm.

4. A scavenging system shall be used if gases other than oxygen or air are delivered to a patient.

5. Equipment necessary to establish intravascular or intraosseous access and a defibrillator or automated external defibrillator shall be immediately available until the patient meets discharge criteria.

(10) Monitoring and documentation.

(a) Monitoring.

1. If leaving the room, a qualified dentist shall have at least one (1) month of general anesthesia training and shall select a trained individual to continuously monitor the patient; or

2. A qualified anesthesia provider shall remain in the treatment room during active treatment until the patient meets the criteria for discharge to the recovery area.

(b) The following shall be monitored:

1. Consciousness. The patient's level of sedation and responsiveness to verbal commands shall be continually assessed;

2. Oxygenation. Oxygen saturation by pulse oximetry shall be continually evaluated;

3. Ventilation: The qualified anesthesia provider shall be responsible for the observation of ventilation and breathing by monitoring end tidal CO2 unless precluded or invalidated by the nature of the patient. In addition, ventilation shall be monitored by continual observation of qualitative signs, which may include auscultation of breath sounds with a precordial or pretracheal stethoscope, or observation of chest excursions;

4. Circulation. The qualified anesthesia provider shall continually evaluate blood pressure and heart rate unless invalidated by the nature of the patient and noted in the time-oriented anesthesia record; and

5. The patient's pulse oximetry, heart rate, end tidal CO2, blood pressure, and level of consciousness shall be monitored continually and recorded at least every five (5) minutes.

(c) Documentation. A sedative record shall be maintained for each patient to whom sedation is administered. The sedation record shall include the names of all drugs administered including local anesthetics, the time administered, the route of administration, dosages, and monitored physiological parameters.

(11) Recovery and discharge.

(a) Oxygen and suction equipment shall be immediately available if a separate recovery area is utilized.

(b) When active treatment concludes and the patient recovers to a minimally sedated level, the qualified anesthesia provider or a trained individual chosen by the qualified anesthesia provider shall remain with and continue to monitor the patient until the patient is discharged from the facility. The qualified anesthesia provider shall not leave the facility until the patient is discharged.

(c) The qualified anesthesia provider or a trained individual chosen by the qualified anesthesia provider shall continually monitor the patient's blood pressure, heart rate, oxygenation, and level of consciousness during recovery.

(d) The qualified anesthesia provider shall determine and document the patient's level of consciousness, oxygenation, ventilation, and circulation prior to discharge.

(e) The patient, parent, escort, legal guardian, or caregiver shall be given post-operative verbal and written instructions prior to or upon discharge.

(f) Because re-sedation could occur after the effects of a reversal agent have waned, if a pharmacological reversal agent is administered before the patient's discharge criteria have been met, the patient's escort shall be notified of the risk of re-sedation.

(12) Emergency management.

(a) If a patient enters a deeper level of sedation than the qualified anesthesia provider is qualified to provide, the procedure shall stop until the patient is returned to the intended level of sedation.

(b) The qualified anesthesia provider shall be responsible for the sedative management, adequacy of the facility and staff, equipment, protocols, and diagnosis and treatment of emergencies related to the administration of moderate sedation and patient rescue.

Section 6. Deep Sedation and General Anesthesia. (1) A Deep Sedation and General Anesthesia Permit issued by the board shall be required for a Kentucky-licensed dentist to administer "deep sedation" and "general anesthesia" as defined by Section 1(6) and (8) of this administrative regulation.

(2) To qualify for a deep sedation and general anesthesia permit, a dentist shall:

(a) Submit an Application for Sedation or Anesthesia Permit;

(b) Pay the fee required by 201 KAR 8:520; and

(c) Provide documentation that the dentist meets the educational requirements of paragraph[~~subsection~~] (3)(a) of this section.

(3) Education requirements.

(a) To administer deep sedation or general anesthesia, a dentist shall have successfully completed:

1. An advanced education program accredited by the Commission on Dental Accreditation, which provides comprehensive training necessary to administer and manage deep sedation or general anesthesia; and

2. Current certifications in:

a. Basic Life Support for Healthcare Providers;

b. Advanced Cardiac Life Support if administering sedation to adult patients; and

c. Pediatric Advanced Life Support if administering sedation to pediatric patients.

(b) To authorize a qualified anesthesia provider to administer deep sedation or general anesthesia, the operating dentist shall maintain current certifications in:

1. Basic Life Support for Healthcare Providers;

2. Advanced Cardiac Life Support if sedation is administered to adult patients; and

3. Pediatric Advanced Life Support if sedation is administered to pediatric patients.[~~The operating dentist or the facility at which deep sedation or general anesthesia is being administered shall maintain a current certification in Basic Life Support for Healthcare Providers in order for a qualified anesthesia provider to provide deep sedation or general anesthesia.~~]

(4) Clinical guidelines; for patient history and evaluation. Each patient considered for deep sedation or general anesthesia shall be suitably evaluated prior to the start of any sedative procedure. In healthy or medically stable individuals (ASA I, II), this evaluation shall consist of a review of the patient's current medical history, medication use, body mass index, airway evaluation, nothing by mouth status, and ASA status. In addition, patients with significant medical considerations (ASA III, IV) shall, unless otherwise documented by the provider, require consideration of a consultation with their treating physician prior to being administered deep sedation or general anesthesia.

(5) Pre-operative evaluation and preparation.

(a) The patient or the patient's parent, legal guardian, or caregiver, shall be advised regarding the planned procedure and any other anticipated possible procedures associated with the delivery of any sedative agents. Informed consent for the proposed sedation shall be obtained prior to its administration.

(b) Adequate oxygen supply and the equipment necessary to deliver oxygen under positive pressure shall be confirmed prior to the administration of deep sedation or general anesthesia.

(c) The patient shall be physically examined prior to the administration of deep sedation or general anesthesia. Baseline vital signs including body weight, height, blood pressure, blood oxygen saturation, and pulse rate shall be obtained unless rendered impractical by the nature of the patient, procedure, or equipment. Body temperature shall be measured if clinically indicated.

(d) The patient or the patient's parent, legal guardian, or caregiver, shall be given preoperative verbal and written instructions regarding the patient's sedation and procedure, including preoperative fasting instructions based on the ASA Summary of Fasting and Pharmacologic Recommendations.

(e) An intravenous line shall be established and secured throughout the procedure, except for patients with special needs as per subsection (9) of this section.

(6) Personnel and equipment requirements.

(a) Personnel. All clinical staff participating in the care of a deeply sedated patient or a patient who has been administered general anesthesia shall be certified in Basic Life Support for Healthcare Providers.

(b) A minimum of three (3) individuals shall be present while a patient is being treated with deep sedation or general anesthesia. If a pediatric patient is being treated with deep sedation or general anesthesia, in addition to the operating dentist, a separate qualified anesthesia provider shall manage the patient's anesthesia unless the anesthesia is performed by an oral and maxillofacial surgeon.

(c) Equipment.

1. A positive-pressure oxygen delivery system suitable for the patient being treated shall be immediately available.

2. All equipment shall be examined for proper performance prior to each administration of sedation.

3. If inhalation equipment is used, it shall have a fail-safe

system that shall be examined and calibrated and a functioning device that shall prohibit the delivery of less than thirty (30) percent oxygen, or a calibrated and functioning in-line oxygen analyzer with audible alarm.

4. A scavenging system shall be used if gases other than oxygen or air are delivered to a patient.

5. Equipment necessary to establish intravenous access and to monitor end tidal CO2 and auscultation of breath sounds shall be immediately available.

6. Resuscitation medications, a defibrillator, equipment and drugs necessary to provide advanced airway management and advanced cardiac life support shall be immediately available.

(7) Monitoring and documentation.

(a) Monitoring.

1. If leaving the room, a qualified dentist shall have at least one (1) month of general anesthesia training and shall select a trained individual to continuously monitor the patient; or

2. A qualified anesthesia provider shall remain in the treatment room during active treatment until the patient meets the criteria for discharge to the recovery area. The following shall be monitored:

3. Oxygenation. Oxygen saturation by pulse oximetry shall be continually evaluated;

4. Ventilation. For an intubated patient, end-tidal CO2 shall be continually monitored and evaluated. For a non-intubated patient, end-tidal CO2 shall be continually monitored and evaluated unless precluded or invalidated by the nature of the patient. In addition, ventilation shall be monitored by continual observation of qualitative signs, which may include auscultation of breath sounds with a precordial or pretracheal stethoscope, or observation of chest excursions;

5. Circulation. The qualified anesthesia provider shall continually evaluate heart rate and rhythm by ECG throughout the procedure, as well as the patient's pulse rate by pulse oximetry;

6. Temperature. A device capable of measuring body temperature shall be readily available during the administration of deep sedation or general anesthesia. Equipment necessary to continually monitor body temperature shall be available and used if triggering agents associated with malignant hyperthermia are administered; and

7. The patient's pulse oximetry, heart rate, end tidal CO2, blood pressure, and level of consciousness shall be monitored continually and recorded at least every five (5) minutes.

(b) Documentation. A sedative record shall be maintained for each patient to whom sedation is administered. The sedative record shall include the names of all drugs administered, including local anesthetics, the time administered, the route of administration, dosages, and monitored physiological parameters.

(8) Recovery and discharge.

(a) Oxygen and suction equipment shall be immediately available if a separate recovery area is utilized.

(b) When active treatment concludes and the patient recovers to a minimally sedated level, the qualified anesthesia provider or a trained individual chosen by the qualified anesthesia provider shall remain with and continue to monitor the patient until the patient is discharged from the facility. The qualified anesthesia provider shall not leave the facility until the patient is discharged.

(c) The qualified anesthesia provider or a trained individual chosen by the qualified anesthesia provider shall continually monitor the patient's blood pressure, heart rate, oxygenation, and level of consciousness during recovery.

(d) The qualified anesthesia provider shall determine and document the patient's level of consciousness, oxygenation, ventilation, and circulation prior to discharge.

(e) The patient, parent, escort, legal guardian, or caregiver shall be given post-operative verbal and written instructions prior to or upon discharge.

(9) Patients with special needs.

(a) Because many dental patients undergoing deep sedation or general anesthesia are mentally or physically challenged, it is not always possible to administer a comprehensive physical examination or appropriate laboratory tests prior to sedation. In this circumstance, the dentist responsible for administering the deep sedation or general anesthesia shall document the reasons preventing the examination of the patient in the patient's medical record.

(b) Deep sedation or general anesthesia may be administered without first establishing an indwelling intravenous line if the establishment of intravenous access after deep sedation or general anesthesia is rendered necessary because of poor patient cooperation.

(10) Emergency management. The qualified anesthesia provider shall be responsible for the sedative management, adequacy of the facility and staff, equipment, protocols, and diagnosis and treatment of emergencies related to the administration of patient rescue and deep sedation or general anesthesia.

Section 7. Multiple Application Levels. A dentist with the required education and training to provide more than one (1) level of sedation may mark the levels of qualification on the Application for Sedation or Anesthesia Permit.

Section 8. Renewal of a Sedation or Anesthesia Permit. (1) A qualified dentist applying for renewal of an active permit to administer moderate sedation, or deep sedation or general anesthesia shall:

(a) Submit an Application for Renewal of Sedation or Anesthesia Permit;

(b) Pay the fee required by 201 KAR 8:520;

(c) Complete at least four (4) hours of clinical continuing education related to sedation or anesthesia in a classroom setting during the two (2) year term of the permit; and

(d) Maintain Advanced Cardiac Life Support[~~ACLS~~] or Pediatric Advanced Life Support[~~PALS~~] certification as required by Sections 5 and 6 of this administrative regulation.

(2) The continuing education requirements of this section shall be in addition to the license renewal requirements of 201 KAR 8:532.

(3) Unless properly renewed, each permit issued under this administrative regulation shall expire on December 31 of odd-number years.

Section 9. Location Requirement. A dentist holding a permit in accordance with this administrative regulation shall advise the board of the name and address of each facility where the dentist intends to or has ceased to administer anesthesia and sedation by submitting the Sedation or Anesthesia Permit Location Notification Form within ten (10) business days of the change.

Section 10. Facility Certificates. (1) The owner or operator of a facility shall obtain an Anesthesia or Sedation Facility Certificate from the board for any location at which a dentist holding a sedation or general anesthesia permit provides moderate sedation, deep sedation, or general anesthesia. A facility certificate shall not be required for minimal sedation or nitrous oxide sedation alone.

(2) A facility certificate shall also be required if a dentist allows an independently practicing qualified anesthesia provider to administer sedation or general anesthesia in a dental office.

(3) A facility owner or operator desiring to obtain an Anesthesia or Sedation Facility Certificate shall:

(a) Submit an Application for Sedation or Anesthesia Facility Certificate;[~~ and~~]

(b) Pay the fee required by 201 KAR 8:520; and

(c) Hold an active sedation permit issued by the board.[~~.~~]

(4) The owner or operator of a facility shall not allow an individual to administer anesthesia or sedation unless the individual is permitted to do so as established by this administrative regulation.

(5) The owner or operator of a facility shall maintain for at least seven (7) years, for inspection by the board, the name and license number of each dentist or independently practicing qualified anesthesia provider who has administered anesthesia or moderate sedation at that location.

(6) The owner or operator of a facility shall ensure that the facility remains equipped and staffed for the duration of time that moderate sedation, deep sedation, or general anesthesia is

provided at the facility.

(7) The owner or operator of a facility shall ensure that the facility has nonexpired emergency and sedation medications.

Section 11. Renewal of Facility Certificate. (1) All active facility certificates shall expire on December 31 of odd-numbered years.

(2) Any valid facility certificates issued prior to this administrative regulation shall remain active until their original expiration date, at which time the requirements of this regulation shall have to be met prior to renewal.

(3) To renew a facility certificate, the owner or operator shall:

(a) Submit an Application for Renewal of Sedation or Anesthesia Facility Certificate;[~~ and~~]

(b) Pay the fee required by 201 KAR 8:520; and

(c) Maintain an active sedation permit issued by the board.

Section 12. Facility Criteria. (1) To qualify for a facility certificate, the owner or operator of a facility shall attest in the Application for Sedation or Anesthesia Facility Certificate that the facility has:

(a) An oxygen and gas delivery system with fail-safe backup;

(b) A safety indexed gas system;

(c) A suction and backup system;

(d) An auxiliary lighting system;

(e) An operating room to include:

1. At a minimum, ten (10) feet by eight (8) feet or eighty (80) square feet in size;

2. An operating primary light source and secondary portable back-up source, unless a back-up generator is available; and

3. Accessibility by emergency medical staff;

(f) A recovery area, including oxygen, suction, and electronic monitoring, which may be a part of the operating room;

(g) Preoperative medical history and physical evaluation form; and

(h) Anesthesia and monitoring equipment checked to ensure working order and calibration, if applicable.

(2) The following shall be maintained in working order by the facility or by the qualified individual administering sedation or anesthesia at or on behalf of the facility:

(a) Drugs for each procedure, all of which shall be unexpired, including reversal agents and emergency medications;

(b) Devices to maintain an airway with positive pressure ventilation;

(c) Anesthesia records, including monitoring and discharge records;

(d) Monitoring equipment, including pulse oximeter, blood pressure monitor, and end tidal CO2 monitor. An electrocardiogram (EKG) shall be required for facilities providing deep sedation or general anesthesia;

(e) Defibrillator or automated external defibrillator (AED); and

(f) Precordial stethoscope or pretracheal stethoscope for deep sedation or general anesthesia in pediatric patients.

Section 13. Morbidity and Mortality Incident Reports. (1) A dentist shall report to the board, in writing, any death caused by or resulting from the [~~dentist's~~]administration of minimal sedation, moderate sedation, deep sedation, or general anesthesia within seven (7) days after the death.

(2) A dentist shall report to the board, in writing, any incident that occurred at a facility operating under a Sedation or Anesthesia Facility permit that resulted in hospital in[-]patient admission or emergency room visit caused by or resulting from the [~~dentist's~~]administration of minimal sedation, moderate sedation, deep sedation, or general anesthesia within thirty (30) days after the hospitalization or emergency room visit.

(3) The written report to the board required in subsections (1) and (2) of this section shall include:

(a) The date of the incident;

(b) The name, age, and address of the patient;

(c) The patient's original complete dental records;

(d) The name and permit number of the dentist and the name and address of all other persons present during the incident;

(e) The address where the incident took place;

(f) The preoperative physical condition of the patient;

(g) The type of anesthesia and dosages of drugs administered to the patient;

(h) The techniques used in administering the drugs;

(i) Any adverse occurrence including:

1. The patient's signs and symptoms;

2. The treatment instituted in response to adverse occurrences;

3. The patient's response to the treatment; and

4. The patient's condition on termination of any procedures undertaken; and

(j) A narrative description of the incident including approximate times and evolution of symptoms.

(4) The duties established in this section shall apply to every dentist who administers any type of sedation or anesthesia.

Section 14. Registered Dental Assistant Duties while Working with Sedation Permit Holders. A registered dental assistant working with a qualified dentist administering sedation or anesthesia in accordance with this administrative regulation may, under direct supervision:

(1) Apply noninvasive monitors on the patient;

(2) Perform continuous observation of patients and noninvasive monitors appropriate to the level of sedation, during the pre-operative, intra-operative, and post-operative (recovery) phases of treatment;

(3) Report monitoring parameters at pre-determined intervals, and if changes in monitored parameters occur;

(4) Record vital sign measurements in the sedation record;

(5) Establish and remove intravenous lines if the registered dental assistant has completed training in intravenous access;

(6) Assist in the management of a patient emergency; and

(7) Administer medications into an existing intravenous line upon the verbal order and direct supervision of a qualified dentist in accordance with this administrative regulation.

Section 15. Administration by Qualified Anesthesia Provider. (1) An operating dentist may authorize the administration of sedation or anesthesia by a qualified anesthesia provider.

(2) The administration of anesthesia or sedation by an individual established in subsection (1) of this section shall:

(a) Comply with the requirements of this administrative regulation; and

(b) Not require board review prior to the administration of sedation or anesthesia.

(3) Nothing in this section shall preclude a dentist from working with a qualified anesthesia provider to provide care in an ambulatory care center or hospital.

Section 16. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Application for Sedation or Anesthesia Permit", March 2020;

(b) "Application for Sedation or Anesthesia Facility Certificate", March 2020; and

(c) "Sedation or Anesthesia Permit Location Notification Form", March 2020.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, Kentucky 40222, Monday through Friday 8 a.m. through 4:30 p.m. This material is also available on the board's Web site at http://dentistry.ky.gov.

JEFF ALLEN, Executive Director

APPROVED BY AGENCY: March 22, 2022

FILED WITH LRC: March 23, 2022 at 11:45 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this Amendment shall be held on June 23, 2022 at 2:00 p.m., Eastern Time at the Kentucky Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, Kentucky 40222. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing of their

intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed Amendment. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed Amendment. Written comments shall be accepted through June 30, 2022. Send written notification of intent to be heard at the public hearing, or written comments on the proposed Amendment to the contact person below.

CONTACT PERSON: Jeff Allen, Executive Director, Kentucky Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, Kentucky 40222, phone (502) 429-7280, fax (502) 429-7282, email jeffrey.allen@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jeff Allen

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes requirements for permits to perform sedation or anesthesia.

(b) The necessity of this administrative regulation: KRS 313.035(1) requires the board to promulgate administrative regulations related to anesthesia and sedation permits

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation establishes requirements for permits to perform sedation or anesthesia.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes requirements for permits to perform sedation or anesthesia in conformity with its authorizing statute.

(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 includes minor clarifications of the existing requirements for dental sedation and anesthesia.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary in order to clarify some reporting and training requirements in the existing regulation.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment updates the requirements for permits to perform sedation or anesthesia in conformity with its authorizing statute.

(d) How the amendment will assist in the effective administration of the statutes: The amendment clarifies the requirements to perform sedation and anesthesia, thereby reducing non-compliance and improving public safety.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will primarily affect the approximately 400 dentists with a moderate or deep sedation permit 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 an amendment, including:

(a) List the actions that each of the related entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Each entity will be required to administer sedation or anesthesia in accordance with applicable law and administrative regulations.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No costs will be accrued as a result of the amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The amendment will result in a healthier patient population and the avoidance of potentially costly violations of applicable law and administrative regulations.

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

(a) Initially: No cost.

(b) On a continuing basis: No cost.

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

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

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

(9) TIERING: Is tiering applied? No; this amendment impacts all similarly situated practitioners equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? None.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 313.035.

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

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

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

(c) How much will it cost to administer this program for the first year? No cost.

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

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

Revenues (+/-): None.

Expenditures (+/-): None.

Other explanation: Not applicable.

BOARDS AND COMMISSIONS
Real Estate Commission
(Amendment)

201 KAR 11:121. Standards of professional conduct.

RELATES TO: KRS 324.010(3), 324.111, 324.112, 324.121, 324.160, 324.281(5), 324.310, 324.360, 381.9203(1), (3), 383.580, 24 C.F.R. 3500, 44 C.F.R. 64.3(b), 12 U.S.C. 2601-2617

STATUTORY AUTHORITY: KRS 324.121, 324.160(4)(e), 324.281(5), 324.282, 324.360

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324.281(5) and 324.282 require the Real Estate Commission, with the approval of the executive director of the Kentucky Real Estate Authority, to promulgate administrative regulations necessary to carry out and enforce the provisions of KRS Chapter 324. KRS 324.121 authorizes a principal broker to designate an affiliated licensee to act as agent for a seller or lessor, buyer or lessee, or prospective buyer to the exclusion of all other licensees associated with the principal broker. KRS 324.360(2) requires the commission to promulgate an administrative regulation authorizing a seller's disclosure of conditions form with content as set forth by KRS 324.360(3). KRS 324.160(4)(e) authorizes the commission to take disciplinary action if a licensee acts for more than one (1) party in a transaction without the knowledge of all parties. This administrative regulation establishes requirements for designated agency; the

required Seller's Disclosure of Property Condition form; a specific process and form for disclosing prior relationships between parties in a residential transaction; standards and requirements, to inform and set certain standards for licensees and to protect the public, regarding delivery of signed documents, broker supervision, broker record retention, sales associate affiliation and termination, and written agreements between licensees and consumers to provide real estate brokerage services, including standards for listing and purchase contracts; and behavior considered improper conduct.

Section 1. Improper Conduct.

(1) In addition to the obligations and prohibitions set forth in KRS 324.160, a licensee shall not:

(a) Accept or agree to accept, or offer or agree to offer, anything of value to another person in violation of the federal Real Estate Settlement Procedures Act, 12 U.S.C. 2601 through 2617 ("RESPA").[.] This provision shall not affect paying or receiving referral fees between principal brokers for brokerage services;

(b) Refuse or prohibit any prospective purchaser from viewing or inspecting real estate listed for sale or lease with the real estate brokerage company with which the licensee is affiliated, without the written and signed direction of the listing or leasing client. This provision shall not be construed to permit otherwise unlawful discrimination;

(c) Offer real estate for sale or lease without written consent from the person or persons, or entity or entities authorized to sell or lease the subject real estate;

(d) Fail to satisfy one (1) or more of the following fiduciary duties owed to the licensee's client:

1. Loyalty;
2. Obedience to lawful instructions;
3. Disclosure;
4. Confidentiality;
5. Reasonable care and diligence; and
6. Accounting;

(e) Fail to satisfy one (1) or more of the following duties owed to the licensee's prospective client:

1. Good faith;
2. Fair dealing; and
3. The duty of confidentiality;

(f) Fail to satisfy one (1) or more of the following duties owed to a consumer or to any other party in a transaction:

1. Good faith; and
2. Fair dealing;

(g) Enter an ongoing team or group relationship with any other licensee at the same brokerage company without the written consent of the principal broker;

(h) Induce any party to a contract for sale or lease to break the contract for the purpose of substituting in lieu thereof a new contract for sale or lease with another client;

(i) If advertising real property at an absolute auction, sell the advertised property to anyone other than the highest bona fide bidder on the day of the auction; and

(j) If dually licensed as an auctioneer and real estate licensee, before a real estate licensee commences an auction, the licensee shall disclose his or her status as a real estate licensee to potential purchasers and whether he or she intends to bid during the auction.

(2) The fiduciary duty of confidentiality, if owed, shall survive the termination of the Agency Consent Agreement contemplated in Section 6 of this administrative regulation.

(3) It shall not be considered improper conduct for a licensee to advertise the fee or other compensation the principal broker agrees to charge for his or her services.

(4) It shall not be considered improper conduct for a licensee to offer rebates, discounts, or other inducements to consumers, prospective clients, or clients to use the licensee's services or truthfully advertise the same.

(5) It shall not be considered improper conduct for a licensee to use his or her registered nickname in place of the licensee's first name anytime the licensee shall identify himself or herself on an official document or to the commission.

Section 2. Submission of Written Offers.

(1) If a principal broker has entered into a written listing agreement, or any other written agreement, under the terms of which the principal broker agrees to provide real estate brokerage services for a fee, compensation, or other valuable consideration for the client, the principal broker shall provide, unless specifically waived or modified by the client in writing, for real estate that is the subject of the written agreement, the following services:

(a) Accept delivery and submit to the client, without delay, all written offers to lease or purchase;

(b) Accept all earnest money deposits that are presented to the principal broker or an affiliated licensee of the principal broker;

(c) Until the completion of the transaction, assist the client in developing, communicating, negotiating, and presenting offers, counteroffers, and notices that relate to offers and counteroffers; and

(d) Answer the client's questions relating to offers, counteroffers, notices, and contingencies involved in the lease or purchase.

(2)(a) Each principal broker, or an affiliated licensee of the principal broker, who represents a client shall, without delay, submit all written offers to lease or purchase real estate from the principal broker's client to the person or legal entity authorized to sell or lease the property or to the principal broker, or an affiliated licensee of the principal broker, who has entered into a written agreement according to subsection (1) of this section. A licensee representing a seller shall submit a notice in writing through electronic, text, or other media to the licensee representing a buyer of the date and time when the offer was presented to the seller.

(b) If the principal broker is acting as a transactional broker, the principal broker shall follow the lawful instructions of the parties and provide the brokerage services as outlined in the transactional brokerage agreement.

(3) Failure to comply with this section shall constitute gross negligence in violation of KRS 324.160(4)(v).

Section 3. Listing and Purchase Contracts.

(1) A listing contract completed by or at the direction of a licensee shall include the:

(a) Listing price of the property, unless the sale is to be by auction;

(b) Date and time of the signing of the listing contract for all parties who sign;

(c) First and last name of the principal broker and the full name of the real estate brokerage company;

(d) Effective date and time of listing and advertising, if different;

(e) Date of expiration of the listing contract;

(f) Fee, compensation, or other valuable consideration agreed upon between the principal broker and the client;

(g) Address or a general description of the real estate sufficient to identify the parcel or parcels;

(h) Signatures and printed names of all parties necessary to affect a sale of the property, including any dower or courtesy considerations or the official representative of a legal entity, that is the subject of the listing agreement;

(i) Special directions of the client concerning limitations or restrictions on showings; and

(j) Date, time, and initials for all changes on the contract prior to acceptance.

(2) An offer to purchase completed by, or at the direction of, a licensee shall include the:

(a) Purchase price or a valid escalation clause with the maximum purchase price;

(b) Amount of contract deposit, if given, who is to hold the deposit, and the time period to deliver the deposit;

(c) Date and time of signing of the offer for all parties who sign;

(d) Date and time when the offer expires;

(e) Address or a general description of the real estate sufficient to identify the parcel or parcels;

(f) Signatures of all parties making the offer and the printed first and last name of the licensee who completed or directed the completion of the offer;

(g) Date, time, and initials for all changes on the contract prior

to acceptance;

(h) Provision setting forth the date by which, or the date range within, the closing shall occur and when possession shall be given to the buyer; and

(i) Proposed payment terms.

(3) A counteroffer completed by, or at the direction of, a licensee shall include any amendments to any term required by subsection (1) and (2) of this section and:

(a) Date and time of signing of the counteroffer for all parties who sign;

(b) Date and time when the counteroffer expires;

(c) Signatures of all parties making the counteroffer;

(d) The first and last name of the licensee who completed or directed the completion of the offer, if not found on the original offer or a previous counteroffer; and

(e) Date, time, and initials for all changes on the contract prior to acceptance.

(4)(a) If a licensee presents an offer to purchase real estate for which an executory contract to sell the property is already in existence, the offer shall include language that indicates in writing that the offer is contingent upon the nonperformance of the existing executory contract.

(b) The contingency language required by paragraph (a) of this subsection shall indicate the disposition of any contract deposit and be:

1. Inserted by the licensee who completes or prepares the offer to purchase, if licensee is aware of the existing contract; or

2. Made by the listing licensee as a counteroffer.

(5) If financing is involved, a contract providing for the purchase of property shall specifically state:

(a) The manner in which the purchase shall be financed; and

(b) The amount of any encumbrance and whether it is to be underwritten by the seller or a commercial institution or otherwise.

(6) Any agreement for compensation, including rebates and inducements, from a licensee to his or her client shall be in writing.

(7)(a) Prior to the expiration of a current listing agreement, another licensee shall not contact the seller to obtain a subsequent listing agreement.

(b) Notwithstanding paragraph (a) of this subsection, a licensee may discuss newly listing the seller's property that is currently listed if:

1. The seller initiates contact with the new licensee to obtain a new listing contract;

2. The proposed listing contract states that it shall not take effect until the expiration of the seller's current listing contract with the original licensee; and

3. The licensee and seller properly complete and sign the Seller-Initiated Listing Form. Nothing in this subsection shall prohibit a licensee from approaching a seller to list the seller's property following the seller's cancellation of their current listing contract or expiration of the current listing contract.

(8) If a licensee fails to comply with the requirements in this section, the licensee's conduct and dealings shall be considered improper in violation of KRS 324.160(4)(u).

Section 4. Required Disclosures.

(1) A licensee shall direct the seller-client of a single family residential real estate dwelling, duplex, triplex, fourplex, condominium, or townhouse to accurately complete and sign the Seller's Disclosure of Property Condition form required by KRS 324.360, including all necessary initials and signatures, unless the seller-client refuses and documents his or her refusal, or the licensee documents the seller-client refusal, on the Seller's Disclosure of Property Condition form.

(2) A licensee who is involved in the brokerage of a condominium transaction shall advise the client in writing of the client's right to receive the Condominium Seller's Certificate required by KRS 381.9203(1) and the purchasing client's right to void the sales contract consistent with KRS 381.9203(3).

Section 5. Prospective Client Disclosures.

(1) A licensee shall complete, time and date, and deliver to the appropriate prospective client the commission's Guide To Agency Relationships at the earliest of the following times:

(a) Prior to entering into a contemplated written agreement to provide real estate brokerage services for compensation with a prospective client;

(b) Prior to entering into a contemplated oral agreement to provide real estate brokerage services with a prospective client; or

(c) Prior to signing an agency consent agreement.

(2) The licensee shall solicit the signature of the prospective client on the Guide to Agency Relationships as acknowledgement by the prospective client of his or her receipt. The licensee shall maintain a record that the prospective client signed the Guide to Agency Relationships. If the prospective client refuses to, or does not, sign the Guide to Agency Relationships upon receipt, the licensee shall document the delivery, or attempted delivery, including a date and time, to the appropriate prospective client[~~clien~~].

(3) The completed Guide to Agency Relationships shall provide or include:

(a) The agency relationships available between the licensee and client or party in Kentucky;

(b) The first and last name of the licensee completing the form, the first and last name of the principal broker of the licensee, and the full name of the licensee's real estate company;

(c) The name of the prospective client; and

(d) The signature, time, and date of signing by the prospective client.

(4) The provisions of this section shall not apply to:

(a) The sale of real estate at auction; or

(b) A commercial transaction.

Section 6. Agency Consent Agreement.

(1) Prior to entering into a written agreement to provide real estate brokerage services or completing, or directing the completion of, a contract, offer, or lease for a real estate transaction:

(a) The licensee shall complete and deliver the Agency Consent Agreement to the prospective client; and

(b) Seek and obtain written consent to the Agency Consent Agreement from the prospective client.

(2) The commission's Agency Consent Agreement shall provide:

(a) The first and last name of the client, the first and last name of the licensee or licensee's and principal broker, and the full name of the real estate brokerage company;

(b) The specific agency relationship proposed between the principal broker of the real estate brokerage company, and any affiliated licensee of the real estate brokerage company, and the prospective client;

(c) If applicable, any known business, family, or personal relationship the licensee has with another party to the contemplated transaction who is not a party to the Agency Consent Agreement and an explanation of the nature of the relationship or relationships; and

(d) Whether the transaction involves an unrepresented party.[~~; and~~

~~(e) Disclosure of prior contact with a former prospective client who is involved in the presently contemplated real estate transaction.~~]

(3) The Agency Consent Agreement shall be updated, and written consent obtained, if the agency relationship initially established later changes.

(4) The provisions of this section shall not apply to a:

(a) Sale of real estate at auction; or

(b) Commercial transaction.

(5) The form of agency identified in the most recent Agency Consent Agreement shall terminate upon either:

(a) The provision of the agreed upon services; or

(b) At the closing of the contemplated real estate transaction.

Section 7. Affiliation.

(1) The principal broker shall be the owner of all written contracts for provision of real estate brokerage services, including items such as listing contracts, purchase contracts, and exclusive

agency agreements.

(2) When a principal broker, or a licensee acting on behalf of the principal broker, enters into a written agreement with a client, an agency relationship is formed, and the client is the principal.

(3) Absent operating as a designated agency company, each licensee affiliated with the real estate brokerage company shall have the same agency relationship with respect to a client, prospective client, or party as the principal broker in an in-house transaction.

(4) If only one (1) broker is affiliated with a company, he or she shall be the principal broker.

(5) If one (1) or more additional licensees is affiliated with the company, one (1) broker shall be the principal broker registered with the commission.

(6)(a) Unless there is a written contract stipulating otherwise, a licensee shall, upon termination of his or her affiliation with his or her principal broker, immediately turn over to the principal broker all records described in Section 9(1)(a)-(h) of this administrative regulation obtained during his or her affiliation regardless of whether the information was originally received from his or her principal broker, copied from the records of the principal broker, or acquired by the licensee during his or her affiliation.

(b) Nothing in paragraph (a) of this subsection shall require an affiliated licensee to deliver to the principal broker records which the principal broker is not under an obligation to retain consistent with this administrative regulation or records which are already in the principal broker's possession.

(7)(a) A principal broker may be principal broker of more than one real estate brokerage company.

(b) A principal broker shall not also be an affiliate broker at another real estate brokerage company, except for as provided in KRS 324.112(5).

(8) A sales associate or broker affiliated with a principal broker shall only be affiliated with one principal broker at one office, or branch office, location.

(9) A real estate brokerage company may have more than one (1) physical office location, including branch offices.

Section 8. Facsimile and Digital Transmissions.

(1) A licensee may use facsimile (FAX) devices and digital transmissions to transmit and receive documents according to the provisions of KRS Chapter 369 and 201 KAR Chapter 11.

(2) A document received by facsimile devices or digital transmissions shall be immediately placed in the licensee's file and retained as required by this administrative regulation.

Section 9. Principal Broker Duties and Prohibitions.

(1) A principal broker shall confidentially preserve, either in hard copy or digital format, for five (5) years following its consummation or failure, records in one (1) file relating to any real estate transaction, which shall include:

(a) Any written offers to lease or purchase the real estate;

(b) The acquisition and disbursement of any monies;

(c) Listing and sales contracts or leases;

(d) Closing sheets;

(e) Seller's Disclosure of Property Condition and Condominium Seller's Certificate forms;

(f) Agency Consent Agreement forms;

(g) Guide to Agency Relationships forms; and

(h) Timeshare records.

(2) A principal broker who engages in property management shall also confidentially preserve, either in hard copy or digital format, for five (5) years:

(a) Property management agreements;

(b) Leases;

(c) Monthly owner statements and reports;

(d) Owner and unit ledgers; and

(e) Bank statements relating to property management.

(3) If the death or incapacity of the principal broker occurs, records required to be maintained pursuant to this section shall be maintained by:

(a) A new principal broker or a designated manager, so designated previous to the time of the death or incapacity of the principal broker to maintain the records;

(b) The real estate brokerage company of the principal broker at the time of the death or incapacity of the principal broker, if the company continues to be an active company;

(c) A licensee designated by the commission to maintain the records and serve as the principal custodian of the records, without any liability or obligation, other than to confidentially maintain the records and to provide the records to a party as required by law or by demand of the commission; or

(d) Any appointee of the commission who will agree to maintain the records and serve as the principal custodian of the records, without any liability or obligation, other than to confidentially maintain the records and to provide the records to a party as required by law or by demand of the commission.

(4) At the time of signing all documents, the principal broker, or an affiliated licensee of the principal broker, shall ensure that a copy of all documents are delivered to all parties executing the documents if the document has been provided, prepared by, or at the direction of the principal broker or an affiliated licensee of the principal broker.

(5) The principal broker, an affiliated licensee of the principal broker, shall ensure that a debit and credit type closing statement is furnished to a client upon closing a real estate transaction unless the financial institution, title agency, the attorney involved, or other authorized individuals, has prepared the closing statement.

(6) A principal broker shall not be a party to an exclusive listing contract which contains an automatic continuation of the period of the listing beyond the fixed termination date set forth therein.

(7) If a principal broker permits teams, a principal broker shall notify the commission in writing of the alternate or assumed name used by the team and the name of the team leader before permitting team advertising.

(8) If a principal broker authorizes team, group, or other business arrangements between affiliated licensees, the principal broker shall:

(a) Offer, at a minimum, company procedures for advertising, agency relationships and handling confidential information, management and operations specific to team, group, or other business arrangements between affiliated licensees;

(b) Designate a licensee who shall be responsible, along with the principal broker and designated manager, for the operations of the team, group, or other business arrangement. The designated licensee shall be referred to as the "team leader" regardless of how the team, group, or other business arrangement labels itself;

(c) Maintain a current list of all affiliated licensees, employees, office personnel, and clerical staff who are a part of each individual team, group, or other business arrangement; and

(d) Notify the commission in writing of the first and last name and license number of the team leader.

(9) A principal broker shall ensure any employee or unlicensed personal assistant, salaried or independently contracted, employed by, retained by, or under the direction of the principal broker or any affiliated licensee, are in compliance with the applicable provisions of KRS Chapter 324 and 201 KAR Chapter 11.

(10) A principal broker shall implement and maintain an appropriate information security system that shall:

(a)1. Notify licensees, management, employees, officer personnel, and clerical staff of company policy and procedures related to confidential information, including in-person interactions or discussions in the office environment;

2. Prohibit the disclosure of confidential information by licensees, management, employees, office personnel and clerical staff;

3. Require notification to each client involved in a transaction, if the principal broker becomes aware of an unauthorized or inadvertent disclosure of confidential information relating to that transaction; and

4. Prohibit an employee from assisting more than one (1) designated agent in the same transaction if the designated agents represent different clients in that transaction.

(b) Nothing in this provision shall prohibit a licensee who is party to an Agency Consent Agreement from maintaining a separate individual client file containing confidential information.

(11) A principal broker of a real estate brokerage company that practices designated agency shall require that all documents that contain confidential information relating to a client be kept in an individual file maintained by the principal broker and accessed only by the principal broker, designated manager, or designated agent appointed by the principal broker to represent the individual.

(12) A principal broker who appoints a designated manager of the real estate brokerage company, a registered company branch, team, group, or other business arrangement shall notify the commission in writing of the name of the designated manager within ten (10) days of the appointment.

Section 10. Property Management.

(1) A principal broker, or an affiliated licensee, shall not engage in property management without a current written property management agreement.

(2) A property management agreement shall contain, at a minimum:

(a) The full name and address of the principal broker's real estate brokerage company as registered with the commission;

(b) The name and address of the client for whom the property is being managed;

(c) The address of the real estate being managed and the number of units;

(d) The effective dates of the agreement, and a provision stating whether the client agrees to automatic annual renewal;

(e) A provision stating the method for early termination;

(f) The amount of, or the method for computing, the amount of compensation to the principal broker;

(g) The amount of, or the method of determining, the minimum security deposit to be collected from tenants for each unit managed;

(h) The name and address of the bank where the principal broker's escrow or management account is held, and, consistent with KRS 383.580(1), the account number. This information shall also be contained in the lease;

(i) A provision which is in accord with KRS 383.580 setting forth the procedures governing returning or retaining the security deposit. This provision shall also be contained in the lease;

(j) A provision setting forth the conditions under which the principal broker may pay expenses related to the real estate being managed;

(k) A statement setting forth the date when the principal broker shall send the client an accounting of the transactions related to the real estate being managed;

(l) A copy of the form of the lease document which the principal broker shall have the tenant sign shall be attached to the agreement;

(m) A provision whereby the client certifies that he or she has received a duplicate copy of the agreement and the attached lease form; and

(n) The signature and date of signature of the client and the principal broker.

(3) A principal broker shall maintain, in electronic or written form:

(a) An owner ledger for each client of real estate being managed;

(b) A unit ledger for each unit in the real estate being managed; and

(c) Upon the written request of the client of the property being managed, the principal broker shall provide a unit ledger by tenant.

(4) Money received shall be deposited into an escrow or management account of the principal broker within three (3) business days of receipt.

(5) The amount of money received shall be entered into the owner and unit ledgers.

(6) A receipt shall be given for money received.

(7) Expenses paid by the principal broker shall be documented by invoice or receipt, by unit, and retained with a principal broker's records.

(8) Adjustments to a security deposit shall be made in accordance with KRS 383.580. Adjustments shall also be entered on the owner and unit ledgers.

(9) On the date determined by the parties, a principal broker shall send a monthly accounting to a client of transactions related to the real estate being managed, by unit.

(10) Within sixty (60) days of the termination of a management agreement, a principal broker shall send the client a final accounting that contains any transaction that occurred after the last monthly accounting.

(11) A principal broker who has an ownership interest in the real estate being managed shall:

(a) Maintain a unit ledger for each unit in the real estate being managed; and

(b) Comply with KRS 383.580 relating to receipt, deposit, and adjustment of tenant security deposits.

Section 11. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Seller-Initiated Listing Form", KREC Form 403, 10/2019;

(b) "Seller's Disclosure of Property Condition", KREC Form 402, 04/2022[~~12/2019~~];

(c) "Condominium Seller's Certificate", KREC Form 404, 10/2019;

(d) "Guide to Agency Relationships", KREC Form 400, 04/2022[~~10/2019~~];

(e) "Agency Consent Agreement - Buyer", KREC Form 401B, 04/2022[~~10/2019~~];

(f) "Agency Consent Agreement - Seller", KREC Form 401S, 04/2022[~~10/2019~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Commission, 500 Mero Street[~~656 Chamberlin Avenue, Suite B~~], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available from the commission's Web site: www.krec.ky.gov.

LOIS ANN DISPONETT, Chair
ROBERT ASTORINO, Executive Director

APPROVED BY AGENCY: April 13, 2022

FILED WITH LRC: April 13, 2022 at 2:45 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 10:00 a.m. EST on June 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 administrative regulation. A transcript of the public hearing will not be made unless a writ-ten 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 administrative regulation. Written comments shall be accepted through 11:59 p.m. on June 30, 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: Molly B. Cassady, General Counsel, Kentucky Real Estate Authority, 500 Mero Street, 2 NE 09, Frankfort, Kentucky 40601, phone 502-782-5448, email Molly.Cassady@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Molly B. Cassady

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the professional standards of conduct for real estate brokers and sales associates. It also outlines the required elements of listing contracts, purchasing contracts, counteroffers, and agency consent agreements.

(b) The necessity of this administrative regulation: KRS 324.281(5)(a) require the commission to promulgate administrative regulations with the approval of the executive director of the Kentucky Real Estate Authority. KRS 324.020 requires individuals

to obtain a license to practice real estate brokerage within the state. KRS 324.160 and KRS 324.165 establish the actions that constitute improper conduct. KRS 324.360 requires the commission to promulgate an administrative regulation authorizing a seller's disclosure of property conditions form. KRS 324.121 allows sales associates and brokers to engage dual agency and designated agency. This administrative regulation helps licensees comply with the abovementioned statutes through the promulgation of agency disclosure forms, seller's disclosure of property conditions form, and

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 324.121 authorizes a principal broker to designate an affiliated licensee to act as agent for a seller, buyer or prospective buyer to the exclusion of all other licensees associated with the principal broker. This administrative regulation establishes requirements for designated agency. KRS 324.360(2) requires the Kentucky Real Estate Commission to promulgate an administrative regulation authorizing a seller's disclosure of conditions form whose content is set forth by KRS 324.360(3). This administrative regulation establishes the required Seller's Disclosure of Property Condition form. KRS 324.160(4)(e) authorizes the commission to take disciplinary action if a licensee acts for more than one (1) party in a transaction without the knowledge of all parties. This administrative regulation establishes a specific format for disclosing prior relationships between parties in a real estate transaction. Additionally, this administrative regulation establishes requirements, to inform and set certain standards for licensees and to protect the public, regarding delivery of signed documents, broker supervision, broker record retention, sales associate affiliation and termination, and written agreements between licensees and consumers to provide real estate brokerage services, including standards for listing and purchase contracts. This administrative regulation establishes behavior considered improper conduct.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the professional standards of conduct for real estate brokers and sales associates.

(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: Amendments to this administrative regulation include changes to several promulgated forms as well as the removal of the requirement to disclose prior contact with a former perspective client involved in the contemplated transaction.

