



ADMINISTRATIVE REGISTER OF KENTUCKY

The submission deadline for this edition of the *Administrative Register of Kentucky* was noon, April 14, 2023.

MEETING NOTICES

The **Administrative Regulation Review Subcommittee** is **tentatively** scheduled to meet on May 9, 2023, at 1:00 p.m. in room 149 Capitol Annex.
ARRS Tentative Agenda - [2043](#) [Online agenda updated as needed](#)

INDEXES & OTHER INFORMATION

| | | | |
|---------------------------------------|-------|----------------------------|--------|
| Regulation Review Procedure | 2045 | KRS Index | K - 15 |
| ARRS Report | 2192 | Certifications | K - 28 |
| Other Committee Reports | 2196 | Technical Amendments | K - 30 |
| Locator Index - Effective Dates | K - 2 | Subject Index | K - 31 |

EMERGENCIES

| | |
|---|------|
| Board of Pharmacy | |
| 201 KAR 002:414E. Ordering and administering vaccinations | 2046 |
| Horse Racing Commission | |
| 810 KAR 004:010E. Horses | 2048 |
| Office of Inspector General | |
| 900 KAR 014:010E. Essential personal care visitor programs; visitation guidelines | 2052 |
| 902 KAR 055:015E. Schedules of controlled substances | 2054 |
| Department for Medicaid Services | |
| 907 KAR 001:038E. Hearing Program coverage and requirements | 2057 |
| 907 KAR 001:126E. Dental services' coverage provisions and requirements | 2062 |
| 907 KAR 001:632E. Vision program coverage provisions and requirements | 2069 |

AMENDED IN-PROCESS EMERGENCIES

| | |
|---|------|
| Department of Juvenile Justice | |
| 505 KAR 001:140E. Department of Juvenile Justice Policies and Procedures Manual: Detention Services | 2075 |

AS AMENDED

| | |
|--|------|
| Kentucky State Board of Accountancy | |
| 201 KAR 001:190. Examination sections, applications, and procedures | 2076 |
| Board of Pharmacy | |
| 201 KAR 002:380. Board authorized protocols | 2078 |
| Board of Optometric Examiners | |
| 201 KAR 005:002. Board administration and optometric practice | 2080 |
| Board of Nursing | |
| 201 KAR 020:411. Sexual Assault Nurse Examiner Program standards and credential requirements | 2082 |
| 201 KAR 020:472. Initial approval for dialysis technician training programs | 2084 |

| | |
|---|------|
| 201 KAR 020:476. Dialysis technician credentialing requirements for initial credentialing, renewal, and reinstatement | 2087 |
| Department of Fish and Wildlife Resources | |
| 301 KAR 002:144. Fall wild turkey hunting | 2089 |
| 301 KAR 002:300. Black bear seasons and requirements | 2090 |
| 301 KAR 005:010. License agent applications and agreements | 2092 |
| 301 KAR 005:020. License agent requirements and responsibilities | 2093 |
| 301 KAR 005:022. License, tag, and permit fees | 2094 |
| Office of Unemployment Insurance | |
| 787 KAR 001:090. Unemployed worker's reporting requirements | 2096 |
| 787 KAR 001:100. Week of unemployment defined | 2097 |
| Department of Insurance | |
| 806 KAR 006:072. Valuation of life insurance and annuity reserves | 2098 |
| Department of Financial Institutions | |
| 808 KAR 010:440. Examples of dishonest or unethical practice for broker-dealers and agents | 2100 |
| 808 KAR 010:450. Examples of dishonest or unethical practice for investment advisers and investment adviser representatives | 2102 |
| 808 KAR 016:010. Licensing, registration, renewal and fees | 2104 |
| 808 KAR 016:020. Recordkeeping requirements; unfair, deceptive, or predatory practices | 2105 |
| Department of Charitable Gaming | |
| 820 KAR 001:005. Charitable gaming licenses and exemptions | 2107 |
| 820 KAR 001:025. Reports | 2109 |
| 820 KAR 001:130. Administrative actions | 2110 |
| Office of Inspector General | |
| 902 KAR 055:110. Monitoring system for prescription controlled substances | 2111 |
| Department for Medicaid Services | |
| 907 KAR 001:082. Coverage provisions and requirements regarding rural health clinic services | 2113 |

AMENDED AFTER COMMENTS

Office of Inspector General

| | |
|--|------|
| 902 KAR 020:490. Rural emergency hospitals | 2125 |
|--|------|

PROPOSED AMENDMENTS

Department of Fish and Wildlife Resources

| | |
|--|------|
| 301 KAR 006:001. Definitions for 301 KAR Chapter 6 | 2128 |
| 301 KAR 006:020. Boating safety equipment | 2130 |

Internal Investigations Branch

| | |
|--|------|
| 500 KAR 003:010. Definitions | 2132 |
| 500 KAR 003:020. Filing and processing SLPO commissions | 2134 |

Housing, Buildings and Construction

| | |
|--|------|
| 815 KAR 004:030. Elevator licensing | 2138 |
| 815 KAR 008:010. Licensing requirements for master HVAC contractors and journeyman HVAC mechanics..... | 2141 |
| 815 KAR 010:060. Standards of Safety | 2145 |
| 815 KAR 020:030. Plumbing licenses..... | 2148 |
| 815 KAR 025:020. Recreational vehicles | 2151 |
| 815 KAR 025:060. Licensing and certifications with manufactured homes and mobile homes | 2156 |
| 815 KAR 035:060. Licensing of electrical contractors, master electricians, and electricians | 2160 |

Office of Inspector General

| | |
|--|------|
| 900 KAR 014:010. Essential personal care visitor programs; visitation guidelines..... | 2164 |
| 902 KAR 020:018. Operation and services; End Stage Renal Disease (ESRD) facilities. | |

| | |
|--|------|
| 902 KAR 055:015. Schedules of controlled substance | 2166 |
|--|------|

Department for Medicaid Services

| | |
|--|------|
| 907 KAR 001:038. Hearing Program coverage provisions and requirements | 2174 |
| 907 KAR 001:632. Vision program coverage provisions and requirements | 2178 |

NEW ADMINISTRATIVE REGULATIONS

Housing, Buildings and Construction

| | |
|---|------|
| 815 KAR 007:130. Kentucky Industrialized Building Systems..... | 2183 |
|---|------|

Department for Medicaid Services

| | |
|---|------|
| 907 KAR 001:126. Dental services' coverage provisions and requirements | 2185 |
|---|------|

The **ADMINISTRATIVE REGISTER OF KENTUCKY** is the monthly supplement for the 2022 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: 49th Year of the Kentucky Register, page 318 (short form: 49 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 | 050: | 155 |
| Cabinet, Department, Board, or Agency | | Office, Division, Board, or Major Function | Specific Regulation |

ADMINISTRATIVE REGISTER OF KENTUCKY

(ISSN 0096-1493)

© 2023 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

Representative David Meade
Speaker Pro Tempore

Senator Damon Thayer
Majority Floor Leader

Representative Steven Rudy
Majority Floor Leader

Senator Gerald A. Neal
Minority Floor Leader

Representative Derrick Graham
Minority Floor Leader

Senator Julie Raque Adams
Majority Caucus Chair

Representative Suzanne Miles
Majority Caucus Chair

Senator Reginald Thomas
Minority Caucus Chair

Representative Cherlynn Stevenson
Minority Caucus Chair

Senator Mike Wilson
Majority Whip

Representative Chad McCoy
Majority Whip

Senator David Yates
Minority 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 Derek Lewis, Co-Chair
Senator Julie Raque Adams
Senator Damon Thayer
Senator David Yates
Representative Randy Bridges
Representative Deanna Frazier Gordon
Representative Daniel Grossberg

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 9, 2023 at 1 p.m.
Annex Room 149



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

EDUCATION AND LABOR CABINET

Education Professional Standards Board
Certification Procedures

016 KAR 004:060. Certificate renewals and teaching experience.

DEPARTMENT OF THE LAW

Kentucky Opioid Abatement Advisory Commission

040 KAR 009:010E. General application procedure. ("E" expires 10-03-2023) (Filed with Ordinary) (Deferred from March)

040 KAR 009:010. General application procedure. (Filed with Emergency) (Deferred from April)

040 KAR 009:020E. Local government application procedure. ("E" expires 10-3-2023) (Filed with Ordinary) (Emergency Not Amended After Comments) (Deferred from April)

040 KAR 009:020. Local government application procedure. (Filed with Emergency) (Not Amended After Comments) (Deferred from April)

BOARDS AND COMMISSIONS

Board of Licensure for Long-Term Care Administrators

201 KAR 006:060. Fees. (Deferred from August)

Board of Dentistry

201 KAR 008:533. Licensure of dentists.

201 KAR 008:563. Licensure of dental hygienists.

Board of Nursing

201 KAR 020:360. Continuing approval and periodic evaluation of prelicensure registered nursing and licensed practical nursing programs.

201 KAR 020:390. Nursing Incentive Scholarship Fund.

TOURISM, ARTS AND HERITAGE CABINET

Department of Fish and Wildlife Resources

Game

301 KAR 002:015. Feeding of wildlife.

301 KAR 002:090. Means by which migratory game birds may be taken.

Wildlife

301 KAR 004:110. Administration of drugs to wildlife.

JUSTICE AND PUBLIC SAFETY CABINET

Department of Corrections

Office of the Secretary

501 KAR 006:150. Eastern Kentucky Correctional Complex policies and procedures.

TRANSPORTATION CABINET

Department of Highways

Motorcycle and Bicycle Safety

601 KAR 014:050. Motorcycle Safety Education Program.

EDUCATION AND LABOR CABINET

Department of Education

Academic Standards

704 KAR 008:060. Required academic standards for social studies. (Not Amended After Comments)

Workers' Compensation Funding Commission

803 KAR 030:010. Special fund assessments.

PUBLIC PROTECTION CABINET

Department of Financial Institutions

General Provisions

808 KAR 001:170. Licensing and registration. (Deferred from January)

VOLUME 49, NUMBER 11– MAY 1, 2023

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 12-10-2023) (Filed with Ordinary)

Certificate of Need

900 KAR 006:075E. Certificate of need nonsubstantive review. ("E" expires 12-10-2023) (Filed with Ordinary)

Office of Inspector General Health Services and Facilities

902 KAR 020:480. Assisted living communities. (Amended After Comments) (Deferred from April)

902 KAR 020:490. Rural emergency hospitals. (Filed with Emergency) (Amended After Comments)

Department for Medicaid Services Payment and Services

907 KAR 003:190. Reimbursement for treatment related to clinical trials.

Department for Aging and Independent Living Children with Special Health Care Needs Services

910 KAR 001:180. Homecare program for the elderly.

Department for Community Based Services Child Welfare

922 KAR 001:100. Public agency adoptions.

922 KAR 001:330. Child protective services.

3. OTHER BUSINESS

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services Medicaid Services

907 KAR 001:038E. Hearing Program coverage and requirements. (Filed with Ordinary) ("E" expires 01-07-2024)

907 KAR 001:126E. Dental services' coverage provisions and requirements. (Filed with Ordinary) ("E" expires 01-07-2024)

907 KAR 001:632E. Vision program coverage provisions and requirements. (Filed with Ordinary) ("E" expires 01-07-2024)

4. REGULATIONS REMOVED FROM MAY'S AGENDA

BOARDS AND COMMISSIONS

Board of Nursing

201 KAR 020:478. Dialysis technician scope of practice, discipline, and miscellaneous requirements. (Comments Received; SOC ext. due 05-15-2023)

Board of Social Work

201 KAR 023:016. Temporary permission to practice. (Filed with Emergency) (Deferred from January)

JUSTICE AND PUBLIC SAFETY CABINET

Department of Juvenile Justice Child Welfare

505 KAR 001:120. Department of Juvenile Justice Policies and Procedures Manual: Health and Safety Services. (Filed with Emergency) (Comments Received; SOC ext. due 05-15-2023)

505 KAR 001:140. Department of Juvenile Justice Policies and Procedures Manual: Detention Services. (Filed with Emergency) (Comments Received; SOC ext. due 05-15-2023)

**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. Other statutes or legislation may affect a regulation's actual end date.

STATEMENT OF EMERGENCY
201 KAR 002:414E

This emergency administrative regulation establishes requirements that the Board of Pharmacy shall implement to comply with 42 U.S.C. 247d-6d, 85 Fed. Reg. 15198, 52136 and 86 Fed. Reg. 9516, 10588, 14462 and 41977. These provisions of federal law preempt state law during the public health emergency (PHE). Since March 18, 2020, ten (10) amendments to the Prep Act declaration have been issued, including amendments authorizing pharmacists to prescribe and administer COVID-19 vaccines for individuals as young as three (3). The PHE for COVID-19 ends on May 11, 2023, and under section V(d) and (f) and under section VII(b) of the PREP Act declaration, the expanded authority for pharmacists will expire. This statement of emergency is limited from filing until May 11, 2023. This emergency administrative regulation is necessary, pursuant to KRS 13A.190(1)(a)3 and 4, to ensure continued compliance with federal law and to ensure that Kentucky continues to have an ample pool of pharmacists available to order and administer the COVID-19 vaccine. Without this emergency regulation, many Kentucky-licensed pharmacists would become ineligible to order and to administer the COVID-19 vaccine because they do not meet federal training requirements. So long as the state has a training requirement, compliance with the state training requirement is sufficient to comply with federal law. Without this emergency administrative regulation, there is no state training requirement. An ordinary administrative regulation is not a sufficient avenue to address the current emergency due to the COVID-19 pandemic being temporary. This emergency administrative regulation will not be replaced by an ordinary administrative regulation.

ANDY BESHEAR, Governor
CHRISTOPHER HARLOW, Executive Director

BOARDS AND COMMISSIONS
Board of Pharmacy
(New Emergency Administrative Regulation)

201 KAR 002:414E. Ordering and administering vaccinations.

EFFECTIVE: March 22, 2023

RELATES TO: KRS 315.010, 315.020, 315.050, 315.065, 315.135, 315.205, 42 U.S.C. 247d-6d, 85 Fed. Reg. 15198, 52136, 79190, 86 Fed. Reg. 7872, 9516, 10588, 14462, 41977

STATUTORY AUTHORITY: KRS 315.191

NECESSITY, FUNCTION, AND CONFORMITY: 85 Fed. Reg. 15198, 85 Fed. Reg. 52136 and 6 Fed. Reg. 9516, 10588, and 41977, require the Board of Pharmacy to promulgate an administrative regulation to conform state law to federal law while the PREP Act declaration remains in effect for COVID-19. KRS 315.010(22) does not authorize pharmacists to prescribe vaccinations, nor does KRS 315.010(22) authorize the use of prescriber-approved protocols for pharmacists or pharmacist interns to administer vaccinations to children under the age of nine (9). 85 Fed. Reg. 52136 requires that state-licensed pharmacists be authorized to prescribe and to administer vaccinations to children between the ages of three (3) and seventeen (17). 85 Fed. Reg. 79190 requires that state law establish a training requirement for all pharmacists that will be ordering or administering vaccinations pursuant to the declaration. The Prep Act (42 U.S.C. 247d-6d(8)) preempts any state law that would prohibit or effectively prohibit activities authorized by the secretary in a PREP Act Declaration. This administrative regulation establishes requirements for Kentucky to comply with 85 Fed. Reg. 15198, 52136, 79190 and 86 Fed. Reg. 7872, 9516, 10588, 14462, and

41977 and ensures a robust pool of pharmacist for prescribing and administering vaccines.

Section 1. Definitions.

(1) "Administer" is defined by KRS 315.010(1).

(2) "Pharmacist" is defined by KRS 315.010(17).

(3) "Prescribe" means to issue an original or new order from a pharmacist for an FDA-approved or authorized vaccination or medication, including but not limited to, epinephrine, diphenhydramine, and corticosteroids for the emergency treatment of acute vaccine reactions.

Section 2. Pharmacist Requirements.

(1) A pharmacist may administer a vaccine to an individual pursuant to the Advisory Committee on Immunization Practices (ACIP) standard immunization schedule in accordance with KRS 315.010(22).

(2) A pharmacist may administer a vaccine to a child, age three (3) through eight (8), pursuant to a prescriber-approved protocol.

(3) A pharmacist may prescribe and administer a vaccine to an individual eighteen (18) and under, pursuant to the ACIP standard immunization schedule, a seasonal flu vaccine to any individual aged nineteen and over, a COVID-19 vaccine to any individual, and medications necessary for the emergency treatment of acute vaccine reactions, if the pharmacist:

(a) Completes or has completed practical training on administering vaccinations. This may include:

1. Completion of a practical training program from an education provider accredited by the Accreditation Council for Pharmacy Education (ACPE) that includes hands-on injection technique and the recognition and emergency treatment of acute reactions;

2. Graduation from an ACPE accredited pharmacy school in which hands-on immunization training was part of the curriculum; or

3. Training via hands-on experience immunizing in current or previous pharmacy practice; and

(b) Possesses a current certificate in basic cardiopulmonary resuscitation.

(4) No provision in this regulation affects the ability of a pharmacist to administer a vaccination to any individual pursuant to a prescription drug order.

Section 3. Effective Date.

(1) This administrative regulation shall become effective at 5 p.m. on the date it is filed.

(2) In accordance with KRS 31A.190, this administrative regulation shall remain in effect until:

(a) Expiration of the time period established by KRS 31A.190; or

(b) Withdrawn in accordance with KRS 13A.190(12).

(3) The Board of Pharmacy shall regularly consult with the Governor's Office, the Centers for Disease Control and Prevention, and other public health authorities to determine if this administrative regulation shall be withdrawn prior to its expiration under KRS 13A.190.

CHRISTOPHER P. HARLOW, Executive Director

APPROVED BY AGENCY: March 16, 2023

FILED WITH LRC: March 22, 2023 at 11:20 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 24, 2023, at 10:00 a.m. Eastern Time at the Kentucky Board of Pharmacy's conference room, 125 Holmes St., Third Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be

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. 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, 2023. 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 authorizes pharmacists to order and to administer vaccinations to individual three (3) and older, pursuant to specific requirements.

(b) The necessity of this administrative regulation: The administrative regulation is necessary to comply with federal regulation and to ensure the health and safety of the citizens of the Commonwealth. This administrative regulation is necessary to limit the training requirements for pharmacists so that the federal default training requirement is not imputed to Kentucky pharmacists. If that were to occur, the majority of Kentucky pharmacists would not be authorized to administer the COVID-19 vaccine.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 315.191 authorizes the Board of Pharmacy to promulgate regulations to regulate and control all matters relating to pharmacists, pharmacies, pharmacist interns and pharmacy technicians. This emergency regulation relates to pharmacist authority to order and administer vaccinations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will allow for vaccinations that are recommended by the Advisory Committee on Immunization Practices' (ACIP) standard immunization schedule, including COVID-19 vaccinations and seasonal flu vaccinations to be ordered and administered by a greater number of individuals.

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

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation impacts any pharmacist that desires to order or administer vaccinations to individuals three (3) and up.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: There is no requirement for pharmacists to prescribe or to administer vaccinations; however, this administrative regulation provides pharmacists with an authorization to prescribe and to administer vaccinations pursuant to this administrative regulation's requirements. Should the pharmacist choose to order or to administer vaccinations, the pharmacist shall meet the conditions set forth in this regulation, including completing a training, being CPR certified and other

conditions specifically enumerated.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This administrative regulation does not require pharmacists to prescribe or to administer vaccinations and therefore this administrative regulation does not create any cost to the potentially impacted individuals. However, should the pharmacist choose to prescribe or to administer vaccinations, those individuals will have the cost of training and the cost of becoming CPR certified, if they are not already.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). The ability to vaccinate more individuals aged three (3) and up. This will improve vaccination rates.

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

(a) Initially: No cost to the administrative body.

(b) On a continuing basis: No cost to the administrative body.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Board of Pharmacy will inspect pharmacies and pharmacist practice to ensure compliance with this emergency administrative regulation. The Board of Pharmacy already employs inspectors, and this regulation will not increase any cost of enforcement for the Board of Pharmacy.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied, as this administrative regulation does not mandate that any pharmacist prescribe or administer vaccines, it simply provides an opportunity for those qualified individuals to do so if they choose.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? There will be no impact on local or state government outside of the Board of Pharmacy's enforcement of the regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. 42 U.S.C. 247d-6d, 85 Fed. Reg. 15198, 85 Fed. Reg. 52136, 86 Fed. Reg. 9516, 10588, 14462 and 41977.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There will be no effect on the expenditures and revenue of a state or local government agency.

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

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

(c) How much will it cost to administer this program for the first year? There will be no cost to administer this regulation.

(d) How much will it cost to administer this program for subsequent years? This regulation will not generate costs.

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

Revenues (+/-): 0
Expenditures (+/-): 0
Other Explanation:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect? There will be no impact on the expenditures or cost savings of regulated entities. The Board does not require any action in this regulation, it only permits action.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? There will be no impact on the expenditures or cost savings of regulated entities. The Board does not require any action in this regulation, it only permits action.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? There will be no impact on the expenditures or cost savings of regulated entities. The Board does not require any action in this regulation, it only permits action.

(c) How much will it cost the regulated entities for the first year? There will be no impact on the expenditures or cost savings of regulated entities. The Board does not require any action in this regulation, it only permits action.

(d) How much will it cost the regulated entities for subsequent years? There will be no impact on the expenditures or cost savings of regulated entities. The Board does not require any action in this regulation, it only permits action.

Cost Savings (+/-): 0
Expenditures (+/-): 0
Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This administrative regulation will not have a major economic impact.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 42 U.S.C. 247d-6d, 85 Fed. Reg. 15198, 85 Fed. Reg. 52136, 86 Fed. Reg. 9516, 10588, 14462 and 41977. This is an emergency federal mandate only in effect during the federal declaration under the PREP Act and during the federal Public Health Emergency (PHE) for COVID-19 and will expire on May 11, 2023. On May 11, 2023, the Board will withdraw this emergency administrative regulation.

(2) State compliance standards. Without this administrative regulation, the Commonwealth is not in compliance with the federal mandate. The federal regulation requires a training program if the state does not have training requirements for the prescribing and administration of vaccinations by pharmacists. This regulation sets forth the training requirements that are less stringent than the federal standards, ensuring that Kentucky licensed pharmacists remain eligible vaccinators.

(3) Minimum or uniform standards contained in the federal mandate. That pharmacists shall be authorized to prescribe and to administer vaccinations to individuals ages three (3) and up.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation will not impose stricter requirements than the federal mandate. Rather, this administrative regulation will be more permissive than the federal mandate in that it allows for pharmacists to prescribe and to administer vaccinations to all individuals three and older. The conditions for pharmacists to be authorized to prescribe and to administer vaccinations are fewer in this administrative regulation than the federal mandate.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. If this regulation were to mirror the federal regulations, or if this regulation was not

promulgated at all, it would have the effect of severely limiting the number of pharmacists that could prescribe and administer vaccinations due to the majority of Kentucky pharmacists not having completed a twenty-hour training program on immunizing.

STATEMENT OF EMERGENCY 810 KAR 4:010E

This emergency regulatory amendment is promulgated to meet an imminent threat to public health, safety, or welfare, and to prevent a loss of state funds. On March 27, 2023, the Commission was alerted to a safety concern associated with requiring Quarter Horses to race with flat shoes, as currently required for all other horses participating in flat racing in Kentucky. This administrative regulation will align Kentucky with the standards set in prominent Quarter Horse racing jurisdictions. This regulation amendment is filed on an emergency basis to allow Quarter Horses at the April 2023 meet to wear toe grab shoes in order to ensure public health, safety, and welfare. This emergency regulation will not be replaced by an ordinary administrative regulation at this time. Instead, an ordinary administrative regulation will be filed at a later date, and will contain additional Quarter Horse conditions that are not emergent in nature. The ordinary administrative regulation will not be identical to this emergency administrative regulation.

ANDY BESHEAR, Governor
RAY PERRY, Secretary

PUBLIC PROTECTION CABINET Kentucky Horse Racing Commission (Emergency Amendment)

810 KAR 4:010E. Horses.

EFFECTIVE: March 29, 2023

RELATES TO: KRS 230.215

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(8) authorize the Kentucky Horse Racing Commission (the "commission") to promulgate administrative regulations regulating horse racing in Kentucky. This administrative regulation establishes requirements for the participation of horses in horse race meetings, protects the safety and welfare of the horse, and creates a level playing field for participants thereby protecting the integrity of pari-mutuel wagering.

Section 1. Definition. "Electronic registration system" means a software application available online and approved by the commission that allows an association's racing secretary or the secretary's designee, or horse identifier or the identifier's designee, full access to horse and trainer records from all tracks in North America, including current owner information.

Section 2. Registration and Identification Required.

(1) A horse shall not be entered or raced in Kentucky unless:

(a) The horse is duly registered, as applicable, in The Jockey Club breed registry, the American Quarter Horse Association, the Appaloosa Horse Club, the Arabian Horse Association Registry, or the American Paint Horse Association, or their respective successors; and

(b)

1. The registration certificate, virtual or digital certificate, or racing permit issued by the applicable breed registry for the horse is on file with the racing secretary; or

2. The information contained on the registration certificate, virtual or digital certificate, or racing permit is available to the racing secretary through the electronic registration system.

(2) The stewards may at any time require presentation of a horse's registration certificate, virtual or digital certificate, or racing permit or other proof of ownership.

(3) Upon claim, sale, or any other transfer of ownership, the horse's registration certificate or racing permit shall be given to the

new owner, and any virtual or digital certificate shall be transferred to the new owner electronically. The new owner shall report the change in ownership to the stewards.

(4) If the electronic registration system fails for any reason, the stewards may require presentation of a horse's registration certificate, virtual or digital certificate, or racing permit prior to a horse being entered or raced in Kentucky.

Section 3. Ringers Prohibited.

(1) A horse shall not be entered or raced in Kentucky designated by a name other than the name under which the horse is currently registered with the applicable breed registry. If a horse's name is changed with the applicable breed registry, and the horse has raced under its previous name, the horse's former name shall be shown parenthetically in the daily race program the first three (3) times the horse races after the name change.

(2) A person shall not cause or permit the correct identity of a horse to be concealed or altered. A person shall not refuse to reveal the correct identity of a horse that he or she owns or is in his or her care to a racing official or member of the regular news media.

(3) A horse shall not race in Kentucky unless identified by:

(a) A legible lip tattoo number applied by agents of the Thoroughbred Racing and Protective Bureau, or by the comparable authorized organization applicable to the breed of the horse;

(b) An electronic horse identification microchip that accurately identifies the horse, is compliant with the international standards ISO 11784, is verified by agents of the Thoroughbred Racing Protective Bureau, or its successor, and is documented in The Jockey Club database or by the comparable authorized organization applicable to the breed of the horse; or

(c) With regards to a horse from a foreign jurisdiction participating in a graded stakes race, has otherwise been correctly identified to the stewards' satisfaction.

(4) A horse shall not be entered or raced in Kentucky if previously involved in a "ringer" case to the extent that:

(a) A person having control of the horse knowingly entered or raced the horse while designated by a name other than the name under which the horse was registered with The Jockey Club; or

(b) The person having control of the horse participated in or assisted in the entry or racing of some other horse under the name registered as belonging to the horse in question.

Section 4. Denerving.

(1) A horse that has had a chemical, surgical, or thermal neurectomy at or above the fetlock shall not be permitted to race.

(2) A horse that has had a palmar or plantar digital neurectomy may be permitted to race if:

(a) The neurectomy has been reported by the trainer to the stewards; and

(b) The horse has been approved for racing by the commission veterinarian prior to being entered to race.

(3) A horse on which a neurectomy has been performed shall have that fact designated on its registration certificate, virtual or digital certificate, racing permit, and entry in the electronic registration system. Responsibility for ensuring that the neurectomy is correctly noted on the horse's registration certificate, virtual or digital certificate, racing permit, and entry in the electronic registration system shall fall:

(a) Jointly on the practicing veterinarian who performed the operation and the trainer of the denerved horse if the neurectomy was performed at a location under the commission's jurisdiction; and

(b) Solely on the owner of the denerved horse if the neurectomy was performed at a location not under the commission's jurisdiction.

(4) If a horse races in violation of this administrative regulation and participates in the purse distribution, then a protest shall not be considered unless submitted in writing to the stewards within forty-eight (48) hours after the race.

(5) If a horse races in violation of this administrative regulation and is claimed, then a protest shall not be considered unless the

successful claimant submits a protest in writing within forty-eight (48) hours after the race requesting the claim be voided. If the claim is voided, the horse shall be returned to the owner who started the horse in the race, and the claim price shall be returned to the claimant.

(6) A list of all denerved horses shall be posted in the racing secretary's office.

Section 5. Health Certificate Required.

(1) A horse shall not be stabled on the grounds of a licensed association or any training center under the jurisdiction of the commission unless a Certificate of Veterinary Inspection is issued by an accredited veterinarian:

(a) Not more than ten (10) days prior to the horse's arrival on the grounds; or

(b) Within a lesser interval as prescribed by the racing association in consultation with the Kentucky Department of Agriculture.

(2) Notice of this requirement shall be included in the stall application of all licensed associations and training centers under the jurisdiction of the commission and all condition books of licensed associations.

Section 6. Workouts. A horse shall not be schooled in the paddock or taken onto a track on association grounds for training or workout, other than during normal training hours posted by the association, without special permission of the stewards.

Section 7. Thoroughbred Age Restrictions.

(1) A maiden six (6) years of age or older that has made five (5) life time starts on the flat shall not be entered or start.

(2) A first time starter five (5) years of age or older shall be approved by a commission veterinarian prior to entry.

Section 8. Other Age Restrictions. A quarter horse, paint horse, Arabian, or Appaloosa horse six (6) years of age or older shall not be entered or raced in a race restricted to maidens. A horse thirteen (13) years of age or older shall not be entered or raced.

Section 9. Fillies and Mares Bred.

(1) A filly or mare that has been covered by a stallion shall:

(a) Be so reported to the racing secretary prior to being entered in a race; and

(b) Not be entered in a claiming race, unless a written release from the stallion owner is attached to the filly's or mare's registration certificate, or otherwise provided to the stewards, indicating that the stallion service fee has been paid or satisfied.

(2) A list of all fillies and mares so reported, showing the names of stallions to which they have been bred, shall be posted in the racing secretary's office.

(3) A filly or mare in-foal shall not be entered in a race 120 days or more after the date of last cover.

Section 10. Serviceable for Racing. A horse shall not be entered or raced that:

(1) Is not in serviceable, sound racing condition. The stewards may at any time require a horse on association grounds to be examined by a qualified person;

(2) Is posted on a veterinarian's list, stewards' list, or starter's list in any racing jurisdiction, unless the horse on a veterinarian's list, stewards' list, or starter's list has a posted off date on or before the date of the race for which it is being entered;

(3) Has previously raced, but has made no starts in the last 365 days or more, unless approved by a commission veterinarian prior to entry;

(4) Is suspended in any jurisdiction;

(5) Has been administered any drug in violation of 810 KAR 8:010;

(6) Is blind or has seriously impaired vision in both eyes;

(7) Is not correctly identified to the satisfaction of the stewards; or

(8) Is owned wholly or in part by or is trained by an ineligible

person.

Section 11. Equipment.

(1) Riding crops and blinkers shall be used consistently on a horse while racing.

(2) Permission to change use of any equipment used on a horse from its previous start shall be obtained from the stewards.

(3) A horse's tongue may be tied down during a race with a clean bandage or gauze.

(4) A horse's bridle shall not weigh more than two (2) pounds.

(5) Bits shall be of a metallic alloy base of stainless steel or aluminum and may be encased in rubber, plastic, or leather.

(6) War bridles and bitless bridles shall not be used.

(7) Bar shoes may be used for racing only with permission of the stewards.

(8) Any goading device, chain, spurs, electrical or mechanical device, or appliance, except for a riding crop, that can be used to alter the speed of a horse shall not be used on a horse in a race or workout.

(9)

(a) Any riding crop shall be subject to inspection and approval by the stewards or the clerk of the scales to ensure conformity with the specifications of paragraphs (c) through (e) of this subsection.

(b) Only riding crops meeting the specifications of this subsection, including the mandatory shock absorbing characteristics, may be used in thoroughbred racing and training.

(c) A riding crop shall have a:

1. Maximum weight of eight (8) ounces;
2. Maximum length, including flap, of thirty (30) inches; and
3. Minimum diameter of the shaft of three-eighths (3/8) inch.

(d)

1. The only additional feature that may be attached to the riding crop is a flap that shall have a:

a. Maximum length from the end of the shaft of one-half (1/2) inch; and

b. Maximum width of one and six-tenths (1.6) inches, with a minimum width of eight-tenths (0.8) inch;

2. The flap from the end of the shaft shall not contain any reinforcements or additions;

3. There shall not be binding within seven (7) inches of the end of the flap;

4. The contact area of the shaft shall be smooth, with no protrusion or raised surface, and covered by shock absorbing material throughout its circumference; and

5. The flap shall have similar shock absorbing characteristics to that of the contact area.

(e) A riding crop shall not have:

1. Stingers or projections extending through the hole of a popper; and

2. Any metal parts.

(10)

(a) Except as set forth in paragraph (c) of this subsection, the following shall not be used on the front shoes of horses while racing or training on any racing surface:

1. Horse shoes that have toe grabs;
2. Bends;
3. Jar calks;
4. Stickers; and
5. Any other traction device worn on the front shoes of horses.

(b) Wear plates with a height no greater than two (2) millimeters may be used on the front shoes of horses while racing or training.

(c) Front horse shoes on Quarter Horses may have a toe grab that measures up to four (4) millimeters from the ground surface side of the shoe. Hind horse shoes on Quarter Horses may have a toe grab, that measures up to one-quarter (1/4) inch from the ground surface side of the shoe.

(11) Indiscriminate or brutal use on a horse of a riding crop or any other equipment, as determined by the stewards, at any time on the grounds of a licensed racing association or training center under the jurisdiction of the commission shall be prohibited.

Section 12. Sex Alteration. Any alteration in the sex of a horse shall be reported by the horse's trainer to the racing secretary and to the appropriate breed registry applicable to the horse. The alteration shall be noted on the horse's registration certificate, racing permit, virtual or digital certificate, or entry in the electronic system.

Section 13. Reporting Death of Horse. A licensed racing association or training center under the jurisdiction of the commission shall report the death or euthanization of any horse on its grounds immediately to the chief commission veterinarian.

Section 14. Postmortem Examination. A horse that dies or is euthanized on the grounds of a licensed association or training center under the jurisdiction of the commission shall undergo a postmortem examination at the discretion of the commission. If a postmortem examination is conducted:

(1) All shoes and equipment on the horse's legs shall be left on the horse;

(2) The commission, through its designee:

(a) Shall take possession of the horse upon death;

(b) Shall, if commission personnel are present, collect and submit for analysis blood, urine, bodily fluids, or other biologic specimens immediately, if possible before euthanization occurs; and

(c) Shall coordinate with the owner or owner's licensed authorized agent to determine and address any insurance requirements.

(3) The remains of the horse shall not be returned after completion of the postmortem examination.

(4) The presence of a prohibited substance in a specimen collected during the postmortem examination may constitute a violation of 810 KAR 8:010.

Section 15. Incorporation by Reference.

(1) "ISO 11784", 2004 is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m. This document is also available on the International Organization for Standardization ("ISO") website at the following URL: <https://www.iso.org/standard/38799.html>.

JONATHAN RABINOWITZ, Chair

RAY PERRY, Secretary

APPROVED BY AGENCY: March 28, 2023

FILED WITH LRC: March 29, 2023 at 2:45 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 22, 2023 at 9:00 a.m. EST at the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511 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 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 11:59 p.m. EST on May 31, 2023. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below. Contact Person: Jennifer Wolsing, Title: General Counsel, Address: Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email jennifer.wolsing@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jennifer Wolsing

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the rules concerning horses in thoroughbred and other flat racing.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide specific rules concerning the health and safety of horses in thoroughbred and other flat racing.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 230.215(2) and 230.260(8) authorize the Commission to promulgate administrative regulations prescribing the conditions under which racing shall be conducted in Kentucky. This administrative regulation prescribes the conditions relating to the health and safety of horses in thoroughbred and other flat racing.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets forth requirements and rules concerning the health and safety of horses in thoroughbred and other flat racing that enhance the integrity of racing.

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

(a) How the amendment will change this existing administrative regulation: This amendment will allow Quarter Horses to wear toe grab horses shoes, while participating in the April 2023 Sandy Ridge meet at the Red Mile.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to preserve the health and safety of the human and equine athletes participating in the April 2023 Sandy Ridge meet at the Red Mile, by providing the horses with sufficient traction to safely exit the starting gate.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 230.215(2) and 230.260(8) authorize the commission to promulgate administrative regulations regulating horse racing in Kentucky and this amendment involves when a horse may be entered or raced in Kentucky.

(d) How the amendment will assist in the effective administration of the statutes: This amendment provides additional conditions in which a horse may be entered or raced in Kentucky, thereby continuing with the commission's legislative purpose of providing specific rules concerning the health and safety of horses in thoroughbred and other flat racing.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Kentucky's licensed thoroughbred race tracks, and all individual participants in horse racing, are potentially affected by this administrative regulation's establishment of fundamental rules pertaining to the conduct of racing. In the year 2017, the Commission licensed over 22,000 individuals to participate in horse racing. This number is consistent from year to year.

(4) Provide an analysis of how the entities identified in 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: Participants in horse racing, and especially owners, trainers, veterinarians, and jockeys, will be required to adhere to the requirements and rules set forth in this administrative regulation pertaining to the health and safety of horses in thoroughbred and other flat racing. In particular, Quarter Horse owners and trainers may voluntarily choose to allow their horses to compete with toe grab horse shoes.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No significant costs are associated with complying with this administrative regulation. Outfitting one's horse in toe grab horse shoes is voluntary.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Participants in racing will benefit from clearly defined rules concerning the health and safety of horses

that enhance the integrity of racing. Moreover, Quarter Horses participating in the April 2023 meet will be able to compete more safely.

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

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

(b) On a continuing basis: There is no continuing cost to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No significant funding will be necessary to implement and enforce this administrative regulation. Any minimal costs will be funded from the budget of the Commission.

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

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

(9) TIERING: Is tiering applied? Tiering was not applied because this administrative regulation will apply to all similarly situated entities in an equal manner.

FISCAL NOTE

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 230.215, 230.225, 230.240, 230.260, 230.290, 230.310, 230.320, 230.370.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

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

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

(c) How much will it cost to administer this program for the first year? There will be no cost to administer this regulation for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be no cost to administer this regulation for subsequent years.

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

Revenues (+/-): Neutral.

Expenditures (+/-): Neutral.

Other Explanation: N/A

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect. There will be no effect on the expenditures and cost savings of regulated entities for the period that this emergency regulation will be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? Regulated entities will have no defined cost savings for the period that this

emergency regulation will be in effect. However, regulated entities with horses entered in the 2023 Sandy Ridge meet would arguably save veterinary costs because their Quarter Horses will have a safer experience.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? Regulated entities will have no defined cost savings for the period that this emergency regulation will be in effect. However, regulated entities with horses entered in the 2023 Sandy Ridge meet would arguably save veterinary costs because their Quarter Horses will have a safer experience.

(c) How much will it cost the regulated entities for the first year? Regulated entities will not face any costs due to this emergency regulations, for the period that this emergency regulation will be in effect.

(d) How much will it cost the regulated entities for subsequent years? Regulated entities will not face any costs due to this emergency regulations, for the period that this emergency regulation will be in effect.

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

Cost Savings (+/-): \$0.00

Expenditures (+/-): \$0.00

Other Explanation: N/A

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]: This regulation will not have a major economic impact, because it will not generate any negative economic impact on state government, local government, or regulated entities.

STATEMENT OF EMERGENCY 900 KAR 14:010E

This emergency administrative regulation is necessary to immediately establish guidelines for implementation of essential personal care visitor programs in health facilities, including psychiatric residential treatment facilities, health services, and Medicaid waiver services. This emergency administrative regulation is deemed to be an emergency pursuant to KRS 13A.190(1)(a)3. and is implemented in order to meet an imminent deadline for promulgation of an administrative regulation as required by Senate Bill 43 enacted during the 2023 Regular Session of the General Assembly. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The companion ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor
ERIC C. FRIEDLANDER, Secretary

CABINET FOR HEALTH AND FAMILY SERVICES Office of Inspector General (Emergency Amendment)

900 KAR 14:010E. Essential personal care visitor programs; visitation guidelines.

EFFECTIVE: March 29, 2023

RELATES TO: KRS 194A.700(4), 216.510(1)

STATUTORY AUTHORITY: KRS 216.505

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216.505 requires the cabinet to promulgate administrative regulations, subject to applicable federal requirements, to establish guidelines for any individual designated as an essential personal care visitor to have in-person visitation with a resident of a health facility, health service, Medicaid waiver service, or psychiatric residential treatment facility~~[an assisted-living community, long-term care~~

~~facility, or state-owned or operated mental or psychiatric hospital]~~ during a period when general visitation is limited or prohibited. This administrative regulation establishes guidelines for implementation of essential personal care visitor programs.

Section 1. Definitions.

(1) "Essential personal care visitor" means a family member, legal guardian, outside caregiver, friend, or volunteer who:

(a) Is eighteen (18) years of age or older;

(b) May have provided regular care and support to a resident prior to any restrictions on visitation;

(c) Is designated as being important to the mental, physical, or social well-being of the resident; and

(d) Meets an essential need of the resident, including companionship, assisting with personal care, or positively influencing the behavior of the resident.

(2) "Facility" means a:

(a) Health facility as defined by KRS 216.505(1)(a); or

(b) Psychiatric residential treatment facility as defined by KRS 216.505(1)(d).

(3) "Health service" is defined by KRS 216.505(1)(b).

(4) "Medicaid waiver service" is defined by KRS 216.505(1)(c).

(5) ~~[An assisted-living community as defined by KRS 194A.700(4);~~

(b) A long-term care facility as defined by KRS 216.510(1); or

(c) A mental hospital as defined by KRS 216.505(1)(e).

(3) "Personal care" means assisting a resident with essential everyday activities, which may include grooming, dressing, and eating.

(6) (4) "Resident" means an individual who:

(a) Resides in a health facility, including a psychiatric residential treatment facility ~~[an assisted-living community or long-term care facility]; or~~

(b) Receives health services or Medicaid waiver services ~~[is a patient of a mental hospital as defined by KRS 216.505(1)(e)].~~

Section 2. Essential personal care visitation.

(1) A facility, health service, or Medicaid waiver service shall:

(a) Allow essential personal care visitation as an exception from any prohibition against general visitation;

(b) Establish policies and procedures for the designation of at least one (1) essential personal care visitor, including a process for changing the designated essential personal care visitor; and

(c) In accordance with KRS 216.505(3)(h), not be required to permit an in-person visitor at all times.

(2) Designation of an essential personal care visitor shall be made in consultation with, and upon agreement by the:

(a) Resident; and

(b) Resident's representative, if applicable.

(3) A facility, health service, or Medicaid waiver service may require a written agreement with an essential personal care visitor.

(4) A facility, health service, or Medicaid waiver service may limit the total number of visitors permitted in the facility or service at any one (1) time.

(5) A facility, health service, or Medicaid waiver service may limit visitation by an essential personal care visitor to the resident or residents he or she is approved to visit.

(6) An essential personal care visitor who enters a facility, health service, or Medicaid waiver service during a period when general visitation is limited or prohibited shall:

(a) Assume the risk of contracting a communicable disease;

(b) Limit visitation to the resident's room or a facility-designated room within the building;

(c) Limit his or her movement within the facility;

(d) Follow the facility's safety protocols; and

(e) Inform the facility if he or she develops symptoms of a communicable disease within fourteen (14) days of the visit.

(7) If the resident has a roommate, an essential personal care visitor shall:

(a) Not enter the resident's room if the roommate is there unless the roommate agrees in advance; and

(b) Be prohibited from staying in the room for more than fifteen (15) minutes unless otherwise approved by the roommate or

roommate's representative.

(8) An essential personal care visitor shall follow the same safety protocols required for facility, health service, or Medicaid waiver service staff, which may include one (1) or more of the following:

(a) Testing for a communicable disease, which may be the responsibility of the essential personal care visitor. If testing is provided by the facility, health service, or Medicaid waiver service, essential personal care visitors shall be tested on the same schedule as staff;

(b) Health screens, including screening for signs and symptoms of a communicable disease and denial of entry of any individual with signs and symptoms;

(c) Using appropriate personal protective equipment (PPE);

(d) Washing or sanitizing hands regularly;

(e) Maintaining a distance of six (6) feet from staff and other residents at all times. Social distancing from the resident receiving an essential personal care visit may be relaxed for a short period of time under certain circumstances, e.g., providing assistance with a personal care activity; and

(f) Adhering to any other requirement the facility, health service, or Medicaid waiver service deems appropriate in accordance with guidance from the Centers for Disease Control and Prevention (CDC).

(9) During a period when general visitation is limited or prohibited, a facility, health service, or Medicaid waiver service shall:

(a) Be responsible for verifying and tracking the testing status of each essential personal care visitor if the facility or service requires testing as a safety protocol;

(b) Schedule essential personal care visits in advance or in accordance with a written agreement;

(c) Consider the number of other essential visitors who will be in the building at the same time when developing a visitation schedule;

(d) Establish limitations on the visitation frequency and length of the visits to keep staff and residents safe;

(e) Sanitize the area's high-frequency touched surfaces after the visit; and

(f) Continue to provide all required services and activities to a resident while an essential personal care visitor is with the resident.

Section 3. Training.

(1) If required by the facility's or service's written policies and procedures, each essential personal care visitor shall complete facility-designated training that includes basic information on infection prevention and control.

(2) A facility or service may post signage throughout the building [facility] that demonstrate key instructions to reinforce safe practices.

ADAM MATHER, Inspector General

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: March 24, 2023

FILED WITH LRC: March 29, 2023 at 8:00 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 22, 2023, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by May 15, 2023, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until May 31, 2023. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the

contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; Phone: 502-564-6746; Fax: 502-564-7091; CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles, Policy Analyst

(1) Provide a brief summary of:

(a) What this administrative regulation does: This emergency administrative regulation establishes guidelines for the implementation of essential personal care visitor programs in health facilities, health services, Medicaid waiver services, and psychiatric residential treatment facilities during a period when general visitation is limited or prohibited.

(b) The necessity of this administrative regulation: This emergency administrative regulation is necessary to comply with the passage of SB 43 during the 2023 Regular Session of the General Assembly.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This emergency administrative regulation conforms to the content of SB 43 by establishing guidelines for the implementation of essential personal care visitor programs in health facilities, health services, Medicaid waiver services, and psychiatric residential treatment facilities.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This emergency administrative regulation assists in the effective administration of the statutes by establishing guidelines for implementation of essential personal care visitor programs in health facilities, health services, Medicaid waiver services, and psychiatric residential treatment facilities during a period when general visitation is limited or prohibited.

(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 SB 43, this emergency administrative regulation replaces the reference to "an assisted living community, long-term care facility, or state-owned or operated mental or psychiatric hospital" with "a health facility, health service, Medicaid waiver service, or psychiatric residential treatment facility", thereby increasing the number of facilities and programs required to implement essential personal care visitor programs during a period when general visitation is limited or prohibited.

(b) The necessity of the amendment to this administrative regulation: This emergency administrative regulation is necessary to comply with the passage of SB 43 during the 2023 Regular Session of the General Assembly.

(c) How the amendment conforms to the content of the authorizing statutes: This emergency administrative regulation conforms to the content of KRS 216.505.

(d) How the amendment will assist in the effective administration of the statutes: This emergency administrative regulation assists in the effective administration of the statutes by establishing guidelines for implementation of essential personal care visitor programs.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This emergency administrative regulation affects all licensed health facilities, including psychiatric residential treatment facilities, health services, and Medicaid waiver services. The Office of Inspector General regulates approximately 7,500 licensees. In addition, there are 2,261 Medicaid waiver service providers.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative

regulation or amendment: In accordance with the requirements of SB 43 and this administrative regulation, an individual designated as an essential personal care visitor shall be exempt from any prohibition on general visitation in a health facility, health service, Medicaid waiver service, or psychiatric residential treatment facility.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will not be significant costs to facilities or services to implement essential personal care visitor programs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Essential personal care visitor programs are intended to help enhance the well-being and quality of life of Kentuckians in health facilities and other programs.