(b) The necessity of the amendment to this administrative regulation: There are several errors in the current versions of the forms promulgated in this regulation. The proposed amendment corrects those errors to bring the forms into compliance with the regulation and KRS Chapter 324.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation establishes the professional standards of conduct for real estate brokers and sales associates. The amendment brings this administrative regulation into compliance with current versions of binding regulatory guidance.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will amend the Guide to Agency Relationships, Agency Consent Agreement – Buyer, and Agency Consent Agreement – Seller to make them more straightforward and easier to use for licensees and consumers. In addition, it will amend these forms to ensure they include all elements and sections required by statute and this administrative regulation. This amendment will amend the Seller's Disclosure of Property Condition form to make it clearer and easier to use, and to ensure more complete and detailed disclosure of issues with real property to be sold. It also clarifies the rules that will govern the practice as a licensed real estate professional in Kentucky and removes one disclosure rule that is unfeasible in practice.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects approximately 16,000 active real estate sales associates and brokers as well as numerous real estate educators and trade organizations.

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

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: Regulated entities, and specifically active real estate sales associates and brokers, will have to use the amended promulgated forms to conduct real estate business. Likewise, they will have to ask seller clients to complete the amended seller's disclosure form.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities:
Compliance with this administrative regulation should not cost regulated entities anything.

(c) As a result of compliance, what benefits will accrue to the entities: The entities identified in question (3) will benefit from clearly written forms while engaging in real estate brokerage activities.

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

(a) Initially: There will be no cost to implement this administrative regulation initially.

(b) On a continuing basis: There will be no cost to implement 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: No funding is necessary for the implementation and enforcement of this administrative regulation.

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

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

(9) TIERING: Is tiering applied? No. Tiering is not applied because this administrative regulation applies similarly to all similarly situated persons.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 324.281(5)(a), KRS 324.360(2).

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

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

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

(c) How much will it cost to administer this program for the first year? There is no additional cost to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? There is no additional cost to administer this program for subsequent years.

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

Revenues (+/-): Neutral.

Expenditures (+/-): Neutral.

Other Explanation: None.

BOARDS AND COMMISSIONS
Board of Embalmers and Funeral Directors
(Amendment)

201 KAR 15:030. Fees.

RELATES TO: KRS 316.125(2)[~~(a)~~], 316.130(2), (4), (5), 316.132, 316.140(2)

STATUTORY AUTHORITY: KRS 316.125(2)[~~(a)~~], 316.130(2), (4), (5), 316.132, 316.140(2), 316.210(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 316.125(2)(a) and (b) require the board to issue an appropriate establishment license to an applicant who meets the statutory requirements. KRS 316.130(2), (4), and (5) establish the renewal and continuing education requirements for licensure. KRS 316.132 establishes the requirements for continuing education courses, board approval of continuing education courses, and certification for attendance thereof. KRS 316.140(2) establishes the requirements for a person holding an embalmer's or funeral director's license issued in another state or federal district to obtain a courtesy card. KRS 316.210(1) authorizes the board to promulgate administrative regulations to carry out and enforce the provisions of KRS Chapter 316, and 316.210(6) requires the board to promulgate administrative regulations to establish fees authorized by KRS Chapter 316. This administrative regulation establishes the fees authorized by KRS Chapter 316[~~316.125(2)(a), 316.130(2), (4), and (5), 316.132, 316.140(2), and 316.210(1) require the board to set out in administrative regulations certain fees. This administrative regulation establishes these fees~~].

Section 1. (1) The funeral establishment license fee shall be $500[~~$200~~].

(2) The renewal fee for a funeral establishment license shall be $500[~~$200~~].

(3) The late fee for a funeral establishment license renewal shall be $500.

Section 2. Individual License Fees.

(1) The embalmer's license renewal fee shall be $100.

(2)

[~~Section 3.~~] The funeral director's license renewal fee shall be $100.

(3)

[~~Section 4. The late fee for a funeral establishment license renewal shall be $200.~~

~~Section 5.~~] The late fee for an embalmer's license renewal or a funeral director's license renewal shall be $100.

Section 3.[~~Section 6.~~] The fee for an annual courtesy card shall be $100 dollars.

Section 4. Apprenticeship Fees.

(1) The registration fee for an embalmer apprenticeship shall be $100.

(2) The registration fee for a funeral directors apprenticeship shall be $100.

(3) The reinstatement fee for an apprenticeship shall be fifty dollars ($50) per license.

(4)

[~~Section 7. The fee for processing an application for a continuing education program shall be $150 per program; for programs included in a conference or convention setting, the total fee shall not exceed $600.~~

~~Section 8. (1) A processing fee of twenty-five (25) dollars shall apply to all document actions not covered by other fees established by KRS Chapter 316 or this administrative regulation such as national exam score requests, out-of-state verifications, official name change requests, paper submissions of any documents or applications that are available to submit electronically, and revisions to wall licensure.~~

~~(2) A fee of sixty (60) dollars shall be assessed for any payment made to the Board pursuant to KRS Chapter 316 or these administrative regulations, where the check, draft, money order, or other financial instrument is returned by the payor's bank or financial institution for insufficient funds, or cannot otherwise be deposited into the board's account.~~

~~Section 9.~~] The registration fee for Level II funeral director registration shall be fifty (50) dollars.

(5)

[~~Section 10.~~] The registration fee for Level II embalmer registration shall be fifty (50) dollars.

(6) The licensure exam fee shall be $100 per license.

Section 5. Surface Transportation Fees.

(1) The surface transportation license fee shall be $150.

(2) The surface transportation renewal fee shall be $150.

(3) The surface transportation course and examination fee shall be seventy-five (75) dollars.

Section 6. Inspection Fees for Establishment.

(1) A routine or requested inspection shall be $100.

(2) A re-inspection within a period of three (3) months following a routine inspection, due to a deficiency found by the Inspector of the Board of Embalmers and Funeral Directors of the Commonwealth of Kentucky on a routine inspection shall be $200.

(3) If an establishment fails three (3) consecutive inspections within a period of six (6) months, any subsequent inspections required to determine if the failures have been cured shall be $300 for each subsequent inspection.

Section 7. The fee for processing an application for a continuing education program shall be $150 per program; for programs included in a conference or convention setting, the total fee shall not exceed $600.

Section 8. Processing and NSF.

(1) A processing fee of twenty-five (25) dollars shall apply to all document actions not covered by other fees established by KRS Chapter 316 or this administrative regulation, including national exam score requests, out-of-state verifications, official name change requests, paper submissions of any documents or applications that are available to submit electronically, and revisions to wall licensure.

(2) A fee of sixty (60) dollars shall be assessed for any payment made to the Board pursuant to KRS Chapter 316 or these administrative regulations, where the check, draft, money order, or other financial instrument is returned by the payor's bank or financial institution for insufficient funds, or cannot otherwise be deposited into the board's account.

Section 9.[~~Section 11.~~] All fees assessed under this administrative regulation shall be nonrefundable.

KANETHA DORSEY, Executive Director

APPROVED BY AGENCY: February 24, 2022

FILED WITH LRC: April 7, 2022 at 2:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A

public hearing on this administrative regulation shall be held on May 24, 2022 at 1:00p.m, Via ZOOM. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of this hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until May 31, 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: Kanetha Dorsey, Executive Director of Kentucky Board of Embalmers and Funeral Directors, 9114 Leesgate Road, Suite 4, Louisville, Kentucky 40222, phone 502-426-4589, fax 502-426-4117, email Kanetha.dorsey@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kanetha Dorsey

(1) Provide a brief summary of:

(a) What this administrative regulation does: Describe all fees for services provided by the Board of Embalmers and Funeral Directors.

(b) The necessity of this administrative regulation: This regulation informs potential license holders and providers of fees required for each service or license provided.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation describes all fees as required by HB 220

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:
This administrative regulation support all other regulations and statutes by setting the fees associated by each statute or 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: All the fees will be located in one regulation

(b) The necessity of the amendment to this administrative regulation: HB220 removed fees from statutes placing them in administrative regulations. The bill went into effect 6/29/21.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation brings all the fees into one regulation as required by HB 220.

(d) How the amendment will assist in the effective administration of the statues: This brings all the fees related to funeral services under one regulation for ease of access for end users. In recent years KBEFD has run a deficit averaging $100k seeking the state's assistance to complete the fiscal year. It is the Board's desire to be fiscally responsible and independent.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are currently five hundred eleven (510) funeral related establishments in Kentucky. 3000 License holders (funeral director and/or embalmer), 300 Apprentices, 150 Surface Transport License Holders, 180 Courtesy Card holders, 100 CEU programs per year.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment:

(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: Fees paid for application, licensure, examination would be submitted electronically or mailed 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): Apprentice Registration $100 per type, Apprentice reinstatement fee $50, Level II Apprenticeship Registration $50 per type, License Examination $100 per license, Establishment licensure or renewal $500, Establishment Late Fee $500, Individual Licensure $100 per type, Individual Late Fee $100 per type, Surface Transport License and renewal $150, Surface Transport Class and Examination $75, Routine Inspection Fee $100, Re-inspection fee $200, Re-Inspection after 3 re-inspections $300, Courtesy Card $100, Continuing Education Processing $150 (not to exceed $600 for conferences), Processing fee $25, Insufficient Funds Assessment $60.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Funeral Directors, Embalmers, Surface Transporters, CEU providers are able utilize their license or program for a period of one year for establishments. Apprentice applications will be processed and presented to the board for consideration to begin their apprenticeship. Examination applicants will be able to sit for licensure.

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

(a) Initially: No additional cost

(b) On a continuing basis: No additional cost

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? No special or additional funding will be required for implementation or enforcement.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: These fees are not necessary to implement the regulation and continue to pay for supplies and tools to provide for oversight

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does increase fees for establishments and renewals. This regulation does increase fees for apprenticeship

(9) TIERING: Is tiering applied? No

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Funeral Directors, Embalmers; Funeral Establishments and Embalming Services; Funeral Apprentices; Surface Transporters

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KAR 201 15:030, KRS 316.030(4)(g), KRS 316.030(5)(f), KRS 316.125(2)(a), KAR 201 15:040 Section 1(1), KAR 201 15:040 Section 3(3), KAR 201 15:040 Section 4(1), KAR 201 15.050 Section 4(5), KAR 201 15:110 Section 5(5)b, KAR 201 15:110 Section 5(5)c, KAR 201 15:110 Section 5(5)d, KAR 201 15:110 Section 5(5)e, KAR 201 15:125 Section 1(2)(b), KAR 201 15:125 Section 2(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? FD Apprentice - 175 Licenses, $100 Fee, Income: $17,500; E Apprentice - 130 Licenses, $100 Fee, Income: $13,000; Establishments - 510 Licenses, $500 Fee, Income: $255,000; New Establishments - 10 Licenses, $500 Fee, Income: $5,000; Funeral Director Only Renewals - 750 Licenses, $100 Fee, Income: $75,000; Embalmer Only Renewals - 5 Licenses, $100 Fee, Income: $500; Funeral Director and Embalmer Renewals - 1150 Licenses, $100/per Fee, Income: $230,000; Examinations - 200 Licenses, $100 Fee, Income: $20,000; Courtesy Card- 5 Licenses, $100 Fee, Income: $500; Courtesty Card Renewal - 55 Licenses, $100 Fee, Income: $5,500; Continuing Education - 100 Licenses, $150 Fee, Income: $15,000.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Roughly the same as above.

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

year? No additional cost to the agency.

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

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

Revenues (+/-): PROPOSED: Establishments - 510 Licenses $500 Fee, Income: $255,000; FD Apprentice - 275 Licenses $100 Fee, Income: $27,500; E Apprentice - 150 Licenses $100 Fee, Income: $15,00. EXISTING: Establishments - 510 KBEFD Facilities, $200 Fee, Income: $102,000; FD Apprentice - 275 KBEFD Facilities, $50 Fee, Income: $13,750; E Apprentice - 150 KBEFD Facilities, $50 Fee, $7,500.

Expenditures: None

Other Explanations: None

BOARDS AND COMMISSIONS
Board of Embalmers and Funeral Directors
(Amendment)

201 KAR 15:040. Examination.

RELATES TO: KRS 316.030(4)(h), (5)(g)[~~4(h), 5(g)~~]

STATUTORY AUTHORITY: KRS 316.030, 316.210(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 316.030(4)(h) and (5)(g) require the board to issue an embalmer's or funeral director's license to an applicant who has met the statutory requirements and passed examinations[~~for an embalmer's license or a funeral director's license to pass an examination~~] prepared or approved by the board. This administrative regulation establishes the administration, content, and evaluation of examinations by the board.

Section 1. Exam Administration. (1) The board shall administer examinations for funeral director and embalmer licenses at intervals predefined on a published calendar[~~the regular meetings of the board~~].

(2) An applicant seeking to take an examination administered by the board shall submit the fee established in KRS 316.030[~~required by KRS 316.030(4)(g) or (5)(f)~~] to the board at least forty-five (45) days before the desired examination.

(a) The examination fee shall include a license in good standing for the remainder of the fiscal year if the applicant is successful in the examination.

(b) An applicant shall be entitled to only one (1) examination for each fee paid.

(3) One (1) or more members of the board shall administer the examinations[~~written examination~~] for each[~~a~~] license issued by the board.

(4) An applicant may seek a reasonable accommodation in the manner for which an examination by the board is given.

(a) Accommodations shall[~~will~~] be considered by the board on the same basis as reasonable accommodations that may be available under the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.

(b) An applicant who takes an examination with a reasonable accommodation shall[~~must~~] still perform the essential functions of taking the examination and meet the normal performance requirements for passage.

(5) At the discretion of the board, examinations may be held at other times, if necessary.

Section 2. Content of Examination. (1) The examination for an embalmer's license shall include the following subjects:

(a) Embalming;

(b) Anatomy;

(c) Microbiology;

(d) Pathology;

(e) Chemistry;

(f) Restorative art;

(g) Mortuary administration and law;

(h) Accounting;

(i) Sociology;

(j) Psychology; and

(k) Requirements of KRS Chapter 316 and the administrative regulations promulgated pursuant to KRS Chapter 316.

(2) The examination for a funeral director's license shall include the following subjects:

(a) Mortuary administration;

(b) Ethics;

(c) Accounting;

(d) Sociology;

(e) Business law;

(f) Primary psychology;

(g) Transportation rules;

(h) Hygiene, sanitation, and disinfection; and

(i) Requirements of KRS Chapter 316 and the administrative regulations promulgated pursuant to KRS Chapter 316.

(3) All written questions for the embalmer's and funeral director's examinations are the property of the board and applicants shall return the questions to the board with their answers.

Section 3. Evaluation. A score of seventy-five (75) percent on a board-authorized[~~any~~] examination administered by the board shall constitute a passing grade.

Section 4. Alternative to Written Examination by the Board. An applicant who has successfully completed the examination prepared and administered by the Conference of Funeral Service Examining Boards may request exemption from the written embalmer or funeral director examination. The applicant shall successfully complete an oral examination administered by one (1) or more members of the board in lieu of the written embalmer or funeral director examination.

Section 5. All applicants for a Kentucky funeral director or embalmer license shall pass the Kentucky Laws Exam. Individuals who are requesting a reciprocal license shall pass the Kentucky Laws Exam in addition to the requested license exam.

KANETHA DORSEY, Executive Director

APPROVED BY AGENCY: February 24, 2022

FILED WITH LRC: April 7, 2022 at 2:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 24, 2022 at 1:00 p.m., Via ZOOM. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of this hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until May 31, 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: Kanetha Dorsey, Executive Director of Kentucky Board of Embalmers and Funeral Directors, 9114 Leesgate Road, Suite 4, Louisville, Kentucky 40222, phone 502-426-4589, fax 502-426-4117, email Kanetha.dorsey@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kanetha Dorsey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This describes the process of applying for the licensure examination for funeral directors and embalmers.

(b) The necessity of this administrative regulation: This regulation describes the process to be completed by funeral directors and embalmers to ensure they have the foundational knowledge to care and plan for the care of dead human bodies.

(c) How this administrative regulation conforms to the content

of the authorizing statutes:

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation supports KRS 316 by describing the examination process utilized to ensure funeral directors and embalmers have foundational knowledge to perform their tasks.

(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 corrects phrasing errors within the regulation. This amendment clarifies the necessity to pass the laws examination in order to obtain licensure.

(b) The necessity of the amendment to this administrative regulation: Corrects phrasing errors, Licensure applicants could fail laws examinations and still become a licensed funeral director or embalmer with previous wording.

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 150 examination applicants for year

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment:

(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: Complete apprenticeship or be licensed in another state, Complete application and pay fee, Take examination

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): $100 per licensure type

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be legally licensed for a period of one year for to practice funeral directing or embalming in the State of Kentucky.

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

(a) Initially: No additional cost

(b) On a continuing basis: No additional cost

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? No special or additional funding will be required for implementation or enforcement.

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

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

(9) TIERING: Is tiering applied? No

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Funeral Directors, Embalmers; Funeral Establishments and Embalming Services; Funeral Apprentices.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KAR 201 15:030, KRS 316.030(4)(g), KRS 316.030(5)(f), KRS 316.125(2)(a), KAR 201 15:040 Section 1(1), KAR 201 15:040 Section 3(3), KAR 201 15:040 Section 4(1), KAR 201 15.050 Section 4(5), KAR 201 15:110 Section 5(5)b, KAR 201 15:110 Section 5(5)c, KAR 201 15:110 Section 5(5)d, KAR 201 15:110 Section 5(5)e, KAR 201 15:125 Section 1(2)(b), KAR 201 15:125 Section 2(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. 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? No additional cost to the agency

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

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

Revenues (+/-): No Change due to this regulation

Expenditures: None

Other Explanations: None

BOARDS AND COMMISSIONS
Board of Embalmers and Funeral Directors
(Amendment)

201 KAR 15:050. Apprenticeship and supervision requirements.

RELATES TO: KRS 316.030

STATUTORY AUTHORITY: KRS 316.030, 316.210(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 316.210(1) authorizes the Kentucky Board of Embalmers and Funeral Directors to promulgate administrative regulations to carry out and enforce the provisions of KRS Chapter 316. KRS 316.030(4)(e) and (5)(d) require an applicant for an embalmer's license or a funeral director's license to serve an apprenticeship under the supervision of a Kentucky-licensed embalmer or funeral director. KRS 316.030(9) requires an applicant to file sworn statements semiannually during the apprenticeship. This administrative regulation establishes the requirements for apprentices and their supervisors, the time for filing the sworn statements, and the additional information required in the sworn statements.

Section 1. Apprenticeship Application. (1) Prior to beginning an apprenticeship, an applicant shall:

(a) File an Apprenticeship Application Form with the board that includes the sworn statement required by KRS 316.030(7)(c);

(b) Pay the registration fee established in KRS 316.030(7)(b);

(c) Submit a current photograph;

(d) Submit a copy of the applicant's high school transcript or diploma, or high school equivalency diploma;

(e) Submit an official copy of any college transcripts;

(f) Submit an official copy of National Board scores, if available;[~~ and~~]

(g) Submit an official copy of a current (less than ninety (90) days prior to the application) criminal justice information system (CJIS) report obtained from the Federal Bureau of Investigation (FBI); and

(h) Appear before the board with the supervisor at the time and place identified by the board.

(2) The apprenticeship shall begin the day the applicant and supervisor meet with the board.

Section 2. Supervisor Responsibilities. (1) An apprenticeship shall be served under the board-approved supervisor identified on the Apprenticeship Registration Form as the supervisor of record.

(2) Apprenticeships for both embalming and for funeral directing may be served concurrently under:

(a) A single individual acting as the supervisor of record who holds both a funeral director's license and an embalmer's license;

or

(b) Two (2) individual licensees acting as the supervisor of record who together hold both a funeral director's license and an embalmer's license.

(3) Licensed embalmers and licensed funeral directors who seek approval from the board as a supervisor of record shall:

(a) Embalm or direct funerals at, and be employed by, the establishment where the apprentice is registered or at another funeral establishment if approved by the board;

(b) Appear before the board for approval with the apprentice; and

(c) Be responsible for ensuring that the apprentice complies with KRS Chapter 316 and 201 KAR Chapter 15.

(4) The board may withdraw approval of a supervisor based upon:

(a) Evidence of the inability to supervise an apprentice properly; or

(b) A violation of KRS Chapter 316 or 201 KAR Chapter 15.

(5) Apprentices may receive supervision by licensees other than the supervisor of record.

(a) Registered embalmer apprentices may be supervised by other licensed embalmers designated by the supervisor of record.

(b) Registered apprentice funeral directors may be supervised by other licensed funeral directors designated by the supervisor of record.

(c) Supervisors of record that designate other licensees to provide supervision for an apprentice shall remain responsible for the actions of the apprentice and for the quality of the designated supervision.

(d) The apprentice shall prepare an Apprentice Travel Form and maintain it with the apprentice calendar.

(6) The supervisor shall instruct an apprentice and ensure that an apprentice receives experience in all aspects of funeral directing or embalming, as applicable to the individual's apprenticeship.

(a) The instruction shall include:

1. The laws relating to the profession, including KRS Chapter 316 and 201 KAR Chapter 15; and

2. The theory and application of funeral directing or embalming.

(b) The training and work assignments for apprentice embalmers shall cover the following service items:

1. Initial call details;

2. Removals;

3. Embalming;

4. Restorative art treatment;

5. Posing body and features;

6. Bathing and cosmetizing of bodies;

7. Dressing and casketing of bodies;

8. Recordkeeping;

9. Purchasing of necessary supplies;

10. Preparation of autopsied bodies;

11. Care and maintenance of equipment and embalming room; and

12. Professional responsibility.

(c) The training and work assignments for apprentice funeral directors shall cover the following service items:

1. Initial call details;

2. Removals;

3. Counseling of families on the types of services and merchandise available;

4. Arrangements of funeral services and merchandise;

5. Preparing death certificates and documents;

6. Preparing applications for certain death benefits, such as Social Security, Veterans Administration, insurance companies, and lodges;

7. Preparing newspaper notices;

8. Conducting visitations or memorial services;

9. Directing funerals and graveside services;

10. Follow-up service to the family after the funeral service has been completed;

11. Recordkeeping;

12. Purchasing of necessary supplies;

13. Caring for equipment and premises; and

14. Professional responsibility.

Section 3. Supervision of Apprentices. (1) Supervision of embalmer apprentices.

(a) For the first twenty-five (25) cases with which an embalmer apprentice assists and throughout the first six (6) months of training, the supervisor or the supervisor's designee shall be present with the apprentice and provide direct supervision of all of the apprentice's embalming activities.

(b) After the apprentice has completed both twenty-five (25) cases and six (6) months of the apprenticeship, the apprentice may perform embalming services if the supervisor or the supervisor's designee is available for consultation and supervision, in accordance with KRS 316.010(14).

(c) The supervisor shall notify the board in writing on the Level II Apprentice Registration Form that the apprentice has completed the required twenty-five (25) cases before allowing the apprentice to embalm without direct supervision. The embalmer Level II registration fee required by 201 KAR 15:030 shall be submitted with the Level II Apprentice Registration Form. The Level II apprenticeship shall commence upon receipt of a Level II apprentice card issued by the board. The supervisor or the supervisor's designee shall continue to supervise the apprentice, in accordance with KRS 316.010(14) and 316.030(4)(e), for the duration of the apprenticeship.

(d) A Level II apprenticeship may continue for a period of up to three (3) years while the apprentice completes the apprenticeship requirements and takes the licensure examination.

(e) An apprentice should take the first examination for licensure within sixty (60) days of completion of all other apprenticeship requirements.

(f) For any apprenticeship violation of the rules of the apprenticeship, or other rules applicable to the professions of embalming or funeral directing, the board may extend the period of apprenticeship as part of disciplinary action.

(g) The board may grant extensions of any apprenticeship upon application for an extension by an apprentice and demonstration by the apprentice of good cause or extenuating circumstances upon which an extension should be granted.

(2) Supervision of funeral director apprentices.

(a) For the first twenty-five (25) cases with which a funeral director apprentice assists and throughout the first six (6) months of training, the supervisor or the supervisor's designee shall provide direct supervision during all of an apprentice's funeral directing activities.

(b) After the apprentice has completed both twenty-five (25) cases and six (6) months of the apprenticeship, the apprentice may perform funeral directing services if the supervisor or the supervisor's designee is available for consultation and supervision, in accordance with KRS 316.010(14).

(c) The supervisor shall notify the board in writing on the Level II Apprentice Registration Form that the apprentice has completed the required twenty-five (25) cases before allowing the apprentice to practice funeral directing without direct supervision. The funeral director Level II registration fee required by 201 KAR 15:030 shall be submitted with the Level II Apprentice Registration Form. The Level II apprenticeship shall commence upon receipt of a Level II apprentice card issued by the board. The supervisor or the supervisor's designee shall continue to supervise the apprentice, in accordance with KRS 316.010(14) and 316.030(4)(f), for the duration of the apprenticeship.

(d) A Level II apprenticeship may continue for a period of up to three (3) years while the apprentice completes the apprenticeship requirements and takes the licensure examination.

(e) An apprentice should take the first examination for licensure within sixty (60) days of completion of all other apprenticeship requirements.

(f) For any apprenticeship violation of the rules of the apprenticeship, or other rules applicable to the professions of embalming or funeral directing, the board may extend the period of apprenticeship as part of disciplinary action.

(g) The board may grant extensions of any apprenticeship

upon application for an extension by an apprentice and demonstration by the apprentice of good cause or extenuating circumstances upon which an extension should be granted.

(3) Removals.

(a) The supervisor or the supervisor's designee shall be present and provide direct supervision during the removal of bodies for the first six (6) months of the apprenticeship and the first twenty-five (25) removals assisted in by the apprentice.

(b) After an apprentice has served six (6) months of apprenticeship and assisted with twenty-five (25) removals, an apprentice may make removals without the direct supervision of the supervisor or the supervisor's designee if the supervisor has determined that the apprentice is competent to perform removals without direct supervision.

(c) The supervisor shall notify the board in writing on the Level II Apprenticeship Registration Form that the apprentice has completed the required twenty-five (25) removals and that the supervisor's approval has been given for the apprentice to make removals without direct supervision before the apprentice may begin making these removals.

(d) An[~~No~~] individual who obtains or holds a permit from this board to transport dead human bodies shall not[~~may~~] use transport removals performed under that permit to accumulate the number of removals required to complete an apprenticeship. All apprenticeship removals shall be performed within the requirements of the apprenticeship and supervision. Hours accumulated performing removals under a Transport Permit shall not count toward an apprentice's average weekly work hours requirement.

(4) Calendar.

(a) The apprentice shall maintain a calendar at the registered location of the apprenticeship that includes[~~of~~] the apprentice's work schedule documenting an average of[~~the~~] forty (40) regular hours per week that he or she has worked. The calendar shall be reviewed and signed on a daily basis by the supervisor to indicate that the supervisor has reviewed and approved the apprentice's work. The calendar shall be available for inspection by the state inspector during any inspection of the establishment. The calendar shall be maintained by an apprentice until [~~such time as~~]the apprentice passes the required examinations and becomes licensed.

(b) The calendar shall identify:

1. The daily work schedule of the apprentice, including beginning and ending times; and

2. The days on which the apprentice does not work.

(5) An apprentice may work at the funeral establishment more hours per week than required by subsection (4) of this section. An apprentice may also attend mortuary school classes or complete mortuary school classwork while serving an apprenticeship, but shall [~~nonetheless~~]still work an average of[~~the required~~] forty (40) hours per[~~hour~~] week under the apprenticeship.

(6) If an apprentice's supervisor of record is replaced during the apprenticeship period, a Change of Supervisor form shall be completed and submitted within thirty (30) days following the change.

Section 4. Terminating and Reestablishing an Apprenticeship. (1) Within five (5) days of the termination of an apprenticeship, the supervisor of record and the apprentice shall notify the board in writing of the termination, including the date on which the apprenticeship ceased.

(2) An apprentice funeral director or embalmer whose apprenticeship is terminated at the establishment originally identified to the board shall, within thirty (30) days of being employed by another funeral director or embalmer:

(a) Notify the board in writing of the change in employment and apprenticeship by completing and submitting a Change of Supervisor form;

(b) Identify the name, street address, and license number of the funeral director or embalmer under which the apprentice is continuing the apprenticeship; and

(c) Complete a new registration as set out in Section 2 of this administrative regulation that is signed by the licensed funeral director or embalmer who is to be the apprentice's new supervisor of record.

(3) An apprentice funeral director or embalmer who is unable to perform the duties of the apprenticeship for a period of two (2) weeks or more because of:

(a) The birth of a child and to care for the newborn child within one (1) year of birth;

(b) The placement with the employee of a child for adoption or foster care and to care for the newly placed child within one (1) year of placement;

(c) To care for the employee's spouse, child, or parent who has a serious health condition;

(d) A serious health condition that makes the employee unable to perform the essential functions of his or her job; or

(e) Any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a military member on covered active duty shall immediately notify the board of:

1. The date on which the apprentice became unable to perform the duties; and

2. The date on which the apprenticeship will be recommenced, not to exceed six (6) months following the commencement of the leave from apprenticeship.

(4) An apprenticeship shall not end later than the administration of the second examination for which the apprentice is eligible.

(5) At any time an apprenticeship ceases, or becomes inactive under these administrative regulations, an apprentice shall[~~does~~] not lose credit for the time served in the[~~an~~] apprenticeship. An[~~Any such~~] apprentice whose apprenticeship has ceased or become inactive may be reinstated to apprenticeship by notice to the board including the name of the apprentice's supervisor upon his or her return to active apprenticeship, the establishment at which the apprentice is employed, and payment of a processing fee [~~of fifty (50) dollars~~]as established in 201 KAR 15:030. The reinstated apprentice shall be responsible for compliance with all other apprenticeship requirements from the date of reinstatement forward.

Section 5. Sworn Statements. (1) An apprentice shall file the Apprenticeship Sworn Statement required by KRS 316.030(7) on or before May 1 and November 1 of each year relating to the six (6) month period ending with the preceding middle of April or middle of October, respectively.

(2) The Apprenticeship Sworn Statement shall include:

(a) The names and dates of funerals in which the apprentice for a funeral director's license assisted in managing during each six (6) month period;

(b) The names and dates of embalming cases in which the apprentice for an embalmer's license assisted during each six (6) month period; and

(c) The names of the service items set forth in Section 3(6) of this administrative regulation specifically identified for each case in which the apprentice assisted during each six (6) month period.

(3) With the initial sworn statement, an apprentice shall file a report written by the applicant summarizing the requirements of KRS Chapter 316 and 201 KAR Chapter 15.

(4) With subsequent sworn statements, an apprentice shall file a report written by the applicant on an article or a book related to embalming or funeral directing read by the applicant during the six (6) month period. It shall contain a reference that includes the author, title, month and year of publication, and page numbers.

(5) The reports required by subsections (3) and (4) of this section shall be two (2) pages at a minimum and typed.

(6) An apprentice in mortuary school shall be exempt from the book report requirements of subsections (3) through (5) of this section if the apprentice submits the number of hours he or she is enrolled on the Apprenticeship Sworn Statements.

(7)(a) The supervisor of record shall sign the sworn statements and certify that the apprentice has completed the cases and service items identified in the statement.

(b) If the apprentice has received supervision from a supervisor's designee, the supervisor of record shall still be responsible for:

1. The activities of the apprentice;
2. Signing the sworn statement; and
3. The certification of completion of cases and service items identified in the statement.

(8) Before the activities of the apprentice can count toward the requirements of KRS 316.030(4)(f) or (5)(e), the case shall include the following service items:

(a) For an embalming case, the apprentice shall have participated in the service items listed in Section 4(6)(b)3 through 7 of this administrative regulation; and

(b) For a funeral directing case, the apprentice shall have participated in the service items listed in Section 4(6)(c)3 through 9 of this administrative regulation.

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

(a) "Apprenticeship Application", 9/ 2019;
(b) "Change of Apprentice Supervisor", 9/2019;
(c) "Apprenticeship Sworn Statement", 9/2019;
(d) "Level II Apprentice Application", 9/2019; and
(e) "Apprentice Travel Form", 2017.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Embalmers and Funeral Directors, 9114 Leesgate Rd, Ste 4, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m.

KANETHA DORSEY, Executive Director

APPROVED BY AGENCY: February 24, 2022

FILED WITH LRC: April 7, 2022 at 2:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 27, 2022 at 1:00 pm, Via ZOOM. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of this hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until June 30, 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: Kanetha Dorsey, Executive Director of Kentucky Board of Embalmers and Funeral Directors, 9114 Leesgate Road, Suite 4, Louisville, Kentucky 40222, phone 502-426-4589, fax 502-426-4117, email Kanetha.dorsey@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kanetha Dorsey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation prescribes the process to apply for an apprenticeship and requirements and expectations of an apprentice and apprentice supervisor.

(b) The necessity of this administrative regulation: This administrative regulation explains the process and expectations to become a funeral director or embalmer

(c) How this administrative regulation conforms to the content of the authorizing statutes:

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation prescribes the expectations and requirements of an apprentice and supervisor.

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

(a) How the amendment will change this existing administrative regulation: The fees are removed in accordance with HB 220, The phrasing errors are corrected, The word “average” has been added to make the work week expectation more fair and applicable to the profession.

(b) The necessity of the amendment to this administrative regulation: HB 220 removed fees from statutes placing them in administrative regulations. The bill went into effect 6/29/21. Apprentices will now be able to work hours that will better support their learning experience.

(c) How the amendment conforms to the content of the authorizing statutes: This regulation removes the fees in accordance with HB 220.

(d) How the amendment will assist in the effective administration of the statues: The amendments clarify the requirements regarding working time for apprentices.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Board averages five (5) new apprentice applications per month. This regulation will increase application fees from thirty (30) dollars to 100 dollars per application type (embalmer or funeral director). This expense can be paid by the individual or the funeral establishment. In addition, removing fees to the appropriate regulation streamlines the information.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment:

(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: Complete the application, Pay the fee as defined in 201 KAR 15:030, Attend board meeting, Begin apprenticeship

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Apprentices will pay $100 per registration

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be legally registered to train as a funeral director and/or embalmer the specified period of time (3 years for high school graduates, 2 years for college graduates, 1 year for those with embalmer specific degrees).

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

(a) Initially: No additional cost
(b) On a continuing basis: No additional cost

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? No special or additional funding will be required for implementation or enforcement.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: This administrative regulation removes fees per HB 220

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation removes fees per HB 220.

(9) TIERING: Is tiering applied? No

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Funeral Establishments and Embalming Service Establishments, Funeral Apprentices.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KAR 201 15:030, KRS 316.030(4)(g), KRS 316.030(5)(f), KRS 316.125(2)(a), KAR 201 15:040 Section 1(1), KAR 201 15:040 Section 3(3), KAR 201 15:040 Section 4(1), KAR 201 15:050 Section 4(5), KAR 201 15:110 Section 5(5)b, KAR 201 15:110 Section 5(5)c, KAR 201 15:110 Section 5(5)d, KAR 201 15:110 Section 5(5)e, KAR 201 15:125 Section 1(2)(b), KAR 201 15:125 Section 2(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.

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? No additional cost to the agency

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

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

Revenues (+/-):

Expenditures: None

Other Explanations: None

BOARDS AND COMMISSIONS
Board of Embalmers and Funeral Directors
(Amendment)

201 KAR 15:110. Funeral establishment criteria.

RELATES TO: KRS 316.010, 316.030, 316.125, 316.127, 316.130, 316.260, 16 C.F.R. 453.2(b)(2)-(5), 29 U.S.C. 651

STATUTORY AUTHORITY: KRS 316.125(1), 316.210(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 316.125(1) prohibits operating a full-service funeral establishment, a visitation and ceremonial funeral service establishment, or an embalming service establishment without first obtaining the applicable license from the board. KRS 316.210(1) authorizes the board to promulgate administrative regulations to carry out and enforce the provisions of KRS Chapter 316. This administrative regulation establishes the minimum requirements for the licensing and operation of a funeral establishment.

Section 1. General Requirements. (1) The interior and exterior of the establishment shall be kept free and clean of litter, dirt, debris, and clutter or other objects or conditions that present a potential or actual hazard to the health, safety, or welfare of the public and the funeral establishment's employees.

(2) Only the following persons shall be permitted in a preparation room during the course of embalming a dead human body:

(a) Employees of the establishment where the human body is being embalmed;

(b) Registered apprentices;

(c) Members of the family of the deceased;

(d) Authorized representatives of the deceased; or

(e) Any other individual otherwise allowed by law.

(3) An establishment shall maintain the following documents, if applicable:

(a) Board approved embalming reports that include:

1. The name of each body embalmed;

2. The date of death;

3. The date and time that the embalming took place;

4. The name and signature of the embalmer; and

5. The embalmer's license number;

(b) Proper documentation of the authorization to embalm; and

(c) Accurate and current copies of:

1. The casket price list;

2. The outer burial container price list;

3. The general price list; and

4. The statement required by the Federal Trade Commission in 16 C.F.R. 453.2(b)(2) through (5), as maintained in the general practice of the establishment.

(4) An establishment shall maintain embalming reports and documentation of authorization to embalm for a minimum of three (3) years.

(5) Establishments located in any public office building, strip mall, public storage, mini-storage, mini-warehouse, multiunit storage complex, or similar facility used by the general public for the storage of goods shall be ineligible for a license.

(6) The building in which an establishment is located, and any sidewalks and parking areas provided adjacent to the establishment, shall be in conformity with the requirements of the applicable federal, state and local statutes, administrative regulations, ordinances, and zoning provisions relating to publicly-accessible buildings and establishments.

(7) An establishment shall display a sign that:

(a) Identifies the name of the establishment; and

(b) Is in a location visible from an adjacent public road.

(8) An establishment shall have adequate rest room facilities for members of the public if public funeral services or visitation or ceremonial services shall[~~will~~] be conducted in the establishment.

Section 2. Visitation and Ceremonial Funeral Service Establishment. An establishment that provides visitation and ceremonial funeral services shall have:

(1) A viewing area or chapel that shall be at least 400 square feet in size; and

(2) The applicable equipment necessary for conducting and arranging funeral services, including:

(a) Tables or desks and chairs for arrangement conferences;

(b) Seating for the viewing room;

(c) Casket bier;

(d) Register book stand;

(e) Officiant stand;

(f) Flower display stands; and

(g) Organ, piano, music-producing equipment, or any suitable combination of these items.

Section 3. Embalming Service Establishment. (1) An establishment that provides embalming services shall:

(a) Have facilities and a preparation room that comply with the requirements of the Occupational Safety and Health Act, 29 U.S.C. 651;

(b) Have at least one (1) approved embalming table and all professional instruments necessary for embalming and the preparation of dead human bodies; and

(c) Ensure that a preparation room shall not be used as a storage area other than for supplies pertaining to the embalming and preparation of dead human bodies.

(2) Human remains shall not be prepared for disposition except by a licensed embalmer or a Level 2 apprentice, in accordance with KRS 316.030, in a preparation room that meets the requirements of this administrative regulation.

(3) All windows and doors shall be constructed or screened to prevent persons from looking into the preparation room.

(4) Each preparation room entrance shall be lockable, shall be locked when not in use, and shall display a sign indicating private or restricted entry.

(5) Licensed embalmers may perform removals and transport dead bodies.

Section 4. Full Service Funeral Establishments. A full service funeral establishment shall have:

(1) An area available to the public devoted to the display of funeral merchandise. Caskets or casket sections may be viewed by sample, computer, catalog, or other display that corresponds to the current general price list for the funeral establishment; and

(2) A separate room or office for arranging funerals. This room may be used to satisfy the requirements of subsection (1) of this section.

Section 5. Inspections. (1) Each establishment shall be subject to inspection at the convenience of the board inspector.

(a) An establishment that is sited on more than one (1) parcel of real estate shall be required to notify the inspector of the location and identity of the separate parcels, and shall[~~will~~] be charged a separate inspection fee as set forth in this administrative regulation for each separate parcel, as if each parcel were a separately-

licensed establishment.

(b) Failure of the establishment to be open and available for an inspection within a reasonable period of time after the inspector requests access for inspection shall be deemed by the board to be a violation of KRS Chapter 316, including KRS 316.150(1)(a), and may subject the establishment and its establishment manager to disciplinary action.

(2) The inspector shall inspect the establishment to see if it has suitable and dignified quarters appropriate for the category of services for which it is licensed.

(3) An establishment that provides embalming services shall have completed and signed embalming reports available for inspection upon request.

(4) The following forms shall be available for inspection or copying by the inspector:

(a) A current general price list of charges for services to the public;

(b) A current price list of caskets as charged to the public;

(c) A current price list of outer burial containers as charged to the public; and

(d) All apprentice calendars and apprentice travel forms.

(5)(a) An establishment seeking an initial inspection for the purpose of obtaining a new license under KRS Chapter 316 may request the inspection by the inspector of the Board of Funeral Directors and Embalmers of the Commonwealth of Kentucky, and shall[~~will~~] be assessed a fee, as established in 201 KAR 15:030,[~~ in the amount of $250~~] for the inspection. This fee shall[~~will~~] cover the inspector's initial visit, and one (1) subsequent visit for re-inspection to assure that any initial deficiencies have been cured.

(b) An establishment licensed under KRS Chapter 316 that is routinely inspected by the inspector of the Board of Funeral Directors and Embalmers of the Commonwealth of Kentucky shall be assessed an inspection fee, as established in 201 KAR 15:030, payable to the board.[~~, of $100.~~] This fee shall not be assessed more than one (1) time per calendar year.

(c) An establishment licensed under KRS Chapter 316 that requires a re-inspection within a period of three (3) months following a routine inspection, due to a deficiency found by the inspector of the Board of Funeral Directors and Embalmers of the Commonwealth of Kentucky on a routine inspection, shall be assessed a re-inspection fee, as established in 201 KAR 15:030[~~of $200~~]. This fee shall be paid regardless of any disciplinary action that otherwise may be taken against the establishment for the failure of the inspection.

(d) An establishment licensed under KRS Chapter 316 may request an inspection by the inspector of the Board of Funeral Directors and Embalmers of the Commonwealth of Kentucky, and shall pay a fee, as established in 201 KAR 15:030,[~~of $100~~] for the inspection.

(e) If an establishment fails three (3) consecutive inspections within a period of six (6) months, any subsequent inspections required to determine if the failures have been cured shall require payment, as established in 201 KAR 15:030,[~~of a fee of $200~~] for each subsequent inspection. In an instance of three (3) consecutive failures of inspections within six (6) months, the board may also, in its sole discretion, direct that the establishment in question cease operations for an appropriate period of time to permit the establishment to become compliant, and may assess a fine based upon the violations and failure to correct same.

(f) Inspection fees shall[~~will~~] be invoiced by the board to the licensee, and shall[~~will~~] not be due at the time of the inspection.

Section 6. Establishment Manager. (1) Each establishment shall have a Kentucky-licensed funeral director, a Kentucky-licensed embalmer, or an individual licensee as required by KRS 316.125(2)(b)(5) to manage and supervise the establishment.

(2) The establishment shall notify the board of a change of the funeral director or the establishment manager by submitting the Information and Name Change Application signed by the licensed owner and the new establishment manager within five (5) working days of the change.

(3) An establishment manager who leaves the employment of an establishment shall notify the board in writing within five (5) working days of the departure.

Section 7. Transferability. (1) Establishment licenses shall not be transferable.

(2) If a sale or lease occurs:

(a) The existing establishment license may remain in force by mutual consent of the parties for a period of thirty (30) days or until the next regularly scheduled board meeting, whichever occurs first.

(b) During the transition period, the establishment shall be operated under the name shown on the existing license until a new license is issued.

(c) An application for a new license shall be submitted for review at the next board meeting following the sale or lease.

(3) If a relocation or name change occurs, an Information and Name Change Application shall be submitted to the board.

(4)(a) Following the death of a Kentucky-licensed owner, funeral director, or embalmer, the establishment may operate for ninety (90) days while under temporary supervision by a licensed funeral director or embalmer. A licensee who is already identified as the establishment manager for another establishment under KRS 316.125(4) may act as the temporary establishment manager for the establishment under this section for the limited ninety (90) day period.

(b) The temporary establishment manager shall be identified to the board in writing by letter within fifteen (15) days of the death of the Kentucky-licensed owner, funeral director, or embalmer.

(c) A licensee may be the temporary establishment manager for only one (1) establishment at a time.

Section 8. Opening of an Establishment. (1) An establishment shall not operate or be opened for business prior to passing an inspection by the state board inspector and the issuance of an establishment license by the board for that establishment.

(2) To apply for an establishment license, the following shall be submitted to the board:

(a) A completed Establishment Application;

(b) The fee required by 201 KAR 15:030[~~by these administrative regulations~~];

(c) A picture of the establishment and signage;

(d) A picture of the establishment manager;

(e) If purchasing the establishment, a certified copy of the property deed or other document demonstrating the property transfer and applicant's ownership;

(f) If a corporation, the articles of incorporation;

(g) If a partnership, the partnership agreement;

(h) If a limited liability company, the LLC agreement; and

(i) If the property is not owned by the applicant, a commercial lease, certificate of occupancy, or other legal document that demonstrates that the applicant has possession and control of the premises sufficient to be responsible for the property being configured to meet the requirements of these regulations.

(3) Violation of this section shall be grounds for denial of the application for the license by the board.

(4) All establishment licenses shall expire July 31 of each year. Establishments shall renew by submitting the following to the board:

(a) An Establishment Renewal Application;

(b) The renewal fee established in KRS 316.130(4) and 201 KAR 15:030; and

(c) A list of all licensed funeral directors and embalmers affiliated with the establishment.

Section 9. Advertising and Signage. (1) An establishment shall use the exact name listed on the license for the establishment in all advertisements and signage.