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

(a) Initially: There are no additional costs to the Cabinet for Health and Family Services for implementation of this emergency administrative regulation.

(b) On a continuing basis: There are no additional costs to the Cabinet for Health and Family Services for implementation of this emergency administrative regulation on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general funds and agency monies are used to implement and enforce this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering is not applicable as compliance with this administrative regulation applies equally to all entities regulated by it.

FISCAL NOTE

(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 emergency administrative regulation impacts health facilities, health services, Medicaid waiver services, psychiatric residential treatment facilities, and the Cabinet for Health and Family Services.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. SB 43 from the 2023 Regular Session of the General Assembly.

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

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

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

(c) How much will it cost to administer this program for the first year? This emergency administrative regulation imposes no additional costs on the administrative body.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred to implement this emergency administrative regulation on a continuing basis.

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:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? This administrative regulation will not generate cost savings for regulated entities during the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? This administrative regulation will not generate cost savings for regulated entities during subsequent years.

(c) How much will it cost the regulated entities for the first year? This administrative regulation will not impose additional costs on regulated entities.

(d) How much will it cost the regulated entities for subsequent years? This administrative regulation will not impose additional costs on regulated entities.

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

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This amendment will not have a major economic impact on the regulated entities.

STATEMENT OF EMERGENCY 902 KAR 55:015E

This emergency administrative regulation is necessary to designate tianeptine as a Schedule I controlled substance. Tianeptine is not approved by the U.S. Food and Drug Administration (FDA) and it has no accepted medical use in treatment. This emergency administrative regulation is deemed to be an emergency pursuant to KRS 13A.190(1)(a)1. in order to meet an imminent threat to public health, safety, and welfare. Although tianeptine is not currently controlled under the federal Controlled Substances Act, it is being scheduled on a state-by-state basis and was recently banned in three of Kentucky's border states, Tennessee, Indiana and Ohio. The FDA has warned that many companies are illegally marketing and selling products containing tianeptine to the public with unproven beneficial claims. In a 2022 update, the FDA warned consumers that it has identified cases in which people experienced serious harmful effects from abusing or misusing tianeptine by itself or with other drugs. These effects included agitation, drowsiness, confusion, sweating, rapid heartbeat, high blood pressure, nausea, vomiting, slowed or stopped breathing, coma, and death. Inclusion on Kentucky's Schedule I list will help reduce the risk to public health by making it illegal to possess tianeptine. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The companion ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor
ERIC C. FRIEDLANDER, Secretary

CABINET FOR HEALTH AND FAMILY SERVICES
Office of Inspector General
Division of Audits and Investigations
(Emergency Amendment)

902 KAR 55:015E. Schedules of controlled substances.

EFFECTIVE: March 23, 2023

RELATES TO: KRS 217.005-217.215, 218A.010, 218A.020, 218A.040, 218A.060, 218A.080, 218A.100, 218A.120, 218A.200, 21 C.F.R. 1308.11, 1308.12, 1308.13, 1308.14, 1308.15, 1308.35, 1308.49, 21 U.S.C. 301 – 399f, 801-971

STATUTORY AUTHORITY: KRS 218A.020(1), (3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218A.020(1) authorizes the Cabinet for Health and Family Services to promulgate administrative regulations in order to add, delete, or reschedule substances enumerated in KRS Chapter 218A. KRS 218A.020(3) authorizes the Cabinet for Health and Family Services to promulgate administrative regulations to control substances at the state level in the same numerical schedule corresponding to the federal schedule or control a substance in a more restrictive schedule than the federal schedule. This administrative regulation designates Schedule I, II, III, IV, and V drugs. This administrative regulation differs from the federal regulation, 21 C.F.R. 1308.11, because it designates tianeptine as a Schedule I controlled substance. The Cabinet for Health and Family Services recognizes that tianeptine has no accepted medical use in treatment and inclusion on Kentucky's Schedule I list will help reduce the risk to public health. This administrative regulation differs from the federal regulation, 21 C.F.R. 1308.14, because it designates pentazocine, barbitol, methylphenobarbital, and phenobarbital as a Schedule III controlled substance. The federal regulation designates these substances as a Schedule IV controlled substance. The Cabinet for Health and Family Services recognizes that pentazocine and derivatives of barbituric acid or its salts have significant abuse potential, and inclusion on Kentucky's Schedule III list will help reduce the risk to public health. This administrative regulation further differs from the federal regulation, 21 C.F.R. 1308.14-1308.15, because it designates nalbuphine as a Schedule IV controlled substance and gabapentin as a Schedule V controlled substance. The Cabinet for Health and Family Services recognizes that nalbuphine and gabapentin have significant abuse potential, and inclusion on Kentucky's controlled substances schedules will help reduce the risk to public health.

Section 1. Schedule I Controlled Substances.

(1) Each substance that is scheduled or designated as a Schedule I controlled substance under 21 C.F.R. 1308.11, including a substance temporarily scheduled or designated under 21 C.F.R. 1308.11(h) or 1308.49, shall be scheduled or designated at the state level as a Schedule I controlled substance.

(2) The Cabinet for Health and Family Services designates the following as a Schedule I controlled substance: tianeptine.

(3) The following shall be exempt from control as a Schedule I substance:

(a) Cannabis plant material, and products made therefrom, that contain tetrahydrocannabinols pursuant to the exemption established in 21 C.F.R. 1308.35; and

(b) Any substance or product exempt from the definition of marijuana pursuant to KRS 218A.010(27)(a) – (f).

Section 2. Schedule II Controlled Substances. Each substance that is scheduled or designated as a Schedule II controlled substance under 21 C.F.R. 1308.12 shall be scheduled or designated at the state level as a Schedule II controlled substance.

Section 3. Schedule III Controlled Substances.

(1) Except as provided by subsection (2) of this section, each substance that is scheduled or designated as a Schedule III controlled substance under 21 C.F.R. 1308.13 shall be scheduled or designated at the state level as a Schedule III controlled substance.

(2) The Cabinet for Health and Family Services designates the

following as Schedule III controlled substances:

- (a) Pentazocine;
- (b) Barbitol;
- (c) Methylphenobarbital; and
- (d) Phenobarbital.

(3) This section shall not apply to any material, compound, mixture, or preparation containing any quantity of an anabolic steroid substance, or any isomer, ester, salt, or derivative thereof that is:

- (a) Expressly intended for administration through implant to livestock or other nonhuman species; and
- (b) Approved by the United States Food and Drug Administration for use as described in this subsection.

Section 4. Schedule IV Controlled Substances.

(1) Except as provided by subsection (2) of this section and Section 3(2) of this administrative regulation, each substance that is scheduled or designated as a Schedule IV controlled substance under 21 C.F.R. 1308.14 shall be scheduled or designated at the state level as a Schedule IV controlled substance.

(2) The Cabinet for Health and Family Services designates the following as a Schedule IV controlled substance: nalbuphine.

Section 5. Schedule V Controlled Substances.

(1) Except as provided by subsection (2) of this section, each substance that is scheduled or designated as a Schedule V controlled substance under 21 C.F.R. 1308.15 shall be scheduled or designated at the state level as a Schedule V controlled substance.

(2) The Cabinet for Health and Family Services designates the following as a Schedule V controlled substance: gabapentin.

Section 6. Dispensing Without Prescription. A controlled substance listed in Schedule V, which is not a prescription drug under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 to 399f, may be dispensed by a pharmacist without a prescription to a purchaser at retail, if:

(1) The medicinal preparation contains, in addition to the controlled substances, some drug or drugs conferring upon it medicinal qualities other than those possessed by the controlled substances alone;

(2) Not more than 240cc (eight (8) ounces) or more than forty-eight (48) dosage units of any controlled substance containing opium is dispensed at retail to the same purchaser in any given forty-eight (48) hour period;

(3) The labeling and packaging is in accordance with the current requirements of KRS 217.005 to 217.215, 21 U.S.C. 301 to 399f, and the United States Pharmacopeia;

(4) The preparation is dispensed or sold in good faith as a medicine and not for the purpose of evading the provisions of KRS Chapter 218A;

(5) The preparation is not displayed in areas open to the public;

(6) The dispensing is made only by a pharmacist and not by a nonpharmacist employee even if under the supervision of a pharmacist. After the pharmacist has fulfilled his or her professional and legal responsibilities as set forth in this section, the actual cash, credit transaction, or delivery may be completed by a nonpharmacist;

(7) The purchaser is at least eighteen (18) years of age;

(8) The pharmacist requires every purchaser of a controlled substance under this section not known to the pharmacist to furnish suitable identification, including proof of age if appropriate; and

(9) The dispensing of exempt controlled substances under this administrative regulation is recorded in a bound book that shall be maintained in accordance with the recordkeeping requirements of KRS 218A.200 and contain the:

- (a) Name and address of the purchaser;
- (b) Name and quantity of controlled substance purchased;
- (c) Date of each purchase; and
- (d) Name or initials of the pharmacist who dispensed the substance to the purchaser. 902 KAR 55:015E

ADAM MATHER, Inspector General

ERIC C. FRIEDLANDER, Secretary

APPROVED: March 14, 2023

FILED WITH LRC: March 23, 2023 at 8:15 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 23, 2023, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by May 16, 2023, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until May 31, 2023. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation designates Kentucky's schedules of controlled substances.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with KRS 218A.020.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 218A.020(3), which authorizes the Cabinet for Health and Family Services to promulgate administrative regulations to control substances at the state level in the same numerical schedule corresponding to the federal schedule or control a substance in a more restrictive schedule than the federal schedule.

(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 designating Kentucky's schedules of controlled substances.

(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 designates tianeptine as a Schedule I controlled substance.

(b) The necessity of the amendment to this administrative regulation: This amendment is in response to a recent request from Van Ingram, Executive Director, Office of Drug Control Policy. Mr. Ingram requested that the cabinet designate tianeptine as a Schedule I controlled substance via emergency administrative regulation. Tianeptine has no accepted medical use in treatment and inclusion on Kentucky's Schedule I list will help reduce the risk to public health. Tianeptine was recently banned by two of Kentucky's border states, Indiana and Ohio.

(c) How the amendment conforms to the content of the authorizing statutes: In accordance with KRS 218A.020(5), the Office of Drug Control Policy may request the cabinet to schedule any substance that meets the criteria to be scheduled under KRS Chapter 218A. This amendment conforms to the content of KRS 218A.040 by designating tianeptine as a Schedule I controlled substance.

(d) How the amendment will assist in the effective administration of the statutes: This amendment assists in the effective administration of KRS 218A.040 by designating tianeptine as a Schedule I controlled substance.

(3) List the type and number of individuals, businesses,

organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects Kentucky's pharmacists and prescribing practitioners who rely on state and federal regulations for information regarding scheduled drugs as well as state and local law enforcement agencies and the Department of Corrections. This emergency amendment affects stores that currently sell tianeptine.

(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: Tianeptine products should be removed from store shelves and disposed of immediately.

(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 incurred by any entity identified in question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Tianeptine is an atypical tricyclic antidepressant that is not approved by the U.S. Food and Drug Administration (FDA) for medical use. The FDA has warned that many companies are illegally marketing and selling products containing tianeptine to the public with unproven beneficial claims, i.e., dietary supplement, treatment for anxiety, depression, or opioid disorder. Selling products containing tianeptine to consumers based on such false claims is dangerous, especially as it relates to the claim of treating opioid use disorder since reliance on these products may delay appropriate treatment and put consumers at greater risk of overdose and death. Moreover, in a 2022 update, the FDA warned consumers that it has identified cases in which people experienced serious harmful effects from abusing or misusing tianeptine by itself or with other drugs. These effects included agitation, drowsiness, confusion, sweating, rapid heartbeat, high blood pressure, nausea, vomiting, slowed or stopped breathing, coma, and death. The FDA also reports that poison control centers cases involving tianeptine exposure increased nationwide from 11 cases between 2000 and 2013 to 151 in 2020 alone. Inclusion on Kentucky's Schedule I list will help reduce the risk to public health by making possession of the drug illegal.

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

(a) Initially: There are no additional costs to the Office of Inspector General for implementation of this amendment.

(b) On a continuing basis: There are no additional costs to the Office of Inspector General for implementation of this amendment on a continuing basis.

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

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

(9) TIERING: Is tiering applied? Tiering is not applicable as compliance with this administrative regulation applies equally to all individuals or entities regulated by it.

FISCAL NOTE

(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 Kentucky's pharmacists and prescribing practitioners who rely on state and federal regulations for information regarding scheduled drugs as well as state and local law enforcement agencies and the Department of Corrections.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 218A.020, 21 C.F.R. 1308.11, 1308.12, 1308.13, 1308.14, 1308.15, 1308.35, 1308.49

(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:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? This administrative regulation will not generate cost savings for regulated entities during the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? This administrative regulation will not generate cost savings for regulated entities during subsequent years.

(c) How much will it cost the regulated entities for the first year? This administrative regulation imposes no additional costs on regulated entities.

(d) How much will it cost the regulated entities for subsequent years? This administrative regulation imposes no additional costs on regulated entities during subsequent years.

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

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This administrative regulation is not expected to have a major economic impact on the regulated entities.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 21 C.F.R. 1308.11, 1308.12, 1308.13, 1308.14, 1308.15, 1308.35, 1308.49

(2) State compliance standards. KRS 218A.020

(3) Minimum or uniform standards contained in the federal mandate. 21 C.F.R. 1308.11 lists controlled substances that have been classified by the DEA as Schedule I drugs. 21 C.F.R. 1308.12 lists controlled substances that have been classified by the DEA as

Schedule II drugs. 21 C.F.R. 1308.13 lists controlled substances that have been classified by the DEA as Schedule III drugs. 21 C.F.R. 1308.14 lists controlled substances that have been classified by the DEA as Schedule IV drugs. 21 C.F.R. 1308.15 lists controlled substances that have been classified by the DEA as Schedule V drugs. 21 C.F.R. 1308.35 exempts certain cannabis plant material, and products made therefrom, that contain tetrahydrocannabinols from scheduling. 21 C.F.R. 1308.49 allows the DEA to place a substance into Schedule I on a temporary basis if such action is necessary to avoid an imminent hazard to the public safety.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation differs from the federal regulation because it designates tianeptine as a Schedule I controlled substance. Tianeptine is not currently controlled under the federal Controlled Substances Act. This administrative regulation differs from the federal regulation because it designates pentazocine, barbitol, methylphenobarbital, and phenobarbital as a Schedule III controlled substance in Kentucky. The federal regulation designates these substances as a Schedule IV controlled substance. Designating pentazocine, barbitol, methylphenobarbital, and phenobarbital as a Schedule III controlled substance is not a new change to Kentucky's schedules of controlled substances. This administrative regulation differs from the federal regulation because it designates nalbuphine as a Schedule IV controlled substance and gabapentin as a Schedule V controlled substance. The federal regulation does not designate nalbuphine or gabapentin as controlled substances. Designating nalbuphine and gabapentin as a Schedule IV and Schedule V controlled substance respectively is not a new change to Kentucky's schedules of controlled substances.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The cabinet recognizes that tianeptine has no accepted medical use in treatment and inclusion on Kentucky's Schedule I list will help reduce the risk to public health. The cabinet also recognizes that pentazocine and derivatives of barbituric acid or its salts have significant abuse potential and inclusion as a Schedule III controlled substance in Kentucky will help reduce the risk to public health. The cabinet further recognizes that nalbuphine and gabapentin have significant abuse potential and inclusion in Kentucky's controlled substance schedules will help reduce the risk to public health.

STATEMENT OF EMERGENCY 907 KAR 1:038E

This emergency administrative regulation is being promulgated to incorporate and fully implement a received federal approval that extends coverage of audiology, dental, and vision services to all Medicaid recipients. This emergency administrative regulation is being promulgated to update policy relating to audiology services and enhance the services available to all Medicaid recipients in the most appropriate setting. In addition, a received federal approval requires that audiology, dental, and vision services be expanded to individuals older than twenty-one (21). This emergency administrative regulation is needed pursuant to KRS 13A.190(1)(a)2. to preserve state and federal funding and ensure the most efficient use of funds. Failure to implement the received federal approval and provide coverage for eligible recipients within a timely fashion could result in a loss of federal funds.

In addition, the Department for Medicaid Services (DMS) needs this administrative regulation pursuant to KRS 13A.190(1)(a)1. to preserve the welfare of Medicaid recipients and to reimburse providers for coverage of treatment plans. Covering services in the appropriate setting and increasing access to preventive services will reduce expensive treatment in other settings, such as an emergency department. Also, studies show that access to these services for adults results in improved health outcomes and lowers costs.

Furthermore, vision, dental and hearing problems have removed thousands of Kentuckians from the workforce, and adults who have access to these preventive services are more likely to

enter the workforce. This emergency administrative regulation will help the more than 900,000 Medicaid recipients who are age 21 and older return to work.

This administrative regulation is substantially different from the administrative regulation filed December 29, 2022, regarding audiology services in that a new paragraph is added to Section 2(1)(a) to establish additional policy relating to audiology service limits. Section 4 of the administrative regulation is amended to increase the per ear limit every thirty-six (36) months from \$800 to \$1,200. In addition, hearing instrument battery replacement is now allowed in certain circumstances and addressed in the administrative regulation. Section 5 is amended to clarify that new or improved technology is a reason for the department to reimburse for the replacement of a hearing instrument. A new Section 8 allows for service and equipment limits to be exceeded for children under twenty (21) if medically necessary. Finally, a new section addressing material incorporated by reference is included as Section 11, and it includes the 2023 Audiology Fee Schedule. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor
ERIC C. FRIEDLANDER, Secretary

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

907 KAR 1:038E. Hearing Program coverage provisions and requirements.

EFFECTIVE: April 12, 2023

RELATES TO: KRS 205.520, 205.622, 205.8451(9), 334.010(4), (9), 334A.020(5), 334A.030, 42 C.F.R. 400.203, 438.20, [] 457.310, 42 U.S.C. 1396a, b, d, 1396r-6

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

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the Medicaid Program provisions and requirements regarding the coverage of audiology services and hearing instruments.

Section 1. Definitions.

(1) "Audiologist" is defined by KRS 334A.020(5).

(2) "CPT code" means a code used for reporting procedures and services performed by medical practitioners and published annually by the American Medical Association in Current Procedural Terminology.

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

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

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

(6) "Healthcare Common Procedure Coding System" or "HCPCS" means a collection of codes acknowledged by the Centers for Medicare and Medicaid Services (CMS) that represents procedures or items.

(7) "Hearing instrument" is defined by KRS 334.010(4).

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

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

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

(11) "Specialist in hearing instruments" is defined by KRS 334.010(9).

Section 2. General Requirements.

(1)(a) For the department to reimburse for a service or item, the service or item shall:

1. Be provided:

a. To a recipient[:

(i) ~~Under the age of twenty-one (21) years, including the month in which the recipient becomes twenty-one (21); or~~

(ii) ~~For evaluation and testing services, not limited by age, by an audiologist, only if the recipient has received a referral from a physician]; and~~

b. By a provider who is:

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

(ii) Except as provided by paragraph (b) of this subsection, currently participating in the Medicaid Program pursuant to 907 KAR 1:671; and

(iii) Authorized to provide the service in accordance with this administrative regulation;

2. Be covered in accordance with this administrative regulation;

3. Be medically necessary; [and]

4. Have a CPT code or HCPCS code that is listed on the most current Kentucky[Department for] Medicaid Audiology[Services Hearing Program] Fee Schedule, posted on the department Web site at: <https://chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>. Any fee schedule posted shall comply with all relevant existing rate methodologies utilized by the department and established by state and federal law. As appropriate and relevant, the department shall utilize the Medicaid Physician Fee Schedule established in 907 KAR 3:010 to inform and populate the Audiology[Hearing Program] Fee Schedule; and

5. Audiology service limits shall be as established on the Kentucky Medicaid Audiology Fee Schedule as available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>.

(b) In accordance with 907 KAR 17:015, Section 3(3), a provider of a service to an enrollee shall not be required to be currently participating in the fee-for-service Medicaid Program.

(2)(a) If a procedure is part of a comprehensive service, the department shall:

1. Not reimburse separately for the procedure; and

2. Reimburse one (1) payment representing reimbursement for the entire comprehensive service.

(b) A provider shall not bill the department multiple procedures or procedural codes if one (1) CPT code or HCPCS code is available to appropriately identify the comprehensive service provided.

(3) A provider shall comply with:

(a) 907 KAR 1:671;

(b) 907 KAR 1:672; and

(c) All applicable state and federal laws.

(4)(a) If a provider receives any duplicate payment or overpayment from the department, regardless of reason, the provider shall return the payment to the department.

(b) Failure to return a payment to the department in accordance with paragraph (a) of this subsection may be:

1. Interpreted to be fraud or abuse; and

2. Prosecuted in accordance with applicable federal or state law.

(c) Nonduplication of payments and third-party liability shall be in accordance with 907 KAR 1:005.

(d) A provider shall comply with KRS 205.622.

(5)(a) An in-state audiologist shall:

1. Maintain a current, unrevoked, and unsuspended license in accordance with KRS Chapter 334A;

2. Before initially enrolling in the Kentucky Medicaid Program, submit proof of the license referenced in subparagraph 1. of this paragraph to the department; and

3. Annually submit proof of the license referenced in subparagraph 1. of this paragraph to the department.

(b) An out-of-state audiologist shall:

1. Maintain a current, unrevoked, and unsuspended license to

practice audiology in the state in which the audiologist is licensed;

2. Before initially enrolling in the Kentucky Medicaid Program, submit proof of the license referenced in subparagraph 1. of this paragraph to the department;

3. Annually submit proof of the license referenced in subparagraph 1. of this paragraph to the department;

4. Maintain a Certificate of Clinical Competence issued to the audiologist by the American Speech-Language-Hearing Association; and

5. Before enrolling in the Kentucky Medicaid Program, submit proof of having a Certificate of Clinical Competence issued to the audiologist by the American Speech-Language-Hearing Association.

(c) If an audiologist fails to comply with paragraph (a) or (b) of this subsection, as applicable based on if the audiologist is in-state or out-of-state, the:

1. Audiologist shall be ineligible to be a Kentucky Medicaid Program provider; and

2. Department shall not reimburse for any service or item provided by the audiologist effective with the date the audiologist fails or failed to comply.

(6)(a) An in-state specialist in hearing instruments shall:

1. Maintain a current, unrevoked, and unsuspended license issued by the Kentucky Licensing Board for Specialists in Hearing Instruments;

2. Before initially enrolling in the Kentucky Medicaid Program, submit proof of the license referenced in subparagraph 1. of this paragraph to the department;

3. Annually submit proof of the license referenced in subparagraph 1. of this paragraph to the department;

4. Maintain a Certificate of Clinical Competence issued to the specialist in hearing instruments by the American Speech-Language-Hearing Association; and

5. Before enrolling in the Kentucky Medicaid Program, submit proof of having a Certificate of Clinical Competence issued to the specialist in hearing instruments by the American Speech-Language-Hearing Association.

(b) An out-of-state specialist in hearing instruments shall:

1. Maintain a current, unrevoked, and unsuspended license issued by the licensing board with jurisdiction over specialists in hearing instruments in the state in which the license is held;

2. Before initially enrolling in the Kentucky Medicaid Program, submit proof of the license referenced in subparagraph 1. of this paragraph to the department;

3. Annually submit proof of the license referenced in subparagraph 1 of this paragraph to the department;

4. Maintain a Certificate of Clinical Competence issued to the specialist in hearing instruments by the American Speech-Language-Hearing Association; and

5. Before enrolling in the Kentucky Medicaid Program, submit proof of having a Certificate of Clinical Competence issued to the specialist in hearing instruments by the American Speech-Language-Hearing Association.

(c) If a specialist in hearing instruments fails to comply with paragraph (a) or (b) of this subsection, as applicable based on if the specialist in hearing instruments is in-state or out-of-state, the:

1. Specialist in hearing instruments shall be ineligible to be a Kentucky Medicaid Program provider; and

2. Department shall not reimburse for any service or item provided by the specialist in hearing instruments effective with the date the specialist in hearing instruments fails or failed to comply.

Section 3. Audiology Services.

(1) Audiology service coverage shall be limited to one (1) complete hearing evaluation per calendar year.

(2) Unless a recipient's health care provider demonstrates, and the department agrees, that an additional hearing instrument evaluation is medically necessary, a hearing instrument evaluation shall:

(a) Include three (3) follow-up visits, which shall be:

1. Within the six (6) month period immediately following the fitting of a hearing instrument; and

2. Related to the proper fit and adjustment of the hearing

instrument; and

(b) Include one (1) additional follow-up visit, which shall be:

1. At least six (6) months following the fitting of the hearing instrument; and

2. Related to the proper fit and adjustment of the hearing instrument.

(3)(a) A referral by a physician to an audiologist shall be required for an audiology service.

(b) The department shall not cover an audiology service if a referral from a physician to the audiologist was not made.

(c) An office visit with a physician shall not be required prior to the referral to the audiologist for the audiology service.

Section 4. Hearing Instrument Coverage. (1) Hearing instrument benefit coverage shall:

~~(a) [(1)] If the benefit is a hearing instrument model, Be for a hearing instrument model that is:~~

~~1. [(a)] Recommended by an audiologist licensed pursuant to KRS 334A.030; and~~

~~2. [(b)] Available through a Medicaid-participating specialist in hearing instruments; and~~

~~(b) [(2)] Except as provided by Section 5(3) of this administrative regulation, not exceed \$1,200[\$800] per ear every thirty-six (36) months.~~

(2) Hearing instrument coverage may include the replacement or upgrading of a hearing instrument battery if the upgrade is cost-effective or extends the service life of the hearing instrument.

Section 5. Replacement of a Hearing Instrument.

(1) The department shall reimburse for the replacement of a hearing instrument if:

(a) A loss of the hearing instrument necessitates replacement;

(b) Extensive damage has occurred necessitating replacement;

(c) Medical necessity demonstrates that new or improved technology would significantly increase hearing; or

~~(d) [(e)] A medical condition necessitates the replacement of the previously prescribed hearing instrument in order to accommodate a change in hearing loss.~~

(2) If replacement of a hearing instrument is necessary within twelve (12) months of the original fitting, the replacement hearing instrument shall be fitted upon the signed and dated recommendation from an audiologist.

(3) If replacement of a hearing instrument becomes necessary beyond twelve (12) months from the original fitting:

(a) The recipient shall be examined by a physician with a referral to an audiologist; and

(b) The recipient's hearing loss shall be re-evaluated by an audiologist.

Section 6. Noncovered services. The department shall not reimburse for:

(1) A routine screening of ~~a [an individual or] group of individuals for identification of a hearing problem;~~

(2) Hearing therapy except as covered through the six (6) month adjustment counseling following the fitting of a hearing instrument;

(3) Lip reading instructions except as covered through the six (6) month adjustment counseling following the fitting of a hearing instrument;

(4) A service for which the recipient has no obligation to pay and for which no other person has a legal obligation to provide or to make payment;

(5) A telephone call;

(6) A service associated with investigational research; or

(7) A replacement of a hearing instrument for the purpose of incorporating a recent improvement or innovation unless the replacement results in appreciable improvement in the recipient's hearing ability as determined by an audiologist.

Section 7. Equipment.

(1) Equipment used in the performance of a test shall meet the current standards and specifications established by the American National Standards Institute.

(2)(a) A provider shall ensure that any audiometer used by the provider or provider's staff shall:

1. Be checked at least once per year to ensure proper functioning; and
 2. Function properly.
- (b) A provider shall:
1. Maintain proof of calibration and any repair, if any repair occurs; and
 2. Make the proof of calibration and repair, if any repair occurs, available for departmental review upon the department's request.

Section 8. Service and equipment limits may be exceeded by prior authorization for children under twenty-one (21) if medically necessary.

Section 9. Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

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

Section 10.[Section 9.] Appeal Rights. An appeal of a negative action regarding a Medicaid recipient who is:

- (1) Enrolled with a managed care organization shall be in accordance with 907 KAR 17:010; or
- (2) Not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

Section 11. Incorporation by Reference.

(1) "KY Medicaid Audiology Fee Schedule", April 2023, is incorporated by reference.

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

(a) At the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.; or

(b) Online at the department's Web site located at <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>.

LISA D. LEE, Commissioner

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: April 7, 2023

FILED WITH LRC: April 12, 2023 at 8:00 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 22, 2023, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by May 15, 2023, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until May 31, 2023. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jonathan Scott and Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the Kentucky Medicaid Hearing Program's service and coverage provisions and requirements.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish Kentucky Medicaid Hearing Program's service and coverage provisions and requirements.

(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 Kentucky Medicaid Hearing Program's service and coverage provisions and requirements.

(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 Kentucky Medicaid Hearing Program's service and coverage provisions and requirements.

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

(a) How the amendment will change this existing administrative regulation: The amendment changes the administrative regulation by implementing a state plan amendment that allows for adults to receive hearing services. The amendment also increases the amount that can be charged per ear each thirty-six (36) months to \$1,200 from \$800. In addition, clarifications are made about how batteries can be provided to individuals with hearing aids. Finally, updated references to the department's hearing program fee schedule are included.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update the administrative regulation to reflect current hearing program policy, and to implement the approval of recent state plan amendments.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by implementing a state plan amendment and updating the administrative regulation to conform to recent statutory and regulatory updates to the Medicaid program.

(d) How the amendment will assist in the effective administration of the statutes: The amendment assists in the effective administration of the statutes by providing a periodic update of the hearing program, and to implement recently effective state plan amendments, administrative regulations, and statutes.

(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 all adult and children recipients in the Medicaid program by enhancing the quality of hearing products that can be offered to recipients. There are currently 1.7 million individuals in the Medicaid program. The adult population that is newly eligible could include as many as 900,000 individuals from the traditional and expansion Medicaid populations. In addition, this administrative regulation will affect audiology providers participating in the Kentucky Medicaid program.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. Regulated entities will be required to take no new actions. However, adult hearing testing and referral requirements have been clarified.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). No cost is imposed by the amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). Individual beneficiaries will benefit from access to hearing services such as hearing aids, testing, and

improved batteries. Audiology providers will benefit from the opportunity to provide services to an additional population of Medicaid beneficiaries.

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

(a) Initially: The Department for Medicaid Services (DMS) anticipates an increase of about \$0.25 for each adult beneficiary's per member per month capitation (PMPM) managed care organization (MCO) capitation rate. The total state expenditure for this additional benefit should be about \$150,000. This expenditure should be balanced against expected savings that could be generated within the Medicaid adult population. Consistent with national trends, DMS expects that Medicaid hearing coverage will decrease the likelihood of dementia, depression, anxiety, and even myocardial infarctions. DMS furthermore expects that up to 16% of Kentucky adults have some degree of hearing loss, and that quality of life and employment opportunities could increase as a result of this additional benefit. As a result, this up-front expenditure should be balanced against expected savings that could be generated within the Medicaid adult population. Consistent with national trends, DMS expects that Medicaid audiology coverage will increase the likelihood of working full-time for adult beneficiaries. This could result in individuals leaving the Medicaid program as a result of receiving full-time employment. The department – due to the efficiencies created – will meet its budgetary requirements as established in House Bill 1 of the 2022 Regular Session.

(b) On a continuing basis: DMS anticipates that movement out of the Medicaid program will intensify in future years. DMS further anticipates that the preventive care will reduce later utilization and bolster full-time employment opportunities. The department will revisit the PMPM for this service category with contracted actuaries prior to making future budget requests.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The sources of revenue to be used for implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX of the Social Security Act and matching state funds appropriated in the biennium budget.

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

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

(9) TIERING: Is tiering applied? Tiering is no longer applied within this administrative regulation as audiology services are now available to all Medicaid recipients.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396d(r)(4), 42 U.S.C. 1396a(a)(30)(A), 42 C.F.R. 441.56, and 45 C.F.R. 147.126.

(2) State compliance standards. KRS 194A.050(1) states, "The secretary shall promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs." KRS 205.520(3) states: "... it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."

(3) Minimum or uniform standards contained in the federal mandate. EPDST hearing coverage must include at least testing and diagnosis and treatment for hearing defects, including hearing aids. Hearing services must also be, "provided— (i) at intervals

which meet reasonable standards of medical practice, as determined by the State after consultation with recognized medical organizations involved in child health care, and (ii) at such other intervals, indicated as medically necessary, to determine the existence of a suspected illness or condition." Additionally, state Medicaid programs are required to take measures to monitor that services are appropriate. States are required to establish a plan for review of the appropriateness and quality of care and services furnished to Medicaid recipients by appropriate health care professionals. The plan helps protect against overutilization or unnecessary care and to assure that reimbursement is consistent with efficiency, economy and quality of care. 42 U.S.C. 1396a(a)(30)(A) requires Medicaid state plans to: "... provide such methods and procedures relating to the utilization of, and the payment for, care and services available under the plan (including but not limited to utilization review plans as provided for in section 1903(i)(4)) as may be necessary to safeguard against unnecessary utilization of such care and services. ..." 45 C.F.R. 147.126 prohibits the application of annual dollar limits on essential health benefits. Medicaid program benefits are included in the scope of essential health benefits.

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

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The requirements are not stricter than federal requirements.

FISCAL NOTE

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. 42 C.F.R. 441.56; KRS 205.520.

(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 will generate no revenue for DMS.

(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 will generate no revenue for DMS.

(c) How much will it cost to administer this program for the first year? The Department for Medicaid Services (DMS) anticipates an increase of about \$0.25 for each adult beneficiary's per member per month capitation (PMPM) managed care organization (MCO) capitation rate. This expenditure should be balanced against expected savings that could be generated within the Medicaid adult population. Consistent with national trends, DMS expects that Medicaid hearing coverage will decrease the likelihood of dementia, depression, anxiety, and even myocardial infarctions. DMS furthermore expects that up to 16% of Kentucky adults have some degree of hearing loss, and that quality of life and employment opportunities could increase as a result of this additional benefit. This could result in individuals leaving the Medicaid program as a result of receiving full-time employment. The department – due to the efficiencies created – will meet its budgetary requirements as established in House Bill 1 of the 2022 Regular Session.

(d) How much will it cost to administer this program for subsequent years? DMS anticipates that movement out of the Medicaid program will intensify in future years. DMS further anticipates that the preventive care will reduce later utilization. The department will revisit the PMPM for this service category with contracted actuaries prior to making future budget requests.

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:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? DMS anticipates cost savings for hearing services providers who will be able to receive Medicaid reimbursement for a previously uncovered population of 900,000 people. The audiology services providers would have previously sought private pay reimbursement for these services and many recipients may have not accessed services as a result. In addition, other services – such as an increased expenditure limit for hearing aids and batteries - are now available to the entirety of the Medicaid population. This will provide a stable source of funding for these services.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? DMS anticipates cost savings on an ongoing basis for vision services providers because expanded services, and higher quality products will now be from a more stable funding source.

(c) How much will it cost the regulated entities for the first year? DMS does not anticipate that regulated entities will incur costs as a result of this amendment in the first year.

(d) How much will it cost the regulated entities for subsequent years? DMS does not anticipate that regulated entities will incur costs as a result of this amendment in subsequent years.

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

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] The administrative regulation will not have a major economic impact – as defined by KRS 13A.010 – on regulated entities. DMS anticipates that this amendment may result in additional reimbursement for dentists.

STATEMENT OF EMERGENCY 907 KAR 1:126E

This emergency administrative regulation is being promulgated to incorporate and fully implement a received federal approval that extends coverage of audiology, dental, and vision services to all Medicaid recipients. This emergency administrative regulation is being promulgated to establish policy relating to dental services and enhance the services available to all Medicaid recipients in the most appropriate setting. In addition, a received federal approval requires that audiology, dental, and vision services be expanded to individuals older than twenty-one (21). This emergency administrative regulation is needed pursuant to KRS 13A.190(1)(a)2. to preserve state and federal funding and ensure the most efficient use of funds. Failure to implement the received federal approval and provide coverage for eligible recipients within a timely fashion could result in a loss of federal funds.

In addition, the Department for Medicaid Services (DMS) needs this administrative regulation pursuant to KRS 13A.190(1)(a)1. to preserve the welfare of Medicaid recipients and to reimburse providers for coverage of treatment plans. Covering services in the appropriate setting and increasing access to preventive services will reduce expensive treatment in other settings, such as an emergency department. Also, studies show

that access to these services for adults results in improved health outcomes and lowers costs.

Furthermore, vision, dental and hearing problems have removed thousands of Kentuckians from the workforce, and adults who have access to these preventive services are more likely to enter the workforce. This emergency administrative regulation will help the more than 900,000 Medicaid recipients who are age 21 and older return to work.

This administrative regulation is substantially different from the administrative regulation filed on December 29, 2022, regarding dental services in that new sections relating to DMS activities in response to federal approval and implant policy are included. Significant changes to the implant policy section require providers to use implants sparingly and as an anchoring option, and limit implants per recipient. In addition, prior authorization is now clearly required for the insertion of a dental implant, an updated link to the DMS Dental Fee Schedule is included in two places in Section 5, and the latest version of the dental fee schedule is incorporated by reference.

This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor

ERIC C. FRIEDLANDER, Secretary

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

907 KAR 1:126E. Dental services' coverage provisions and requirements.

EFFECTIVE: April 12, 2023

RELATES TO: KRS 205.520, 205.622, 205.8451, 313.010, 313.040, 369.102(8), 369.101 to 369.120, 415.152, 42 C.F.R. 400.203, 415.170, 415.172, 415.174, 438.2, 45 C.F.R. Parts 160 and 164, 42 U.S.C. 1320d, 1396a-d

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

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has the responsibility to administer the Medicaid program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the Kentucky Medicaid program provisions and requirements regarding the coverage of dental services.

Section 1. Definitions.

(1) "Comprehensive orthodontic" means a medically necessary dental service for treatment of a dentofacial malocclusion which requires the application of braces for correction.

(2) "Current Dental Terminology" or "CDT" means a publication by the American Dental Association of codes used to report dental procedures or services.

(3) "Debridement" means a preliminary procedure that:

(a) Entails the gross removal of plaque and calculus that interfere with the ability of a dentist to perform a comprehensive oral evaluation;

(b) Does not preclude the need for further procedures; and

(c) Is separate from a regular cleaning and is usually a preliminary or first treatment when an individual has developed very heavy plaque or calculus.

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

(5) "Direct practitioner interaction" means the billing dentist or oral surgeon is physically present with and evaluates, examines, treats, or diagnoses the recipient, unless the service can be appropriately performed via telehealth pursuant to 907 KAR 3:170.

(6) "Disabling malocclusion" means a condition that meets the

criteria established in Section 13(7) of this administrative regulation.

(7) "Electronic signature" is defined by KRS 369.102(8).

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

(9) "Implant" means a medical device that is surgically implanted into the jaw to restore a person's ability to chew or appearance. An implant provides support for artificial teeth including a crown, a bridge, or dentures.

(10) "Incidental" means that a medical procedure:

- (a) Is performed at the same time as a primary procedure; and
- (b) 1. Requires little additional practitioner resources; or

2. Is clinically integral to the performance of the primary procedure.

(11) "Integral" means that a medical procedure represents a component of a more complex procedure performed at the same time.

(12) "Locum tenens dentist" means a substitute dentist:

(a) Who temporarily assumes responsibility for the professional practice of a dentist participating in the Kentucky Medicaid Program; and

(b) Whose services are paid under the participating dentist's provider number.

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

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

(15) "Mutually exclusive" means that two (2) procedures:

(a) Are not reasonably performed in conjunction with one (1) another during the same patient encounter on the same date of service;

(b) Represent two (2) methods of performing the same procedure;

(c) Represent medically impossible or improbable use of CDT codes; or

(d) Are described in CDT as inappropriate coding of procedure combinations.

(16) "Other licensed medical professional" or "OLMP" means a health care provider other than a dentist who has been approved to practice a medical specialty by the appropriate licensure board.

(17) "Prepayment review" or "PPR" means a departmental review of a claim regarding a recipient who is not enrolled with a managed care organization to determine if the requirements of this administrative regulation have been met prior to authorizing payment.

(18) "Prior authorization" or "PA" means approval that a provider shall obtain from the department before being reimbursed for a covered service.

(19) "Provider" is defined by KRS 205.8451(7).

(20) "Public health hygienist" means an individual who:

(a) Is a dental hygienist as defined by KRS 313.010(6);

(b) Meets the public health hygienist requirements established in KRS 313.040(8);

(c) Meets the requirements for a public health registered dental hygienist established in 201 KAR 8:562; and

(d) Is employed by or through:

1. The Department for Public Health; or
2. A governing board of health.

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

(22) "Resident" is defined by 42 C.F.R. 415.152.

(23) "Timely filing" means receipt of a claim by Medicaid:

(a) Within twelve (12) months of the date the service was provided;

(b) Within twelve (12) months of the date retroactive eligibility was established; or

(c) Within six (6) months of the Medicare adjudication date if the service was billed to Medicare.

Section 2. Conditions of Participation.

(1) A participating provider shall:

(a) Be licensed as a provider in the state in which the practice

is located;

(b) Comply with the terms and conditions established in the following administrative regulations:

1. 907 KAR 1:005;
2. 907 KAR 1:671; and
3. 907 KAR 1:672;

(c) Comply with the requirements to maintain the confidentiality of personal medical records pursuant to 42 U.S.C. 1320d and 45 C.F.R. Parts 160 and 164;

(d) Comply with all applicable state and federal laws; and

(e) Meet all applicable medical and dental standards of practice.

(2)(a) A participating provider shall:

1. Have the freedom to choose whether to accept an eligible Medicaid recipient; and

2. Notify the recipient of the decision prior to the delivery of service.

(b) If the provider accepts the recipient, the provider:

1. Shall bill Medicaid rather than the recipient for a covered service;

2. May bill the recipient for a service not covered by Kentucky Medicaid, if the provider informed the recipient of noncoverage prior to providing the service; and

3. Shall not bill the recipient for a service that is denied by the department for:

a. Being:

(i) Incidental;

(ii) Integral; or

(iii) Mutually exclusive;

b. Incorrect billing procedures, including incorrect bundling of procedures;

c. Failure to obtain prior authorization for the service; or

d. Failure to meet timely filing requirements.

(3)(a) In accordance with 907 KAR 17:015, Section 3(3), a provider of a service to an enrollee shall not be required to be currently participating in the fee-for-service Medicaid program.

(b) A provider of a service to an enrollee shall be enrolled in the Medicaid program.

(4)(a) If a provider receives any duplicate or overpayment from the department or managed care organization, regardless of reason, the provider shall return the payment to the department or managed care organization.

(b) Failure to return a payment to the department or managed care organization in accordance with paragraph (a) of this subsection may be:

1. Interpreted to be fraud or abuse; and

2. Prosecuted in accordance with applicable federal or state law.

(c) Nonduplication of payments and third-party liability shall be in accordance with 907 KAR 1:005.

(d) A provider shall comply with KRS 205.622.

Section 3. DMS Activities in Response to Federal Approval. (1) The department shall negotiate the dental program with the federal government consistent with 42 U.S.C. 1396a.

(2) The department shall seek official federal approval when implementing new covered services. New covered services may be received via approved state plan amendments with the federal government or via other reliable methods of receiving federal approval.

Section 4. Record Maintenance. (1)(a) A provider shall maintain comprehensive legible medical records that substantiate the services billed.

(b) A dental record shall be considered a medical record.

(2) A medical record shall be signed on the date of service by the:

(a) Provider; or

(b) Other practitioner authorized to provide the service in accordance with:

1. KRS 313.040; and
2. 201 KAR 8:562.

(3) An X-ray shall be:

(a) Of diagnostic quality; and

(b) Maintained in a manner that identifies the:

1. Recipient's name;
2. Service date; and
3. Provider's name.

(4) A treatment regimen shall be documented to include:

- (a) Diagnosis;
- (b) Treatment plan;
- (c) Treatment and follow-up; and
- (d) Medical necessity.

(5) Medical records, including X-rays, shall be maintained in accordance with 907 KAR 1:672.

Section 5. General and Certain Service Coverage Requirements.

(1) A covered service shall be:

- (a) Medically necessary; and

(b) Except as provided in subsection (2) of this section, furnished to a recipient through direct practitioner interaction.

(2) A covered service provided by another licensed medical professional (OLMP) shall be covered if the:

(a) OLMP is employed by the supervising oral surgeon, dentist, or dental group;

- (b) OLMP is licensed in the state of practice; and

(c) Supervising provider has direct practitioner interaction with the recipient, except for a service provided by a dental hygienist if the dental hygienist provides the service under general supervision of a practitioner in accordance with KRS 313.040.

(3)(a) A medical resident may provide and the department shall cover services if provided under the direction of a program participating teaching physician in accordance with 42 C.F.R. 415.170, 415.172, and 415.174.

(b) A dental resident, student, or dental hygiene student may provide and the department shall cover services under the direction or supervision of a program participating provider in or affiliated with an American Dental Association accredited institution.

(4) Services provided by a locum tenens dentist shall be covered:

- (a) If the locum tenens dentist:

1. Has a national provider identifier (NPI) and provides the NPI to the department;

2. Does not have a pending criminal or civil investigation regarding the provision of services;

3. Is not subject to a formal disciplinary sanction from the Kentucky Board of Dentistry; and

4. Is not subject to any federal or state sanction or penalty that would bar the dentist from Medicare or Medicaid participation; and

- (b) For no more than sixty (60) continuous days.

(5) Preventative services provided by a public health hygienist shall be covered.

(6) The department shall cover the oral pathology procedures listed on the Kentucky Medicaid Dental Fee Schedule if provided by an oral pathologist who meets the condition of participation requirements established in Section 2 of this administrative regulation.

(7) Coverage shall be limited to the procedures or services:

(a) Identified and established on the Kentucky Medicaid Dental Fee Schedule as available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>; or

- (b) Established in this administrative regulation.

(8) The department shall not cover a service provided by a provider or practitioner that exceeds the scope of services established for the provider or practitioner in:

- (a) Kentucky Revised Statutes;
- (b) Kentucky administrative regulations; or

(c) As established on the Kentucky Medicaid Dental Fee Schedule as available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>.

(9) The department shall not reimburse for services under this administrative regulation that are only cosmetic in nature.

Section 6. Diagnostic Service Coverage Limitations.

(1)(a) Except as provided in paragraph (b) of this subsection, coverage for a comprehensive oral evaluation shall be limited to one (1) per twelve (12) month period, per recipient, per provider.

(b) The department shall cover a second comprehensive oral evaluation if the evaluation is provided in conjunction with a prophylaxis.

(c) A comprehensive oral evaluation shall not be covered in conjunction with the following:

1. A limited oral evaluation for trauma related injuries;
2. A space maintainer;
3. Denture relining;
4. A transitional appliance;
5. A prosthodontic service;
6. Temporomandibular joint therapy;
7. An orthodontic service;
8. Palliative treatment;
9. An extended care facility call;
10. A house call; or
11. A hospital call.

(2)(a) Coverage for a limited oral evaluation shall:

1. Be limited to a trauma related injury or acute infection; and
2. Be limited to one (1) per date of service, per recipient, per provider.

(b) A limited oral evaluation shall not be covered in conjunction with another service except for:

1. A periapical X-ray;
2. A bitewing X-ray;
3. A panoramic X-ray;
4. Resin, anterior;
5. A simple or surgical extraction;
6. Surgical removal of a residual tooth root;
7. Removal of a foreign body;
8. Suture of a recent small wound;
9. Intravenous sedation; or
10. Incision and drainage of infection.

(3)(a) Except as provided in paragraph (b) of this subsection, the following limitations shall apply to coverage of a radiograph service:

1. Bitewing X-rays shall be limited to four (4) per twelve (12) month period, per recipient, per provider;

2. Periapical X-rays shall be limited to fourteen (14) per twelve (12) month period, per recipient, per provider;

3. An intraoral complete X-ray series shall be limited to one (1) per twenty-four (24) month period, per recipient, per provider;

4. Periapical and bitewing X-rays shall not be covered in the same twelve (12) month period as an intraoral complete X-ray series per recipient, per provider;

5. A panoramic film shall:

a. Be limited to one (1) per twenty-four (24) month period, per recipient, per provider; and

b. Require prior authorization in accordance with Section 15(1), (2), and (3) of this administrative regulation for a recipient under the age of six (6) years;

6. A cephalometric film shall be limited to one (1) per twenty-four (24) month period, per recipient, per provider; or

7. A cephalometric and panoramic X-ray shall not be covered separately in conjunction with a comprehensive orthodontic consultation.