(2) Descriptive terms shall be distinctly separated from the name of the establishment in all signage and advertisements unless registered as part of the official name.

(3) Any advertising, designation, or signage for the funeral establishment shall match the classification on the establishment's license.

Section 10. Closure of an Establishment. (1) If an

establishment is to be closed, for any reason, the establishment licensee shall notify the board that the establishment is to be closed, and whether the closure is permanent or for a specified period of time.

(2) An establishment that is closing shall give notice of closure to the Office of the Attorney General together with a listing of any pre-need contracts that remain in effect for the closing establishment.

(3) The licensee for a closing establishment shall give written notice of closure to clients with whom the establishment has a pre-need contract, and shall include in that notice how the establishment intends to honor its contractual obligation.

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

(a) "Establishment Application", 9/2019;

(b) "Information and Name Change Application", 9/2019; and

(c) "Establishment Renewal Application", 2017.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Embalmers and Funeral Directors, 9114 Leesgate Rd, Ste 4, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m.

KANETHA DORSEY, Executive Director

APPROVED BY AGENCY: February 24, 2022

FILED WITH LRC: April 7, 2022 at 2:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 24, 2022 at 1:00 pm, Via ZOOM. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of this hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until May 31, 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: Kanetha Dorsey, Executive Director of Kentucky Board of Embalmers and Funeral Directors, 9114 Leesgate Road, Suite 4, Louisville, Kentucky 40222, phone 502-426-4589, fax 502-426-4117, email Kanetha.dorsey@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kanetha Dorsey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation describes to the process to open and manage a funeral establishment.

(b) The necessity of this administrative regulation: This regulation licenses the establishments and sets criteria for said establishments

(c) How this administrative regulation conforms to the content of the authorizing statutes: HB 220 removed fees from statutes placing them in administrative regulations. The bill went into effect 6/29/21. Board renewals are 7/1/22.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation supports KRS 316:010, 316:030, 316:125, 316: 127, and 316: 260 by providing a place for all funeral business to be managed and housed.

(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: Fees are removed from this regulation per HB 220, Wording and phrases errors are corrected.

(b) The necessity of the amendment to this administrative regulation: HB 220 removed fees from statutes placing them in administrative regulations. The bill went into effect 6/29/21. Board renewals are 7/1/22.

(c) How the amendment conforms to the content of the authorizing statutes: This regulation removes the inspection fees from 201 KAR 15:110, along with all fees and puts them all in one, easy to access regulation.

(d) How the amendment will assist in the effective administration of the statues: Correcting phrasing errors, Removing fee information.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 510 establishments, 3000 license holders, 150 surface transport licenses, 300 apprentices.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: There are no substantial changes to the regulation, Fee information has moved to 201 KAR 15:030.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Must view 201 KAR 15:030 for fees.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be legally licensed for a period of one year for establishments.

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

(a) Initially: No additional cost

(b) On a continuing basis: No additional cost

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? No special or additional funding will be required for implementation or enforcement.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: These fees are not increasing; just being moved to a single regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation gathers all the fees into one regulation. There is a fee increase for establishments based on case counts.

(9) TIERING: Is tiering applied? No

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Funeral Directors, Embalmers; Funeral Establishments and Embalming Services; Funeral Apprentices; Surface Transport License Holders.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KAR 201 15:030, KRS 316.030(4)(g), KRS 316.030(5)(f), KRS 316.125(2)(a), KAR 201 15:040 Section 1(1), KAR 201 15:040 Section 3(3) KAR 201 15:040 Section 4(1), KAR 201 15:050 Section 4(5), KAR 201 15:110 Section 5(5)b KAR 201 15:110 Section 5(5)c, KAR 201 15:110 Section 5(5)d KAR 201 15:110 Section 5(5)e, KAR 201 15:125 Section 1(2)(b), KAR 201 15:125 Section 2(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. 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? No additional cost to the agency

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

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

Revenues (+/-): No substantial changes to this regulation. Wording and phrasing errors have been corrected and fees have been removed per HB 220.

Expenditures: None

Other Explanations: None

BOARDS AND COMMISSIONS
Board of Embalmers and Funeral Directors
(Amendment)

201 KAR 15:125. Surface transportation permit.

RELATES TO: KRS 316.165

STATUTORY AUTHORITY: KRS 316.165, 316.210

NECESSITY, FUNCTION, AND CONFORMITY: KRS 316.210 authorizes the Board of Embalmers and Funeral Directors to promulgate administrative regulations to carry out and enforce the provisions of KRS Chapter 316. KRS 316.165(1) authorizes the board to issue a permit to an applicant for the sole and limited purpose of being allowed to provide surface transportation of dead human bodies. This administrative regulation establishes the criteria for issuance of these permits.

Section 1. Application. (1) An applicant seeking a permit to provide surface transportation for dead human bodies shall be of the age of eighteen (18) prior to submitting an application.

(2) An applicant applying for a permit to provide surface transportation and removal services for dead human bodies shall submit:

(a) A completed and signed application form, "Surface Transportation & Removal Permit Application", 3/2022[~~9/2019~~];

(b) The[A] fee [~~in the amount of $150~~]established in 201 KAR 15:030;

(c) Evidence of training and compliance with the standards of the Occupational Safety and Health Administration for universal precautions and blood-borne pathogens, 29 Code of Federal Regulations (C.F.R.) 1910.1030;

(d) Two (2) passport-sized photographs of the applicant;

(e) An official copy of a criminal justice information system (CJIS) report obtained from the Federal Bureau of Investigation no more than ninety (90) days prior to the application; and

(f) Evidence of possession and control or ownership of an appropriate vehicle and necessary supplies for surface transportation of dead human bodies.

(3)(a) An appropriate vehicle shall have enclosed cargo space of sufficient size to transport a dead human body securely and without exposure to weather.

(b) Necessary supplies shall include:

1. Mortuary or ambulance cot;
2. Collapsible or flexible stretcher;
3. Sheets and cot cover;
4. Pillow or head block;
5. Rubber or plastic sheeting;
6. Towels;
7. Zippered mortuary body bag or disaster pouch;
8. Straps;
9. Protective clothing; and
10. Sanitary accessories.

Section 2. Examination. (1) An applicant seeking a surface transportation permit shall be required to pass an examination on Kentucky laws and transport procedures. The examination fee established in 201 KAR 15:030 shall[~~shall be seventy-five (75) dollars and may~~] be paid at the time of application[~~ or at the time of examination~~].

(2) The examination shall be administered [~~by the board concurrently with other monthly examinations.~~]at the conclusion of the course.

(3) The board shall offer a training course related to the subject matter of the examination.

Section 3. Scope of Permit. (1) Permit holders shall only engage in surface transportation of dead human bodies requested by an authorized person from the establishment by which the permit holder is employed. Surface transportation shall be limited to obtaining the dead human bodies from the location from which the transportation services were requested[~~,~~] and transporting the dead human bodies[~~transport~~] to the establishment by which the permit holder is employed.

(2) To establish that the permit holder is employed by the establishment to which transport is being requested, a permit holder[~~holders~~] shall present a photo identification to the person or establishment requesting transport[~~, to establish that the permit holder is employed by the establishment to which transport is being requested~~].

(3) Permit holders shall not engage in any services of funeral directing or embalming or distribute any documents or materials related to those[~~such~~] services.

(4) Permit holders may only be employed by one (1) establishment at one (1) time.

(5) Permit holders shall not be required to use a casket for transportation of dead human bodies, but shall be required to use a container as may be required by [~~the above referenced~~]OSHA guidelines.

(6) An[~~No~~] individual who obtains or holds a permit from this board to transport dead human bodies shall not[~~may~~] use transport removals performed under that permit to accumulate the number of removals required to complete an apprenticeship. All apprenticeship removals shall be performed within the requirements of the apprenticeship and under supervision, to the extent set forth in these administrative regulations. Hours accumulated in performing removals under a Transport Permit shall[~~will~~] not be counted toward the apprentice's weekly work hours requirement.

Section 4. Permit Issuance and Renewal. (1) The Surface Transportation Permit issued or renewed under this administrative regulation shall be effective for a period of one (1) year from its date of issuance.

(2) An individual seeking renewal of the Surface Transportation Permit shall submit[~~may be effected by sending~~] to the board:

(a) A completed Surface Transportation and Removal Permit Application with the Renewal box checked[~~. An applicant for renewal need not include any information already given on the original application, but~~]and shall include on the form any new or changed information;

(b) A renewal fee [~~of fifty (50) dollars~~]as established in 201 KAR 15:030; and

(c) Evidence that the permit holder has in his or her possession or control an acceptable vehicle and the requisite equipment and supplies to perform surface transportation of dead human bodies.

Section 5. Incorporation by Reference. (1) "Surface Transportation & Removal Permit Application", 3/2022[~~10/2019~~], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Embalmers and Funeral Home Directors, 9114 Leesgate Rd., Suite 4, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m.

KANETHA DORSEY, Executive Director

APPROVED BY AGENCY: February 24, 2022

FILED WITH LRC: April 7, 2022 at 2:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 24, 2022 at 1:00 pm, Via ZOOM. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of this hearing will

not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until May 31, 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: Kanetha Dorsey, Executive Director of Kentucky Board of Embalmers and Funeral Directors, 9114 Leesgate Road, Suite 4, Louisville, Kentucky 40222, phone 502-426-4589, fax 502-426-4117, email Kanetha.dorsey@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kanetha Dorsey

(1) Provide a brief summary of:

(a) What this administrative regulation does: Describes the process to obtain and renew a surface transport license.

(b) The necessity of this administrative regulation: This regulation allows citizens to transport dead human bodies.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The board is authorized to issue a permit to an applicant for the sole purpose of being allowed to provide surface transportation of dead human bodies.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Allows the board to approve and supervise individuals who may come into contact with dead human bodies for the purpose of transporting them in the employ of funeral establishment owners or managers.

(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: Wording and phrasing errors are corrected, Fees are removed as required by HB 220.

(b) The necessity of the amendment to this administrative regulation: HB 20 removed fees from statutes placing them in administrative regulations. The bill went into effect 6/29/21. Board renewals are 7/1/22.

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 150 current surface transport license holders, 510 funeral establishments who do or may employ surface transport license holders.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The amendment clarifies wording, The amendment includes updated form that includes the renewal box as outlined in the regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): License application fee $150, Course and examination fee $75, Renewal Fee $150.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Compliance entitles the holder to transport dead human bodies safely for 1 year, Funeral Directors and Embalmers at the establishments can dedicate their time to the specific tasks associated with their roles.

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

(a) Initially: No additional cost

(b) On a continuing basis: No additional cost

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? No special or additional funding will be required for implementation or enforcement.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: These fees are not increasing; just being moved to a single regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are being established or increased with this amendment.

(9) TIERING: Is tiering applied? No,

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Surface Transport License Holders, Funeral Establishments and Embalming Services

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KAR 201 15:030, KRS 316.030(4)(g) KRS 316.030(5)(f), KRS 316.125(2)(a), KAR 201 15:040 Section 1(1), KAR 201 15:040 Section 3(3) KAR 201 15:040 Section 4(1) KAR 201 15:050 Section 4(5), KAR 201 15:110 Section 5(5)b, KAR 201 15:110 Section 5(5)c, KAR 201 15:110 Section 5(5)d, KAR 201 15:110 Section 5(5)e, KAR 201 15:125 Section 1(2)(b), KAR 201 15:125 Section 2(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. 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? Application for Licensure:150-$22,500 (150 applicants in first year); Course and Examination: $75-$11,250 (150 applicants in 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? Annual Renewal: $150-$22,500

(c) How much will it cost to administer this program for the first year? Paper for testing purposes $12

(d) How much will it cost to administer this program for subsequent years? Paper for testing purposes $12

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

Revenues (+/-): About $33,750/ year

Expenditures: None

Other Explanations: None

BOARDS AND COMMISSIONS
Board of Nursing
(Amendment)

201 KAR 20:070. Licensure by examination.

RELATES TO: KRS 194A.540, 314.041, 314.051(3), (6), 314.103, 314.109, 314.475

STATUTORY AUTHORITY: KRS 314.041(2), 314.051(3), 314.103, 314.131(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Kentucky Board of Nursing to promulgate administrative regulations to implement the provisions of KRS 314.011 to 314.991. KRS 314.041(2) requires an applicant for licensure as a registered nurse to pass an examination prescribed by the board. KRS 314.103 authorizes the board to require a criminal background check investigation of an applicant or nurse. KRS 314.051(3) requires an applicant for licensure as a licensed practical nurse to pass an examination prescribed by the board. This administrative regulation establishes the requirements for the licensure of nurses by examination.

Section 1. Eligibility for Licensure by Examination for a

Graduate of a Kentucky Program or Other State or Territorial Nursing Program.

(1) To be eligible for licensure by examination, an applicant shall:

(a) Submit:

1. A properly executed application for licensure, as required by and incorporated by reference in 201 KAR 20:370, Section 1(1);

2. The licensure application fee as established in 201 KAR 20:240;

3. A criminal record check completed within six (6) months of the date of the application by the Department of Kentucky State Police (KSP) and the Federal Bureau of Investigation (FBI) using the FBI Applicant Fingerprint Card, and including payment of any required fee to the KSP and the FBI;

4. A certified or attested copy of the court record of any misdemeanor or felony conviction as required by 201 KAR 20:370, Section 1(3);

5. A letter of explanation that addresses each conviction, if applicable;

6. A certified copy of any disciplinary action taken on any professional or business license in another jurisdiction with a letter of explanation or a report if there is any disciplinary action pending on any professional or business license in another jurisdiction; and

7. Evidence of completion of the jurisprudence examination required by KRS 314.041(4) for RN applications or KRS 314.051(4) for LPN applications;

(b) Notify the board as soon as a new address is established after submitting the application;

(c) Submit a copy of a marriage certificate, divorce decree, Social Security card, or court order to change the applicant's name, if the applicant's name is changed after the original application is filed;

(d) While taking the examination, abide by and cooperate with security procedures adopted by the board; and

(e) Apply to take and pass the National Council Licensure Examination.

(2) An application for licensure shall be valid for a period of one (1) year from the date the application is filed with the board office or until the board receives the results of the examination.

(3)(a) Except as provided in paragraph (b) of this subsection, the name of the applicant shall appear on the Certified List of Kentucky Program of Nursing Graduates or the Certified List of Out-of-state Program of Nursing Graduates.

(b) If the name does not appear on the list, the applicant shall request that the program submit to the board an official transcript verifying completion of program requirements.

(c) The Certified List of Out-of-state Program of Nursing Graduates shall be submitted by the nurse administrator of the out-of-state program of nursing.

(4)(a) The applicant shall complete the three (3) hour continuing education course on domestic violence within three (3) years of licensure as required by KRS 194A.540.

(b) The applicant shall complete the applicable[~~one and one-half (1.5) contact hour~~] continuing education courses[~~course on pediatric abusive head trauma within three (3) years of licensure~~] as required by 201 KAR 20:215, Section 5.

(5) An applicant shall not be licensed until a report is received from the FBI pursuant to the request submitted pursuant to subsection (1)(a)3 of this section and any conviction is addressed by the board.

(6) A graduate of a school of nursing in Puerto Rico after September 1, 2006, in addition to the other requirements of this section, shall provide evidence of evaluation of the graduate's transcript by the Commission on Graduates of Foreign Nursing Schools or a credential evaluation organization that is a member of the National Association of Credentialing Evaluation Services. The evaluation shall indicate that the school of nursing is substantially equivalent to a school of nursing in this state.

Section 2. Retaking the Examination. (1) An examination candidate who fails to achieve a passing result may retake the examination after meeting the requirements of Section 1 of this administrative regulation.

(2) The applicant shall not be eligible to take the examination more often than once every forty-five (45) days.

Section 3. Release of Examination Results. The board shall release examination results to:

(1) The candidate;

(2) Other state boards of nursing;

(3) The National Council of State Boards of Nursing, Inc.;

(4) The candidate's program of nursing; and

(5) An individual or agency who submits an applicant's or licensee's written authorization for their release, if applicable.

Section 4. Provisional License. (1) An applicant shall request a provisional license by completing the application for licensure required by Section 1 of this administrative regulation.

(2)(a) The board shall issue the provisional license to the applicant after Section 1(1)(a) and (3) of this administrative regulation are met, but not until the report is received from the FBI and any conviction is addressed by the board.

(b) In this[~~the~~] case of a graduate of a foreign nursing school, the board shall issue the provisional license after the requirements of 201 KAR 20:480[~~, Section 1(1) and (4),~~] are met.

(3) To qualify as direct supervision pursuant to KRS 314.041(5) and KRS 314.051(6), the nurse responsible for the applicant shall be physically present in the facility and immediately available to the applicant during work hours while the applicant holds a provisional license.

(4) The nurse responsible for the applicant shall be currently licensed or privileged to practice pursuant to KRS 314.475 as a nurse in Kentucky.

(5) Upon notification to the board that the applicant has failed the NCLEX examination after two (2) attempts, the provisional license shall be voided.

(6) A provisional license shall be valid for a period not to exceed six (6) months.

Section 5. (1) An applicant not from a party state under the Nurse Licensure Compact who is issued a license and who does not have permanent residency in Kentucky shall be issued a license that indicates on the license that it is only valid in Kentucky.

(2) The board may request that an applicant provide evidence of the applicant's state of residence.

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

(a) "Certified List of Kentucky Program of Nursing Graduates", 6/10, Kentucky Board of Nursing; and

(b) "Certified List of Out-of-State Program of Nursing Graduates", 6/10, Kentucky Board of Nursing.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m.

JESSICA WILSON, President

APPROVED BY AGENCY: March 25, 2022

FILED WITH LRC: April 6, 2022 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Thursday, June 23, 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 Thursday, June 16, 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) Thursday, June 30,

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: This administrative regulation establishes the requirements to obtain an RN or LPN license by examination.

(b) The necessity of this administrative regulation: This administrative regulation is necessary because of KRS 314.041 and KRS 314.051.

(c) How this administrative regulation conforms to the content of the authorizing statutes: of KRS 314.041 and KRS 314.051, which requires the Board to promulgate an administrative regulation concerning obtaining an RN or LPN license.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by setting the standards and process for obtaining an RN or LPN license.

(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 amendment includes recent educational requirements under 201 KAR 20:215; expands requirements for graduates of foreign programs of nursing to include passing a English proficiency exam under 201 KAR 20:480 before they are issued a provisional license. Provides that graduates of nursing programs may take two attempts to pass the National Council Licensure Examination (NCLEX) before their provisional license is voided; and it limits provisional licenses to be valid for a period of six months.

(b) The necessity of the amendment to the administrative regulation: To address changes to existing regulations, and to address the nursing shortage by allowing new graduates to stay in the workforce if they fail their first attempt at passing the NCLEX.

(c) How the amendment conforms to the content of the authorizing statutes: The Board is authorized to make these changes.

(d) How the amendment to the administrative regulation will assist in the effective administration of the statutes: By clearing up inconsistencies in current regulations.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Applicants for nursing licensure, number unknown.

(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: Nurses of foreign programs of nursing will be required to pass an English proficiency exam before given a provisional license. All graduates of nursing programs will need to pass the NCLEX after a second attempt within 6 months.

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

(c) The benefits that may accrue to the entities referenced in question (3) as a result of compliance: Applicants will be allowed two attempts at the NCLEX to keep their provisional licenses.

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

(a) Initially: No additional costs.

(b) On a continuing basis: None.

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation or amendment: No increase is needed.

(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? There is no tiering.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 314.131.

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

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

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

(c) How much will it cost to administer this program for the first year? No additional cost.

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

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

BOARDS AND COMMISSIONS
Board of Nursing
(Amendment)

201 KAR 20:240. Fees for applications and for services.

RELATES TO: KRS 61.874(3), 314.027(2), 314.041(8), (10)(c), 314.042(3), (6), 314.051(2), (10)(c), 314.071(1), (2), 314.073(7), 314.075(1), 314.101(4), 314.142(1)(b), 314.161, 314.171(4)

STATUTORY AUTHORITY: KRS 314.041(8), (10)(c), 314.042(3), (6), 314.051(2), (10)(c), 314.071(1), (2), 314.073(7), 314.131(1), 314.142(1)(b), 314.161

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131 authorizes the board to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 314. KRS 314.142(1)(b) requires the board to establish an application fee for a registered nurse who applies to the board to be credentialed as a "sexual assault nurse examiner". KRS 314.161 authorizes the board to establish fees necessary to implement KRS Chapter 314. KRS 314.041(8), (10)(c), 314.042(3), (6), 314.051(2), (10)(c), 314.071(1), (2), and 314.073(7) require the board to establish fees for licensure, examination, renewal, reinstatement, and continuing education. This administrative regulation establishes those fees.

Section 1. Fees for Licensure Applications. (1) The board shall collect a fee for:

(a) An application for licensure; and

(b) Licensure renewal or reinstatement.

(2) The fee for an application shall be:
(a) Licensure by endorsement as a registered nurse - $165;
(b) Licensure by endorsement as a licensed practical nurse - $165;
(c) Licensure by examination as a registered nurse - $125;
(d) Licensure by examination as a licensed practical nurse - $125;
(e) Renewal of license - fifty-five (55) dollars;
(f) Retired status - twenty-five (25) dollars;
(g) Reinstatement of license - $135;
(h) Paper copy of an application - forty (40) dollars;
(i) Full verification of licensure, credential or registration history - fifty (50) dollars;
(j) Licensure as an advanced practice registered nurse - $165;
(k) Renewal of licensure as an advanced practice registered nurse - fifty-five (55) dollars;
(l) Reinstatement of licensure as an advanced practice registered nurse - $135;
(m) Name change - twenty-five (25) dollars;
(n) Application to establish a registered nurse or licensed practical nurse prelicensure program of nursing pursuant to 201 KAR 20:280 - $2,000;
(o) Information submitted to establish an advanced practice registered nurse program pursuant to 201 KAR 20:062 - $2,000; or
(p) Information submitted to establish an additional track pursuant to 201 KAR 20:062 - $500.
(3) An application or information submitted under this section shall not be evaluated by the board unless the current fee is submitted.

Section 2. Fees for Applications for Continuing Education Approvals. The fee for an application for approval of a provider of continuing education or for a renewal or reinstatement of the approval shall be:
(1) Initial provider approval - $400;
(2) Reinstatement of provider approval - $400;
(3) Renewal of approval - $100; or
(4) Individual review of continuing education offerings - ten (10) dollars.

Section 3. Fees for Services. (1) The fee for a service shall be:
(a) Validation of the current status of a temporary work permit, provisional license, license, or credential:
1. If requested in writing in individual nurse format - fifty (50) dollars; or
2. If requested in writing in list format - fifty (50) dollars for the first name and twenty (20) dollars for each additional name;
(b) Copy of an examination result or transcript - twenty-five (25) dollars;
(c) Nursing certificate - thirty (30) dollars; or
(d) Release of NCLEX results to another state board of nursing - seventy-five (75) dollars.
(2) An applicant for licensure who takes or retakes the licensure examination shall pay:
(a) The current examination fee required by the national council of state boards of nursing; and
(b) Application for licensure fee pursuant to Section 1 of this administrative regulation.
(3) A graduate of a foreign school of nursing shall be responsible for:
(a) Costs incurred to submit credentials translated into English;
(b) Immigration documents; and
(c) Other documents needed to verify that the graduate has met Kentucky licensure requirements.
(4) A program of nursing that requires a site visit pursuant to 201 KAR 20:360, Section 5, shall pay the cost of the site visit to the board.

Section 4. An application shall lapse and the fee shall be forfeited if the application is not completed as follows:
(1) For an application for licensure by endorsement, within one (1) year[~~six (6) months~~] from the date the application form is filed with the board office;
(2) For an application for licensure by examination, within one (1) year from the date the application form is filed with the board office;[~~or~~]
(3) For an application for reinstatement of license, within one (1) year from the date the application form is filed with the board office; or
(4) For all other applications, except for renewal of license applications, within one (1) year from the date the application form is filed with the board office.

Section 5. An applicant who meets all requirements for approval, licensure, or credential shall be issued the appropriate approval, license, or credential without additional fee.

Section 6. Fees for Sexual Assault Nurse Examiners.
(1) The application fee shall be $120.
(2) The credential renewal fee shall be fifty (50) dollars.
(3) The credential reinstatement fee shall be $120.

Section 7. A payment for an application fee that is in an incorrect amount shall be returned and the application shall not be posted until the correct fee is received.

Section 8. Bad Transaction Fee. Any transaction, including paper or electronic, submitted to the board for payment of a fee which is returned for nonpayment shall be assessed a bad transaction fee of thirty-five (35) dollars.

JESSICA WILSON, President
APPROVED BY AGENCY: March 25, 2022
FILED WITH LRC: March 30, 2022 at 9:40 a.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Thursday, June 23, 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 Thursday, June 16, 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) Thursday, June 30, 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: It sets fees.
(b) The necessity of this administrative regulation: It is required by statute.
(c) How this administrative regulation conforms to the content of the authorizing statutes: By setting fees.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By setting fees.
(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: It establishes the length of time before applications lapse before the application fee is forfeited.
(b) The necessity of the amendment to the administrative regulation: To bring the regulation in-line with other regulations.

(c) How the amendment conforms to the content of the authorizing statutes: The board is authorized to make these changes.

(d) How the amendment to the administrative regulation will assist in the effective administration of the statutes: By establishing the length of time before applications lapse.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Applicants seeking licensure by endorsement or reinstatement, number unknown.

(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: No action necessary.

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

(c) The benefits that may accrue to the entities referenced in question (3) as a result of compliance: The length of time before an application lapses has been extended.

(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 funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation or amendment: No increase is needed.

(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? None. Tiering is not needed.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 314.131.

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

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

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

(c) How much will it cost to administer this program for the first year? No additional cost.

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

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM
Kentucky Board of Emergency Medical Services
(Amendment)

202 KAR 7:545. License classifications.

RELATES TO: KRS 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~~] ambulance services and medical first response agencies, except those regulated by the Board of [~~Emergency~~]Medical Licensure[~~Services~~] or the Cabinet for Health and Family Services. KRS 311A.030 requires the board to promulgate administrative regulations to establish requirements for various classes of ambulance and emergency medical service agencies. This administrative regulation establishes requirements for each class of ambulance service and medical first response agencies.

Section 1. License Classifications. (1) In accordance with KRS 311A.030(1), license classifications for ambulance providers shall include:

(a) A Class I ground ambulance agency operating at the Advanced Life Support (ALS), Basic Life Support (BLS), or Adult Critical Care Transport level to provide emergency and nonemergency care and transportation.

(b) A Class II ground ambulance agency operating at the BLS level only to provide nonemergency care and transportation.

(c) A Class III ground ambulance agency operating at the ALS level to provide critical care, specialty care, emergency or nonemergency care, and transportation between health care facilities. Based on the Certificate of Need and scope of care policy, a Class III ground ambulance agency shall be designated as one (1) or more of the following types:

1. A Class III Adult Critical Care agency providing critical care transport services to patients ages twelve (12) and above;

2. A Class III Pediatric Specialty Care agency providing specialty care transport services to patients under the age of twenty-one (21); or

3. A Class III Neonatal Specialty Care agency providing specialty care transport services to patients less than twenty-nine (29) days of age.

(d) A Class IV ground ambulance agency operating at the ALS or BLS level to provide emergency and nonemergency care and transportation for restricted locations, such as industrial sites or other sites that do not provide services outside the designated geographic service area.

(e) A Class VI agency providing medical first response without patient transport at the BLS or ALS level.

1. Each BLS First Response agency shall be licensed separately as a Class VI BLS agency unless a mutual aid agreement is executed with a licensed Class I ambulance agency that provides 911 response services for the geographic service area.

2. A nonlicensed BLS First Response Agency may execute a mutual aid agreement with multiple nonlicensed BLS First Response Agencies that serve the same geographic service area.

3. A mutual aid agreement shall automatically renew at the conclusion of a calendar year.

4. A nonlicensed BLS First Response Agency or a Class I ALS agency may terminate a mutual aid agreement thirty (30) days after written notice is provided to the other party.

5. A mutual aid agreement between a Class I ALS agency and a nonlicensed BLS First Response agency serving the same geographic area shall be updated as changes to the agreement occur and shall include provisions for:

a. Medical direction;

b. BLS protocols;

c. Response protocol;

d. Geographic service areas to be served;

e. Circumstances causing dispatch of the nonlicensed BLS first response agency;

f. Training;

g. Quality assurance processes; and

h. Liability Insurance if applicable.

6. A nonlicensed BLS First Response agency shall not provide BLS care outside of the geographic service area of the Class I ALS agency.

7. A nonlicensed BLS First Response agency unable to secure a written mutual aid agreement with a Class I ALS agency within its geographic service area, may operate within the jurisdiction as a nonlicensed BLS First Response agency if the agency has written correspondence from at least one (1) Class I 911 agency within its geographic service area denying the agency's request to enter into a mutual aid agreement. The correspondence denying the mutual aid request shall be maintained on file at the agency.

8. A license to provide BLS care shall not be issued solely through the execution of a mutual aid agreement between a Class I agency and a nonlicensed BLS First Response agency;

(f) A Class VII rotor wing air ambulance service providing ALS emergency or nonemergency air transportation;

(g) A fixed wing class VII service provides ALS or BLS emergency or nonemergency air transportation; and

(h) A Class VIII agency providing BLS or ALS pre-hospital care above the first-aid level at special events, sports events, concerts, or large social gatherings.

1. A Class VIII agency shall not transport patients beyond the grounds of an event and shall be bound by the geographic service area of its Certificate of Need.

2. A Class VIII agency shall not transport patients independently to a hospital.

3. If transport of a patient is required, a Class VIII agency shall contact 911 for transport by a Class I agency licensed for the geographic service area.

(2) The KBEMS office shall license agencies in accordance with subsection (1) of this section.

(3) An agency shall apply for[~~obtain~~] a license from the board within ninety (90) days of issuance of a Certificate of Need from the Cabinet for Health and Family Services.

(4) An agency that does not apply for[~~receive~~] a license within ninety (90) days of the issuance of its Certification of Need shall not be granted a license by the board.

(5) An agency shall request a final inspection for licensure from the board, in writing, within 180 days after applying for a license from the board.

(6) An agency that does not request a final inspection for licensure from the board, in writing, within 180 days after applying for a license from the board shall not be granted a license by the board.

(7)[(~~5~~)] An agency shall not hold more than one (1) license per level of classification in one (1) defined geographic service area unless each license was obtained prior to January 1, 2018.

Section 2. Public Notice of Negative Action. The board office shall publish on the KBEMS Web site or similar publication of the board, 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: March 24, 2022

FILED WITH LRC: March 30, 2022 at 2:00 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 22, 2022 at 1:00 p.m. ET 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 June 30, 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: Michael Poynter, Executive Director, Kentucky Board of Emergency Medical Services, 2464 Fortune Drive, Suite 195, Lexington, Kentucky 40509, phone (859) 256-3584, email michael.poynter@kctcs.edu.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michael Poynter

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements for each class of ambulance service and medical first response agencies.

(b) The necessity of this administrative regulation: KRS 311A.020 requires the Board to exercise all administrative functions in the regulation of ambulance services and medical first response agencies, except those regulated by the Board of Medical Licensure or the Cabinet for Health and Family Services. KRS 311A.030 requires the board to promulgate administrative regulations to establish requirements for various classes of ambulance and emergency medical service agencies. This administrative regulation is necessary to establish requirements for each class of ambulance service 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.020 and 311A.030 by establishing requirements for each class of ambulance service and medical first response agencies.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 311A.020 requires the Board to exercise all administrative functions in the regulation of ambulance services and medical first response agencies, except those regulated by the Board of Medical Licensure or the Cabinet for Health and Family Services. KRS 311A.030 requires the board to promulgate administrative regulations to establish requirements for various classes of ambulance and emergency medical service agencies. This administrative regulation assists in the effective administration of these statutes by establishing requirements for each class of ambulance service and medical first response agencies.

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

(a) How the amendment will change this existing administrative regulation: This amendment removes the requirement that agencies *obtain* a license from the Board within ninety (90) days after receiving a certificate of need. Instead, agencies will only need to *apply for* a license from the Board within ninety (90) days of issuance of a certificate of need. After applying for a license, agencies must request a final inspection from the Board within 180 days.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary because it is difficult for agencies to satisfy the requirement that they receive a license within ninety (90) days of issuance of a certificate of need. Before a license may be issued by the Board, new EMS agencies must contract with a medical director, order medications, purchase and acquire ambulances, hire staff, procure physical locations, etc. Were the Board to strictly enforce this requirement, some otherwise qualified agencies would be denied a license.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of KRS 311A.020 and 311A.030 by removing requirements for each class of ambulance service and medical first response agencies.

(d) How the amendment will assist in the effective administration of the statutes: KRS 311A.020 requires the Board to exercise all administrative functions in the regulation of ambulance

services and medical first response agencies, except those regulated by the Board of Medical Licensure or the Cabinet for Health and Family Services. KRS 311A.030 requires the board to promulgate administrative regulations to establish requirements for various classes of ambulance and emergency medical service agencies. This amendment will assist in the effective administration of these statutes by removing requirements for each class of ambulance service and medical first response agencies.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All ambulance services and medical first response agencies will be affected by this administrative regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Ambulance services and medical first response agencies will no longer be required to obtain a license from the Board within ninety (90) days after the issuance of a certificate of need.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Compliance with this administrative regulation will not require entities to incur any additional costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Ambulance services and medical first response agencies will benefit from being permitted to receive a license from the Board more than ninety (90) days after being issued a certificate of need.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: There will be no cost to the administrative body to implement this administrative regulation.

(a) Initially: There will be no cost to the administrative body to implement this administrative regulation.

(b) On a continuing basis: There will be no cost to the administrative body to implement this administrative regulation.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: No funding source is necessary to implement and enforce this administrative regulation.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied to this administrative regulation because this amendment applies to all ambulance services and medical first response agencies.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The administrative regulation will affect all ambulance services and medical first response agencies.

(2) Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 311A.020 requires the Board to exercise all administrative functions in the regulation of ambulance services and medical first response agencies, except those regulated by the Board of Medical Licensure or the Cabinet for Health and Family Services. KRS 311A.030 requires the board to promulgate administrative regulations to establish requirements for various classes of ambulance and emergency medical service agencies. This administrative regulation establishes requirements for each class of ambulance service and medical first response agencies.

(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? Administration of this administrative regulation will not require any costs.

(d) How much will it cost to administer this program for subsequent years? Administration of this administrative regulation will not require any costs.

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 require any additional 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 there is a[~~an on-duty~~] paramedic on-duty at all times[~~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: March 24, 2022

FILED WITH LRC: March 30, 2022 at 2:00 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 22, 2022 at 1:00 p.m. ET 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 June 30, 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: Michael Poynter, Executive Director, Kentucky Board of Emergency Medical Services, 2464 Fortune Drive, Suite 195, Lexington, Kentucky 40509, phone (859) 256-3584, email michael.poynter@kctcs.edu.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michael Poynter

(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:

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(Amendment)

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

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

STATUTORY AUTHORITY: KRS 150.025(1), 150.470

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

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

(2) "Catfish" means a blue catfish, channel catfish, or flathead catfish.

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

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

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

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

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

(8) "Processed fish" means a fish that has been gutted, with the head removed.

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

(10) "Shad" means a live gizzard shad or threadfin shad.

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

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

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

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

(a) Hook and line in hand; or

(b) Rod in hand.

(15) "Trophy catfish" means a:

(a) Blue or flathead catfish that is a minimum of thirty-five (35) inches in length; or

(b) Channel catfish that is a minimum of twenty-eight (28) inches in length.

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

Section 2. Statewide Limits and Requirements. (1) A person taking fish from public or private waters using traditional fishing methods shall observe the daily creel limits and size limits established in paragraphs (a) through (l) of this subsection, except as established in Sections 3 through 8 of this administrative regulation or pursuant to 301 KAR 1:180:

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

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

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

(b) Rock bass daily creel limit, fifteen (15); no size limit;

(c) Sauger, walleye, and any hybrid thereof daily creel limit, singly or in combination, six (6); size limit, fourteen (14) inches;

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

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

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

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

(h) Crappie daily creel limit, twenty (20); no size limit;

(i) Trout.

1. No culling statewide.

2. Rainbow trout daily creel limit, eight (8); no size limit.

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

4. Brook trout, catch and release only.

5. Cutthroat trout daily creel limit, one (1); size limit, twenty (20) inches;

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

(k) Paddlefish daily creel limit, two (2); no size limit; and

(l) Catfish daily creel limit is unlimited; no size limit, except that only one (1) trophy catfish of each species may be harvested daily.

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

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

(4) A person shall release any:

(a) Lake sturgeon; or

(b) Alligator gar.

(5) A person shall release fish:

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

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

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

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

(a) Fishing;

(b) On the shoreline; or

(c) On the water.

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

(a) At the weigh-in site;

(b) At the release site; or

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

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

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

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

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

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

(a) Fishing;

(b) On the shoreline; or

(c) On the water.

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

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

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

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

(a) Has a valid trout permit;

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

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

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

(a) An insect;

(b) Minnow;

(c) Fish egg;

(d) A worm;

(e) Corn;

(f) Cheese;

(g) Cut bait; or

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

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

Section 3. Exceptions. All other provisions of this administrative regulation shall apply to the bodies of water listed in this section, with the exceptions established in subsections (1) through (75)[~~(73)~~] of this section. (1) Bad Branch, Letcher County. A person shall only fish with artificial bait with a single hook;

(2) Barkley Lake.

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

(b) Crappie size limit, ten (10) inches;

(3) Barren River and tributaries upstream from Lock and Dam 1, including Barren River Lake. Smallmouth bass size limit, fifteen (15) inches;

(4) Barren River Lake.

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

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

(c) Blue and channel catfish aggregate daily creel limit of fifteen (15), only one (1) of which shall be longer than twenty-five (25) inches.

(d) Barren River Lake shall extend up:

1. Barren River to the Highway 100 bridge;

2. Long Creek to the Highway 100 bridge;

3. Beaver Creek to the Highway 1297 bridge;

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

5. Peter Creek to the Peter Creek Road bridge;

(5)[~~(4)~~] Beaver Lake, Anderson County.

(a) A person shall not possess shad or use shad as bait.[~~;~~]

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

(6)[~~(5)~~] Beech Fork Reservoir, Powell County.

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

(b) Bluegill daily creel limit, fifteen (15);

(7)[~~(6)~~] Bert Combs Lake, Clay County.

(a) A person shall not possess shad or use shad as bait.[~~;~~]

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

(8) Beulah Lake, Jackson County. Largemouth bass. There shall be a slot limit between twelve (12) and fifteen (15) inches;

(9)[~~(7)~~] Boltz Lake, Grant County.

(a) A person shall not possess shad or use shad as bait.[~~;~~]

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

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

(11)[~~(9)~~] Buckhorn Lake.

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

(b) Muskellunge size limit, forty (40) inches.

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

(12)[~~(10)~~] Carnico Lake, Nicholas County.

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

(b) Sunfish daily creel limit, fifteen (15);

(13)[~~(11)~~] Carr Creek Lake.

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

(b) Crappie size limit, nine (9) inches.[~~;~~]

(c) Blue and channel catfish aggregate creel limit of fifteen (15), only one (1) of which shall be longer than twenty-five (25) inches;

(14)[~~(12)~~] Carter Caves State Park Lake, Carter County.

(a) Fishing shall be during daylight hours only.

(b) Largemouth bass.

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

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

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

(15)[~~(13)~~] Cave Run Lake.

(a) Largemouth bass. There shall be a slot limit between twelve (12)[~~thirteen (13)~~] and fifteen (15)[~~sixteen (16)~~] inches.

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

(c) Muskellunge size limit, forty (40)[~~thirty-six (36)~~] inches.

(d) Cave Run Lake shall extend up:

1. Scott's Creek to the Highway 801 culvert;

2. Beaver Creek to the Highway 1274 culvert;

3. North Fork Creek to the confluence of Craney Creek;

4. Licking River to the Highway 772 bridge; and

5. Ramey Creek to include the pool of water north of Highway 801;

(16)[~~(14)~~] Cedar Creek Lake, Lincoln County. Largemouth bass size limit, twenty (20) inches; daily creel limit, one (1);

(17)[~~(15)~~] Chimney Top Creek, Wolfe County. A person shall only fish with artificial bait;

(18)[~~(16)~~] Clear Fork, tributary of the Gasper River. A person shall release all sportfish;

(19)[~~(17)~~] Corinth Lake, Grant County.

(a) A person shall not possess shad or use shad as bait.[~~;~~]

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

(20)[~~(18)~~] Cumberland Lake.

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

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

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

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

(b) Cumberland Lake shall extend up:

1. The Cumberland River to Cumberland Falls;

2. The Big South Fork to Devil's Jump;

3. The Rockcastle River to The Narrows; and

4. The Laurel River to Laurel River Dam;

(21) Cumberland River upstream from Cumberland Falls and all tributaries. Smallmouth bass size limit, fifteen (15) inches;

(22)[~~(19)~~] Cumberland River from Wolf Creek Dam downstream to the Kentucky-Tennessee state line and tributaries, except Hatchery Creek in Russell County as established in subsections (36) and (37) of this section.

(a) Brown trout size limit, twenty (20) inches; daily creel limit, one (1).

(b) Brook trout size limit, fifteen (15) inches; daily creel limit, one (1).

(c) Rainbow trout. There shall be a slot limit between fifteen (15) and twenty (20) inches; daily creel limit, five (5), which shall not include more than one (1) fish greater than twenty (20) inches.

(d) A trout permit shall be required in order to fish the Cumberland River below Wolf Creek Dam to the Tennessee state line including the Hatchery Creek and all other tributaries upstream to the first riffle.

(e) Chumming shall not be permitted in the Cumberland River below Wolf Creek Dam to the Tennessee state line, including the Hatchery Creek and all other tributaries upstream to the first riffle;

(23)[~~(20)~~] Cumberland River below Barkley Lake. Fishing is prohibited at the mouth of the lock chamber, as designated by signs.

(24)[~~(21)~~] Dale Hollow Lake.

(a) Smallmouth bass. There shall be a slot limit between

sixteen (16) and twenty-one (21) inches. The daily creel limits shall not include more than one (1) fish less than sixteen (16) inches long and one (1) fish greater than twenty-one (21) inches long.

(b) Walleye and walleye hybrids, daily creel limit, five (5); size limit, sixteen (16) inches.

(c) Sauger daily creel limit, ten (10); size limit, fourteen (14) inches.

(d) Rainbow trout and brown trout, no size limit; daily creel limit, seven (7), singly or in combination.

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

(f) Black bass aggregate daily creel limit, five (5), no more than two (2) of which shall be smallmouth bass.

(g) Crappie size limit, ten (10) inches; daily creel limit, fifteen (15);

(25)[~~(22)~~] Dewey Lake.

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

(b) Blue and channel catfish aggregate creel limit of fifteen (15), only one (1) of which shall be longer than twenty-five (25) inches.

(c) Muskellunge size limit, forty (40)[~~thirty-six (36)~~] inches;

(26)[~~(23)~~] Dix River for two (2) miles downstream from Herrington Lake Dam. A person shall only fish with artificial bait;

(27)[~~(24)~~] Doe Run Lake, Kenton County.

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

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

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

(28)[~~(25)~~] Dog Fork, Wolfe County. A person shall only fish with an artificial bait with a single hook;

(29)[~~(26)~~] Elkhorn Creek, downstream from the confluence of the North and South forks to the first shoal located 3,400 feet above its confluence with the Kentucky River, as posted with signs. Largemouth bass and smallmouth bass.

[~~(a)~~] There shall be a slot limit between twelve (12) and fifteen (15)[~~sixteen (16)~~] inches[~~.~~

~~(b) The daily creel limit shall not include more than two (2) fish greater than sixteen (16) inches~~];

(30)[~~(27)~~] Elmer Davis Lake, Owen County.

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

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

(31)[~~(28)~~] Fishtrap Lake.

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

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

(c) Blue and channel catfish aggregate daily limit of fifteen (15), only one (1) of which shall be longer than twenty-five (25) inches;

(32)[~~(29)~~] Floyd's Fork Creek, from Highway 60 downstream to Bardstown Road in Jefferson County. Largemouth and smallmouth bass size limit, fifteen (15) inches;[~~ daily creel limit, one (1);~~]

(33)[~~(30)~~] Golden Pond at the Visitors' Center at Land Between the Lakes. Channel catfish daily creel limit, five (5); size limit, fifteen (15) inches;

(34)[~~(31)~~] General Butler State Park Lake, Carroll County.

(a) Largemouth bass. There shall be a slot limit between twelve (12) and fifteen (15) inches[~~ size limit, fifteen (15) inches; daily creel limit, three (3)~~].

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

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

(35)[~~(32)~~] Grayson Lake. Largemouth bass and smallmouth bass size limit, fifteen (15) inches;

(36)[~~(33)~~] Greenbo Lake, Greenup County.

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

(b) Bluegill and sunfish daily creel limit, fifteen (15) fish;

(37)[~~(34)~~] Green River from Green River Lake Dam and extending downstream to the end of the concrete wall. Fishing shall be limited to rod in hand using either:

(a) An artificial bait with a single hook; or

(b) Live bait attached to a single hook;

(38)[~~(35)~~] Green River Lake.

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

(b) Muskellunge size limit, forty (40)[~~thirty-six (36)~~] inches.