(b) The limits established in paragraph (a) of this subsection shall not apply to:

1. An X-ray necessary for a root canal or oral surgical procedure; or

2. An X-ray that:

a. Exceeds the established service limitations; and

b. Is determined by the department to be medically necessary.

Section 7. Preventive Service Coverage Limitations.

(1)(a) Coverage of a prophylaxis shall be limited to one (1) per six (6) month period, per recipient.

(b) A prophylaxis shall not be covered in conjunction with periodontal scaling or root planing.

(2)(a) Coverage of a sealant shall be limited to:

1. Each six (6) and twelve (12) year molar once every four (4)

years with a lifetime limit of three (3) sealants per tooth, per recipient; and

2. An occlusal surface that is noncavitated.

(b) A sealant shall not be covered in conjunction with a restorative procedure for the same tooth on the same surface on the same date of service.

(3)(a) Coverage of a space maintainer shall require the following:

1. Fabrication;
2. Insertion;
3. Follow-up visits;
4. Adjustments; and

5. Documentation in the recipient's medical record to:

a. Substantiate the use for maintenance of existing interdental space; and

b. Support the diagnosis and a plan of treatment that includes follow-up visits.

(b) The date of service for a space maintainer shall be considered to be the date the appliance is placed on the recipient.

(c) Coverage of a space maintainer, an appliance therapy specified in the CDT orthodontic category, or a combination of the two (2) shall not exceed two (2) per twelve (12) month period, per recipient.

Section 8. Restorative Service Coverage Limitations.

(1) A four (4) or more surface resin-based anterior composite procedure shall not be covered if performed for the purpose of cosmetic bonding or veneering.

(2) Coverage of a prefabricated crown shall include any procedure performed for restoration of the same tooth.

(3) Coverage of a pin retention procedure shall be limited to:

- (a) A permanent molar;
- (b) One (1) per tooth, per date of service, per recipient; and
- (c) Two (2) per permanent molar, per recipient.

(4) Coverage of a restorative procedure performed in conjunction with a pin retention procedure shall be limited to one (1) of the following:

- (a) An appropriate medically necessary restorative material encompassing three (3) or more surfaces;
- (b) A permanent prefabricated resin crown; or
- (c) A prefabricated stainless-steel crown.

Section 9. Endodontic Service Coverage Limitations.

(1) A therapeutic pulpotomy shall not be covered if performed in conjunction with root canal therapy.

(2)(a) Coverage of root canal therapy shall require:

1. Treatment of the entire tooth;
2. Completion of the therapy; and
3. An X-ray taken before and after completion of the therapy.

(b) The following root canal therapy shall not be covered:

1. The Sargenti method of root canal treatment; or
2. A root canal that does not treat all root canals on a multi-rooted tooth.

Section 10. Periodontic Service Coverage Limitations.

(1) Coverage of a gingivectomy or gingivoplasty procedure shall require prepayment review and shall be limited to:

(a) A recipient with gingival overgrowth due to a:

1. Congenital condition;
2. Hereditary condition; or
3. Drug-induced condition; and

(b) One (1) per tooth or per quadrant, per provider, per recipient per twelve (12) month period.

(2) Coverage of a gingivectomy or gingivoplasty procedure shall require documentation in the recipient's medical record that includes:

- (a) Pocket-depth measurements;
- (b) A history of nonsurgical services; and
- (c) A prognosis.

(3) Coverage for a periodontal scaling and root planing procedure shall:

(a) Not exceed one (1) per quadrant, per twelve (12) months, per recipient, per provider;

(b) Require prior authorization in accordance with Section 15(1), (2), and (4) of this administrative regulation; and

(c) Require documentation to include:

1. A periapical film or bitewing X-ray;
2. Periodontal charting of preoperative pocket depths; and
3. A photograph, if applicable.

(4) Periodontal scaling and root planing shall not be covered if performed in conjunction with dental prophylaxis.

Section 11. Prosthodontic Service Coverage Limitations. (1) A denture repair in the following categories shall not exceed three (3) repairs per twelve (12) month period, per recipient:

- (a) Repair resin denture base; or
- (b) Repair cast framework.

(2) Coverage for the following services shall not exceed one (1) per twelve (12) month period, per recipient:

- (a) Replacement of a broken tooth on a denture;
- (b) Laboratory relining of:
 1. Maxillary dentures; or
 2. Mandibular dentures;
- (c) An interim maxillary partial denture; or
- (d) An interim mandibular partial denture.

(3) An interim maxillary or mandibular partial denture shall be limited to use:

- (a) During a transition period from a primary dentition to a permanent dentition;
- (b) For space maintenance or space management; or
- (c) As interceptive or preventive orthodontics.

Section 12. Maxillofacial Prosthetic Service Coverage Limitations. The following services shall be covered if provided by a board-eligible or board-certified prosthodontist:

- (1) A nasal prosthesis;
- (2) An auricular prosthesis;
- (3) A facial prosthesis;
- (4) A mandibular resection prosthesis;
- (5) A pediatric speech aid;
- (6) An adult speech aid;
- (7) A palatal augmentation prosthesis;
- (8) A palatal lift prosthesis;
- (9) An oral surgical splint; or
- (10) An unspecified maxillofacial prosthetic.

Section 13. Oral and Maxillofacial Service Coverage Limitations.

(1) The simple use of a dental elevator shall not constitute a surgical extraction.

(2) Root removal shall not be covered on the same date of service as the extraction of the same tooth.

(3) Coverage of surgical access of an unerupted tooth shall:

(a) Be limited to exposure of the tooth for orthodontic treatment; and

(b) Require prepayment review.

(4) Coverage of alveoplasty shall:

(a) Be limited to one (1) per quadrant, per lifetime, per recipient; and

(b) Require a minimum of a four (4) tooth area within the same quadrant.

(5) An occlusal orthotic device shall:

(a) Be covered for temporomandibular joint therapy;

(b) Require prior authorization in accordance with Section 15(1), (2), and (5) of this administrative regulation; and

(c) Be limited to one (1) per lifetime, per recipient.

(6) Frenulectomy shall be limited to two (2) per date of service.

(7) Coverage shall be limited to one (1) per lifetime, per recipient, for removal of the following:

- (a) Torus palatinus (maxillary arch);
- (b) Torus mandibularis (lower left quadrant); or
- (c) Torus mandibularis (lower right quadrant).

Section 14. Orthodontic Service Coverage Limitations.

(1) Coverage of an orthodontic service shall require prior authorization except as established in Section 15(1)(b) of this

administrative regulation.

(2) The combination of space maintainers and appliance therapy shall be limited to two (2) per twelve (12) month period, per recipient.

(3) Space maintainers and appliance therapy shall not be covered in conjunction with comprehensive orthodontics.

(4) Orthodontic braces shall be limited to recipients under the age of twenty-one (21) years.

(5) Space maintainers shall be allowed for adults when:

(a) There has been an extraction or lost tooth;

(b) A permanent tooth is waiting for a partial;

(c) In preparation for an implant, if an implant is medically necessary and approved;

(d) A third molar is partially erupted; or

(e) There is a congenitally missing tooth.

(6) The department shall only cover new orthodontic brackets or appliances.

(7) An appliance for minor tooth guidance shall not be covered for the control of harmful habits.

(8) In addition to the limitations specified in subsection (1) of this section, a comprehensive orthodontic service shall:

(a) Require a referral by a dentist; and

(b) Be limited to the correction of a disabling malocclusion for transitional, full permanent dentition, or treatment of a cleft palate or severe facial anomaly.

(9) A disabling malocclusion shall:

(a) Exist if a patient:

1. Exhibits a severe overbite encompassing one (1) or more teeth in palatal impingement diagnosed by a lingual view of orthodontic models (stone or digital) showing palatal soft tissue contact;

2. Exhibits a true anterior open bite:

a. Either skeletal or habitual in nature that if left untreated will result in:

(i) The open bite persisting; or

(ii) A medically documented speech impediment; and

b. That does not include:

(i) One (1) or two (2) teeth slightly out of occlusion; or

(ii) Where the incisors have not fully erupted;

3. Demonstrates a significant antero-posterior discrepancy (Class II or III malocclusion that is comparable to at least one (1) full tooth Class II or III):

a. Dental or skeletal; and

b. If skeletal, requires a traced cephalometric radiograph supporting significant skeletal malocclusion;

4. Has an anterior crossbite that involves:

a. More than two (2) teeth within the same arch; or

b. A single tooth crossbite if there is evident detrimental changes in supporting tissues including:

(i) Obvious gingival stripping; or

(ii) A functional shift of the mandible or severe dental attrition for an individual under the age of twelve (12) years; or

c. An edge-to-edge crossbite if there is severe dental attrition due to a traumatic occlusion;

5. Demonstrates a handicapping posterior transverse discrepancy that:

a. May include several teeth, one (1) of which shall be a molar; and

b. Is handicapping in a function fashion as follows:

(i) Functional shift;

(ii) Facial asymmetry; or

(iii) A complete buccal or lingual crossbite;

6. Demonstrates a medically documented speech pathology resulting from the malocclusion;

7. Demonstrates a significant posterior open bite that does not involve:

a. Partially erupted teeth; or

b. One (1) or two (2) teeth slightly out of occlusion;

8. Except for third molars, demonstrates an impacted tooth that:

a. Will not erupt into the arch without orthodontic or surgical intervention; and

b.(i) Shows a documented pathology; or

(ii) Poses a significant threat to the integrity of the remaining dentition or to the health of the patient;

9. Has an extreme overjet in excess of eight (8) millimeters and one (1) of the skeletal conditions specified in subparagraphs 1 through 8 of this paragraph;

10. Has trauma or injury resulting in severe misalignment of the teeth or alveolar structures and does not include simple loss of teeth with no other affects;

11. Has a congenital or developmental disorder giving rise to a handicapping malocclusion;

12. Has a significant facial discrepancy requiring a combined orthodontic and orthognathic surgery treatment approach; or

13. Has developmental anodontia in which several congenitally missing teeth result in a handicapping malocclusion or arch deformation; and

(b) Not include:

1. One (1) or two (2) teeth being slightly out of occlusion;

2. Incisors not having fully erupted; or

3. A bimaxillary protrusion.

(10) Coverage of comprehensive orthodontic treatment shall not include orthognathic surgery.

(11) If comprehensive orthodontic treatment is discontinued prior to completion, the provider shall submit to the department:

(a) Documentation of the referral referenced in subsection (8) of this section; and

(b) A letter detailing:

1. Treatment provided, including dates of service;

2. Current treatment status of the patient; and

3. Charges for the treatment provided.

(12) Remaining portions of comprehensive orthodontic treatment may be authorized for prorated coverage upon compliance with the prior authorization requirements specified in Section 15(1), (2), and (7) of this administrative regulation if treatment:

(a) Is transferred to another provider; or

(b) Began prior to Medicaid eligibility.

Section 15. Adjunctive General Service Coverage Limitations.

(1)(a) Coverage of palliative treatment for dental pain shall be limited to one (1) per date of service, per recipient, per provider.

(b) Palliative treatment for dental pain shall not be covered in conjunction with another service except for a radiograph.

(2)(a) Coverage of a hospital or ambulatory surgical center call or extended care facility call shall be limited to one (1) per date of service, per recipient, per provider.

(b) A hospital call, ambulatory surgical center call, or extended care facility call shall not be covered in conjunction with:

1. Limited oral evaluation; or

2. Comprehensive oral evaluation.

(3) Intravenous sedation shall not be covered for local anesthesia or nitrous oxide.

Section 16. Implant Policy. (1) Implants shall meet the medical necessity criteria and be used to stabilize a retaining prosthetic device.

(2) Implants shall be limited to no more than:

(a) For an individual who has lost all of their natural teeth, a total of ten (10) but with a limit of five (5) for each arch; and

(b) For an individual who retains some natural teeth, a limit of eight (8) for replacement of individual teeth or for a larger restorative purpose such as a bridge that spans three (3) or more teeth.

Section 17. Prior Authorization. (1)(a) The prior authorization requirements established in this administrative regulation shall apply to services for a recipient who is not enrolled with a managed care organization.

(b) A managed care organization shall not be required to apply the prior authorization requirements established in this administrative regulation for a recipient who is enrolled with the managed care organization.

(c) Prior authorization shall be required for the following:

1. A panoramic film for a recipient under the age of six (6)

years;

2. Periodontal scaling and root planing;
3. An occlusal orthotic device;
4. A preorthodontic treatment visit;
5. Removable appliance therapy;
6. Fixed appliance therapy;
7. A comprehensive orthodontic service; or
8. An implant.

(2) Limits may also be exceeded by prior authorization for children under the age of twenty-one (21) if medically necessary.

(3) A provider shall request prior authorization by submitting the following information to the department:

(a) A MAP 9, Prior Authorization for Health Services;

(b) Additional forms or information as specified in subsections (3) through (8) of this section; and

(c) Additional information required to establish medical necessity if requested by the department.

(4) A request for prior authorization of a panoramic film shall include a letter of medical necessity.

(5) A request for prior authorization of periodontal scaling and root planing shall include periodontal charting of preoperative pocket depths.

(6) A request for prior authorization of an occlusal orthotic device shall include a MAP 306, Temporomandibular Joint (TMJ) Assessment Form.

(7) A request for prior authorization of removable and fixed appliance therapy shall include:

(a) A MAP 396, Kentucky Medicaid Program Orthodontic Evaluation Form;

(b) Panoramic film or intraoral complete series; and

(c) Dental models or the digital equivalent of dental models.

(8) A request for prior authorization for comprehensive orthodontic services shall include:

(a) A MAP 396, Kentucky Medicaid Program Orthodontic Evaluation Form;

(b) A MAP 9A, Kentucky Medicaid Program Orthodontic Services Agreement;

(c) A cephalometric X-ray with tracing;

(d) A panoramic X-ray;

(e) Intraoral and extraoral facial frontal and profile pictures;

(f) An occluded and trimmed dental model or the digital equivalent of a model; and

(g) An oral surgeon's pretreatment work up notes if orthognathic surgery is required.

(9) If prior authorization for comprehensive orthodontic services is given following a request submitted pursuant to subsection (8) of this section, additional information shall be submitted as required in this subsection.

(a) After six (6) monthly visits are completed, but not later than twelve (12) months after the banding date of service, the provider shall submit:

1. A MAP 559, Six (6) Month Orthodontic Progress Report; and

2. An additional MAP 9, Prior Authorization for Health Services.

(b) Within three (3) months following completion of the comprehensive orthodontic treatment, the provider shall submit:

1. Beginning and final records; and

2. A MAP 700, Kentucky Medicaid Program Orthodontic Final Case Submission.

(10) Upon receipt and review of the materials required in subsection (7)(a) through (g) of this section, the department may request a second opinion from another provider regarding the proposed comprehensive orthodontic treatment.

(11) If a service that requires prior authorization is provided before the prior authorization is received, the provider shall assume the financial risk that the prior authorization may not be subsequently approved.

(12)(a) Prior authorization shall not be a guarantee of recipient eligibility.

(b) Eligibility verification shall be the responsibility of the provider.

(13) Upon review and determination by the department that removing a prior authorization requirement shall be in the best interest of a Medicaid recipient, the prior authorization requirement

for a specific covered benefit shall be discontinued, at which time the covered benefit shall be available to all recipients without prior authorization, as necessary, an age limit related prior authorization may continue to be enforced.

Section 18. Use of Electronic Signatures. (1) The creation, transmission, storage, and other use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 to 369.120.

(2) A dental service provider that chooses to use electronic signatures shall:

(a) Develop and implement a written security policy that shall:

1. Be adhered to by each of the provider's employees, officers, agents, or contractors;

2. Identify each electronic signature for which an individual has access; and

3. Ensure that each electronic signature is created, transmitted, and stored in a secure fashion;

(b) Develop a consent form that shall:

1. Be completed and executed by each individual using an electronic signature;

2. Attest to the signature's authenticity; and

3. Include a statement indicating that the individual has been notified of his or her responsibility in allowing the use of the electronic signature; and

(c) Provide the department, immediately upon request, with:

1. A copy of the provider's electronic signature policy;

2. The signed consent form; and

3. The original filed signature.

Section 19. Auditing Authority. (1) The department or the managed care organization in which an enrollee is enrolled shall have the authority to audit any:

(a) Claim;

(b) Medical record; or

(c) Documentation associated with any claim or medical record.

(2) A dental record shall be considered a medical record.

Section 20. Federal Approval and Federal Financial Participation. The coverage provisions and requirements established in this administrative regulation shall be contingent upon:

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

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

Section 21. Appeal Rights. An appeal of a department decision regarding a Medicaid recipient who is:

(1) Enrolled with a managed care organization shall be in accordance with 907 KAR 17:010; or

(2) Not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

Section 22. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "MAP 9, Prior Authorization for Health Services", December 1995;

(b) "MAP 9A, Kentucky Medicaid Program Orthodontic Services Agreement", December 1995;

(c) "MAP 306, Temporomandibular Joint (TMJ) Assessment Form", December 1995;

(d) "MAP 396, Kentucky Medicaid Program Orthodontic Evaluation Form", March 2001;

(e) "MAP 559, Six (6) Month Orthodontic Progress Report", December 1995;

(f) "MAP 700, Kentucky Medicaid Program Orthodontic Final Case Submission", December 1995; and

(g) "KY Medicaid Dental Fee Schedule", April 2023.

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

(a) At the Department for Medicaid Services, 275 East Main

VOLUME 49, NUMBER 11– MAY 1, 2023

Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.; or

(b) Online at the department's Web site located at <https://chfs.ky.gov/agencies/dms/dpo/bpb/Pages/dental.aspx>.

LISA D. LEE, Commissioner
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: April 7, 2023

FILED WITH LRC: April 12, 2023 at 8:00 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 22, 2023, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by May 15, 2023, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until May 31, 2023. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS And Tiering Statement

Contact Person: Jonathan Scott and Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the Kentucky Medicaid program provisions and requirements regarding the coverage of dental services. This administrative regulation contains a clear statement about federal approval as it relates to dental services. In addition, policy relating to the amount and approval of implants as well as clearer dental policy and fee schedule information. Additional restrictions have also been included around the use of orthodontic braces and space maintainers. Finally, a hospital call, ambulatory surgical center call, or extended care facility call based on dental pain may now be subject to coverage.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the Kentucky Medicaid program provisions and requirements regarding the coverage of dental services.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing the Kentucky Medicaid program provisions and requirements regarding the coverage of dental services.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the authorizing statutes by establishing the Kentucky Medicaid program provisions and requirements regarding the coverage of dental services.

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

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

(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 all adult and children recipients in the Medicaid program by establishing and enhancing the quality of dental services that can be offered to recipients. There are currently 1.7 million individuals in the Medicaid program. The adult population that is newly eligible could include as many as 900,000 individuals from the traditional and expansion Medicaid populations. In addition, Medicaid participating dental service providers will be affected by the amendments. Currently, there are 1,078 individual dentists, 158 group dental practices, sixty-nine (69) individual physicians who perform oral surgery, and nine (9) group physician practices that perform oral surgery enrolled in Kentucky's Medicaid program.

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

(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. Dental providers will need to ensure that they provide services within the limits established in the administrative regulation if they wish to be reimbursed for services.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). The amendment imposes no cost on the regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). Individual beneficiaries will benefit from the additional dental services and visits. Dental providers will benefit from the opportunity to provide services to an additional population of Medicaid beneficiaries.

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

(a) Initially: The department shall meet its budget obligations pursuant to HB 1 of the 2022 Regular Session. DMS anticipates that costs will be shifted within the Medicaid program and will be reflected in capitation rates of about \$1.00 PMPM for each member. This additional cost will be impacted by anticipated savings in hospital emergency department utilization, opioid utilization rates, and oral surgery. DMS anticipates savings and decreased utilization in these more expensive care settings. For example, Medicaid enrollees with preventive care may have 43% lower costs and can be as much as eight times less likely to have an emergency department visit for dental care. In addition, up to 1 million work hours could be saved in the Commonwealth if emergency dental care is avoided for Medicaid recipients. Finally, consistent with national trends, DMS expects additional job-seeking opportunities to be available to the adult population as a result of enhanced dental care and this could result in a movement out of the Medicaid program for some adult beneficiaries.

(b) On a continuing basis: DMS anticipates that movement out of the Medicaid program will intensify in future years. DMS further anticipates that preventive care will reduce later utilization. The department will revisit the PMPM for this service category with contracted actuaries prior to making future budget requests.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The sources of revenue to be used for implementation and enforcement of this administrative regulation are federal funds authorized under the Social Security Act, Title XIX and matching funds of general and restricted fund appropriations.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied within this administrative regulation as dental services are available to all Medicaid recipients.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396d(r)(3)

(2) State compliance standards. KRS 194A.050(1) states, "The secretary shall promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs." KRS 205.520(3) states: "... it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."

(3) Minimum or uniform standards contained in the federal mandate. Coverage of dental services is mandated only for certain children within the early and periodic screening, diagnosis and treatment (EPSDT) program for individuals under age twenty-one (21).

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

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

FISCAL NOTE

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1), 205.520(3), 42 U.S.C. 1396d(r)(3).

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

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

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

(c) How much will it cost to administer this program for the first year? The department shall meet its budget obligations pursuant to HB 1 of the 2022 Regular Session. DMS anticipates that costs will be shifted within the Medicaid program and will be reflected in capitation rates of about \$1.00 PMPM for each member. This additional cost will be impacted by anticipated savings in hospital emergency department utilization, opioid utilization rates, and oral surgery. DMS anticipates savings and decreased utilization in these more expensive care settings. For example, Medicaid enrollees with preventive care may have 43% lower costs and can be up to eight times less likely to have an emergency department visit for dental care. In addition, up to 1 million work hours could be saved in the Commonwealth if emergency dental care is avoided for Medicaid recipients. Finally, consistent with national trends, DMS expects

additional job-seeking opportunities to be available to the adult population as a result of enhanced dental care and this could result in a movement out of the Medicaid program for some adult beneficiaries.

(d) How much will it cost to administer this program for subsequent years? DMS anticipates that movement out of the Medicaid program will intensify in future years. DMS further anticipates that the preventive care will reduce later utilization. The department will revisit the PMPM for this service category with contracted actuaries prior to making future budget requests.

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:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? DMS anticipates cost savings for dentists who will be able to receive Medicaid reimbursement for a previously uncovered population of 900,000 people. The dentists would have previously sought private pay reimbursement for these services and many recipients may have not accessed services as a result. These changes therefore provide a stable source of funding for these services.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? DMS anticipates cost savings on an ongoing basis for dental services providers because expanded services for adult and children beneficiaries will now be from a more stable funding source.

(c) How much will it cost the regulated entities for the first year? DMS does not anticipate that regulated entities will incur costs as a result of this administrative regulation in the first year.

(d) How much will it cost the regulated entities for subsequent years? DMS does not anticipate that regulated entities will incur costs as a result of this administrative regulation in subsequent years.

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

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] The administrative regulation will not have a major economic impact – as defined by KRS 13A.010 – on regulated entities. DMS anticipates that this administrative regulation may result in additional reimbursement for dentists.

STATEMENT OF EMERGENCY 907 KAR 1:632E

This emergency administrative regulation is being promulgated to incorporate and fully implement a received federal approval that extends coverage of audiology, dental, and vision services to all Medicaid recipients. This emergency administrative regulation is being promulgated to update policy relating to vision services and enhance the services available to all Medicaid recipients in the most appropriate setting. In addition, a received federal approval requires that audiology, dental, and vision services be expanded to individuals older than twenty-one (21). This emergency administrative regulation is needed pursuant to KRS 13A.190(1)(a)2. to preserve state and federal funding and ensure the most efficient use of funds. Failure to implement the received federal approval and provide coverage for eligible recipients within

a timely fashion could result in a loss of federal funds.

In addition, the Department for Medicaid Services (DMS) needs this administrative regulation pursuant to KRS 13A.190(1)(a)1. to preserve the welfare of Medicaid recipients and to reimburse providers for coverage of treatment plans. Covering services in the appropriate setting and increasing access to preventive services will reduce expensive treatment in other settings, such as an emergency department. Also, studies show that access to these services for adults results in improved health outcomes and lowers costs.

Furthermore, vision, dental and hearing problems have removed thousands of Kentuckians from the workforce, and adults who have access to these preventive services are more likely to enter the workforce. This emergency administrative regulation will help the more than 900,000 Medicaid recipients who are age 21 and older return to work.

This administrative regulation is substantially different from the administrative regulation filed December 29, 2022, regarding vision services in that language relating to cost-sharing has been removed in Section 1(7)(c). In Section 2(4)(b), policy concerning services that are eligible to be provided on a non-Medicaid basis is also clarified to be consistent with 907 KAR 3:005. In Section 3, two (2) references to the DMS website are given for the Vision Program fee schedule. In addition, a clarification is made about vision service limits and children under the age of twenty-one (21). Policy related to eyeglass frames is clarified in Section 4(3), with eyeglass frames designated as deluxe now required for Medicaid members and prisms allowed if medically necessary. In Section 4(4) progressive lens prescriptions are now allowed. Section 5 of the administrative regulation is amended to allow for contacts if there is a medical indication for them. In addition, daily contacts are specifically included, and previous language about specific vision limitations for use of contact lenses has been removed. Section 6 is amended to further allow for use of press-on prisms if medically necessary. Finally, Section 14 addressing material incorporated by reference has been updated to include the most recent version of the Vision Program Fee Schedule.

This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor
ERIC C. FRIEDLANDER, Secretary

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

907 KAR 1:632E. Vision program coverage provisions and requirements.

EFFECTIVE: April 12, 2023

RELATES TO: KRS 205.520, 205.622, 205.8451(7), (9), Chapter 320, Chapter 326, 326.030, 326.040, 369.101 to 369.120, 42 C.F.R. 400.203, 431.17, 438.2, 440.40, 440.60, 447 Subpart B, [42 U.S.C. 1396a-d], 45 C.F.R. 147.126, Parts 160 and 164, 164.306, 164.316, 42 U.S.C. 1320d to 1320d-8, 1396a-d

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 42 C.F.R. 441.30, 42 C.F.R. 441.56(c)(1)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the Kentucky Medicaid Program provisions and requirements regarding the coverage of vision services.

Section 1. Definitions.

(1) "Current procedural terminology code" or "CPT code" means a code used for reporting procedures and services

performed by medical practitioners and published annually by the American Medical Association in Current Procedural Terminology.

(2) "Department" means the Department for Medicaid ~~Services~~[~~Services~~] or its designee.

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

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

(5) "Healthcare Common Procedure Coding System" or "HCPCS" means a collection of codes acknowledged by the Centers for Medicare and Medicaid Services (CMS) that represents procedures or items.

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

(7) "Medicaid basis" means a scenario in which:

(a) A provider provides a service to a recipient as a Medicaid-participating provider in accordance with:

1. 907 KAR 1:671; and

2. 907 KAR 1:672;

(b) The Medicaid Program is the payer for the service; and

(c) The recipient is not liable for payment to the provider for the service[~~other than any cost sharing obligation owed by the recipient to the provider.~~]

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

(9) "Ophthalmic dispenser" means an individual who is qualified to engage in the practice of ophthalmic dispensing in accordance with KRS 326.030 or 326.040.

(10) "Optometrist" means an individual who is licensed as an optometrist in accordance with KRS Chapter 320.

(11) "Provider" is defined by KRS 205.8451(7).

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

Section 2. General Requirements and Conditions of Participation.

(1)(a) For the department to reimburse for a vision service or item, the service or item shall be:

1. Provided:

a. To a recipient; and

b. By a provider who is:

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

(ii) Except as provided in paragraph (b) of this subsection, currently participating in the Medicaid Program pursuant to 907 KAR 1:671; and

(iii) Authorized by this administrative regulation to provide the given service or item;

2. Covered in accordance with this administrative regulation;

3. Medically necessary;

4. A service or item authorized within the scope of the provider's licensure; and

5. A service or item listed on the Kentucky Medicaid Vision Fee Schedule[~~Department for Medicaid Services Vision Program Fee Schedule~~].

(b) In accordance with 907 KAR 17:015, Section 3(3), a provider of a service to an enrollee shall not be required to be currently participating in the fee-for-service Medicaid Program.

(2)(a) To be recognized as an authorized provider of vision services, an optometrist shall:

1. Be licensed by the:

a. Kentucky Board of Optometric Examiners; or

b. Optometric examiner board in the state in which the optometrist practices if the optometrist practices in a state other than Kentucky;

2. Submit to the department proof of licensure upon initial enrollment in the Kentucky Medicaid Program; and

3. Annually submit to the department proof of licensure renewal including the expiration date of the license and the effective date of renewal.

(b)1. To be recognized as an authorized provider of vision services, an in-state optician shall:

- a. Hold a current license in Kentucky as an ophthalmic dispenser;
- b. Comply with the requirements established in KRS Chapter 326;
- c. Submit to the department proof of licensure upon initial enrollment in the Kentucky Medicaid Program; and
- d. Annually submit to the department proof of licensure renewal including the expiration date of the license and the effective date of renewal.

2. To be recognized as an authorized provider of vision services, an out-of-state optician shall:

- a. Hold a current license in the state in which the optician practices as an ophthalmic dispenser;
- b. Submit to the department proof of licensure upon initial enrollment in the Kentucky Medicaid Program; and
- c. Annually submit to the department proof of licensure renewal including the expiration date of the license and the effective date of renewal.

(c) A physician shall be an authorized provider of vision services.

(3) A provider shall comply with:

- (a) 907 KAR 1:671;
- (b) 907 KAR 1:672;
- (c) All applicable state and federal laws; and
- (d) The confidentiality of personal records pursuant to 42 U.S.C. 1320d to 1320d-8 and 45 C.F.R. Parts 160 and 164.

(4)(a) A provider shall:

1. Have the freedom to choose whether to provide services to a recipient; and

2. Notify the recipient referenced in paragraph (b) of this subsection of the provider's decision to accept or not accept the recipient on a Medicaid basis prior to providing any services to the recipient.

(b) A provider may provide a service to a recipient on a non-Medicaid basis:

1. If the recipient agrees to receive the service on a non-Medicaid basis; and

2. The service is not a Medicaid covered service~~Whether or not the:~~

- a. ~~Provider is a Medicaid-participating provider; or~~
- b. ~~Service is a Medicaid-covered service~~.

Section 3. Vision Service Coverage.

(1) Vision service coverage shall be limited to a service listed with a CPT code or item with an HCPCS code on the Kentucky Medicaid Vision Fee Schedule as available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>~~Department for Medicaid Services Vision Program Fee Schedule~~.

(2) Vision service limits shall be as established on the Kentucky Medicaid Vision Fee Schedule as available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>~~Department for Medicaid Services Vision Program Fee Schedule~~.

(3) Vision service limits may be exceeded by prior authorization for children under twenty-one (21) if medically necessary.

Section 4. Coverage of Eyeglasses and Frames.

(1) To be eligible for eyeglasses covered by the department, a recipient shall:

(a) ~~Be under the age of twenty-one (21) years, including the month in which the recipient becomes twenty-one (21) years of age; and~~

(b) ~~have a diagnosed visual condition that:~~

- (a) ~~[1.] Requires the use of eyeglasses;~~
- (b) ~~[2.] Is within one (1) of the following categories:~~
 1. ~~[a.] Amblyopia;~~
 2. ~~[b.] Post surgical eye condition;~~
 3. ~~[c.] Diminished or subnormal vision; or~~
 4. ~~[d.] Other diagnosis which indicates the need for eyeglasses;~~

and (c) ~~[3.] Requires a prescription correction in the stronger lens no weaker than:~~

1. ~~[a.] +0.50, 0.50 sphere +0.50, or 0.50 cylinder;~~

2. ~~[b.] 0.50 diopter of vertical prism; or~~

3. ~~[c.] A total of two (2) diopter of lateral prism.~~

(2) Provisions regarding any limit on the number of eyeglasses covered shall be as established in 907 KAR 1:631.

(3) For the department to cover:

(a) A frame, the frame shall be:

1. First quality;
2. Free of defects;~~and~~
3. ~~Deluxe; and~~

4. Have a warranty of at least one (1) year; or

(b) A lens, the lens shall be:

1. First quality;
2. Free of defects;
3. Meet the United States Food and Drug Administration's impact resistance standards; ~~and~~
4. Polycarbonate and scratch coated; ~~and~~

5. If medically necessary, inclusive of prisms.

(4) The dispensing of eyeglasses shall include:

- (a) Single vision prescriptions;
- (b) Bi-focal vision prescriptions;
- (c) Multi-focal vision prescriptions;
- (d) Progressive lens prescriptions;
- (e) Services to frames; or
- (f) ~~(e)]~~ Delivery of the completed eyeglasses which shall

include:

1. Instructions in the use and care of the eyeglasses; and
2. Any adjustment, minor or otherwise, for a period of one (1) year.

(5) A provider shall be responsible, at no additional cost to the department or the recipient, for:

- (a) An inaccurately filled prescription;
- (b) Defective material; or
- (c) An improperly fitted frame.

Section 5. Contact Lenses, Tint, and Plano Safety Glasses.

(1) The department shall ~~not~~reimburse for contact lenses substituted for eyeglasses if a medical indication prevents the use of eyeglasses~~unless:~~

(a) ~~The corrected acuity in a recipient's stronger eye is twenty (20)/fifty (50) and shall be improved with the use of contact lenses;~~

(b) ~~The visual prescription is of + 8.00 diopter or greater; or~~

(c) ~~The recipient's diagnosis is 4.00 diopter anisometropia.]~~

(2) The department's reimbursement for contact lenses shall include daily contact lenses.

(3) The department shall not reimburse for tint unless the prescription specifically indicates a diagnosis of photophobia.

(4) ~~[(3)]~~ The department shall not reimburse for plano safety glasses unless the glasses are medically indicated for the recipient.

Section 6. Noncovered Services or Items. The department shall not reimburse for:

- (1) Tinting if not medically necessary;
- (2) Photochromics if not medically necessary;
- (3) Anti-reflective coatings if not medically necessary;
- (4) Other lens options which are not medically necessary;
- (5) Low vision services;
- (6) A press-on prism if not medically necessary; or

(7) A service with a CPT code or item with an HCPCS code that is not listed on the Kentucky Medicaid Vision Fee Schedule~~Department for Medicaid Services Vision Program Fee Schedule~~.

Section 7. Required Provider Documentation. (1)(a) In accordance with 42 C.F.R. 431.17, a provider shall maintain medical records of a service provided to a recipient for the period of time currently required by the United States Health and Human Services Secretary unless the department requires a retention period, pursuant to 907 KAR 1:671, longer than the period required by the United States Health and Human Services Secretary.

(b) If, pursuant to 907 KAR 1:671, the department requires a medical record retention period longer than the period required by the United States Health and Human Services Secretary, the medical record retention period established in 907 KAR 1:671 shall

VOLUME 49, NUMBER 11– MAY 1, 2023

be the minimum record retention period.

(c) A provider shall maintain medical records of a service provided to a recipient in accordance with:

1. 45 C.F.R. 164.316; and
2. 45 C.F.R. 164.306.

(2) A provider shall maintain the following documentation in a recipient's medical record:

(a) Any covered service or covered item provided to the recipient;

(b) For each covered service or covered item provided to the recipient:

1. A signature by the individual who provided the service or item signed on the date the service or item was provided;
2. The date that the service or item was provided; and
3. Demonstration that the covered service or covered item was provided to the recipient;

(c) The diagnostic condition necessitating the service or item; and

(d) The medical necessity as substantiated by an appropriate medical order.

Section 8. No Duplication of Service. (1) The department shall not reimburse for a service provided to a recipient by more than one (1) provider of any program in which the service is covered during the same time period.

(2) For example, if a recipient is receiving a speech-language pathology service from a speech-language pathologist enrolled with the Medicaid Program, the department shall not reimburse for the same service provided to the same recipient during the same time period via the physician services program.

Section 9. Third Party Liability. A provider shall comply with KRS 205.622.

Section 10. Auditing Authority. The department shall have the authority to audit any claim, medical record, or documentation associated with the claim or medical record.

Section 11. Use of Electronic Signatures.

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

(2) A provider that chooses to use electronic signatures shall:

(a) Develop and implement a written security policy that shall:

1. Be adhered to by each of the provider's employees, officers, agents, or contractors;
2. Identify each electronic signature for which an individual has access; and
3. Ensure that each electronic signature is created, transmitted, and stored in a secure fashion;

(b) Develop a consent form that shall:

1. Be completed and executed by each individual using an electronic signature;
2. Attest to the signature's authenticity; and
3. Include a statement indicating that the individual has been notified of his or her responsibility in allowing the use of the electronic signature; and

(c) Provide the department, immediately upon request, with:

1. A copy of the provider's electronic signature policy;
2. The signed consent form; and
3. The original filed signature.

Section 12. Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

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

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

Section 13. Appeal Rights. An appeal of a department decision regarding a Medicaid recipient who is:

- (1) Enrolled with a managed care organization shall be in

accordance with 907 KAR 17:010; or

(2) Not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

Section 14. Incorporation by Reference.

(1) "Kentucky Medicaid Vision Fee Schedule" ["Department for Medicaid Services Vision Program Fee Schedule"], April 2023[May 13, 2014], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m. or online at the department's Web site at <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx> [<http://www.chfs.ky.gov/dms/incorporated.htm>].

LISA D. LEE, Commissioner

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: April 7, 2023

FILED WITH LRC: April 12, 2023 at 8:00 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 22, 2023, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by May 15, 2023, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until May 31, 2023. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jonathan Scott and Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes Medicaid program coverage policies and requirements regarding vision services.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish Medicaid program coverage provisions and requirements regarding vision services.

(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 Medicaid program coverage provisions and requirements regarding vision services.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the authorizing statutes by establishing Medicaid program coverage provisions and requirements regarding vision services; by complying with a federal mandate; and by protecting Kentucky taxpayer monies from being spent if federal matching funds are not provided.

(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 administrative regulation by implementing a state plan amendment that allows for adults to receive vision services. The amendment also clarifies cost sharing requirements, how providers can deliver services on a non-Medicaid basis, requires a higher quality of frame, lens, and lens enhancements to be available to Medicaid recipients. In addition, clarification is made that contact lenses are covered and that daily contact lenses will be available to Medicaid recipients. Finally, updated references to the department's vision fee schedule are included.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update the administrative regulation to reflect current vision policy, and to implement the approval of recent state plan amendments.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by implementing a state plan amendment and updating the administrative regulation to conform to recent statutory and regulatory updates to the Medicaid program.

(d) How the amendment will assist in the effective administration of the statutes: The amendment assists in the effective administration of the statutes by providing a periodic update of the vision program, and to implement recently effective state plan amendments, administrative regulations, and statutes.

(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 all adult and children recipients in the Medicaid program by enhancing the quality of vision products that can be offered to recipients. There are currently 1.7 million individuals in the Medicaid program. The adult population that is newly eligible could include as many as 900,000 individuals from the traditional and expansion Medicaid populations. In addition, this administrative regulation will affect vision service providers participating in the Kentucky Medicaid program.

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

(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 action is required of the regulated entities other than to properly bill for services and adhere to program integrity requirements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). No cost is imposed.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). Individual beneficiaries will benefit from access to vision services, such as eyeglasses and contact lenses. Vision services providers will benefit from the opportunity to provide services to an additional population of Medicaid beneficiaries.

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

(a) Initially: The Department for Medicaid Services (DMS) anticipates an increase of about \$0.75 for each adult beneficiary's per member per month capitation (PMPM) managed care organization (MCO) capitation rate. This upfront expenditure should be balanced against expected savings that could be generated within the Medicaid adult population. Consistent with national trends, DMS expects that Medicaid vision coverage will increase the likelihood of working full-time for adult beneficiaries. This could result in individuals leaving the Medicaid program as a result of receiving full-time employment. The department – due to the efficiencies created – will meet its budgetary requirements as established in House Bill 1 of the 2022 Regular Session.

(b) On a continuing basis: DMS anticipates that movement out of the Medicaid program will intensify in future years. DMS further anticipates that the preventive care will reduce later utilization. The

department will revisit the PMPM for this service category with contracted actuaries prior to making future budget requests.

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in 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: This administrative regulation neither establishes nor directly nor indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is no longer applied within this administrative regulation as vision services are now available to all Medicaid recipients.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396a(a)(30)(A), 42 U.S.C. 1396a(a)(33), 42 C.F.R. 441.56(c)(1), 42 C.F.R. 441.30, Section 2711 of the Affordable Care Act, and 45 C.F.R. 147.126.

(2) State compliance standards. Vision services for Medicaid recipients are not mandated by Kentucky law; however, the Department for Medicaid Services is required by KRS 205.8453 to "institute other measures necessary or useful in controlling fraud and abuse." KRS 205.520(3) states: ". . . it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."

(3) Minimum or uniform standards contained in the federal mandate. Coverage of vision services is mandated only for certain children within the early and periodic screening, diagnosis and treatment (EPSDT) program for individuals under age twenty-one (21). 42 C.F.R. 441.30 states, "The plan must provide for payment of optometric services as physician services, whether furnished by an optometrist or a physician, if— (a) The plan does not provide for payment for services provided by an optometrist, except for eligibility determinations under §§435.531 and 436.531 of this subchapter, but did provide for those services at an earlier period; and (b) The plan specifically provides that physicians' services include services an optometrist is legally authorized to perform." Additionally, state Medicaid programs are required to take measures to monitor that services are appropriate. States are required to establish a plan for review of the appropriateness and quality of care and services furnished to Medicaid recipients by appropriate health care professionals. The plan helps protect against overutilization or unnecessary care and to assure that reimbursement is consistent with efficiency, economy and quality of care. 42 U.S.C. 1396a(a)(30)(A) requires Medicaid state plans to: "... provide such methods and procedures relating to the utilization of, and the payment for, care and services available under the plan (including but not limited to utilization review plans as provided for in section 1903(i)(4)) as may be necessary to safeguard against unnecessary utilization of such care and services. . . ." 45 C.F.R. 147.126 prohibits the application of annual dollar limits on essential health benefits. Medicaid program benefits are included in the scope of essential health benefits.

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

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

FISCAL NOTE

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.030(2), 194A.050(1), 205.520(3), 42 C.F.R. 441.30, 42 C.F.R. 441.56(c)(1), and 45 C.F.R. 147.126.

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

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

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

(c) How much will it cost to administer this program for the first year? The Department for Medicaid Services (DMS) anticipates an increase of about \$0.75 for each adult beneficiary's per member per month capitation (PMPM) managed care organization (MCO) capitation rate. This up-front expenditure should be balanced against expected savings that could be generated within the Medicaid adult population. Consistent with national trends, DMS expects that Medicaid vision coverage will increase the likelihood of working full-time for adult beneficiaries. This could result in individuals leaving the Medicaid program as a result of receiving full-time employment. The department – due to the efficiencies created – will meet its budgetary requirements as established in House Bill 1 of the 2022 Regular Session.

(d) How much will it cost to administer this program for subsequent years? DMS anticipates that movement out of the Medicaid program will intensify in future years. DMS further anticipates that the preventive care will reduce later utilization. The department will revisit the PMPM for this service category with contracted actuaries prior to making future budget requests.

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:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? DMS anticipates cost savings for vision services providers who will be able to receive Medicaid reimbursement for a previously uncovered population of 900,000 people. The vision services providers would have previously sought private pay reimbursement for these services and many recipients may have not accessed services as a result. In addition, other services – such as higher quality eyeglasses and daily contacts – are now available to the entirety of the Medicaid population. This will provide a stable source of funding for these services.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? DMS anticipates cost savings on an ongoing basis for vision services providers because expanded services, and higher quality products will now be from a more stable funding source.

(c) How much will it cost the regulated entities for the first year? DMS does not anticipate that regulated entities will incur costs as a result of this amendment in the first year.

(d) How much will it cost the regulated entities for subsequent

years? DMS does not anticipate that regulated entities will incur costs as a result of this amendment in subsequent years.

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

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] The administrative regulation will not have a major economic impact – as defined by KRS 13A.010 – on regulated entities. DMS anticipates that this amendment may result in additional reimbursement for ophthalmologists and optometrists.

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. Other statutes or legislation may affect a regulation's actual end date.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice
(Emergency As Amended at ARRS, April 11, 2023)

505 KAR 1:140E. Department of Juvenile Justice Policies and Procedures Manual: detention services.

EFFECTIVE: April 11, 2023

Prior versions:

Emergency Amendment – [49 Ky.R. 1569](#)

Emergency Amended After Comments – [49 Ky.R. 1888](#)

RELATES TO: KRS 15A.065, 15A.067, 15A.200-245, 15A.305, 200.080-200.120, Chapters 600-645

STATUTORY AUTHORITY: KRS 15A.065(1), 15A.067, 15A.160, 15A.210, 15A.305, 200.115, 605.150, 635.095, 635.100(7), 640.120, 645.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.067, 15A.160, 15A.210, 15A.305(5), 605.150, 635.095 and 640.120 authorize the Justice and Public Safety Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation incorporates by reference policies and procedures concerning detention services for [into regulatory form materials used by] the Department of Juvenile Justice in the implementation of a statewide juvenile services program.

Section 1. Incorporation by Reference.

(1) The "Department of Juvenile Justice Policy and Procedures Manual: Detention Services", ~~April 11/March 6/January 13,~~ 2023/July 10, 2018, is incorporated by reference and includes the following:

- 700 Definitions (Amended 01/13/23[03/30/18])
- 700.1 Detention Services Delivery System (Amended 01/13/23[Added 03/30/18])
- 701 Criteria for Admissions (Amended 03/30/18)
- 702 Intake, Reception and Orientation (Amended 07/10/18)
- 703 Detention Risk Assessment (Amended 03/30/18)
- 704 Alternatives to Secure Detention (Amended 01/13/23[07/10/18])
- 704.1 Supervision of Juveniles in Alternative to Secure Detention Programs (Amended 03/30/18)
- 704.2 Revocation of Juveniles in Alternative to Secure Detention Programs (Amended 03/30/18)
- 704.3 Juvenile Justice and Delinquency Prevention Act (Added 03/30/18)
- 705 Individual Client Records (Amended 03/30/18)
- 705.2 Progress Notes (Amended 03/30/18)
- 706 Grievance Procedure (Amended 03/30/18)
- 707 Bed Capacities and Staffing of Juvenile Detention Centers (Amended 01/13/23[03/30/18])
- 708 Classification of Juveniles for Housing and Program Assignment (Amended 01/13/23[03/30/18])
- 709 Security and Control (Amended 03/30/18)
- 710 Shift and Log Reports (Amended 03/30/18)
- 711 Transportation of Juveniles (Amended 01/13/23[03/30/18])
- 712 Escape/AWOL (Amended 01/13/23[03/30/18])
- 713 Restraints (Amended 4/11/23[03/06/23][01/13/23][07/10/18])
- 714 Searches (Amended 03/30/18)
- 715 Incident Reports (Amended 03/30/18)
- 716 Behavior Management (Amended 03/30/18)
- 717 Discipline and Special Behavior Management (Amended 01/13/23[03/30/18])
- 718 Disciplinary Review (Amended 07/10/18)
- 720 Programs and Services (Amended 03/30/18)
- 720.1 Library Services (Amended 01/13/23[03/30/18])

- 720.2 Recreation and Structured Activities (Amended 01/13/23[03/30/18])
- 720.3 Religious Programs (Amended 03/30/18)
- 720.4 Juveniles Work Details (Amended 03/30/18)
- 720.5 Social Services (Amended 07/10/18)
- 720.6 Family and Community Contact (Amended 07/10/18)
- 725 Educational Programming and Assessment (Amended 07/10/18)
- 725.1 Instructional Staffing (Amended 03/30/18)
- 725.2 Education Records (Amended 07/10/18)
- 726 Leaves (Amended 03/30/18)
- 729 Release From Detention (Amended 03/30/18)
- 730 Inspections of Secure Juvenile Detention Facilities (Amended 01/13/23[03/30/18])
- 731 Complaint Investigations of Secure Juvenile Detention Centers and Juvenile Holding Facilities (Amended 03/30/18)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Juvenile Justice, Office of the Commissioner, 1025 Capital Center Drive, Third Floor, Frankfort, Kentucky 40601, or at any department field office, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Juvenile Justice Web site at <https://djj.ky.gov/About%20DJJ/Pages/lrcfilings.aspx>.