(c) Green River Lake shall extend up:

1. Green River to the Snake Creek Boat Ramp;

2. Robinson Creek to the Highway 76 Bridge; and

3. Casey Creek to the Arnolds Landing Boat Ramp.

(39)[~~(36)~~] Hatchery Creek, upper section as established by signs, Russell County. Rainbow trout, brown trout, and brook trout, no size limit; daily creel limit, five (5), singly or in combination;

(40)[~~(37)~~] Hatchery Creek, lower section as established by signs, Russell County. A person fishing for trout shall:

(a) Only use artificial bait; and

(b) Release all trout;

(41)[~~(38)~~] Highsplint Lake, Harlan County. Largemouth bass size limit, twenty (20) inches; daily creel limit, one (1);

(42)[~~(39)~~] Jericho Lake, Henry County.

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

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

(43)[~~(40)~~] Kentucky Lake and the canal connecting Kentucky and Barkley lakes.

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

(b) Crappie size limit, ten (10) inches;

(44) Kentucky River upstream of Lock and Dam 14, the North Fork and tributaries including Carr Fork below Carr Creek Lake, along with the Middle and South Forks and all tributaries. Smallmouth bass size limit, fifteen (15) inches;

(45)[~~(41)~~] Kentucky River WMA, Boone Tract, excluding Benjy Kinman Lake.

(a) [~~Largemouth bass size limit, fifteen (15) inches; daily creel limit, one (1).~~

~~(b)~~] Sunfish daily creel limit, fifteen (15).

(b)[~~(c)~~] Catfish daily creel limit, four (4);

(46)[~~(42)~~] Lake Blythe, Christian County. Largemouth bass. There shall be a slot limit between twelve (12) and fifteen (15) inches;

(47)[~~(43)~~] Lake Chumley, and the department-owned property surrounding the lake, Boyle and Lincoln counties. Closed to public access from one-half (1/2) hour after sunset through one-half (1/2) hour before sunrise;

(48)[~~(44)~~] Lake Malone, Muhlenberg and Logan counties. Largemouth bass. There shall be a slot limit between twelve (12) and fifteen (15) inches;

(49)[~~(45)~~] Lake Mingo, Jessamine County. A person shall not possess shad or use shad as bait;

(50)[~~(46)~~] Lake Reba, Madison County. A person shall not possess shad or use shad as bait;

(51)[~~(47)~~] Lake Shelby, Shelby County.

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

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

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

(52)[~~(48)~~] Laurel River Lake.

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

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

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

[~~(49) Lebanon City Lake (Fagan Branch), Marion County. Largemouth bass and smallmouth bass. There shall be a slot limit between twelve (12) and fifteen (15) inches;~~]

(53)[~~(50)~~] Lincoln Homestead Lake, Washington County.

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

(b) Largemouth bass. There shall be a slot limit between twelve (12) and fifteen (15) inches[~~size limit, fifteen (15) inches; daily creel limit, three (3)~~].

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

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

(54)[~~(51)~~] Marion County Lake.

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

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

(55)[~~(52)~~] McNeely Lake, Jefferson County.

(a) A person shall not possess shad or use shad as bait.[~~;~~]

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

(56)[~~(53)~~] Mill Creek Lake, Powell County.

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

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

(57)[~~(54)~~] New Haven Optimist Lake, Nelson County.

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

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

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

(58)[~~(55)~~] Nolin River Lake shall extend up Bacon Creek to Highway 178 and to Wheelers Mill Road Bridge on the Nolin River.

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

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

(59)[~~(56)~~] Ohio River.

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

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

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

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

(60)[~~(57)~~] Otter Creek, Meade County.

[~~(a)~~] Smallmouth and largemouth bass. There shall be a slot limit between twelve (12) and fifteen (15)[~~sixteen (16)~~] inches[~~.~~

~~(b) Daily limit shall not include more than one (1) smallmouth or largemouth bass over sixteen (16) inches~~];

[~~(58) Paint Creek, between upper Highway 460 Bridge and Highway 40 Bridge, Johnson County. Trout size limit, sixteen (16) inches; daily creel limit, one (1); artificial bait only;~~

~~(59) Paintsville Lake. Smallmouth bass size limit, eighteen (18) inches;~~]

(61) Panbowl Lake, Breathitt County. Largemouth bass. There shall be a slot limit between twelve (12) and fifteen (15) inches;

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

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

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

[~~(62) Poor Fork and its tributaries in Letcher County downstream to the first crossing of Highway 932. A person shall only fish with an artificial bait with a single hook;~~]

(65)[~~(63)~~] Rockcastle River WMA, all ponds collectively, Pulaski County.

(a) Largemouth bass size limit, fifteen (15) inches; daily creel limit, one (1).

(b) Bluegill and sunfish daily creel limit, ten (10).

(c) Catfish daily creel limit, four (4).

(d) Crappie daily creel limit, fifteen (15);

(66)[~~(64)~~] Rough River Lake.

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

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

(c) Rough River Lake shall extend up Rough River to the Highway 84 Bridge;

(67)[~~(65)~~] Shanty Hollow Lake, Warren County.

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

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

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

(69)[~~(67)~~] Spurlington Lake, Taylor County. A person shall not possess shad or use shad as bait;

(70)[~~(68)~~] Sympson Lake, Nelson County. Largemouth bass size limit, fifteen (15) inches;

(71)[~~(69)~~] Taylorsville Lake, including the impounded waters of the lake to Dry Dock Road Bridge on the Salt River.

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

(b) Blue and channel catfish:

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

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

(c) Crappie size limit, ten (10) inches; daily creel limit, fifteen (15);

(72)[~~(70)~~] Trammel Creek, Allen County. Rainbow trout daily limit, five (5);

(73)[~~(71)~~] Willisburg Park Pond, Washington County.

(a) Largemouth bass size limit, fifteen (15) inches[~~; daily creel limit, one (1)~~].

(b) Catfish daily creel limit, four (4).

(c) Sunfish daily creel limit, fifteen (15);

(74)[~~(72)~~] Wood Creek Lake. Largemouth and smallmouth bass. There shall be a slot limit between twelve (12) and fifteen (15) inches[~~size limit, fifteen (15) inches~~]; and

(75)[~~(73)~~] Yatesville Lake. Largemouth bass and smallmouth bass size limit, fifteen (15) inches.

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

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

(b) Cumberland River and tributaries above Cumberland Falls;

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

(d) Middle Fork Kentucky River and tributaries;

(e) North Fork Kentucky River and tributaries, including Carr Fork below Carr Creek Lake;

(f) South Fork Kentucky River and tributaries;

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

(h) Martins Fork Lake; and

(i) Wood Creek Lake.

(2) There shall be a slot limit between eighteen (18) and twenty-six (26) inches and a daily creel limit of two (2) for walleye in the waters established in subsection (1) of this section.

Section 5. Seasonal Catch and Release for Trout. (1) There shall be a catch and release trout season from October 1 through March 31 for the bodies of water established in subsection (3) of this section.

(2) A person shall:

(a) Only use artificial bait; and

(b) Release all trout.

(3) The streams established in paragraphs (a) through (o)[~~(n)~~] of this subsection shall be open for the catch and release trout season:

(a) Bark Camp Creek in Whitley County;

(b) Beaver Creek from Highway 90 Bridge upstream to Highway 200 Bridge in Wayne County;

(c) Big Bone Creek within Big Bone Lick State Park in Boone County;

(d) Cane Creek in Laurel County;

(e) Casey Creek in Trigg County;

(f) Clear Creek from mouth upstream to 190 Bridge in Bell County;

(g) East Fork of Indian Creek in Menifee County;

(h) Elk Spring Creek in Wayne County;

(i) Floyd's Fork Creek in Jefferson County from Highway 60 downstream to Bardstown Road;

(j) Gunpowder Creek in Boone County;

(k) Left Fork of Beaver Creek in Floyd County from Highway 122 Bridge upstream to the headwater;

(l) Otter Creek in Meade County on the Fort Knox Reservation and Otter Creek Park;

(m) Rock Creek from the Bell Farm Bridge to the Tennessee state line in McCreary County; [~~and~~]

(n) Trammel Creek in Allen County; and[.]

(o) Swift Camp Creek in Wolfe County.

[~~(4) There shall be a seasonal catch and release trout season for Swift Camp Creek in Wolf County from October 1 through May 31.~~]

Section 6. Special Limits for Fishing Events. (1) The commissioner may establish special limits for fishing events including:

(a) Size limits for selected species;

(b) Daily creel limits for selected species;

(c) Eligible participants; and

(d) Dates and times of special limits.

(2) An event sponsor shall post signs informing anglers of any special limits for a minimum of twenty-four (24) hours before the event.

Section 7. Creel and Size Limits for Special Lakes and Ponds. The requirements established in subsections (1) through (5) of this section shall apply to all bodies of water established in the Special Lakes and Ponds list:

(1) Largemouth bass size limit, fifteen (15) inches; daily creel limit, one (1);

(2) Catfish daily creel limit, four (4);

(3) Sunfish or bream daily creel limit, fifteen (15);

(4) Rainbow trout daily creel limit, five (5); and

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

Section 8. Special Catfish Size Limit Lakes. All lakes established in the Special Catfish Size Limit Lakes list shall have a twelve (12) inch size limit on catfish.

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

(a) "Special Catfish Size Limit Lakes", 2021[~~2020~~] edition; and

(b) "Special Lakes and Ponds", 2021[~~2020~~] edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

RICH STORM, Commissioner

APPROVED BY AGENCY: April 14, 2022

FILED WITH LRC: April 15, 2022 at 11:05 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 28, 2022 at 10:00 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Administration Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation through June 30, 2022. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jenny Gilbert, Department of Fish and Wildlife Resources, Administration Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, email fwpubliccomments@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jenny Gilbert

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes size limits, daily creel limits, and possession limits for sport fish that may be taken from Kentucky waters.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to properly manage the sport fish populations of Kentucky.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025(1) authorizes the Department to promulgate administrative regulations to establish seasons for the taking of fish and wildlife, to regulate creel limits and methods of take, and to make these requirements apply to a limited area. KRS 150.470 authorizes the department to establish creel and size limits for fish.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statutes by limiting the number and size of fish that may be taken from Kentucky's waters. This will ensure that Kentucky's valuable sport fish populations are maintained at high levels.

(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 help standardize and simplify black bass regulation across the state by better grouping lakes into standardized regulation blocks. Thirty-two water bodies were standardized across six different regulation options including: statewide regulation, 12- to 15-inch slot limit for largemouth bass only, 12- to 15-inch slot limit for largemouth bass and smallmouth bass, 15-inch size limit and 6-fish creel for largemouth bass, 15-inch size limit and 6-fish creel for largemouth and smallmouth bass, and a 15-inch size limit and 6 fish creel on three river watersheds. In addition, special trout regulations were removed from Poor Fork of the Cumberland River and Paintsville Lake Tailwater, Swift Camp Creek catch-and-release regulations were standardized with all other catch and release trout streams, a special size and creel regulation was placed on channel and blue catfish at Carr Creek Lake, and all four reservoirs containing muskie were standardized to a 40-inch size limit.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to protect the largemouth bass populations across the state and better standardize and simplify regulations. In addition, simplification of trout regulations and better protection of catfish at Carr Creek Lake and muskie at four reservoirs was needed.

(c) How the amendment conforms to the content of the authorizing statutes: See 1(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See 1(d) above.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All anglers fishing at the water bodies and for the species identified in 2(a) above will be affected.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Anglers will need to comply with the regulation changes identified in 2(a).

(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 incurred by the anglers identified.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Anglers who fish at the water bodies and for the species identified in 2(a) above will benefit in the long run from a higher quality sport fishery, improved angling opportunities, and easier to understand regulations.

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

(a) Initially: There will be no initial cost to implement this administrative regulation.

(b) On a continuing basis: There will be no additional cost on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding is the State Game and Fish Fund.

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

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees nor does it indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering was not applied because all individuals fishing in Kentucky must abide by the same requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Department of Fish and Wildlife Resources' Divisions of Fisheries and Law Enforcement will be impacted by this amendment.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025(1) authorizes the Department to promulgate administrative regulations to regulate bag, creel, and possession limits of game and fish. KRS 150.470 authorizes the department to promulgate creel and size limits for fish.

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? It is unknown if this administrative regulation could indirectly increase any fishing license sales during the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? There will be no direct revenue generated in subsequent years, and it is unknown if fishing license sales will be indirectly increased because of this amendment.

(c) How much will it cost to administer this program for the first year? There will be no initial cost to implement this administrative regulation for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be no cost in subsequent years.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(Amendment)

301 KAR 2:132. Elk hunting seasons, permits, zones, and requirements.

RELATES TO: KRS 150.010, 150.170(4), 150.180, 150.990

STATUTORY AUTHORITY: KRS 150.025(1), 150.177, 150.178, 150.390(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits and methods of take, and to make these requirements apply to a limited area. KRS 150.177 authorizes the department to issue special commission permits for game species to nonprofit wildlife conservation organizations. KRS 150.178 authorizes the department to issue cooperator permits to landowners who enroll property for public hunting access. KRS 150.390(3) requires the department to promulgate administrative regulations establishing the conditions under which depredation permits for elk may be issued. This administrative regulation establishes the requirements for the elk permit drawing and quota hunts, the conditions under which special commission and landowner cooperator permits may be used, procedures for elk damage abatement, and any postseason hunt held after the quota hunts.

Section 1. Definitions.

(1) "Antlered elk" means an elk having visible polished antler protruding above the hairline.

(2) "Antlerless elk" means an elk without visible polished antler protruding above the hairline.

(3) "Archery equipment" means a long bow, recurve bow, or compound bow incapable of holding an arrow at full or partial draw without aid from the archer.

(4) "Bait":

(a) Means a substance composed of grains, minerals, salt, fruits, vegetables, hay, or any other food materials, whether natural or manufactured, that could lure, entice, or attract wildlife; and

(b) Does not mean the establishment and maintenance of plantings for wildlife, foods found scattered solely as the result of normal agricultural planning or harvesting practices, foods available to wildlife through normal agricultural practices of livestock feeding if the areas are occupied by livestock actively consuming the feed on a daily basis, or standing farm crops under normal agricultural practices.

(5) "Crossbow" means a bow designed or fitted with a device to hold an arrow at full or partial draw without aid from the archer.

(6) "Electronic decoy" means a motorized decoy powered by electricity, regardless of source.

(7) "Elk" means Cervus canadensis nelsoni.

(8) "Elk Restoration Permit" or "ERP" means an elk permit given to a landowner or lessee who allows the department to capture elk on the landowner or lessee's property for restoration or restocking purposes.

(9) "Firearm" means a breech or muzzle-loading rifle, shotgun, or handgun.

(10) "Landowner cooperator" means a landowner or lessee who owns or leases at least 5,000 acres of land in the restoration zone and enters into an agreement with the department to allow public access and hunting for at least five (5) years.

(11) "Loyalty Redraw" means a secondary drawing to award any unpurchased elk quota hunt permits, remaining after the purchase deadline for those individuals initially drawn for the elk quota hunt, to members of the longest-applying year-cohort of resident elk hunt drawing applicants.

(12)[~~(11)~~] "Muzzleloader" means a rifle, shotgun, or handgun that is loaded from the discharging end of the barrel or discharging end of the cylinder.

(13)[~~(12)~~] "Out-of-zone" means all counties not included in the restoration zone.

(14)[~~(13)~~] "Restoration zone" means the Kentucky counties: Bell, Breathitt, Clay, Floyd, Harlan, Johnson, Knott, Knox, Leslie, Letcher, Magoffin, Martin, McCreary, Perry, Pike, and Whitley.

(15)[~~(14)~~] "Shed" means an antler that has naturally been cast off the skull as a part of the annual growth and replacement process.

(16)[~~(15)~~] "Unit" means a designated area in the restoration zone with specific management restrictions.

(17)[~~(16)~~] "Voucher cooperator" means a landowner or lessee who owns or leases at least 100 acres of land in the restoration zone and enters into an agreement with the department to allow elk hunting access.

(18)[~~(17)~~] "Youth" means a person under the age of sixteen (16) by the first date of the hunt.

Section 2. Elk Damage Control. The department may authorize the removal or destruction of elk that are causing property damage.

A person authorized to destroy an elk shall:

(1) Attach a department-issued destruction tag to an elk prior to moving the carcass; and

(2) Not remove the destruction tag until the carcass is processed.

Section 3. Elk Quota Hunts.

(1) The elk quota hunt application period shall be August 1 of the year preceding a given calendar year's elk hunt season[~~January 1~~] to April 30 of the year of that season.

(2) An applicant shall:

(a) Complete the elk quota hunt application process on the department's Web site at fw.ky.gov; and

(b) Pay a nonrefundable application fee of ten (10) dollars.

(3) The commissioner shall extend the application deadline if technical difficulties with the application system prevent applications from being accepted for one (1) or more days during the application period.

(4) There shall be a random electronic drawing from each applicant pool.

(5) Youths may enter a separate drawing pool for either-sex elk permits that shall be valid for use during all elk seasons, pursuant to Section 9[~~7(4)~~] of this administrative regulation.

(6) A youth shall not apply for the youth-only elk quota hunt more than once per application period.

(7) An applicant for the youth-only elk quota hunt may also apply for a regular quota hunt, as established in subsection (12) of this section.

(8) A youth drawn for the youth-only elk quota hunt shall not be drawn in any other elk quota hunt held during the same calendar year.

(9) A youth drawn for the youth-only elk quota hunt shall be ineligible to be drawn in the youth-only elk quota hunt in subsequent years.

(10) Nonresidents shall not comprise more than ten (10) percent of all drawn applicants in each quota hunt pool, except that the Loyalty Redraw shall exclude nonresidents.

(11) A quota hunt permit awarded from any department-administered drawing shall not be transferable.

(12) In addition to the youth-only quota hunt, there shall be three (3) separate regular elk quota hunts consisting of:

(a) Antlered firearms;

(b) Antlerless firearms; and

(c) Either-sex archery and crossbow.

(13) An applicant shall:

(a) Apply only once for an individual elk quota hunt;

(b) Not be eligible to be drawn in more than one (1) of the three (3) quota hunt pools;

(c) Only be selected by a random electronic drawing;[~~ and~~]

(d) Pay a nonrefundable application fee of ten (10) dollars for each entry.

(e) If selected, be eligible to purchase a quota elk hunt permit for the applicable season and hunt type until midnight (eastern) on June 15 of the hunt year.

(14) A person who is drawn for an elk quota hunt, including Loyalty Redraw applicants who purchase elk quota hunt permits offered to them through the Loyalty Redraw secondary drawing, shall: be ineligible to be drawn for any elk quota hunt for the following three (3) years.

(15) A person who does not have access to the department's Web site to apply for any quota hunt may contact the department toll free at (800)858-1549 for assistance in applying.

Section 4. Loyalty Redraw.

(1) Annually, if there are unpurchased elk hunt permits remaining, after the purchase deadline for those initially drawn for the elk quota hunt, a Loyalty Redraw shall be held.

(2) The Loyalty Redraw shall consist of a secondary random electronic drawing to award elk quota hunt permits not purchased before midnight (eastern) on June 15 of the hunt year, and shall be conducted before the Elk Hunting Unit drawing.

(3) The Loyalty Redraw shall be limited to resident applicants from the three (3) elk quota hunt pools plus the youth-only quota hunt pool who have applied for at least one elk quota hunt permit for the most consecutive years including the current year, without ever being drawn for at least one elk quota hunt permit.

(4) Resident applicants who are eligible for the Loyalty Redraw shall be automatically entered into the secondary drawing elk quota hunt pools for which they applied in the current hunt year.

(5) This secondary drawing procedure shall mirror the primary electronic random drawing for quota elk hunt permits, except that nonresident applicants shall be excluded.

(6) A Loyalty Redraw applicant who is drawn for an available leftover permit may purchase the appropriate quota elk hunt permit until midnight (eastern) on June 30.

(7) A Loyalty Redraw permit holder who does not apply for the Elk Hunting Unit drawing by midnight (eastern) on June 30 of the hunt year shall be automatically entered into the unit drawing for random assignment to an Elk Hunting Unit.

(8) An applicant who is eligible for the Loyalty Redraw in a given year and is drawn for quota elk hunt permit in the secondary drawing, and who does not purchase the elk quota hunt permit for which he or she is drawn in that year, shall be:

(a) Ineligible for the Loyalty Redraw until he or she accumulates the required number of consecutive years of applications necessary to again qualify for the Loyalty Redraw; and

(b) Eligible to apply for the next year's elk quota hunts without waiting three (3) years.

Section 5. Landowner Cooperator Permits.

(1) With the approval of the commission, the commissioner shall issue to a landowner cooperator:

(a) One (1) either-sex permit annually per 5,000 acres of land enrolled with the department in a hunting access agreement for the duration of the agreement;

(b) Two (2) antlerless-only permits annually per 5,000 acres of land enrolled with the department in a hunting access agreement for the duration of the agreement; or

(c) One (1) antlerless-only permit annually per 5,000 acres of land enrolled with the department in an elk hunting access agreement for the duration of the agreement.

(2) A recipient of a landowner cooperator permit shall comply with the season, bag limit, and hunter requirements in Sections 8[~~7~~] and 9[~~8~~] of this administrative regulation.

(3) A landowner cooperator permit shall only be used on the land that is established in the agreement, except that it may be used on adjacent property if:

(a) The adjacent property is owned by a different landowner; and

(b) The adjacent landowner has granted permission to the permit holder.

(4) A landowner cooperator permit may be transferred to any person eligible to hunt in Kentucky, but prior to hunting, the landowner cooperator or person who has received the transferred permit shall provide the department with the hunter's:

(a) Name;

(b) Fish and Wildlife customer identification number;

(c) Address; and

(d) Telephone number.

(5) The landowner cooperator permit shall not be transferable if it was already used for the harvest of an elk.

(6) Public access agreements with the department shall be recorded in writing.

Section 6.[~~Section 5.~~] Voucher Cooperator Permits.

(1) A voucher cooperator shall accrue one (1) voucher point for each legally harvested elk.

(2) A voucher cooperator who accrues ten (10) total points on land enrolled pursuant to Section 1(17) of this administrative regulation shall receive one (1) either-sex elk permit from the department.

(3) A recipient of a voucher cooperator elk permit shall comply with all [~~of~~] the requirements established in Sections 8[~~7~~] and 9[~~8~~] of this administrative regulation.

(4) A voucher cooperator elk permit shall only be used on:

(a) The property enrolled with the department per agreement;

or

(b) Other property that the landowner or lessee owns or leases.

(5) A voucher cooperator permit may be transferable to any person eligible to hunt in Kentucky.

(6) If a voucher cooperator permit is to be transferred, then the landowner, lessee, or person who has received the transferred permit shall provide to the department by August 15 the hunter's:

(a) Name;

(b) Fish and Wildlife customer identification number;

(c) Address; and

(d) Telephone number.

(7) A permit shall not be transferable after being used for the harvest of an elk.

Section 7.[~~Section 6.~~] Elk Restoration Permits.

(1) A landowner or lessee who allows the department to capture elk on the landowner or lessee's property shall accrue one (1) point for each captured elk.

(2) A landowner or lessee who accrues ten (10) total points shall receive one (1) either-sex elk permit from the department that shall only be used the following hunting season.

(3) A recipient of an ERP shall comply with all the requirements established in Sections 8[~~7~~] and 9[~~8~~] of this administrative regulation.

(4) An ERP shall only be used on property that the ERP recipient owns or leases.

(5) An ERP recipient may transfer the permit to any person eligible to hunt in Kentucky.

(6) If an ERP recipient transfers an ERP to another hunter, then the ERP recipient shall provide to the department by August 15 the hunter's:

(a) Name;

(b) Address;

(c) Telephone number; and

(d) Fish and Wildlife customer identification number.

(7) An ERP shall be invalid if it has already been used to harvest an elk.

Section 8.[~~Section 7.~~] Hunter Requirements.

(1) A person shall carry proof of purchase of a valid Kentucky hunting license and valid elk permit while hunting, unless exempted by KRS 150.170.

(2) The statewide bag limit shall be one (1) elk per hunter per license year.

(3) If a legal elk hunter kills any elk[~~,~~]:

(a) The person shall immediately cease hunting elk for the remainder of the elk season; and

(b) The elk permit held by that individual shall immediately become invalid.

(4) A drawn applicant[~~hunter~~] may apply to hunt in up to five (5) units by completing the application process on the department's Web site at fw.ky.gov.

(a) Up to three (3) drawn applicants[~~hunters~~] may apply for their unit choices as a party.

(b) If the party is drawn for a unit, then all hunters in the party shall be assigned to that same unit.

(c) If the number of slots remaining in the quota is less than the number of hunters in the next party selected, the entire party shall be assigned to the party's next choice ranking or be assigned to a unit by the department.

(5) A drawn applicant[~~hunter~~] who does not apply for a unit shall be assigned to a unit by the department.

(6) An applicant[~~A hunter~~] drawn for a unit may hunt only in the assigned unit, except that a person who is drawn for any elk quota hunt may hunt on his or her land within the restoration zone.

(7) An elk hunter or any person accompanying an elk hunter shall comply with hunter orange requirements established in 301 KAR 2:172.

(8) An elk hunter shall not:

(a) Take elk except during daylight hours;

(b) Use dogs, except to recover wounded elk using leashed tracking dogs;

(c) Hunt over bait inside the elk restoration zone;

(d) Drive elk from outside the assigned area;

(e) Take an elk while it is swimming;

(f) Use electronic calls or electronic decoys; or

(g) Take an elk if the hunter is in a vehicle, boat, or on horseback, except that a disabled hunter who has a hunting method exemption permit issued pursuant to 301 KAR 3:027 may use a stationary vehicle as a hunting platform.

(9) A person shall:

(a) Obtain a vehicle tag from the department prior to hunting elk in the restoration zone; and

(b) Display the vehicle tag in the windshield of the vehicle while hunting elk.

(10) A youth shall be accompanied by an adult who shall remain in a position to take immediate control of the youth's firearm.

(11) An adult accompanying a youth shall not be required to possess a hunting license or elk permit if the adult is not hunting.

(12) A person shall only use the equipment and ammunition established in paragraphs (a) through (e) of this subsection to take an elk:

(a) A crossbow or archery equipment loaded with a broadhead of seven-eighths (7/8) inch or wider, either fixed or upon expansion;

(b) A firearm:

1. With an action that fires a single round of ammunition upon each manipulation of the trigger;

2. Of .270 caliber or larger; and

3. Loaded with centerfire, single projectile ammunition designed to expand upon impact;

(c) A muzzleloader of.50 caliber or larger;

(d) A shotgun of twenty (20) gauge or larger loaded with a shell containing one (1) projectile; or

(e) A handgun loaded with:

1. Centerfire cartridges;

2. Bullets of .270 caliber or larger designed to expand upon impact; and

3. Cartridges with a case length of 1.285 inches or larger.

(13) A crossbow shall contain a working safety device.

(14) An elk hunter shall not use a magazine capable of holding more than ten (10) rounds.

(15) A quota elk hunter shall only take an elk of the type and sex determined by the permit drawn.

(16) A hunter drawn for a firearms elk permit shall hunt elk pursuant to that permit only during the five (5) day period assigned during the initial drawing.

(17) An individual who receives or is transferred a landowner cooperator permit, a voucher cooperator permit, an elk restoration permit, or a special commission permit may hunt in all of the quota hunts and shall hunt in accordance with the seasons, limits, and equipment established in Section 8[~~7~~] of this administrative regulation.

(18)(a) A person who is drawn for an elk quota hunt permit or was issued a landowner cooperator permit, a special commission permit, an elk restoration permit, or voucher cooperator permit shall complete and submit a post-season elk hunting survey on the department's Web site at fw.ky.gov no later than the last day of February.

(b) A person who fails to comply with the requirements established in paragraph (a) of this subsection shall be ineligible to apply for any quota hunt or no-hunt option the following year.

Section 9.[~~Section 8.~~] Elk Quota Hunt Seasons and Limits.

(1) A person drawn for an either-sex archery and crossbow permit shall use archery or crossbow equipment to take either-sex elk from the:

(a) Second Saturday in September through the fourth Friday in September; and

(b) First Saturday in December through the second Friday in December.

(2) A person drawn for an antlered firearms permit shall use any legal equipment as established in Section 8[~~7~~](12) of this administrative regulation to take an antlered elk during one (1) of

two (2) five (5) day periods randomly assigned by the department from the:

(a) Last Saturday in September for five (5) consecutive days; or

(b) First Saturday in October for five (5) consecutive days.

(3) A person drawn for an antlerless firearms permit shall use any legal equipment as established in Section 8[~~7~~](12) of this administrative regulation to take an antlerless elk during one (1) of two (2) five (5) day periods randomly assigned by the department from the:

(a) Last Saturday in November for five (5) consecutive days; or

(b) Last Saturday in December for five (5) consecutive days.

Section 10.[~~Section 9.~~] Unit Boundaries and Elk Viewing Areas.

(1) Hunting unit boundaries and the boundaries of the Appalachian Wildlife Center Viewing Area are incorporated by reference.

(2) Elk viewing areas shall be closed to all elk hunting.

Section 11.[~~Section 10.~~] Tagging and Checking Requirements.

(1) Immediately after taking an elk, a hunter shall record on a hunter's log:

(a) The species harvested;

(b) The sex of the animal;

(c) Date of harvest; and

(d) County of harvest.

(2) A hunter shall check a harvested elk before midnight on the day the elk is recovered by:

(a) Calling (800) 245-4263 and providing the requested information; or

(b) Completing the online check-in process at fw.ky.gov.

(3) A hunter who has checked in an elk shall record the confirmation number on a hunter's log.

(4) If the hide or head is removed from the carcass before the elk is checked in, then the hunter shall be required to demonstrate proof of the sex of the elk.

(a) For antlered elk the hunter shall retain the:

1. Head with antlers; or

2. Testicles, scrotum, or penis attached to the carcass; or

(b) For antlerless elk the hunter shall retain the:

1. Head;

2. Udder or vulva attached to the carcass; or

3. Testicles, scrotum, or penis attached to the carcass.

(5) If a harvested elk leaves the possession of the hunter, the hunter shall attach to the carcass a hand-made tag that contains the hunter's:

(a) Confirmation number;

(b) Name; and

(c) Telephone number.

(6) A person shall not provide false information in:

(a) Completing the hunter's log;

(b) Checking an elk; or

(c) Creating a carcass tag.

Section 12.[~~Section 11.~~] Elk Hunting on Public Land.

(1) A person drawn for an elk quota hunt or the recipient of a special commission permit may hunt on the areas listed in paragraphs (a) through (f) of this subsection within the restoration zone pursuant to the conditions of the permit received:

(a) Wildlife Management Areas;

(b) Hunter Access Areas;

(c) State forests;

(d) Big South Fork National River and Recreation Area;

(e) Daniel Boone National Forest; or

(f) Jefferson National Forest.

(2) Portions of Paintsville Lake WMA that lie out of the restoration zone shall be subject to the requirements established in Section 14[~~13~~] of this administrative regulation.

(3) Elk hunting shall not be allowed on public areas during quota deer hunts listed in 301 KAR 2:178.

(4) Paul Van Booven WMA and Fishtrap Lake WMA shall be designated as an elk viewing area and shall be closed to all elk hunting.

(5) A person shall not mimic the sound of an elk on public land open to elk hunting from September 1 until the opening of the elk archery season.

Section 13.[~~Section 12.~~] Out-of-zone Elk Hunting.

(1) The methods for taking deer and the deer seasons established in 301 KAR 2:172 shall apply to a person taking elk outside of the restoration zone, except that a hunter shall comply with the equipment and ammunition requirements established in Section 8[~~7~~] of this administrative regulation.

(2) Unless exempted by KRS 150.170, a person who is hunting out-of-zone elk shall possess:

(a) A valid Kentucky hunting license; and

(b) An out-of-zone elk permit.

(3) A person may take an elk of either sex, which shall not count toward the person's deer bag limit.

(4) Any elk harvested out-of-zone shall be telechecked pursuant to Section 11 of this administrative regulation.

Section 14.[~~Section 13.~~] Elk Antlers.

(1) A person who takes possession of any elk antler that has the skull or skull plate attached to it shall contact the department's Law Enforcement Division within twenty-four (24) hours.

(2) An elk shed shall be legal to possess.

Section 15.[~~Section 14.~~] Elk Permit Deferral. A person who is the holder[~~recipient~~] of a valid elk quota hunt permit, landowner cooperator permit, voucher cooperator permit, an ERP, or special commission permit may defer use of the permit to the following year if:

(1) There is a death of the permit holder's:

(a) Spouse;

(b) Child; or

(c) Legal guardian, if the permit holder is under eighteen (18) years old; and

(2) The permit holder provides to the department a death certificate and one (1) of the following documents prior to May 1 of the year following the hunting season:

(a) A marriage certificate;

(b) A birth certificate; or

(c) An affidavit of paternity or maternity, or

(3) The permit holder is a member of one of the service branches of the U.S. Armed Forces in either an active duty, reserve component, or National Guard status as of April 30 of the hunt year, and meets both of the following conditions:

(a) Is deployed or assigned to military duty outside the continental United States, or assigned to military duty to another location or duty station such that his or her assignment makes impracticable participation in the hunt for which the permit was drawn; and

(b) The permit holder submits to the Department electronically via email or fax, or by mail, postmarked or received before midnight of the day immediately prior to the opening day of the applicable hunting season, a copy of military orders, or if unavailable, a letter from a commanding officer, documenting the permit holder's overseas deployment, overseas duty assignment, or assignment outside of Kentucky, showing that the effective date(s) of the assignment include one or more of the hunt dates for which the hunter holds a permit.

(4) A permit holder that meets criteria in (3) above may also automatically defer his or her permit for a second year if the military assignment(s) make impracticable participation in his or her assigned hunt during the year following his or her obtaining the permit, but in either case must provide to the elk program by May 1 of his or her actual hunt year a copy of applicable military orders (or official letter) that made use of the permit impracticable for the first, or first and second, elk seasons after first obtaining the elk permit.

Section 16.[~~Section 15.~~] Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Elk Hunting Units" map, 2019 edition; and

(b) "Appalachian Wildlife Center Viewing Area" map, 2019

edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m., Eastern Time.

RICH STORM, Commissioner

APPROVED BY AGENCY: April 14, 2022

FILED WITH LRC: April 15, 2022 at 11:05 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 28, 2022 at 11:00 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Administration Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation through June 30, 2022. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jenny Gilbert, Department of Fish and Wildlife Resources, Administration Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Jenny Gilbert

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for the elk permit drawing and quota hunts, the conditions under which special commission permits, landowner cooperator permits, elk restoration permits, and cooperator voucher permits can be used.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to effectively manage elk populations in Kentucky, while providing optimal elk hunting and related tourism opportunities.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish hunting seasons, bag limits, and the methods of taking wildlife. KRS 150.177 authorizes the department to issue special commission permits for game species to nonprofit wildlife conservation organizations. KRS 150.178 authorizes the department to issue cooperator permits to landowners who enroll property for public hunting access.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statutes by establishing all the requirements for elk hunting.

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

(a) How the amendment will change this existing administrative regulation: The amendments to this regulation expand the elk hunt drawing application period, implement means of rewarding long-time applicants for elk permits who have never been drawn for a permit, and allow military personnel to defer the use of elk permits for up to two years if geographically reassigned..

(b) The necessity of the amendment to this administrative regulation: Some members of the military have been unable to use their elk permits, and numerous applicants to the elk hunt drawing have requested consideration after applying many years without being drawn for a permit.

(c) How the amendment conforms to the content of the authorizing statutes: See 1(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See 1(d) above.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Typically 40,000-50,000 applicants enter the elk hunt drawing each year, and a total of 75 have applied every year in the history of the drawing without ever having been drawn for a permit.

(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: Members of the public will still have equal opportunities to apply for and be drawn for a permit in the random drawing, and those who apply consistently over time will have additional opportunity through the Loyalty Redraw secondary drawing for leftover (unpurchased) permits.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment does not alter any costs for the entities in question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Elk hunt applicants will have additional opportunities to be drawn for a permit, as well as a longer timeframe in which to apply.

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

(a) Initially: There will be a small additional cost to the agency to implement this administrative regulation because the secondary drawing will require drawing software augmentation, estimated at $2,000.

(b) On a continuing basis: There will be a small additional cost to the agency on a continuing basis to conduct the Loyalty Redraw secondary drawing and have its results audited as with the primary elk hunt drawing, estimated at $1,000.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding is the State Game and Fish Fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Additional fees for direct implementation of this regulation are not necessary, as the basic infrastructure for conducting the elk quota hunt drawing already exists.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees nor does it indirectly increase any fees.

(9) TIERING: Is tiering applied? No.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Department of Fish and Wildlife Resources' Divisions of Wildlife and Law Enforcement will be impacted by this amendment.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025, KRS 150.177, KRS 150.178, and KRS 150.390.

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

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

(b) How much revenue will this administrative regulation generate for the state or local government (including cities,

counties, fire departments, or school districts) for subsequent years? No revenue will be generated for state and local governments.

(c) How much will it cost to administer this program for the first year? There will be no additional costs for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be no additional costs incurred for subsequent years.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(Amendment)

301 KAR 2:172. Deer hunting seasons, zones, and requirements.

RELATES TO: KRS 150.010, 150.177, 150.180, 150.411(3), 150.990, 237.110

STATUTORY AUTHORITY: KRS 150.025(1), 150.170, 150.175, 150.390(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits and methods of take, and to make these requirements apply to a limited area. KRS 150.170 authorizes exemptions for certain people from hunting license and permit requirements. KRS 150.175 authorizes the kinds of licenses and permits to be issued by the department. KRS 150.390(1) prohibits the taking of deer in any manner contrary to any provisions of KRS Chapter 150 or KAR Title 301. This administrative regulation establishes deer hunting seasons and zones, bag limits, legal methods of taking, and checking and recording requirements for deer hunting.

Section 1. Definitions.

(1) "Additional deer permit" means a permit that allows the holder to take up to two (2) additional deer beyond those allowed by the statewide deer permit in the following combinations:

(a) One (1) antlered deer and one (1) antlerless deer; or

(b) Two (2) antlerless deer.

(2) "Adult" means a person who is at least eighteen (18) years of age.

(3) "Air gun" means a pneumatic gun fired by a charge of compressed air.

(4) "Antlered deer" means a male or female deer, excluding male fawns, with a visible antler protruding above the hairline.

(5) "Antlerless deer" means a male or female deer with no visible antler protruding above the hairline.

(6) "Archery equipment" means a long bow, recurve bow, or compound bow incapable of holding an arrow at full or partial draw without aid from the archer.

(7) "Arrow" means the projectile fired from a bow or crossbow.

(8) "Centerfire" means a type of gun that detonates a cartridge by the firing pin striking a primer in the middle of the end of the cartridge casing.

(9) "Crossbow" means a bow with a string designed or fitted with a device to hold an arrow at full or partial draw without aid from the archer.

(10) “Chronic Wasting Disease” or “CWD” means a transmissible spongiform encephalopathy found in cervids.

(11) “CWD Surveillance Zone” means an area designated as being subject to special deer hunting regulations due to a CWD positive cervid detection.

(12)[~~(10)~~] "Deer" means a member of the species Odocoileus virginianus.

(13)[~~(11)~~] "Firearm" means a breech or muzzle-loading rifle, shotgun, or handgun.

(14)[~~(12)~~] "License year" means the period from March 1 through the last day of February.

(15)[~~(13)~~] "Modern gun" means an air gun, rifle, handgun, or shotgun that is loaded from the rear of the barrel.

(16)[~~(14)~~] "Muzzle-loading gun" means a rifle, shotgun, or handgun that is loaded from the discharging end of the barrel or discharging end of the cylinder.

(17)[~~(15)~~]"Novice deer hunter" means a person who has not harvested more than two (2) deer in Kentucky in the last ten (10) years.

(18)[~~(16)~~] "Shed" means an antler that has naturally been cast off the skull as a part of the annual growth and replacement process.

(19)[~~(17)~~] "Special deer hunt" means a one (1) or two (2) day deer hunt sponsored and overseen by the department on private land that:

(a) Allows a novice deer hunter to use a modern gun outside of modern gun deer season; and

(b) Shall be made available only to a:

1. Kentucky resident;

2. Person enrolled as a resident or non-resident student in a public or non-public postsecondary institution located in Kentucky; or

3. Member of the United States military or his or her spouse or children stationed at a military base in Kentucky.

(20)[~~(18)~~] "Statewide deer hunting requirements" means the season dates, zone descriptions, bag limits, and other requirements for deer hunting established in this administrative regulation.

(21)[~~(19)~~] "Statewide deer permit" means a permit, which, in conjunction with appropriate licenses, seasons, and methods, allows the holder to take:

(a) One (1) antlered deer and no more than three (3) antlerless deer; or

(b) No more than four (4) antlerless deer.

(22)[~~(20)~~] "Youth" means a person under the age of sixteen (16) by the date of the hunt.

(23)[~~(21)~~] "Youth deer permit" means a permit, which in conjunction with appropriate licenses, seasons, and methods, allows the holder to take:

(a) One (1) antlered deer and no more than three (3) antlerless deer; or

(b) No more than four (4) antlerless deer.

(24)[~~(22)~~] "Zone" means an area consisting of counties designated by the department within which deer hunting season dates and limits are set for the management and conservation of deer in Kentucky.

Section 2. License and Deer Permit Requirements.

(1) Unless license exempt, as established in KRS 150.170, a person shall carry a valid:

(a) Kentucky hunting license while hunting; and

(b) Deer permit while hunting.

(2) Unless license exempt, as established in KRS 150.170, a youth shall carry a valid:

(a) Kentucky youth hunting license while hunting; and

(b) Youth deer permit while hunting.

Section 3. Hunter Restrictions.

(1) A deer hunter shall not:

(a) Take a deer except during daylight hours;

(b) Use dogs, except leashed tracking dogs, to recover a wounded deer;

(c) Take a deer that is swimming;

(d) From a vehicle, boat, or on horseback, take a deer, except that a hunter with a disabled hunting exemption permit issued by the department may use a stationary vehicle as a hunting platform; and

(e) Possess or use a decoy or call powered by electricity from any source.

(2) A person shall only use the equipment established in paragraphs (a) through (e) of this subsection to take a deer:

(a) A crossbow or archery equipment loaded with a broadhead of seven-eighths (7/8) inch or wider upon expansion;

(b) A firearm:

1. With an action that fires a single round of ammunition upon each manipulation of the trigger; and

2. Loaded with centerfire, single projectile ammunition designed to expand upon impact;

(c) A muzzle-loading gun;

(d) A shotgun loaded with a shell containing single projectile ammunition designed to expand upon impact; or

(e) An air gun:

1. Of .35 caliber or larger;

2. Charged by an external tank; and

3. Loaded with single projectile ammunition designed to expand upon impact.

(3) A person shall only use a weapon that complies with the appropriate season established in Section 5 of this administrative regulation to take a deer.

(4) A crossbow shall contain a working safety device.

(5) A person shall not use a magazine capable of holding more than ten (10) rounds to take a deer.

Section 4. Hunter Orange Clothing Requirements.

(1) During the modern gun deer season, muzzle-loader season, and any youth gun season, a person hunting any species during daylight hours and any person accompanying a hunter, shall display solid, unbroken hunter orange visible from all sides on the head, back, and chest except while hunting waterfowl or mourning dove.

(2) During an elk firearm season, as established in 301 KAR 2:132, a person hunting any species and any person accompanying a hunter within the elk restoration zone, shall display solid, unbroken hunter orange visible from all sides on the head, back, and chest, except while hunting waterfowl or mourning dove.

(3) The hunter orange portions of a garment worn to fulfill the requirements of this section:

(a) May display a small section of another color; and

(b) Shall not have mesh weave openings exceeding one-fourth (1/4) inch by any measurement.

(4) A camouflage-pattern hunter orange garment worn without additional solid hunter orange on the head, back, and chest shall not meet the requirements of this section.

Section 5. Statewide Season Dates.

(1) A deer hunter may use archery equipment to hunt deer statewide from the first Saturday in September through the third Monday in January.

(2) A deer hunter may take deer with a modern gun statewide beginning the second Saturday in November for sixteen (16) consecutive days.

(3) A deer hunter may use a muzzle-loading gun to hunt deer statewide:

(a) For two (2) consecutive days beginning the third Saturday in October;

(b) For nine (9) consecutive days beginning the second Saturday in December; and

(c) During any season in which a modern gun may be used to take deer.

(4) A deer hunter may use a crossbow to hunt deer statewide from the third Saturday in September through the third Monday in January.

(5) A youth or a legal resident hunter sixty-five (65) years or older may hunt with a crossbow from the first Saturday in September through the third Monday in January.

(6) There shall be a youth gun season for two (2) consecutive days beginning on the second Saturday in October, in which a youth deer hunter shall comply with this administrative regulation and all other statewide deer hunting requirements.

(7) There shall be a free youth weekend for two (2) consecutive days beginning on the Saturday after Christmas during which a youth:

(a) Shall not be required to have a hunting license or deer permit; and

(b) Shall comply with this administrative regulation and all other statewide deer hunting requirements.

Section 6. Zones.

(1) Zone 1 shall consist of Anderson, Ballard, Boone, Bracken, Bullitt, Caldwell, Calloway, Campbell, Carlisle, Carroll, Christian, Crittenden, Franklin, Fulton, Gallatin, Grant, Graves, Green, Hardin, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jefferson, Kenton, Larue, Livingston, Lyon, Marshall, Mason, McClean, McCracken, Mercer, Muhlenberg, Nelson, Oldham, Owen, Pendleton, Robertson, Scott, Shelby, Spencer, Todd, Trigg, Trimble, Union, Washington, Webster, and Woodford Counties.

(2) Zone 2 shall consist of Adair, Allen, Barren, Bath, Bourbon, Boyd, Boyle, Breckinridge, Butler, Carter, Casey, Clark, Daviess, Edmonson, Fayette, Fleming, Grayson, Greenup, Hancock, Jessamine, Lawrence, Lewis, Lincoln, Logan, Madison, Marion, Meade, Metcalf, Monroe, Montgomery, Nicholas, Ohio, Taylor, and Warren Counties.

(3) Zone 3 shall consist of Cumberland, Elliott, Estill, Garrard, Johnson, Laurel, Morgan, Powell, Pulaski, Rowan, Simpson, Wayne, and Wolfe Counties.

(4) Zone 4 shall consist of Bell, Breathitt, Clay, Clinton, Floyd, Harlan, Jackson, Knott, Knox, Lee, Leslie, Letcher, Magoffin, Martin, McCreary, Menifee, Owsley, Perry, Pike, Rockcastle, Russell, and Whitley Counties.

Section 7. Season and Zone Limits.

(1) A person shall not take more deer than each zone allows, as established in this section.

(2) A person shall not take more than one (1) antlered deer per license year, regardless of permit type used or zone hunted, except as established in 301 KAR 2:111, 2:178, or 3:100.

(3) A person may take an unlimited number of antlerless deer in Zone 1 if the person has purchased the appropriate additional deer permits.

(4) A person may take up to a total of four (4) deer in Zone 2.

(5) In Zone 3, a person may take up to a total of four (4) deer, except that a firearm or air gun shall not be used to take a total of more than one (1) antlerless deer.

(6) In Zone 4, a person may take one antlerless deer, but only during:

(a) Archery season, except that a person shall not take an antlerless deer during modern gun season, the October muzzleloader season, or the first six (6) days of the December muzzleloader season;

(b) Crossbow season, except that a person shall not take an antlerless deer during modern gun season, the October muzzleloader season, or the first six (6) days of the December muzzleloader season;

(c) Any youth weekend; or

(d) The last three (3) days of the December muzzleloader season.

Section 8. Supervision of Youth Gun Deer Hunters.

(1) An adult shall:

(a) Accompany a person under sixteen (16) years old; and

(b) Remain in a position to take immediate control of the youth's gun.

(2) An adult accompanying a youth hunter shall not be required to possess a hunting license or deer permit if the adult is not hunting.

Section 9. Harvest Recording.

(1) Immediately after taking a deer, and prior to moving the carcass, a person shall record, in writing:

(a) The species taken;

(b) The date taken;

(c) The county where taken; and

(d) The sex of the deer taken on one (1) of the following:

1. The hunter's log section on the reverse side of a license or permit;

2. The hunter's log produced in a hunting guide;

3. A hunter's log printed from the Internet;
4. A hunter's log available from any KDSS agent; or
5. An index or similar card.
(2) The person shall retain and possess the completed hunter's log while the person is in the field during the current hunting season.

Section 10. Checking a Deer.
(1) A person shall check a harvested deer before 11:59 p.m. on the day the deer is recovered by:
(a) Calling (800) 245-4263 and providing the requested information; or
(b) Completing the online check-in process at fw.ky.gov.
(2) A person who has checked in a deer shall record the confirmation number on a hunter's log.
(3) If a hunter removes the hide or head of a harvested deer before the deer is checked in, then the hunter shall retain the deer parts established in paragraphs (a) and (b) of this subsection:
(a) For antlered deer, the:
1. Head with antlers; or
2. Testicles, scrotum, or penis attached to the carcass; or
(b) For antlerless deer, the:
1. Head; or
2. Udder or vulva attached to the carcass.
(4) If a hunter transfers possession of a harvested deer, or if the harvested deer is out of the hunter's possession, the hunter shall attach to the carcass a hand-made tag that contains the following information:
(a) The confirmation number;
(b) The hunter's name; and
(c) The hunter's telephone number.
(5) A person shall not provide false information while:
(a) Completing the hunter's log;
(b) Checking a deer; or
(c) Creating a carcass tag.

Section 11. Transporting and Processing Deer.
(1) A person shall:
(a) Not transport an unchecked deer out of Kentucky;
(b) Have proof that a deer or parts of deer brought into Kentucky were legally taken; or
(c) Not sell deer hides except to a licensed:
1. Fur buyer;
2. Fur processor; or
3. Taxidermist.
(2) A taxidermist or an individual who commercially butchers deer shall not accept a deer carcass or any part of a deer without a valid disposal permit issued by the department pursuant to KRS 150.411(3) or a proper carcass tag as established in Section 10 of this administrative regulation.
(3) An individual who commercially butchers deer shall keep accurate records of the hunter's name, address, confirmation number, and date received for each deer in possession and retain the records for a period of one (1) year.

Section 12. Special Deer Hunt Program.
(1) A special deer hunt shall:
(a) Consist of a minimum of ten (10) novice deer hunters selected on a first-come, first-served basis;
(b) Take place on private land with the permission of the landowner;
(c) Only be overseen and sponsored by department employees; and
(d) Take place during the archery deer season.
(2) A special deer hunt participant shall possess a valid hunting license and deer permit, except if the participant is license-exempt, as established in KRS 150.170.

Section 13. Antlers. (1) A person shall not use a device that is designed to entangle or trap the antlers of a deer.
(2) A shed of a deer shall be legal to possess.

Section 14. CWD Surveillance Zone Requirements.
(1) A CWD Surveillance Zone shall be limited to an area surrounding the location(s) of CWD positive cervid detections as biologically and logistically necessary to monitor and combat the spread of CWD. The areas designated as part of the CWD Surveillance Zone shall be published on the Department's website at fw.ky.gov.
(2) In any area identified as a CWD Surveillance Zone, the following requirements will go into effect:
(a) In addition to items in Sections 10 and 11 above all hunters harvesting deer in a CWD Surveillance Zone shall:
1. Transport the entire carcass or the entire head; and
2. Telecheck confirmation number to a KDFWR authorized check station in the CWD Surveillance Zone during the identified time periods as advertised by the department at https://fw.ky.gov.
(b) Shall not:
1. Transport a full carcass or any part thereof outside of the CWD Surveillance Zone, except deboned meat, clean skull plates, antlers, antlers attached to a clean skull plate, clean skulls, clean teeth, finished taxidermy work, and hides of legally harvested cervids.
2. Bait or feed any wildlife inside the CWD Surveillance Zone, except for:
a. Normal agricultural practices, including food plots;
b. Hanging bird feeders within the curtilage of the home; and
c. Furbearer trapping attractants, except grain salt or mineral.

RICH STORM, Commissioner
APPROVED BY AGENCY: April 14, 2022
FILED WITH LRC: April 15, 2022 at 11:05 a.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 28, 2022 at 1:00 p.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Administration Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation through June 30, 2022. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person.
CONTACT PERSON: Jenny Gilbert, Department of Fish and Wildlife Resources, Administration Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jenny Gilbert
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes deer hunting seasons and zones, methods of take, bag limits, harvest recording procedures, and checking requirements.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to properly manage Kentucky's deer population while providing reasonable and ample recreational opportunity for deer hunters.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish hunting seasons, bag limits, and the methods of taking wildlife. KRS 150.170 exempts certain people from hunting license and permit requirements. KRS 150.175 authorizes the kinds of licenses and permits that are issued by the department. KRS 150.390 prohibits the taking of deer in any manner contrary to any provisions of Chapter 150 and Title 301 KAR.
(d) How this administrative regulation currently assists or will

assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statutes by establishing the seasons, zones, limits, and other requirements authorized by the statutes.

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

(a) How the amendment will change this existing administrative regulation: This amendment establishes a CWD Surveillance Zone, requirements that hunters must abide by while hunting within the CWD Surveillance Zone, establishes where the requirements will be advertised, restricts the movement of harvested deer carcasses within the CWD Surveillance Zone and prohibits the feeding and baiting of all wildlife within the CWD Surveillance Zone with a few exceptions.

(b) The necessity of the amendment to this administrative regulation: See 1 (b) above.

(c) How the amendment conforms to the content of the authorizing statutes: See 1(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See 1(d) above.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: For the 2021-22 deer season, there were approximately 246,362 resident and 30,283 non-resident Kentucky deer hunters.

(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: Deer hunters within the established CWD Surveillance Zone will be required to comply with the change in deer carcass movement, taking harvested deer to authorized check stations. All hunters and landowners in the CWD Surveillance Zone will no longer be able to bait or feed wildlife except for the listed exemptions.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment does not change any costs to the entities identified in question 3.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This amendment will benefit hunters by helping to identify Chronic Wasting Disease in the deer population quicker, and if found, slow the disease spread across the commonwealth, which in turn benefits all the hunters, landowners and wildlife enthusiasts in the state.

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

(a) Initially: There will not be an additional cost to the agency to implement this administrative regulation initially.

(b) On a continuing basis: There will not be an additional cost to the agency on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding is the State Game and Fish Fund.

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

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees nor does it indirectly increase any fees.

(9) TIERING: Is tiering applied? No, tiering is not applied because all deer hunters are subject to the same seasons, bag limits, zone requirements, and equipment restrictions.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Department of Fish and Wildlife Resources' Divisions of Wildlife and Law Enforcement will be impacted by this amendment.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025(1), 150,170, 150.175, and 150.390(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? Direct revenue from the sale of deer permits for the first year is estimated to be between $3.5 and $4.0 million based on recent years' sales.

(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? Revenue during subsequent years is dependent on the number of permits sold, which has been stable to slightly decreasing in recent years.

(c) How much will it cost to administer this program for the first year? There will be no additional costs for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be no additional costs incurred for subsequent years.

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

Revenues (+/-):

Expenditures (+/-):

Other explanation:

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(Amendment)

301 KAR 2:221. Waterfowl seasons and limits.

RELATES TO: KRS 150.010(45), 150.025(1), 150.305(1), 150.330, 150.340(1), (3), 150.990

STATUTORY AUTHORITY: KRS 150.025(1), 150.360, 150.600, 50 C.F.R. 20, 21

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife and to regulate bag limits. KRS 150.360 authorizes the department to restrict methods of taking wildlife. KRS 150.600 authorizes the department to regulate the taking of waterfowl on public and private land. This administrative regulation establishes requirements for the taking of waterfowl within reasonable limits and within the frameworks established by 50 C.F.R. Parts 20 and 21.

Section 1. Definitions. (1) "Active Military Personnel" means a member of the Armed Forces on active duty, including members of the National Guard and Reserves on active duty other than for training.

(2) "Adult" means a person who has reached his or her 18th birthday.

(3) "Dark geese[~~goose~~]" means [~~a~~] Canada geese[~~goose~~], cackling geese[~~goose~~], white-fronted geese[~~goose~~], or brants.

(4)[~~(2)~~] "Light geese[~~Goose~~]" is defined by KRS 150.010(20)[~~means a snow goose or Ross's goose~~].

(5)[~~(3)~~] "Light geese conservation order[~~Goose Conservation Order~~]" is defined by KRS 150.010(21)[~~50 C.F.R. 21.60~~].

(6) "Veteran" means a person who served in the active military, naval, air, or space service, and who was discharged or released therefrom under conditions other than dishonorable.

(7)[~~(4)~~] "Waterfowl" is defined by KRS 150.010(45).

(8) "Youth" means a person who has not reached his or her

16th birthday.

Section 2. [(1)] Except as established in 301 KAR 2:222[,] or 2:225[, or 2:226], a person shall not hunt waterfowl except during the seasons established in this administrative regulation.

[(2) Hunting zones, special hunt areas, and reporting areas are established in 301 KAR 2:224.]

Section 3. Season Dates. (1) The duck, coot, and merganser season shall:

(a) Begin on Thanksgiving Day for four (4) consecutive days; and

(b) Be from December 7 through January 31.

(2) The dark geese[goose] season shall be from Thanksgiving Day through February 15.

(3) The light geese[light goose] season shall be from Thanksgiving Day through February 15.

(4) The light geese conservation order[Light Goose Conservation Order] season shall be from February 16 through March 31.

(5) A person shall not hunt [a] light or dark geese[goose] in:

(a) The areas of Laurel River Lake as posted by sign; or

(b) Cave Run Lake and the public land inside the boundary formed by Highways 801, 1274, 36, 211, US 60, and Highway 826.

Section 4. Ballard Zone. (1) The Ballard Zone includes the portion of Ballard County north and west of:

(a) The Ballard-McCracken County line to State Road 358;

(b) State Road 358 to US 60;

(c) US 60 to the city limits of Wickliffe; and

(d) The city limits Wickliffe to the center of the Mississippi River.

(2) In the Ballard Zone, [as established in 301 KAR 2:224,]a person hunting waterfowl shall:

(a) Not hunt or establish a blind within:

1. 100 yards of another blind; or

2. Fifty (50) yards of a property line; and

(b) Not possess more than one (1) uncased or loaded shotgun while in a blind.

(3)[(2)] The requirements of subsection (1) of this section shall not apply if the Light Geese[Goose] Conservation Order, as established in Section 3 of this administrative regulation, is the only waterfowl season open, excluding falconry seasons.

Section 5. Bag and Possession Limits. (1) Ducks. The daily limit shall be six (6), which shall not include more than:

(a) Four (4) mallards;

(b) Two (2) hen mallards;

(c) Three (3) wood ducks;

(d) Two (2) black ducks;

(e) Two (2) redheads;

(f) One (1) pintail;

(g) One (1) scaup beginning Thanksgiving Day for four (4) consecutive days and December 7 through December 17;

(h) Two (2) scaup beginning on December 18 through January 31;

(i) One (1) mottled duck; or

(j) Two (2) canvasbacks.

(2) Coot. The daily limit shall be fifteen (15).

(3) Merganser. The daily limit shall be five (5), which shall not include more than two (2) hooded mergansers.

(4) Dark geese[goose]. The daily limit shall be five (5), which shall not include more than:

(a) Three (3) Canada geese or cackling geese, in combination;

(b) Two (2) white-fronted geese; or

(c) One (1) brant.

(5) Light geese[goose]. The daily limit shall be twenty (20), except that there shall not be a limit during the light geese conservation order[Light Goose Conservation Order] season.

(6) The possession limit shall be triple the daily limit, except that there shall not be a light geese[goose] possession limit.

Section 6. Shooting Hours. A person shall not hunt waterfowl except from one-half (1/2) hour before sunrise until:

(1) Sunset, except as established in 301 KAR 2:222; or

(2) One-half (1/2) hour after sunset if hunting light geese during the light geese conservation order[Light Goose Conservation Order] season.

Section 7. Falconry Waterfowl Season and Limits. (1) The light geese[goose] season shall be from Thanksgiving Day through February 15.

(2) The light geese conservation order[Light Goose Conservation Order] season shall be from February 16 through March 31.

(3) The season for all other waterfowl shall be from Thanksgiving Day through February 15.

(4) The daily limit shall be three (3) waterfowl, except that there shall not be a limit on light geese during the light geese conservation order[Light Goose Conservation Order] season.

(5) The possession limit shall be nine (9) waterfowl, except that there shall not be a possession limit on light geese during the light geese conservation order[Light Goose Conservation Order] season.

Section 8. Permit for the Light Geese Conservation Order Season[Light Goose Conservation Order Season]. (1) A person hunting light geese during the light geese conservation order[Light Goose Conservation Order] season shall first obtain a free permit by completing the online Snow Geese[Goose] Conservation Order Permit process on the department's Web site at fw.ky.gov.

(2) A person hunting light geese during the light geese conservation order[Light Goose Conservation Order] season shall submit a Snow Geese[Goose] Conservation Order Permit Survey to the department by April 10.

Section 9. A Special Youth Waterfowl Season. (1) A youth may hunt waterfowl and gallinule on the Saturday before Thanksgiving and the second Saturday in February.

(2) A youth hunter shall be accompanied by an adult;

(3) Youth hunters shall obey the provisions of 301 KAR 2:221 and 301 KAR 2:222, except that he or she may hunt on the dates provided in this administrative regulation;

(4) An adult accompanying a youth who is waterfowl hunting shall:

(a) Remain in a position to take immediate control of the youth's firearm;

(b) Not hunt ducks, coots, mergansers and gallinules; and

(c) Not be required to possess a hunting license or waterfowl permit if he or she is not hunting.

Section 10. A Special Veterans and active Military Personnel Waterfowl Hunting Season. (1) A veteran or active military personnel may hunt waterfowl and gallinule on the Sunday before Thanksgiving and the second Sunday in February.

(2) Veteran hunters shall obey the provisions of 301 KAR 2:221 and 301 KAR 2:222, except that applicable hunters may hunt on the dates provided in this administrative regulation.

(3) While in the field during the special veterans and active military personnel waterfowl hunting season, waterfowl hunters shall either have a state hunting license showing veteran status or carry proof of their veteran or active military personnel status. Acceptable forms of proof shall be a current military identification card, a VA-issued identification card, state issued driver's license or identification card with a veteran's designation, or an original or copy of a DD Form 214, DD Form 215, NGB Form 22, NGB Form 22-a, or DD Form 256.

Section 11.[Section 9.] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Snow Geese[Goose] Conservation Order Permit", April 2022[January 2014]; and

(b) "Snow Geese[Goose] Conservation Order Permit Survey", April 2022[January 2014].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of

Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. or online at:

(a) https://app.fw.ky.gov/snowgoosesurvey/snowgoose.aspx for the "Snow Geese Conservation Permit"; and

(b) https://app.fw.ky.gov/snowgoosesurvey/snowgoosesurvey.aspx for the "Snow Geese Conservation Order Permit Survey.

RICH STORM, Commissioner

APPROVED BY AGENCY: April 14, 2022

FILED WITH LRC: April 15, 2022 at 11:05 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 28, 2022 at 9:00 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Administration Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation through June 30, 2022. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jenny Gilbert, Department of Fish and Wildlife Resources, Administration Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone: (502) 564-3400, fax: (502) 564-0506, email: fwpubliccomments@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jenny Gilbert

(1) Provide a brief summary of:

(a) What the administrative regulation does: This administrative regulation establishes waterfowl seasons and bag limits within federal migratory bird hunting frameworks established in 50 C.F.R. Parts 20 and 21 according to the U.S. Fish and Wildlife Service (USFWS).

(b) The necessity of the administrative regulation: The necessity of this administrative regulation is to establish the 2021-2022 waterfowl hunting seasons in accordance with the USFWS.

(c) How does this administrative regulation conform to the authorizing statute: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife and to regulate bag limits. KRS 150.360 authorizes the department to restrict methods for the taking of wildlife. KRS 150.600(1) authorizes the department to regulate the taking of waterfowl on public and private land.

(d) How will this administrative regulation assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing hunting season and bag limit requirements and providing reasonable hunting opportunity consistent with state, national, and international management requirements.

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

(a) How the amendment will change the existing administrative regulation: This amendment will incorporate relevant portions of two repealed regulations; 301 KAR 2:224 and 301 KAR 2:226. It will change the timing of special youth waterfowl seasons from the first weekend in February to the Saturday before Thanksgiving and the Second Saturday in February. It will also add a special Veterans/Active Duty waterfowl season on the Sunday before Thanksgiving and the second Sunday in February.

(b) The necessity of the amendment to this administrative regulation: Waterfowl seasons and limits are set on an annual basis following the establishment of federal frameworks by the USFWS each year. It is the Department's responsibility to allow quality hunting opportunity within these federal frameworks. The changes in bag limit for these species represent the maximum allowed in federal frameworks.

(c) How does the amendment conform to the authorizing statutes: See (1)(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d) above.

(3) List the type and number of individuals, businesses, organizations or state and local governments that will be affected: There are approximately 20,000 waterfowl hunters in Kentucky that may be affected by this administrative regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The current changes in season dates and/or bag limits will be published in the fall waterfowl hunting guide and on the department's website. Hunters will need to follow all applicable amendments to the hunting bag limits.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be in compliance with Federal law.

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

(a) Initially: There will not be an additional cost to implement this administrative regulation initially.

(b) On a continuing basis: There will be no additional cost on a continuing basis.

(6) What is the source of funding to be used for implementation and enforcement of this administrative regulation? The source of funding is the State Game and Fish fund.

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

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

(9) TIERING: Is tiering applied? Tiering was not applied. The same guidelines and limits apply to all waterfowl hunters.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department's Wildlife Division and Law Enforcement Division.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife and to regulate bag limits. KRS 150.360 authorizes the department to restrict methods of taking wildlife. KRS 150.600 authorizes the department to regulate the taking of waterfowl on public and private land.

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

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

(b) How much revenue will this administrative regulation generate for the state or local government (including cities,

counties, fire departments, or school districts) for subsequent years? This amendment will not generate revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? There will be no additional costs to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be no additional costs to administer this program in subsequent years.

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

Revenues (+/-):

Expenditures (+/-):

Other explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. Wildlife and Fisheries, Federal Code of Regulations, 50 C.F.R. Part 20, Migratory Bird Hunting; Part 21, Migratory Bird Permits.

(2) State compliance standards. The Department of Fish and Wildlife Resources sets migratory birds seasons within the frameworks established by the U.S. Fish and Wildlife Service and published in 50 C.F.R. Parts 20 and 21.

(3) Minimum or uniform standards contained in the federal mandate. 50 C.F.R. Part 20 contains season frameworks for the earliest opening and latest closing date, the maximum number of days a species is open to hunting, and daily bag and possession limits. 50 C.F.R. Part 21 defines permits and the necessary requirements to hold and possess migratory game birds before, during and after periods open for hunting.

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

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The federal mandate defines the regulatory frameworks that a state may allow. States are permitted to be more restrictive but not more liberal in their respective regulations. State management objectives necessitate more restrictive regulations to protect local, regional and/or state populations of birds important to Kentucky's waterfowl hunters. The Department imposes more restrictive hunting regulations in some regions in effort to meet waterfowl management objectives while still providing quality hunting opportunity.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Department of Workforce Investment
(Amendment)

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

RELATES TO: KRS 151B.020(6), 29 U.S.C. 3101 et seq.

STATUTORY AUTHORITY: KRS 151B.020(6)

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

Section 1. Local Workforce Development Board Membership Criteria and Operating Guidelines. Each chief local elected official in a local workforce development area shall appoint members to the local workforce development board and each local workforce development board shall operate in compliance with the Workforce Innovation and Opportunity Act (WIOA).

Section 2. Interlocal Agreement. Each local elected official of a unit of general local government within a local workforce development area shall jointly execute a written interlocal agreement that, at a minimum, complies with the Workforce Innovation and Opportunity Act.

Section 3. Partnership Agreement. Each chief local elected official, representing the local elected officials in a local workforce development area, and each designated chair, representing the local workforce development board, shall jointly execute a written partnership agreement that, at a minimum, complies with the Workforce Innovation and Opportunity Act.

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

Section 5. Hiring of Staff for Local Workforce Development Boards. Local workforce development boards may hire a director and other staff in accordance with WIOA.

Section 6. Entities Performing Multiple Functions in A Local Workforce Development Area. Entities that have been selected or otherwise designated to perform more than one (1) function in a local workforce development area shall develop a written agreement that, at a minimum, complies with WIOA.

<u>Section 7. Dissemination and Implementation of Policies and Guidance issued by the Kentucky Workforce Innovation Board. The local workforce development boards shall implement and disseminate policies, guidance, and manuals issued by the Kentucky Workforce Innovation Board, in coordination with the Governor and the Department of Workforce Investment, pursuant to the Workforce Innovation and Opportunity Act and accompanying Code of Federal Regulations.</u>

KISH C. PRICE, Commissioner

APPROVED BY AGENCY: April 8, 2002

FILED WITH LRC: April 12, 2022 at 11:00 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this amended administrative regulation shall be held on June 21, 2022, at 1:00 p.m. Eastern Time at the Mayo-Underwood Building Hearing Room, 500 Mero Street, 1st Floor, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 p.m. on June 30, 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: Honor Barker, Deputy Commissioner, Department of Workforce Investment, 500 Mero Street, 4th Floor, Frankfort, Kentucky 40601, phone (502) 782-3746, email honor.barker@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Honor Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: The regulation directs how local Workforce Development Areas are to be governed, and adopts and implements the related provisions of the Workforce Innovation & Opportunity Act for the Commonwealth.

(b) The necessity of this administrative regulation: This amended administrative regulation is necessary to assist the Secretary and Deputy Secretary of the Cabinet for Education and Workforce Development, Commissioner of the Department for Workforce Investment, and the Kentucky Workforce Innovation Board in carrying out their statutory duties of oversight and compliance of the local workforce development areas, as set forth in the Workforce Innovation and Opportunity Act.

(c) How this administrative regulation conforms to the content of the authorizing statutes: 20 C.F.R. § 679.300 et seq. sets forth the governing regulations for how local workforce development boards are to be organized, lead and staffed. The Workforce Innovation and Opportunity Act, 29 U.S.C. 3111(d), discusses the responsibility of the state to identify and disseminate information on best practices to the local workforce development areas as well as develop and review statewide policies affecting the coordinated provision of services through the state's one-stop delivery system. These requirements are also found in 20 C.F.R. 679.130.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective and efficient administration for the Department of Workforce Investment and the Kentucky Workforce Innovation Board in implementing the related provisions of the Workforce Innovation and Opportunity Act.

(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: Adds an additional section to address dissemination and implementation of policies and guidance issued by the Kentucky Workforce Innovation Board.

(b) The necessity of the amendment to this administrative regulation: The amendment addresses the need for local workforce development areas to implement and disseminate the state's policies and guidance developed and issued pursuant to the Workforce Innovation and Opportunity Act.

(c) How the amendment conforms to the content of the authorizing statutes: The Workforce Innovation and Opportunity Act, 29 U.S.C. 3111(d), discusses the responsibility of the state to identify and disseminate information on best practices to the local workforce development areas as well as develop and review statewide policies affecting the coordinated provision of services through the state's one-stop delivery system. These requirements are also found in 20 C.F.R. 679.130.

(d) How the amendment will assist in the effective administration of the statutes: The amendment addresses the need for local workforce development areas to implement the policies and guidance issued at the state level to ensure continuity of workforce services across the state and appropriate administration of various workforce programs.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amended administrative regulation affects the Education and Workforce Development Cabinet, Department of Workforce Development; Labor Cabinet, Career Development Office; the Kentucky Workforce Innovation Board; and local Workforce Development Areas, the local Workforce Development Boards and staff.

(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 Local Workforce Development Boards are expressly tasked with implementing and disseminating policies developed, reviewed, and issued by the Kentucky workforce Innovation Board, in cooperation with the Governor and the Department of Workforce Investment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no anticipated costs to any party with the proposed amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The amendment ensures that the state and local level will be operating under a defined set of policies and guidance, which will assist with continuity of workforce services across the state and appropriate administration of various workforce programs.

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

(a) Initially: There will be no cost to implement the modification as the state has previously issued policies and guidance to the local workforce development areas in accordance with the Workforce Innovation and Opportunity Act.

(b) On a continuing basis: There will be no substantive changes, and thus no costs to implement.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Workforce Innovation and Opportunity Act provides the funds to the Department of Workforce Investment, Division of Technical Assistance to perform all compliance and monitoring of the local workforce development areas.

(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 no increase in fees or funding.

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

(9) TIERING: Is tiering applied? Tiering is not applied because all local areas will be subject to administrative regulation equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Workforce Investment and all local workforce development area boards and staff.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This amended administrative regulation is authorized by 20 C.F.R. § 679.300 *et seq.* and provisions of the Workforce Innovation and Opportunity Act that specifically govern local workforce development boards. 29 U.S.C. 3111(d) discusses the responsibility of the state to identify and disseminate information on best practices to the local workforce development areas as well as develop and review statewide policies affecting the coordinated provision of services through the state's one-stop delivery system

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

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

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

(c) How much will it cost to administer this program for the first year? There will be no change in program administration based upon the amendment.

(d) How much will it cost to administer this program for subsequent years? The cost of administration of the Workforce Innovation and Opportunity Act varies year to year based upon the formula of funds received from the United States Department of Labor, but any additional costs brought on by this regulation will be negligible and can be absorbed through current staffing levels.

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: There is no fiscal impact associated with this amendment.

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*.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Division of Student and Administrative Services
(New Administrative Regulation)

11 KAR 22:010. Dual Credit Scholarship Program.

RELATES TO: KRS 164.786
STATUTORY AUTHORITY: KRS 164.786(3)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.786(3) requires the Kentucky Higher Education Assistance Authority to administer the Dual Credit Scholarship program and to promulgate administrative regulations needed for administration thereof. This administrative regulation establishes the provisions for administration of this scholarship program, including definitions, applications, awards, disbursements, refunds, and reporting.

Section 1. Definitions. (1) "Academic term" is defined in KRS 164.786(1)(a).
(2) "Academic year" is defined in KRS 164.786(1)(b).
(3) "Approved dual credit course" is defined in KRS 164.786(1)(c).
(4) "Authority" is defined in KRS 164.786(1)(d).
(5) "Certified high school" means any Kentucky public high school, a high school of a model or practice school under KRS 164.380, and any private, parochial or church school located in Kentucky that has been certified by the Kentucky Board of Education as voluntarily complying with the curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160.
(6) "Dual credit tuition rate ceiling" is defined in KRS 164.786(1)(f).
(7) "Eligible high school student" is defined in KRS 164.786(1)(g).
(8) "Non-certified high school" means any private, parochial, church, or home school located in Kentucky that has not been certified by the Kentucky Board of Education.
(9) "Participating institution" is defined in KRS 164.786(1)(h).

Section 2. Application and Award. (1) The method by which an application is submitted for an eligible high school student shall be determined by the type of high school in which the student is enrolled.
(a) A certified high school shall submit to the authority a data file in a format specified by the authority that identifies each eligible high school that is enrolled in an approved dual credit course.
1. Certified high school file submissions must be submitted to the authority by September 15 for the fall semester and February 1 for the spring semester of the academic year in which the award is made.
2. Within two business days of receipt of a data file from a certified high school, the authority shall load the data provided by the high school and create a unique scholarship link on each student's account at kheaa.com.
3. Each eligible high school student shall then sign in at kheaa.com to access their scholarship application and designate their choice of participating institution and semester for each scholarship award being requested.
(b) An eligible high school student attending a non-certified high school shall submit to the authority a Dual Credit Scholarship Application as required by 11 KAR 4:080, Section 1(10).
(2) To the extent funds are available, the authority shall award scholarships to each eligible high school student and notify the student's participating institution of the award.
(3) The priority consideration deadline for an eligible high school student to submit a scholarship request for the fall semester is October 1. Final requests for both fall and spring semester scholarships shall be submitted no later than March 1 of the academic year in which the award is made.

Section 3. Enrollment Verification. (1) The participating institution shall verify the eligibility of each student and submit to the authority a complete and accurate enrollment verification record that shall include the following:
(a) The prefix and number of the approved dual credit course the student is enrolled in;
(b) The number of credit hours of the approved dual credit course;
(c) The per-credit hour cost being charged by the participating institution, not to exceed the dual credit tuition rate ceiling established by the authority; and
(d) The academic year and academic term of the approved dual credit course being reported.
(2) In the event the approved dual credit course has a required laboratory, the participating institution shall report the laboratory prefix, number and credit hours in addition to the course information specified in subsection (1). The cost of the laboratory will be paid in addition to the approved dual credit course as part of the scholarship award and shall not count against the student's course eligibility limit.

Section 4. Disbursement and Delivery of Funds. (1) Within thirty (30) days following receipt of the enrollment verification record, scholarship funds shall be disbursed by the authority to the participating institution for subsequent application to the account of the eligible high school student.
(2) The amount disbursed by the authority shall equal the number of credit hours
in which the student is enrolled for the approved dual credit course multiplied by the per credit hour cost for each scholarship award, not to exceed the dual credit tuition rate ceiling.
(3) The participating institution shall:
(a) Be responsible for proper disbursement of scholarship funds to each eligible student during the academic term for which each award is intended;
(b) Be liable for disbursement to the wrong individual or to an ineligible student, or for untimely disbursement pursuant to this section; and
(c) Make restitution to the authority of any amount improperly disbursed.
(4) Failure of the participating institution to make restitution when required shall, without precluding other remedies, be cause for limitation, suspension, or termination of the participation of the participating institution in accordance with 11 KAR 4:020.

Section 5. Returns. (1) The participating institution shall return the full scholarship disbursement amount to the authority for any course or laboratory in which enrollment was reported in error or the student was not enrolled in the course.
(2) The participating institution shall not assess any charges to the student should a return of funds to the authority be required.
(3) The participating institution shall remit to the authority the amount of scholarship funds allocated to be returned as soon as possible but no later than thirty (30) days after the end of the term in which the student's enrollment was reported in error.
(4) The participating institution shall notify the authority of the return through the electronic process established for that purpose by the authority. The return information shall include:
(a) The student's name and Social Security number;
(b) The reason for the refund or repayment;
(c) The amount being returned;
(d) The semester and year for which the award was made; and
(e) The course associated with the return.

Section 6. Reporting. (1) Within 30 days of the end of each

academic term, the participating institution shall submit to the authority the student's final grade for each course for which scholarship funds were received, except that the final grade for an approved dual credit course reported as a yearlong course and disbursed for the fall academic term shall be submitted to the authority within 30 days of the end of the spring academic term.

(2) Reports under this section shall be completed before funds for the next academic term under this program will be disbursed by the authority.

Section 7. Records. A participating institution shall:

(1) Establish an organized system of records pertaining to scholarship recipient eligibility;

(2) Maintain these records for a period of not less than three (3) years after the award year in which the recipient ceased enrollment; and

(3) Upon request, make available to the authority:

(a) All records relied upon by that participating institution to certify that any recipient of funds from the authority is an eligible student; and

(b) Information necessary to verify that the participating institution has complied with:

1. KRS 164.786;

2. 11 KAR Chapter 22; and

3. Representations and requirements contained in its agreement with the authority.

CATHE DYKSTRA, Chair

APPROVED BY AGENCY: March 17, 2022

FILED WITH LRC: March 25, 2022 at 11:25 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Tuesday, June 22, 2022, at 10:00 a.m. Eastern Time at 100 Airport Road, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 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: Hon. Diana L. Barber, General Counsel, Kentucky Higher Education Assistance Authority, P.O. Box 798, Frankfort, Kentucky 40602-0798, phone (502) 696-7298, fax (502) 696-7293, email dbarber@kheaa.com.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Rebecca Gilpatrick

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation will establish the procedures for making awards under the Dual Credit Scholarship program as authorized by KRS 164.786.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to set forth the procedures for administering the Dual Credit Scholarship program.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 164.786 requires the Authority to promulgate administrative regulations pertaining to the Dual Credit Scholarship program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statutes by establishing the procedures for administration of the Dual Credit Scholarship program.

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

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The proposed regulation will positively impact all applicants for awards under the Dual Credit Scholarship program by establishing the procedures for administration of the Dual Credit Scholarship program.

(4) Provide an analysis of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Applicants for the Dual Credit Scholarship program will be required to comply with the provisions of this administrative regulation, including submitting the specified application and satisfying the eligibility criteria.

(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 applicants in order to comply with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicants who comply with this administrative regulation will be considered for an award under this program.

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

(a) Initially: No cost to implement the regulation.

(b) On a continuing basis: See (5)(a) above.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Awards under this program are provided through a General Fund base appropriation.

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

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

(9) TIERING: Is tiering applied? Tiering was not applied. It is not applicable to this amendment. This administrative regulation is intended to provide equal opportunity to participate, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Finance and Administration Cabinet, Kentucky Higher Education Assistance Authority.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 164.786.

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

administrative regulation will result in an additional expenditure by the Authority of $13,150,000 from a General Fund base appropriation for Fiscal Year 2022.

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

(c) How much will it cost to administer this program for the first year? No additional costs are associated with administration of this regulation for the first year.

(d) How much will it cost to administer this program for subsequent years? No additional costs are associated with administration of this regulation for subsequent years.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Division of Student and Administrative Services
(New Administrative Regulation)

11 KAR 23:010. Optometry Scholarship Program.

RELATES TO: KRS 164.7870

STATUTORY AUTHORITY: KRS 164.7870(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.7870(3) requires the Kentucky Higher Education Assistance Authority to administer the Optometry Scholarship program and to promulgate administrative regulations needed for administration of the thereof. This administrative regulation establishes the provisions for administration of this scholarship program, including definitions, applications, awards, disbursements, refunds, and reporting.

Section 1. Definitions. (1) "Academic term" means the fall or spring semester at an eligible institution and does not include summer sessions.

(2) "Academic year" means a period of time that begins July 1 of a calendar year and ends June 30 of the next succeeding calendar year.

(3) “Eligible institution" is defined in KRS 164.7870(2)(b).

(4) "Eligible student" is defined in KRS 164.7870(2)(d).

(5) "Optometry Scholarship Committee” is defined in KRS 164.7870(2)(e).

Section 2. Application and Award. (1) In order for an eligible student to be considered for an award under this program, the student shall submit the following via the online Optometry Scholarship portal at https://www.kheaa.com:

(a) An Optometry Scholarship Application;

(b) Documentation that supports a Kentucky residency determination under 13 KAR 2:045; and

(c) An official transcript from each postsecondary institution attended as an undergraduate student.

(2) The application period for this program shall be July 1 through December 1 preceding the academic year for which the initial scholarship is awarded.

(3) Once selected as a scholarship recipient, the scholarship award for an eligible student shall be renewed automatically each year without reapplication provided the eligible student maintains continuous enrollment in an approved program at an eligible institution.

(4) The maximum duration of scholarship receipt is limited to eight academic terms or completion of the approved program of study, whichever occurs first.

Section 3. Optometry Scholarship Committee and Recipient Selection. (1) At the close of the application period, the authority shall convene the Optometry Scholarship Committee for the purpose of selecting recipients for the next academic year from the pool of applications submitted by eligible students.

(a) The authority shall recommend to the Committee the number and amount of scholarships to be awarded based on the amount of funds available for the program.

(b) The scholarship recipient selection process will conclude on or before January 15 of the year preceding the start of academic year in which the scholarship is awarded.

(2) The committee representative from an eligible institution located outside the Commonwealth shall rotate on a two-year basis in even numbered years.

Section 4. Recipient Notification and Award Acceptance. (1) The authority shall notify all applicants of the Optometry Scholarship Committee’s award or denial determination on or before January 31 preceding the start of the award year.

(2) Eligible students who are selected to receive a scholarship award shall indicate to the authority which eligible institution they will attend by March 1 preceding the start of the award year.

Section 5. Enrollment Verification. At the start of each academic term, the authority will provide a roster to each eligible institution to be completed by the institution to verify each eligible student’s enrollment in an approved program of study.

Section 6. Disbursement and Delivery of Funds. (1) Within thirty (30) days following receipt of the enrollment verification record, scholarship funds shall be disbursed by the authority to the eligible institution for subsequent application to the account of the eligible student.

(2) The amount disbursed by the authority for each academic term shall equal one-half of the annual award amount.

(3) The eligible institution shall:

(a) Be responsible for proper disbursement of scholarship funds to each eligible student during the academic term for which each award is intended;

(b) Not make scholarship funds available to the recipient nor apply those funds to the
recipient's account after the end of the academic term for which the funds are received by the institution;

(c) Be liable for disbursement to the wrong individual or to an ineligible student, or for untimely disbursement pursuant to this section; and

(d) Make restitution to the authority of any amount improperly disbursed.

(4) Failure of the institution to make restitution when required shall, without precluding other remedies, be cause for limitation, suspension, or termination of the participation of the institution in accordance with 11 KAR 4:020.

Section 7. Refunds and Returns. Refunds by the institution transmitted to the authority shall be accompanied by:

(1) The student's name and birthdate;

(2) The reason for the refund or repayment;

(3) The date of enrollment status change; and

(4) The semester and year.

CATHE DYKSTRA, Chair

APPROVED BY AGENCY: March 17, 2022

FILED WITH LRC: March 25, 2022 at 11:25 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Tuesday, June 22, 2022, at 10:00 a.m. Eastern Time at 100 Airport Road, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public.

Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 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: Hon. Diana L. Barber, General Counsel, Kentucky Higher Education Assistance Authority, P.O. Box 798, Frankfort, Kentucky 40602-0798, phone (502) 696-7298, fax (502) 696-7293, email dbarber@kheaa.com.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Rebecca Gilpatrick

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the procedures for administration of the Optometry Scholarship program as authorized by KRS 164.7870.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to set forth the procedures for administration of the Optometry Scholarship program.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 164.7870 requires the Authority to promulgate administrative regulations pertaining to the Optometry Scholarship program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statutes by establishing the administrative procedures for the Optometry Scholarship program.

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

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The proposed regulation will positively impact all applicants for awards under the Optometry Scholarship program by establishing the procedures for administration of the Optometry Scholarship program.

(4) Provide an analysis of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Applicants for the Optometry Scholarship program will be required to comply with the provisions of this administrative regulation, including submitting the specified application and satisfying the eligibility criteria.

(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 applicants in order to comply with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicants who comply with this administrative regulation will be considered for an award under this program.

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

(a) Initially: None.

(b) On a continuing basis: See 5(a) above.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Awards under this program are provided through a General Fund base appropriation.

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

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

(9) TIERING: Is tiering applied? Tiering was not applied. It is not applicable to this amendment. This administrative regulation is intended to provide equal opportunity to participate, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities. The “equal protection” and “due process” clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Finance and Administration Cabinet, Kentucky Higher Education Assistance Authority.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 164.7870.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. The administrative regulation will result in an additional expenditure by the Authority of $808,400 from a General Fund base appropriation for Fiscal Year 2022.

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

(c) How much will it cost to administer this program for the first year? No additional costs are associated with this regulation for the first year.

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

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

PERSONNEL CABINET
(New Administrative Regulation)

101 KAR 6:020. Kentucky Employees Charitable Campaign.

RELATES TO: KRS 15.905, 15.935, 41.400, 26 U.S.C. 501(c)(3)

STATUTORY AUTHORITY: KRS 18A.030, 18A.110, 2022 Ky. Acts ch. 75, sec. 21

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.030 and 18A.110 require the Secretary of Personnel to promulgate comprehensive administrative regulations for the classified and

unclassified service. 2022 Ky. Acts ch. 75, sec. 21 requires the Personnel Cabinet to promulgate administrative regulations to require the Kentucky Employees Charitable Campaign to include the Child Victims' Trust Fund as a participating charitable organization. This administrative regulation establishes procedures and requirements for the Kentucky Employees Charitable Campaign.

Section 1. Definitions. (1) "Charitable federation" means a legally constituted grouping, made up of or supporting at least ten (10) health and human welfare organizations, all of which:

(a) Qualify as exempt voluntary charitable organizations pursuant to 26 U.S.C. 501(c)(3); and

(b) Have a substantial Kentucky presence.

(2) "Child Victims' Trust Fund" means the fund established by KRS 41.400 and administered in accordance with KRS 15.935 by the State Child Abuse and Neglect Prevention Board established by KRS 15.905.

(3) "Designated nonprofit agency" means an organization with proof of tax-exempt status pursuant to 26 U.S.C. 501(c)(3) written in on a pledge card by a state employee as a choice to receive contributions.

(4) "State employee" means a person, including an elected public official, who is employed by a department, board, agency, or branch of state government, except one (1) relating to a state college or university.

(5) "Substantial Kentucky presence" means a facility, staffed by professionals or volunteers, available to provide its services and open at least fifteen (15) hours a week and with a regional or statewide presence that meets the requirements of Section 2(2) of this administrative regulation.

Section 2. Requirements for the Kentucky Employees Charitable Campaign. (1) General Purpose. The purpose of the Kentucky Employees Charitable Campaign shall be to:

(a) Provide an opportunity for employees to contribute to eligible Kentucky organizations through the state's payroll deduction process;

(b) Ensure accountability for participants in regard to the funds raised;

(c) Encourage the involvement of state employees as responsible citizens;

(d) Give recognition to state employee volunteers; and

(e) Minimize workplace disruption and administrative costs to Kentucky taxpayers by allowing only one (1) statewide payroll deduction charitable solicitation per year.

(2) An organization shall be considered to have a substantial Kentucky presence if the requirements established in this subsection are met.

(a) Services shall be available to state employees in the local community.

(b) Services shall directly benefit human beings whether children, youth, adults, the aged, the ill and infirm, or the mentally or physically disabled.

(c) Services shall consist of:

1. Care, research, education, or prevention in the fields of human health or social adjustment and rehabilitation;

2. Relief for victims of natural disasters and other emergencies; or

3. Assistance to those who are impoverished and in need of food, shelter, clothing, and basic human welfare services.

(3) The secretary shall approve a charitable organization for participation in the campaign if the charitable organization demonstrates:

(a) Proof of tax exempt status pursuant to 26 U.S.C. 501(c)(3);

(b) Proof of current registration and compliance with the reporting requirements of the Secretary of State and the Office of the Attorney General;

(c) Proof of financial responsibility, including:

1. Adoption of a detailed annual budget;

2. Use of generally accepted accounting principles and procedures;

3. The board of directors' approval for deviations from the approved budget; and

4. An annual financial audit;

(d) Proof of direction by an active volunteer board of directors, which shall meet regularly and whose members shall serve without compensation;

(e) A written nondiscrimination policy;

(f) Public disclosure of fundraising administrative costs with a statement demonstrating that, if fund and administrative expenses are in excess of twenty-five (25) percent of total support and revenue, actual expenses for those purposes are reasonable under all the circumstances in its case; and

(g) Publication of an annual report available to the general public, which includes a full description of the organization's Kentucky activities including fundraising activities.

(4) Nothing in subsections (2) or (3) of this section shall prevent the Child Victims' Trust Fund from being eligible to participate in the Kentucky Employees Charitable Campaign as a charitable organization.