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

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY
AND REVIEWING SUBCOMMITTEE

ARRS = Administrative Regulation Review Subcommittee
IJC = Interim Joint Committee

GENERAL GOVERNMENT CABINET
Kentucky State Board of Accountancy
(As Amended at ARRS, April 11, 2023)

201 KAR 1:190. Examination sections, applications, and procedures.

RELATES TO: KRS 325.270, 325.261

STATUTORY AUTHORITY: KRS 325.240(2), 325.270(1), (2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 325.240(2) authorizes the board to promulgate administrative regulations to administer KRS Chapter 325. KRS 325.270(1) and (2) require the board to authorize examinations for individuals seeking to become certified public accountants and authorize the board to, by administrative regulation, promulgate standards and fees governing all examination policies and procedures. KRS 325.261(4) requires passage of an examination prior to a person becoming licensed as a certified public accountant and for the board to determine the subjects to be included on the examination. This administrative regulation establishes the subjects, also referred to as sections, to be included on the examination, and the procedures and fees associated with the administration of the examination.

Section 1. Definitions.

(1) "Accounting course" means the subject matter contained in the course description or catalog issued by a college or university that includes auditing, tax, accounting standards, principles, or processes.

(2) "AICPA" means the American Institute of Certified Public Accountants, the entity that prepares and grades the Uniform CPA Examination.

(3) "Business-related subjects" means courses that contain in the course prefix or title, an indication that the course subject matter is one (1) of the following: business, finance, marketing, management, economics, computers, statistics, or accounting.

(4) "CLEP credit" means credit granted by a university or college to a prospective student who obtains a passing score on an exam administered through the College Level Examination Program.

(5) "DSST credit" means credit granted by a university or college to a prospective student who obtains a passing score on an exam administered through the Dantes Subject Standardized Testing program.

(6) "Life assessment course" means a course in which a student earns credit at a university or college based upon the student's personal life and work experiences.

(7) "Major or concentration in accounting" means a minimum of thirty-nine (39) semester hours in business-related subjects, of which twenty-seven (27) semester hours consist of accounting courses.

(8) "NASBA" means the National Association of State Boards of Accountancy, which operates a nationwide computer data bank for candidates applying to sit for the Uniform CPA Examination.

(9) "Official transcript" means an official document issued by a college or university that:

(a) States the college course work completed, degrees awarded, and the date the degree was awarded; and

(b) Contains an authorizing signature or seal.

(10) "Prometric or its successor" means the testing service in charge of administering the Uniform CPA Examination.

(11) "Quarter hour" means 66/100ths of a semester hour.

(12) "Uniform CPA Examination" means the computer-based version of the licensure examination administered by the AICPA.

Section 2. Examination. The board shall use the Uniform CPA Examination prepared by the AICPA as the examination every candidate seeking to receive a license shall sit for and obtain a passing grade for licensure.

Section 3. Grading Procedures and Acquiring Credit for Obtaining a Passing Score.

(1) An exam candidate shall receive a passing score on all sections of the examination to be eligible to receive a license.

(2) The passing score shall be seventy-five (75) on each section.

(3) An exam candidate shall not sit for the same section of the examination until after the candidate receives a score for that section.

(4) If an exam candidate initially receives a passing score on a section of the Uniform CPA Examination, the candidate shall have an eighteen (18) month[s] period in which to obtain a passing score on the remaining sections of the examination. The eighteen (18) month period shall begin on the date that the first passing score is released by NASBA and concludes on the date the candidate sits for the final test section passed, regardless of when the score for that final test section is released~~following the last day of the month of the administration of that examination section to obtain a passing score on the remaining sections of the examination~~.

(a) Failure to receive a passing score on the remaining sections of the examination within the eighteen (18) months shall result in the expiration of the initial passing score, but not other sections passed during that eighteen (18) month period.

(b) All sections of the examination shall be passed during an eighteen (18) month time period for the candidate to be considered to have passed the examination.

(5) One (1) request to extend the time to retain passing scores beyond the time restrictions contained in this section shall be granted to a candidate. The extension shall expire the last day of the calendar quarter from the date the candidate sat for the exam section. Additional extensions may be granted by the board, for good cause, upon a showing of circumstances beyond the candidate's control.

Section 4. Initial Examination Applicants.

(1) Initial examination application process.

(a) An initial examination applicant shall submit a complete, notarized Application for the Uniform CPA Examination.

(b) The applicant shall:

1. Indicate if the applicant has been convicted, plead guilty, entered an Alford plea, or a plea of no contest to a felony or misdemeanor, other than a minor traffic violation, and if so, submit with the application:

a. A copy of the judgment or sentence of conviction;

b. A criminal record check report from the Kentucky Administrative Office of the Courts, Courtnet Disposition System that is dated within six (6) months of the date of the application, or a similar document from the out-of-state agency where the conviction was entered; and

c. A letter of explanation;

2. Indicate if the applicant has been denied admission to the Uniform CPA Examination, and if so, attach to the application a letter explaining the reason, date, and jurisdiction of the denial;

3. Indicate if the applicant has had disciplinary action taken against any professional license, and if so, attach to the application:

a. A letter indicating the jurisdiction and date of action;

b. A copy of all records associated with the action; and

c. An explanation of the circumstances; and

4. Submit an official transcript from each college or university that evidences completion of the educational requirements established in KRS 325.261, which includes a major or

concentration in accounting. Course credit hours that are based upon a quarter hour system shall be converted to semester hours.

(c) An applicant requesting reasonable accommodations in testing due to a disability shall complete an Exam Applicant Special Accommodations Request Form supported by documentation no more than three (3) years old from a qualified examiner that shall include:

1. A diagnosis of the disability; and
2. Recommendation for the specific accommodations.

(d) The board shall not be responsible for the costs associated with obtaining the required documentation, but shall be responsible for the costs of reasonable accommodations that are provided to the applicant.

(e) The applicant shall submit a fee with the Application for the Uniform CPA Examination in the amount of:

1. Thirty (30) dollars for the application; and
2. Thirty (30) dollars for each section of the examination the applicant intends to take.

(f) Fees shall be nonrefundable and payment shall be in the form of a check or money order made payable to the Kentucky State Board of Accountancy. If the institution the check or money order is drawn on does not honor the check or money order, the application shall be incomplete and returned.

(2) Educational requirements.

(a) Educational requirements shall be completed at:

1. A college or university within the United States that was accredited by one (1) of the following accrediting associations when the degree was granted:

- a. Middle States Association of Colleges and Schools;
- b. North Central Association of Colleges and Schools;
- c. New England Association of Schools and Colleges;
- d. Northwest Association of Schools, Colleges and Universities;
- e. Southern Association of Colleges and Schools;
- f. Western Association of Schools and Colleges; or

2. The board shall accept course credit hours awarded by a college or university after January 1, 2020 that is not accredited by one (1) of the associations listed in paragraph (a) 1. of this subsection, if those course credit hours receive credit from a college or university accredited by one (1) of the associations specified in paragraph (a) 1. of this subsection following the enrollment of the student in the accredited college or university. This exception does not apply to the course credits listed in subsection (3) of this section; or

3. A postsecondary educational institution outside the United States with course credits certified by a credentialing agency that is a member of the National Association of Credential Evaluation Services, Inc., or NASBA.

(b) The certification required by paragraph (a)3. of this subsection shall indicate:

1. That the foreign degree is equivalent to a baccalaureate or master's degree earned in an accredited United States college or university as established in KRS 325.261 and this administrative regulation;
2. That the applicant had a major or concentration in accounting;
3. The title of all courses completed by the applicant outside of the United States; and
4. The amount of credit awarded to the applicant for each course.

(c) The board may consult with a Kentucky state-funded, four (4) year institution of higher education for assistance in evaluating the hours earned and the accreditation of an educational institution under this subsection.

(3)(a) An applicant shall not receive credit toward satisfying the education requirements in KRS 325.261 and this administrative regulation for any credit hours awarded through a life assessment course or for DSST credit.

(b) An applicant who received CLEP credit, or credit hours from a college or university for completing an internship or co-op program may use a maximum of six (6) of those hours from each program for a total of twelve (12) hours solely toward satisfying the 150 hour requirement in KRS 325.261(5).

Section 5.(1)(a) The executive director of the board shall review all applications.

(b) If the executive director determines the application satisfies the requirements of this administrative regulation, the application shall be approved.

(c) If the executive director refuses to approve the application, it shall be submitted to the board for the board's review and consideration at its next regularly scheduled meeting.

(2) Applications approved by the executive director or the board shall be entered into the data bank operated by NASBA. NASBA shall then issue a payment coupon to the applicant that specifies the fees to be paid to NASBA, the AICPA, and Prometric to sit for the exam.

(3) Following payment of the required fees, NASBA shall issue a notice to schedule to the candidate, which states the candidate is eligible to contact Prometric or its successor to schedule a date and time to sit for the examination.

(4)(a) A candidate shall have six (6) months from the date of issuance by NASBA of a notice to schedule to sit for the sections of the examination approved by the executive director or the board.

(b) The notice to schedule shall expire when the candidate has sat for the sections approved by the executive director or the board, or at the conclusion of the six (6) month period, whichever comes first.

(c) A notice to schedule that is not expired may be extended if a candidate describes in writing that the extension is necessary due to an emergency or a serious illness that will prohibit the candidate from sitting for a section of the exam prior to the conclusion of the six (6) month time period.

(d) To obtain approval to sit for additional sections of the examination, a candidate shall submit a reexam application as established in Section 9[40] of this administrative regulation.

(5)(a) The exam candidate shall pay all costs associated with sitting for the Uniform CPA Examination charged by NASBA, Prometric or its successor, and the AICPA.

(b) The costs shall be paid no later than ninety (90) days following the date of issuance of the payment coupon from NASBA.

(c) Failure to pay these fees prior to the end of the ninety (90) day time period shall result in the cancellation of the payment coupon and require the candidate to submit a reexam application accompanied by the appropriate fees.

Section 6. Examination Rules of Conduct.

(1) An examination candidate shall present two (2) forms of current and valid identification at the Prometric or its successor examination center. One (1) of these forms of identification shall be a state driver's license, a picture identification card issued by a state motor vehicle licensing agency, or a passport.

(2) The license or picture identification card shall be currently in effect and shall contain a photograph and signature.

(3) Failure to bring this identification to the examination center shall result in the candidate being prohibited from sitting for the examination.

(4) An examination candidate shall comply with all directives of the staff at the Prometric or its successor testing center and the rules of conduct in effect at the testing center.

(5) An examination candidate shall not:

(a) Use written materials or mechanical aids inside or outside the examination room during the course of the examination;

(b) Communicate with any person, other than the testing center staff, inside or outside the examination room, during the course of the examination;

(c) Copy answers or allows his or her answers to be copied;

(d) Substitute an individual in his or her place;

(e) Disclose in any manner any information concerning the examination questions or content;

(f) Falsify or misrepresent educational credentials or other information required for admission to the examination; or

(g) Fail to follow written or announced examination administration procedures.

Section 7. Examination Misconduct Penalties. An examination candidate who violates any of the provisions of this administrative regulation may be prohibited from:

- (1) Further participation in that particular examination section;
- (2) Receiving grades after sitting for any examination; or
- (3) Sitting for subsequent examinations.

Section 8. An exam applicant shall immediately notify the board of a change in his or her mailing address.

Section 9. Reexam Applicants.

(1) Upon request, the board shall mail a Reexam Application for the Uniform CPA Exam to every candidate who fails to pass the Uniform CPA Examination.

(2) The reexam application shall be mailed to the most recent address provided by the candidate.

(3) The board shall not be responsible if the reexam application is not delivered by the United States Postal Service.

(4)(a) The applicant shall:

1. Indicate since the approval of the applicant's initial application if the applicant has been convicted, ~~pleaded~~plead guilty, entered an Alford plea, or a plea of no contest to a felony or misdemeanor, other than a minor traffic violation, and if so, submit with the reexam application:

a. A copy of the judgment or sentence of conviction;

b. A criminal record check report from the Kentucky Administrative Office of the Courts, Courtnet Disposition System that is within six (6) months of the date of the application, or a similar document from the out of state agency where the conviction was entered; and

c. A letter of explanation; and

2. If not previously submitted, and if the applicant is requesting reasonable accommodations in testing due to a disability, complete an Exam Applicant Special Accommodations Request Form supported by documentation no more than three (3) years old from a qualified examiner that shall include:

a. A diagnosis of the disability; and

b. Recommendation for the specific accommodations.

(b) The reexam application shall be received in the board's office prior to the reexam candidate being considered eligible to sit for any section of the exam.

(5)(a) The candidate shall return the completed reexam application with the reexam fee.

(b) The reexam fee shall be thirty (30) dollars per section. The reexam fee shall be nonrefundable and paid by check or money order made payable to the Kentucky State Board of Accountancy. If the institution the check or money order is drawn on does not honor the check or money order, the application shall be incomplete and returned.

(6) A reexam candidate who fails to comply with the requirements of this section shall not be allowed to sit for reexam.

(7) The procedures and policies in Section 5 of this administrative regulation shall be applicable to a reexam application.

(8) The reexam candidate shall comply with the requirements of Sections 6 through 8 of this administrative regulation.

Section 10. Examination Grades. Kentucky exam candidates ~~shall~~will receive their scores via the NASBA Web site: Nasba.org.

Section 11. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Application for the Uniform CPA Examination", October 2014;

(b) "Reexam Application for the Uniform CPA Examination", 2014; and

(c) "Exam Applicant Special Accommodations Request Form", October 2014.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Accountancy, 332 W. Broadway, Suite 310, Louisville, Kentucky 40202, Monday through Friday, 8 a.m. to 4:30 p.m. or at

<https://cpa.ky.gov/Pages/Forms.aspx>.

CONTACT PERSON: Joseph P. Donohue, Executive Director, Kentucky State Board of Accountancy, 332 W. Broadway, Suite 310, Louisville, Kentucky 40202, phone (502) 595-3037, fax (502) 595-4281, email joep.donohue@ky.gov.

BOARDS AND COMMISSIONS

Board of Pharmacy

(As Amended at ARRS, February 14, 2023 and April 11, 2023)

201 KAR 2:380. Board authorized protocols.

RELATES TO: KRS 315.010(25), 315.121(1)(a), 315.191(1)(a), (f)

STATUTORY AUTHORITY: KRS 315.010(25), 315.191(1)(a), (f)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.010(25) defines a prescription drug order, which includes orders issued through protocols authorized by the board. KRS 315.191(1)(a) authorizes the board to promulgate administrative regulations necessary to regulate and control all matters pertaining to pharmacists, pharmacist interns, pharmacy technicians, and pharmacies. KRS 315.191(1)(f) authorizes the board to promulgate administrative regulations that are necessary to control the dispensing of prescription drug orders. This administrative regulation establishes procedures for board authorized protocols by which pharmacists may initiate the dispensing of noncontrolled medications or other professional services.

Section 1. Definitions[Definition].

(1) "Fully executed" means a protocol has been signed and dated by the prescriber and the pharmacist or pharmacists who are the[pharmacist(s)] party or parties to the protocol agreement as required by Section 3 of this administrative regulation[document].

(2) "Prescriber" means any Kentucky licensed physician or advanced practice registered nurse practitioner[individual authorized to prescribe a legend drug].

(3) "Protocol" means a written agreement between a pharmacist or pharmacists and a prescriber that outlines the plan to initiate the dispensing of noncontrolled medications, over-the-counter medications, or other professional services within the prescriber's statutory scope of practice.

(4) "Protocol registry" means the records maintained by the board[of pharmacy] of any fully executed protocol that is being utilized to initiate the dispensing of noncontrolled medications, over-the-counter medications, or other professional services.

Section 2. Procedures. A pharmacist or pharmacists utilizing a protocol may initiate the dispensing of noncontrolled medications, over-the-counter medications, or other professional services under the following conditions:

(1) ~~[A prescriber-approved protocol that meets the minimum requirements in Section 3 of this administrative regulation is in place, and is dated and signed by the prescriber and pharmacist authorized to initiate the dispensing of noncontrolled medications, over-the-counter medications, or other professional services. A pharmacist not party to the executed protocol has no authority to utilize the protocol for medication dispensing or other professional service provision;]~~The protocol:

(a) Meets the minimum requirements in Section 3 of this administrative regulation;

(b) Directs the care, based on current clinical guidelines, for ~~[acute self-limiting]~~conditions listed in Section 5 of this administrative regulation~~[and other minor ailments, preventative health services, and disease state monitoring and management as determined]~~[deemed]~~[appropriate by the board];~~

(c) States~~[Must state]~~ the permit number of the Kentucky

permitted pharmacy where the protocol will be utilized;

(d) Has been reviewed and authorized by the board prior to its execution; and

(e) Has been fully executed and submitted to the board for inclusion in the protocol registry, which shall be made available to the prescriber's licensing board upon request.

~~(2) [The protocol directs the care, based on current clinical guidelines, for acute self-limiting conditions and other minor ailments, preventative health services, and disease state monitoring and management as deemed appropriate by the board] conditions listed in Section 5 of this administrative regulation.;~~

~~[(3) The protocol has been approved by the board, who provides notice to the prescriber's licensure board within ten (10) business days of approval by the board;]~~

~~[(4)] The pharmacist or pharmacists documents the dispensing event in the pharmacy management system, including:~~

~~(a) Documentation as required by 201 KAR 2:171[470] for the dispensing of prescription medication; and~~

~~(b) Documentation that the individual receiving the medication or other professional service was provided with education pursuant to Section 3(4)[4] of this administrative regulation; and]~~

~~[(3)][5] A pharmacist shall request the individual's primary care provider's information, provided one exists, and shall provide notification to the primary care provider within two (2) business days;:]~~

(4) Any pharmacist not party to the fully executed protocol shall not utilize the protocol;

(5) A pharmacist utilizing the protocol shall be employed by or contracted with the permit holder;

(6) A/No] fully executed protocol shall not be used to initiate the dispensing of medications or to provide other professional services until it has been submitted to the board for inclusion in the protocol registry; and

(7) The pharmacist-in-charge shall be responsible for:

(a) Submitting the fully executed protocol to the board for inclusion into the registry; and

(b) Submitting a written notification to the board to remove a protocol from the registry no later than thirty (30) days after discontinuing a protocol.

Section 3. Minimum Requirements of Protocol. Protocols shall contain the following elements:

(1) Criteria for identifying persons eligible to receive medication therapies or other professional services under the protocol, and referral to an appropriate prescriber if the patient is high-risk or treatment is contraindicated;

(2) A list of the medications, including name, dose, route, frequency of administration, and refills authorized to be dispensed under the protocol;

(3) Procedures for how the medications are to be initiated and monitored, including a care plan implemented in accordance with clinical guidelines;

(4) Education to be provided to the person receiving the dispensed medications, including aftercare instructions, if appropriate;

(5) Procedures for documenting in the pharmacy management system all medications dispensed, including notification of the prescriber signing the protocol, if requested;

(6) Length of time protocol is in effect;

(7) Date and signature of prescriber approving the protocol; and]

(8) Dates and signatures of the pharmacists[pharmacist(s)] authorized to initiate dispensing of medications or other professional services under the protocol; and

(9) The date, and education or training of the pharmacist as referenced in Section 4 of this administrative regulation.]; and

(9) The date, and education or training of the pharmacist as referenced in Section 4 of this administrative regulation.]

Section 4. Pharmacist Education and Training Required. A pharmacist who dispenses medication pursuant to a prescriber-approved protocol shall first receive education and training in the subject matter of the protocol from a provider accredited by the Accreditation Council for Pharmacy Education or by a comparable provider approved by the board. Documentation of education shall be provided to the board upon request. Education shall be obtained prior to initiating care under the protocol. A failure to be educated and trained before utilizing the prescriber-approved protocol may result in disciplinary action pursuant to KRS 315.121(1)(a).

Section 5. Authorized Conditions. Board-authorized protocols may be established for the following conditions:

(1) Acute influenza infection pursuant to recommendations by the Centers for Disease Control and Prevention (CDC);

(2) Acute streptococcal pharyngitis infection;

(3) Acute, uncomplicated urinary tract infection;

(4) Acute cutaneous or mucocutaneous fungal infection;

(5) Alcohol use disorder utilizing naltrexone-based therapy pursuant to recommendations from the American Psychiatric Association;

(6) Allergic rhinitis;

(7) Anaphylaxis;

(8) Colorectal cancer prevention and screening;

(9) HCV infection screening;

(10) HIV infection prophylaxis, pre-exposure and post-exposure pursuant to recommendations by the CDC;

(11) HIV infection screening pursuant to recommendations by the CDC;

(12) Nutritional supplementation with vitamins and minerals;

(13) Opioid use disorder pursuant to recommendations by the American Society of Addiction Medicine;

(14) Tobacco use disorder;

(15) Traveler's health pursuant to recommendations by the CDC;

(16) Tuberculosis prevention and control through skin testing, and referral as necessary, pursuant to recommendations by the CDC;

(17) Self-care conditions appropriately treated with over-the-counter medications and products; and

(18) Covid-19 infection pursuant to recommendations by the CDC.

~~[Section 4. Pharmacist Education and Training Required. A pharmacist who dispenses medication pursuant to a prescriber-approved protocol shall first receive education and training in the subject matter of the protocol from a provider accredited by the Accreditation Council for Pharmacy Education or by a comparable provider approved by the board. Documentation of education shall be provided to the board upon request. Education shall be obtained prior to initiating care under the protocol.~~

~~Section 5. Authorized Conditions. Board-authorized protocols may be established for the following conditions:~~

~~(1) Acute influenza infection pursuant to recommendations by the Centers for Disease Control and Prevention (CDC);~~

~~(2) Acute streptococcal pharyngitis infection;~~

~~(3) Acute, uncomplicated urinary tract infection;~~

~~(4) Acute cutaneous or mucocutaneous fungal infection;~~

~~(5) Alcohol use disorder utilizing naltrexone-based therapy pursuant to recommendations from the American Psychiatric Association;~~

~~(6) Allergic rhinitis;~~

~~(7) Anaphylaxis;~~

~~(8) Colorectal cancer prevention and screening;~~

~~(9) HCV infection screening;~~

~~(10) HIV infection prophylaxis, pre-exposure and post-exposure pursuant to recommendations by the CDC;~~

- (11) HIV infection screening pursuant to recommendations by the CDC;
- (12) Nutritional supplementation with vitamins and minerals;
- (13) Opioid use disorder pursuant to recommendations by the American Society of Addiction Medicine;
- (14) Tobacco use disorder;
- (15) Traveler's health pursuant to recommendations by the CDC;
- (16) Tuberculosis prevention and control through skin testing, and referral as necessary, pursuant to recommendations by the CDC; and
- (17) Self-care conditions appropriately treated with over-the-counter medications and products.]

Section 6.[Section 4.] Protocol Review Committee.

(1) The board shall form a committee comprised of four (4) pharmacists and one (1) physician. This committee shall meet no less than quarterly to:

(a) Evaluate new protocols proposed for board approval to ensure compliance with Section 2(1)(b) and Section 3 of this administrative regulation; and

(b) Review previously authorized protocols no later than three (3) years from the authorization date to ensure alignment with current practice guidelines.

(2) The protocol review committee may consult with an expert with relevant practice experience.

(3) The pharmacists shall be appointed by the Board of Pharmacy and the physician by the Kentucky Board of Medical Licensure.

(4) Terms for the pharmacist and physician members on the committee shall be for a term of four (4) years.

(5) The chair of the committee shall be a pharmacist member.

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.

**BOARDS AND COMMISSIONS
Board of Optometric Examiners
(As Amended at ARRS, April 11, 2023)**

201 KAR 5:002. Board administration and optometric practice.

RELATES TO: KRS ~~[7,]~~ 320.230, 320.240(7), 320.295, 320.300(4), 320.310(1)(f), (2), (3), 326.060
STATUTORY AUTHORITY: KRS 320.230, 320.240, [320.240(4), (7),] 320.295, 320.300(4), 320.310(1)(f), (n), (2), (3); 320.240(4), (7), (8)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 320.295 prohibits false, misleading, or deceptive advertising, ~~and. This administrative regulation describes what an advertisement shall include to avoid being characterized as false, misleading, or deceptive.~~ this includes advertising in all forms, including print media and electronic media. KRS 320.310(3) authorizes the board to promulgate an administrative regulation to establish minor violations that are subject to expungement. ~~[This administrative regulation establishes the violations considered minor and the criteria and procedure for expungement.]~~ KRS 320.240(4), (7), and (8) ~~authorize[that]~~ the board ~~[shall have the power] to~~ promulgate an administrative regulation about what acts constitute unprofessional conduct. KRS 320.310(1)(n) authorizes the board to discipline a licensee who violates an administrative regulation promulgated by the board. ~~[This administrative regulation establishes the acts that constitute unprofessional conduct.]~~ KRS 320.310(2) permits each doctor of optometry to maintain branch offices. ~~[This administrative regulation requires each doctor of optometry to furnish information concerning each office to the board.]~~ KRS 320.230 ~~authorizes[allows the]~~ board members to receive per

diem compensation to be determined by administrative regulation of the board not to exceed \$125. ~~[This administrative regulation prescribes the board member's per diem compensation.]~~ KRS 320.300(4) prohibits a person from practicing optometry under any name other than his ~~or her~~ own except as permitted by the board in its administrative regulations. ~~[This administrative regulation prescribes the instances where a doctor of optometry may practice under a trade name.]~~ KRS 320.310(1)(f) authorizes the board to promulgate administrative regulations to permit the practice of optometry outside of the licensee's regular office for a charitable purpose as defined by the board. This administrative regulation establishes requirements for advertising, minor violations subject to expungement, acts that constitute unprofessional conduct, the furnishing of information concerning each office to the board, board member per diem compensation, practice under a trade name, and the standards for the practice of optometry outside the licensee's office for a charitable purpose.

Section 1. Definitions.

(1) "Board Member's Compensation" means[shall mean] that each board member is eligible for a per diem of \$100 for each day in which that member conducts work on behalf of the board.

(2) "Charitable organization" means a nonprofit entity accepted by the Internal Revenue Service and organized for benevolent, educational, philanthropic, humane, social welfare, or public health purposes.

(3) "Charitable purpose" means a purpose that holds itself out to be benevolent, educational, philanthropic, humane, or for social welfare or public health.

(4) "Expungement" means that:

(a) The affected records are[shall be] sealed;

(b) The proceedings to which they refer are found[shall be deemed] not to have occurred; and

(c) The affected party ~~[may]~~ properly represents[represent] that no record exists regarding the matter expunged.

(5) "Minor violations" means:

(a) Failure to timely renew a license;

(b) Failure to timely obtain continuing education; and ~~[shall not include]~~

(c) Does not include any violations of the laws surrounding the advertisement of optometric services by Doctors of Optometry.

Section 2. Advertising.

(1) An advertisement shall state if additional charges may be incurred in an eye examination for related services in individual cases.

(2) An advertisement of price for visual aid glasses, including contact lenses or other optical goods, alone shall clearly state: "does not include eye examination".

(3) Any doctor of optometry who has been subjected to any disciplinary measures for advertising violations may be required by the board to secure prepublication approval of all advertisements by the board for any period of time which the board finds[deems] appropriate.

(4) When advertising an eye examination, ~~the[such]~~ examination shall follow the standards of care and established clinical practice guidelines adopted by the American Optometric Association at the time of the provision of care and available at <https://www.aoa.org/practice/clinical-guidelines/clinical-practice-guidelines?ssoc=y>.

(5) The advertisement of eye glass lenses shall include: single vision or specified type of multifocal lenses.

(6) Advertisement of contact lenses shall include:

(a) Description of type of lens; for example, "soft, tinted, extended wear toric"; and

(b) Whether or not professional fees are included in the advertised price.

(7) If dispensing fees are not included in the advertisement of visual aid glasses, the advertisement shall so state.

(8) The advertisement of optometric services rendered in Kentucky shall include whether the services will be performed by a licensed doctor of optometry:

- (a) In-person;
- (b) Via live or real-time audio and video synchronous telehealth technology; or
- (c) Via asynchronous store-and-forward telehealth technology.

(9) Except as provided in subsection (10) of this section, a person, individually or while employed or connected with a corporation or association, shall not advertise the fitting of contact lenses unless they are a doctor of optometry, physician or osteopath.

(10) An ophthalmic dispenser may advertise that he or she dispenses[they dispense] contact lenses, if the patient presents a valid prescription from a doctor of optometry, physician or osteopath.

(11) Advertising shall be prohibited if it represents a doctor of optometry as a specialist in an optometric specialty if the Doctor of Optometry has[they have] not:

(a) Been certified by a certifying board which has been approved by the Kentucky Board of Optometric Examiners and recognized by the Federal Government; and

(b) Furnished proof of his or her[their] certification to the Kentucky Board of Optometric Examiners;

(12) A doctor of optometry shall not advertise a coded or special name for a visual material or service that has an established trade name, if the coded or special name would deceive consumers.

Section 3. Unprofessional Conduct.

(1) A doctor of optometry shall not practice optometry in an office if the instruments and equipment, including office furniture, fixtures and furnishings, contained therein are not maintained in a working, clean and sanitary manner.

(2) Pursuant to KRS Chapters 311, 320, and KRS 326.030[Under Kentucky law] only doctors of optometry, osteopaths and physicians are authorized to fit contact lenses. Ophthalmic dispensers may fit contact lenses in the presence of and under the supervision of a doctor of optometry, osteopath or physician.

(3) The signed spectacle prescription, or contact lens prescription shall be given to the patient at the completion of the examination and payment of fees.

(4) A doctor of optometry shall use the letters "OD" or "O.D." in any advertisement where a doctor of optometry uses letters to denote an optometry degree.

(5) A doctor of optometry shall not give or receive a fee, salary, commission, or other remuneration or thing of value, in any manner, or under any pretext, to or from any person, firm, or corporation in return for the referral of optometric patients, or in order to secure optometric patients. Payment between health providers or from a health services industry, solely for the referral of a patient, is considered fee splitting and unprofessional conduct.

(6) A doctor of optometry shall not be employed by an unlicensed doctor of optometry, firm, or corporation as an optometrist, except to the extent permitted by subsection (7) of this section or an entity approved by the Kentucky Board of Optometric Examiners.

(7) A doctor of optometry shall not enter into a contract, agreement, or arrangement, for the hire or leasing of his or her[their] professional services, except that upon the:

(a) Death of a Kentucky licensed Doctor of Optometry, the surviving spouse or estate of the deceased Doctor of Optometry may contract optometric services or employ a Kentucky licensed doctor of optometry for a period not to exceed eighteen (18) months from the time of death; or

(b) Permanent disability of a Kentucky licensed doctor of optometry, the spouse, legal guardian, or disabled doctor of optometry may contract optometric services or employ a Kentucky licensed doctor of optometry for a period not to exceed eighteen (18) months from the time of disability.

(8) The provisions of subsections (5), (6), and (7) of this section shall not prohibit employment of an optometrist by/-a/:

(a) A licensed hospital;

(b) A licensed multidisciplinary health clinic;

(c) A professional service corporation;

(d) A governmental entity; or

(e) Another[Other] entity approved by the Kentucky Board of Optometric Examiners.

(9)[(7)] Clinical patient care shall be determined by the doctor of optometry and not determined by outside influences or third parties.

(10)[(8)] A doctor of optometry shall not engage in any unlawful, grossly unprofessional, or incompetent practice, nor shall they practice in premises where others engage in any unlawful, grossly unprofessional, or incompetent practice, if that practice is known to the doctor of optometry, or would have been known to a person of reasonable intelligence.

(11)[(9)] A doctor of optometry shall not be associated with or share an office or fees with a person who is engaged in the unauthorized practice of optometry.

(12)[(10)] A doctor of optometry shall keep the visual welfare of the patient uppermost at all times and on dismissal of patient shall[must] provide adequate opportunity to obtain other eye care regardless of the patient's[their person's] financial status.

(13)[(11)] A doctor of optometry shall treat with confidentiality the protected health information obtained from the patient, except as otherwise required by law.

(14)[(12)] A doctor of optometry shall provide care that is consistent with established clinical practice guidelines, specifically those adopted by the American Optometric Association at the time of the provision of care, and shall only employ those clinical procedures and treatment regimens for which they are competent to perform and within the scope of practice.

(15)[(13)] It is unprofessional conduct to fail to maintain in good working order, or to be unable to operate instruments and equipment necessary to provide competent clinical care as established in the clinical practice[optometric] guidelines adopted by the American Optometric Association at the time of the provision of care.

(16)[(14)] The patient care performed in a patient's case shall be left to the professional judgment of the doctor of optometry and determined by the established American Optometric Association clinical practice guidelines in effect at that time.

(17)[(15)] An act constituting a violation of KRS Chapter 320, or any applicable state or federal law related to provider-patient care shall be unprofessional conduct.

(18)[(16)] It is unprofessional conduct for a doctor of optometry to fail to inform the board of the change in location, mailing address, and telephone number of each office he or she practices[they practice] in within thirty (30) days of any change.

Section 4. Expungement Eligibility and Procedure.

(1) The licensed doctor of optometry shall not have been the subject of a subsequent violation of the same nature for a period of three (3) years after the date of completion of disciplinary sanctions imposed for the violation sought to be expunged; and

(2) They shall submit a written request to the board. The board shall consider each request and shall, if the requirements established in KRS 320.310(3) and this administrative regulation are satisfied, expunge the record of the subject disciplinary order.

Section 5. Trade Names. A doctor of optometry may practice under a trade name if:

(1) It is not the same as his or her name; and

(2) The name of each doctor of optometry practicing in his or her[their] office is prominently displayed on:

(a) The exterior of the main entrance to the office; and

(b) Stationery, prescription pads, telephone directory listings, and other items bearing or displaying the trade name, including any form of electronic communication media.

Section 6. Practice of Optometry Outside of Regular Office for a Charitable Purpose.

(1) In order for a Kentucky licensed doctor of optometry to provide optometric services outside the doctor of optometry's regular office for a charitable purpose, a charitable organization shall provide to the board:

(a) A written request to include the services of Kentucky

licensed doctor of optometry at least thirty (30) days before the optometric services are to be offered;

- (b) Proof of its nonprofit status;
- (c) Assurance that the participating doctor of optometry shall not be compensated or remunerated in any manner;
- (d) The names of all participating doctors of optometry;
- (e) The address of the location where the optometric services will be offered;

(f) The dates and times the optometric services will be offered, which shall not exceed seven (7) days per event;

(g) A statement of the nature of the optometric services to be provided and the class of individuals who are intended to be the recipients of the optometric services;

(h) A statement that the charitable organization shall retain and maintain a patient record for each individual treated by the participating doctor of optometry, and where the patient may seek access to the[such] record[require every participating doctor of optometry to develop and maintain a permanent patient record for each individual treated by that doctor of optometry]; and

(i) A statement that the charitable organization shall require every participating doctor of optometry to follow the standards of care and established clinical practice guidelines adopted by the American Optometric Association at the time of the provision of care[comply with the minimum eye examination requirements of Section 3 of this administrative regulation].

(2) The board or its acting president may waive the thirty (30) day requirement based on exigent circumstances that prevented the charitable organization from complying with the thirty (30) day requirement. Exigent circumstances, for example include instances such as a governor's state of emergency, or as based on some significant need with board approval retroactively at the next meeting.

(3) The board or its acting president shall notify the charitable organization in writing if its request has been approved within ten (10) business days of receipt of the completed request.

(4) A written request may include multiple events on different dates if the events are scheduled within twelve (12) months of the date the completed request is received by the board.

(5) Lenses shall be first quality and meet the requirements of inspection, tolerance, and testing procedures as established[outlined] in the:

(a)1. American National Standards Institute, ANSI Z80 recently approved accredited standards, which may be obtained through the Web site at <https://www.z80asc.com/>; and

2. ANSI Z80 list of currently active standards, which may be obtained through the Web site at <https://www.z80asc.com/Z80asc/Standards/Z80/Standards.aspx?hkey=c8f40f21-a61f-4df3-9821-9f8315e70bde>;

(b) ANSI/SEA Z87.1-2020, and standards overseen by the ANSI committee relating to occupational and educational safety eyewear, which may be obtained through the ANSI Web store at webstore.ansi.org; and

(c) American Society for Testing and Materials, ASTM International, standards relating to eye safety for sports and recreational safety eyewear, under the ASTM F08.57 committee, which may be obtained through the Web site at <https://www.astm.org/get-involved/technical-committees/committee-f08/subcommittee-f08/jurisdiction-f0857/American-Standard-Prescription-Requirements>.[Requirements for Eyeglasses Provided.]

[(a)] [If eyeglasses are provided as part of the charitable service, all materials shall be new, first quality and free from defects.]

[(b)] [Eyeglass material shall be:]

[1.] [First quality and meet the requirements of inspection, tolerance, and testing procedures as outlined in the American Standard Prescription Requirements; and]

[2.] [Made to meet the individual recipient's personal prescription.]

(6) Failure to comply with the terms of this administrative regulation may result in denial or withdrawal of approval.

CONTACT PERSON: Carson Kerr, Executive Director, Board of Optometric Examiners, 2365 Harrodsburg Road, Suite A240, Lexington, Kentucky 40504, phone (859) 246-2744, fax (859) 246-2746, email Carson.Kerr@ky.gov.

**GENERAL GOVERNMENT CABINET
Board of Nursing
(As Amended at ARRS, April 11, 2023)**

201 KAR 20:411. Sexual Assault Nurse Examiner Program standards and credential requirements.

RELATES TO: KRS 216B.400(2), (4), ~~(5)~~[(5)-] 314.011(14), 314.103, 314.142, 314.475, 403.707, 421.500-421.575, 431.600-431.660

STATUTORY AUTHORITY: KRS 314.131(1), 314.142(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations as may be necessary to enable it to carry into effect the provisions of KRS Chapter 314. KRS 314.142(1) requires the board to promulgate administrative regulations to create a Sexual Assault Nurse Examiner Program. This administrative regulation establishes the requirements relating to a sexual assault nurse examiner course and the credentials of a sexual assault nurse examiner.

Section 1. Definitions.

(1) "Adolescent" means a child who has reached the onset of physiologically normal puberty.

(2) "Pediatric" means a child who has not reached the age of eighteen (18).

(3) "SANE-A/A course" means a formal, organized course of instruction that is designed to prepare a registered nurse to perform forensic evaluation of an adult or adolescent sexual assault victim and to promote and preserve the victim's biological, psychological, and social health.

(4) "SANE course" means the SANE-A/A course and the SANE-P/A course.

(5) "SANE-P/A course" means a formal, organized course of instruction that is designed to prepare a registered nurse to perform forensic evaluation of a pediatric or adolescent sexual assault victim and to promote and preserve the victim's biological, psychological, and social health.

Section 2. SANE Course Approval Application.

(1) On the form Application for Initial or Continued SANE Course Approval, the applicant for approval of a SANE-A/A course or a SANE-P/A course shall submit evidence to the board of completion of the requirements for course approval that consists of the following documentation:

(a) Position description and qualifications of the nurse administrator of the SANE course;

(b) Qualifications and description of the faculty;

(c) Course syllabus;

(d) Course completion requirements;

(e) Tentative course presentation dates;

(f) Records maintenance policy; and

(g) Copy of certificate of course completion form.

(2) Nurse administrator of SANE course. A registered nurse, with current, active Kentucky licensure or a multistate licensure privilege pursuant to KRS 314.475, a baccalaureate or higher degree in nursing, and experience in adult and nursing education shall be administratively responsible for assessment, planning, development, implementation, and evaluation of the SANE course.

(3) Faculty qualifications. Faculty qualifications shall be consistent with the instructor qualifications set out in Sexual Assault Nurse Examiner (SANE) Education Guidelines. The name, title, and credentials identifying the educational and professional qualifications for each instructor shall be provided as part of the application.

(4) Course syllabus. The syllabus shall include:

(a) Course prerequisites, requirements, and fees;
(b) Course outcomes, which shall provide statements of observable competencies, which if taken as a whole, present a clear description of the entry level behaviors to be achieved by the learner;

(c) Unit objectives for an individual, which shall be stated in operational or behavioral terms with supportive content identified;

(d) Content as specified in subsection (6) of this section, which shall be described in detailed outline format with corresponding lesson plans and time frame, and which shall be related to, and consistent with, the unit objectives, and support achievement of expected course outcomes;

(e) Teaching methods with the activities of both instructor and learner specified in relation to the content outline, and which shall be congruent with stated course objectives and content, and reflect the application of adult learning principles;

(f) Evaluation methods, which shall be clearly defined for evaluating the learner's achievement of course outcomes, and which shall include a process for annual course evaluation by students, providers, faculty, and administration; and

(g) Instructional or reference materials required, which shall be identified.

(5) Completion requirements. Requirements for successful completion of the SANE course shall be clearly specified and shall include demonstration of clinical competency. A statement of policy regarding a candidate who fails to successfully complete the course shall be included.

(6) The SANE-A/A course and the SANE-P/A course content shall be consistent with Sexual Assault Nurse Examiner (SANE) Education Guidelines.

(a) In addition to that content, the SANE-A/A course and the SANE-P/A course shall include:

1. Observing live or previously recorded criminal trials and meeting with the Commonwealth Attorney or a representative from the Commonwealth Attorney's office in order to gain an understanding of the trial process including testifying;

2. Meeting with the local rape crisis center and a rape crisis center victim advocate in order to gain an understanding of the services provided to victims by rape crisis centers and the role of an advocate;

3. Meeting with local law enforcement officers or investigators responsible for investigating reports of rape or sexual assault in order to gain an understanding of the investigative process; and

4. Application of the Kentucky statewide medical protocol relating to the forensic and medical examination of an individual reporting sexual assault pursuant to KRS 216B.400(2) and (4); and

5. The Kentucky Crime Victim[~~victim's~~] Bill of Rights, KRS 421.500 through 421.575.

(b) In addition to the requirements of paragraph (a) of this subsection, the SANE-P/A course shall include:

1. Principles of child development;

2. Techniques for acute evaluations;

3. An overview of Kentucky Child Advocacy Centers; and

4. An overview of KRS 431.600 through 431.660 which shall include information about multidisciplinary teams and their functions, model protocols approved by the Kentucky Multidisciplinary Commission on Child Sexual Abuse, and the role of peer review in child sexual abuse cases.

Section 3. Contact Hour Credit for Continuing Education.

(1) The SANE course shall be approved for contact hour credit which may be applied to licensure requirements.

(2) Approval period. Board approval for a SANE course shall be granted for a four (4) year period.

(3) Records shall be maintained for a period of five (5) years, including the following:

(a) Provider name, date, and site of the course; and

(b) Participant roster, containing at a minimum the name, Social Security number, and license number for each participant.

(4) A participant shall receive a certificate of completion that documents the following:

(a) Name of participant;

(b) Title of course, date, and location;

(c) Provider's name; and

(d) Name and signature of authorized provider representative.

Section 4. Continued Board Approval of a SANE Course.

(1) An application for continued approval of a SANE course shall be submitted on the Application for Initial or Continued SANE Course Approval at least three (3) months prior to the end of the current approval period.

(2) A SANE course syllabus shall be submitted with the Application for Initial or Continued SANE Course Approval.

(3) Continued approval shall be based on the past approval period performance and compliance with the board standards described in this administrative regulation.

Section 5. The board may deny, revoke, or suspend the approval status of a SANE course for violation of this administrative regulation.

Section 6. Appeal. If a SANE course administrator is dissatisfied with a board decision concerning approval and wishes a review of the decision, the procedure established in this section shall be followed.

(1) A written request for the review shall be filed with the board within thirty (30) days after the date of notification of the board action which the SANE course administrator contests.

(2) The board, or its designee, shall conduct a review in which the SANE course administrator may appear in person and with counsel to present reasons why the board's decision should be set aside or modified.

Section 7. Requirements for Sexual Assault Nurse Examiner (SANE) Credential.

(1) The applicant for the SANE-A/A or SANE-P/A credential shall:

(a) Hold a current, active registered nurse license in Kentucky or a multistate licensure privilege pursuant to KRS 314.475;

(b) Have completed a board approved SANE educational course or a comparable course, which the board or its designee shall:

1. Evaluate to determine its course comparability; and

2. Advise an applicant if the course is not comparable and specify what additional components shall be completed to allow the applicant to be credentialed.

(c) Complete the ~~[Sexual Assault Nurse Examiner]~~ Application for Credential as a Sexual Assault Nurse Examiner;

(d) Pay the fee established in 201 KAR 20:240;

(e) Provide a criminal record check by the Department of Kentucky State Police (KSP) and the Federal Bureau of Investigation (FBI);

(f) Use the FBI Applicant Fingerprint Card;

(g) Pay any required fee to the KSP and the FBI;

(h) Complete the criminal record check within six (6) months of the date of the application;

(i) Provide a certified or attested copy of the court record of any misdemeanor or felony conviction as required by 201 KAR 20:370, Section 1(3); and

(j) Provide a letter of explanation that addresses each conviction, if applicable.

(2) Upon completion of the application process, the board shall issue the appropriate SANE credential for a period ending October 31.

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

Section 8. Renewal.

(1) To renew the SANE-P/A or the SANE-A/A credential for the next period, each sexual assault nurse examiner shall complete at least five (5) contact hours of continuing education related to the role of the sexual assault nurse examiner or forensic nursing within each continuing education earning period. A provider of a board

approved SANE course may offer continuing education related to the role of the sexual assault nurse examiner.

(2) Upon completion of the required continuing education, completion of the Annual Credential Renewal Application: SANE Credential with RN in Kentucky or Annual Credential Renewal Application: SANE with RN Compact License (Not Kentucky), as applicable, and payment of the fee established in 201 KAR 20:240, the appropriate SANE credential shall be renewed at the same time the registered nurse license is renewed.

(3) The five (5) contact hours may count toward the required contact hours of continuing education for renewal of the registered nurse license.

(4) Failure to meet the five (5) contact hour continuing education requirement shall cause the SANE credential to lapse.

Section 9. Reinstatement.

(1) If the SANE credential has lapsed for a period of less than four (4) consecutive registered nurse licensure periods, and the individual wants the credential reinstated, the individual shall apply to reinstate the credential by:

(a) Submitting the ~~[Sexual Assault Nurse Examiner]~~ Application for Credential as a Sexual Assault Nurse Examiner;

(b) Paying the fee established in 201 KAR 20:240;

(c) Submitting evidence of earning the continuing education requirement referenced in Section 8(1) of this administrative regulation for the number of registered nurse licensure periods since the SANE credential lapsed;

(d) Providing a criminal record check by the KSP and FBI;

(e) Using the FBI Applicant Fingerprint Card;

(f) Paying any required fee to the KSP and the FBI;

(g) Completing the criminal record check within six (6) months of the date of the application;

(h) Providing a certified or attested copy of the court record of any misdemeanor or felony conviction as required by 201 KAR 20:370, Section 1(3); and

(i) Providing a letter of explanation that addresses each conviction, if applicable.

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

(3) If the SANE credential has lapsed for more than four (4) consecutive licensure periods, the nurse shall complete a SANE course prior to reinstatement.

Section 10. The board shall obtain input from the Sexual Assault Response Team Advisory Committee concerning any proposed amendment to this administrative regulation as follows:

(1) The board shall send a draft copy of any proposed amendment to the co-chairs of the Sexual Assault Response Team Advisory Committee prior to approval by the board;

(2) The board shall request that comments on the proposed amendment be forwarded to the board's designated staff person within ninety (90) days; and

(3) At the conclusion of that time period or upon receipt of comments, whichever is sooner, the board, at its next regularly scheduled meeting, shall consider the comments.

Section 11. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Application for Initial or Continued SANE Course Approval", 10/2018;

(b) ~~[Sexual Assault Nurse Examiner]~~ Application for Credential as a Sexual Assault Nurse Examiner", 10/2022[2018];

(c) "Annual Credential Renewal Application: SANE Credential with RN in Kentucky", 02/2021;

(d) "Annual Credential Renewal Application: SANE with RN Compact License (Not Kentucky)", 02/2021; and

(e) "Sexual Assault Nurse Examiner (SANE) Education Guidelines", 2018, International Association of Forensic Nurses.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky

40222-5172, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material is also available on the board's Web site/website[Web site] at <https://kbn.ky.gov/General/Pages/Document-Library.aspx>[<https://kbn.ky.gov/legalopinions/Pages/laws.aspx>].

(3) The material in subsection 1(e) of this section may be obtained at https://cdn.ymaws.com/www.forensicnurses.org/resource/resmgr/education/2018_sane_edguidelines.pdf.

CONTACT PERSON: Jeffrey R. Prather, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222 (502) 338-2851, Jeffrey.Prather@ky.gov, or submit a comment at: <https://secure.kentucky.gov/formservices/Nursing/PendReg>.