(5) A charitable federation may apply on behalf of all their member organizations if both the federation and all federation members meet the criteria established in subsection (3) of this section.

(6) Authority of the Secretary of Personnel.

(a) The Secretary of Personnel shall have the full authority over the procedures and policies relating to the operation of the Kentucky Employees Charitable Campaign.

(b) The secretary shall designate a group of state employees to compose the Kentucky Employees Charitable Campaign Committee to make recommendations on related matters.

(c) The committee shall be composed of a cross-section of state employees, involving the large cabinets and small agencies.

(d) The chair of the committee shall be appointed by the secretary.

(7) Functions of the committee. The committee shall make recommendations on:

(a) The designation of a campaign administrator who shall:

1. Serve for a minimum period of two (2) years; and

2. Be charged to manage and administer the charitable fund campaign for the Commonwealth, subject to the direction and control of the Secretary of Personnel. The campaign administrator shall have statewide workplace campaign experience and have the necessary staff and volunteer support to administer the Kentucky Employees Charitable Campaign;

(b) The establishment of the minimum amount, based on cost effectiveness, that an employee may authorize to be deducted for each approved charitable federation;

(c) The format of the brochure, pledge card, or other promotional materials for the annual campaign;

(d) The dates and duration of the campaign;

(e) The annual campaign budget submitted by the campaign administrator; and

(f) The costs of the campaign, which shall be:

1. Detailed in the budget; and

2. Borne by each recipient organization proportionally.

(8) Charitable federations to apply for statewide campaign.

(a) A federation desiring inclusion shall apply by February 15 of each year.

(b) A federation that has previously participated in the campaign shall update its application with a letter and a copy of the most recent year's audit.

(c) A charitable organization that has previously participated in the campaign shall be eligible if it fulfills all conditions of eligibility.

(9) The campaign administrator. The campaign administrator shall:

(a) Provide staffing to manage and administer the annual campaign, which includes preparing drafts of campaign materials for consideration by the Secretary of Personnel;

(b) Serve as the central accounting point for both campaign cash and for payroll deductions received from the Personnel Cabinet including:

1. The preparation and submission of an annual campaign budget. Costs of the campaign shall be divided among recipient organizations; and

2. A separate account maintained for managing the income

and expenses of the campaign;

(c) Distribute campaign funds received from the Personnel Cabinet to participating organizations in accordance with agreed upon time periods. This shall include distribution of funds to designated nonprofit agencies;

(d) Provide an end-of-campaign report to the Secretary of Personnel and to participating organizations; and

(e) Annually furnish a financial statement prepared by a certified public accountant.

GERINA D. WHETHERS, Secretary

APPROVED BY AGENCY: April 11, 2022

FILED WITH LRC: April 15, 2022 at 9:25 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 21, 2022 at 10:00 a.m. at 501 High Street, 3rd floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until 11:59 p.m. on June 30, 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: Rosemary Holbrook, Assistant General Counsel, Office of Legal Services, 501 High Street, 3rd floor, Frankfort, Kentucky 40601, phone (502) 564-7430, fax (502) 564-0224, email RosemaryG.Holbrook@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Rosemary Holbrook

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets forth the procedures and requirements governing the Kentucky Employees Charitable Campaign.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to set forth the procedures and requirements governing the Kentucky Employees Charitable Campaign.

(c) How this administrative regulation conforms to the content of the authorizing statutes: Pursuant to 18A.030(2), the Personnel Cabinet Secretary is required to promulgate comprehensive regulations consistent with the provisions for KRS Chapter 18A. KRS 18A.110 provides that the secretary shall promulgate comprehensive administrative regulations for the classified and unclassified service. 2022 Ky. Acts ch. 75, sec. 21 requires the Personnel Cabinet to promulgate administrative regulations for inclusion of the Child Victims' Trust Fund as an eligible charitable organization.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides the opportunity for employees to contribute to eligible Kentucky organizations through the state's payroll deduction process, while minimizing workplace disruption and administrative costs to Kentucky taxpayers by allowing only one (1) statewide payroll deduction charitable solicitation per year.

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All state agencies and employees who participate in the Kentucky Employees Charitable Campaign are affected by this regulation, as are charitable organizations that participate or seek to participate.

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

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

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no additional costs anticipated to any entity identified above.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): No additional benefits will accrue.

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

(a) Initially: This regulation is not anticipated to generate any new or additional costs.

(b) On a continuing basis: This 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: This regulation is not anticipated to generate any new or additional costs.

(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 regulation is not anticipated to generate any new or additional fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation is not anticipated to generate any new or additional fees.

(9) TIERING: Is tiering applied? No. This regulation treats all impacted entities 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? All state agencies that participate the Kentucky Employees Charitable Campaign are impacted.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 18A.030(2), 18A.110, and 2022 Ky. Acts ch. 75, sec. 21.

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

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

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

(c) How much will it cost to administer this program for the first year? There are no estimated additional costs to administer the amendments to this regulation.

(d) How much will it cost to administer this program for subsequent years? There are no estimated additional costs to administer the amendments to 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:

LABOR CABINET
Department of Workers' Claims
(New Administrative Regulation)

803 KAR 25:195. Utilization review, Appeal of Utilization Review Decisions, and Medical Bill Audit.

RELATES TO: KRS Chapter 342
STATUTORY AUTHORITY: KRS 342.035(5) and (6), 342.260
NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.260 provides that the Commissioner of the Department of Workers' Claims shall promulgate administrative regulations necessary to carry on the work of the Department of Workers' Claims, and the commissioner may promulgate administrative regulations not inconsistent with the provisions of KRS Chapter 342. KRS 342.035(5) requires the commissioner to promulgate administrative regulations governing medical provider utilization review activities conducted by an insurance carrier, group self-insurer or self-insured employer pursuant to KRS Chapter 342. KRS 342.035(5) provides the commissioner of the Department of Workers' Claims shall promulgate administrative regulations that require each insurance carrier, group self-insurer and individual self-insured employer to certify to the commissioner the program it has adopted to insure compliance with the medical fee schedule provisions of KRS 342.035(1) and (4). KRS 342.035(8) requires the commissioner to adopt or develop a pharmaceutical formulary and treatment guidelines; utilization review assists in the proper implementation of the pharmaceutical formulary and treatment guidelines. This administrative regulation insures that insurance carriers, group self-insurers, and individual self-insured employers implement a utilization review and medical bill audit program.

Section 1. Definitions. (1) "Business day" means any day except Saturday, Sunday or any day which is a legal holiday.
(2) "Calendar day" means all days in a month, including Saturday, Sunday and any day which is a legal holiday.
(3) "Carrier" is defined by KRS 342.0011(6).
(4) "Commissioner" is defined by KRS 342.0011(9).
(5) "Denial" means a determination by the utilization reviewer that the medical treatment, proposed treatment, service, or medication under review is not medically necessary or appropriate and, therefore, payment is not recommended.
(6) "Department" is defined by KRS 342.0011(8).
(7) "Medical bill audit" means the review of medical bills for services which have been provided to assure compliance with adopted fee schedules.
(8) "Medically necessary" or "medical necessity" means healthcare services, including medications, that a medical provider, exercising prudent clinical judgment, would provide to a patient for the purpose of preventing, evaluating, diagnosing or treating, an illness, injury, disease or its symptoms, and that are:
(a) In accordance with generally accepted standards of medical practice;
(b) Clinically appropriate, in terms of type, frequency, extent site and duration; and
(c) Considered effective for the patient's illness, injury, or disease.
(9) "Medical payment obligor" means any employer, carrier, insurance carrier, self-insurer, or any person acting on behalf of or as an agent of the employer, carrier, insurance carrier, or self-insurer.
(10) "Medical provider" means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, osteopathic and chiropractic practitioners, physician assistants, and advanced practice registered nurses, acting within the scope of their license
(11) "Physician" is defined by KRS 342.0011(32).
(12) "Preauthorization" means a process whereby payment for a medical service or course of treatment is assured in advance by a carrier.
(13) "Utilization review" means a review of the medical necessity and appropriateness of medical care and services for purposes of recommending payments for a compensable injury or disease.
(14) "Utilization review and medical bill audit plan" means the written plan submitted to the commissioner by each medical payment obligor describing the procedures governing utilization review and medical bill audit activities.
(15) "Vendor" means a person or entity which implements a utilization review and medical bill audit program for purposes of offering those services to carriers.

Section 2. Utilization Review and Medical Bill Audit Program. (1) The utilization review program shall assure that:
(a) A utilization reviewer is appropriately qualified;
(b) Treatment rendered to an injured worker is medically necessary and appropriate; and
(c) Necessary medical services are not withheld or unreasonably delayed.
(2) The medical bill audit program shall assure that:
(a) A statement or payment for medical goods and services and charges for a deposition, report, or photocopy comply with KRS Chapter 342 and 803 KAR Chapter 25;
(b) A medical bill auditor is appropriately qualified; and
(c) A statement for medical services is not disputed without reasonable grounds.

Section 3. Utilization Review and Medical Bill Audit Plan Approval. (1) A medical payment obligor shall fully implement and maintain a utilization review and medical bill audit program.
(2) A medical payment obligor shall provide to the commissioner a written plan describing the utilization review and medical bill audit program. The commissioner shall approve each utilization review and medical bill audit plan which complies with the requirements of this administrative regulation and KRS Chapter 342.
(3) A vendor shall submit to the commissioner for approval a written plan describing the utilization review and medical bill audit program. Upon approval, the vendor shall receive written notice from the commissioner.
(4) A medical payment obligor who contracts with an approved vendor for utilization review or medical bill audit services shall notify the commissioner of the contractual arrangement. The contractual arrangement may provide for separate utilization review and medical bill audit vendors.
(5) A plan shall be approved for a period of four (4) years.
(a) At least ninety (90) calendar days prior to the expiration of the period of approval, a medical payment obligor or its approved vendor shall apply for renewal of the approval.
(b) During the term of an approved plan, the commissioner shall be notified as soon as practicable of a material change in the approved plan or a change in the selection of a vendor.
(6) A carrier who contracts with an approved vendor for utilization review services shall provide annually to the commissioner summaries of the number of utilization reviews conducted, utilization reviews waived in accordance with KRS 342.035(5)(c), utilization reviews resulting in an approval, and utilization reviews resulting in a denial. The annual report of the approved vendor shall be filed with the commissioner no later than August 1 for the preceding year, including any fiscal year ending on or before June 30.

Section 4. Utilization Review and Medical Bill Audit Written Plan Requirements. The written utilization review and medical bill audit plan submitted to the commissioner shall include the following elements:
(1) A description of the process, policies and procedures for making decisions;
(2) A statement that medical treatment guidelines adopted by the commissioner pursuant to KRS 342.035(8)(a) shall be incorporated in the plan as the standard for utilization review medical decision making;
(3) A description of the criteria by which claims, medical services and medical bills shall be selected for review;
(4) A description of the:
(a) Qualifications of internal and consulting personnel who shall conduct utilization review and medical bill audit; and

(b) The manner in which the personnel shall be involved in the review process;

(5) A description of the process to assure that a treatment plan shall be obtained for review by qualified medical personnel if a treatment plan is required by 803 KAR 25:096;

(6) A description of the process to assure that a physician shall be designated by each injured employee as required under 803 KAR 25:096;

(7) A description of the process for rendering and promptly notifying the medical provider and employee of the initial utilization review decision;

(8) A description of the reconsideration process within the structure of the utilization review and medical bill audit program;

(9) An assurance that a database shall be maintained, which shall:

(a) Record:

1. Each instance of utilization review;

2. Each instance of medical bill audit;

3. The name of the reviewer;

4. The extent of the review;

5. The conclusions of the reviewer; and

6. The action, if any, taken as the result of the review;

(b) Be maintained for a period of at least two (2) years; and

(c) Be subject to audit by the commissioner, or his agent, pursuant to KRS 342.035(5)(b); and

(10) A description of the policies and procedures that shall be implemented to protect the confidentiality of patient information.

Section 5. Claim Selection Criteria. (1) Unless the medical payment obligor, in good faith, denies the claim as noncompensable or waives utilization review pursuant to KRS 342.035 (5)(c), medical services reasonably related or asserted to be related to the claim shall be subject to utilization review if:

(a) A medical provider requests preauthorization of a medical treatment or procedure;

(b) Notification of a surgical procedure or resident placement pursuant to an 803 KAR 25:096 treatment plan is received;

(c) The total medical costs cumulatively exceed $3000;

(d) The total lost work days cumulatively exceed thirty (30) days; or

(e) An administrative law judge orders a review.

(2) Utilization review shall commence when the medical payment obligor has notice that a claims selection criteria has been met. The medical payment obligor may waive utilization review pursuant to KRS 342.035(5)(c) within two (2) business days of notice that a claims selection criteria has been met.

(a) The following requirements shall apply if preauthorization has been requested and utilization review has not been waived by the medical payment obligor:

1. The initial utilization review decision shall be communicated to the medical provider and employee within two (2) business days of the initiation of the utilization review process, unless additional information is required. If additional information is required, a single request shall be made within two (2) additional business days.

2. The requested information shall be submitted by the medical provider within ten (10) business days.

3. The initial utilization review decision shall be rendered and communicated within two (2) business days following receipt of the requested information.

(b) The following requirements shall apply if retrospective utilization review occurs:

1. The initial utilization review decision shall be communicated to the medical provider and employee within ten (10) calendar days of the initiation of the utilization review process, unless additional information is required. If additional information is required, a single request shall be made within two (2) additional business days.

2. The requested information shall be submitted by the medical provider within ten (10) business days.

3. The initial utilization review decision shall be rendered within two (2) business days following receipt of the requested information.

(3) A medical provider may request an expedited utilization review determination for proposed medical treatment or services, the lack of which could reasonably be expected to lead to serious physical or mental disability or death. The expedited utilization review determination shall be rendered and communicated within twenty-four (24) hours following a request for expedited review.

(4) Initiation of utilization review shall toll the thirty (30) day period for challenging or paying medical expenses pursuant to KRS 342.020(4). The thirty (30) day period for paying medical expenses shall commence on the date of the final utilization review decision.

(5) Each medical bill audit shall be initiated within seven (7) calendar days of receipt to assure:

(a) Compliance with applicable fee schedules, in accordance with 803 KAR Chapter 25;

(b) Accuracy; and

(c) That a physician has been designated in accordance with 803 KAR 25:096.

(6) A medical bill audit shall not toll the thirty (30) day period for challenging or paying medical expenses pursuant to KRS 342.020(4).

Section 6. Utilization Review and Medical Bill Audit Personnel Qualifications. (1) Utilization review personnel shall have education, training, and experience necessary for evaluating the clinical issues and services under review. The following professionals shall issue an initial utilization review approval:

(a) A physician;

(b) A registered nurse;

(c) A licensed practical nurse;

(d) A medical records technician; or

(e) Other personnel whose training and experience qualify them to issue decisions on medical necessity or appropriateness.

(2) Only a physician may issue an initial utilization review denial. A physician shall supervise utilization review personnel in making utilization review recommendations. Personnel shall hold the license required by the jurisdiction in which they are employed.

(3) Personnel conducting a medical bill audit shall have the education, training or experience necessary for evaluating medical bills and statements.

Section 7. Written Notice of Denial. (1) Following initial review, a written notice of denial shall:

(a) Be issued to both the medical provider and the employee in a timely manner but no more than ten (10) calendar days from the initiation of the utilization review process;

(b) Be clearly entitled "UTILIZATION REVIEW - NOTICE OF DENIAL"; and

(c) Contain:

1. A statement of the medical reasons for denial;

2. The name, state of licensure and medical license number of the reviewer; and

3. An explanation of utilization review reconsideration rights.

(2) Payment for medical services shall not be denied on the basis of lack of information absent documentation of a good faith effort to obtain the necessary information.

Section 8. Reconsideration. (1) A reconsideration process to appeal an initial decision shall be provided within the structure of utilization review.

(a) A request for reconsideration of the initial utilization review decision shall be made by an aggrieved party within fourteen (14) calendar days of receipt of a written notice of denial.

(b) Reconsideration of the initial utilization review decision shall be conducted by a different reviewer of at least the same qualifications as the medical provider whose treatment is being reconsidered.

(c) A written reconsideration decision shall be rendered within ten (10) calendar days of receipt of a request for reconsideration. The written decision shall be clearly entitled "UTILIZATION REVIEW - RECONSIDERATION DECISION". If the reconsideration decision is made by an appropriate specialist or subspecialist, the written decision shall further be entitled "FINAL UTILIZATION REVIEW DECISION".

(d) Those portions of the medical record that are relevant to

the reconsideration, if authorized by the patient and in accordance with state or federal law, shall be considered and providers shall be given the opportunity to present additional information.

(2)(a) If a utilization review denial is upheld upon reconsideration and a board eligible or certified physician in the appropriate specialty or subspecialty area, or a chiropractor qualified pursuant to KRS 312.200(3) and 201 KAR 21:095 has not previously reviewed the matter, an aggrieved party may request further review by:

1. A board eligible or certified physician in the appropriate specialty or subspecialty; or

2. A chiropractor qualified pursuant to KRS 312.200(3) and 201 KAR 21:095.

(b) A written decision shall be rendered within ten (10) calendar days of the request for specialty reconsideration. The specialty decision shall be clearly entitled "FINAL UTILIZATION REVIEW DECISION".

(3) A reconsideration process to appeal an initial decision shall be provided within the structure of medical bill audit.

(a) A request for reconsideration of the medical bill audit decision shall be made by an aggrieved party within fourteen (14) calendar days of receipt of that decision.

(b) Reconsideration shall be conducted by a different reviewer of at least the same qualifications as the initial reviewer.

(c) A written decision shall be rendered within ten (10) calendar days of receipt of a request for reconsideration. The written decision shall be clearly entitled "MEDICAL BILL AUDIT RECONSIDERATION DECISION".

(d) A request for reconsideration of the medical bill audit decision shall not toll the thirty (30) day period for challenging or paying medical expenses pursuant to KRS 342.020(1).

Section 9. Peer-to-Peer Conference. (1) If the medical payment obligor denies preauthorization following utilization review, it shall issue a written notice of denial as required in Section 7 of this administrative regulation.

(2) The medical provider whose recommendation for treatment is denied may request reconsideration, and may require the reconsideration include a peer-to-peer conference with a second utilization review physician.

(3) The request for a peer-to-peer conference shall be made by electronic communication and shall provide:

(a) A telephone number for the reviewing physician to call;

(b) A date or dates for the conference not less than five (5) business days after the date of the request; and

(c) A one (1)-hour period during the date or dates specified during which the requesting medical provider, or a designee, will be available to participate in the conference between the hours of 8:00 a.m. and 6:00 p.m. (Eastern Time), Monday through Friday.

(4) The reviewing physician participating in the peer-to-peer conference shall be of the same specialty as the medical provider requesting reconsideration.

(5) Failure of the reviewing physician to participate during the date and time specified shall result in the approval of the request for preauthorization and approval of the recommended treatment unless good cause exists for the failure to participate. In the event of good cause for failure to participate in the peer-to-peer conference, the reviewing physician shall contact the requesting medical provider to reschedule the peer-to-peer conference. The rescheduled peer-to-peer conference shall be held no later than two (2) business days following the original conference date. Failure of the requesting medical provider or its designee to participate in the peer-to-peer conference during the time he or she specified availability may result in denial of the request for reconsideration.

(6) A written reconsideration decision shall be rendered within five (5) business days of date of the peer-to-peer conference. The written decision shall be entitled "FINAL UTILIZATION REVIEW DECISION."

(7) If a Final Utilization Review Decision is rendered denying authorization for treatment before an award has been entered by or agreement approved by an administrative law judge, the requesting medical provider or the injured employee may file a medical dispute pursuant to 803 KAR 25:012. If a Final Utilization Review Decision is rendered denying authorization for treatment after an award has been entered by or agreement approved by an administrative law judge, the employer shall file a medical dispute pursuant to 803 KAR 25:012.

(8) Pursuant to KRS 342.285(1), a decision of an administrative law judge on a medical dispute is subject to review by the workers' compensation board under the procedures set out in 803 KAR 25:010, Section 22.

This is to certify the Secretary has reviewed and recommended this administrative regulation prior to its adoption, as required by KRS 342.260, 342.270 and 342.285.

JAMIE LINK, Secretary

APPROVED BY AGENCY: April 14, 2022

FILED WITH LRC: April 15, 2022 at 10:10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 23, 2022, at 10:00 a.m. (EDT) at the Department of Workers' Claims, 500 Mero Street, Frankfort, Kentucky 40601. In keeping with KRS 13A.270, individuals interested in attending or being heard at this hearing shall notify this agency in writing of their intent to attend no later than five (5) workdays prior to the hearing along with contact information. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed emergency administrative regulation to the contact person.

CONTACT PERSON: B. Dale Hamblin, Jr., Assistant General Counsel, Department of Workers' Claims, Mayo-Underwood Building, 3rd Floor, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 782-4404, fax (502) 564-0681, email Dale.Hamblin@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: B. Dale Hamblin, Jr.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This emergency administrative regulation governs medical provider utilization review activities conducted by an insurance carrier, self-insured group, or self-insured employer pursuant to KRS Chapter 342.

(b) The necessity of this administrative regulation: KRS 342.035(5)(c) requires the commissioner to promulgate administrative regulations governing medical provider utilization review activities conducted by an insurance carrier, self-insured group, or self-insured employer pursuant to KRS Chapter 342.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 342.020 makes employers and their payment obligors responsible for payment of reasonable and necessary medical treatment for the cure and relief of work-place injuries and occupational diseases. Utilization review assists employers and employees in determining whether medical treatment is reasonable and necessary. Additionally, KRS 342.020(7)(f) requires employers with a managed care system to establish procedures for utilization review of medical services to assure that a course of treatment is reasonably necessary; diagnostic procedures are not unnecessarily duplicated; the frequency, scope, and duration of treatment is appropriate; pharmaceuticals are not unnecessarily prescribed; and that ongoing and proposed treatment is not experimental, cost ineffective, or harmful to the employee. This regulation provides guidance to stakeholders regarding the requirements of a utilization review program and its implementation.

(d) How this administrative regulation currently assists or will

assist in the effective administration of the statutes: This emergency administrative regulation provides guidance to stakeholders regarding the requirements of a statutorily required utilization review program and its implementation.

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

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Insurance carriers, self-insured groups, self-insured employers, and injured 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: Insurance carriers, self-insured groups, and self-insured employers will be required to have a system of utilization review to assess the reasonableness and necessity of medical treatment. Entities utilizing a managed care organization must include utilization review as part of that program. Employees will receive appropriate medical treatment in a timely manner.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Costs are expected to remain consistent with current costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Employers, medical payment obligors, and employees may be assured that a course of treatment is reasonably necessary; diagnostic procedures are not unnecessarily duplicated; the frequency, scope, and duration of treatment is appropriate; pharmaceuticals are not unnecessarily prescribed; and that ongoing and proposed treatment is not experimental, cost ineffective, or harmful to the employee.

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

(a) Initially: No additional costs are associated with implementation.

(b) On a continuing basis: No additional continuing costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Department of Workers' Claims normal budget is the source of funding.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied because the utilization review procedure applies to all parties equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Workers' Claims and all parts of government with employees.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 342.020, 342.035, and 342.260.

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

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

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

(c) How much will it cost to administer this program for the first year? No new administrative costs will be required.

(d) How much will it cost to administer this program for subsequent years? No new administrative costs will be required.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation: There is no fiscal impact on state or local government because the activities associated with the emergency administrative regulation are currently performed by those entities; however, the same cannot be said absent this emergency administrative regulation.

PUBLIC PROTECTION CABINET
Department of Alcoholic Beverage Control
(New Administrative Regulation)

804 KAR 1:102. General advertising practices.

RELATES TO: KRS 244.130, 244.500, 244.590

STATUTORY AUTHORITY: KRS 241.060, 244.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 244.130 authorizes the Department of Alcoholic Beverage Control to regulate the advertising of alcoholic beverages. This administrative regulation establishes standards for advertising in a manner consistent with modern marketing practices.

Section 1. Definition. "Social media" means all forms of electronic communication through which users create online communities to share information, ideas, personal messages, and other content.

Section 2. (1) A licensee may use outdoor advertising.

(2) If outdoor advertising is used by a manufacturer, producer, brewer, winery, distributor, or wholesaler, it shall not:

(a) Include a retail licensee's name or business designation (DBA); or

(b) Refer to a retail licensee in any other way.

Section 3. A licensee may advertise in material directed to the home or business of a consumer if the advertising material is in conformity with KRS 244.130 and this administrative regulation.

Section 4. (1) Except as provided by subsections (2) and (3) of this section, advertising novelties may be used.

(2) A licensee shall not require the purchase or consumption of an alcoholic beverage as a condition for the sale, gift, or reduction in price of an advertising novelty.

(3) Except as provided by KRS 244.590(2)(a), a malt beverage distributor shall not sell, give away, or furnish advertising novelties, in any manner to a retail licensee.

Section 5. A licensee may advertise by means of radio and television.

Section 6. A licensee may advertise by means of the Internet and social media.

Section 7. (1) A licensee may sponsor or cosponsor athletic

leagues, tournaments, contests, and charitable events if the consumption or purchase of alcoholic beverages is not a requirement for participation.

(2) A licensee sponsoring or cosponsoring an event described in subsection (1) of this section upon a retail licensed premises shall not require the retail licensee to purchase, sell, or distribute the products of the sponsoring licensee as a condition for participation in or in connection with the event.

Section 8. A licensee shall not use the terms "free", "complimentary", or any other terms, which imply or suggest giveaways in the advertising of alcoholic beverages.

Section 9. A licensee shall not advertise a product, service, or activity if the licensee is prohibited by statute or administrative regulation from selling, providing, or conducting it.

Section 10. This administrative regulation shall not be interpreted to relate to direct shipping.

ALLYSON C TAYLOR, Commissioner
RAY PERRY, Secretary

APPROVED BY AGENCY: April 14, 2022

FILED WITH LRC: April 14, 2022 at 3:48 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 June 27, 2022 at 500 Mero Street, Room 127CW, Frankfort, Kentucky 40601. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the administrative regulation. Individuals interested in being heard at this hearing shall notify this agency of their intention to attend and comment in writing at least five workdays prior to the hearing. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. If you do not wish to be heard at the public hearing, you may submit written comments on the administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. Written comments shall be accepted through 11:59 p.m. on June 30, 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: 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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Joshua Newton

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes standards for advertising in a manner consistent with modern marketing practices, pursuant to KRS 244.130.

(b) The necessity of this administrative regulation: KRS 244.130 authorizes alcoholic beverage licensees to advertise without limitation unless prohibited by the Board in an administrative regulation. This administrative regulation replaces and renews an administrative regulation that inadvertently expired due to the inaction of the Department.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to KRS 241.060, which authorizes the Board to promulgate reasonable administrative regulations governing the supervision of the manufacture, sale, and trafficking of alcoholic beverages, and conforms to KRS 244.130 by not prohibiting advertising in newspapers, magazine, periodicals with general circulation, promotional advertising on radio or television limited to no more than the name of the licensee and its products, promotional advertising containing the names of establishments or products displayed on uniforms or equipment of sporting teams, promotional advertising mailed or delivered to a consumer's residence, free consumer-branded nonalcoholic novelty items and production byproducts given to distillery visitors over the age of 21 who participated in a distillery tour conducted by a bona fide church or charitable organization.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation previously assisted and will continue to assist in preventing advertising that the Board has deemed inappropriate for alcoholic beverage licensees.

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

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

(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 licensees who advertise products they manufacture or sell.

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

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: Regulated entities will not be required to undertake any new or unknown action to comply with this administrative regulation. The administrative regulation had been in place for more than seven years before its inadvertent expiration. This administrative regulation limits actions that can be taken rather than requiring actions to be taken.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: Compliance with this administrative regulation will present no cost to regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities: No benefits will accrue to licensed entities.

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

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

(b) On a continuing basis: There are no ongoing costs to the administrative body as a result of implementation of this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Because there is no cost associated with implementation and enforcement of this administrative regulation, no funding will be required.

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

(9) TIERING: Is tiering applied? Tiering is not applied because this will affect all regulated entities equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Alcoholic Beverage Control and local Alcoholic Beverage Control administrators.

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

regulation. KRS 244.130, 241.060(1).

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

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

(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 result in increased revenues to any state or local government entities in subsequent years.

(c) How much will it cost to administer this program for the first year? There are no costs associated with administration of this regulation.

(d) How much will it cost to administer this program for subsequent years? There are no costs associated with administration of this regulation in subsequent years.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

PUBLIC PROTECTION CABINET
Department of Alcoholic Beverage Control
(New Administrative Regulation)

804 KAR 11:041. Growlers.

RELATES TO: KRS 241.060

STATUTORY AUTHORITY: KRS 241.060

NECESSITY, FUNCTION, AND CONFORMITY: KRS 241.060 authorizes the Alcoholic Beverage Control Board to regulate the sale of alcoholic beverages. This administrative regulation allows a licensee that holds a retail malt beverage license to sell growlers.

Section 1. Definition. "Growler" means a refillable, resealable vessel no larger than two (2) liters with a flip-top or screw-on lid into which a malt beverage is prefilled, filled, or refilled for off-premises consumption. "Growler" shall not mean a vessel of similar size or capacity that is primarily used for the storage of other non-alcoholic liquids.

Section 2. The holder of a license permitting malt beverage package sales for off-premises consumption may sell filled growlers at retail for off-premises consumption if:

(1) The growler is cleaned and sanitized by the licensee or its employee prior to being filled as prescribed in Section 3 of this administrative regulation;

(2) The growler is filled and securely resealed by the licensee or an employee at least eighteen (18) years old before being removed from the premises;

(3) The growler has a label affixed to it, legibly stating:

(a) The brand name of the product;

(b) The name and address of the brewer or bottler;

(c) The class of product (beer, ale, porter, lager, bock, stout, or other brewed or fermented beverage);

(d) The name and address of the licensee that filled or refilled the growler;

(e) The following statement, "This product may be unfiltered and unpasteurized. Keep refrigerated at all times."; and

(f) The alcoholic beverage health warning statement as required by the Federal Alcohol Administration Act, 27 C.F.R. 16.20 through 16.22; and

(4) The label is affixed to the vessel by:

(a) Neck hanger;

(b) Adhesive;

(c) String; or

(d) Other means.

Section 3. Cleaning, Sanitizing, Filling, and Sealing.

(1) Filling and refilling growlers shall only occur at the request of a customer.

(2) Except as provided by subsection (3) of this section, prior to refilling a growler, the growler and its cap shall be cleaned and sanitized by the licensee or its employee by:

(a) Manual washing in a -three compartment sink. The licensee or its employee shall:

1. Prior to starting, clean sinks and work area to remove any chemicals, oils, or grease from other cleaning activities;

2. Empty residual liquid from the growler to drain, but not into the cleaning water;

3. Clean the growler and cap using detergent and water exceeding 110 degrees Fahrenheit, a temperature compliant with Kentucky Department for Public Health standards in 902 KAR 45:005, or the temperature specified on the detergent manufacturer's label instruction. Detergent shall not be fat- or oil-based;

4. Remove any residues on the interior and exterior of the growler and cap;

5. Rinse the growler and cap in the middle compartment with water. Rinsing may be from the spigot with a spray arm, from a spigot or from the tub as long as the water for rinsing shall not be stagnant and shall be continually refreshed;

6. Sanitize the growler and cap in the third compartment. Chemical sanitizer shall be used in accordance with the EPA-registered label use instructions and shall meet the minimum water temperature requirements of the chemical; and

7. A test kit or other device that accurately measures the concentration of MG/L of chemical sanitizing solutions shall be provided and be readily accessible for use; or

(b) Mechanical washing and sanitizing machine.

1. Mechanical washing and sanitizing machines shall be provided with an easily accessible and readable data place affixed to the machine by the manufacturer and shall be used according to the machine's design and operation specifications;

2. Mechanical washing and sanitizing machines shall be equipped with chemical or hot water sanitization;

3. Concentration of the sanitizing solution or the water temperature shall be accurately determined by using a test kit or other device; and

4. The machine shall be regularly serviced based upon the manufacturer's or installer's guidelines.

(3) Notwithstanding subsection (2) of this section, a growler may be filled or refilled without cleaning and sanitizing the growler by:

(a) Filling or refilling a growler with a tube as referenced in subsection (4) of this section;

1. Food grade sanitizer shall be used in accordance with the EPA-registered label use instructions;

2. A container of liquid food grade sanitizer shall be maintained for malt beverage taps that will be used for filling and refilling growlers;

3. Each container shall contain tubes that will be used only for filling and refilling growlers;

4. The growler is inspected visually for contamination;

5. The growler is filled or refilled with a tube as prescribed in subsection (5) of this section; and

6. A different tube from the container shall be used for each fill or refill of a growler; or

(b) Filling a growler with a contamination-free process. The growler shall be:

1. Inspected visually for contamination; and

2. Compliant with the Kentucky Food Code, incorporated by reference in 902 KAR 45:005.

(4) Growlers shall be filled or refilled from the bottom of the

growler to the top with a tube that is attached to the malt beverage faucet and extends to the bottom of the growler or with a commercial filling machine.

(5) When not in use, tubes to fill or refill growlers shall be immersed and stored in a container with liquid food grade sanitizer.

(6) A growler shall be closed with a flip-top or screw-on lid or cap and sealed in a manner designed to prevent consumption without conspicuous and evident tampering.

ALLYSON C TAYLOR, Commissioner
RAY PERRY, Secretary

APPROVED BY AGENCY: April 14, 2022

FILED WITH LRC: April 14, 2022 at 3:48 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 June 27, 2022 at 500 Mero Street, Room 127CW, Frankfort, Kentucky 40601. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the administrative regulation. Individuals interested in being heard at this hearing shall notify this agency of their intention to attend and comment in writing at least five workdays prior to the hearing. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. If you do not wish to be heard at the public hearing, you may submit written comments on the administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. Written comments shall be accepted through 11:59 p.m. on June 30, 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: 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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Joshua Newton

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation authorizes retail malt beverage package licensees to sell specialized containers (called “growlers”) filled with malt beverages to consumers.

(b) The necessity of this administrative regulation: This administrative regulation replaces and renews an administrative regulation that inadvertently expired due to inaction by the Department. It is necessary in order to permit the practice of selling growlers, which had occurred for at least 7 years, to continue legally.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to KRS 241.060, which authorizes the Board to promulgate reasonable administrative regulations governing the supervision of the manufacture, sale, and trafficking of alcoholic beverages, and does not conflict with statute.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in effective administration of alcoholic beverage control statutes by authorizing a practice already in use in the Commonwealth and permitting enforcement and investigatory resources to be put toward preventing and policing serious statutory violations.

(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 statutes: NA

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect retail malt beverage package licensees who wish to sell growlers of malt beverages for consumption off the licensed premises. The number licensees affected is therefore uncertain.

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

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: Regulated entities who wish to sell growlers will need to ensure that they have the proper materials and equipment to clean, sanitize, label, and seal growlers, and undertake procedures outlined in the administrative regulation regarding cleaning, sanitizing, labeling, and sealing the growlers they sell. Regulated entities who do not wish to sell growlers do not need to take any actions to comply with this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: Compliance with this administrative regulation will present no cost to regulated entities who do not wish to sell growlers. Compliance with this regulation by regulated entities who wish to sell growlers will require the purchase and installation of a three-compartment sink on the premises, instruments to tap kegs of malt beverages to dispense malt beverage into the growler, and sanitization, testing, labeling, and sealing materials. The Department is unaware of the price of these materials.

(c) As a result of compliance, what benefits will accrue to the entities: Regulated entities will be able to sell growlers of malt beverages.

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

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

(b) On a continuing basis: There are no ongoing costs to the administrative body because of implementation of this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Because there is no cost associated with implementation and enforcement of this administrative regulation, no funding will be required.

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

(9) TIERING: Is tiering applied? Explain why or why not. Tiering is not applied because this will affect all regulated entities equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Alcoholic Beverage Control and local Alcoholic Beverage Control administrators may be nominally impacted.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. 241.060(1).

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative

regulation.

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

(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 result in increased revenues to any state or local government entities in subsequent years.

(c) How much will it cost to administer this program for the first year? There are no costs associated with administration of this regulation.

(d) How much will it cost to administer this program for subsequent years? There are no costs associated with administration of this regulation in subsequent years.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

PUBLIC PROTECTION CABINET
Department of Alcoholic Beverage Control
(New Administrative Regulation)

804 KAR 14:011. Brewing and winemaking for personal use.

RELATES TO: KRS 241.060, 26 U.S.C. §§ 5042, 5053, 27 C.F.R. § 24.75

STATUTORY AUTHORITY: KRS 241.060(1), 26 U.S.C. §§ 5042, 5053, 27 C.F.R. § 24.75

NECESSITY, FUNCTION, AND CONFORMITY: KRS 241.060(1) authorizes the Alcoholic Beverage Control Board to regulate the use and manufacture of alcoholic beverages. This administrative regulation allows individuals to produce malt beverages and wine for personal use.

Section 1. (1) A person twenty-one (21) years of age or older may produce malt beverages for personal or family use.

(2) Malt beverages produced for personal use shall not be sold.

(3) Malt beverages produced for personal use shall not be given to any public facility to give or sell to patrons.

(4) The aggregate amount of malt beverages produced for personal use shall not exceed:

(a) 100 gallons per calendar year if there is only one (1) adult who is legally allowed to consume alcoholic beverages in the household; or

(b) 200 gallons per calendar year if there are two (2) or more adults who are legally permitted to consume alcoholic beverages in the household.

Section 2. (1) A person twenty-one (21) years of age or older may produce wine for personal use.

(2) Wine produced for personal use shall not be sold.

(3) Wine produced for personal use shall not be given to any public facility to give or sell to patrons.

(4) The aggregate amount of wine produced for personal or family use shall not exceed:

(a) 100 gallons per calendar year if there is only one (1) adult who is legally allowed to consume alcoholic beverages in the household; or

(b) 200 gallons per calendar year if there are two (2) or more adults who are legally permitted to consume alcoholic beverages in the household.

Section 3. Malt beverages and wine produced for household consumption may be entered into competitions at regularly organized fairs for prizes.

(1) Competitions may be held at a licensed or unlicensed premise.

(2) Malt beverages and wine produced for household consumption may be transported or mailed from the producer's home to the site of the competition or to the competition's designee.

(3) Judges of the competition shall be at least twenty-one (21) years of age and may only consume for judging purposes.

(4) Malt beverages or wine entered into a competition shall not be sold to, sampled by, or tasted by the general public.

ALLYSON C TAYLOR, Commissioner
RAY PERRY, Secretary

APPROVED BY AGENCY: April 14, 2022

FILED WITH LRC: April 14, 2022 at 3:48 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 June 27, 2022 at 500 Mero Street, Room 127CW, Frankfort, Kentucky 40601. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the administrative regulation. Individuals interested in being heard at this hearing shall notify this agency of their intention to attend and comment in writing at least five workdays prior to the hearing. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. If you do not wish to be heard at the public hearing, you may submit written comments on the administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. Written comments shall be accepted through 11:59 PM on June 30, 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: 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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Joshua Newton

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation authorizes individuals to brew malt beverages or ferment wine in limited quantities for personal use. It is a near duplication of a regulation that expired last year.

(b) The necessity of this administrative regulation: Without this regulation, homebrewing and home winemaking, which have been legal for at least the last seven years, are illegal under KRS 243.020(1).

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to KRS 241.060, which authorizes the Board to promulgate reasonable administrative regulations governing the supervision of the manufacture, sale, and trafficking of alcoholic beverages, and does not conflict with statute.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will remove the unnecessary administrative burden of policing minimal manufacture of alcoholic beverages for personal use.

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

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

(3) List the type and number of individuals, businesses,

organizations, or state and local governments affected by this administrative regulation: This regulation will affect homebrewers and home winemakers, as well as businesses that support those hobbyists.

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

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: Regulated individuals will not need to alter their behavior from how they had previously brewed or made wine. They will still need to limit their manufacturing of alcoholic beverages for personal use to 100 gallons per year, or 200 gallons if there are two or more adult members of their household.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: Compliance with this administrative regulation will present no cost to regulated individuals.

(c) As a result of compliance, what benefits will accrue to the entities: As an authorization to manufacture alcoholic beverages for personal use, compliance with the regulation will permit homebrewing and home winemaking.

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

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

(b) On a continuing basis: There are no ongoing costs to the administrative body as a result of implementation of this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Because there is no cost associated with implementation and enforcement of this administrative regulation, no funding will be required.

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

(9) TIERING: Is tiering applied? Explain why or why not. Tiering is not applied because this does not affect regulated entities but rather individuals who wish to brew malt beverages or make wine for personal use and will affect all such individuals equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? None.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 243.100, 241.060(1).

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

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

(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 result in increased revenues to any state or local government entities in subsequent years.

(c) How much will it cost to administer this program for the first year? There are no costs associated with administration of this regulation.

(d) How much will it cost to administer this program for subsequent years? There are no costs associated with administration of this regulation in subsequent years.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

PUBLIC PROTECTION CABINET
Department of Insurance
Licensing Division
(New Administrative Regulation)

806 KAR 009:380. Limited Lines Self-Service Storage Space Insurance Requirements.

RELATES TO: KRS 304.4-010, 304.9-030, 304.9-105, 304.9-130, 304.9-150, 304.9-230, 304.9-260, 304.9-270, 304.9-495, 304.9-497

STATUTORY AUTHORITY: KRS 304.2-110, 304.9-496

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 authorizes the commissioner to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.9-496 authorizes the commissioner to issue an agent's license with the limited line of authority for self-service storage space insurance producer and requires the commissioner to promulgate administrative regulations to establish the requirements. KRS 304.9-496 also authorizes the commissioner to issue licenses to act as a self-service storage space insurance producer and requires the commissioner to prescribe an application form for a business entity seeking to act as a limited lines self-service storage space insurance producer. This administrative regulation establishes the information to be included in the application for a limited lines self-service insurance storage space producer and the recordkeeping requirements for a self-service storage facility and their employees who offer and disseminate self-service storage space insurance.

Section 1. Definitions.

(1) "Limited lines self-service storage space insurance producer" is defined by KRS 304.9-495(1).

(2) "Self-service storage facility" is defined by KRS 304.9-495(6).

(3) "Self-service storage space insurance" is defined by KRS 304.9-495(7).

Section 2. License Application. To apply for a limited lines self-service storage space insurance license, an applicant shall submit:

(1) The appropriate completed form:

(a) For individuals, Form 8301, incorporated by reference in 806 KAR 9:025;

(b) For Business Entities, Form 8301-BE, incorporated by reference in 806 KAR 9:025; and

(c) A register, signed by the licensed limited lines self-service storage space insurance produce applicant, as prescribed on the Self-Service Storage Space Location Form, that shall include:

1. All facility locations proposed to offer and disseminate self-service storage space insurance by the limited lines self-service storage space insurance producer applicant;

2. Federal Employment Identification Number; and

3. Contact information for each self-service storage facility proposed to offer and disseminate self-service storage space insurance, including contact information for any facility operators.

(2) The register provided on the Self-Service Storage Space Location Form shall be made available to the department upon request.

Section 3. Limited Lines Self-Service Storage Space Insurance Producer Responsibilities. The licensed limited lines self-service storage space insurance producer shall:

(1) Be responsible for the acts of the self-service storage facility operator that occur within the scope of their operation of a self-service storage facility;

(2) Provide a program for instructional training to the employees of the self-service storage facility operator;

(3) Be responsible for the insurance activities of the self-service storage facility, its operators, unlicensed employees, and representatives;

(4) Report all material changes and additions to the department within thirty (30) days; and

(5) Before transacting any business at any location, ensure that the self-service storage facility and its operators provide the appropriate consumer protection disclosures as prescribed in KRS 304.9-497 to all prospective consumers in writing.

Section 4. Material Incorporated by Reference. (1) The Self-Service Storage Space Location Form, 2/2022 is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Insurance, Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 pm. This material is also available on the Department's Web site at https://insurance.ky.gov/ppc/CHAPTER.aspx.

SHARON P. CLARK, Commissioner
RAY A. PERRY, Secretary

APPROVED BY AGENCY: March 29, 2022

FILED WITH LRC: April 14, 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. on June 21st, 2022 at 500 Mero Street, Frankfort, Kentucky 40602. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 p.m. on June 30th, 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: Abigail Gall, Executive Advisor, 500 Mero Street, Frankfort, Kentucky 40601, phone +1 (502) 564-6026, fax +1 (502) 564-1453, email abigail.gall@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Abigail Gall

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the procedures for an entity to apply to the Department to act as a self-service storage space insurance producer and requires the commissioner to prescribe an application form for a business entity seeking to act as a self-service storage facility.

(b) The necessity of this administrative regulation: The regulation is necessary to establish the licensure requirements and reporting procedures for a self-service storage space insurance producer, as well as explaining said producer's responsibilities.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 304.2-110 authorizes the commissioner to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.9-496 authorizes the commissioner to issue an agent's license with the limited line of authority for self-service storage space insurance producer and requires the commissioner to promulgate administrative regulations to establish the requirements.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By setting forth the licensure requirements and responsibility of requirements for self-service storage space producers.

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

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: there are currently 191 self-service storage space producers.

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

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: Those who wish to be licensed as a self-service storage insurance producer will have to file the appropriate application with the Department.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: Resident individual license, forty (40) dollars and an additional forty (40) dollars for each line of authority; Nonresident individual license, fifty (50) dollars and an additional fifty (50) dollars for each line of authority; Resident business entity license, $100 and an additional $100 for each line of authority; and Nonresident business entity license, $120 and an additional $120 for each line of authority.

(c) As a result of compliance, what benefits will accrue to the entities: Entities will be properly licensed under the insurance code.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: This does not associate a cost on the department to implement this administrative regulation's provisions.

(a) Initially: Implementation of this amendment is not anticipated to have an initial cost on the Department of Insurance.

(b) On a continuing basis: Implementation of this amendment is not anticipated to have an on-going cost on the Department of Insurance.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Department will use funds from its current operational budget to perform the tasks necessary.

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

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

(9)TIERING: Is tiering applied? Tiering is not applied because this regulation applies equally to all self-service storage licensees.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will

be impacted by this administrative regulation? The Kentucky Department of Insurance will be impacted as the implementer of the regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 304.2-110, 304.9-496

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation may generate revenue should any new licensees apply to the Department, but this is expected to be very minimal.

(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 generated by this administrative regulation is expected to be minimal.

(c) How much will it cost to administer this program for the first year? This administrative regulation will not have a cost to implement in the first year.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation will not have a cost to administer subsequent years.

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

Revenues (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: As the amendments to this administrative regulation clarify an existing process, this administrative regulation will not have a fiscal impact on the Department of Insurance.

PUBLIC PROTECTION CABINET
Department of Insurance
Licensing Division
(New Administrative Regulation)

806 KAR 9:390. Portable Electronic Retailer license.

RELATES TO: KRS 304.4-010, 304.9-020, 304.9-440, 304.9-782, 304.9-784

STATUTORY AUTHORITY: KRS 304.2-110, 304.9-780

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 authorizes the commissioner to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.9-780 authorizes the commissioner to issue a portable electronics insurance retailer license to offer and disseminate portable electronic insurance and requires the commissioner to promulgate administrative regulations to establish the requirements for licensure. This administrative regulation establishes the information to be included in the application for a portable electronic insurance retailer license, and recordkeeping requirements for portable electronic insurance retailers and their employees who offer and disseminate portable electronics insurance.

Section 1. Definitions.

(1) “Portable electronics” is defined by KRS 304.9-020(16).

(2) “Portable electronics insurance” is defined by KRS 304.9-020(17)(a) and (b).

(3) “Portable electronics insurance supervising entity" is defined by KRS 304.9-020(18).

(4) "Portable electronics retailer" is defined by KRS 304.9-020(19).

Section 2. License Application. To apply for a portable electronic retailer license, an applicant shall submit:

(1) Business Entities Application, Form PEI; and

(2) If the portable electronic retailer receives more than fifty (50) percent of its revenue from the sale of portable electronic insurance, the following information on the Form PEI-Locations:

(a) Contact information for officers, directors, and shareholders who have an ownership interest in the portable electronic insurance retailer of ten (10) percent or more;

(b) The percentage of ownership for each officer, director, or shareholder holding an ownership interest in the portable electronic retailer of ten (10) percent or more; and

(c) The title of and affiliation with the portable electronic retailer for any such officer, director, or shareholder; and

(3) The corresponding fees established by 806 KAR 4:010.

Section 3. Register. (1) A licensed portable electronics insurance supervising entity shall maintain a register on a Form PEI-Locations that includes:

(a) The current name of the portable electronic retailer;

(b) The address for each business location including:

1. Street addresses; and

2. City, state, and zip code.

(2) The register shall be made available to the department upon request.

Section 4. Portable Electronics Insurance Retailer Supervising Entity Responsibilities. The portable electronics insurance retailer supervising entity shall:

(1) Be responsible for the insurance activities of the portable electronic retailer and its unlicensed employees and representatives; and

(2) Report all material changes and additions to the department within thirty (30) days.

Section 5. Material Incorporated by Reference. (1) The following materials are incorporated by reference:

(a) Business Entities Application, Form PEI, 2/2022; and

(b) Form PEI-Locations, 2/2022.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Insurance, Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 pm. This material is also available on the Department’s Web site at https://insurance.ky.gov/ppc/CHAPTER.aspx.

SHARON P. CLARK, Commissioner
RAY A. PERRY, Secretary

APPROVED BY AGENCY: March 29, 2022

FILED WITH LRC: April 14, 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. on June 21st, 2022 at 500 Mero Street, Frankfort, Kentucky 40602. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 p.m. on June 30th, 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: Abigail Gall, Executive Advisor, 500 Mero Street, Frankfort, Kentucky 40601, phone +1 (502) 564-6026, fax +1 (502) 564-1453, email abigail.gall@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Abigail Gall

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the information to be included in the application for portable electronic insurance retailer, and recordkeeping for portable electronic insurance retailers and their employees who offer and disseminate portable electronics insurance by the licensee, its employees, and authorized representatives at each location at which the portable electronics retailer does business in the state.

(b) The necessity of this administrative regulation: The regulation is necessary to establish the licensure requirements and reporting procedures for portable electronic insurance retailer and the responsibilities of the supervising entity.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 304.2-110 authorizes the commissioner to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.9-780 authorizes the commissioner to issue a portable electronics insurance retailer license to offer and disseminate portable electronic insurance and requires the commissioner to promulgate administrative regulations to establish the requirements for licensure.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets forth the process for a portable electronic insurance retailer to obtain a license and identifies the responsibilities of a portable electronics insurance supervising entity.

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

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will impact the 41 current portable electronic insurance retailer business entities and an unknown number of future 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: Those who wish to be licensed as a portable electronic insurance retailer will have to file the appropriate application with the Department. Supervising entities will have to maintain a register of locations, report any changes to the department, and supervise the activities of the unlicensed employees.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: Portable Electronics Insurance Retailer License: One (1) to twenty (20) locations in Kentucky, $100 per location; and Twenty-one (21) or more locations in Kentucky, $2,500 dollars total.

(c) As a result of compliance, what benefits will accrue to the entities: Entities will be properly licensed under the insurance code. Supervising entities will maintain a register of locations containing the necessary information to comply with statutory requirements.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: This does not associate a cost on the department to implement this administrative regulation's provisions.

(a) Initially: Implementation of this amendment is not anticipated to have an initial cost on the Department of Insurance.

(b) On a continuing basis: Implementation of this amendment is not anticipated to have an on-going cost on the Department of Insurance.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Department will use funds from its current operational budget to perform the tasks necessary.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied because this applies to all portable electronic retailer licensees 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? The Kentucky Department of Insurance will be impacted as the implementer of the regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 304.2-110, 304.9-780

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation may generate revenue should any new licensees apply to the Department, but this is expected to be very minimal.

(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 generated by this administrative regulation is expected to be minimal.

(c) How much will it cost to administer this program for the first year? This administrative regulation will not have a cost to implement in the first year.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation will not have a cost to administer subsequent years.

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

Revenues (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: This is a new administrative regulation.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of April 13, 2022

Call to Order and Roll Call

The April meeting of the Administrative Regulation Review Subcommittee was held on Wednesday, April 13, 2022 at 8 a.m. in Room 154 of the Capitol Annex. Senator West, 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; Senator Julie Raque Adams. Representatives Randy Bridges and Mary Lou Marzian.

LRC Staff: Sarah Amburgey, Stacy Auterson, Emily Caudill, Ange Darnell, Emily Harkenrider, Karen Howard, Carrie Nichols, and Christy Young.

Guests: Daniel Leffel, Executive Advisor, Kenneth Urlage; Chair, Kevin Winstead; Commissioner; Board of Licensure for Long-Term Care Administrators; Kelly Jenkins, Executive Director, Jeffrey Prather, General Counsel, Board of Nursing; Stephen Curley, Executive Director, Keith Poynter, General Counsel, Board of Physical Therapy; Melissa Duff, Environmental Scientist Consultant, Michael Kennedy, Director, Energy and Environment Cabinet; Michelle DeJohn, Executive Director, Oran Scotty McFarlan, Staff Attorney, Education and Workforce Development Cabinet; DJ Wasson, Chief of Staff, Public Protection Cabinet; Shan Dutta, Deputy General Counsel, Jamie Eads, Deputy Executive Director, Marc Guilfoil, Executive Director, Jennifer Wolsing, General Counsel, Horse Racing Commission; Sarah Cooper, Assistant Director, Krista Quarles, Policy Specialist, Kelli Rodman, Executive Director, Cabinet for Health and Family Services; Kim Minter, Staff Assistant, Melea Rivera, Assistant Director, Edith Slone, Division Director, Office of Health Data and Analytics; Erica Brakefield, Section Supervisor, Julie Brooks, Regulation Coordinator Jennifer Burt, Branch Manager, Jessica Davenport, Inspection Program Evaluator; Department for Public Health; Scott Brinkman, Manager, Connecting the Dots Policy Solutions, LLC; and Craig Ross, President, Kentucky Kingdom, Herschend Entertainment Company, LLC.

The Administrative Regulation Review Subcommittee met on Monday, April 13, 2022, and submits this report:

Administrative Regulations Reviewed by this Subcommittee:

BOARDS AND COMMISSIONS: Board of Licensure for Long-Term Care Administrators

201 KAR 006:040. Renewal, reinstatement, and reactivation of license. Daniel Leffel, executive advisor, and Kevin Winstead, commissioner, represented the board.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 3 and 5 through 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Nursing

201 KAR 020:220. Nursing continuing education provider approval. Kelly Jenkins, executive director, and Jeffrey Prather, general counsel, represented the board.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 4, and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 020:280. Standards for developmental status, initial status, and approval of prelicensure registered nurse and practical nurse programs.

A motion was made and seconded to approve the following amendments: to amend to: (1) list the national organizations from which accreditation shall be obtained; and (2) comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 020:360. Continuing approval and periodic evaluation of prelicensure registered nursing and licensed practical nursing programs.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to list the national organizations from which accreditation shall be obtained; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 and 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Physical Therapy

201 KAR 022:001. Definitions for 201 KAR Chapter 022. Stephen Curley, executive director, and Keith Poynter, general counsel, represented the board.

A motion was made and seconded to approve the following amendment: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

201 KAR 022:053. Code of ethical standards and standards of practice for physical therapists and physical therapist assistants.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 4, and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Medical Imaging and Radiation Therapy

201 KAR 046:020. Fees. Elizabeth Morgan, executive director, represented the board.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Attainment and Maintenance of the National Ambient Air Quality Standards

401 KAR 051:010. Attainment status designations. Melissa Duff, environmental scientist consultant, Michael Kennedy, division director, represented the division.

In response to a question by Co-Chair West, Ms. Duff stated that the previous version of this administrative regulation did not include boundaries for sulfur dioxide (SO). Boundaries for SO were established to include Henderson and Webster Counties.

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.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Apprenticeship Standards

787 KAR 003:020. Confidentiality of records of the Office of Employer and Apprenticeship Services. Michelle Dejon, executive director, and Oran McFarlan, staff attorney, represented the cabinet.

A motion was made and seconded to approve the following amendments: (1) to add a definition section; (2) to add a new Section 3 to establish provisions for publicly available information; and (3) to amend Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: General

800 KAR 001:020E. Team Western Kentucky Tornado Relief Fund. DJ Wasson, chief of staff, represented the cabinet.

In response to questions by Co-Chair West, Ms. Wasson stated that this fund distributed private and corporate donations directly to affected individuals. Transparency was ensured through the press, the fact that the fund was subject to audit, and through the oversite of local governments and local government leaders. Initially, distributions were made, in addition to FEMA distributions, to cover funeral expenses and for immediate repairs and sheltering needs. The fund was now beginning to focus on rebuilding efforts. The fund currently had received approximately $51 million in donations and had distributed approximately $10 million.

In response to questions by Co-Chair Hale, Ms. Wasson stated that the cabinet would follow up with information for this subcommittee regarding FEMA resources and their distribution. This fund first distributed monies for immediate needs based on a national model. Then, the fund would work with local governments and local leaders to address reconstruction efforts. Co-Chair Hale stated that it often took many years to rebuild after these types of events.

PUBLIC PROTECTION CABINET: Horse Racing Commission: Incentive and Development Funds

810 KAR 007:050. Kentucky Horse Breeders' Incentive Fund. Shan Dutta, deputy general counsel; Jamie Eads, deputy executive director; and Jennifer Wolsing, general counsel, represented the commission.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Health Data Analytics: Guaranteed Acceptance Program (GAP)

900 KAR 013:010. Guaranteed Acceptance Program (GAP) reporting requirements. Kim Minter, staff assistant; Melea Rivera, assistant director; and Edith Sloan, division director, represented the office.

Department for Public Health: Sanitation

902 KAR 010:120. Kentucky public swimming and bathing facilities. Erica Brakefield, section supervisor; Julie Brooks, regulation coordinator; Jennifer Burt, branch manager; and Jessica Davenport, Inspection Program evaluator, represented the department. Scott Brinkman, manager, Connecting the Dots Policy Solutions, LLC, and Craig Ross, president, Kentucky Kingdom appeared in conditional support of this administrative regulation.

In response to questions by Co-Chair West, Ms. Brooks stated that the department had met with stakeholders to develop the proposed agency amendments. Newer legislation required a separate administrative regulation, 902 KAR 010:190, to address splash pads that were operated by local governments.

Mr. Brinkman stated that, with the proposed agency amendments, this administrative regulation met the needs of stakeholders. There were residual concerns that involved safety equipment with which the department agreed to assist stakeholders in the short term.

Mr. Ross stated that Kentucky Kingdom prioritized safety above all else and followed worldwide safety standards.

At the February 7, 2022, meeting of this subcommittee, a motion was made and seconded to approve the following amendments: (1) to amend Section 1 to define terms; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 14 and 16 through 22 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved at that subcommittee meeting.

A motion was made and seconded to approve the following amendments: (1) to amend Section 12 to delete beach lifeguard requirements and insert provisions that: (a) allow a facility to submit an alternative lifeguard staffing plan if it meets certain requirements; (b) require lifeguards at all bathing beaches that allow bathers seventeen (17) years of age or younger without a responsible adult; (c) require that there be one (1) lifeguard per 100 linear feet of beachfront or a fraction thereof; (d) require bathing beaches to post warning signs if lifeguards are not provided; and (e) require one (1) lifeguard per inflatable water attraction, with additional lifeguards to ensure all areas surrounding the attraction are clearly visible at all times; and (2) to amend Section 13 to require that: (a) lifesaving equipment be centrally located in a conspicuous place that is readily accessible, instead of requiring it to be located at each lifeguard chair; and (b) the lifeboat be located in the most central location, instead of being required at the most centrally stationed lifeguard chair. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 010:121. Plan review, annual permitting, and inspection fees for public swimming and bathing facilities, including splash pads operated by local governments.

A motion was made and seconded to approve the following amendments: to amend Section 1 to require that the annual inspection fee be assessed based upon linear footage of beachfront, instead of linear square footage of beachfront. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 010:190. Splash pads operated by local governments. At the February 7, 2022, meeting of this subcommittee, a motion was made and seconded to approve the following amendments: (1) to amend Section 1 to define terms; and (2) to amend the RELATES TO paragraph and Sections 1, 2, 4, 7 through 12, 15, and 16 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved at that subcommittee meeting.

The following administrative regulations were deferred or removed from the April 13, 2022, subcommittee agenda:

DEPARTMENT OF LAW: Medical Examination of Sexual Abuse Victims

040 KAR 003:020. Protocol for operation of local multidisciplinary teams on child sexual abuse.

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 002:430. Emergency orders and hearings.

201 KAR 002:440. Legend drug repository.

Board of Nursing

201 KAR 020:260E. Organization and administration standards for prelicensure registered nurse or practical nurse programs of nursing.

201 KAR 020:480E. Licensure of graduates of foreign nursing schools.

Board of Alcohol and Drug Counselors

201 KAR 035:070. Supervision experience.

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 043:040. 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: Wildlife
301 KAR 004:001. Selection of Fish and Wildlife Resources Commission nominees.

301 KAR 004:010. Districts.

301 KAR 004:020. Ballard Wildlife Management Area restrictions.

301 KAR 004:100. Peabody Wildlife Management Area use requirements and restrictions.

301 KAR 004:110. Administration of drugs to wildlife.

JUSTICE AND PUBLIC SAFETY CABINET: Department of State Police: Driver Training
502 KAR 010:010. Definitions.

502 KAR 010:020. Department facilities; facility inspection; conflict of interest.

502 KAR 010:030. Instructor's license.

502 KAR 010:035. Commercial driver's license skill testing.

502 KAR 010:040. Training school facilities.

502 KAR 010:050. Contracts and agreements.

502 KAR 010:060. School advertising.

502 KAR 010:070. Training vehicle, annual inspection.

502 KAR 010:080. License suspension, revocation, denial.

502 KAR 010:090. Procedure for denial, suspension, nonrenewal or revocation hearings.

502 KAR 010:110. Third-party CDL skills test examiner standards.

502 KAR 010:120. Hazardous materials endorsement requirements.

Concealed Deadly Weapons
502 KAR 011:010. Application for license to carry concealed deadly weapon.

502 KAR 011:060. License denial and reconsideration process.

502 KAR 011:070. License revocation and suspension notice and reinstatement process.

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.

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.

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.

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.

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.

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.

Criminal History Record Information System
502 KAR 030:010. Criminal History Record Information System.

502 KAR 030:020. Arrest and disposition reporting procedure.

502 KAR 030:030. Audit of Criminal History Record Information System.

502 KAR 030:050. Security of centralized criminal history record information.

502 KAR 030:060. Dissemination of criminal history record information.

502 KAR 030:070. Inspection of criminal history record information by record subject.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Department of Education: Office of Learning Support Services
704 KAR 007:170. Corporal punishment.

Alternative Education Programs
704 KAR 019:002. Alternative education programs.

Department of Workforce Investment: Office of Vocational Rehabilitation
781 KAR 001:010. Office of Vocational Rehabilitation appeal procedures.

781 KAR 001:020. General provisions for operation of the Office of Vocational Rehabilitation.

781 KAR 001:030. Order of selection and economic need test for vocational rehabilitation services.

781 KAR 001:040. Rehabilitation technology services.

781 KAR 001:050. Carl D. Perkins Vocational Training Center.

Office for the Blind
782 KAR 001:010. Kentucky Business Enterprises.

782 KAR 001:070. Certified driver training program.

Kentucky Commission on Proprietary Education
791 KAR 001:010. Applications, permits, and renewals.

791 KAR 001:020. Standards for licensure.

791 KAR 001:025. Fees.

791 KAR 001:027. School record keeping requirements

791 KAR 001:030. Procedures for hearings.

791 KAR 001:035. Student protection fund.

791 KAR 001:040. Commercial driver license training school curriculum and refresher course.

791 KAR 001:050. Application for license for commercial driver license training school.

791 KAR 001:060. Application for renewal of license for commercial driver license training school.

791 KAR 001:070. Commercial driver license training school instructor and agency application and renewal procedures.

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

791 KAR 001:100. Standards for Kentucky resident commercial driver training school facilities.

791 KAR 001:150. Bond requirements for agents and schools.

791 KAR 001:155. School closing process.

791 KAR 001:160. 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 001:005. Employer-employee relationship.

803 KAR 001:006. Employer-employee relationship.

803 KAR 001:025. Equal pay provisions, meaning and application.

803 KAR 001:026. Equal pay provisions, meaning and application.

803 KAR 001:060. Overtime pay requirements.

803 KAR 001:061. Overtime pay requirements.

803 KAR 001:063. Trading time.

803 KAR 001:064. Trading time.

803 KAR 001:065. Hours worked.

803 KAR 001:066. Recordkeeping requirements.

803 KAR 001:067. Hours worked.

803 KAR 001:068. Recordkeeping requirements.

803 KAR 001:070. Executive, administrative, supervisory or professional employees; salesmen.

803 KAR 001:071. Executive, administrative, supervisory or professional employees; salesmen.

803 KAR 001:075. Exclusions from minimum wage and overtime.

803 KAR 001:076. Exclusions from minimum wage and overtime.

803 KAR 001:080. Board, lodging, gratuities and other allowances.

803 KAR 001:081. Board, lodging, gratuities and other allowances.

803 KAR 001:090. Workers with disabilities and work activity centers' employee's wages.

803 KAR 001:091. Workers with Disabilities and Work Activities Centers' employee's wages.

PUBLIC PROTECTION CABINET: Department of Insurance: Health Insurance Contracts
806 KAR 017:350. Life insurance and managed care.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: State Health Plan
900 KAR 005:020E. State Health Plan for facilities and services.

Certificate of Need
900 KAR 006:075E. Certificate of need nonsubstantive review.

Health Services and Facilities
902 KAR 020:016. Hospitals; operations and services.

902 KAR 020:018. Operation and services; end-stage renal disease facilities.

902 KAR 020:106. Operation and services; ambulatory surgical center.

Office of Inspector General
906 KAR 001:110. Critical access hospital services.

Department for Medicaid Services: Outpatient Pharmacy Program
907 KAR 023:020. Reimbursement for outpatient drugs.

Department for Community Based Services: Child Welfare
922 KAR 001:360. Private Child care placement, levels of care, and payment.

922 KAR 001:470. Central registry.

922 KAR 001:530. Post-adoption placement stabilization services.

Day Care
922 KAR 002:280. Background checks for child care staff members, reporting requirements, and appeals.

Adult Services
922 KAR 005:070. Adult protective services.

The subcommittee adjourned at 8:35 a.m. The next meeting of this subcommittee was tentatively scheduled for May 10, 2022, at 1 p.m.

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 **K - 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: 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 **K - 20**

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 **K - 39**

A list of administrative regulations for which certification letters have been filed pursuant to KRS 13A.3104 during this *Register* year.

Technical Amendment Index **K - 40**

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 **K - 41**

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
Replaced	1492	2-1-2022
016 KAR 002:230E	48 Ky.R. 255	6-25-2021
Replaced	705	2-1-2022
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
Replaced	2022	4-5-2022
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
Replaced	1506	2-1-2022
101 KAR 002:095E	47 Ky.R. 172	1-29-2021
As Amended	2534	5-11-2021
Replaced	2573	8-31-2021
Resubmitted	48 Ky.R. 2684	4-15-2022
101 KAR 002:210E	48 Ky.R. 1095	9-15-2021
Replaced	1233	4-5-2022
101 KAR 006:020E	48 Ky.R. 2687	4-15-2022
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
As Amended	1098	9-14-2021
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
201 KAR 012:082E	48 Ky.R. 1468	10-1-2021
Am Comments	2009	12-14-2021
As Amended	2184	
201 KAR 015:030E	48 Ky.R. 268	6-30-2021
Withdrawn		4-7-2022
Resubmitted	2689	4-7-2022
201 KAR 015:040E	48 Ky.R. 270	6-30-2021
Withdrawn		4-7-2022
Resubmitted	2692	4-7-2022
201 KAR 015:050E	48 Ky.R. 272	6-30-2021
Withdrawn		4-7-2022
Resubmitted	2693	4-7-2022
201 KAR 015:110E	48 Ky.R. 276	6-30-2021
Withdrawn		4-7-2022
Resubmitted	2697	4-7-2022
201 KAR 015:125E	48 Ky.R. 279	6-30-2021
Withdrawn		4-7-2022
Resubmitted	2700	4-7-2022
201 KAR 020:070E	48 Ky.R. 2702	4-6-2022
201 KAR 020:260E	48 Ky.R. 2168	1-11-2022
201 KAR 020:480E	48 Ky.R. 2367	2-2-2022
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
202 KAR 007:545E	48 Ky.R. 2704	3-30-2022
202 KAR 007:560E	48 Ky.R. 2707	3-30-2022
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	1-25-2022
605 KAR 001:215E	47 Ky.R. 2526	5-12-2021
Replaced	48 Ky.R. 1130	11-15-2021

Regulation Number	Ky.R. Page No.		Effective Date
702 KAR 001:190E	47 Ky.R.	503	8-12-2020
Withdrawn			12-8-2021
702 KAR 001:191E	48 Ky.R.	744	8-11-2021
Withdrawn			12-8-2021
702 KAR 001:192E	48 Ky.R.	1999	12-8-2021
Am Comments		2374	2-11-2022
As Amended			3-7-2022
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
Am Comments		2554	3-15-2022
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
	48 Ky.R.	2531	11-2-2021
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
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 005:020E	48 Ky.R.	2368	1-27-2022
Am Comments		2715	4-15-2022
900 KAR 006:075	48 Ky.R.	2370	1-27-2022
Am Comments		2716	4-15-2022
900 KAR 012:005E	48 Ky.R.	755	7-28-2021
Am Comments		1489	10-15-2021
As Amended - IJC		2009	12-15-2021
Replaced		2225	2-10-2022
900 KAR 014:010E	48 Ky.R.	2548	2-21-2022
As Amended		2556	3-7-2022
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*(r)*	48 Ky.R	7	6-4-2021
Expired			3-1-2022
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
Withdrawn			2-21-2022
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
908 KAR 003:010E	48 Ky.R.	2550	2-21-2022
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 003:026E	48 Ky.R.	9	6-11-2021
Expired			3-8-2022
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

009 KAR 001:070	48 Ky.R.	2529	
011 KAR 004:080			
Amended	48 Ky.R.	2779	
011 KAR 005:145			
Amended	48 Ky.R.	2781	
011 KAR 015:090			
Amended	48 Ky.R.	2783	
011 KAR 016:001			
Amended	48 Ky.R.	1203	4-5-2022
011 KAR 016:010			
Amended	48 Ky.R.	1205	4-5-2022
011 KAR 016:020			
Amended	48 Ky.R.	2788	
011 KAR 022:010	48 Ky.R.	2875	
011 KAR 023:010	48 Ky.R.	2877	
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	4-5-2022
013 KAR 003:020			
Amended	48 Ky.R.	843	
As Amended		2015	4-5-2022
013 KAR 003:030			
Amended	48 Ky.R.	844	
As Amended		2016	4-5-2022

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	Ky.R. Page No.	Effective Date
013 KAR 003:040		
Amended	48 Ky.R. 846	
As Amended	2016	4-5-2022
013 KAR 003:050		
Amended	48 Ky.R. 847	
As Amended	2017	4-5-2022
013 KAR 003:060		
Amended	48 Ky.R. 849	
As Amended	2017	4-5-2022
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 002:040		
Amended	48 Ky.R. 1207	4-5-2022
016 KAR 002:050		
Amended	48 Ky.R. 1210	
As Amended	2018	4-5-2022
016 KAR 002:180		
Amended	48 Ky.R. 444	
As Amended	1492	2-1-2022
016 KAR 002:220	48 Ky.R. 704	
As Amended	1492	2-1-2022
016 KAR 002:230	48 Ky.R. 705	2-1-2022
016 KAR 003:060		
Amended	47 Ky.R. 2614	
As Amended	48 Ky.R. 763	11-30-2021
016 KAR 003:070		
Amended	48 Ky.R. 445	
As Amended	1493	2-1-2022
016 KAR 003:080		
Amended	48 Ky.R. 2614	
016 KAR 004:020		
Amended	48 Ky.R. 1213	
As Amended	2019	4-5-2022
016 KAR 004:050		
Amended	48 Ky.R. 447	
As Amended	1494	2-1-2022
016 KAR 005:010		
Amended	48 Ky.R. 449	
As Amended	1494	2-1-2022
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	
Am Comments	1581	3-1-2022
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	
As Amended	2558	
030 KAR 003:010		
Amended	48 Ky.R. 1215	
As Amended	2021	4-5-2022
030 KAR 003:020		
Amended	48 Ky.R. 1217	
As Amended	2022	4-5-2022
030 KAR 003:030		
Amended	48 Ky.R. 1218	4-5-2022
030 KAR 005:011	48 Ky.R. 1964	
As Amended	2376	
030 KAR 005:021	48 Ky.R. 1965	
As Amended	2376	
030 KAR 005:031	48 Ky.R. 1967	
As Amended	2377	
030 KAR 005:041	48 Ky.R. 1968	
As Amended	2378	
030 KAR 005:051	48 Ky.R. 1970	
As Amended	2378	
030 KAR 005:060	48 Ky.R. 1822	
As Amended	2379	
030 KAR 006:011	48 Ky.R. 1432	
As Amended	2022	4-5-2022
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	2-1-2022
040 KAR 003:020		
Amended	48 Ky.R. 850	
040 KAR 006:010		
Amended	48 Ky.R. 852	
As Amended	1722	3-1-2022
040 KAR 006:020		
Amended	48 Ky.R. 856	
As Amended	1724	3-1-2022
040 KAR 006:030	48 Ky.R. 1062	
As Amended	1726	3-1-2022
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 002:046		
Amended	48 Ky.R. 2790	
101 KAR 002:066		
Amended	48 Ky.R. 2792	
101 KAR 002:095		
Amended	47 Ky.R. 1807	
As Amended	2573	8-31-2021
Amended	48 Ky.R. 2795	
101 KAR 002:102		
Amended	48 Ky.R. 2797	
101 KAR 002:190		
Amended	48 Ky.R. 2802	
101 KAR 002:210		
Amended	48 Ky.R. 1233	4-5-2022
101 KAR 003:015		
Amended	48 Ky.R. 2805	
101 KAR 006:020	48 Ky.R. 2878	

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	Ky.R. Page No.	Effective Date
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	3-1-2022
103 KAR 016:270		
Amended	48 Ky.R. 466	
Am Comments	1585	3-1-2022
103 KAR 016:320		
Amended	48 Ky.R. 484	
As Amended	1506	2-1-2022
103 KAR 016:352		
Amended	48 Ky.R. 486	
As Amended	1507	2-1-2022
103 KAR 018:020		
Amended	48 Ky.R. 488	
As Amended	1508	2-1-2022
103 KAR 018:090		
Amended	48 Ky.R. 490	
As Amended	1509	2-1-2022
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	2-1-2022
103 KAR 027:150		
Amended	48 Ky.R. 492	
As Amended	1510	2-1-2022
103 KAR 027:230		
Amended	48 Ky.R. 495	2-1-2022
103 KAR 030:091		
Amended	48 Ky.R. 497	
As Amended	1511	2-1-2022
103 KAR 030:120		
Amended	48 Ky.R. 501	
As Amended	1514	2-1-2022
103 KAR 030:140		
Amended	48 Ky.R. 504	2-1-2022
103 KAR 030:190		
Amended	48 Ky.R. 506	
As Amended	1515	2-1-2022
103 KAR 030:250		
Amended	48 Ky.R. 509	
As Amended	1517	2-1-2022
105 KAR 001:210		
Amended	48 Ky.R. 858	
As Amended	2381	
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	
As Amended	2387	
105 KAR 001:330		
Amended	48 Ky.R. 873	
As Amended	2393	
105 KAR 001:390		
Amended	48 Ky.R. 2811	
200 KAR 002:006		
Amended	47 Ky.R. 1811	8-31-2021
200 KAR 003:020		
Amended	48 Ky.R. 510	
As Amended	1517	2-1-2022
200 KAR 017:100	48 Ky.R. 215	
Withdrawn	*	5-14-2021
201 KAR 001:100		
Amended	47 Ky.R. 1816	
As Amended	2575	
201 KAR 001:190		
Amended	48 Ky.R. 2112	
As Amended	2558	
201 KAR 002:015		
Amended	48 Ky.R. 2815	
201 KAR 002:020		
Amended	48 Ky.R. 2817	
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
Amended	48 Ky.R. 2819	
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 002:225		
Amended	48 Ky.R. 2820	
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	
As Amended	1113	10-20-2021
201 KAR 002:430	48 Ky.R. 1063	
Am Comments	2239	
201 KAR 002:440	48 Ky.R. 2131	
Am Comments	2758	
201 KAR 006:020		
Amended	48 Ky.R. 515	
As Amended	1727	12-15-2021
201 KAR 006:040		
Amended	48 Ky.R. 1828	
As Amended	2720	
201 KAR 008:520		
Amended	48 Ky.R. 103	
Am Comments	1603	
As Amended	1728	12-15-2021
Amended	48 Ky.R. 2822	
201 KAR 008:550		
Amended	48 Ky.R. 2824	
201 KAR 008:600	48 Ky.R. 2531	
201 KAR 009:270		
Amended	47 Ky.R. 2424	

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	Ky.R. Page No.	Effective Date
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 011:121		
Amended	48 Ky.R. 2830	
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	
As Amended	2561	
201 KAR 014:050		
Amended	48 Ky.R. 1834	
As Amended	2561	
201 KAR 014:065		
Amended	48 Ky.R. 1835	
201 KAR 014:085		
Amended	48 Ky.R. 1837	
As Amended	2562	
201 KAR 014:105		
Amended	48 Ky.R. 1839	
As Amended	2564	
201 KAR 014:110		
Amended	48 Ky.R. 1841	
As Amended	2564	
201 KAR 014:115		
Amended	48 Ky.R. 1843	
As Amended	2565	
201 KAR 014:125		
Amended	48 Ky.R. 1844	
As Amended	2566	
201 KAR 014:150		
Amended	48 Ky.R. 1846	
As Amended	2567	
201 KAR 014:180		
Amended	48 Ky.R. 1848	
As Amended	2567	
201 KAR 015:030		
Amended	48 Ky.R. 517	
Withdrawn		4-7-2022
Amended	48 Ky.R. 2836	
201 KAR 015:040		
Amended	48 Ky.R. 519	
Withdrawn		4-7-2022
Amended	48 Ky.R. 2838	
201 KAR 015:050		
Amended	48 Ky.R. 521	
Withdrawn		4-7-2022
Amended	48 Ky.R. 2839	
201 KAR 015:110		
Amended	48 Ky.R. 524	
Withdrawn		4-7-2022
Amended	48 Ky.R. 2843	
201 KAR 015:125		
Amended	48 Ky.R. 527	
Withdrawn		4-7-2022
Amended	48 Ky.R. 2846	
201 KAR 017:110		
Amended	48 Ky.R. 2498	
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 020:070		
Amended	48 Ky.R. 2847	
201 KAR 020:085		
Amended	48 Ky.R. 2615	
201 KAR 020:110		
Amended	48 Ky.R. 2616	
201 KAR 020:215		
Amended	48 Ky.R. 533	
As Amended	2029	1-13-2022
201 KAR 020:220		
Amended	48 Ky.R. 1849	
As Amended	2721	
201 KAR 020:240		
Amended	48 Ky.R. 2849	
201 KAR 020:280		
Amended	48 Ky.R. 1841	
As Amended	2723	
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	
As Amended	2724	
201 KAR 020:370		
Amended	47 Ky.R. 1823	
As Amended	2581	6-16-2021
Amended	48 Ky.R. 2618	
201 KAR 020:411		
Amended	47 Ky.R. 1824	
As Amended	2582	6-16-2021
201 KAR 020:471	48 Ky.R. 218	3-10-2022
201 KAR 020:472	48 Ky.R. 220	
Am Comments	1605	
As Amended	2397	3-10-2022
201 KAR 020:474	48 Ky.R. 224	
As Amended	2400	3-10-2022
201 KAR 020:476	48 Ky.R. 227	
As Amended	2401	3-10-2022
201 KAR 020:478	48 Ky.R. 230	
As Amended	2403	3-10-2022
201 KAR 020:480		
Amended	48 Ky.R. 1858	
Withdrawn		1-31-2022
Amended	48 Ky.R. 2500	
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
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	
As Amended	2726	
201 KAR 022:020		
Amended	48 Ky.R. 2501	
201 KAR 022:045		
Amended	48 Ky.R. 541	
As Amended	1525	11-23-2021

Regulation Number	Ky.R. Page No.	Effective Date
201 KAR 022:053		
Amended	48 Ky.R. 2267	
As Amended	2727	
201 KAR 022:070		
Amended	48 Ky.R. 2503	
201 KAR 022:170		
Amended	47 Ky.R. 1424	6-16-2021
Amended	48 Ky.R. 2505	
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	
As Amended	2568	
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	
As Amended	2568	
201 KAR 026:130		
Amended	47 Ky.R. 2042	
As Amended	48 Ky.R. 313	8-26-2021
Amended	48 Ky.R. 1863	
As Amended	2569	
201 KAR 026:155		
Amended	47 Ky.R. 2046	
As Amended	48 Ky.R. 316	8-26-2021
Amended	48 Ky.R. 1866	
As Amended	2571	
201 KAR 026:160		
Amended	48 Ky.R. 1868	
As Amended	2572	
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	
As Amended	2573	
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	
As Amended	2574	
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	
As Amended	2576	
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	1888	
Am Comments	2459	
As Amended	2576	
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 033:015		
Amended	48 Ky.R. 2507	
201 KAR 034:070	47 Ky.R. 2497	
As Amended	48 Ky.R. 1527	2-1-2022
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	

Regulation Number	Ky.R. Page No.	Effective Date
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	
201 KAR 042:020		
Amended	48 Ky.R. 1242	
As Amended	2577	
201 KAR 042:030		
Amended	48 Ky.R. 1244	
As Amended	2578	
201 KAR 042:035		
Amended	48 Ky.R. 1246	
As Amended	2578	
201 KAR 042:040		
Amended	48 Ky.R. 1248	
As Amended	2579	
201 KAR 042:050		
Amended	48 Ky.R. 1251	
As Amended	2581	
201 KAR 042:060		
Amended	48 Ky.R. 1253	
201 KAR 042:061	48 Ky.R. 1971	
As Amended	2582	
201 KAR 042:070		
Amended	48 Ky.R. 1255	
As Amended	2584	
201 KAR 042:080		
Amended	48 Ky.R. 1891	
As Amended	2585	
201 KAR 042:110		
Amended	48 Ky.R. 1258	
As Amended	2587	
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	
Am Comments	2602	
201 KAR 043:050		
Amended	48 Ky.R. 1904	
Am Comments	2605	
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	
Am Comments	2610	
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 046:060		
Amended	48 Ky.R. 2509	
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	2-1-2022
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 007:545		
Amended	48 Ky.R. 2511	
Withdrawn		3-25-2022
Amended	48 Ky.R. 2851	
202 KAR 007:560		
Amended	48 Ky.R. 2276	
Withdrawn		3-25-2022
Amended	48 Ky.R. 2853	
202 KAR 007:601		
Amended	47 Ky.R. 2455	
As Amended	48 Ky.R. 416	
Am Comments	771	9-22-2021
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
Amended	2856	
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		

Regulation Number	Ky.R. Page No.	Effective Date
Amended	48 Ky.R. 133	
As Amended	1730	3-1-2022
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
Amended	2861	
301 KAR 002:142		
Amended	48 Ky.R. 886	3-1-2022
301 KAR 002:172		
Amended	48 Ky.R. 2866	
301 KAR 002:221		
Amended	47 Ky.R. 1253	
As Amended	1937	6-3-2021
Amended	48 Ky.R. 2869	
301 KAR 002:224		
Amended	48 Ky.R. 888	3-1-2022
301 KAR 002:228		
Amended	47 Ky.R. 2469	8-5-2021
301 KAR 002:230		
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	3-1-2022
301 KAR 003:026		
Amended	48 Ky.R. 894	
As Amended	2205	
301 KAR 003:027		
Amended	48 Ky.R. 895	3-1-2022
301 KAR 003:030		
Amended	48 Ky.R. 896	3-1-2022
301 KAR 003:110		
Amended	48 Ky.R. 898	3-1-2022
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	3-1-2022
301 KAR 004:070		
Amended	48 Ky.R. 904	3-1-2022
301 KAR 004:091	48 Ky.R. 1977	
As Amended	2404	
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	
As Amended	2589	
301 KAR 005:030		
Amended	48 Ky.R. 911	
As Amended	2589	
301 KAR 005:100		
Amended	48 Ky.R. 913	
As Amended	2591	
301 KAR 006:001		
Amended	48 Ky.R. 915	
As Amended	2033	
301 KAR 006:070		
Amended	48 Ky.R. 917	3-1-2022
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	
Am Comments	2460	
302 KAR 050:031		
Amended	48 Ky.R. 1640	
Am Comments	2469	
302 KAR 050:046	48 Ky.R. 1672	
Am Comments	2476	
302 KAR 050:056		
Amended	48 Ky.R. 1647	
Am Comments	2478	
302 KAR 050:080		
Amended	48 Ky.R. 1652	
Am Comments	2483	
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	4-5-2022
303 KAR 001:010		
Amended	48 Ky.R. 920	
As Amended	2034	4-5-2022
303 KAR 001:015		
Amended	48 Ky.R. 921	
As Amended	2034	4-5-2022
303 KAR 001:075		
Amended	48 Ky.R. 922	
As Amended	2034	4-5-2022
303 KAR 001:080		
Amended	48 Ky.R. 923	
As Amended	2035	4-5-2022
303 KAR 001:090		
Amended	48 Ky.R. 925	
As Amended	2036	4-5-2022
303 KAR 001:100		
Amended	48 Ky.R. 927	
As Amended	2037	4-5-2022
303 KAR 001:110	48 Ky.R. 1066	4-5-2022
401 KAR 039:060		
Amended	47 Ky.R. 2095	8-5-2021
401 KAR 051:010		
Amended	48 Ky.R. 2278	
As Amended	2729	
401 KAR 060:005		

Regulation Number	Ky.R. Page No.	Effective Date
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	2-1-2022
501 KAR 001:050		
Amended	48 Ky.R. 928	
As Amended	1731	3-1-2022
501 KAR 002:020		
Amended	48 Ky.R. 549	
As Amended	1731	3-1-2022
501 KAR 002:050		
Amended	48 Ky.R. 551	2-1-2022
501 KAR 002:060		
Amended	48 Ky.R. 552	
Am Comments	1610	
As Amended	1732	3-1-2022
501 KAR 002:070		
Amended	48 Ky.R. 555	2-1-2022
501 KAR 003:110		
Amended	48 Ky.R. 930	
As Amended	1734	3-1-2022
501 KAR 003:120		
Amended	48 Ky.R. 931	3-1-2022
501 KAR 003:130		
Amended	48 Ky.R. 934	
As Amended	1734	3-1-2022
501 KAR 003:150		
Amended	48 Ky.R. 935	
As Amended	1735	3-1-2022
501 KAR 003:170		
Amended	48 Ky.R. 938	3-1-2022
501 KAR 006:030		
Amended	48 Ky.R. 2118	
As Amended	2592	
501 KAR 006:070		
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	3-1-2022
501 KAR 006:200		
Amended	48 Ky.R. 943	
As Amended	1740	3-1-2022
501 KAR 006:250		
Amended	48 Ky.R. 946	
As Amended	1742	3-1-2022
501 KAR 006:290	48 Ky.R. 1978	
Am Comments	2484	
As Amended	2593	
501 KAR 007:040		
Amended	48 Ky.R. 951	3-1-2022
501 KAR 007:060		
Amended	48 Ky.R. 952	3-1-2022
501 KAR 007:090		
Amended	48 Ky.R. 954	3-1-2022
501 KAR 007:100		
Amended	48 Ky.R. 956	3-1-2022
501 KAR 007:110		
Amended	48 Ky.R. 957	3-1-2022
501 KAR 007:120		
Amended	48 Ky.R. 958	3-1-2022
501 KAR 007:130		
Amended	48 Ky.R. 960	
As Amended	1746	3-1-2022
501 KAR 007:140		
Amended	48 Ky.R. 962	
As Amended	1746	3-1-2022
501 KAR 007:150		
Amended	48 Ky.R. 964	
As Amended	1747	3-1-2022
501 KAR 014:010		
Amended	48 Ky.R. 965	
As Amended	1748	3-1-2022
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	4-5-2022
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	4-5-2022
502 KAR 015:010		
Amended	48 Ky.R. 1300	
As Amended	2594	
502 KAR 015:020		
Amended	48 Ky.R. 1301	
As Amended	2405	

Regulation Number	Ky.R. Page No.	Effective Date
502 KAR 020:020		
Amended	48 Ky.R. 1303	
As Amended	2041	4-5-2022
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	4-5-2022
502 KAR 035:010		
Amended	48 Ky.R. 1318	
As Amended	2406	
502 KAR 035:020		
Amended	48 Ky.R. 1320	
As Amended	2406	
502 KAR 035:030		
Amended	48 Ky.R. 1321	
As Amended	2406	
502 KAR 035:040		
Amended	48 Ky.R. 1322	
Am Comments	2259	
502 KAR 035:050		
Amended	48 Ky.R. 1324	
As Amended	2407	
502 KAR 040:010		
Amended	48 Ky.R. 1325	
As Amended	2044	4-5-2022
502 KAR 045:005		
Amended	48 Ky.R. 1326	
As Amended	2407	
502 KAR 045:015		
Amended	48 Ky.R. 1328	
Am Comments	2261	
502 KAR 045:035		
Amended	48 Ky.R. 1329	
As Amended	2408	
502 KAR 045:045		
Amended	48 Ky.R. 1331	
As Amended	2409	
502 KAR 045:075		
Amended	48 Ky.R. 1332	
As Amended	2409	
502 KAR 045:085		
Amended	48 Ky.R. 1334	
As Amended	2410	
502 KAR 045:105		
Amended	48 Ky.R. 1335	
As Amended	2410	
502 KAR 045:115		
Amended	48 Ky.R. 1336	
As Amended	2411	
502 KAR 045:150		
Amended	48 Ky.R. 1338	
502 KAR 047:010		
Amended	48 Ky.R. 1339	4-5-2022
502 KAR 050:010		
Amended	48 Ky.R. 1340	
As Amended	2045	4-5-2022
503 KAR 001:060		
Amended	48 Ky.R. 966	
As Amended	2046	4-5-2022
503 KAR 001:080		
Amended	48 Ky.R. 968	4-5-2022
503 KAR 001:090		
Amended	48 Ky.R. 970	
As Amended	2046	4-5-2022
503 KAR 001:100		
Amended	48 Ky.R. 971	
As Amended	2047	4-5-2022
503 KAR 001:110		
Amended	48 Ky.R. 973	
As Amended	2048	4-5-2022
503 KAR 001:120		
Amended	48 Ky.R. 976	
As Amended	2050	4-5-2022
503 KAR 001:140		
Amended	48 Ky.R. 979	
As Amended	2051	4-5-2022
503 KAR 001:170		
Amended	48 Ky.R. 986	
As Amended	2058	4-5-2022
503 KAR 003:020		
Amended	48 Ky.R. 1342	
As Amended	2065	4-5-2022
503 KAR 003:030		
Amended	48 Ky.R. 1346	
As Amended	2068	4-5-2022
503 KAR 003:050		
Amended	48 Ky.R. 1348	
As Amended	2070	4-5-2022
503 KAR 004:010		
Amended	48 Ky.R. 1350	
As Amended	2071	4-5-2022
503 KAR 004:040		
Amended	48 Ky.R. 1352	
As Amended	2071	4-5-2022
503 KAR 004:050		
Amended	48 Ky.R. 1353	
As Amended	2072	4-5-2022
503 KAR 005:080		
Amended	48 Ky.R. 1355	
As Amended	2074	4-5-2022
503 KAR 005:100		
Amended	48 Ky.R. 1357	
As Amended	2074	4-5-2022
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	1-25-2022
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