GENERAL GOVERNMENT CABINET Board of Nursing (As Amended at ARRS, April 11, 2023)

201 KAR 20:472. Initial approval for dialysis technician training programs.

RELATES TO: KRS 314.035, 314.131(1), 314.137

STATUTORY AUTHORITY: KRS 314.131(1), 314.137

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.137 requires the board to promulgate administrative regulations to regulate dialysis technicians and includes establishing required standards for training programs ~~and includes establishing required standards for training programs~~. This administrative regulation establishes the requirements for dialysis technician training programs.

Section 1.

(1) A training program that prepares an individual to become a credentialed dialysis technician shall be approved by the board of nursing.

(2)

(a) A dialysis technician training program that seeks to be approved by the board shall file an Application for Dialysis Technician Training Program [Approval] and pay a fee of \$2,000; and

(b) The dialysis technician training program shall include with its application:

1. A copy of the approval of certification for the dialysis technician training program's governing organization to operate a renal dialysis center from the Centers for Medicare and Medicaid Services (CMS); and

2. The most recent site visit or survey report, and if applicable, ~~and if applicable,~~ a statement of deficiencies, ~~and a plan of correction~~, if applicable.

Section 2.

(1) A training program that prepares an individual to become a dialysis technician which is located in this state shall meet the standards established by this administrative regulation.

(2) A training program that is located out of state shall not be subject to the approval process specified in this administrative regulation. However, an applicant who has completed an out of state training program may apply for a dialysis technician credential pursuant to 201 KAR 20:476, Section 1 (2)(1)(b)).

Section 3. Renal Dialysis Organization.

(1)

(a) An organization which is licensed to operate a renal dialysis center pursuant to 902 KAR 20:018 shall assume full legal responsibility for the overall conduct of the dialysis technician training program.

(b) The organization shall appoint a program administrator who shall be administratively responsible for the oversight of the dialysis technician training program on a twelve (12) month basis.

(c) The organization shall submit to the board in writing the name of the registered nurse who has been designated to assume

the administrative duties for the program, the date the person will assume the duties of program administrator, and a copy of his or her curriculum vitae.

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

(2) The organization shall develop and implement a plan of organization and administration that clearly establishes the lines of authority, accountability, and responsibility for each dialysis technician training program location.

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

- (a) A policy that all records shall be maintained for at least five (5) years;
- (b) Provider name, dates of program offerings, and sites of the training program;
- (c) Admission materials, grades received, and clinical performance records;
- (d) Trainee roster that includes name, date of birth, social security number, and program completion date;
- (e) Faculty records including:
 1. Validation of current licensures or credentials; and
 2. Performance evaluation for faculty employed more than one (1) year.
- (f) Systematic plan of evaluation;
- (g) Graduates of the dialysis technician training program; and
- (h) Administrative records and reports from accrediting agencies.

Section 4. Program Administrator and Assistant Program Administrator.

(1) The program administrator shall have the following qualifications:

- (a)
 1. A minimum of a master's degree from an accredited college or university;
 2. A program administrator who currently does not hold a master's degree from an accredited college or university shall ~~be required to~~ obtain the degree within five (5) years of the effective date of this administrative regulation. The program administrator shall provide documentation that shows active and steady progression towards the degree; ~~and~~ and]
 3. The board may waive ~~the master's degree requirements in this paragraph~~ the master's degree requirements in this paragraph ~~requirement~~ upon a showing that the proposed program administrator is otherwise qualified, such as possessing a minimum of eight (8) years of experience in dialysis patient care and administration; ~~such as possessing a minimum of eight (8) years of experience in dialysis patient care and administration~~].

(b) A minimum of the equivalent of one (1) year of full time teaching experience;

(c) At least two (2) years of experience in the care of a patient with end stage renal disease or who receives dialysis care;

(d) Demonstrated experience or preparation in education that includes teaching adults, adult learning theory teaching methods, curriculum development, and curriculum evaluation. A program administrator without previous program administrator experience shall have a mentor assigned by the renal dialysis center and an educational development plan implemented. The assigned mentor shall have documented experience in program administration;

(e) An active and unencumbered Kentucky registered nurse license, temporary work permit, or multistate privilege; and

(f) Current knowledge of requirements pertaining to the dialysis technician training program and credential as established in 201 KAR 20:472, 474, 476, and 478.

(2) A dialysis technician training program may have an assistant program administrator at each location. An assistant

program administrator shall have the following qualifications:

- (a) 1.
 - [4.] A minimum of a baccalaureate degree in nursing;

2. An assistant program administrator who currently does not hold a baccalaureate degree in nursing from an accredited college or university shall obtain the degree within five (5) years of the effective date of this administrative regulation. The assistant program administrator shall provide documentation that shows active and steady progression towards the degree; and

3. The board may waive the baccalaureate degree requirements in this paragraph upon a showing that the proposed assistant program administrator is otherwise qualified, such as possessing a minimum of five (5) years of experience in dialysis patient care and administration;

[2.] [An assistant program administrator who currently does not hold a baccalaureate degree in nursing from an accredited college or university shall obtain the degree within five (5) years of the effective date of this administrative regulation. The assistant program administrator shall provide documentation that shows active and steady progression towards the degree; and]

[3.] [The board may waive the baccalaureate degree requirements in this paragraph upon a showing that the proposed assistant program administrator is otherwise qualified, such as possessing a minimum of five (5) years of experience in dialysis patient care and administration;]

(b) A minimum of the equivalent of one (1) year of full time teaching experience;

(c) At least two (2) years of experience in the care of a patient with end stage renal disease or who receives dialysis care;

(d) Demonstrated experience or preparation in education that includes teaching adults, adult learning theory teaching methods, curriculum development, and curriculum evaluation. A program administrator without previous program administrator experience shall have a mentor assigned by the renal dialysis center and an educational development plan implemented. The assigned mentor shall have documented experience in program administration;

(e) An active and unencumbered Kentucky registered nurse license, temporary work permit, or multistate privilege; and

(f) Current knowledge of requirements pertaining to the dialysis technician training program and credential as established in 201 KAR 20:472, 474, 476, and 478.

Section 5. Faculty.

(1) The faculty shall be adequate in number to implement the curriculum as determined by program outcomes, course objectives, the level of the student, and the educational technology utilized.

(2) The faculty shall be approved by the program administrator and shall include didactic and clinical faculty.

(3) The name, title, and credential identifying the education and professional qualifications of each didactic and clinical faculty shall be provided to the board within thirty (30) days of hire. With each change in faculty, whether a new hire or a termination or retirement, an updated list of current faculty shall be provided to the board.

(4) Didactic faculty.

(a) Didactic faculty shall consist of multidisciplinary members with expertise in the subject matter.

(b) Didactic faculty shall possess:

1. A minimum of a baccalaureate degree from an accredited college or university; or

2. An associate degree from an accredited school of nursing.

(c) Nursing didactic faculty shall possess:

1.

a. A current state license as a registered nurse; or

b. A privilege to practice in the state; and

2. A minimum of one (1) year of experience with dialysis patient care.

(d) Didactic faculty shall document a minimum of two (2) years full time or equivalent experience in their profession or discipline.

(e) Didactic faculty shall document preparation in educational activities in the area of teaching and learning principles for adult education, including curriculum development and implementation.

The preparation shall be acquired through planned faculty in-service learning activities, continuing education offerings, or academic courses.

(f) Didactic faculty hired without prior teaching experience shall have a mentor assigned and an educational development plan implemented.

(5) Clinical faculty and preceptors.

(a) Clinical faculty or a preceptor shall hold a current, unencumbered Kentucky nursing license, temporary work permit, or multistate privilege or a current, unencumbered Kentucky dialysis technician credential.

(b) Clinical faculty or a preceptor shall have evidence of clinical competencies in end stage renal disease and dialysis care.

(c) A preceptor who is a dialysis technician shall hold certification by one (1) of the ~~following~~[following—] dialysis technician certification organizations:

1. The Board of Nephrology Examiners Nursing Technology (BONENT); ~~or~~

2. The Nephrology Nursing Certification Commission (NNCC); ~~or~~

~~[3.] [The—National—Association—of—Nephrology Technicians/Technologists (NANT)].~~

(6) There shall be documentation that the clinical faculty have been oriented to the course, program outcomes, student learning objectives, evaluation methods used by the faculty, and documented role expectations.

Section 6. Standards for Training.

(1) Philosophy, mission, and outcomes.

(a) The philosophy, mission, and outcomes of the training program shall be clearly defined in writing by the faculty and shall be consistent with those of the Renal Dialysis Center.

(b) The program outcomes shall be consistent with those required by the Centers for Medicare and Medicaid Services and the dialysis technician certification organizations listed in Section 5(5)(c) of this administrative regulation~~[subsection (3)(b) of this section]~~.

(c) The program shall conduct an evaluation to validate that identified program outcomes have been achieved and provide evidence of improvement based on an analysis of those results.

(d) The training program shall include a minimum of 200 hours of didactic course work and 200 hours of direct patient contact. The didactic course work and direct patient contact shall be at least ten (10) weeks. The training program shall maintain a log of clinical hours for each student. It ~~may~~shall~~[may]~~ also include an internship of at least 160 hours. The internship shall begin after two (2) unsuccessful attempts to pass the final examination. The internship shall be completed prior to a third final examination attempt. The internship shall be under the supervision of a registered nurse and shall include a preceptor.

(2) The curricula of the program shall minimally include the following topics:

(a) The legal and ethical aspects of practice including:

1. The history of dialysis;

2. The state and federal regulations governing dialysis including 201 KAR 20:478, 902 KAR 20:018, 907 KAR 1:400, and 42 C.F.R. 494.140;

3. The resources available for pursuing personal and career development;

4. The principles and legal aspects of documentation, communication, and patient rights;

5. The roles of the dialysis technician and other multidisciplinary team members;

6. The principles related to patient safety; and

7. The role of the board of nursing.

(b) Anatomy and physiology applicable to renal function including:

1. Renal anatomy;

2. Organs of the urinary system and components of the nephron; and

3. Functions of the normal kidney.

(c) Diseases of the kidney including:

1. Causes and complications of acute renal failure; and

2. Causes and complications of chronic renal failure.

(d) The psychosocial and physical needs of the end stage renal disease (ESRD) patient and family including:

1. The impact on family and social systems;

2. Coping mechanisms utilized;

3. Rehabilitative needs;

4. Community resources available;

5. All aspects of renal diet and fluid restrictions; and

6. Educational needs of patients receiving dialysis including the role of the technician and resources available.

(e) The principles of pharmacology as related to ESRD including:

1. Commonly used medications and their side effects;

2. The principles of medication administration;

3. The indications, dosage, action, and adverse effects of heparin, local anesthetics, and normal saline; and

4. The accurate administration of heparin, local anesthetics, and normal saline.

(f) Aseptic techniques and established infection control practices including:

1. Dialysis precautions as issued by the United States Centers for Disease Control; and

2. Proper hand washing technique.

(g) Principles of dialysis and dialysis treatment including:

1. Definitions and terminology;

2. Principles of osmosis, diffusion, ultrafiltration, and fluid dynamic;

3. The structure and function of various types of circulatory access sites and devices;

4. The indications, advantages, disadvantages, and complications of internal arteriovenous (A/V) fistulas and A/V grafts, and central venous access devices;

5. The various types of dialyzers;

6. The benefits, risks, and precautions associated with dialyzer reuse;

7. The purpose and concept of water treatment;

8. Knowledge and ability to manage and operate dialysis equipment;

9. Knowledge and ability to appropriately monitor and collect data throughout the course of treatment;

10. The etiology, signs and symptoms, prevention, intervention and treatment, and options for the most common complications;

11. The knowledge and ability to safely initiate and discontinue treatment; and

12. Routine laboratory tests, values, and collection techniques.

(h) Other treatment modalities for ESRD including:

1. Renal transplantation; and

2. Home dialysis options.

(3) Implementation of the curriculum.

(a) There shall be a written plan, including supporting rationale, which describes the organization and development of the curriculum.

(b) The curriculum plan shall reflect the philosophy, mission, and outcomes of the program and shall prepare the student to meet the qualifications for certification as established by the dialysis technician certification organizations listed in Section 5(5)(c) of this administrative regulation~~[Board of Nephrology Examiners Nursing Technology (BONENT), the Nephrology Nursing Certification Commission (NNCC), or the National Association of Nephrology Technicians/Technologists (NANT)]~~.

(c) The dialysis technician training program shall have written measurable program outcomes that reflect the role of the dialysis technician graduate upon completion of the program.

(d) The dialysis technician training program shall be logical and sequential, and shall demonstrate an increase in difficulty and complexity as the student progresses through the program.

(e) A course syllabus shall be developed to include outcomes, planned instruction, learning activities, and method of evaluation.

(f) The teaching methods and activities of both instructor and learner shall be specified. The activities shall be congruent with stated objectives, and content shall reflect adult learning principles.

(g) A copy of the course syllabus shall be on file in the dialysis technician training program office and shall be available to the

board upon request.

(h) Any proposed substantive changes to the dialysis technician training program syllabus shall be submitted to the board in writing at least two (2) months prior to implementation and shall not be implemented without approval from the board. A substantive change is any change in the philosophy, mission, or outcomes that results in a reorganization or reconceptualization of the entire curriculum.

(i) Training may be offered through distance learning technologies. Training offered through the use of distance learning technologies shall be comparable to the training offered in a campus based program.

(4) The curriculum shall require that the student hold a current Basic Life Support (BLS) certificate.

Section 7. Students in Dialysis Technician Training Programs.

(1) Preadmission requirements shall be stated ~~and published~~ in all publications utilized by the dialysis technician training program including recruitment materials.

(a) Program information communicated by the program shall be accurate, complete, consistent, and publicly available.

(b) Participation shall be made available for students in the development, implementation, and evaluation of the program.

(2) Written dialysis technician training program student policies shall be accurate, clear, and consistently applied.

(3) Upon admission to the training program, each student shall be advised in electronic or written format of policies pertaining to:

(a) Prerequisites for admission, readmission, or dismissal;

(b) Evaluation methods that include the grading system;

(c) Any fees or expenses associated with the training program and refund policies;

(d) Health requirements and other standards as required by the renal dialysis center;

(e) Student responsibilities;

(f) A plan for emergency care while in the clinical setting; and

(g) Program completion requirements.

(4) A student enrolled in a training program is exempt from the credentialing requirement while enrolled. The student shall use the title dialysis technician (DT) trainee.

Section 8. Program Completion Requirements.

(1) Requirements for successful completion of the dialysis technician training program shall be clearly specified.

(2) The requirements shall provide evidence of clinical competency through the use of evaluation methods and tools that measure the progression of the student's cognitive, affective, and psychomotor achievement of clinical outcomes based on published rubrics and sound rationale.

(3) Students shall have sufficient opportunities in simulated or clinical settings to develop psychomotor skills essential for safe, effective practice.

(4) A final examination shall be administered only during the final forty (40) hours of the first 400 hours of the training program.

(a) The final examination shall be mapped to program outcomes and blueprinted to the examination content of one (1) of the dialysis technician certification organizations as listed in Section 5(5)(c) [Section 6(3)(b)] of this administrative regulation.

(b) Following successful completion of the final examination, the student may begin the internship.

(5) The individual who successfully completes the training program, including the internship, shall receive a certificate of completion that documents the following:

(a) Name of individual;

(b) Title of training program, date of completion, and location;

(c) Provider's name;

(d) The program code number issued by the board; and

(e) Name and signature of the program administrator or the assistant program administrator.

(6) The program shall submit the List of Dialysis Technician Training Program Graduates within three (3) working days of the program completion date.

Section 9. Incorporation by Reference.

(1) The following ~~material is~~ materials are [material is]

incorporated by reference:

(a) "Application for Dialysis Technician Training Program [Approval]", 4/2021; and

(b) "List of Dialysis Technician Training Program Graduates", 4/2021.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222-5172, Monday through Friday, 8 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> [<https://kbn.ky.gov/legalopinions/Pages/laws.aspx>].

CONTACT PERSON: Jeffrey R. Prather, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300 Louisville, Kentucky 40222, (502) 338-2851, jeffrey.prather@ky.gov or submit a comment at: <https://secure.kentucky.gov/formservices/Nursing/PendReg>.

GENERAL GOVERNMENT CABINET

Board of Nursing

(As Amended at ARRS, April 11, 2023)

201 KAR 20:476. Dialysis technician credentialing requirements for initial credentialing, renewal, and reinstatement.

RELATES TO: KRS 314.035, 314.103, 314.131(1), 314.137

STATUTORY AUTHORITY: KRS 314.131(1), 314.137

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.137 requires the board to promulgate administrative regulations to regulate dialysis technicians, and includes establishing credentialing requirements [~~and includes establishing credentialing requirements~~]. This administrative regulation establishes the requirements for credentialing dialysis technicians, initially, by renewal, and by reinstatement.

Section 1. Requirements for Initial Dialysis Technician Credential.

(1) An individual who wants to be credentialed as a dialysis technician (DT) in order to engage in dialysis care shall:

(a) File with the board the Application for Dialysis Technician Credential;

(b) Pay the fee established in Section 4 of this administrative regulation;

(c) Have completed a board approved DT training program;

(d) Submit the Checklist for Dialysis Technician Competency Validation; and

(e) Submit a criminal record check pursuant to subsection (3) of this section and meet the requirements of that subsection.

(2)

(a) In addition to the requirements of subsection (1)(a), (b), (d), and (e) of this section, an applicant who has completed an out of state DT training program that is not approved by the board and who does not hold certification from one (1) of the certification organizations listed in 201 KAR 20:472, Section 5(5)(c) [subsection (4)(b) of this section] shall submit to the board the training program's curriculum and evidence of completion of the training program.

1. The board or its designee shall evaluate the applicant's training program to determine its comparability with the standards as established in 201 KAR 20:472.

2. The board or its designee shall advise an applicant if the training program is not comparable and specify what additional components shall be completed to meet the requirements of 201 KAR 20:472, Section 6.

(b) In addition to the requirements of subsection (1)(a), (b), (d), and (e) of this section, an applicant who has completed an out of state DT training program that is not approved by the board and who holds certification from one (1) of the certification organizations listed in 201 KAR 20:472, Section 5(5)(c) [subsection (4)(b) of this section] shall complete an

educational module that covers the information contained in 201 KAR 20:472, Section 6(2)(a)2.

(3)

(a) The criminal record check shall have been 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. The applicant shall pay any fee required by the KSP and the FBI.

(b) The applicant shall provide to the board a certified or attested copy of the court record of any misdemeanor or felony conviction in any jurisdiction, except for traffic-related misdemeanors (other than DUI) or misdemeanors that are older than five (5) years. The applicant shall provide to the board a letter of explanation that addresses each conviction.

(c) A felony or misdemeanor conviction shall be reviewed by the board to determine if the application shall be processed with no further action. If further action is found as/deemed [found as] necessary, the application shall not be processed unless the applicant has entered into an agreed order with the board. If the parties are unable to agree on terms and conditions for an agreed order, an administrative hearing shall be held.

(4)

(a) After the applicant has met the requirements of subsection (1)(a), (b), (c), (d), and (e) of this section, the board shall issue a provisional credential to the applicant. The applicant shall be referred to as a DT Applicant. The DT Applicant shall practice dialysis care under the supervision of a registered nurse, an advanced practice registered nurse, physician, or a physician's assistant.

(b) The provisional credential shall expire eighteen (18) months from the date the provisional credential is issued [application is received] by the board. During that time, the applicant shall obtain certification from one (1) of the [following] certification organizations listed in 201 KAR 20:472, Section 5(5)(c).[:]

[1.] [The Board of Nephrology Examiners Nursing Technology (BONENT);]

[2.] [The Nephrology Nursing Certification Commission (NNCC); or]

[3.] [The National Association of Nephrology Technicians/Technologists (NANT).]

(c) If the applicant fails to obtain certification as established in paragraph (b) of this subsection [set forth above] [established in paragraph (b) of this subsection], the application shall lapse. The applicant may reapply by completing the training program again and meeting the requirements of subsection (1)(a), (b), (c), (d), and (e) of this section. [However, a provisional credential shall not be issued.]

(d) A DT applicant [application] shall be issued a provisional credential under this section only one (1) time, and it shall expire after eighteen (18) months.

(5) The DT Applicant shall only practice dialysis care as a DT Applicant until:

- (a) The credential is issued;
- (b) The application is denied by the board; or
- (c) The application lapses.

(6)

(a) Upon approval of the Application for Dialysis Technician Credential pursuant to subsection (1) of this section and the applicant's successful certification pursuant to subsection (4) of this section, the board shall issue the DT credential.

(b) If the credential is issued prior to May 1, it shall expire on October 31 of the current credentialing period as defined in 201 KAR 20:085, Section 2.

(c) If the credential is issued on or after May 1, it shall expire on October 31 of the succeeding credentialing period as defined in 201 KAR 20:085, Section 2.

(d) After the issuance of the initial DT credential, the credentialing period shall be as defined in 201 KAR 20:085, Section 2.

Section 2. Renewal.

(1) To be eligible for renewal of the credential, the DT shall submit prior to the expiration date of the credential:

(a) The Application for Dialysis Technician Credential Renewal [of the Dialysis Technician Credential] Renewal;

(b) The fee established in Section 4 of this administrative regulation; and

(c) Evidence of current certification by one (1) of the organizations listed in 201 KAR 20:472, Section 5(5)(c) [1(4)(b) of this administrative regulation].

(2) If the application form is submitted online at www.kbn.ky.gov [at www.kbn.ky.gov], it shall be received by the board prior to midnight on the last day of the credentialing period.

(3) If a paper application is submitted, it shall be received no later than the last day of the credentialing period. If the application is not received by the board until after the last day of the credentialing period, the application shall have been postmarked at least seven (7) days prior to the last day of the credentialing period.

(4) All information needed to determine that an applicant meets the requirements for renewal of credential shall be received by the board no later than the last day of the credentialing period. If the information is not received by the board until after the last day of the credentialing period, in order to be considered by the board for the current renewal, the information shall have been postmarked at least seven (7) days prior to the last day of the credentialing period.

(5) Failure to comply with these requirements shall result in the credential lapsing. A person whose credential has lapsed shall comply with Section 3 of this administrative regulation to reinstate the credential.

Section 3. Reinstatement.

(1) If the DT credential has lapsed for less than twelve (12) months, an individual may reinstate the credential as follows:

(a) Submit the Application for Dialysis Technician Credential;

(b) Provide evidence of certification from a DT certification organization listed in 201 KAR 20:472, Section 5(5)(c) [1(4)(b) of this administrative regulation];

(c) Pay the fee established in Section 4 of this administrative regulation; and

(d) Provide a criminal record check by the Department of the Kentucky State Police (KSP) and the Federal Bureau of Investigation (FBI) and comply with the requirements of subsection (2) of this section.

(2)

(a) The criminal record check shall have been 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. The applicant shall pay any fee required by the KSP and the FBI.

(b) The applicant shall provide to the board a certified or attested copy of the court record of any misdemeanor or felony conviction in any jurisdiction, except for traffic-related misdemeanors (other than DUI) or misdemeanors that are older than five (5) years. The applicant shall provide to the board a letter of explanation that addresses each conviction.

(c) A felony or misdemeanor conviction shall be reviewed by the board to determine if the application shall be processed with no further action. If further action is found as/deemed [found as] necessary, the application shall not be processed unless the applicant has entered into an agreed order with the board. If the parties are unable to agree on terms and conditions for an agreed order, an administrative hearing shall be held.

(3) If the DT credential has lapsed for more than twelve (12) months, an individual may reinstate the credential by one (1) of the following methods.

(a) If the DT has not worked as a DT in another state, the individual shall:

1. Complete a DT training program approved by the board;
2. After completion of the training program, submit an Application for Dialysis Technician Credential;
3. The supervising registered nurse shall complete and submit the Checklist for Dialysis Technician Competency Validation to the board;
4. Pay the fee established by Section 4 of this administrative

regulation; ~~and~~

5. Provide a criminal record check by the KSP and the FBI and comply with subsection (2) of this section. ~~[; and]~~

~~[6.] [Provide evidence of certification from a]~~

~~(b) After the applicant has met the requirements of paragraph [this subsection (3)](a) of this subsection[section] and provides evidence of a current certification from one (1) of the certification organizations listed in 201 KAR 20:472, Section 5(5)(c), the applicant's credential shall be reinstated.~~

~~(c) If the applicant for reinstatement under this subsection does not hold a current certification from one (1) of the organizations listed in 201 KAR 20:472, Section 5(5)(c), the applicant shall be referred to as a DT Applicant and the board may issue a provisional credential to the DT Applicant, if:~~

~~1. The DT Applicant previously held a dialysis technician credential; and~~

~~2. Provides verification that the DT Applicant has previously held a certification from one (1) of the organizations listed in 201 KAR 20:472, Section 5(5)(c).~~

~~(d) A provisional credential issued under paragraph [subsection—3](c) of this subsection[section] shall expire eighteen (18) months from the date provisional credential is issued by the board. During that time, the applicant shall obtain recertification from one (1) of the[DT] certification organizations listed in 201 KAR 20:472, Section 5(5)(c)[Section 1(4)(b) of this administrative regulation].~~

~~(e) A DT Applicant shall be issued a provisional credential only one (1) time under paragraph [the subsection—3](c) of this subsection[section].~~

~~(f) The DT Applicant shall practice dialysis care under the supervision of a registered nurse, an advanced practice registered nurse, a physician, or a physician's assistant.~~

~~(g)[(b)] If the DT has worked as a DT in another state, the individual shall:~~

- ~~1. Submit an Application for Dialysis Technician Credential;~~
- ~~2. Submit verification of working as a DT in another state;~~
- ~~3. Pay the fee established by Section 4 of this administrative regulation;~~

~~4. Provide a criminal record check by the KSP and the FBI and comply with subsection (2) of this section; and~~

~~5. Provide evidence of certification from a DT certification organization listed in 201 KAR 20:472, Section 5(5)(c)[1(4)(b) of this administrative regulation].~~

~~(4) An Application for Dialysis Technician Credential submitted for reinstatement shall be valid for one (1) year from the date of receipt by the board.~~

~~(5) Upon approval of the application, the credential shall be reinstated.~~

Section 4. Fees.

~~(1) The application fee for the initial credential shall be seventy (70) dollars.~~

~~(2) The credential renewal fee shall be thirty-five (35) dollars.~~

~~(3) The credential reinstatement fee shall be \$100.~~

~~(4) A fee of ten (10) dollars shall be charged for issuing a duplicate of the credential.~~

~~(5) A check submitted to the board for payment of a fee that is returned by the bank for nonpayment shall be assessed a return check fee of thirty-five (35) dollars.~~

~~(6) A fee of ten (10) dollars shall be charged for written verification of a dialysis technician credential. If submitted in list format, a fee of ten (10) dollars for the first name shall be assessed and a fee of one (1) dollar shall be assessed for each additional name.~~

~~(7) A fee of twenty-five (25) dollars shall be charged for a name change and the issuance of a new credential.~~

~~(8) All fees shall be nonrefundable.~~

Section 5. Material Incorporated by Reference.

~~(1) The following material is[materials are][material is] incorporated by reference:~~

~~(a) "Application for Dialysis Technician Credential", 4/2021;~~

~~(b) "Application for Dialysis Technician Credential Renewal"~~

~~of Dialysis Technician Credential][Renewal]", 4/2021; and~~

~~(c) "Checklist for Dialysis Technician Competency Validation", 4/2021.~~

~~(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material is also available on the board's Web site at <https://kbn.ky.gov/General/Pages/Document-Library.aspx>[<https://kbn.ky.gov/legalopinions/Pages/laws.aspx>].~~

CONTACT PERSON: Jeffrey R. Prather, General Counsel, Kentucky Board of Nursing 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, (502) 338-2851, jeffrey.prather@ky.gov or submit a comment at: <https://secure.kentucky.gov/formservices/Nursing/PendReg>.

TOURISM, ARTS AND HERITAGE CABINET Department of Fish and Wildlife Resources (As Amended at ARRS, April 11, 2023)

301 KAR 2:144. Fall wild turkey hunting.

RELATES TO: KRS 150.010, 150.170, 150.175, 150.305, 150.360, 150.390, 150.990

STATUTORY AUTHORITY: KRS 150.025(1), 150.390(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate ~~bag~~[bag] limits and methods of take, and to make ~~these~~[such] requirements apply to a limited area. KRS 150.390(1) requires that wild turkeys shall not be taken in any manner contrary to any provisions of KRS Chapter 150 or KAR Title 301 ~~[KAR]~~. This administrative regulation establishes seasons, ~~bag~~[bag]-limits, and ~~methods of take~~, hunter requirements, and special area restrictions for fall wild turkey hunting.

Section 1. Definitions.

(1) "Crossbow" means a bow capable of holding an arrow at full or partial draw without human aid.

(2) "Wildlife Management Area" or "WMA" means a tract of land:

(a) Controlled by the department through ownership, lease, license, or cooperative agreement; and

(b) That has "Wildlife Management Area" or "WMA" as part of its official name.

Section 2. Statewide Wild Turkey Season Dates. Except as established in 301 KAR 2:111, a person shall only take wild ~~turkey~~[turkeys] during the seasons established in subsections (1) through (3) of this section:

(1) Archery season shall be the first Saturday in September through the third Monday in January;

(2) Crossbow season shall be:

(a) From October 1 through the end of the third full weekend in October; and

(b) From the second Saturday in November through December 31; and

(3) Firearm season shall be:

(a) For seven (7) consecutive days beginning the fourth Saturday in October; and

(b) For seven (7) consecutive days beginning the first Saturday in December.

Section 3. Legal Equipment.

(1) A person shall only use legal weapons and ammunition as established in 301 KAR 2:140.

(2) Fall archery season. Archery equipment may be used.

(3) Fall crossbow season. Crossbows and archery equipment may be used.

(4) Fall firearm season. Archery equipment, crossbows, and firearms may be used.

Section 4. ~~Fall Wild Turkey Bag Limits. A person shall **not** take [no] more than:~~

~~(1) Two (2) wild turkeys statewide, of which only:~~

~~(a) One (1) shall have a visible beard at least three (3) inches long; and~~

~~(b) One (1) shall have no visible beard or a beard less than three (3) inches long; and;~~

~~[(1)] [A person shall not take more than four (4) wild turkeys, no more than two (2) of which shall be taken with a firearm.]~~

~~(2) One (1) wild turkey per day [Only one (1) of the turkeys taken pursuant to subsection (1) of this section shall have a visible beard at least three (3) inches long].~~

~~[(3)] [A person shall not harvest more than one (1) wild turkey per day.]~~

Section 5. Hunter Restrictions.

(1) Dogs may be used to aid in taking wild turkey[s] during any fall season.

(2) A person may take a wild turkey from one-half (1/2) hour before sunrise until one-half (1/2) hour after sunset.

(3) A person hunting wild ~~turkey[turkeys]~~ in the fall shall comply with all license, permit, and check-in requirements established in 301 KAR 2:140.

~~(4) A person shall not take a wild turkey within 600 feet of a baited area, as defined by 301 KAR 2:140, **or for thirty (30) days after the bait has been removed**, except that this prohibition shall[is] not apply[applicable].~~

~~(a) To bona fide agricultural practices;~~

~~**(b) To crop manipulation for a wildlife management purpose; and**~~

~~**(c)[(b)] Across property boundaries.**~~

Section 6. Wildlife Management Areas. Except as established in subsections (1) through (6) of this section, Wildlife Management Areas shall be open to fall wild turkey hunting pursuant to this administrative regulation and 301 KAR 2:140.

(1) Ballard Wildlife Management Area. A person shall not hunt wild turkey[s] during the fall firearm, crossbow, or archery seasons.

(2) Barren River Wildlife Management Area. On the Peninsula Unit, including Narrows, Goose and Grass Islands, a person:

(a) Shall not hunt during the fall firearm season with a breech-loading firearm;

(b) May use a muzzleloading shotgun or crossbow during the fall firearm season; and

(c) May use a crossbow during the fall archery season.

(3) Higginson-Henry Wildlife Management Area. A person shall not use a firearm while turkey hunting.

(4) Pioneer Weapons Area. A person may use a crossbow during the fall archery turkey season.

(5) Main block of Robinson Forest. A person shall not hunt wild ~~turkey[turkeys]~~ during the fall firearm, crossbow, or archery ~~seasons[season]~~ except a person participating in a department-authorized hunt.

(6) Swan Lake Unit of Boatwright Wildlife Management Area. A person shall not hunt wild ~~turkey[turkeys]~~ during the fall firearm, crossbow, or archery ~~seasons[season]~~.

CONTACT PERSON: Jenny Gilbert, Legislative Affairs, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman's Lane, (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov.

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(As Amended at ARRS, April 11, 2023)

301 KAR 2:300. Black bear seasons and requirements.

RELATES TO: KRS 150.010, 150.092, 150.170, 150.175, 150.990

STATUTORY AUTHORITY: KRS 150.025(1), 150.390(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits and methods of take, and to make these requirements apply to a limited area. KRS 150.390(1) prohibits the taking of bears in any manner contrary to any provisions of KRS Chapter 150 or KAR Title 301. This administrative regulation establishes bear hunting and chasing seasons, bear hunting areas, legal methods of take, and permitting, checking, and recording requirements.

Section 1. Definitions.

(1) "Adult" means an individual who is at least eighteen (18) years of age.

(2) "Archery equipment" means a long bow, recurve bow, or compound bow incapable of holding an arrow at full or partial draw without aid from the archer.

(3) "Arrow" means the projectile fired from a bow or crossbow.

(4) "Baited area" means an area where feed, grains, or other substances capable of luring black bears have been placed.

(5) "Bear" means the species *Ursus americanus*.

(6) "Bear chase permit" means a permit, which in conjunction with appropriate licenses, seasons, and methods, allows the holder to use dogs to chase a bear.

(7) "Bear permit" means a permit, which in conjunction with appropriate licenses, seasons, and methods, allows the holder to harvest one (1) black bear of either sex.

(8) "Bear Zone 1" means Bell, Harlan, Letcher, and McCreary Counties.

(9) "Bear Zone 2" means Adair, Bath, Boyd, Breathitt, Carter, Casey, Clark, Clay, Clinton, Cumberland, Elliot, Estill, Fleming, Floyd, Garrard, Greenup, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Lewis, Lincoln, Madison, Magoffin, Martin, Menifee, Montgomery, Morgan, Owsley, Perry, Pike, Powell, Pulaski, Rockcastle, Rowan, Russell, Wayne, Whitley, and Wolfe Counties.

(10) "Chase-only season" means a designated season when a person may use dogs to chase a bear, without killing or intentionally injuring a bear.

(11) "Combination bear permit" means a permit, which in conjunction with appropriate licenses, seasons, and methods, allows the holder to harvest one (1) black bear of either sex and to use dogs to chase a bear.

~~(12)[(44)]~~ "Crossbow" means a bow designed or fitted with a device to hold an arrow at full or partial draw without aid from the archer.

~~(13)[(42)]~~ "Firearm" means a breech- or muzzle-loading rifle, shotgun, or handgun.

~~(14)[(43)]~~ "License year" means the period from March 1 through the last day of February.

~~(15)[(44)]~~ "Modern gun" means a rifle, handgun, or shotgun loaded from the rear of the barrel.

~~(16)[(45)]~~ "Muzzleloader" means a rifle, shotgun, or handgun loaded from the discharging end of the barrel or discharging end of the receiver.

~~(17)[(46)]~~ "Youth" means a person under the age of sixteen (16) on the day of the hunt.

~~(18)[(47)]~~ "Youth bear chase permit" means a permit, which in conjunction with appropriate licenses, seasons, and methods, allows a youth to use dogs to chase a bear.

Section 2. Feeding Black Bears. A person shall not engage in any direct or indirect feeding of black bears.

Section 3. Bear Chase Requirements.

(1) Unless exempted by KRS 150.170, a person, while using dogs to chase a bear, shall carry on his or her person any[a] valid annual Kentucky hunting license and a valid:

- (a) Bear chase permit; ~~or~~
- (b) Youth bear chase permit; ~~or~~;
- (c) Combination bear permit.

~~[(2)] [A bear chase permit or youth bear chase permit shall only be purchased by a resident of Kentucky.]~~

~~[(2)]~~[(3)] A person shall not:

(a) Kill or intentionally injure a bear during a chase-only season;

(b) Chase a bear except during daylight hours while a chase season is open;

(c) Chase a bear from a baited area:

- 1. While bait is present; ~~or~~ ~~or~~
- 2. For thirty (30) days after the bait has been removed; or
- (d) Disturb a bear in a den.

~~[(3)]~~[(4)] A person shall only use a dog to chase a bear on public hunting areas, or on private land with permission of the landowner, in all bear zones, except that it shall be prohibited to chase bears with dogs in the areas established in paragraphs (a) through (g) of this subsection:

- (a) Daniel Boone National Forest;
- (b) Miller-Welch Central Kentucky Wildlife Management Area;
- (c) Beaver Creek Wildlife Management Area;
- (d) Cane Creek Wildlife Management Area;
- (e) Mill Creek Wildlife Management Area;
- (f) Pioneer Weapons Wildlife Management Area; and
- (g) Redbird Wildlife Management Area.

Section 4. Chasing Bears with Dogs. A person shall not use a dog to chase a bear except during the seasons established in subsections (1) and (2) of this section.

(1) The chase-only season shall be from:

- (a) June 1 through August 31; and~~and~~
- (b) September 9 through September 30; and

(2) The bear hunt with dogs season shall be pursuant to Section 8(1) of this administrative regulation and shall also be open as a chase-only season.

Section 5. Bear Permit Requirements.

(1) Unless exempted by KRS 150.170, a person hunting a bear during the archery, crossbow, or modern gun seasons shall carry on his or her person a valid annual Kentucky hunting license and a valid bear permit or combination bear permit while hunting.

(2) Unless exempted by KRS 150.170, during the bear hunt with dogs season:

(a) A person attempting to harvest a bear shall carry on his or her person a valid annual Kentucky hunting license and[in addition to] either a valid:

- 1. ~~[A]~~ Bear permit and ~~[a]~~ bear chase permit; or
- 2. ~~[A]~~ Combination bear permit; and

(b) A person in a bear hunt or bear chase party who does not intend to harvest a bear shall carry on his or her person a valid annual Kentucky hunting license and either a valid:

- 1. ~~[a]~~ Bear chase permit; or
- 2. ~~[a]~~ Combination bear permit.

(3) Unless exempted by KRS 150.170, during a bear chase season, a person in a hunt party engaged in the pursuit of bear with the use of dogs shall carry on his or her person any valid annual Kentucky hunting license and either a valid:

- (a) ~~[A valid]~~ Bear chase permit; or
- (b) ~~[A]~~ Combination bear permit ~~[while chasing bears].~~

~~[Section 5.] [Bear Permit Requirements. Unless exempted by KRS 150.170, a person hunting a bear shall carry on his or her person a valid Kentucky hunting license and the appropriate valid bear permit or permits while hunting during the seasons established in Section 8(1) of this administrative regulation.]~~

Section 6. Hunter Restrictions.

(1) A person shall not:

- (a) Harvest a bear except during daylight hours;
 - (b) Use a dog during the modern gun, muzzleloader, or archery and crossbow season to hunt bear~~bears~~, except leashed tracking dogs may be used to recover a wounded or dead bear;
 - (c) Hunt bear on a baited area:
 - 1. While bait is present; or
 - 2. For thirty (30) days after the bait has been removed;
 - (d) Harvest:
 - 1. A female bear that has a cub; or
 - 2. A bear that weighs less than seventy-five (75) pounds;
 - (e) Harvest a bear that is swimming;
 - (f) Harvest a bear if the person is in a vehicle, boat, or on horseback, except that a hunter in possession of a disability hunting methods exemption permit issued by the department as established in 301 KAR 3:027 may use a stationary vehicle as a hunting platform;
 - (g) Harvest a bear in a den;
 - (h) Disturb a bear in a den for the purpose of taking the bear if the bear exits the den; or
 - (i) Use radio telemetry equipment to locate a bear that is equipped with a radio-tracking collar.
- (2) An adult shall accompany and maintain control of a youth who is hunting bear with a firearm.

Section 7. Equipment Restrictions.

(1) A person shall only use the equipment and ammunition established in paragraphs (a) through (e) of this subsection to take a bear:

- (a) A crossbow or archery equipment loaded with a broadhead of seven-eighths (7/8) inch or wider upon expansion;
- (b) A modern rifle:
 - 1. With an action that fires a single round of ammunition upon each manipulation of the trigger;
 - 2. Loaded with:
 - a. Bullets of .264 caliber (6.5 mm) or larger; and
 - b. Centerfire, single projectile ammunition designed to expand upon impact;
- (c) A muzzleloader of .45 caliber or larger;
- (d) A shotgun of twenty (20) gauge or larger loaded with a shell containing a slug or a slug with a sabot; or
- (e) A handgun loaded with:
 - 1. Centerfire cartridges;
 - 2. Bullets of .264 caliber (6.5 mm) designed to expand upon impact; and
 - 3. Cartridges with a case length of 1.285 inches or larger.
- (2) A crossbow shall contain a working safety device.
- (3) A bear hunter using a modern gun shall not use a magazine capable of holding more than ten (10) rounds.
- (4) A bear hunter may use archery, crossbow, or muzzleloader equipment to take a bear during bear modern gun season.

Section 8. Bear Season Dates and Bag Limits.

(1) A legal bear hunter shall only kill a bear in the open bear zones during the seasons established in paragraphs (a) through (f) of this subsection:

- (a) The archery and crossbow season for bears in Bear Zone 1 shall be for three (3) consecutive days beginning on the fourth Saturday in October;
- (b) The archery and crossbow season for bears in Bear Zone 2 shall be for five (5) consecutive days beginning on the fourth Saturday in October;
- (c) The modern gun season for bears in Bear Zone 1 shall be for three (3) consecutive days beginning on the second Saturday in December;
- (d) The modern gun season for bears in Bear Zone 2 shall be for five (5) consecutive days beginning on the second Saturday in December;
- (e) The bear hunt with dogs season in Bear Zone 1 shall be for five (5) consecutive days beginning on the Monday prior to the fourth Saturday in October; and
- (f) The bear hunt with dogs season in Bear Zone 2 shall be for

VOLUME 49, NUMBER 11– MAY 1, 2023

five (5) consecutive days beginning on the Monday prior to the fourth Saturday in October and for nine (9) consecutive days beginning the Thursday following the fourth Saturday in October.

(2) A person shall not harvest more than one (1) bear in a license year.

Section 9. Bear Hunt with Dogs Requirements.

(1) A person shall only harvest a bear using legal equipment with the use of unleashed dogs that are actively pursuing, chasing, baying, or treeing a bear prior to harvest.

(2) A dog used to harvest bears shall be a purebred or a crossbreed of the recognized dog breeds established in paragraphs (a) through (l) of this subsection.

- (a) Airedale;
- (b) American black and tan coonhound;
- (c) Black mouth cur;
- (d) Bluetick coonhound;
- (e) English coonhound;
- (f) Leopard cur;
- (g) Majestic tree hound;
- (h) Mathis;
- (i) Mountain cur;
- (j) Plott hound;
- (k) Redbone coonhound; or
- (l) Treeing walker coonhound.

~~[(3)] [The bear hunt with dogs season shall also be open as a chase-only season for any person who possesses a valid bear chase permit.]~~

Section 10. Hunter Orange Clothing Requirements.

(1) During any modern gun or muzzleloader season for bears, a person hunting any species, and any person accompanying a hunter, shall display solid, unbroken hunter orange visible from all sides on the head, back, and chest, except these requirements shall not apply to a person hunting:

- (a) Waterfowl; or
- (b) Furbearers at night during a legal furbearer season.

(2) The hunter orange portions of a garment worn to fulfill the requirements of this section:

- (a) May display a small section of another color; and
- (b) Shall not have mesh weave openings exceeding one-fourth (1/4) inch by any measurement.

Section 11. Bear Reserves. The areas established in subsections (1) through (3) of this section shall be closed to all bear hunting and bear chase with dogs.

- (1) Cumberland Gap National Historical Park;
- (2) Hensley-Pine Mountain Wildlife Management Area; and
- (3) Big South Fork National River and Recreation Area.

Section 12. Harvest Recording and Check-in Requirements.

(1) Immediately after harvesting a bear, and before moving the carcass, a person shall record on a hunter's log the:

- (a) Species taken;
- (b) Date taken;
- (c) County where taken; and
- (d) Sex of the bear.

(2) A person who has harvested a bear shall:

- (a) Retain a completed hunter's log;
- (b) Telecheck the bear by 8 p.m. Eastern Standard Time the day the bear was harvested by:

1. Calling 800-245-4263 and completing the telecheck process or checking the bear on the department's Web site at fw.ky.gov; and

2. Recording the confirmation number on the hunter's log;

(c) Arrange for department personnel to inspect the bear by:

1. Calling the department at 800-858-1549 within twenty-four (24) hours of harvest and prior to removing the harvested bear from the Bear Zone; and

2. Presenting to department personnel the bear carcass or an intact hide that contains the skull and proof of sex by including the attached:

- a. Testicles, scrotum, or penis for a male bear; or

b. Udder or vulva for a female bear; and

(d) Attach to the carcass a department issued tag after having the bear inspected by department personnel.

CONTACT PERSON: Jenny Gilbert, Legislative Liaison, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman's Lane, phone (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov.

TOURISM, ARTS AND HERITAGE CABINET Department of Fish and Wildlife Resources (As Amended at ARRS, April 11, 2023)

301 KAR 5:010. License agent applications and agreements.

RELATES TO: KRS 150.175

STATUTORY AUTHORITY: KRS 150.195

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.195 requires the department to provide for the control of the design, issuance, distribution, and other matters relating to licenses and permits issued by the department. This administrative regulation establishes the application procedures for becoming a department license agent.

Section 1. License Agent Applications and Agreements.

(1) Before receiving authorization to serve as license agents, ~~persons, government entities other than the department, businesses, or organizations~~[businesses or governmental agencies] shall:

(a) Complete and submit a License Agent Application Form;

(b) Enter into a formal contract with the department by agreeing to the provisions of, and signing, the License Agent Contractual Agreement, 2023 Edition~~[appropriate license agent agreement]~~; and

(c) Complete an Electronic Funds Transfer Request Form that authorizes the department or its vendor to make electronic fund transfers from an[a] ~~[bank]~~ account into which the license agent shall deposit the proceeds from transactions, or establish and agree upon the process for license agent-initiated fund transfers to the department or vendor.

(2) State agencies, other than the department, serving as license agents shall [promptly] ~~[promptly]~~ remit payment through the state accounting system.

(3) The department shall not appoint as an agent~~[agents]~~ a business~~[businesses]~~ that does not~~[have]~~:

(a) Possess a[A] valid federal identification number;

(b) Possess a Kentucky sales tax number, except if it is outside Kentucky; and

(c) Post a surety bond of \$5,000 if it is an out-of-state, private business.

Section 2. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "License Agent Application Form"; 2023~~1995~~;

(b) Electronic Funds~~[Fund]~~ Transfer Request~~[Authorization]~~ Form, 2023~~1995~~; and

(c) License Agent Contractual Agreement, 2023~~2022~~[18] Edition, [; and]

~~[(d)] [Governmental License Agent Contractual Agreement, 2018 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. or online at:

(a) https://fw.ky.gov/Licenses/Documents/LICENSE_AGENT_APPLICATION_FORM.pdf for the "License Agent Application Form";

(b) https://fw.ky.gov/Licenses/Documents/EFT_TRANSFER_FORM.pdf for the "Electronic Fund Transfer Authorization Form"; and

(c)

<https://fw.ky.gov/Licenses/Documents/licenseagentagreement.pdf>
for the "License Agent Contractual Agreement."

CONTACT PERSON: Jenny Gilbert, Legislative Liaison,
Kentucky Department of Fish and Wildlife Resources, 1
Sportsman's Lane, phone (502) 564-3400, fax (502) 564-0506,
email fwpubliccomments@ky.gov.

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(As Amended at ARRS, April 11, 2023)

301 KAR 5:020. License agent requirements and responsibilities.

RELATES TO: KRS 45A.097, 150.175, 150.990

STATUTORY AUTHORITY: KRS 150.195

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.195 requires the department to promulgate administrative regulations governing the issuance of licenses and permits. This administrative regulation establishes the requirements for issuing licenses and permits, electronically reporting license and permit sale data and [license—]revenue, and suspending or revoking license agent status.

Section 1. Issuing Licenses and Permits.

(1) A license agent shall issue a license or permit to a person who completes the registration process with the agent and pays the appropriate license or permit fee as established in 301 KAR 3:022 and applicable issuance and operational fee as established in this administrative regulation.

(2) A license agent shall not knowingly enter false information while processing a license, permit, or other transaction.

Section 2. Agent [Commission—]Issuance Fee and Depositing of Funds.

(1) The license agent shall retain as an issuance fee[commission]:

(a) Three (3) percent of the total sale[Fifty (50) cents for each Peabody permit issued pursuant to 301 KAR 4:100]; or[and]

(b) Print or display, on the initial license or permit issued, a coupon or advertisement, pursuant to a department sponsorship as established in KRS 45A.097, in lieu of retaining the applicable issuance fee. [Fifty (50) cents each for other transactions.]

(2) A license agent shall [promptly—]deposit transaction fees, less the issuance fee[commissions] established in subsection (1) of this section, into the [bank—]account established in 301 KAR 5:010.

(3) **A license agent shall not require or encourage a particular payment method[License Agents are prohibited from requiring or encouraging particular payment methods].** [A license agent may elect to print, on any license or permit issued, a coupon or advertisement, pursuant to a department sponsorship established in KRS 45A.097, in lieu of retaining the applicable commissions established in subsection (1) of this section.]

Section 3. Electronic Transfer of Funds to the Department.

(1) The department or its vendor shall provide each license agent with a schedule of dates when electronic fund transfers will be initiated.

(2) On the day of a scheduled electronic fund transfer, a license agent shall have sufficient funds in the account to cover the amount of the transfer.

(3) A license agent shall contact the department or its vendor prior to the day of a scheduled electronic fund transfer if there are any discrepancies or concerns that need to be resolved.

Section 4. Voiding Licenses and Permits.

(1) A license agent may, within four (4) hours of issuing a license or permit, void a license or permit if the purchaser:

[(a)] [The license does not print correctly; or]

[(b)] [After the license is printed, the purchaser:]

(a)[1-] Discovers that the issued license or permit is incorrect;

(b)[2-] Will not pay for the license or permit; or

(c)[3-] Refuses to accept the license or permit.

(2) An agent shall:

(a) Ensure that a license or permit established in subsection (1) of this section is voided in the system; and

(b) Destroy all paper copies of the voided license or permit.

(3) **A license agent shall refund license or permit cost as established in 301 KAR 5:030, Section 3(2)(a).**

Section 5. Suspensions and Revocation of Agent Status.

(1) In addition to any penalties provided by KRS 150.990, and except as established in subsection (2) of this section, the department shall suspend for one (1) to five (5) years a license agent who twice in a twelve (12) month period:

(a) Causes an electronic fund transfer failure; or

(b) Violates a provision of:

1. KRS 150.195; or

2. **A requirement of KAR Title 301[An administrative regulation adopted pursuant to KRS 150.195].**

(2) The department shall permanently revoke the agent status of a license agent who:

(a) Commits an offense for which the license agent has been previously suspended;

(b) Does not deposit the required funds in the[his] agent bank account within twenty-four (24) hours of notification by the department of insufficient funds;

(c) Fails to notify the department prior to closing the[his] agent bank account;

(d) Closes the[his] business seasonally without notifying the licensing section supervisor in writing by surface mail, fax, or e-mail and settling the[his] account; or

(e) Knowingly issues a license or permit containing false information.

(3) Before issuing a final order suspending or revoking the status of an agent, the department shall:

(a) Notify the agent by registered mail that the agent's status is under review; and

(b) Afford the agent the opportunity for an informal meeting with the commissioner or the commissioner's[his] designee to show cause why the[his] agent status should not be suspended or revoked.

(4) A suspension or revocation shall become effective upon receipt of notification from the department.

(5) A suspended or revoked agent shall:

(a) Allow the department access to financial records dealing with license and permit sales; and

(b) Immediately pay all funds owed to the department.

Section 6. Appeal of Suspension or Revocation of Agent Status.

(1) A license agent who wishes to appeal a suspension or revocation shall request a hearing in writing, postmarked or delivered in person to the department no later than ten (10) days after notification of suspension or revocation.

(2) Upon receipt of the request for a hearing, the department shall conduct a suspension or revocation hearing pursuant to KRS Chapter 13B and KRS 150.195.

(3) The hearing officer's findings of fact, conclusions of law, and recommended order shall be considered by the department's commission at the commission meeting immediately following the deadline for the parties' exceptions pursuant to KRS Chapter 13B. **If the suspension or revocation decision is upheld by the commission, the agent may then appeal the decision to the Franklin Circuit Court. An appeal shall be in accordance with KRS Chapter 13B and KRS 150.195.**

(4) The department's commission shall issue a final order pursuant to KRS Chapter 13B.

CONTACT PERSON: Jenny Gilbert, Legislative Liaison,
Kentucky Department of Fish and Wildlife Resources, 1
Sportsman's Lane, phone (502) 564-3400, fax (502) 564-0506,
email fwpubliccomments@ky.gov.

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(As Amended at ARRS, April 11, 2023)

301 KAR 5:022. License, tag, and permit fees.

RELATES TO: KRS 150.025, 150.180, 150.183, 150.240, 150.275, 150.280, 150.290, 150.450, 150.485, 150.520, 150.525, 150.600, 150.603, 150.660, 150.720

STATUTORY AUTHORITY: KRS 150.175, 150.195(4)(f), 150.225, 150.620

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.175 authorizes the types of licenses, permits, and tags. KRS 150.195(4)(f) requires the department to promulgate an administrative regulation establishing the license and permit terms and the expiration date of licenses and permits. KRS 150.225 requires the department to promulgate administrative regulations establishing reasonable license fees relating to hunting, fishing, and trapping. KRS 150.620 authorizes the department to charge reasonable fees for the use of lands and waters it has acquired for wildlife management and public recreation. This administrative regulation establishes fees and terms for licenses, permits, and tags.

Section 1. Licenses, tags, and permits listed in this section shall be valid from March 1 through the last day of February the following year, except the senior lifetime sportsman's[combination] license shall be valid for the life of the license holder while the license holder maintains[they maintain] Kentucky residency.

(1) Sport fishing licenses:

(a) Statewide annual fishing license (resident): twenty-three (23) dollars;

(b) Statewide annual fishing license (nonresident): fifty-five (55) dollars;

(c) Joint married couple statewide fishing license (resident): forty-two (42) dollars;

(d) Statewide three (3) year fishing license (resident): fifty-five (55) dollars; and

(e) Trout permit[~~(resident or nonresident)~~]: ten (10) dollars.

(2) Commercial fishing licenses:

(a) Commercial fishing license (resident), plus ten (10) resident commercial gear tags: \$150;

(b) Commercial fishing license (nonresident), plus ten (10) nonresident commercial gear tags: \$600; and

(c) Commercial fishing license for Asian carp and scaled rough fish (nonresident), plus ten (10) nonresident gear tags: \$150.

(3) Commercial fishing gear tags (shall not [to] be sold singly):

(a) Commercial fishing gear tags (resident) block of ten (10) tags: fifteen (15) dollars;

(b) Commercial fishing gear tags (nonresident) block of ten (10) tags: \$100; and

(c) Commercial fishing gear tags for Asian carp and scaled rough fish (nonresident), block of ten (10) tags: fifteen (15) dollars.

(4) Hunting licenses:

(a) Statewide hunting license (resident): twenty-seven (27) dollars;

(b) Statewide hunting license (nonresident): \$150;

(c) Statewide youth[junior] hunting license (resident): six (6) dollars;

(d) Statewide youth[junior] hunting license (nonresident): ten (10) dollars;

(e) Shooting preserve hunting license[~~(resident or nonresident)~~]: five (5) dollars; and

(f) Migratory game bird and waterfowl permit[~~(resident or nonresident)~~]: fifteen (15) dollars.

(5) Combination hunting and fishing license (resident): forty-two (42) dollars.

(6) Sportsman's licenses:

(a) Sportsman's license (resident), which includes a resident hunting and fishing license, spring turkey permit, fall turkey permit, trout permit, state migratory game bird and waterfowl permit, and

statewide deer permit: ninety-five (95) dollars:

(b) Youth[Junior] sportsman's license (resident), which includes a statewide youth[junior] hunting license, a statewide youth deer permit, and two (2) youth turkey permits: thirty (30) dollars;

(c) Senior sportsman's[combination hunting and fishing] licenses, which include a resident hunting and fishing license, spring turkey permit, fall turkey permit, trout permit, state migratory shore and upland game bird, waterfowl permit, and statewide deer permit. Senior licenses shall not be valid unless the holder carries proof of their Kentucky residency and proof of age on the holder's[his or her] person while performing an act authorized by the license:

1. Annual senior sportsman's[combination hunting and fishing] license (resident): twelve (12) dollars; and

2. Senior lifetime sportsman's[combination hunting and fishing] license (resident): \$180;

(d) Disabled sportsman's[combination hunting and fishing] license (resident), which includes a resident hunting and fishing license, spring turkey permit, fall turkey permit, trout permit, state migratory shore and upland game bird, waterfowl permit, and statewide deer permit: twelve (12) dollars.[Senior or disabled combination hunting and fishing license (resident): twelve (12) dollars.]

(7) Trapping licenses:

(a) Trapping license (resident): twenty (20) dollars;

(b) Trapping license (resident landowner – tenant): ten (10) dollars;

(c) Trapping license (nonresident): \$130; and

(d) Youth[Junior] trapping license (resident): five (5) dollars.

(8) Game permits:

(a) Bear permit (resident): thirty (30) dollars;

(b) Youth bear permit (resident): ten (10) dollars;

(c) Bear chase permit (resident): thirty (30) dollars;

(d) Youth bear chase permit (resident): ten (10) dollars;

(e) Combination bear permit (resident), which includes a bear permit and a bear chase permit: fifty (50) dollars;

(f) Bear permit (nonresident): \$250;

(g) Youth bear permit (nonresident): \$100;

(h) Bear chase permit (nonresident): fifty (50) dollars;

(i) Youth bear chase permit (nonresident): fifteen (15) dollars;

(j) Quota cow elk permit (resident): sixty (60) dollars;

(k) Quota cow elk permit (nonresident): \$400;

(l) Quota bull elk permit (resident): \$100;

(m) Quota bull elk permit (nonresident): \$550;

(n) Quota either sex archery and crossbow elk permit (resident): \$100;

(o) Quota either sex archery and crossbow elk permit (nonresident): \$550.

(p) Out-of-zone elk permit (resident): thirty (30) dollars;

(q) Out-of-zone elk permit (nonresident): \$400;

(r) Statewide deer permit (resident): thirty-five (35) dollars;

(s) Statewide deer permit (nonresident): \$185;

(t) Statewide youth deer permit (resident): ten (10) dollars;

(u) Statewide youth deer permit (nonresident): fifteen (15) dollars;

(v) Additional deer permit: fifteen (15) dollars;

(w) Spring turkey permit (resident): thirty (30) dollars;

(x) Spring turkey permit (nonresident): eighty-five (85) dollars;

(y) Fall turkey permit (resident): thirty (30) dollars;

(z) Fall turkey permit (nonresident): eighty-five (85) dollars;

(aa) Youth turkey permit (resident): ten (10) dollars;

(bb) Youth turkey permit (nonresident): fifteen (15) dollars;

(cc) Quota youth elk permit (resident): thirty (30) dollars; and

(dd) Quota youth elk permit (nonresident): \$200.

[(a)] [Resident bear: thirty (30) dollars;]

[(b)] [Resident youth bear: ten (10) dollars;]

[(c)] [Nonresident bear: \$250;]

[(d)] [Resident bear chase: thirty (30) dollars;]

[(e)] [Resident youth bear chase: ten (10) dollars;]

[(f)] [Resident quota cow elk permit: sixty (60) dollars;]

[(g)] [Nonresident quota cow elk permit: \$400;]

[(h)] [Resident quota bull elk permit: \$100;]

VOLUME 49, NUMBER 11– MAY 1, 2023

~~[(i)] [Nonresident quota bull elk permit: \$550;]~~
~~[(j)] [Resident either sex archery and crossbow elk permit: \$400;]~~
~~[(k)] [Nonresident either sex archery and crossbow elk permit: \$550;]~~
~~[(l)] [Resident out-of-zone elk permit: thirty (30) dollars;]~~
~~[(m)] [Nonresident out-of-zone elk permit: \$400;]~~
~~[(n)] [Resident deer permit: thirty-five (35) dollars;]~~
~~[(o)] [Nonresident deer permit: \$185;]~~
~~[(p)] [Resident youth deer: ten (10) dollars;]~~
~~[(q)] [Nonresident youth deer: fifteen (15) dollars;]~~
~~[(r)] [Additional deer permit (resident or nonresident): fifteen (15) dollars;]~~
~~[(s)] [Resident spring turkey: thirty (30) dollars;]~~
~~[(t)] [Nonresident spring turkey: eighty-five (85) dollars;]~~
~~[(u)] [Resident fall turkey: thirty (30) dollars;]~~
~~[(v)] [Nonresident fall turkey: eighty-five (85) dollars;]~~
~~[(w)] [Resident youth turkey: ten (10) dollars;]~~
~~[(x)] [Nonresident youth turkey: fifteen (15) dollars;]~~
~~[(y)] [Resident youth elk: thirty (30) dollars; and]~~
~~[(z)] [Nonresident youth elk: \$200;]~~
~~(9) Peabody individual permit: fifteen (15) dollars.~~
~~(10) [Sportsman's license (resident), which includes a resident hunting and fishing license, spring turkey permit, fall turkey permit, trout permit, state migratory game bird and waterfowl permit, and deer permit: ninety-five (95) dollars;]~~
~~[(11)] [Junior sportsman's license (resident), which includes a junior hunting license, junior deer permit, and two (2) junior turkey permits: thirty (30) dollars;]~~
~~[(12)] Land Between the Lakes hunting permit: as stated at landbetweenthelakes.us [twenty (25)] [(20)] [dollars].~~
~~[(11)] [(13)] Conservation permit: five (5) dollars.~~
~~[(12)] Bobcat hunting permit: Free.~~
~~[(13)] Commercial guide licenses:~~
~~(a) Commercial guide license (resident): \$150; and~~
~~(b) Commercial guide license (nonresident): \$400.~~

Section 2. Licenses, tags, and permits listed in this section shall be valid for the calendar year issued.
(1) Live fish and bait dealer's licenses:
(a) Live fish and bait dealer's license (resident): fifty (50) dollars; and
(b) Live fish and bait dealer's license (nonresident): \$150.
(2) Commercial taxidermist license: \$150.
~~[(3)] [Commercial guide licenses:]~~
~~[(a)] [Commercial guide license (resident): \$150; and]~~
~~[(b)] [Commercial guide license (nonresident): \$400.]~~
~~[(3)] [(4)] Shooting area permit: \$150.~~
~~[(4)] [(5)] Dog training area permit: fifty (50) dollars.~~
~~[(5)] [(6)] Collecting permits:~~
(a) Educational wildlife collecting permit: twenty-five (25) dollars; and
(b) Scientific wildlife collecting permit: \$100.
~~[(6)] [(7)] Nuisance wildlife control operator's permit: \$100.~~
~~[(7)] [(8)] Pay lake license:~~
(a) Pay lakes obtaining all fish from private hatcheries only:
1. Lakes with two (2) acres or less: \$250; and
2. Each additional acre or part of an acre: Fifty (50) dollars; and
(b) Pay lakes obtaining all or a portion of catfish from public waters:
1. Lakes with two (2) acres or less: \$600; and
2. Each additional acre or part of an acre: fifty (50) dollars.
~~[(8)] [(9)] Commercial captive wildlife permit: \$150.~~
~~[(9)] [(40)] Commercial fish propagation permit: fifty (50) dollars.~~
~~[(10)] [(14)] Wildlife rehabilitator's permit: twenty-five (25) dollars.~~
~~[(11)] [(12)] Annual wildlife transportation permit: \$250.~~
~~[(12)] [(13)] Peabody Wildlife Management Area annual event permit: \$250.~~
~~[(13)] [(14)] Fish transportation permit: twenty-five (25) dollars.~~

Section 3. Licenses, tags, and permits listed in this section shall be valid for three (3) years from the date of issue.

- (1) Falconry permit: seventy-five (75) dollars.
(2) Noncommercial captive wildlife permit: seventy-five (75) dollars.

Section 4. Licenses, tags, and permits listed in this section shall be valid for the date or dates specified on each.

- (1) Short-term licenses:
(a) One (1) day [resident] fishing license (resident): seven (7) dollars;
(b) One (1) day [nonresident] fishing license (nonresident): fifteen (15) dollars;
(c) Seven (7) day [nonresident] fishing license (nonresident): thirty-five (35) dollars;
(d) One (1) day [resident] hunting license (resident) (not valid for deer, elk, bear, or turkey hunting): seven (7) dollars;
(e) One (1) day [nonresident] hunting license (nonresident) (not valid for deer, elk, bear, or turkey hunting): twenty-five (25) dollars; and
(f) Seven (7) day [nonresident] hunting license (nonresident) (not valid for deer, elk, bear, or turkey hunting): sixty-five (65) dollars.
(2) Individual wildlife transportation permit: twenty-five (25) dollars.
(3) Special resident commercial fishing permit: \$600.
(4) Special nonresident commercial fishing permit: \$900.
(5) Commercial waterfowl shooting area permit: \$150.
(6) Shoot-[-]to-[-]retrieve field trial permits:
(a) Per trial (maximum four (4) days): seventy-five (75) dollars; and
(b) Single day: twenty-five (25) dollars.
(7) Boat dock permit: \$100 per ten (10) year permit period beginning January 1, 2008, except that the fee shall be pro-rated for the number of years remaining in the ten (10) year period.
(8) Shoreline use permit: Valid for a fifteen (15) year permit period beginning January 1, 2010, pro-rated to the nearest five (5) year interval remaining in the fifteen (15) year period, and containing[shall contain] three (3) tiers, including:
(a) Tier I: \$100;
(b) Tier II: \$200; and
(c) Tier III: \$300; and
(d) The fees shall be pro-rated to the nearest five (5) year interval remaining in the fifteen (15) year permit period].
(9) Peabody individual event permit: twenty-five (25) dollars.
(10) Commercial roe-bearing fish buyer's permit:
(a) Commercial roe-bearing fish buyer's permit (resident): \$500; and
(b) Commercial roe-bearing fish buyer's permit (nonresident): \$1,000.
(11) Commercial roe-bearing fish harvester's permit:
(a) Commercial roe-bearing fish harvester's permit (resident): \$500; and
(b) Commercial roe-bearing fish harvester's permit (nonresident): \$1,500.
(12) Otter Creek Outdoor Recreation Area:
(a) Daily Entry Permit: three (3) dollars, with children under twelve (12) free; and
(b) Daily Special Activities Permit: seven (7) dollars.
(13) Commercial foxhound training enclosure permit: \$150.
- Section 5. Licenses, tags, and permits listed in this section shall be valid on a per-unit[per-unit] basis as specified.
(1) Ballard waterfowl hunt (per person, per day): fifteen (15) dollars.
(2) Pheasant hunt permit (per person, per day): twenty-five (25) dollars.
(3) Horse stall rental (per space, per day): two (2) dollars.
(4) Dog kennel rental (per dog, per day): fifty (50) cents.
(5) Captive cervid permit (per facility, per year): \$150.
(6) Noncommercial captive cervid permit (per facility, per three (3) years): seventy-five (75) dollars.

Section 6. The following licenses listed in this section shall be valid from April 1 through March 31 of the following year:

- (1) Fur processor's license (resident): \$150;
- (2) Fur buyer's license (resident): fifty (50) dollars; and
- (3) Fur buyer's license (nonresident): \$300.

Section 7. The following Otter Creek Outdoor Recreation ~~Area~~Act permits shall be valid from July 1 through June 30 of the following year:

- (1) Annual Entry Permit: thirty (30) dollars, with children under twelve (12) free; and
- (2) Annual Special Activities Permit: seventy (70) dollars.

CONTACT PERSON: Jenny Gilbert, Legislative Liaison, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman's Lane, phone (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov.

**EDUCATION AND LABOR CABINET
Office of Unemployment Insurance
(As Amended at ARRS, April 11, 2023)**

787 KAR 1:090. Unemployed worker's reporting requirements.

RELATES TO: KRS 341.350, 341.360, 341.370, 341.380

STATUTORY AUTHORITY: KRS 336.015, 336.050, 341.115(1), 341.350(11) [2021 Ky Acts ch. 169 Part 1(4)(7)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 341.115(1) authorizes the secretary to promulgate administrative regulations necessary or suitable for the proper administration of KRS Chapter 341. KRS 341.350(11) requires the secretary to promulgate administrative regulations related to work search activities required for benefit eligibility. This administrative regulation establishes the registration and reporting requirements that an unemployed worker is required to meet to draw benefits, the date when a claim shall be valid, the length of time a claim may be backdated, the procedures for electronic, telephone, and mail claims, and the requirement for random audits.

Section 1. Registration for Work.

(1) An unemployed worker shall be registered for work with a state employment service before he or she is eligible to receive benefits. A registration shall be considered filed if the unemployed worker completes the registration process.

(2) When an unemployed worker completes an initial application for benefits or reopens a claim, he or she shall be assigned a group classification code A or B based upon his or her reemployment prospects. The classification codes described below are solely related to reemployment prospects and not to any classification codes used to identify a claimant's duration of benefits, as detailed in KRS 341.385.

(a) Group A shall consist of any worker who is unemployed and is not subject to definite recall within a period of sixteen (16)~~twelve (12)~~ weeks from the date of filing of the initial or reopened claim.

(b) Group B shall include any worker who is:

1. Unemployed and has definite return prospects with his or her last employer within a period of sixteen (16)~~twelve (12)~~ weeks from the date of filing of the initial or reopened claim;
2. Unemployed because of a labor dispute in the establishment where he or she has been employed; or
3. A member of a union which shall be responsible for securing future employment.

(3) During any benefit year, an unemployed worker shall be assigned a different group classification code if review of his or her reemployment prospects reveals that a different classification is appropriate.

(4) The completion of an initial application for benefits shall serve as work registration for any group "B" unemployed worker.

Section 2. Initial or Reopened Claims for Benefits.

(1) ~~[In order]~~ For an unemployed worker to file an initial or reopened claim for benefits, he or she shall complete the Initial Claim process by using:

(a) An internet claim registration through the Web site provided by the agency for that purpose at uicclaimsportal.ky.gov;

(b) A telephone claim registration through the call center provided by the agency for that purpose; or

(c) An in person claim registration by reporting to a state employment service office that provides unemployment insurance assistance.

(2) If any issues regarding the unemployed worker's eligibility as provided by KRS 341.350 or a potentially disqualifying circumstance as provided by KRS 341.360 or 341.370 are detected, a fact finding investigation shall be conducted during which the unemployed worker shall:

(a) Provide picture identification and valid proof of the worker's Social Security number from the Social Security Administration; and

(b) Present all facts in support of the application.

(3) The initial or reopened claim shall be dated as of the first day of the week in which the unemployed worker completes the procedure established in subsection (1) of this section.

(4) Upon the presentation by the unemployed worker of reasons found to constitute good cause for failure to file at an earlier date, the secretary shall backdate the initial or reopened claim to the first day of the week in which the worker became unemployed, or the second calendar week preceding the date the worker filed, whichever is later. Examples of good cause may include illness, availability issues beyond the claimant's control, or lack of access to internet or phone necessary for claim filing.

(5) An unemployed worker whose unemployment insurance benefit check has been lost or stolen shall notify the office in writing.

Section 3. Claiming Weeks of Benefits.

(1) Once an unemployed worker has filed an initial claim and established a benefit year, the unemployed worker shall claim his or her benefits on a biweekly basis by one (1) of the methods and within the time frames established in subsection (2) of this section.

(a) The unemployed worker shall claim either one (1) or both of the weeks of benefits.

(b) Except as provided in paragraph (e) of this subsection, for every two (2) week period of benefits being claimed following the effective date of the initial or reopened claim, the unemployed worker shall claim his or her benefits during the calendar week following the second week of the period.

(c) For each week an unemployed worker claims benefits, the worker shall certify under penalty of perjury that he or she engaged in at least five (5) work search activities, at least three (3) of which shall consist of submitting an application for employment, or interviewing for employment. ~~["Work search activities"]~~ include any of the following:

1. Formally submitting an application for employment online or in person;

2. Interviewing for employment virtually, in person, or online;

3. Job shadowing;

4. Attending a job fair or networking event hosted by state or local government or a business organization;

5. Participating in a job search skills workshop or seminar; **or**

and
6. Participating in official Kentucky Career Center or partner programs related to employment or the search for employment.

(d) For each claimed work search activity, the unemployed worker **shall** ~~[must]~~ have documentation verifying he or she engaged in the work search activity and shall preserve that documentation for one (1) full year after each weekly claim for benefits was submitted for auditing purposes. All claimed work search activities are subject to random audit by the Office of Unemployment Insurance.

(e) An otherwise eligible worker shall not be denied benefits under KRS 341.350(5), or because of a failure to actively seek work under paragraph (c) of this subsection, or disqualified under

KRS 341.370(1)(a) under the following circumstances:

1. For any week a claimant provides verifiable enrollment in an approved job training or certification program listed on the current eligible training provider list, which can be found on the Kentucky Career Center website under the ["Training – Providers"] tab, and certifies making satisfactory progress in the program; or,

2. If a claimant provides verifiable definite return-to-work or recall-to-work prospects from his or her employer, either by an employer filed mass electronic claim or by submitting a written notice from the employer within a period of sixteen (16) weeks from the date of filing of the initial or reopened claim.

~~[(f)(e)]~~ Upon the presentation by the unemployed worker of reasons the secretary finds to be good cause for the failure of the worker to claim his or her benefits during the prescribed week, the secretary shall allow the worker to claim benefits for the two (2) calendar weeks preceding the date on which the worker claimed his or her benefits. In this case the worker shall next be eligible to claim benefits for the two (2) calendar weeks following the weeks of benefits claimed late. Examples of good cause may include illness, availability issues beyond the claimant's control, lack of access to internet or phone necessary for claim filing, or unemployment insurance system outages.

(2) Except as provided in subsection (3) of this section, the unemployed worker shall complete a claim for benefits:

(a) Through the Web site provided by the agency for that purpose at uiclaimsportal.ky.gov, with the claim completed before 7 p.m. Eastern Time on the Friday of the calendar week following the second week of the period claimed; or

(b) By telephone through the interactive voice response system provided by the agency for that purpose, with the claim completed between the hours of 10 a.m. and 9 p.m. Eastern Time on the Sunday, or between the hours of 7 a.m. and 7 p.m. Eastern Time on the Monday through the Friday of the calendar week following the second week of the period claimed.

(3)

(a) The secretary shall direct an unemployed worker to claim benefits by mail if it is not possible for the worker to claim by either option provided in subsection (2) of this section due to:

1. Unavailability of those options for the type of benefits claimed;

2. Unavailability of those options due to technical problems; or

3. A physical or mental condition preventing the worker from using those options.

(b) A continued claim shall cover the week or weeks indicated on the Continued Claim Form.

(c) Any claim filed by mail shall be considered filed on the day it is deposited in the mail and postmarked as established in 787 KAR 1:230, Section 1(2).

(d) The provisions of this administrative regulation governing the dating and backdating of a continued claim shall also apply to a claim filed by mail. ~~[[f, and unless]]~~ the claim is not filed within the prescribed time, it shall not be allowed.

Section 4. Employer Filed Claims.

(1) An employer may file a claim on behalf of an unemployed worker if:

(a) The worker has definite recall rights within four (4) calendar weeks;

(b) The employer has a workforce of at least 100 workers at the time of the layoff;

(c) The employer submits the claim information in the required electronic format using the Directions for Submitting an Employer Mass Electronic Claim (E-claim) File and the E-claim – Template; and

(d) Prior to the first time an employer files a claim on behalf of a worker, the employer submits a test sample of claim information and receives confirmation from the Office of Unemployment Insurance that the information is in the required format prior to the date the period of unemployment will begin.

(2) The effective date of an employer filed claim shall be the first day of the week in which the period of unemployment began.

(3) An unemployed worker who does not file a continued claim for benefits established under an employer filed claim may file a

new initial claim within the period of one (1) year from the effective date of the employer filed claim.

Section 5. Eligibility Review. The secretary may require an unemployed worker claiming benefits to report for the purpose of continued benefit eligibility review as a condition for payment of benefits. The requirement and interval for eligibility review shall be determined by:

(1) The worker's classification as established in Section 1(2) of this administrative regulation;

(2) The worker's individual employment and earning history; and

(3) The local labor market.

Section 6.

(1) The secretary shall notify an unemployed worker if the secretary determines that the unemployed worker failed to file a claim for benefits or register for work within the specified time due to:

(a) The employer's failure to comply with 787 KAR Chapter 1;

(b) Coercion or intimidation exercised by the employer to prevent the prompt filing of a claim; or

(c) Failure by the Office of Unemployment Insurance personnel to discharge necessary responsibilities.

(2)

(a) Except as provided in paragraph (b) of this subsection, an unemployed worker shall have fourteen (14) days after receipt of the notification required by subsection (1) of this section from the secretary within which to file a claim.

(b) A claim shall not be filed later than thirteen (13) weeks subsequent to the end of the actual or potential benefit year involved.

Section 7. The secretary shall conduct random audits of claims. Each random audit shall include one (1) or more of the eligibility requirements provided by KRS 341.350.

Section 8. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) Directions for Submitting an Employer Mass Electronic Claim (E-claim) File, 03/20;

(b) E-Claim – Template, 03/20; and

(c) "Continued Claim Form", Rev. 2021.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Director of the Office of Unemployment Insurance, Mayo-Underwood Building, 500 Mero Street, 4th Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. and is available on the office's Web site at <https://kcc.ky.gov/Pages/Reports-and-forms.aspx>.

CONTACT PERSON: Matthew P. Lynch, Staff Attorney, 500 Mero Street, 3rd Floor, Frankfort, Kentucky 40601, phone 502-564-2776, email matt.lynch@ky.gov.

EDUCATION AND LABOR CABINET Office of Unemployment Insurance (As Amended at ARRS, April 11, 2023)

787 KAR 1:100. Week of unemployment defined.

RELATES TO: KRS 341.080

STATUTORY AUTHORITY: KRS 341.080(3)~~[151B.020]~~, 341.115

NECESSITY, FUNCTION, AND CONFORMITY: KRS 341.080(3) ~~authorizes[provides—that]~~ the cabinet ~~to[shall]~~ prescribe by administrative regulation the period of time which shall constitute a week of unemployment for the purpose of administering the Unemployment Insurance Program in accordance with KRS Chapter 341. ~~[The purpose of—]~~ This administrative regulation establishes an exception to the definition of week of unemployment~~[is to satisfy the statutory requirement]~~.

Section 1. **Except for any week a worker received shared work benefits in accordance with KRS 341.4161 to 341.4173, a ["]week of unemployment["] shall be a calendar week of seven (7) consecutive calendar days[,], beginning 12:01 a.m. on[,], Sunday and ending 12 midnight the following Saturday[~~except for any week he or she received shared work benefits in accordance with KRS 341.4161 to 341.4173~~.** A week of unemployment beginning in a benefit year shall be deemed to be wholly in that benefit year.

CONTACT PERSON: Matthew P. Lynch, Staff Attorney, 500 Mero Street, 3rd Floor, Frankfort, Kentucky 40601, phone 502-564-2776, email matt.lynch@ky.gov.

**PUBLIC PROTECTION CABINET
Department of Insurance
Division of Health, Life, Managed Care
(As Amended at ARRS, April 11, 2023)**

806 KAR 6:072. Valuation of life insurance and annuity reserves.

RELATES TO: KRS 304.1-050, 304.2-290, 304.3-240, 304.6, 304.15-410

STATUTORY AUTHORITY: KRS 304.2-110, 304.6-140

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 authorizes the commissioner to promulgate reasonable administrative regulations necessary for or as an aid to the effectuation of the Kentucky Insurance Code as **established[defined]** in KRS 304.1-010. KRS 304.6-140 authorizes the commissioner to promulgate administrative regulations approving any mortality table "adopted by the National Association of Insurance Commissioners after 1980" for use in determining the minimum standard for valuation of policies. This administrative regulation establishes the framework for valuation standards acceptable to the department and establishes the conditions under which the department actuary will verify the valuation of a company's reserves without cost to the insurer.

Section 1. Definitions. (1) "1983 GAM Table" means that mortality table developed by the Society of Actuaries Committee on Annuities and adopted as a recognized mortality table for annuities in December, 1983 by the National Association of Insurance Commissioners.

(2) "1983 Table 'a'" means that mortality table developed by the Society of Actuaries Committee to Recommend a New Mortality Basis for Individual Annuity Valuation and adopted as a recognized mortality table for annuities in June, 1982 by the National Association of Insurance Commissioners.

(3) "1994 GAR Table" means that mortality table developed by the Society of Actuaries Group Annuity Valuation Table Task Force, **containing the projection scale AA, using the methodology established in Section 4(3)(i) of this administrative regulation.**

(4) "2012 Individual Annuity Mortality Period (2012 IAM Period) Table" means the period table, developed by the Society of Actuaries Committee on Life Insurance Research, containing loaded mortality rates for calendar year 2012 and containing rates, qx2012.

(5) "2012 Individual Annuity Reserve Table (2012 IAR Table)" means the generational mortality table developed by the Society of Actuaries Committee on Life Insurance Research and containing rates, qx2012-n, derived from a combination of the 2012 Individual Annuity Mortality Period (2012 IAM Period) Table and Projection Scale G2 (Scale G2), using the methodology established in Section 4(3)(i) of this administrative regulation.

(6) "Actuarial guidelines" mean a series of interpretive guidelines approved by the National Association of Insurance Commissioners for inclusion in its Handbook for Financial Examiners.

(7) "Annual statement" means the annual statement required

by KRS 304.3-240.

(8) "Annuity 2000 Mortality Table" means that mortality table developed by the Society of Actuaries Committee on Life Insurance Research. The Annuity 2000 Mortality Table is included in the report on pages 211-249 of Volume XLVII of the Transactions of the Society of Actuaries (1995).

(9) "Commissioner" is defined by KRS 304.1-050(1).

(10) "Department" is defined by KRS 304.1-050(2).

(11) "Department actuary" means the actuary employed by or contracted with the department for the purpose of making or verifying a valuation.

(12) "Generational mortality table" means a mortality table containing a set of mortality rates that decrease for a given age from one (1) year to the next based on a combination of a period table and a projection scale containing rates of mortality improvement.

(13) "Life insurances policies, annuities, and pure endowment contracts":

(a) Means any contracts, together with all riders or endorsements and all additional benefits related thereto, whether these additional benefits are provided by policy provision or supplementary contract; and

(b) Does not mean a provision through which the insurer accepts deposits to provide future insurance, annuity, or pure endowment benefits.

(14) "Period table" means a table of mortality rates applicable to a given calendar year.

(15) "Projection Scale AA (Scale AA)" means a table developed by the Society of Actuaries Group Annuity Valuation Table Task Force of annual rates, AAx, of mortality improvement by age for projecting future mortality rates beyond calendar year 1994.

(16) "Projection Scale G2 (Scale G2)" means a table developed by the Society of Actuaries Committee on Life Insurance Research, of annual rates, G2x, of mortality improvement by age for projecting future mortality rates beyond calendar year 2012.

(17) "Qualified actuary" means a member in good standing of the American Academy of Actuaries who meets the requirements of Section 6 of this administrative regulation.

(18) "Reserve comparison" means a calculation:

(a) Setting out three (3) year tabulations of extracts from a company's valuation; and

(b) ~~[Which is]~~ Completed by plan, with subtotals by mortality table, interest assumption, and valuation method **that[which]** correspond to the line entries in Exhibit 5 of the current annual statement.

Section 2. Filing Requirements for Domestic Insurers. (1) To facilitate the commissioner's evaluation of the valuation of reserves for life insurance policies, annuities, and pure endowment contracts made by a domestic insurer's actuary or consulting actuary, each insurer shall **provide[furnish]** the department actuary an affidavit, signed by the qualified actuary responsible for the valuation and setting out insurance amounts and reserves on all contracts by basis of valuation and a reserve comparison.

(2) Each domestic insurer shall maintain in **numerical[corresponding]** order[,], with the necessary documentation, lists, tabulations, and working papers for policy contract obligations to be valued, which shall be in readily accessible and auditable form at **the domestic insurer's[its]** home office.

Section 3. Valuation Principles. (1) Extraterritoriality. The commissioner **shall question and may [question or] reject** any valuation made by the insurance supervisory official of another state **that[which]** does not comply with the minimum standards as **established[provided]** in KRS Chapter 304.6.

(2) Nature of liabilities.

(a) The liabilities covered by reserves for life insurance policies, annuities, and pure endowment contracts shall be generated by recognition of obligations to provide future sums of money, which are guaranteed in these contracts, and the

standards of valuation ~~established[set out]~~ in KRS 304.6-140 through 304.6-180, ~~shall be established[are set out]~~ in prospective terms.

(b)1. If ~~the[these]~~ methods ~~established in paragraph (a) of this subsection~~ are not possible to apply directly, retrospective methods, using accumulations at appropriate rates of interest ~~may be used~~.

2. ~~[shall be acceptable; however,]~~ A company using these methods shall be prepared to demonstrate that these methods result in sufficient amounts to fund any obligations ~~established[set out]~~ in its contracts as guarantees of future performance.

3. Obligations ~~that[which]~~ arise from known past events shall be valued retrospectively.

Section 4. Specific Requirements. (1) Interest assumptions. The Moody's Corporate Bond Yield Averages referenced in KRS 304.6-145(4) ~~shall be before those~~ for the period ending ~~June 30[July 1]~~ for each calendar year.

(2) The actuarial guidelines shall be used, ~~except if statutorily prohibited[as published unless specifically prohibited by statute]~~.

(3) Mortality tables.

(a) Except as ~~established[provided]~~ in paragraph (b) of this subsection, the 1983 Table "a" shall be recognized and approved as an individual annuity mortality table for valuation and, at the option of the company, may be used for purposes of determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after July 1, 1976.

(b) Except as ~~established[provided]~~ in paragraph (c) of this subsection, either the 1983 Table "a" or the Annuity 2000 Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 1985.

(c) Except as ~~established[provided]~~ in paragraph (d) of this subsection, the Annuity 2000 Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 2005.

(d) Except as ~~established[provided]~~ in paragraph (e) of this subsection, the 2012 Individual Annuity Reserve Table (2012 IAR Table) shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 2015.

(e) The 1983 Table "a" without projection shall be used for determining the minimum standards of valuation for an individual annuity or pure endowment contract issued on or after January 1, 2005, solely ~~if[when]~~ the contract is based on life contingencies and is issued to fund periodic benefits arising from:

1. Settlements of various forms of claims pertaining to court settlements or out of court settlements from tort actions;

2. Settlements, ~~such as life settlements agreed to outside of court and that do not constitute disability settlements[involving similar actions]~~; or

3. Settlements of long-term disability claims ~~in which[where]~~ a temporary or life annuity has been used in lieu of continuing disability payments.

(f) Except as ~~established[provided]~~ in paragraph (g) of this subsection, the 1983 GAM Table and the 1983 Table "a" shall be recognized and approved as group annuity mortality tables for valuation and, at the option of the company, any one of these tables may be used for purposes of valuation for any annuity or pure endowment purchased on or after July 1, 1976, under a group annuity or pure endowment contract.

(g) Except as ~~established[provided]~~ in paragraph (h) of this subsection, the 1983 GAM Table shall be used for determining the minimum standard of valuation for any annuity or pure endowment purchased on or after January 1, 1985, under a group annuity or pure endowment contract.

1. The commissioner shall give consideration to the approval of other tables of mortality ~~that[which]~~ produce lower reserves in any special case, if the request for approval is accompanied by an actuarial report, signed by the qualified actuary, of the reasons for the request.

2. If applicable, the report shall include an estimate of the degree of protection against insolvency provided as margin in the proposed table.

(h) The 1994 GAR Table shall be used for determining the minimum standard of valuation for any annuity or pure endowment purchased on or after January 1, 2015 under a group annuity or pure endowment contract. The commissioner shall give consideration to the approval of other tables of mortality which produce lower reserves in any special case, if the request for approval is accompanied by an actuarial report, signed by the qualified actuary, of the reasons for the request. If applicable, the report shall include an estimate of the degree of protection against insolvency provided as margin in the proposed table.

(i)1. In using the 2012 Individual Annuity Reserve Table (2012 IAR Table), the mortality rate for a person age x in year (2012 + n) shall be calculated as follows:

$$q_{x, 2012+n} = q_{x, 2012} (1 - G_2) ^ n$$

2. The resulting $q_{x, 2012+n}$ shall be rounded to three (3) decimal places per 1,000.

3. The rounding shall occur according to the formula in subparagraph 1. of this paragraph, starting at the 2012 period table rate.

4. An Example: Rounding Calculations for Mortality Table Construction for 2012 IAR Table page for use of this mortality table is incorporated by reference in this administrative regulation.

(j) In using the 1994 GAR Table, the mortality rate for a person age x in year (1994 + n) shall be calculated as follows where the $q_{x, 1994}$ and AA_x are as ~~established[specified]~~ in the 1994 GAR Table:

$$q_{x, 1994+n} = q_{x, 1994} (1 - AA) ^ n$$

(4) Changes of method (domestic insurers). The effects of changes in the methods of valuing life contracts shall be reported in Exhibit 5A of the annual statement in the year in which the change first takes place. Exhibit 5A shall show the old and the new method of valuation and the increase or decrease in the actuarial reserve due to the change. If adopting a method that produces an increase in the reserve, the company shall notify the department. ~~[However,]~~ if a change will produce a reserve that will be less than the amount under the old method, the company shall have the prior approval, ~~pursuant to subsection 3(g) of this section~~, of the commissioner.

Section 5. Cost of Noncompliance. (1) If the material is not available as ~~established in Sections 2 and 4 of this administrative regulation[outlined above]~~, the additional burden of cost for additional time required by the staff of the Department of Insurance, or its department actuary, shall be borne by the life insurance company as ~~established[provided for]~~ in KRS 304.2-290. A special examination may be ordered by the commissioner, providing for a written report to him or her together with a time and expense billing to the company so examined.

(2) If a ~~detailed[detail]~~ audit of reserves reveals that an error was made in the filed annual statement and in the certificate issued by the department, the commissioner may order the withdrawal of certification and reissuance of certificates and copies, and require a refiled annual statement on a significant error, or request the company to file a corrective action plan prior to the next filed annual statement ~~if[when]~~ the resultant error is not significant.

Section 6. Qualified Actuary Requirements. (1) In ~~addition to Section 1(17) of this administrative regulation~~, in order to be considered a qualified actuary, a person shall be familiar with the valuation requirements applicable to life and health insurance companies.

(2)(a) The actuary shall not meet the requirements of a qualified actuary if that person has:

1. Violated any provision of, or any obligation imposed by, any law in the course of his or her dealings as qualified actuary;
2. Been found guilty of fraudulent or dishonest practices;

3. Demonstrated incompetence, lack of cooperation, or untrustworthiness to act as a qualified actuary;

4. Submitted an actuarial opinion or memorandum that was rejected because it did not comply with the Kentucky Insurance Code, KRS Chapter 304, or standards established by the Actuarial Standards Board during the past five (5) years; or

5. Resigned or been removed as an actuary within the past five (5) years as a result of an act or omission indicated in any adverse report on examination or as a result of the failure to adhere to generally acceptable actuarial standards; and

(b) Failed to notify the commissioner of any adverse action taken against the actuary pursuant to paragraph (a)1. through 5. of this subsection by any insurance regulatory official of any other state.

Section 7. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "1983 Table 'a'", 1/2023;

(b) "1983 GAM Table", 1/2023;

(c) "1994 GAR Table", 1/2023;

(d) "2012 Individual Annuity Mortality Period (2012 IAM Period) Table", 1/2023;

(e) "2012 Individual Annuity Reserve Table (2012 IAR Table)", 1/2023;

(f) "Annuity 2000 Mortality Table", 1/2023;

(g) "Projection Scale AA (Scale AA)", 1/2023;

(h) "Projection Scale G2 (Scale G2)", 1/2023; and

(i) "Example: Rounding Calculations for Mortality Table Construction for 2012 IAR Table", 1/2023.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Insurance, The Mayo Underwood Building, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday 8 a.m. to 4:30 p.m. This material is also available on the Web site at: <http://insurance.ky.gov/ppc/CHAPTER.aspx>.

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.

PUBLIC PROTECTION CABINET Department of Financial Institutions (As Amended at ARRS, April 11, 2023)

808 KAR 10:440. Examples of dishonest or unethical practice for broker-dealers and agents.

RELATES TO: KRS 292.337, 292.480

STATUTORY AUTHORITY: KRS 292.336~~(7), (8), 292.337~~~~(5), (6)~~, 292.500(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 292.500(3) authorizes the commissioner of the Department of Financial Institutions to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 292. KRS 292.336~~(7)(5)~~ and ~~(8)(6)~~ authorize the commissioner to promulgate administrative regulations prohibiting unreasonable charges, profits, commissions, or other compensation for broker-dealers and agents and prescribing standards for the conduct of business by broker-dealers and agents which the commissioner finds appropriate in the public interest and for the protection of investors. This administrative regulation establishes requirements concerning~~[provides examples of]~~ dishonest and unethical practices by broker-dealers and agents and states the consequences of engaging in unacceptable conduct or practices.