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	Ky.R. Page No.	Effective Date
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	2-16-2022
605 KAR 001:071	48 Ky.R. 1675	
As Amended	2206	2-16-2022
605 KAR 001:091	48 Ky.R. 1677	
As Amended	2207	2-16-2022
605 KAR 001:130		
Amended	47 Ky.R. 2646	
605 KAR 001:131	48 Ky.R. 1678	
As Amended	2207	2-16-2022
605 KAR 001:191	48 Ky.R. 1680	
As Amended	2208	2-16-2022
605 KAR 001:211	48 Ky.R. 1682	
As Amended	2209	2-16-2022
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	3-1-2022
702 KAR 001:116	48 Ky.R. 2133	
As Amended	2595	
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 003:090		
Amended	48 Ky.R. 2513	
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	4-5-2022
702 KAR 007:150	48 Ky.R. 233	
Am Comments	1612	3-1-2022
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		
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	11-2-2021
703 KAR 005:280		
Amended	47 Ky.R. 1458	
Am Comments	2405	8-3-2021
704 KAR 003:395	48 Ky.R. 2135	
As Amended	2596	
704 KAR 007:120		
Repealed	48 Ky.R. 235	3-1-2022
704 KAR 007:121	48 Ky.R. 235	3-1-2022
702 KAR 007:170	48 Ky.R. 2139	
Am Comments	2760	
704 KAR 008:110	47 Ky.R. 1508	
As Amended	1960	7-6-2021
704 KAR 019:002		
Amended	48 Ky.R. 2120	
Am Comments	2762	
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	3-1-2022
745 KAR 001:035		
Amended	48 Ky.R. 1362	
As Amended	2082	4-5-2022
780 KAR 003:020		
Amended	48 Ky.R. 2515	
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	2-1-2022
787 KAR 001:020		
Amended	48 Ky.R. 579	
As Amended	1531	2-1-2022
787 KAR 001:060		
Amended	48 Ky.R. 581	
As Amended	1532	2-1-2022

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	Ky.R. Page No.		Effective Date
787 KAR 001:080			
Amended	48 Ky.R.	582	2-1-2022
787 KAR 001:090			
Amended	48 Ky.R.	584	
As Amended		1532	2-1-2022
787 KAR 001:110			
Amended	48 Ky.R.	586	
As Amended		1533	2-1-2022
787 KAR 001:140			
Amended	48 Ky.R.	590	2-1-2022
787 KAR 001:150			
Amended	48 Ky.R.	592	
As Amended		1536	2-1-2022
787 KAR 001:210			
Amended	48 Ky.R.	593	
As Amended		1537	2-1-2022
787 KAR 001:220			
Amended	48 Ky.R.	595	
As Amended		1537	2-1-2022
787 KAR 001:260			
Amended	48 Ky.R.	596	
As Amended		1538	2-1-2022
787 KAR 001:290			
Amended	48 Ky.R.	598	2-1-2022
787 KAR 001:300			
Amended	48 Ky.R.	599	
As Amended		1538	2-1-2022
787 KAR 001:310			
Amended	48 Ky.R.	600	
As Amended		1539	2-1-2022
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	3-1-2022
Amended		2872	
787 KAR 003:020	48 Ky.R.	1980	
Am Comments		2611	
As Amended		2732	
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			
Amended	48 Ky.R.	145	
803 KAR 001:006	48 Ky.R.	2326	
Am Comments		2765	
803 KAR 001:025			
Amended	48 Ky.R.	149	
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	
Am Comments		2737	
803 KAR 001:063			
Amended	48 Ky.R.	160	
Expired before Effective			8-26-2021
803 KAR 001:064	48 Ky.R.	2335	
803 KAR 001:065			
Amended	48 Ky.R.	161	
Expired before Effective			8-26-2021
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	
803 KAR 001:071	48 Ky.R.	2339	
Am Comments		2770	
803 KAR 001:075			
Amended	48 Ky.R.	178	
803 KAR 001:076	48 Ky.R.	2342	
803 KAR 001:080			
Amended	48 Ky.R.	180	
803 KAR 001:081	48 Ky.R.	2344	
803 KAR 001:090			
Amended	48 Ky.R.	184	
803 KAR 001:091	48 Ky.R.	2347	
Am Comments		2774	
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	

Regulation Number	Ky.R. Page No.	Effective Date
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 002:325		
Amended	47 Ky.R. 2697	
As Amended	48 Ky.R. 1539	2-1-2022
803 KAR 002:401		
Amended	47 Ky.R. 1634	
As Amended	2380	8-3-2021
803 KAR 002:402		
Amended	48 Ky.R. 2517	
803 KAR 002:405		
Amended	47 Ky.R. 1636	
As Amended	2380	8-3-2021
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 002:411		
Amended	48 Ky.R. 2519	
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 002:419		
Amended	48 Ky.R. 2521	
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 002:445		
Amended	48 Ky.R. 2522	
803 KAR 002:600		
Amended	47 Ky.R. 1652	
As Amended	2386	8-3-2021
803 KAR 005:005	48 Ky.R. 2660	
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	

Regulation Number	Ky.R. Page No.	Effective Date
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	3-1-2022
803 KAR 025:195		
Amended	48 Ky.R. 2881	
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 001:102	48 Ky.R.	2884
804 KAR 004:212	48 Ky.R. 1435	
As Amended	2082	4-5-2022
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	4-5-2022
804 KAR 004:415		
Amended	48 Ky.R. 1919	
804 KAR 004:480	48 Ky.R. 1441	
As Amended	2083	4-5-2022
804 KAR 011:041	48 Ky.R.	2886
804 KAR 014:011	48 Ky.R.	2888
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	4-5-2022
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 009:380	48 Ky.R.	2889
806 KAR 009:390	48 Ky.R.	2891
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	3-1-2022
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		
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	2-1-2022
806 KAR 017:260		
Amended	48 Ky.R. 188	
As Amended	1164	1-4-2022
806 KAR 017:270		
Amended	48 Ky.R. 190	
As Amended	1551	2-1-2022
806 KAR 017:280		
Amended	48 Ky.R. 191	
As Amended	1551	2-1-2022
806 KAR 017:290		
Amended	48 Ky.R. 195	
As Amended	1165	1-4-2022
806 KAR 017:300		
Amended	48 Ky.R. 1921	
As Amended	2411	
806 KAR 017:350		
Amended	48 Ky.R. 605	
806 KAR 017:370		
Amended	48 Ky.R. 200	
As Amended	1169	1-4-2022

Regulation Number	Ky.R. Page No.	Effective Date
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	2-1-2022
806 KAR 017:510		
Repealed	48 Ky.R. 1173	1-4-2022
806 KAR 017:511*(r)*	47 Ky.R. 2775	
As Amended	48 Ky.R. 1173	1-4-2022
806 KAR 017:575		
Amended	48 Ky.R. 1924	
As Amended	2412	
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	
As Amended	2413	
806 KAR 018:030		
Amended	48 Ky.R. 1926	
As Amended	2414	
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	3-1-2022
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	2-1-2022
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 003:001		
Amended	47 Ky.R. 2127	
As Amended	48 Ky.R. 354	8-12-2021
810 KAR 003:020		
Amended	48 Ky.R. 2620	
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
Amended	48 Ky.R. 2626	
810 KAR 004:030		
Amended	47 Ky.R. 1277	7-6-2021
Amended	48 Ky.R. 2629	
810 KAR 004:040		
Amended	48 Ky.R. 610	
As Amended	1561	2-1-2022
810 KAR 004:060		
Amended	48 Ky.R. 2633	
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	4-5-2022
810 KAR 005:060		
Amended	48 Ky.R. 1378	4-5-2022
810 KAR 005:070		
Amended	48 Ky.R. 1383	4-5-2022
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	
As Amended	2416	
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
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	
As Amended	2732	
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	3-1-2022
815 KAR 004:025		
Amended	48 Ky.R. 615	
As Amended	1762	3-1-2022
815 KAR 004:027		
Amended	48 Ky.R. 617	3-1-2022
815 KAR 007:080		
Amended	48 Ky.R. 618	
As Amended	1763	3-1-2022
815 KAR 007:110		
Amended	48 Ky.R. 621	
As Amended	1765	3-1-2022
815 KAR 010:060		
Amended	48 Ky.R. 623	
As Amended	1766	3-1-2022
815 KAR 010:070		
Amended	48 Ky.R. 627	3-1-2022
815 KAR 020:050		
Amended	48 Ky.R. 629	3-1-2022
815 KAR 020:150		
Amended	47 Ky.R. 1098	
As Amended	1587	

Regulation Number	Ky.R. Page No.		Effective Date
As Amended		1967	6-15-2021
815 KAR 020:195			
Amended	48 Ky.R.	631	3-1-2022
815 KAR 030:010			
Amended	48 Ky.R.	633	3-1-2022
815 KAR 030:060			
Amended	48 Ky.R.	635	
As Amended		1769	3-1-2022
815 KAR 035:020			
Amended	48 Ky.R.	1664	
900 KAR 005:020			
Amended	48 Ky.R.	2524	
900 KAR 006:075			
Amended	48 Ky.R.	2526	
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 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	2-10-2022
900 KAR 013:010	48 Ky.R.	2348	
900 KAR 014:010	48 Ky.R.	2662	
900 KAR 020:201	48 Ky.R.	2144	
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	
As Amended		2419	
As Amended		2735	
902 KAR 010:121			
Amended	48 Ky.R.	1396	
Am Comments		2263	
As Amended		2756	
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	
As Amended		2440	
902 KAR 020:016			
Amended	48 Ky.R.	2285	
902 KAR 020:018			
Amended	48 Ky.R.	2123	
902 KAR 020:081			
Amended	48 Ky.R.	1399	2-10-2022
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 030:120			
Amended	48 Ky.R.	2635	
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			

Regulation Number	Ky.R. Page No.	Effective Date
Amended	48 Ky.R. 2302	
906 KAR 001:180		
Amended	48 Ky.R. 1403	
As Amended	2232	2-10-2022
907 KAR 001:005		
Amended	48 Ky.R. 1409	3-10-2022
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	
Am Comments	2485	
As Amended	2598	
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	
As Amended	2446	3-10-2022
907 KAR 017:010		
Amended	48 Ky.R. 1942	
As Amended	2448	3-10-2022
907 KAR 020:001		
Amended	48 Ky.R. 1948	
As Amended	2453	3-10-2022
907 KAR 020:020		
Amended	48 Ky.R. 1953	
As Amended	2457	3-10-2022
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	9-22-2021
908 KAR 002:270	47 Ky.R. 1328	
As Amended	2011	6-16-2021
908 KAR 003:010		
Amended	48 Ky.R. 2639	
910 KAR 001:190		
Amended	48 Ky.R. 1956	
Am Comments	2490	
910 KAR 004:010	48 Ky.R. 1442	
As Amended	2237	2-10-2022
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 001:310		
Amended	48 Ky.R. 2642	
922 KAR 001:315	48 Ky.R. 2665	
922 KAR 001:340		
Amended	48 Ky.R. 2656	
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	
Am Comments	2775	
922 KAR 001:490		
Amended	47 Ky.R. 1844	
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		

Regulation Number	Ky.R. Page No.	Effective Date	Regulation Number	Ky.R. Page No.	Effective Date
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	6-16-2021			
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 SECTION	REGULATION
2.015	922 KAR 001:310
	922 KAR 001:340
	922 KAR 001:565
11.065	800 KAR 001:020E
11.160	502 KAR 030:060
11A.010	009 KAR 001:070
11A.047	009 KAR 001:070
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
15.420	105 KAR 001:390
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
15.905	101 KAR 006:020E
	101 KAR 006:020
15.920	040 KAR 006:020
15.935	040 KAR 006:020
	101 KAR 006:020E
	101 KAR 006:020
15A.070	503 KAR 003:020
15A.160	502 KAR 012:010
	502 KAR 030:010
16.010	105 KAR 001:390
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

KRS SECTION	REGULATION
	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	105 KAR 001:390
16.505-16.652	105 KAR 001:210
16.545	105 KAR 001:330
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 001:310
	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	922 KAR 001:310
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
	101 KAR 002:190
18A.020	101 KAR 001:345
	101 KAR 002:102
	101 KAR 003:015
18A.030	101 KAR 002:046
	101 KAR 002:066
	101 KAR 002:095E
	101 KAR 002:095
	101 KAR 002:102
	101 KAR 002:210E
	101 KAR 002:210
	101 KAR 003:015
18A.032	101 KAR 002:046
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

KRS SECTION	REGULATION
	101 KAR 001:365
	101 KAR 001:367
	101 KAR 002:102
	803 KAR 005:005
18A.110	101 KAR 002:046
	101 KAR 002:066
	101 KAR 002:095E
	101 KAR 002:095
	101 KAR 002:102
	101 KAR 002:190
	101 KAR 003:015
18A.111	101 KAR 001:325
18A.113	101 KAR 002:066
18A.115	101 KAR 001:400
18A.120	101 KAR 002:046
18A.135	101 KAR 002:066
18A.140	101 KAR 002:102
	101 KAR 003:015
18A.145	101 KAR 002:102
	101 KAR 003:015
18A.150	101 KAR 002:046
18A.165	101 KAR 002:066
18A.195	101 KAR 002:102
	101 KAR 003:015
18A.225	101 KAR 002:210E
	101 KAR 002:210
18A.2254	101 KAR 002:210E
	101 KAR 002:210
18A.990	101 KAR 002:102
	101 KAR 003:015
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
	101 KAR 006:020E
	101 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
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
61.373	101 KAR 002:102
	101 KAR 003:015
61.394	101 KAR 002:102
	101 KAR 003:015
61.505	105 KAR 001:330
	105 KAR 001:390
61.505-61.705	105 KAR 001:210
	105 KAR 001:310
61.510	105 KAR 001:390
61.543	105 KAR 001:330
61.552	105 KAR 001:330
61.565	105 KAR 001:390
61.590	105 KAR 001:390
61.592	105 KAR 001:330
61.637	105 KAR 001:390

KRS SECTION	REGULATION
61.675	105 KAR 001:390
61.685	105 KAR 001:330
61.702	105 KAR 001:390
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
61.874	201 KAR 020:240
61.876	040 KAR 001:040E
	040 KAR 001:040
	922 KAR 001:470
61.878	201 KAR 020:085
	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
70.290-70.293	105 KAR 001:390
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	105 KAR 001:390
78.510-78.852	105 KAR 001:210
	105 KAR 001:310
78.545	105 KAR 001:330
	105 KAR 001:390
78.5520	105 KAR 001:330
78.5540	105 KAR 001:390
78.610	105 KAR 001:330
78.625	105 KAR 001:390
78.635	105 KAR 001:390
82.105	815 KAR 007:110
83	815 KAR 007:110
83A	815 KAR 007:110
95.010	739 KAR 002:060
95.022	105 KAR 001:390
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
118.035	101 KAR 002:102
	101 KAR 003:015
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
136.120	103 KAR 008:090
	103 KAR 008:090
139.010	103 KAR 027:050
	103 KAR 027:150
	103 KAR 027:230

KRS SECTION	REGULATION
	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
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

KRS SECTION	REGULATION
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 001:201
	301 KAR 001:410
	301 KAR 002:041
	301 KAR 002:050
	301 KAR 002:082
	301 KAR 002:132
	301 KAR 002:172
	301 KAR 002:221
	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 002:221
	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 001:201
	301 KAR 001:410
	301 KAR 002:041
	301 KAR 002:050
	301 KAR 002:111
	301 KAR 002:132
	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 001:201
	301 KAR 001:410
	301 KAR 002:142
	301 KAR 002:230
	301 KAR 002:260

KRS SECTION	REGULATION
	301 KAR 003:026
	301 KAR 003:110
	301 KAR 005:030
150.177	301 KAR 002:172
150.180	301 KAR 002:041
	301 KAR 002:132
	301 KAR 002:172
	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 002:221
	301 KAR 002:224
150.320	301 KAR 002:082
150.330	301 KAR 002:082
	301 KAR 002:221
	301 KAR 002:224
	301 KAR 002:230
	301 KAR 002:260
150.340	301 KAR 001:031
	301 KAR 001:050
	301 KAR 001:201
	301 KAR 002:221
	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 002:172
	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

KRS SECTION	REGULATION
150.620	301 KAR 001:012
	301 KAR 001:018
	301 KAR 001:019
	301 KAR 001:050
	301 KAR 001:201
	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
	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 001:201
	301 KAR 001:410
	301 KAR 002:041
	301 KAR 002:082
	301 KAR 002:132
	301 KAR 002:142
	301 KAR 002:172
	301 KAR 002:221
	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
154A.130	011 KAR 015:090
156.010	011 KAR 015:090
	702 KAR 003:090
156.029	701 KAR 005:160
156.070	702 KAR 001:191E
	702 KAR 001:192E
	702 KAR 001:195E
	702 KAR 007:065

KRS SECTION	REGULATION
	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
156.802	780 KAR 003:020
156.808	780 KAR 003:020
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
158.007	011 KAR 015:090
158.030	702 KAR 007:125E
	702 KAR 007:125
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
	922 KAR 001:310
158.143	013 KAR 003:050
158.160	902 KAR 002:221E
158.240	702 KAR 007:125E
	702 KAR 007:125
158.441	105 KAR 001:390
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
160.570	702 KAR 003:090
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

KRS SECTION	REGULATION
	016 KAR 003:070
	016 KAR 003:080
	016 KAR 004:020
	016 KAR 004:050
	016 KAR 005:010
	016 KAR 006:010
161.027	016 KAR 003:080
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 003:080
	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 003:080
	016 KAR 004:020
	016 KAR 004:050
	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
161.605	780 KAR 003:020
161.661	102 KAR 001:360E
163.470	782 KAR 001:010
164.002	011 KAR 015:090
164.518	011 KAR 004:080
	011 KAR 016:001
	011 KAR 016:010
	011 KAR 016:020
164.740	011 KAR 016:001
164.744	011 KAR 004:080
	011 KAR 005:145
164.748	011 KAR 004:080
164.753	011 KAR 004:080
	011 KAR 005:145
164.7535	011 KAR 004:080
	011 KAR 005:145
164.769	011 KAR 004:080
164.772	201 KAR 022:020
164.780	011 KAR 004:080
164.785	011 KAR 004:080
164.786	011 KAR 022:010
164.7870	011 KAR 023:010
164.7871	011 KAR 015:090
164.7874	011 KAR 015:090
164.7877	011 KAR 015:090
164.7879	011 KAR 015:090
164.7881	011 KAR 015:090
164.7885	011 KAR 015:090
164.7889	011 KAR 005:145
	011 KAR 015:090
164.7890	011 KAR 004:080
164.7894	011 KAR 004:080
164.945	016 KAR 005:010
164.946	016 KAR 005:010
164.947	016 KAR 005:010
164.952	105 KAR 001:390
164A.575	745 KAR 001:035

KRS SECTION	REGULATION
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
	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
171.396	300 KAR 006:010
171.3961	300 KAR 006:010
171.397	300 KAR 006:010
171.420	725 KAR 001:025
	725 KAR 001:061
171.450	725 KAR 001:020

KRS SECTION	REGULATION
	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
189.125	922 KAR 001:310
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 007:560E
	202 KAR 007:560
189A.010	782 KAR 001:070
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
	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

KRS SECTION	REGULATION
	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
	922 KAR 001:310
	922 KAR 001:315
194A.070	921 KAR 004:122E
	921 KAR 004:122
194A.380-194A.383	922 KAR 001:470
194A.540	201 KAR 020:070E
	201 KAR 020:070
	201 KAR 020:110
	201 KAR 020:320
194A.700	900 KAR 014:010E
	900 KAR 014:010
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 001:310
	922 KAR 001:315
	922 KAR 001:340
	922 KAR 001:360E
	922 KAR 001:360
	922 KAR 001:530
	922 KAR 001:565
	922 KAR 002:280
199.430	922 KAR 001:310
199.462	922 KAR 001:565
199.466	922 KAR 001:470
	922 KAR 002:280
199.470	922 KAR 001:315
199.470-199.590	922 KAR 001:565
199.510	922 KAR 001:315
199.520	922 KAR 001:315
199.555	907 KAR 017:005
199.570	922 KAR 001:310
199.572	922 KAR 001:315
199.640	922 KAR 001:310
	922 KAR 001:315
199.640-199.680	922 KAR 001:360E
	922 KAR 001:360
199.801	922 KAR 001:360E

KRS SECTION	REGULATION
	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
	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
200.654	902 KAR 030:120
200.668	902 KAR 030:120
202A	907 KAR 017:005
	908 KAR 003:010E
	908 KAR 003:010
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	908 KAR 003:010E
	908 KAR 003:010
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

KRS SECTION	REGULATION
	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
	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

KRS SECTION	REGULATION
211.185	902 KAR 010:121
211.332	201 KAR 017:110
	900 KAR 012:005E
	900 KAR 012:005
211.334	201 KAR 017:110
211.336	201 KAR 017:110
211.338	201 KAR 017:110
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
211.647	902 KAR 030:120
211.684	922 KAR 001:470
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
	902 KAR 030:120
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	900 KAR 014:010E
	900 KAR 014:010
	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

KRS SECTION	REGULATION
	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	900 KAR 006:075E
	900 KAR 006:075
	902 KAR 020:016
	902 KAR 020:018
216B.010-216B.130	900 KAR 005:020E
	900 KAR 005:020
	902 KAR 020:081
216B.015	502 KAR 012:010
	900 KAR 006:075E
	900 KAR 006:075
	902 KAR 002:020
	902 KAR 002:230E
	902 KAR 020:016
	902 KAR 020:018
	902 KAR 020:106
	906 KAR 001:110
	906 KAR 001:180
216B.040	900 KAR 006:075E
	900 KAR 006:075
	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.062	900 KAR 006:075E
	900 KAR 006:075
216B.075	902 KAR 020:016
	902 KAR 020:018
216B.085	902 KAR 020:016
	902 KAR 020:018
216B.090	900 KAR 006:075E
	900 KAR 006:075
216B.095	900 KAR 006:075E
	900 KAR 006:075
216B.105	906 KAR 001:110
216B.105-216B.125	902 KAR 020:016
	902 KAR 020:018
216B.115	900 KAR 006:075E
	900 KAR 006:075
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.455	900 KAR 006:075E
	900 KAR 006:075
216B.990	502 KAR 012:010
	900 KAR 006:075E
	900 KAR 006:075

KRS SECTION	REGULATION
	902 KAR 020:016
	902 KAR 020:018
	902 KAR 020:081
	902 KAR 020:106
	906 KAR 001:110
217.015	201 KAR 002:225
	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 002:020
	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
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 003:020
	810 KAR 004:010
	810 KAR 004:030
	810 KAR 004:040
	810 KAR 004:060
	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 004:030
	810 KAR 008:025E
	810 KAR 008:025
230.260	810 KAR 003:020
	810 KAR 004:030
	810 KAR 004:040
	810 KAR 004:060
	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 003:020
	810 KAR 005:070
230.290	810 KAR 003:020
	810 KAR 004:030
	810 KAR 005:070
	810 KAR 008:025E
	810 KAR 008:025
230.300	810 KAR 003:020
	810 KAR 005:070
230.310	810 KAR 003:020
	810 KAR 004:030
	810 KAR 005:070
230.320	810 KAR 003:020
	810 KAR 004:030
	810 KAR 005:070
	810 KAR 008:025E
	810 KAR 008:025
230.330	810 KAR 003:020
	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	301 KAR 002:172
	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
	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

KRS SECTION	REGULATION
	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
241.060	804 KAR 011:041
	804 KAR 014:011
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
244.130	804 KAR 001:102
244.500	804 KAR 001:102
244.590	804 KAR 001:102
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
258.015	922 KAR 001:310
258.035	922 KAR 001:310
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
273.161	922 KAR 001:310
	922 KAR 001:315
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
303.107	921 KAR 001:020
303.21	921 KAR 001:020
303.322	902 KAR 030:120
303.4	921 KAR 001:400E
	921 KAR 001:400

KRS SECTION	REGULATION
303.421	902 KAR 030:120
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 009:380
	806 KAR 009:390
	806 KAR 014:007
304.5-040	806 KAR 011:020
304.5-140	806 KAR 005:025
304.9-020	806 KAR 009:390
	806 KAR 011:020
	806 KAR 017:575
	806 KAR 017:590
304.9-030	806 KAR 009:380
304.9-051	806 KAR 011:020
304.9-052	806 KAR 017:450
304.9-055	806 KAR 017:590
304.9-105	806 KAR 009:380
304.9-130	806 KAR 009:380
304.9-150	806 KAR 009:380
304.9-230	806 KAR 009:380
304.9-260	806 KAR 009:380
304.9-270	806 KAR 009:380
304.9-440	806 KAR 009:390
304.9-495	806 KAR 009:380
304.9-497	806 KAR 009:380
304.9-782	806 KAR 009:390
304.9-784	806 KAR 009:390
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

KRS SECTION	REGULATION
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
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

KRS SECTION	REGULATION
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
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	201 KAR 033:015
	902 KAR 020:018
	910 KAR 001:190
310.031	201 KAR 033:015
	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

KRS SECTION	REGULATION
	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
311.720	922 KAR 001:310
311.840	902 KAR 020:081
	922 KAR 001:310
311.992	902 KAR 020:016
311A.030	202 KAR 007:545E
	202 KAR 007:545
	202 KAR 007:560E
	202 KAR 007:560
311A.100	502 KAR 030:060
311A.190	202 KAR 007:545
	202 KAR 007:560
311B	902 KAR 020:016
311B.050	201 KAR 046:020E
	201 KAR 046:020
	201 KAR 046:060
311B.100	201 KAR 046:020E
	201 KAR 046:020
311B.110	201 KAR 046:020E
	201 KAR 046:020
	201 KAR 046:060
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
	202 KAR 007:545E
	202 KAR 007:560E
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
313.021	201 KAR 008:600
313.022	201 KAR 008:520
	201 KAR 008:600
313.030	201 KAR 008:520
	902 KAR 020:106
313.035	201 KAR 008:550
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 001:310
	922 KAR 002:160E
	922 KAR 002:160
314.021	201 KAR 020:320
	201 KAR 020:478
314.027	201 KAR 020:240
314.031	201 KAR 020:110

KRS SECTION	REGULATION
314.035	201 KAR 020:472
	201 KAR 020:474
	201 KAR 020:476
	201 KAR 020:478
314.041	201 KAR 020:070E
	201 KAR 020:070
	201 KAR 020:085
	201 KAR 020:110
	201 KAR 020:240
	201 KAR 020:320
	201 KAR 020:370
	201 KAR 020:480E
	201 KAR 020:480
	902 KAR 020:018
	902 KAR 020:106
314.042	201 KAR 020:057
	201 KAR 020:240
	201 KAR 020:370
	902 KAR 020:016
	902 KAR 020:081
	902 KAR 020:106
314.051	201 KAR 020:070
	201 KAR 020:085
	201 KAR 020:110
	201 KAR 020:240
	201 KAR 020:370
	201 KAR 020:480E
	201 KAR 020:480
	902 KAR 020:106
314.071	201 KAR 020:070E
	201 KAR 020:085
	201 KAR 020:240
	201 KAR 020:370
314.073	201 KAR 020:085
	201 KAR 020:215
	201 KAR 020:220
	201 KAR 020:240
314.075	201 KAR 020:240
314.089	201 KAR 020:478
314.091	201 KAR 020:110
	201 KAR 020:370
	201 KAR 020:478
314.101	201 KAR 020:240
314.103	201 KAR 020:070E
	201 KAR 020:070
	201 KAR 020:110
314.109	201 KAR 020:070
	201 KAR 020:110
314.111	201 KAR 020:260E
	201 KAR 020:280
	201 KAR 020:320
	201 KAR 020:360
314.103	201 KAR 020:370
	201 KAR 020:476
	201 KAR 020:478
314.109	201 KAR 020:070E
314.131	201 KAR 020:220
	201 KAR 020:260E
	201 KAR 020:280
	201 KAR 020:320
	201 KAR 020:472
	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
314.142	201 KAR 020:240
314.161	201 KAR 020:240
314.171	201 KAR 020:240
314.193	201 KAR 020:057
314.195	201 KAR 020:057
314.475	201 KAR 020:070E

KRS SECTION	REGULATION
	201 KAR 020:070
	201 KAR 020:110
	201 KAR 020:370
314.991	201 KAR 020:110
	201 KAR 020:215
	201 KAR 020:478
315.010	201 KAR 002:074
	201 KAR 002:225
	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 002:225
	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
	201 KAR 002:225
	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 002:020
	201 KAR 002:050
	201 KAR 002:411E
	201 KAR 002:412E
	201 KAR 002:420
315.060	201 KAR 002:050
315.065	105 KAR 001:390
	201 KAR 002:411E
	201 KAR 002:412E
315.110	201 KAR 002:050
315.120	105 KAR 001:390
	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 002:225
	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

KRS SECTION	REGULATION
315.454	201 KAR 002:440
315.456	201 KAR 002:440
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

KRS SECTION	REGULATION
	201 KAR 026:230
	201 KAR 026:250
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
324.010	201 KAR 011:121
324.111	201 KAR 011:121
324.112	201 KAR 011:121
324.121	201 KAR 011:121
324.160	201 KAR 011:121
324.281	201 KAR 011:121
324.310	201 KAR 011:121
324.360	201 KAR 011:121
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 022:020
	201 KAR 022:045
	902 KAR 020:081
	907 KAR 001:604
327.040	201 KAR 022:053
327.050	201 KAR 022:001
	201 KAR 022:020
	201 KAR 022:070
327.060	201 KAR 022:020
	201 KAR 022:070

KRS SECTION	REGULATION
327.070	201 KAR 022:045
	201 KAR 022:053
327.075	201 KAR 022:020
327.080	201 KAR 022:020
327.100	201 KAR 022:001
327.300	201 KAR 022:170
327.310	201 KAR 022:020
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
	502 KAR 010:080
333	902 KAR 020:018
333.020	902 KAR 002:020
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.188	201 KAR 017:110
334A.190	016 KAR 002:050
334A.200	201 KAR 017:110
335.100	902 KAR 020:018
336.015	803 KAR 005:005
336.040	803 KAR 005:005
336.125	803 KAR 005:005
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

KRS SECTION	REGULATION
	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 002:419
	803 KAR 002:426E
	803 KAR 002:426
338.015	803 KAR 002:330E
	803 KAR 002:402
	803 KAR 002:445
338.051	803 KAR 002:411
338.061	803 KAR 002:411
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
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
	803 KAR 025:195E
	803 KAR 025:195
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
	101 KAR 002:102
	101 KAR 003:015
	105 KAR 001:210
349.3401	501 KAR 014:010
355.9	030 KAR 005:011E
	030 KAR 005:011
	030 KAR 005:021E

KRS SECTION	REGULATION
	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
	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
381.9203	201 KAR 011:121
383.580	201 KAR 011:121
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

KRS SECTION	REGULATION
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
	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

KRS SECTION	REGULATION
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 001:310
	922 KAR 001:565
527.110	922 KAR 001:310
	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
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 001:310
	922 KAR 001:315
	922 KAR 001:340
	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	922 KAR 001:310
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 001:310
	922 KAR 001:340
	922 KAR 001:360E
	922 KAR 001:360
	922 KAR 001:565

KRS SECTION	REGULATION
615.020-615.990	922 KAR 001:310
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
	922 KAR 001:310
	922 KAR 001:315
620.050	922 KAR 001:470
620.050-620.120	922 KAR 002:280
620.051	922 KAR 001:470
620.090	922 KAR 001:310
	922 KAR 001:565
620.140	922 KAR 001:310
	922 KAR 001:340
	922 KAR 001:565
620.142	922 KAR 001:565
620.170	922 KAR 001:530
	922 KAR 001:565
620.230	922 KAR 001:310
625	922 KAR 001:315
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
	922 KAR 001:310
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
24 C.F.R.	201 KAR 011:121
26 C.F.R.	105 KAR 001:390
27 C.F.R.	804 KAR 014:011
29 C.F.R.	101 KAR 002:102
	101 KAR 003:015
	105 KAR 001:210
	803 KAR 002:321E
	803 KAR 002:321
	803 KAR 002:330E
	803 KAR 002:411
	803 KAR 002:419
	803 KAR 002:426E
	803 KAR 002:426
	803 KAR 002:445
	806 KAR 017:260
	902 KAR 010:120
	902 KAR 020:016
34 C.F.R.	011 KAR 004:080
	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

KRS SECTION	REGULATION
	902 KAR 030:120
	922 KAR 002:160E
	922 KAR 002:160
36 C.F.R.	300 KAR 006:010
39 C.F.R.	803 KAR 002:402
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
44 C.F.R.	201 KAR 011:121
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 001:310
	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
	921 KAR 002:015E
	921 KAR 002:015
	922 KAR 001:310
12 U.S.C.	201 KAR 011:121
15 U.S.C.	810 KAR 007:050
	902 KAR 010:120
16 U.S.C.	300 KAR 006:010
18 U.S.C.	502 KAR 013:010
	502 KAR 013:030

KRS SECTION	REGULATION
	502 KAR 013:040
	502 KAR 013:050
	502 KAR 013:060
	502 KAR 013:080
20 U.S.C.	011 KAR 004:080
	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
	105 KAR 001:390
	301 KAR 004:091
	921 KAR 001:020
26 U.S.C.	101 KAR 006:020E
	101 KAR 006:020
	804 KAR 014:011
29 U.S.C.	101 KAR 001:345
	101 KAR 002:102
	101 KAR 003:015
	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.	011 KAR 015:090
	105 KAR 001:210
	201 KAR 002:411E
	201 KAR 002:412E
	201 KAR 006:040
	300 KAR 006:010
	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

KRS SECTION	REGULATION
	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
	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 001:310
	922 KAR 001:340
	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 004:060	09-03-2021	To be amended, filing deadline 03-03-2023
016 KAR 005:060	2/3/2022	To be amended, filing deadline 08-02-2023
016 KAR 02:120	01-03-2022	Remain in Effect without Amendment
200 KAR 005:365	03-29-2022	Remain in Effect without Amendment
200 KAR 014:011	03-29-2022	Remain in Effect without Amendment
200 KAR 014:081	03-29-2022	Remain in Effect without Amendment
200 KAR 015;010	03-29-2022	Remain in Effect without Amendment
200 KAR 040:010	03-29-2022	Remain in Effect without Amendment
200 KAR 040:020	03-29-2022	Remain in Effect without Amendment
201 KAR 002:030	6/23/2021	To be amended, filing deadline 12-23-2022
201 KAR 009:450	02-23-2022	Remain in Effect without Amendment
201 KAR 020:450	07-15-2021	Remain in Effect without Amendment
201 KAR 028:010	04-15-2022	Remain in Effect without Amendment
201 KAR 028:030	04-15-2022	Remain in Effect without Amendment
201 KAR 028:070	04-15-2022	Remain in Effect without Amendment
201 KAR 028:130	04-15-2022	Remain in Effect without Amendment
201 KAR 028:140	04-15-2022	Remain in Effect without Amendment
201 KAR 028:220	04-15-2022	Remain in Effect without Amendment
201 KAR 036:080	11-19-2021	Remain in Effect without Amendment
202 KAR 007:701	04-13-2022	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
302 KAR 010:110	03-22-2022	Remain in Effect without Amendment
302 KAR 021:040	02-11-2021	Remain in Effect without Amendment
702 KAR 003:320	11-16-2018	Remain in Effect without Amendment
702 KAR 007:140	12-01-2021	Remain in Effect without Amendment
705 KAR 004:041	2/11/2022	Remain in Effect without Amendment
900 KAR 006:070	07-06-2021	Remain in Effect without Amendment
902 KAR 020:320	11-23-2021	Remain in Effect without Amendment
902 KAR 020:420	11-23-2021	Remain in Effect without Amendment
902 KAR 030:001	6/15/2021	Remain in Effect without Amendment
902 KAR 030:110	6/15/2021	Remain in Effect without Amendment
902 KAR 030:120	6/15/2021	Remain in Effect without Amendment
902 KAR 030:130	6/15/2021	Remain in Effect without Amendment
902 KAR 030:150	6/15/2021	Remain in Effect without Amendment
902 KAR 030:160	6/15/2021	Remain in Effect without Amendment
902 KAR 030:180	6/15/2021	Remain in Effect without Amendment
902 KAR 030:200	6/15/2021	Remain in Effect without Amendment
902 KAR 055:045	07-06-2021	Remain in Effect without Amendment
902 KAR 055:090	07-06-2021	Remain in Effect without Amendment
902 KAR 100:010	11-12-2021	Remain in Effect without Amendment
902 KAR 100:019	08-16-2019	Remain in Effect without Amendment
902 KAR 100:042	11-12-2021	Remain in Effect without Amendment
902 KAR 100:058	11-12-2021	Remain in Effect without Amendment
902 KAR 115:010	11-12-2021	Remain in Effect without Amendment
907 KAR 015:040	03-28-2022	Remain in Effect without Amendment
907 KAR 015:075	2/11/2022	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
908 KAR 015:045	03-28-2022	Remain in Effect without Amendment
909 KAR 015:050	03-28-2022	Remain in Effect without Amendment
910 KAR 001:140	11-17-2021	Remain in Effect without Amendment
910 KAR 001:180	07-23-2021	To be amended, filing deadline 01-23-2023
910 KAR 001:220	04-11-2022	Remain in Effect without Amendment
910 KAR 003:030	11-17-2021	To be amended, filing deadline 05-17-2023
910 KAR 015:055	03-28-2022	Remain in Effect without Amendment
911 KAR 001:085	11-29-2021	To be amended, filing deadline 05-29-2023
911 KAR 015:060	03-28-2022	Remain in Effect without Amendment
912 KAR 015:065	03-28-2022	Remain in Effect without Amendment
922 KAR 001:140	11-17-2021	Remain in Effect without Amendment
922 KAR 005:050	12-03-2021	Remain in Effect without Amendment
922 KAR 005:070	12-03-2021	To be amended, filing deadline 06-23-2023

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 001:390	1-4-2022		
921 KAR 002:090	6-24-2021		
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		
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
Advertising Distilled Spirits and Wine
General advertising practices; 804 KAR 001:102
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
Malt Beverages and Wine
Brewing and winemaking for personal use; 804 KAR 014:011
Malt Beverage Equipment, Supplies and Service
Growlers; 804 KAR 011:041

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

Behavioral Health, Developmental and Intellectual Disabilities
Institutional Care
Patient's rights; 908 KAR 003:010

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 and Certification for Dietitians and Nutritionists; 201 KAR Chapter 033
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
Real Estate Commission; 201 KAR Chapter 011
Speech-Language Pathology and Audiology; 201 KAR Chapter 017
State Board of Accountancy; 201 KAR Chapter 001

Behavioral Health, Developmental and Intellectual Disabilities
Institutional Care
908 KAR 003:010. Patient's rights

CERTIFICATE OF NEED
Certificate of Need
Application process; 900 KAR 006:065
Certificate of Need nonsubstantive review; 900 KAR 006:075
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
Office of Inspector General
Essential personal care visitor programs; visitation guidelines; 900 KAR 014:010
State Health Plan
State Health Plan for facilities and services; 900 KAR 005:020
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
Standards for child-placing agencies; 922 KAR 001:310
Standards for child-placing agencies placing children who are not in the custody of the cabinet; 922 KAR 001:315
Standards for independent living programs; 922 KAR 001:340
Day Care
922 KAR 002:280. Background checks for child care staff members, reporting requirements, and appeals.
Energy 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
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
Anesthesia and sedation related to dentistry; 201 KAR 008:550.
Fees and fines; 201 KAR 008:520.
Mobile dental facilities and portable dental units; 201 KAR 008:600

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
Personnel System for Certified and Equivalent Employees
Compensation plan; 780 KAR 003:020
School Administration and Finance
Depository of board, collateral; 702 KAR 003:090
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
Career and technical education school principals; 016 KAR 003:080
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
License classifications; 202 KAR 007: 545

EMPLOYMENT AND TRAINING; OFFICE OF
Employment Services
Local workforce development area governance; 787 KAR 002:040.
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

EXECUTIVE BRANCH ETHICS COMMISSION
Standards of ethical conduct for transition team members and disclosure form; 009 KAR 001:070

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
Deer hunting seasons, zones, and requirements; 301 KAR 002:172
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 seasons and limits; 301 KAR 002:221.
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 Violator 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

FOOD STAMPS
See Supplemental Nutritional Assistance Program, 921 KAR Chapter 003

HERITAGE COUNCIL
Historic rehabilitation tax credit certifications; 300 KAR 006:010

HORSE RACING COMMISSION
Flat and Steeplechase Racing
Entries, subscriptions, and declarations; 810 KAR 004:030
Horses; 810 KAR 004:010
Objections and complaints; 810 KAR 004:060
Running of the race; 810 KAR 004:040
Incentive and Development Funds
Kentucky Horse Breeders' Incentive Fund; 810 KAR 007:050
Licensing
Licensing of racing participants; 810 KAR 003:020
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
Agents, Consultants, Solicitors and Adjustors
Limited lines self-service storage space insurance requirements; 806 KAR 009:380
Portable electronic retailer license; 806 KAR 009:390Health 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 HIGHER EDUCATION ASSISTANCE AUTHORITY
CAP grant award determination procedure; 011 KAR 005:145
Definitions for 11 KAR Chapter 16; 011 KAR 016:001
Dual Credit Scholarship Program; 011 KAR 022:010
Early Childhood Development Scholarship Program applicant selection process; 011: KAR 016:010
Early Childhood Development Scholarship Program disbursement process; 011 KAR 016:020
Kentucky Educational Excellence Scholarship (KEES) Program; 011 KAR 015:090
Optometry Scholarship Program; 011 KAR 023:010
Student aid applications; 011 KAR 004:080

KENTUCKY RETIREMENT SYSTEMS
Employment after retirement; 105 KAR 001:390

KENTUCKY STATE UNIVERSITY
Board of Regents
Procurement procedures; 745 KAR 001:035

LABOR CABINET
Administration
Employee access to or use of federal tax information; required criminal background check; 803 KAR 005:005

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 and CERTIFICATION FOR DIETITIANS AND NUTRITIONISTS
Application; approved programs; 201 KAR 033:015

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
Continuing education requirements; 201 KAR 046:060
Fees; 201 KAR 046:020

NURSING
Applications for licensure; 201 KAR 020:370
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
Fees for applications and for services; 201 KAR 020:240
Initial approval for dialysis technician training programs; 201 KAR 020:472
Licensure by endorsement; 201 KAR 020:110
Licensure of graduates of foreign nursing schools; 201 KAR 020:480
Licensure periods and miscellaneous requirements; 201 KAR 020:085
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 Cabinet, Classified
2022 Plan Year Handbook for the Public Employee Health Insurance Program; 101 KAR 002:210

Applying for employment, qualifications and examinations; 101 KAR 002:046
Certification and selection of eligible applicants for employment; 101 KAR 002:066.
Classified leave general requirements; 101 KAR 002:102
Classified service general requirements; 101 KAR 002:095
Employee performance management system; 101 KAR 002:190
Personnel Cabinet, Unclassified
Leave requirements for unclassified service; 101 KAR 003:015
Personnel Cabinet, General
Kentucky Employees Charitable Campaign; 101 KAR 006:020

PHARMACY
Administration of vaccines; 201 KAR 002:420
Compounding; 201 KAR 002:076
Continuing education; 201 KAR 002:015
Emergency orders and hearings; 201 KAR 002:430
Examination; 201 KAR 002:020
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
Special limited pharmacy permit- Medical gas; 201 KAR 002:225

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
Eligibility and credentialing procedure; 201 KAR 022:020
Physical Therapy Compact Commission; 201 KAR 022:170.
Requirements for foreign-educated physical therapists and physical therapist assistants; 201 KAR 022:070

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
Early Intervention System
Evaluation and eligibility; 902 KAR 030:120
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

REAL ESTATE COMMISSION
Standards of professional conduct; 201 KAR 011:121

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

SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
Telehealth and telepractice; 201 KAR 017:110

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
Utilization review, appeal of utilization review decisions and medical bill audit; 803 KAR 025:195
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
Confined spaces in construction; 803 KAR 002:445
Contest of citation; 803 KAR 002:140
Cranes and derricks in construction; 803 KAR 002:440
Demolition; 803 KAR 002:419
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
General safety and health provisions; 803 KAR 002:402
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
Scaffolds; 803 KAR 002:411
Stairways and ladders; 803 KAR 002:426
Variance and interim order; 803 KAR 002:170