Section 1. Broker-dealers shall observe high standards of commercial honor and just and equitable principles of trade in their dealings with customers and the conduct of their business. The following acts~~[Acts]~~ and practices shall constitute violations of those standards and principles and shall be considered to be dishonest and unethical practices that~~[such as the following shall be considered contrary to these standards. Violations]~~ may

result in a fine, suspension, or revocation in proportion to the seriousness of the offense, pursuant to KRS 292.337(1):

(1) Engaging in a pattern of unreasonable and unjustifiable delays in the delivery of securities purchased by any of its customers or in the payment of free credit balances reflecting completed transactions of any of its customers;

(2) Failing or refusing to furnish a customer, upon reasonable request, information to which the customer is entitled, or to timely respond to a formal written demand or complaint by a customer;

(3) Attempting to enforce a condition, stipulation, or provision against a customer in Kentucky if the result would:

(a) Leave the customer without the choice of a forum for dispute resolution in the state of Kentucky; or

(b) Limit the timeliness of an action to a period less than that established in KRS 292.480;

(4) Failing to segregate a customer's securities held in safekeeping;

(5) Hypothecating a customer's securities without having a lien thereon unless the broker-dealer secures from the customer a properly executed written consent promptly after the initial transaction, except as permitted by rules of the Securities and Exchange Commission;

(6) Charging unreasonable and inequitable fees for services performed, ~~including~~~~[such as]~~:

(a) Collection of monies due for principal;

(b) Dividends or transfer of securities;

(c) Appraisals;

(d) Safekeeping; or

(e) Custody of securities and other services related to its securities business;

(7) Offering to buy from or sell to any person any security at a stated price unless the broker-dealer is prepared to purchase or sell~~[, as the case may be,]~~ at the price and under the conditions as are stated when the offer is made;

(8) Representing that a security is being offered to a customer "at the market" or a price relevant to the market price unless the broker-dealer knows or has reasonable grounds to believe that a market for the ~~[a]~~ security exists other than that made, created, or controlled by the broker-dealer, or by any person for whom the broker-dealer is acting or with whom the broker-dealer is associated in the distribution, or any person controlled by, controlling, or under common control with the broker-dealer;

(9) Failing to disclose in writing that the broker-dealer is controlled by, controls, is affiliated with, or is under common control with the issuer of any security, the existence of this control before entering into any binding contract with or for a customer for the purchase or sale of the security;

(10) Failing to make a bona fide public offering of all the securities allotted to the broker-dealer for distribution, whether acquired directly as an underwriter or a selling group member or indirectly from an entity participating in the distribution as an underwriter or selling group member;

(11) Inducing trading in a customer's account which is excessive in size or frequency in view of the financial resources and character of the account;

(12) Switching, churning, overtrading, or reloading of a security in a customer's account for the purpose of accumulating or increasing a commission;

(13) Recommending to a customer the purchase, sale, or exchange of any security without reasonable grounds to believe that the transaction or recommendation is suitable for the customer based upon a reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other relevant information known by the broker-dealer;

(14) Failing to furnish to a customer purchasing securities in an offering, no later than the due date of confirmation of the transaction, either a formal prospectus or a preliminary prospectus and an additional document, which together include all information set forth in the final prospectus;

(15) Participating in the solicitation or offer for sale of a security without the use of an offering document or prospectus, if required, or making a statement contrary to or inconsistent with disclosure contained in the offering document or prospectus;

(16) Making a false, misleading, deceptive, or exaggerated representation or prediction in the solicitation or sale of a security, including:

(a) That the security will be resold or repurchased;

(b) That the security will be listed or traded on an exchange or established market;

(c) That the security will result in an assured, immediate, or material increase in value, future market price, or return on an investment;

(d) That there is a guarantee against risk of loss; or

(e) Any statement with respect to an issuer's financial condition, anticipated earnings, potential growth, or success not supportable by information in the offering document or prospectus;

(17) Engaging or aiding in boiler room operations such as the use of high pressure tactics to promote a speculative offering or promotion of a security in an intensive campaign in which the prospective purchaser is encouraged to make a hasty decision to buy a security irrespective of the purchaser's investment needs, objectives, or understanding of the security being offered;

(18) Executing a transaction on behalf of a customer without authorization to do so;

(19) Exercising any discretionary power effecting a transaction for a customer's account without first obtaining written discretionary authority from the customer, unless the discretionary power relates solely to the time or price for the executing of orders;

(20) Executing any transaction in a margin account without securing from the customer a properly executed written margin agreement;

(21) Entering into a transaction with or for a customer at a price not reasonably related to the current market price of the security or receiving an unreasonable commission or profit;

(22) Effecting any transaction in, or inducing the purchase or sale of, any security by means of any manipulative, deceptive, or fraudulent device, practice, plan, program, design or contrivance, including which may include any of the following:

(a) Effecting any transaction in a security which involves no change in the beneficial ownership ~~thereof~~;

(b) 1. Entering an order or orders of substantially the same size, ~~[at substantially the same time, and substantially the same]~~ price, for the sale of any security ~~[,]~~ that has been or will be entered by or for the same or different parties for the purpose of creating a false or misleading appearance;

a. Of active trading in the security; or

b. ~~[a false or misleading appearance.]~~ With respect to the market for the security;

2. [; except,] This subsection shall not prohibit a broker-dealer from entering bona fide agency cross transactions for its customers; or

(c) Effecting, alone or with one (1) or more other persons, a series of transactions in any security creating actual or apparent active trading in the security or raising or depressing the price of the security, for the purpose of inducing the purchase or sale of the security by others;

(23) Guaranteeing a customer against loss in any securities account of the customer carried by the broker-dealer or in any securities transaction effected by the broker-dealer;

(24) Publishing or circulating, or causing the publication or circulation of, any notice, circular, advertisement, newspaper article, investment service, or communication of any kind which purports to;

(a) Report any transaction as a purchase or sale of any security unless the broker-dealer reasonably believes that the transaction was a bona fide purchase or sale of the security; or

(b) [which purports to] Quote the bid price or asked price for any security, unless the broker-dealer reasonably believes that the quotation represents a bona fide bid or offer;

(25) Using any advertising or conducting any sales practice in a deceptive or misleading manner;

(26) Entering into an agreement for a concession, discount, commission, or allowance as consideration for a service in connection with the distribution or sale of a security in Kentucky with a broker-dealer, agent, investment adviser, or investment adviser representative who is not either:

(a) Registered in Kentucky; or

(b) Exempted from the registration requirements for conducting a securities business in Kentucky;

(27) Lying to or otherwise misleading representatives of the Department of Financial Institutions conducting an authorized examination or investigation;

(28) Failing to make requested records available to or otherwise impeding a representative of the Department of Financial Institutions conducting an authorized examination or investigation;

(29) Failing to respond within the specified time period to a written request from an authorized representative of the Department of Financial Institutions for:

(a) Information;

(b) An explanation of practices or procedures;

(c) A response to a complaint filed with the Department of Financial Institutions; or

(d) A response to a written statement of findings from an examination; ~~and]~~

(30) Committing any act involving a customer, a customer's account, or any business records which would constitute a criminal offense; ~~[-]~~

(31) Failing to pay and fully satisfy any final order, final judgment, or arbitration award resulting from an investment-related, customer-initiated arbitration or court proceeding, unless:

(a) There is a written agreement for alternative payment arrangements [are agreed to] between the customer and the broker-dealer or broker-dealer agent; and

(b) [; in writing, and] The broker-dealer or broker-dealer agent complies with the terms of the alternative payment arrangement;

(32) Attempting to avoid payment of any final order, final judgment, or arbitration award resulting from an investment-related, customer-initiated arbitration or court proceeding, unless:

(a) There is a written agreement for alternative payment arrangements [are agreed to] between the customer and the broker-dealer or broker-dealer agent; and

(b) [; in writing, and] The broker-dealer or broker-dealer agent complies with the terms of the alternative payment arrangements; or

(33) Failing to pay and fully satisfy any fine, civil penalty, order of restitution, order of disgorgement, or similar monetary payment obligation imposed upon the broker-dealer or agent by the Securities and Exchange Commission, the securities or other financial services regulator of any state or province, or any self-regulatory organization.

Section 2. Broker-dealer agents shall observe high standards of commercial honor and just and equitable principles of trade in their dealings with customers. The following acts and practices shall constitute violations of those standards and principles and shall be considered to be dishonest and unethical practices that ~~are considered contrary to these standards. Violations]~~ may result in a fine, suspension, or revocation in proportion to the seriousness of the offense, pursuant to KRS 292.337(1):

(1) Sharing ~~[directly or indirectly]~~ in profits or losses in the account of a customer without the written authorization of the customer and the broker-dealer which the agent represents;

(2) Establishing or maintaining an account containing fictitious information in order to execute transactions which would otherwise be prohibited;

(3) Effecting securities transactions not recorded on the regular books and records of the broker-dealer which the agent represents, unless the transactions are authorized in writing by the broker-dealer prior to execution of the transaction;

(4) Engaging in the practice of lending to or borrowing from a customer either money or securities;

(5) Acting as custodian of a customer's money, securities, or an executed stock power; ~~or~~ and]

(6) Engaging in conduct specified in Section 1(11) through (33) ~~(30)~~ of this administrative regulation.

Section 3. Issuer agents shall observe high standards of commercial honor and just and equitable principles of trade in their dealings with customers. The following acts and practices shall

constitute violations of those standards and principles and shall be considered to be dishonest and unethical practices that are considered contrary to these standards. Violations] may result in a fine, suspension, or revocation in proportion to the seriousness of the offense, pursuant to KRS 292.337(1):

(1) Engaging in conduct specified in Section 1(2), (13), (15) through (18), or (25) through ~~(33)~~~~(30)~~ of this administrative regulation; or

(2) Engaging in conduct specified in Section ~~2~~(3) or (4).

Section 4. The commissioner may determine that an activity not included in the examples identified in Sections 1 through 3 of this administrative regulation constitutes a dishonest or unethical practice if the activity is similar to an enumerated activity.

CONTACT PERSON: Catherine Falconer; General Counsel; 500 Mero Street, 2 SW 19, Frankfort, Kentucky 40601; phone 502-782-9052; fax 502-573-8787; email Catherine.Falconer@ky.gov and Marni Gibson, Acting Deputy Commissioner, 500 Mero Street, 2SW19, Frankfort, Kentucky 40601; phone 502-782-9053; fax 502-573-8787; email Marni.Gibson@ky.gov.

**PUBLIC PROTECTION CABINET
Department of Financial Institutions
(As Amended at ARRS, April 11, 2023)**

808 KAR 10:450. Examples of dishonest or unethical practice for investment advisers and investment adviser representatives.

RELATES TO: KRS Chapter 292, 17 C.F.R. 275.206(4), 15 U.S.C. 78, 80b

STATUTORY AUTHORITY: KRS 292.336~~(7), (8), 292.337(5), (6)~~, 292.500(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 292.500(3) authorizes the commissioner of the Department of Financial Institutions to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 292. KRS 292.336~~(7) and (8)(5) and (6)~~ authorize the commissioner to promulgate administrative regulations prohibiting unreasonable charges or other compensation of investment advisers and prescribing standards for the conduct of business by investment advisers and investment adviser representatives which the commissioner finds appropriate in the public interest and for the protection of investors. This administrative regulation establishes requirements concerning~~[provides examples of]~~ dishonest and unethical practices by investment advisers and investment adviser representatives and clarifies the consequences of engaging in unacceptable conduct or practices.

Section 1. Definitions.

(1) "Advertisement" means any notice, circular, letter, or other written communication addressed to more than one ~~(1)~~ person, or any notice or other announcement in any electronic or paper publication, by radio or television, or by any other medium, that offers any one ~~(1)~~ of the following:

(a) Any analysis, report, or publication concerning securities;

(b) Any analysis, report, or publication that is to be used in making any determination as to when to buy or sell any security or which security to buy or sell;

(c) Any graph, chart, formula, or other device to be used in making any determination as to when to buy or sell any security, or which security to buy or sell; or

(d) Any other advisory service regarding~~[with regard to]~~ securities.

(2) "Investment adviser solicitor" means a person or entity that, directly or indirectly, solicits a prospective client for, or refers a prospective client to, an investment adviser.

Section 2. A person who is an investment adviser or an investment adviser representative shall be a fiduciary and shall have a duty to act primarily for the benefit of the person's~~[its]~~

clients. An investment adviser or investment adviser representative shall not engage, either directly or indirectly, in unethical or dishonest practices. The following acts and practices shall constitute~~[be considered either]~~ a breach of fiduciary duty or a dishonest and unethical practice, and violations~~[Violations]~~ may result in a fine, suspension, or revocation in proportion to the seriousness of the offense:

(1) Recommending to a client to whom investment advisory, management, or consulting services are provided the purchase, sale, or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client based on ~~[the basis of]~~ information furnished by the client after reasonable inquiry concerning the client's investment objectives, financial situation and needs, and any other information known by the investment adviser;

(2) Exercising any discretionary power in placing an order for the purchase or sale of securities for a client without obtaining written discretionary authority from the client within ten (10) business days after the date of the first transaction placed pursuant to oral discretionary authority, unless the discretionary power relates solely to the price at which, or the time when, an order involving a definite amount of a specified security shall be executed, or both;

(3) Inducing trading in a client's account that is excessive in size or frequency in view of the financial resources, investment objectives, and character of the account considering~~[in light of the fact]~~ that an investment adviser or investment adviser representative may~~[in these situations can]~~ directly benefit from the number of securities transactions effected in a client's account;

(4) Placing an order to purchase or sell a security for the account of a client without authority to do so;

(5) Placing an order to purchase or sell a security for the account of a client upon instruction of a third party without first having obtained a written third-party trading authorization from the client;

(6) Borrowing money or securities from a client unless the client is a broker-dealer, an affiliate of the investment adviser, or a financial institution engaged in the business of loaning funds;

(7) Loaning money or securities to a client unless the investment adviser is a financial institution engaged in the business of loaning funds or the client is an affiliate of the investment adviser;

(8)(a) Misrepresenting to any advisory client, or prospective advisory client, the qualifications of the investment adviser or any employee of the investment adviser;

(b) Misrepresenting the nature of the advisory services being offered or fees to be charged for the service; or

(c) Omitting to state a material fact necessary to make the statements made regarding qualifications, services, or fees, in light of the circumstances under which they were made, not misleading;

(9) Providing a report or recommendation to any advisory client prepared by someone other than the adviser without disclosing that fact;

(10) Charging a client an unreasonable advisory fee in light of the fee charged by other investment advisers providing similar services;

(11) Failing to disclose to clients in writing before any advice is rendered any material conflict of interest relating to the adviser, or any of its employees, including:

(a) Compensation arrangements connected with advisory services to clients which are in addition to compensation from these clients for advisory services; or~~[and]~~

(b) The amount of any commissions to be received for executing transactions pursuant to advice given;

(12) Failing to disclose to clients in writing all potentially conflicting divisions of loyalty in connection with a transaction, and failing to obtain~~[obtaining]~~ the written consent of the client to proceed with the transaction in accordance with the following requirements:

(a) Any transaction in which a person acts as an investment adviser for one (1) party to that transaction and in which the person (or any person controlling, controlled by, or under common control with the adviser) acts as a broker-dealer for both the advisory client

and another person on the other side of the transaction shall be/is] subject to this disclosure and consent requirement, and the client shall be provided a written confirmation for each [such] transaction, which contains the following:

1. A statement of the nature of the transaction;
2. The date of the transaction;
3. An offer to furnish, upon written request, the time of the transaction; and

4. The source and amount of any other remuneration the adviser received or will receive in connection with the transaction. If the investment adviser is not participating in a distribution when the advisory client is purchasing the security or a tender offer when the advisory client is selling the security, the confirmation may state that the investment adviser has been or will be receiving other remuneration and that the source and the amount of this remuneration will be furnished upon the client's written request;

(b) The disclosure and consent requirements of subsection (12)(a) of this section apply to each contemplated transaction and shall be complied with every time the transaction occurs unless the adviser complies with the provisions of subsection (12)(c) of this section;

(c) If the disclosure and consent requirements of subsection (12)(a) of this section prospectively cover more than one (1) transaction, the adviser is responsible for ensuring that the client receives at least annually, with or as part of a written statement or summary of the client's account, written disclosure of the following:

1. The total number of these transactions since the date of the last statement or summary;
2. The total amount of all commissions or other remuneration the adviser received or will receive in connection with the transactions; and
3. A conspicuous statement that the client may revoke the written consent previously given by providing written notice of the revocation to the adviser; and

(d) Any transaction in which the same adviser recommended the transaction to both a seller and a purchaser of a security shall be a dishonest or unethical practice regardless of any disclosure and consent;

(13) Failing to disclose to clients in writing before any advice is rendered any material fact with respect to the financial and disciplinary information required to be disclosed by 17 C.F.R. 275.206(4)-4 (SEC Rule 206(4)4);

(14) Guaranteeing a client that a specific result will be achieved with advice which will be rendered;

(15) Using any advertisement that does ~~[any of]~~ the following:

(a) Refers to any testimonial of any kind concerning any advice, analysis, report, or other service rendered by the adviser or representative unless it meets the following requirements:

1. The testimonial clearly discloses whether the person giving the testimonial is a client or promoter;

2. The testimonial clearly discloses whether the person giving the testimonial is compensated;

3. An adviser or representative using a testimonial provided by a promoter has entered into a written agreement with a promoter; and

4. The adviser or representative and testimonial comply with all provisions of 17 C.F.R. 275.206(4)-1 Rule 206(4)-1 of the Investment Advisers Act of 1940, commonly known as the SEC marketing rule, effective December 22, 2020;

(b) Refers to past specific recommendations of the adviser or representative that were or would have been profitable, except that an adviser or representative may furnish or offer to furnish a list of all recommendations made by the adviser or representative within the immediately preceding period of not less than one (1) year if the list also includes the following:

1. The name of each security recommended, the date and nature of each recommendation, the market price at that time, the price at which the recommendation was to be acted upon, and the most recently available market price of each security; and

2. A legend on the first page in prominent print or type that states that recommendations made in the future may not be as profitable as the securities on the list;

(c) Represents that any graph, chart, formula, or other device

being offered can in and of itself be used to determine which securities to buy or sell, or when to buy or sell them;~~or which represents, directly or indirectly, that any graph, chart, formula, or other device being offered will assist any person in making that person's own decisions without prominently disclosing in the advertisement the limitations and the difficulties with respect to its use;~~

(d) Represents that any graph, chart, formula, or other device being offered will assist any person in making that person's own decisions without prominently disclosing in the advertisement the limitations and the difficulties with respect to its use;

(e)[(d)] Represents that any report, analysis, or other service will be furnished for free or without charge, unless the report, analysis or other service actually is or will be furnished free and without any direct or indirect condition or obligation;

(f)[(e)] Represents that the Department of Financial Institutions has approved any advertisement; or

(g)[(f)] Contains any untrue statement or omission of a material fact, or that is otherwise false or misleading;

(16) Disclosing the identity, affairs, or investments of any client unless required by law to do so, or unless consented to in writing by the client;

(17) Taking any action, directly or indirectly, with respect to those securities or funds in which any client has any beneficial interest, if the investment adviser has custody or possession of the securities or funds when the adviser's action is subject to and does not comply with the provisions of 808 KAR 10:020 relating to the custody;

(18) Entering into, extending, or renewing an advisory contract unless the contract is in writing and discloses the following:

- (a) The nature of the advisory services to be provided;
- (b) The time period that the contract remains in effect;
- (c) The advisory fee and the formula for computing the fee;
- (d) The amount of the prepaid fee to be returned if there is contract termination or nonperformance;

(e) Whether the contract grants discretionary power to the adviser and, if so, the terms of the discretionary power;

(f) Whether the contract grants custody of client funds to the adviser and, if so, the terms of the custody; and

(g) That the adviser shall not assign the contract without the prior written consent of the client;

(19) Including in an advisory contract any condition, stipulation, or provision binding any client to waive compliance with any provision of the Securities Act of Kentucky, KRS Chapter 292, 808 KAR Chapter 10, or of the Investment Advisers Act of 1940, 15 U.S.C. 80b;

(20) Paying compensation, directly or indirectly, to an investment adviser solicitor unless the investment adviser makes the payment in accordance with the requirements of 17 C.F.R. 275.206(4)-3) (SEC Rule 206(4)-3);

(21) Engaging in any act, practice, or course of business which is fraudulent, deceptive, or manipulative contrary to the provisions of Section 206(4) of the Investment Advisers Act of 1940, 15 U.S.C. 80b-6(4), whether or not the investment adviser is registered or required to be registered under 15 U.S.C. 80b-3[Section 203 of the Act];

(22) Failing to provide all material information with respect to any dealings with or recommendations to any advisory client in violation of KRS 292.320;

(23) Committing any act involving a client, the client's assets, or any business records which would constitute a criminal offense;

(24) Lying to or otherwise misleading a representative of the Department of Financial Institutions conducting an authorized examination or investigation;

(25) Failing to make requested records available to or otherwise impeding a representative of the Department of Financial Institutions conducting an authorized examination or investigation;~~and]~~

(26) Failing to respond in a timely manner to a written request from an authorized representative of the Department of Financial Institutions for:

- (a) Information;
- (b) An explanation of practices or procedures;

- (c) A response to a complaint filed with the department; or
- (d) A response to a written statement of findings from an examination.

(27) Failing to pay and fully satisfy, or attempting to avoid payment of, any final order, judgment, or arbitration award resulting from an investment-related, client or customer-initiated arbitration or court proceeding, unless alternative payment arrangements are agreed to, in writing, and complied with between:

(a) The client and the investment adviser or investment adviser representative; or

(b) Between the customer and the broker-dealer or the broker-dealer agent; or

(28) [Attempting to avoid payment of any final order, judgment, or arbitration award resulting from an investment-related, client or customer-initiated arbitration or court proceeding, unless alternative payment arrangements are agreed to, in writing, and complied with between:

(a) The client and the investment adviser or investment adviser representative; or

(b) Between the customer and the broker-dealer or the broker-dealer agent; or

(29) Failing to pay and fully satisfy any fine, civil penalty, order of restitution, order of disgorgement, or similar monetary payment obligation imposed upon the investment adviser or investment adviser representative by the Securities and Exchange Commission, the securities or other financial services regulator of any state or province, or any self-regulatory organization.

Section 3. The provisions of this administrative regulation shall apply to federally covered advisers, as defined in KRS 292.310, operating in Kentucky to the extent that the conduct alleged is fraudulent or, deceptive, or as otherwise permitted by the National Securities Market Improvement Act of 1996, 15 U.S.C. 78, and the Investment Advisors Act of 1940, 15 U.S.C. 80b.

Section 4. The commissioner may determine that an activity not included in the examples identified in Section 2 of this administrative regulation constitutes a dishonest or unethical practice if the activity is similar to an enumerated activity.

CONTACT PERSON: Catherine Falconer, General Counsel, 500 Mero Street, 2 SW 19, Frankfort, Kentucky 40601, phone 502-782-9052, fax 502-573-8787, email Catherine.Falconer@ky.gov and Marni Gibson, Acting Deputy Commissioner, 500 Mero Street, 2SW19, Frankfort, Kentucky 40601, phone 502-782-9053, fax 502-573-8787, email Marni.Gibson@ky.gov.

**PUBLIC PROTECTION CABINET
Department of Financial Institutions
Student Education Loan Servicers
(As Amended at ARRS, April 11, 2023)**

808 KAR 16:010. Licensing, registration, renewals and fees.

RELATES TO: KRS 286.1-010, 286.12-010, 286.12-020, 286.12-030, 286.12-040, 286.12-060, 286.12-070

STATUTORY AUTHORITY: KRS 286.1-011, 286.1-020, 286.12-030, 286.12-040, 286.12-070, 286.12-090

NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.1-020(1) authorizes the commissioner to promulgate, amend, and repeal any administrative regulations, forms, and orders as are necessary to interpret and carry out the provisions and intent of this chapter. KRS 286.12-030(2)(a) authorizes the commissioner to prescribe the form and materials required to apply for a license under KRS Chapter 286.12. This administrative regulation establishes licensing and registration requirements for student education loan servicers and procedures for using the Nationwide Multi-state Licensing System (NMLS).

Section 1. Definitions.

- (1) "Applicant" is defined by KRS 286.12-010(2).
- (2) "Commissioner" is defined by KRS 286.1-010(1).
- (3) "Department" is defined by KRS 286.1-010(2).
- (4) "Federal student education loan" is defined by KRS 286.12-020(1).
- (5) "Student education loan servicer" and "servicer" are defined by KRS 286.12-010(13).

Section 2. Initial Application and Notice.

(1) A person providing notice to the commissioner as a federal student education loan servicer doing business in Kentucky as of July 14[prior to December 31], 2022, shall submit:

(a) A completed NMLS Company Form available online at <http://mortgage.nationwidelicencingsystem.org>; and

(b) A completed NMLS Individual Form available online at <http://mortgage.nationwidelicencingsystem.org>;

(2) Federal student education loan servicers that begin conducting business in Kentucky after July 14, 2022, non-federal student education loan servicers, and federal student education loan servicers that also service non-federal student education loans, and federal student education loan servicers that begin conducting business in Kentucky after December 31, 2022, shall submit:

(a) A completed NMLS Company Form available online at <http://mortgage.nationwidelicencingsystem.org>; and

(b) A completed NMLS Individual Form available online at <http://mortgage.nationwidelicencingsystem.org>;

(c) All documents required on the New Application Checklist available online at <http://mortgage.nationwidelicencingsystem.org>;

(d) Either:

1. An audited financial statement prepared by a certified public accountant (CPA), in accordance with generally accepted accounting principles (GAAP), verifying a minimum net worth of at least two hundred and fifty thousand dollars (\$250,000); or

2. The following CPA prepared financial statements, if the[such] request is made by the applicant and is deemed reasonable by the Commissioner based on the size, structure, and complexity of the applicant:

a. A Reviewed financial statement; or

b. A Compiled financial statement;

(e) An Electronic Surety Bond online at <http://mortgage.nationwidelicencingsystem.org>, which shall:

1. Include the name of the principal insured, which shall match the full legal name of applicant;

2. Be to the benefit of the department; and

3. Be in an amount of the lessor of:

a. One hundred thousand dollars (\$100,000[.00]); or

b. 0.01 percent[.01% -](.0001) of the amount of the Kentucky servicing portfolio; and

(f) A nonrefundable investigation fee of five thousand dollars (\$5,000[.00]).

Section 3. Renewal Applications - All Licensees.

(1) A licensee applying for an annual renewal of a student education loan servicer license, on or before December 1st[31st], shall:

(a) Submit required updates and attestations verifying that all information in the licensee's record, maintained in the NMLS operated by the State Regulatory Registry, LLC, is correct and available online at <http://mortgage.nationwidelicencingsystem.org>; and

(b) Pay the annual assessment fee to be established by commissioner's order pursuant to KRS 286.12-070(2). The minimum assessment fee shall be five thousand dollars (\$5,000[.00]) and the maximum assessment fee shall be twenty thousand dollars (\$20,000[.00]).

(2) A licensee applying to reinstate a student education loan servicer license after December 1st shall submit all fees and materials required by subsection (1) of this section.

(3) A licensee applying to reinstate a student education loan servicer license after December 31st shall:

(a) Submit all fees and materials required by subsection (1) of

this section; and

(b) Pay a late filing fee ~~[-in the amount]~~ of ~~[one thousand dollars (\$1,000)]~~ on or before January 31st of the following year that the renewal application was due.

~~[(4)](3)~~ The commissioner shall not accept an application for ~~[renewal or]~~reinstatement ~~if[when]~~ the application, fees, or any required information is not received on or before January 31st of the following year that the renewal application was due. Failure to complete the ~~[renewal or]~~reinstatement application of a license shall cause the license to automatically expire as of February 1st by operation of law.

Section 4. Change of address, name, control, or agent for service-All Licensees.

(1) A licensee that intends to change its address, name, or agent for service of process shall notify the commissioner in writing at least:

(a) Ten (10) days prior to the change of address or name; and

(b) Five (5) days prior to the change of agent for service of process.

(2) A licensee that intends to file for a change of control, as defined by KRS 286.12-010(6), shall notify the commissioner in writing within fifteen (15) days after learning of the proposed change of control and thirty (30) days prior to the effective date of the change of control and shall submit:

(a) For an existing licensee acquiring another licensee, a change of control fee of ~~[one thousand dollars (\$1,000)]~~; or

(b) For all non-licensed entities, a change of control fee of ~~[five thousand dollars (\$5,000)]~~.

(3) A licensee changing its address, name, control, or agent for service of process shall update this information in NMLS within the same time periods set forth in this section.

Section 5. Annual Report - All Licensees. Each licensee shall file an annual report electronically with the commissioner, on Form SLSCR-Student Loan Servicer Call Report, on or before November 1st of each year.

Section 6. Electronic Submission of Filings and Fees through the Nationwide Multistate Licensing System Operated by the State Regulatory Registry, LLC.

(1) A person applying for licensure, registration, renewal, or reinstatement pursuant to Sections 2, 3, ~~or[and]~~ 4 of this administrative regulation shall electronically submit the following to NMLS, at <http://mortgage.nationwidelicensingsystem.org>, as part of the nationwide multi-state licensing system:

(a) All forms, updates, attestations, reports, and documentation required by Sections 2, 3, and 4 of this administrative regulation, as applicable; and

(b) All fees referenced in this administrative regulation.

(2) Any fees assessed by NMLS, to process the electronic submissions referenced in Sections 2, 3, or 4 of this administrative regulation~~[subsection (1) and (2) of this section]~~ shall be paid by the applicant.

Section 7. Incorporation by Reference.

(1) "SLSCR-Student Loan Servicer Call Report", January 2023, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Financial Institutions, 500 Mero St 2SW19, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 5 p.m. This material may also be obtained from the department's Web site at <http://www.kfi.ky.gov>.

CONTACT PERSON: Catherine Falconer, Counsel, 500 Mero Street, 2SW19, Frankfort, Kentucky 40601, phone 502-782-9052, fax 502-573-8787, email Catherine.Falconer@ky.gov and Marni Gibson, Acting Deputy Commissioner, Dept. of Financial Institutions, Mero Street, 2SW19, Frankfort, Kentucky 40601, phone 502-782-9053, fax 502-573-8787, email Marni.Gibson@ky.gov.

PUBLIC PROTECTION CABINET
Department of Financial Institutions
Student Education Loan Servicers
(As Amended at ARRS, April 11, 2023)

808 KAR 16:020. Recordkeeping requirements; unfair, deceptive, or predatory practices.

RELATES TO: KRS 286.12-050, ~~[and]~~ 286.12-080

STATUTORY AUTHORITY: KRS 286.1-011, 286.1-020, 286.12-050, 286.12-080

NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.1-020(1) authorizes the commissioner to promulgate administrative regulations as are necessary to interpret and carry out the provisions and intent of KRS Chapter 286. KRS 286.12-080 prohibits a student education loan servicer from engaging in unfair, deceptive, abusive, or predatory practices~~[practice]~~ towards any borrower, or from misrepresenting or omitting any material information in connection with servicing a student education loan. This administrative regulation establishes standards that a licensee shall~~[must]~~ abide by to maintain accurate records and prevent unfair, deceptive, or predatory practices.

Section 1. Definitions.

(1) "Best financial interest of the borrower" means reducing the total cost of a student loan, including principal balance, interest, and fees to the borrower.

(2) "Commissioner" is defined by KRS 286.1-010(1).

(3) "Necessary information" includes ~~[-the following]~~:

(a) A schedule for all transactions credited or debited to the student loan account;

(b) A copy of the promissory note for the student loan;

(c) Notes created by a student loan servicer's personnel reflecting communication with the borrower regarding the student loan account;

(d) A report of the data fields relating to the borrower's student loan account created by the student loan servicer's electronic systems in connection with servicing practices;

(e) Copies of electronic records or any information or documents provided by the borrower to the student loan servicer;

(f) Usable data fields with information necessary to assess qualification for forgiveness, including public service loan forgiveness, if applicable; and

(g) Any information necessary to compile payment history.

(4) "Negative financial consequences" includes:

(a) Negative credit reporting;

(b) Loss or denial of eligibility for a borrower benefit or protection established under federal law or by contract; and

(c) Late fees, interest capitalization, and other financial injury.

(5) "Qualified request" means a request made by a borrower to a student loan servicer in which the borrower either:

(a) Requests specific information from the student loan servicer; or

(b) Reports what the borrower believes to be an error regarding the borrower's account.

(6) "Student education loan servicer" and "servicer" are defined by KRS 286.12-010(13).

Section 2. A student loan servicer shall:

(1) Process student loan payments pursuant to the servicer's established payment processing policies, which shall be disclosed and readily accessible to borrowers;

(2) Credit student loan payments to the borrower's account in accordance with the following:

(a) A payment received before 11:59 p.m. on the date on which that payment is due, in the amount, manner, and location indicated by the servicer, shall be credited as effective on the date on which the payment was received by the servicer. A servicer shall treat a payment received from the borrower on the borrower's due date as an on-time payment;

(b) If a payment is made by check, a servicer shall credit the payment on the date the check was received by the servicer regardless of the date of processing;

(c) If the servicer receives a check with no identifying account information, the servicer shall:

1. Within ten (10) days, determine to which account and loan the payment should be credited and credit the payment as of the date it was received by the servicer; and

2. Update the borrower's online account within one (1) business day of the determination made under paragraph (a) of this subsection[subparagraph];

(d) If the borrower submits an overpayment to the student loan servicer, the servicer shall inquire of a borrower, either through electronic communication or in writing, to which account the borrower prefers to apply an overpayment. A borrower's direction regarding application of an overpayment to a student loan account shall be effective with respect to future overpayments during the term of a student loan, until the borrower provides to the servicer written alternative instructions regarding overpayment. In the absence of a direction provided by a borrower, the student loan servicer shall allocate an overpayment in a manner consistent with the best financial interest of the borrower; and

(e) If the borrower submits a partial payment, except as otherwise provided by a student loan agreement, comply with the direction provided by a borrower, regarding which account to allocate a partial payment. In the absence of a direction provided by a borrower, the student loan servicer shall allocate a partial payment in a manner consistent with the best financial interest of the borrower;

(3) Not assess negative financial consequences related to the material change by a servicer of the mailing address, office, or procedures for handling borrower payments causing a delay in the crediting of a borrower payment;

(4) Supervise and monitor actions of service providers, including maintaining policies and procedures to oversee compliance by third-party service providers engaged in all aspects of student loan servicing;

(5) Manage and process loan accounts and paperwork, consistent with existing federal requirements, and maintain records ensuring the servicer's personnel have received ~~the following~~;

(a) Training on the management and processing of accounts and corresponding paperwork; and

(b) Access to necessary account information regarding forms and applications that have been approved, denied, or are in process, applications for income-driven repayment plans, and all forms required to access benefits and protections for federal student loans, pursuant to 20 U.S.C. secs. 1070 et seq., as amended;

(6) Unless a longer period of time is stipulated by a student loan agreement or by federal law, maintain all records regarding a borrower's account for the period of time during which a servicer performs student loan servicing and for a minimum of three (3) years after the loan serviced has been paid in full or assigned to collections, or the servicing rights have been transferred;

(7) Institute and maintain policies and procedures permitting a borrower who is dissatisfied with the outcome of an initial qualified request to escalate the borrower's concern to a supervisor or higher level of review;

(8) Not take actions resulting in negative financial consequences that are directly related to the issue identified in a borrower's qualified request, until that request has been resolved;

(9) Not take actions resulting in negative financial consequences that are directly related to a sale, assignment, transfer, system conversion, or payment made by the borrower to the original student loan servicer consistent with the original student loan servicer's policy;

(10) If a sale, assignment, or other transfer of the servicing of a student loan, results in a change in the identity of the party to whom the borrower is required to send payments or direct any communications concerning the student loan account, notify the borrower, in writing, fifteen (15) days prior to the date the borrower's payment is due on the student loan account, of the following:

(a) If applicable, the license number issued by the commissioner of the new student loan servicer;

(b) The name and address of the new student loan servicer to

whom subsequent payments or communications are to be sent;

(c) The telephone numbers and the Web sites of the new student loan servicer;

(d) The effective date of the sale, assignment, or transfer;

(e) The date on which the current student loan servicer will stop accepting payments on the borrower's student loan account; and

(f) The date on which the new student loan servicer will begin accepting payments on the borrower's student loan;

(11) Transfer all necessary information regarding a borrower, a borrower's account, and a borrower's complete student loan history to any new student loan servicer within forty-five (45) calendar days of the effective date of the sale, assignment, or transfer;

(12) Provide and maintain a record of specialized training for customer service personnel to inform:

(a) Military borrowers about student loan repayment benefits and protections;

(b) Borrowers working in public service about student loan repayment benefits and protections;

(c) Older borrowers about the risks specifically applicable to older borrowers to ensure that, once identified, older borrowers are informed about student loan repayment benefits and protections, including discharge or loan forgiveness programs for private and federal loans, if applicable; and

(d) Borrowers with disabilities about student loan repayment benefits and protections, including disability discharge programs for private and federal loans;

(13) Respond to a qualified request by:

(a) Acknowledging, in writing or through electronic communication, receipt of the request within ten (10) business days; and

(b) Within thirty (30) business days of receipt of the request, providing information relating to the status of the request and, if applicable, either the action the student loan servicer will take to correct the account or an explanation for a determination that the borrower's account is correct.

1. The thirty (30) day period set out in subsection (13)(b) of this Section may be extended for fifteen (15) days if, before the end of the thirty (30) day period, the servicer notifies the borrower of the extension and the reason for the delay in responding; and

2. A servicer is required to send a borrower up to three (3) subsequent notices stating there will be no response to a qualified request if the borrower has previously submitted the same request and received a complete response, and no new information is submitted in subsequent, duplicative qualified requests;

(14) Respond within ten (10) business days to communications from the Commissioner;

(15) Provide information to borrowers, in writing, about the availability of loan forgiveness programs and income-driven repayment plan opportunities;

(16) Maintain on its website, free of charge, complete information and account records for each borrower, which shall ~~be~~;

(a) Be accessible to the borrower only, through a secure log-in system;

(b) Include a consolidated account report for each borrower, and a loan history for each student loan serviced; and

(c) Be available to borrowers at all times, except for occasional, short periods of time when the student loan servicer's system is not available because the system is undergoing routine maintenance or is blocked for security reasons.

1. The consolidated account report required under this subsection shall include:

a. Borrower name;

b. Number of student loan(s) serviced for each borrower;

c. Loan number, for each student loan;

d. Loan type, ~~whether~~ ~~is~~, Direct Loan, ~~FFELP~~ Loan, Perkins Loan, or private student loan;

e. Loan disbursement amount and date, for each student loan;

f. Interest rate(s) and maturity date, or number of monthly payments required to repay the loan, for each student loan;

g. Loan balance and status, for each student loan;

h. Cumulative balance owing for each borrower;

i. Whether the borrower has an application pending for, or is

repaying under, an alternative repayment plan, and listing the plan chosen by the borrower; and

j. Whether the borrower has an application pending for any loan forgiveness, cancellation, or discharge benefit and current status of the application; and

2. The loan history required under this subsection shall include the following information, including the corresponding dates or data range, for each:

- a. Disbursement~~[disbursements]~~;
- b. Interest accrual~~[accruals]~~;
- c. Fee~~[fees]~~;
- d. Late charge~~[charges]~~;
- e. Any other miscellaneous amount~~[amounts]~~ charged to the borrower;
- f. Payment~~[payments]~~ received;
- g. Payment~~[payments]~~ toward loan forgiveness programs; and
- h. ~~[the]~~ Borrower's repayment plan;

(17) Upon request by a borrower, within (7) days, provide a borrower, free of charge, a complete and accurate payoff statement. The statement shall clearly indicate the date on which it was prepared, the relevant time frame for submission of the payoff amount, and any circumstances which may change the amount required to pay off the loan account. A student education loan servicer is required to provide one (1) payoff statement per quarter, at no charge to the borrower, upon request. Thereafter, the student loan servicer may charge the borrower the actual cost to produce a physical copy of the account record.

CONTACT PERSON: Catherine Falconer, General Counsel, 500 Mero Street, 2 SW 19, Frankfort, Kentucky 40601, phone 502-782-9052, fax 502-573-8787, email Catherine.Falconer@ky.gov and Marni Gibson, Acting Deputy Commissioner, Dept. of Financial Institutions, 500 Mero Street, 2SW19, Frankfort, Kentucky 40601, phone 502-782-9053, fax 502-573-8787, email Marni.Gibson@ky.gov.

**PUBLIC PROTECTION CABINET
Department of Charitable Gaming
(As Amended at ARRS, April 11, 2023)**

820 KAR 1:005. Charitable gaming licenses and exemptions.

RELATES TO: KRS 238.515, 238.525, 238.530, 238.535, 238.540, 238.555

STATUTORY AUTHORITY: KRS 238.515, 238.525, 238.530, 238.535(2), (13), 238.555

NECESSITY, FUNCTION, AND CONFORMITY: KRS 238.515(1) requires the Department of Charitable Gaming to license charitable organizations, charitable gaming facilities, manufacturers, and distributors that desire to engage in charitable gaming. KRS 238.515(2) authorizes the Department of Charitable Gaming to establish and enforce reasonable standards for the conduct of charitable gaming and the operation of charitable gaming facilities. This administrative regulation establishes the requirements, fees, and procedures for licensure of a qualifying charitable organization, distributor, manufacturer, or charitable gaming facility. This administrative regulation establishes criteria for temporary licenses, exemptions, and inspections for verifying the information contained in an application.

Section 1. Application for Licensure. (1) At least sixty (60) days prior to the expiration of its existing license or its first expected date of gaming, facility operation, or business operations in Kentucky during the license period, an applicant shall submit the appropriate complete, accurate, and documented application:

(a) A charitable organization shall submit Form CG-APP-ORG~~[CG-4]~~;

(b) An organization authorized to hold special event raffles pursuant to KRS 238.535(14)(b) shall submit Form CG-APP-SER~~[CG-SER]~~;

(c) A distributor shall submit Form CG-APP-DIS~~[CG-2]~~;

(d) A manufacturer shall submit Form CG-APP-MAN~~[CG-3]~~; ~~[and]~~

(e) A charitable gaming facility shall submit Form CG-APP-FAC~~[CG-4]~~; and

(f) A licensed charitable organization shall submit Form CG-APP-ORG-CFE in addition to Form CG-APP-ORG~~[CG-ORG-APP]~~ for each charity fundraising event it intends to conduct.

(2) The department shall review the application and notify the applicant in writing of any deficiencies in the application as soon as practicable. An application shall not be considered complete until all deficiencies are resolved.

(3) If the applicant does not file a written response to a deficiency request, provide requested information and documents, or otherwise cure the identified deficiency within thirty (30) days of the written notice, the application shall be deemed withdrawn.

(4) If the applicant files a written response to a deficiency request within thirty (30) days of the written notice, but the response does not cure the identified deficiency, the department shall issue a subsequent deficiency notice. If the deficiency is incapable of being cured, the department shall deny the license.

(5) Once the department has received a complete application, it shall grant or deny the license within sixty (60) days of receipt.

Section 2. License Requirements, Fees, and Issuance. (1) The department shall issue a license if the applicant has:

- (a) Met the statutory requirements established:
 - 1. For charitable organizations, by KRS 238.535;
 - 2. For special event raffle organizations, by KRS 238.535(14)(b);
 - 3. For distributors and manufacturers, by KRS 238.530; or
 - 4. For charitable gaming facilities, by KRS 238.555;
- (b) Paid all fees and fines;
- (c) Filed all required reports;
- (d) Filed an acceptable financial plan, if required;
- (e) Complied with all terms and conditions of any applicable settlement agreement or probationary terms; and
- (f) Submitted fingerprints cards as required by KRS 238.525.

(2) Fees for licenses issued shall be paid according to the following schedule:

(a) A nonrefundable application fee of twenty-five (25) dollars shall accompany each application for licensure and shall be credited against the amount of the annual license fee, if the requested license is granted.

(b) For charitable organizations and organizations licensed pursuant to KRS 238.535(14)(b):

- 1. \$100 for:
 - a. A charitable organization upon initial application; or
 - b. A charitable organization with gross receipts not in excess of \$100,000;
- 2. \$200 for a charitable organization with gross receipts over \$100,000, but not in excess of \$250,000; or
- 3. \$300 for a charitable organization with gross receipts over \$250,000.

(c) For manufacturers or distributors: \$1,000.

(d) For charitable gaming facilities:

- 1. \$1,000 for a facility that does not conduct bingo sessions; or
- 2. [1-] \$1,250 for a facility conducting between one (1) and eight
- (8) bingo [or fewer] sessions per week; or
- 3. [2-] \$2,500 for a facility conducting between nine (9) and
- (18) bingo sessions per week.

(3) A license shall not be issued until the license fee and any other fees or fines due are paid in full.

(4) The license term shall be for one (1) year from the effective date of the license.

(5) A licensed charitable organization, distributor, manufacturer, or charitable gaming facility may submit a written change request to change any information contained in the license application or printed on the license. All change requests shall be accompanied by a twenty-five (25) dollar change fee and be signed by an officer. The department shall process change requests and issue or deny an amended license within ten (10) days of receipt, and the licensee shall not engage in gaming until a license

reflecting the change request has been issued. An organization shall submit requests for changes to its listed officers and chairpersons by submitting Form CG-OCC-ORG (2023), Notice of Change in Officers or Chairpersons.

(a) Except as provided in KRS 238.535(12)(b)(2), a licensed charitable organization may change the date, time, or location of a charitable gaming session if the licensed charitable organization submits a written request to the department at least ten (10) days prior to the date of the requested change. Any change request made pursuant to this subsection shall ~~must~~ be accompanied by a lease, if required, for the new gaming location.

(b) If a charitable organization wishes to cancel a charitable gaming session, the organization shall notify the department, in writing, at least twenty-four (24) hours prior to the scheduled start of the charitable gaming session, except if ~~in the event of~~ an emergency beyond the organization's control occurs, in which case the organization shall notify the department of the change as soon as practicable. A cancellation shall not require a change fee.

(6) A charitable organization shall not advertise any charitable gaming activity until the activity has been licensed by the department.

Section 3. Temporary License. (1) Application for Licensure. The department may issue a temporary license to an applicant for a charitable gaming license if the applicant has submitted a complete and accurate license application form, and has complied with all other licensing requirements for an annual license.

(2) License Fee. For each temporary license issued, the licensee shall pay a twenty-five (25) dollar fee. The total temporary license fee charged in a year shall not exceed the annual license fee.

Section 4. Distributor Requirements. (1) For the operation of a distributorship, a distributor shall maintain a separate bank account that is not commingled with a personal account or another business account. If the licensed distributor owns multiple distributorships, a separate bank account shall be maintained for each distributorship.

(2) Any payments received by a distributor from a charitable organization shall be by check drawn on the charitable gaming account or electronic fund transfer from the charitable gaming account.

(3) A distributor or its agent shall maintain storage facilities within this state for gaming supplies to be sold within the Commonwealth of Kentucky, and shall identify the facilities' physical locations to the department. Storage facilities shall be made accessible to the department for inspection upon request.

Section 5. Charitable Gaming Facility Requirements. (1) A licensed charitable gaming facility shall be permitted to list on its website the names, license numbers, gaming sessions, and information regarding the charitable organizations that game at that licensed charitable gaming facility.

(2) If a charitable organization contracts with a licensed charitable gaming facility to operate a concession stand, the members of the charitable organization that volunteer at the concession stand may volunteer to work for their own gaming session, but shall not volunteer for the gaming session of any other charitable organization that games at that licensed charitable gaming facility.

(3) For a licensed gaming facility operation, a licensed gaming facility shall maintain a separate bank account that is not commingled with a personal account or another business account. If the licensee owns multiple licensed gaming facilities, a separate bank account shall be maintained for each licensed gaming facility. If separate businesses are operated out of the licensed gaming facility, including a check cashing service or a concession stand, each business shall have a separate bank account.

(4) Any payments received by a licensed gaming facility from a charitable organization shall be by check drawn on the charitable gaming account or electronic fund transfer from the charitable gaming account of the charitable organization.

(5) The lease agreement executed between the licensed

charitable gaming facility and charitable organization shall contain the day and time of each charitable gaming session a charitable organization will conduct at the licensed gaming facility. The day and time listed in the lease agreement shall be accurate and shall match the day and time listed on the organization's charitable gaming license.

Section 6. Exempt Organizations. (1) An organization seeking exemption from charitable gaming licensing requirements shall submit a complete and accurate Form CG-APP-EXE, Notification of Intent to Engage in Exempt Charitable Gaming [CG-Exempt, Organization Grossing Under \$25,000 Application for Exemption], at least thirty (30) days prior to the expected date of gaming. The Form CG-APP-EXE [CG-Exempt] shall be submitted with a non-refundable fee of twenty-five (25) dollars.

(2) If the charitable organization has submitted a complete application, and meets the requirements for exemption established in KRS Chapter 238, the department shall issue a Notification of Exemption within thirty (30) days of the completed submission.

(3) The department shall review the application and shall notify the applicant within thirty (30) days of receipt of the initial application of the nature of any deficiencies. If identified deficiencies are not cured within thirty (30) days from the notice, the application shall be deemed withdrawn, and no exemption will be granted in response to the application.

(4) The charitable organization shall not be required to file an additional exemption application with the department if the gaming activities of the charitable organization remain within the qualifications for exempt status.

(5) The charitable organization shall notify the department of any changes in the exempt status of the charitable organization within thirty (30) days of the occurrence of the ~~such~~ changes.

(6) A charitable organization that conducts charitable gaming pursuant to an exemption [possessing a Notice of Exemption] shall file an annual report with the department before January 31 of each year. This report shall be filed on Form CG-FIN-EXE [CG-EFR], Annual Financial Report for [Før] Exempt Organization. The report may be filed electronically.

(7) A charitable organization that has had its exemption revoked for any reason shall pay a nonrefundable reinstatement fee of twenty-five dollars (25) with any application or request for reinstatement.

Section 7. Licensee Inspections. (1) An applicant for a license or an exemption shall be able to demonstrate the existence of their establishment by:

- (a) Contracts or leases;
- (b) Utility bills;
- (c) Records maintained by the parent organization;
- (d) Bank records; or
- (e) Similar documents.

(2) Any such records shall be accessible to the department for inspection.

(3) An applicant for a license or an exemption shall be able to demonstrate its maintenance of an office by copies of the business records including the articles of incorporation and by-laws, if any, any tax forms, the check book and bank statements, and any other records kept in the ordinary course of operating the type of business for which licensure is sought.

(4) An applicant for a charitable gaming facility license shall be able to demonstrate that it is the entity that is operating the charitable gaming facility and that the charitable gaming facility does not have any prohibited relationships with organizations, distributors, or manufacturers. This may include an inspection of its office including contracts, required reports, checkbook, bank accounts, and any other records regarding the operation of the charitable gaming facility. Any such records stored or maintained in electronic formats shall likewise be accessible to the department for inspection.

(5) An applicant for a distributor's or manufacturer's license shall be able to demonstrate prior to licensing that it manufactures or distributes gaming supplies from the locations stated on the license application. This may include an inspection of those

locations and a demonstration or explanation of its ability to track gaming supplies and maintain the appropriate records. Any such records stored or maintained in electronic formats shall likewise be accessible to the department for inspection.

(6) Inspections shall be completed by appropriate department personnel who shall file a report stating the results of the inspection performed.

Section 8. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Form CG-APP-EXE, "Notice of Intent to Engage in Exempt Charitable Gaming (2023)"[CG-Exempt, "Organization—Grossing Under \$25,000 Application for Exemption (2019)";];

(b) Form CG-FIN-EXE[CG-EFR], "Annual Financial Report for [F~~or~~] Exempt Charitable Organization (2023)"[(2019)];

(c) Form CG-APP-ORG[CG-4], "Charitable Gaming Organization License Application (2023)"[(2019)];

(d) Form CG-APP-SER[CG-SER], "Special Event Raffle License Application (2023)"[(2019)];

(e) Form CG-APP-DIS[CG-2], "Charitable Gaming Distributor License Application (2023)"[(2019)];

(f) Form CG-APP-MAN[CG-3], "Charitable Gaming Manufacturer License Application (2023)"[(2019)];

(g) Form CG-APP-FAC[CG-4], "Charitable Gaming Facility License Application (2023)"[(2019)]; and

(h) Form CG-OCC-ORG[CG-OG], "Notice of [Of] Change in [In] Officers or [Or] Chairpersons (2023)"[(2019)].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Charitable Gaming, Public Protection Cabinet, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CONTACT PERSON: Doug Hardin, Staff Attorney, Department of Charitable, 500 Mero Street 2NW24, Frankfort, Kentucky 40601, phone (502) 782-8204, fax (502) 573-6625, email doug.hardin@ky.gov.

**PUBLIC PROTECTION CABINET
Department of Charitable Gaming
(As Amended at ARRS, April 11, 2023)**

820 KAR 1:025. Reports.

RELATES TO: KRS 238.530, 238.550, 238.555, 238.560, 238.570

STATUTORY AUTHORITY: KRS 238.515, 238.530, 238.550, 238.555, 238.560, 238.570

NECESSITY, FUNCTION, AND CONFORMITY: KRS 238.515(4) authorizes the Department of Charitable Gaming to promulgate administrative regulations establishing standards of accounting, recordkeeping, and reporting to ensure[~~insure~~] charitable gaming receipts are properly accounted for. KRS 238.530 authorizes the department to promulgate an administrative regulation to require a licensed distributor to report all activities relating to the sale, rental, lease, or furnishing of charitable gaming supplies and equipment. KRS 238.560 authorizes the department to take administrative action against any person for any violation of the provisions of KRS Chapter 238 and the administrative regulations promulgated thereunder. This administrative regulation establishes the method and time of filing financial reports and remitting payment of fees due.

Section 1. Reporting.

(1) Licensees shall submit corresponding forms and reports quarterly as described in Section (2) of this administrative regulation:

(a) Licensed charitable organizations shall submit Form CG-FIN-ORG[CG-FIN], "[~~F~~]Financial Report for a Licensed Charitable Organization[~~"];]];~~

1. Licensed charitable organizations with gross receipts of less than \$200,000 per calendar year and no weekly bingo session shall only be required to submit Form CG-FIN-ORG[CG-FIN]

annually, on or before January 31 of each year;

2. Licensed charitable organizations receiving distributions from organizations described in subsection (1)(d) of this administrative regulation shall submit Form CG-FIN-ORG [RR][CG-FIN-RA], "[~~F~~]Financial Report for a Licensed Charitable Organization, Recipient Account[~~"];]". If the licensed charitable organization receives distributions from more than one (1)[such] organization, it shall submit Attachment A-1 and G-1 for each distributing organization;~~

(b) Licensed charitable gaming facilities shall submit Form CG-FAC[GF-FAC], "[~~F~~]Licensed Charitable Gaming Facility Quarterly Report[~~"];]";~~

(c) Licensed distributors shall submit Form CG-FIN-DIS[CG-DIS] "[~~F~~]Licensed Charitable Gaming Distributor Quarterly Report[~~"];]" for each quarter that the distributor is licensed;~~

(d) Organizations licensed pursuant to KRS 238.535(14)(b) shall submit Form CG-FIN-SER, "[~~F~~]Licensed Organization Financial Report for Special Event Raffle License Only.[~~"];]"~~

(2) All financial reports shall be:

(a) Submitted on the appropriate form prescribed in Section 1(1) of this administrative regulation;

(b) Typed or in permanent ink;

(c) Complete, accurate, and legible;

(d) Contain the original signature and printed name or, if submitted electronically, the typewritten name of either the chief executive officer or the chief financial officer of the charitable organization, facility, or distributor; and

(e) Contain the original signature and printed name or, if submitted electronically, the typewritten name of the preparer of the report if prepared by an individual other than the chief executive officer or chief financial officer.

Section 2. Quarterly Reporting Requirements.

(1) A licensee required to submit a quarterly report shall do so on or before the following dates for the preceding three (3) month period:

(a) April 30;

(b) July 31;

(c) October 31; and

(d) January 31.

(2) If a date in Section 2(1) of this administrative regulation falls on a Saturday, Sunday, or legal holiday, the report shall be due on the first business day thereafter.

(3) The financial report and fee shall be considered timely filed if it has been:

(a) Mailed to the department by first class mail, postage prepaid, to the correct address and postmarked by the due date;

(b) Received in the department by hand-delivery on or before the due date; or

(c) Received by the department electronically on or before the due date.

(4) If any report or portion thereof is not filed when due, or if any required fee is not remitted when due, the licensee shall be subject to disciplinary action pursuant to KRS 238.560.

Section 3. Specific Reporting Requirements for Licensed Charitable Organizations.

(1) The fee imposed by KRS 238.570(1) on gross gaming receipts of a licensed charitable organization shall be remitted by check made payable to the [~~the~~] Kentucky State Treasurer[~~"];] at the time the financial report is due.~~

(2) If a charitable organization does not have any information to place on an attachment to the financial report, it shall indicate "not applicable" on the attachment.

(3) To complete the Bingo Paper Supplies Inventory page of Form CG-FIN-ORG[CG-FIN], the product description shall be listed in the format "# ON # UP", with:

(a) The number "ON" being the number of bingo faces on a bingo paper sheet; and

(b) The number "UP" being the number of bingo paper sheets contained in a bingo paper pack.

(4) If multiple pages are used for inventory, each person completing the inventory shall sign one (1) page of the pages that

person completed and initial the remaining pages.

(5) All expenses incurred by a licensee shall be reported on the financial report for the date on which payment was made, which shall be either the date a check was written or an electronic funds transfer was made, regardless of when the supplies were used or the services were rendered.

Section 4. Incorporation by Reference.

(1) The following are incorporated by reference:

- (a) Form CG-FIN-ORG–CG-FIN], "Financial Report for a Licensed Charitable Organization (2023) [(2018)]";
- (b) Form CG-FIN-ORG (RRA)–CG-FIN-RA], "Financial Report for a Licensed Charitable Organization, Recipient Account (2023) [(2018)]";
- (c) Form CG-FIN-SER, "Licensed Organization Financial Report for Special Event Raffle License Only (2023) [(2018)]";
- (d) Form CG-FIN-FAC–CG-FAG], "Licensed Charitable Gaming Facility Quarterly Report (2023) [(2018)]"; and
- (e) Form CG-FIN-DIS–CG-DIS], "Licensed Charitable Gaming Distributor Quarterly Report (2023) [(2018)]".

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Charitable Gaming, Public Protection Cabinet, 500 Mero Street 2NW24, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CONTACT PERSON: Doug Hardin, Staff Attorney, Department of Charitable, 500 Mero Street 2NW24, Frankfort, Kentucky 40601, phone (502) 782-8204, fax (502) 573-6625, email doug.hardin@ky.gov.

PUBLIC PROTECTION CABINET Department of Charitable Gaming (As Amended at ARRS, April 11, 2023)

820 KAR 1:130. Administrative actions.

RELATES TO: KRS 238.510, 238.515, 238.530, 238.555, 238.560, 238.995

STATUTORY AUTHORITY: KRS 238.515, 238.560

NECESSITY, FUNCTION, AND CONFORMITY: KRS 238.515 and 238.560 authorize the Department of Charitable Gaming to take appropriate disciplinary action against licensed charitable organizations, charitable gaming facilities, manufacturers, distributors, or persons who do not operate in compliance with KRS Chapter 238 and the administrative regulations promulgated thereunder. KRS 238.560 authorizes the department to classify offenses and recommended administrative actions. This administrative regulation establishes the required classifications and penalties.

Section 1. Department Enforcement Powers. (1) The department may issue a letter of warning, letter of reprimand, or a cease and desist order to any license holder for any violation of KRS Chapter 238 or 820 KAR Chapter 1.

(2) The department may impose administrative action pursuant to KRS 238.560 if the department determines that the action will deter future violations and promote efforts to correct the violation cited.

Section 2. Fines.

~~[(1)]~~ The department may assess fines against any license holder in accordance with the following schedule:

~~[(1)]~~~~[(2)]~~ A violation of KRS Chapter 238 or 820 KAR Chapter 1 relative to charitable gaming recordkeeping and reporting requirements, except for failure to file quarterly reports, may be subject to a fine not to exceed \$500 for each offense. A second or subsequent violation of the same statutory or regulatory provision during a three (3) [-]year period~~[(the same year)]~~ may be subject to a fine not to exceed \$1,000 for each offense.

~~[(2)]~~~~[(3)]~~ A violation of KRS Chapter 238 or 820 KAR Chapter 1 relative to the conduct of charitable games, may be subject to a

fine not to exceed \$500 for each offense. A second or subsequent violation of the same statutory or regulatory provision during a three (3) [-]year period~~[(the same year)]~~ may be subject to a fine not to exceed \$1,000 for each offense.

~~[(3)]~~~~[(4)]~~ A violation of KRS Chapter 238 or 820 KAR Chapter 1 relative to manufacture, packaging, and distribution of charitable gaming supplies and equipment may be subject to a fine not to exceed \$500 for each offense. A second or subsequent violation of the same statutory or regulatory provision during a three (3) [-]year period~~[(the same year)]~~ may be subject to a fine not to exceed \$1,000 for each offense.

~~[(4)]~~~~[(5)]~~ A violation of the provisions of KRS 238.530(10) or 238.555(3) relative to conflicts of interest among types of licensees may be subject to a fine not to exceed \$750 for each offense. A second or subsequent violation during a three (3) [-]year period~~[(the same year)]~~ may be subject to a fine not to exceed \$1,000 for each offense.

~~[(5)]~~~~[(6)]~~ A violation for conducting any activity without a license for which a license is required pursuant to KRS Chapter 238 and 820 KAR Chapter 1 may be subject to a fine not to exceed \$1,000 for each offense.

~~[(6)]~~~~[(7)]~~ A violation for making false statements in any documents submitted to the department may be subject to a fine not to exceed \$1,000 for each offense.

~~[(7)]~~~~[(8)]~~ A violation of KRS Chapter 238 or 820 KAR Chapter 1 relative to diversion of net receipts from authorized expenses or charitable purposes, unlawful compensation to an individual involved in the conduct of charitable gaming, or any other inurement of net receipts to the private benefit or financial gain of an individual or person, may be subject to a fine not to exceed \$1,000 for each offense.

~~[(8)]~~~~[(9)]~~ A violation of KRS 238.510(5) relative to gambling offenses committed on licensed charitable gaming premises or in conjunction with charitable gaming may be subject to a fine not to exceed \$1,000 for each offense.

~~[(9)]~~~~[(10)]~~ Any other violation of KRS Chapter 238 or 820 KAR Chapter 1 for which a fine is not established in this section may be subject to a fine not to exceed \$1,000 for each offense.

Section 3. Probation. (1) The department may impose upon any license holder a term of probation for any violation of KRS Chapter 238 or 820 KAR Chapter 1.

(2) The department may impose this administrative action, pursuant to KRS 238.560(3), if it determines that department oversight and monitoring of the license holder's activities will promote efforts to correct the cited violation and deter future violations.

Section 4. Revocation, Suspension, or Denial of License. (1) The department shall revoke, suspend, or deny a license or application for a license if:

(a) An applicant, license holder, license holder seeking renewal, or individual associated with the applicant or license holder in a capacity established in KRS 238.525(3) fails to meet the requirements of KRS 238.525(4) or 820 KAR 1:005~~–Chapter 4~~;

(b) A license holder fails to pay a fine, correct a violation, or comply with any other requirement imposed by a final order of the department within the previous five (5) years;~~[A license holder fails to file any reports required pursuant to KRS Chapter 238 or 820 KAR Chapter 1];~~~~–or]~~

(c) A license holder, upon notice of delinquency, fails to remit to the department any charitable gaming fee required pursuant to KRS 238.570(1);~~–]~~

(d) A licensed charitable organization fails to maintain its federal tax-exempt status or status as a common school, institute of higher learning, or public college or university, as required by KRS 238.535(12)(a); or

(e) A licensed charitable organization fails to maintain an office [an office] for place of business in the Commonwealth of Kentucky, as required by KRS 238.535(12)(b) and (d).

(2) The department may revoke, suspend, or deny the license or application of a licensed charitable organization, manufacturer,

VOLUME 49, NUMBER 11– MAY 1, 2023

distributor, or charitable gaming facility for violations of KRS Chapter 238 or 820 KAR Chapter 1 if the nature, frequency, and severity of the offenses charged or the license holder's or applicant's history of previous violations demonstrate an unwillingness or inability to operate in compliance with the law.

Section 5. Written Notice of Violation. The department shall issue a written notice of violation to a license holder determined to have violated any provision of KRS Chapter 238 or 820 KAR Chapter 1. ~~This notice shall be provided on a Form CG-NOV, Notice of Violation(s). Any notices of violation [Notices of Violation]~~ issued to a license holder shall be considered by the department in evaluating the license holder's history of previous violation. A ~~notice of violation [Notice of Violation]~~ shall state the provisions alleged to have been violated and shall notify the license holder that the department may take administrative action against the license holder as a result of the violations.

Section 6. Investigations. A person may submit a request, in writing, to the department to initiate an investigation of an alleged violation.

~~[Section 7. Incorporation by Reference. (1) Form CG-NOV, "Notice of Violation(s) (2019)", is incorporated by reference.~~

~~(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Charitable Gaming, Public Protection Cabinet, 500 Mero Street 2NW24, Frankfort, Kentucky 40601-3714, Monday through Friday, 8 a.m. to 4:30 p.m. (28 Ky.R. 1539; 2039; eff. 3-13-2002; TAm eff. 8-9-2007; 42 Ky.R. 960; eff. 1-4-2016; 44 Ky.R. 2693; 45 Ky.R. 1607; eff. 1-4-2019; TAm eff. 11-22-2019.)]~~

CONTACT PERSON: Doug Hardin, Staff Attorney, Department of Charitable, 500 Mero Street 2NW24, Frankfort, Kentucky 40601, phone (502) 782-8204, fax (502) 573-6625, email doug.hardin@ky.gov.

CABINET FOR HEALTH AND FAMILY SERVICES

Office of Inspector General
Division of Audits and Investigations
(As Amended at ARRS, April 11, 2023)

902 KAR 55:110. Monitoring system for prescription controlled substances.

RELATES TO: KRS 72.026, 216B.015(13), 218A.010(12), (40)[(14)], 218A.202, 218A.205(2)(a), (6), 218A.240(7)(a), 42 C.F.R. Part 2

STATUTORY AUTHORITY: KRS 194A.050, 218A.202(1), (18)[(17)], 218A.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218A.202(1) directs the Cabinet for Health and Family Services to establish and maintain an electronic system for monitoring Schedule II, III, IV, and V controlled substances. KRS 218A.250 requires the cabinet to promulgate administrative regulations pursuant to KRS Chapter 13A for carrying out the provisions of KRS Chapter 218A. This administrative regulation establishes criteria for reporting prescription data, establishes procedures to correct errors, and allows for disclosure of data[providing reports] to authorized persons[, and a waiver for a dispenser who does not have an automated recordkeeping system].

Section 1. Definitions.

(1) "Branch" means the Drug Enforcement and Professional Practices Branch in the Division of Audits and Investigations, Office of Inspector General, Cabinet for Health and Family Services.

(2) "Cabinet personnel" means an individual who:

- (a)
1. Is directly employed by the Cabinet for Health and Family Services; or
2. Is employed by an agent or contractor of the cabinet;
- (b) Has undergone KASPER training; and

(c) Has been approved to use the KASPER system.

(3) "Central registry" is an entity defined by 908 KAR 1:374, Section 1(3) that may report information to KASPER on behalf of a narcotic treatment program.

(4) "Dispenser" is defined by KRS 218A.010(12)[218A.010(14)], and ~~[shall]~~:

(a) ~~Includes~~include a dispenser who has a DEA (Drug Enforcement Administration) number or is a pharmacist who owns or is employed by a facility that operates a pharmacy that has a DEA number; ~~and~~

(b) ~~Includes~~include a narcotic treatment program licensed pursuant to 908 KAR 1:374;; and

(c) Does not include an individual licensed to practice veterinary medicine under KRS Chapter 321.

(5)[(4)] "Health facility" is defined by KRS 216B.015(13).

(6)[(5)] "KASPER" means Kentucky All-Schedule Prescription Electronic Reporting System.

(7)[(6)] "Patient identifier" means a patient's:

(a) Full name;

(b) Address, including zip code;

(c) Date of birth; and

(d) Social Security number or an alternative identification number established pursuant to Section 5 of this administrative regulation.

(8)[(7)] "Practitioner" is defined by KRS 218A.010(40)[218A.010(39)].

(9)[(8)] "Report" means a compilation of data concerning a patient, dispenser, practitioner, or controlled substance.

(10)[(9)] "Suspected drug overdose" means an acute condition that:

(a) Includes conditions such as~~May include~~ physical illness, coma, mania, or hysteria that is the result of consumption or use of a controlled substance, or another substance with which a controlled substance was combined; and

(b) Relates to injury ~~or~~ poisoning by ~~or other adverse effect of~~ any substance corresponding to the following International Classification of Disease (ICD) version 10 (ICD-10) codes available at <https://www.cms.gov/Medicare/Coding/ICD10>, or equivalent codes in the most recent version of the International Statistical Classification of Diseases and Related Health Problems:

1. T40;
2. T42; or
3. T43.

Section 2. Data Reporting.

(1) A dispenser or a health facility that has a DEA number shall report all dispensed Schedule II, III, IV, or V controlled substances, except:

(a) During the circumstances specified in KRS 218A.202(3)(a) through (c); ~~or~~;

(b) If the controlled substance is dispensed by a narcotic treatment program for use to treat substance use disorder and the patient has not provided written consent that meets the requirements of 42 C.F.R. 2.31.

(2) A dispenser of a Schedule II, III, IV, or V controlled substance shall transmit or provide the following data to the cabinet or the cabinet's agent:

(a) Patient identifier;

(b) National drug code of the drug dispensed;

(c) Metric quantity of the drug dispensed;

(d) Date of dispensing;

(e) Estimated days the supply of dispensed medication will last;

(f) Drug Enforcement Administration registration number of the prescriber;

(g) Prescription number or dispensing identification number assigned by the dispenser or health facility; and

(h) The Drug Enforcement Administration registration number of the dispenser.

(3) The data identified in subsection (2) of this section shall be transmitted no later than close of business on the business day immediately following the dispensing unless the cabinet grants an

extension as provided in subsection (4) or (5) of this section.

(4)

(a) An extension may be granted if the dispenser, health facility, or central registry:

1. ~~[The dispenser.]~~ Suffers a mechanical or electronic failure; or

2. ~~[The dispenser.]~~ Cannot meet the deadline established by subsection (3) of this section because of reasons beyond his or her control.

(b) ~~To request an extension, a written request shall:~~dispenser shall apply to the branch in writing for an extension]

1. Be submitted to the branch:

~~a. [listed in paragraph (a) of this subsection.]~~ Within twenty-four (24) hours of discovery of the circumstances necessitating the request; or

~~b. If state offices are closed, on the next day that~~[date] state offices are open for business[,] following [the] discovery of the circumstances necessitating the request; and

2. Provide a~~[-~~ An application for an extension shall state the justification for the extension, including the length~~[and the period]~~ of time ~~[for which]~~ the extension is necessary.

(5) An extension shall be granted ~~[to a dispenser]~~ if the cabinet or its agent is unable to receive electronic reports transmitted by the dispenser.

(6) Except as provided in subsection (8) of this section, the data shall be transmitted by:

(a) An electronic device compatible with the receiving device of the cabinet or the cabinet's agent;

(b) Secure File Transfer Protocol;

(c) https protocol; or

(d) Secure Virtual Private Network connection.

(7) The data shall be transmitted in the telecommunications format for controlled substances established by the most recent version of the Implementation Guide, ASAP Standard for Prescription Monitoring Programs, developed by the American Society for Automation in Pharmacy, available at asapnet.org, [Version 4.2,] for a comparable format approved by the branch.

(8) A dispenser who does not have an automated recordkeeping system capable of producing an electronic report in the telecommunications format for controlled substances established by the Implementation Guide, ASAP Standard for Prescription Monitoring Programs shall report the data identified in subsection (2) of this section using an Internet accessible web portal designated by the cabinet.

(9) To meet the reporting requirement of KRS 218A.202(4), a hospital shall report to the cabinet all positive toxicology screens ordered by the hospital's emergency department to evaluate a patient's suspected drug overdose via the Kentucky Health Information Exchange.

Section 3. Compliance. A dispenser may presume that the patient identification information ~~[established in Section 5 of this administrative regulation and]~~ provided by the patient or the patient's agent in accordance with Section 5 of this administrative regulation is correct.

Section 4. Request for Report.

(1) A written or electronic request shall be filed with the cabinet prior to the release of a report, except for a subpoena issued by a grand jury or an appropriate court order issued by a court of competent jurisdiction.

(2) A request for a KASPER patient report shall be made electronically at www.chfs.ky.gov/KASPER.

(3)

(a) A request for a KASPER provider report made by a law enforcement or prosecutorial official~~[peace officer]~~ authorized to receive data under KRS 218A.202, or a designated representative of a board responsible for the licensure, regulation, or discipline of prescribing practitioners shall be made by written application on the KASPER Report Request for Law Enforcement and Licensure Boards, Form DCB-20L.

(b) If the request made by a law enforcement or prosecutorial official authorized to receive data under KRS 218A.202 is for KASPER data on dispensing of controlled substances by a narcotic

treatment program to treat substance use disorder, a report shall not be disclosed to the official unless there is a valid court order and subpoena requiring the release of the information and all other applicable provisions of 42 C.F.R. Part 2, Subpart E are met.

(4) A medical examiner engaged in a death investigation pursuant to KRS 72.026 may query KASPER for a report on the decedent.

Section 5. Patient Identification Number.

(1) A patient or the person obtaining the controlled substance on behalf of the patient shall disclose to the dispenser the patient's Social Security number for purposes of the dispenser's mandatory reporting to KASPER.

(2) If a patient is an adult who does not have a Social Security number, the patient's driver's license number shall be disclosed.

(3) If a patient is an adult who has not been assigned a Social Security number or a driver's license number, the number 000-00-0000 shall be used in the Social Security field.

(4) If a patient is a child who does not have a Social Security number or a driver's license number, the number "000-00-0000" shall be used in the Social Security field.

(5) If a patient is an animal, the number "000-00-0000" shall be used in the Social Security number field.

Section 6. KASPER Data and Trend Reports. Cabinet personnel shall have authorized access to the data obtained from the KASPER system and trend reports in accordance with KRS 218A.240(7)(a).

Section 7. Data Retention. Data shall be maintained in KASPER according to the Office of Inspector General's retention schedule on file with the State Libraries, Archives and Records Commission.

Section 8. Error Resolution.

(1) A patient, patient's representative, practitioner, pharmacist, health facility, or private practitioner's office or clinic to whom a report has been disclosed under KRS 218A.202(9) or this administrative regulation may request that information contained in KASPER be corrected if the patient, patient's representative, practitioner, pharmacist, health facility, or private practitioner's office or clinic believes that any information is inaccurate. The patient, patient's representative, practitioner, pharmacist, health facility, or private practitioner's office or clinic shall:

(a) Contact the dispenser who reported the information required by Section 2(2) of this administrative regulation; and

(b) Request that the dispenser correct the information.

(2) If, upon receipt of a request from a patient, patient's representative, practitioner, pharmacist, health facility, or private practitioner's office or clinic pursuant to subsection (1) of this section, the dispenser confirms that the information was reported in error, the dispenser shall:

(a) Transmit corrected information to update the KASPER database within seven (7) calendar days of the request for the correction; and

(b) Notify the patient, patient's representative, practitioner, pharmacist, health facility, or private practitioner's office or clinic that the corrected information has been transmitted.

(3) If a dispenser identifies a KASPER system generated error, the dispenser shall notify the branch. Upon verification of the error, the branch shall:

(a) Correct the information in the KASPER database; and

(b) Notify the patient, patient's representative, practitioner, pharmacist, health facility, private practitioner's office or clinic within five (5) working days of the correction.

Section 9. Referrals to Licensing Boards. If the cabinet becomes aware that a prescriber or dispenser has failed to comply with the reporting requirements of KRS 218A.202 and this administrative regulation, the cabinet shall notify the licensing board or agency responsible for licensing the prescriber or dispenser.

Section 10. Disclosure of Data or Report.

(1) The cabinet shall only disclose data to:

(a) The persons and entities authorized to receive that data under KRS 218A.202(7); and

(b) The persons and entities authorized to receive data pursuant to 42 C.F.R. Part 2, Subparts C, D, and E if the data to be disclosed includes information on controlled substances dispensed by a narcotic treatment program for use to treat substance use disorder.

(2) As a condition precedent to the disclosure of data or a report pursuant to KRS 218A.202(7)(f), a hospital or long-term care facility shall maintain, and provide upon request by the cabinet, a copy of the hospital or long-term care facility's policy for the management of KASPER data and reports, which:

(a) Describes the hospital or long-term care facility's internal procedures for educating the designated employee or employees on the:

1. Proper use of the KASPER system;
2. Prohibition on the improper use or intentional disclosure of KASPER data to unauthorized individuals; and
3. Sanctions imposed for the improper use or intentional disclosure of KASPER data to unauthorized individuals, including criminal misdemeanor offenses; and

(b) Describes the hospital or long-term care facility's internal procedures for auditing the account, including:

1. The manner in which an employee is added to or removed from access to the account if the employee ends employment or is no longer designated to query KASPER; and
2. The actions taken if a designated employee with access to the employer's KASPER account intentionally misuses his or her privileges to KASPER data or a report, which shall include a report of the incident to the branch[Office of Inspector General].

(3)

(a) An individual authorized to receive data under KRS 218A.202(7) shall not provide the data to any other entity except:

1. As provided in KRS 218A.202(9); and
2. For substance use disorder treatment data, as provided in 42 C.F.R. 2.32; or

(b) As provided in paragraph (c)[(b)] of this subsection.

(c)[(b)] In addition to the purposes authorized under KRS 218A.202(9)(e), and pursuant to KRS 218A.205(2)(a) and (6), a practitioner or pharmacist who obtains KASPER data or a report under KRS 218A.202(7)(e)1. or who in good faith believes that any person, including a patient, has violated the law in attempting to obtain a prescription for a controlled substance, may report suspected improper or illegal use of a controlled substance to law enforcement or the appropriate licensing board.

(4) A hospital or long-term care facility shall maintain and adhere to the entity's internal policy regarding the management of KASPER data and reports.

Section 11. Incorporation by Reference.

[(1)] [The following material is incorporated by reference:]

[(a)] ["Implementation Guide, ASAP-Standard for Prescription Monitoring Programs", American Society for Automation in Pharmacy, Version 4.2, September 2011; and

(1)[(b)] "KASPER Report Request for Law Enforcement and Licensure Boards", Form DCB-20L, October 2022[2017], is ~~hereby~~ incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Drug Enforcement and Professional Practices Branch, Office of the Inspector General, Cabinet for Health and Family Services, 275 E. Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be viewed on the Office of Inspector General's Web site at: <https://chfs.ky.gov/agencies/os/oig/dai/deppb/Pages/kasper.aspx>.

CONTACT PERSON: Krista Quarles, Policy Specialist, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Policy and Operations
(As Amended at ARRS, April 11, 2023)**

907 KAR 1:082. Coverage provisions and requirements regarding rural health clinic services.

RELATES TO: KRS 205.510, 205.520, 205.622, 205.8451, 309.080, 309.0831, 309.130, 311.840, 314.011, 319.010, 319.050, 319.053, 319C.010, 335.080, 335.100, 335.300, 335.500, 369.101 ~~to~~ 369.120, 42 C.F.R. 400.203, 42 C.F.R. 405.2401(b), 405.2412-405.2417, 405.2450, 405.2452, 405.2468, 431.17, 438.2, 440.20, 42 C.F.R. 491.1 - 491.11, 45 C.F.R. Part 164, 20 U.S.C. 1400, 21 U.S.C. 823, 29 U.S.C. 701, 42 U.S.C. 1395x(aa) and (hh)

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

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services has responsibility to administer the Medicaid program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the Medicaid program coverage provisions and requirements relating to rural health clinic services.

Section 1. Definitions. (1) "Adult peer support specialist" means an individual who meets the requirements for an adult peer support specialist established in 908 KAR 2:220.

(2) "Advanced practice registered nurse" is defined by KRS 314.011(7).

(3)[(2)] "Approved behavioral health practitioner" means an independently licensed practitioner who is:

- (a) A physician;
- (b) A psychiatrist;
- (c) An advanced practice registered nurse;
- (d) A physician assistant;
- (e) A licensed psychologist;
- (f) A licensed psychological practitioner;
- (g) A certified psychologist with autonomous functioning;
- (h) A licensed clinical social worker;
- (i) A licensed professional clinical counselor;
- (j) A licensed marriage and family therapist;
- (k) A licensed professional art therapist;
- (l) A licensed clinical alcohol and drug counselor; or
- (m) A licensed behavior analyst.

(4) "Approved behavioral health practitioner under supervision" means an individual under billing supervision of an approved behavioral health practitioner who is:

- (a)1. A licensed psychological associate working under the supervision of a board-approved licensed psychologist;
2. A certified psychologist working under the supervision of a board-approved licensed psychologist;
3. A marriage and family therapy associate;
4. A certified social worker;
5. A licensed professional counselor associate;
6. A licensed professional art therapist associate;
7. A licensed clinical alcohol and drug counselor associate;
8. A certified alcohol and drug counselor; ~~or~~
9. A behavioral health associate, as permissible pursuant to 907 KAR Chapter 15; or

10. A licensed assistant behavior analyst; and
(b) Employed by or under contract with the same billing provider as the billing supervisor.

(5) "ASAM Criteria" means the most recent edition of "The ASAM Criteria, Treatment Criteria for Addictive, Substance-Related, and Co-occurring Conditions" published by the American Society of Addiction Medicine.

(6) "Certified alcohol and drug counselor" is defined by KRS 309.080(4).

(7) "Certified social worker" means an individual who meets the requirements established in KRS 335.080.

(8)(3) "Community support associate" means a paraprofessional[an individual] who:

(a) meets the community support associate requirements established in 908 KAR 2:250; and

(b) ~~Has been certified by the Department for Behavioral Health, Intellectual and Developmental Disabilities as a community support associate.~~

(9) "Co-occurring disorder" means a mental health and substance use disorder.

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

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

(16) "Face-to-face" means occurring:

(a) in person; or

(b) Via a real-time, electronic communication that involves two (2)-way interactive video and audio communication.

(12) "Family peer support specialist" means an individual who meets the requirements for a Kentucky family peer support specialist established in 908 KAR 2:230.

(13)(7) "Federal financial participation" is defined by[in] 42 C.F.R. 400.203.

(14)(8) "Homebound recipient" is defined by 42 C.F.R. 440.20(b)(4)(iv).

(15) "In-person" means a healthcare encounter occurring:

(a) Via direct **consultation**[**contact**] and interaction between the individual and healthcare provider;

(b) At the same location; and

(c) Not via telehealth.

(16)(9) "Intermittent nursing care" is defined by 42 C.F.R. 405.2401(b).

(17)(10) "Licensed assistant behavior analyst" is defined by KRS 319C.010(7).

(18)(11) "Licensed behavior analyst" is defined by KRS 319C.010(6).

(19) "Licensed clinical alcohol and drug counselor" is defined by KRS 309.080(7).

(20) "Licensed clinical alcohol and drug counselor associate" is defined by KRS 309.080(9).

(21)(12) "Licensed clinical social worker" means an individual who meets the licensed clinical social worker requirements established in KRS 335.100.

(22)(13) "Licensed marriage and family therapist" is defined by KRS 335.300(2).

(23)(14) "Licensed professional art therapist" is defined by KRS 309.130(2).

(24)(15) "Licensed professional art therapist associate" is defined by KRS 309.130(3).

(25)(16) "Licensed professional clinical counselor" is defined by KRS 335.500(3).

(26)(17) "Licensed professional counselor associate" is defined by KRS 335.500(4)(3).

(27)(18) "Licensed psychological associate" means:

(a) An individual who:

1. Currently possesses a licensed psychological associate license in accordance with KRS 319.010(6); and

2. Meets the licensed psychological associate requirements established in 201 KAR Chapter 26; or

(b) A certified psychologist.

(28)(19) "Licensed psychological practitioner" means:

(a) An individual who meets the requirements established in KRS 319.053; or

(b) A certified psychologist with autonomous functioning.

(29)(20) "Licensed psychologist" means an individual who:

(a) Currently possesses a licensed psychologist license in accordance with KRS 319.010(6); and

(b) Meets the licensed psychologist requirements established in 201 KAR Chapter 26.

(30)(21) "Managed care organization" means an entity for

which the Department for Medicaid Services has contracted to serve as a managed care organization as defined by[in] 42 C.F.R. 438.2.

(31)(22) "Marriage and family therapy associate" is defined by KRS 335.300(3).

(32)(23) "Medically necessary" means that a covered benefit or service is necessary in accordance with 907 KAR 3:130.

(33) "Medication assisted treatment" means the treatment of a substance use disorder with approved medications in combination with counseling, behavior therapies, and other supports.

(34)(24) "Other ambulatory services" is defined by 42 C.F.R. 440.20(c).

(35)(25) "Part-time nursing care" is defined by 42 C.F.R. 405.2401(b).

(36)(26) "Physician" is defined by KRS 205.510(12)(11) and 42 C.F.R. 405.2401(b).

(37)(27) "Physician assistant" is defined by KRS 311.840(3) and 42 C.F.R. 405.2401(b).

(38)(28) "Recipient" is defined by KRS 205.8451(9).

(39) "Registered alcohol and drug peer support specialist" is defined by KRS 309.080(12).

(40) "Registered behavior technician" means an individual who meets the following requirements by the Behavior Analyst Certification Board:

(a) Be at least eighteen (18) years of age;

(b) Have a high school diploma or its equivalent; and

(c) Within six (6) months of hire for a new employee or within six (6) months of **January 1, 2023**[the effective date of this administrative regulation] for an existing employee;

1. Complete a training program that is:

a. Approved by the Behavior Analyst Certification Board;

b. Based on the current edition of the RBT Task List endorsed by the Behavior Analyst Certification Board; and

c. Conducted by Behavior Analyst Certification Board certificants;

2. Pass the Registered Behavior Technician Competency Assessment administered by a Behavior Analyst Certification Board certificant; and

3. Pass the Registered Behavior Technician exam provided by an assistant assessor **supervised**[**overseen**] by a Behavior Analyst Certification Board certificant.

(41)(29) "Rural health clinic" or "RHC" is defined by 42 C.F.R. 405.2401(b).

(42)(30) "State plan" is defined by 42 C.F.R. 400.203.

(43)(31) "Visiting nurse services" is defined by 42 C.F.R. 405.2401(b).

(44) "Withdrawal management" means a set of interventions aimed at managing acute intoxication and withdrawal based on the severity of the illness and co-occurring conditions identified through a comprehensive biopsychosocial assessment with linkage to addiction management services, and incorporated into a recipient's care as needed throughout the appropriate levels of care.

(45) "Youth peer support specialist" means an individual who meets the requirements established for a Kentucky youth peer support specialist established in 908 KAR 2:240.

Section 2. Covered Services Other Than Behavioral Health Services. The department shall cover the following medically necessary rural health clinic services provided[**furnished**] by a[an] RHC that has been certified in accordance with 42 C.F.R. 491.1 through 491.11:

(1) Services pursuant to 42 U.S.C. 1395x(aa);

(2) Services provided by a physician if the physician:

(a) Complies with the physician responsibility requirements established by 42 C.F.R. 491.8(b); and

(b)1. Performs the services in a[an] RHC; or

2. Is compensated under an agreement with a[an] RHC for providing services provided[**furnished**] to a Medicaid eligible RHC patient in a location other than the RHC;

(3) Services provided by a physician assistant or advanced practice registered nurse who is employed by or receives compensation from the RHC if the services:

(a) Are provided[**furnished**] by a member of the RHC's staff

who complies with the responsibility requirements established by 42 C.F.R. 491.8(c);

(b) Are provided[furnished] under the medical supervision of a physician, except for services provided[furnished] by an APRN as these services shall not be required to be provided[furnished] under the medical supervision of a physician;

(c) Are provided[furnished] in accordance with a medical order for the care and treatment of a patient as prepared by a physician or an advanced practice registered nurse;

(d) Are within the provider's legally-authorized scope of practice; and

(e) Would be covered if provided[furnished] by a physician;

(4) Services or supplies provided[furnished] as incidental to services provided by a physician, physician assistant, or advanced practice registered nurse if the service or supply meets the criteria established in 42 C.F.R. 405.2413 or 42 C.F.R. 405.2415;

(5) Part-time or intermittent visiting nurse care and related supplies, except for drugs or biologicals, if:

(a) The RHC is located in an area where a determination has been made that there is a shortage of home health agencies pursuant to 42 C.F.R. 405.2417;

(b) The services are provided by a registered nurse or licensed practical nurse who is employed by or compensated for the services by the RHC; and

(c) The services are provided[furnished] to a homebound recipient under a written plan of treatment that is:

1. Established and reviewed at least every sixty (60) days by a supervising physician of the RHC; or

2. Established by a physician, physician assistant, or advanced practice registered nurse and reviewed and approved at least every sixty (60) days by a supervising physician of the RHC; or

(6) Other ambulatory services as established in the state plan.

Section 3. Behavioral Health Services. (1) Except as established[specified] in the requirements stated for a given service, the services covered may be provided for:

(a) A mental health disorder;

(b) A substance use disorder; or

(c) Co-occurring mental health and substance use disorders.

(2) The department shall cover, and a rural health clinic may provide, the following services:

(a) Behavioral health services provided by a licensed psychologist, licensed clinical social worker, or advanced practice registered nurse within the provider's legally authorized scope of service; or

(b) Services or supplies incidental to a licensed psychologist's or licensed clinical social worker's behavioral health services if the service or supply meets the criteria established in 42 C.F.R. 405.2452.

(3) In addition to the services referenced in subsection (2) of this section, the following behavioral health services provided by a rural health clinic shall be covered under this administrative regulation in accordance with the corresponding following requirements:

(a) A screening provided by:

1. A licensed psychologist;

2. A licensed professional clinical counselor;

3. A licensed clinical social worker;

4. A licensed marriage and family therapist;

5. A physician;

6. A psychiatrist;

7. An advanced practice registered nurse;

8. A licensed psychological practitioner;

9. A licensed psychological associate working under the supervision of a licensed psychologist;

10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;

11. A certified social worker working under the supervision of a licensed clinical social worker;

12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;

13. A physician assistant working under the supervision of a physician;

14. A licensed professional art therapist; or

15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;

(b) An assessment provided by:

1. A licensed psychologist;

2. A licensed professional clinical counselor;

3. A licensed clinical social worker;

4. A licensed marriage and family therapist;

5. A physician;

6. A psychiatrist;

7. An advanced practice registered nurse;

8. A licensed psychological practitioner;

9. A licensed psychological associate working under the supervision of a licensed psychologist;

10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;

11. A certified social worker working under the supervision of a licensed clinical social worker;

12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;

13. A physician assistant working under the supervision of a physician;

14. A licensed professional art therapist;

15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;

16. A licensed behavior analyst; or

17. A licensed assistant behavior analyst working under the supervision of a licensed behavior analyst;

(c) Psychological testing provided by:

1. A licensed psychologist;

2. A licensed psychological practitioner; or

3. A licensed psychological associate working under the supervision of a licensed psychologist;

(d) Crisis intervention provided by:

1. A licensed psychologist;

2. A licensed professional clinical counselor;

3. A licensed clinical social worker;

4. A licensed marriage and family therapist;

5. A physician;

6. A psychiatrist;

7. An advanced practice registered nurse;

8. A licensed psychological practitioner;

9. A licensed psychological associate working under the supervision of a licensed psychologist;

10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;

11. A certified social worker working under the supervision of a licensed clinical social worker;

12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;

13. A physician assistant working under the supervision of a physician;

14. A licensed professional art therapist; or

15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;

(e) Service planning provided by:

1. A licensed psychologist;

2. A licensed professional clinical counselor;

3. A licensed clinical social worker;

4. A licensed marriage and family therapist;

5. A physician;

6. A psychiatrist;

7. An advanced practice registered nurse;

8. A licensed psychological practitioner;

9. A licensed psychological associate working under the supervision of a licensed psychologist;

10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;

11. A certified social worker working under the supervision of a licensed clinical social worker;

12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;

13. A physician assistant working under the supervision of a

14. A licensed professional art therapist; or
 15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;
 (l) Comprehensive community support services provided by:
 1. A licensed psychologist;
 2. A licensed professional clinical counselor;
 3. A licensed clinical social worker;
 4. A licensed marriage and family therapist;
 5. A physician;
 6. A psychiatrist;
 7. An advanced practice registered nurse;
 8. A licensed psychological practitioner;
 9. A licensed psychological associate working under the supervision of a licensed psychologist;
 10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;
 11. A certified social worker working under the supervision of a licensed clinical social worker;
 12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;
 13. A physician assistant working under the supervision of a physician;
 14. A licensed professional art therapist;
 15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;
 16. A licensed behavior analyst;
 17. A licensed assistant behavior analyst working under the supervision of a licensed behavior analyst; or
 18. A community support associate;
 (m) Intensive outpatient program provided by:
 1. A licensed psychologist;
 2. A licensed professional clinical counselor;
 3. A licensed clinical social worker;
 4. A licensed marriage and family therapist;
 5. A physician;
 6. A psychiatrist;
 7. An advanced practice registered nurse;
 8. A licensed psychological practitioner;
 9. A licensed psychological associate working under the supervision of a licensed psychologist;
 10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;
 11. A certified social worker working under the supervision of a licensed clinical social worker;
 12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;
 13. A physician assistant working under the supervision of a physician;
 14. A licensed professional art therapist; or
 15. A licensed professional art therapist associate; or
 (n) Therapeutic rehabilitation program services provided by:
 1. A licensed psychologist;
 2. A licensed professional clinical counselor;
 3. A licensed clinical social worker;
 4. A licensed marriage and family therapist;
 5. A physician;
 6. A psychiatrist;
 7. An advanced practice registered nurse;
 8. A licensed psychological practitioner;
 9. A licensed psychological associate working under the supervision of a licensed psychologist;
 10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;
 11. A certified social worker working under the supervision of a licensed clinical social worker;
 12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;
 13. A physician assistant working under the supervision of a physician;
 14. A licensed professional art therapist; or
 15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist.
 (4)(a) A screening shall:

1. ~~Determine~~[Be the determination of] the likelihood that an individual has a mental health disorder, a substance use disorder, or co-occurring disorders;
 2. Not establish the presence or specific type of disorder;[and]
 3. Establish the need for an in-depth assessment;[and]
4. Be provided by:
a. An approved behavioral health practitioner; or
b. An approved behavioral health practitioner under supervision;[f]
 (b) An assessment shall:
 1. Include gathering information and engaging in a process with the individual that enables the provider to:
 a. Establish the presence or absence of a mental health disorder, substance use disorder, or co-occurring disorders;
 b. Determine the individual's readiness for change;
 c. Identify the individual's strengths or problem areas that **could[~~may~~]** affect the treatment and recovery processes; and
 d. Engage the individual in developing an appropriate treatment relationship;
 2. Establish or rule out the existence of a clinical disorder or service need;
 3. Include working with the individual to develop a treatment and service plan;[and]
 4. Not include a psychological or psychiatric evaluation or assessment;
5. If being made for the treatment of a substance use disorder, utilize a multidimensional assessment that complies with the most current edition of the ASAM Criteria to determine the most appropriate level of care; and
6. Be provided by:
a. An approved behavioral health practitioner; or
b. An approved behavioral health practitioner under supervision;[f]
 (c) Psychological testing shall[include]:
 1. Include a psychodiagnostic assessment of personality, psychopathology, emotionality, or intellectual disabilities;[and]
 2. Include an interpretation and a written report of testing results;
 3. Be provided by a licensed:
a. Psychologist;
b. Psychological practitioner; or
c. Psychological associate working under the supervision of a licensed psychologist; and
4. Be in-person or via telehealth as appropriate pursuant to 907 KAR 3:170;[f]
 (d) Crisis intervention:
 1. Shall be a therapeutic intervention for the purpose of immediately reducing or eliminating the risk of physical or emotional harm to:
 a. The recipient; or
 b. Another individual;
 2. Shall consist of clinical intervention and support services necessary to provide integrated crisis response, crisis stabilization interventions, or crisis prevention activities for an individual with a behavioral health disorder;
 3. Shall be provided:
 a. On-site at a rural health clinic;
 b. As an immediate relief to the presenting problem or threat; and
 c. In a one-on-one[face-to-face, ~~one-on-one~~] encounter between the provider and the recipient, which shall be[is] delivered either in-person or via telehealth if appropriate pursuant to 907 KAR 3:170;
 4. May include:
a. Verbal de-escalation, risk assessment, or cognitive therapy;
 or
b. Further service planning including:
(i) Lethal means reduction for suicide; or
(ii) Substance use disorder or relapse prevention;[and]
 5. Shall be followed by a referral to non-crisis services if applicable; and
 6. Shall be provided by:
a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision;[f:]

(e)1. Service planning shall:

a. Be provided in-person or via telehealth as appropriate pursuant to the most current version of The ASAM Criteria and 907 KAR 3:170;

b. Involve[consist of] assisting a recipient in creating an individualized plan for services needed for maximum reduction of an intellectual disability and to restore the individual to his or her best possible functional level;

c. Involve restoring a recipient's functional level to the recipient's best possible functional level; and

d. Be performed using a person-centered planning process;[f:]

2. A service plan:

a. Shall be directed and signed by the recipient;

b. Shall include practitioners of the recipient's choosing; and

c.[b:] May include:

(i) A mental health advance directive being filed with a local hospital;

(ii) A crisis plan; or

(iii) A relapse prevention strategy or plan;[f:]

(f) Individual outpatient therapy shall:

1. Be provided to promote the:

a. Health and wellbeing of the individual; and[or]

b. Restoration of a recipient to the recipient's best possible functional level from a substance use disorder or a co-occurring disorder[Recovery from a substance use disorder, mental health disorder, or co-occurring-related disorders];

2. Consist of:

a. An in-person or via telehealth as appropriate pursuant to 907 KAR 3:170.[A face-to-face,] one-on-one encounter between the provider and recipient; and

b. A behavioral health therapeutic intervention provided in accordance with the recipient's identified treatment plan;

3. Be aimed at:

a. Reducing adverse symptoms;

b. Reducing or eliminating the presenting problem of the recipient; and

c. Improving functionality;[and]

4. Not exceed three (3) hours per day; and

5. Be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision.

(g)1. Family outpatient therapy shall consist of an in-person, or via telehealth as appropriate pursuant to 907 KAR 3:170.[a face-to-face] behavioral health therapeutic intervention provided:

a. Through scheduled therapeutic visits between the therapist and the recipient and at least one (1) member of the recipient's family; and

b. To address issues interfering with the relational functioning of the family and to improve interpersonal relationships within the recipient's home environment.

2. A family outpatient therapy session shall be billed as one (1) service regardless of the number of individuals, including multiple members from one (1) family, who participate in the session.

3. Family outpatient therapy shall:

a. Be provided to promote the:

(i) Health and wellbeing of the individual; or

(ii) Restoration of a recipient to their best possible functional level from a substance use disorder or co-occurring disorders; and

b. Not exceed three (3) hours per day alone or in combination with any other outpatient therapy per recipient unless additional time is medically necessary.

4. Family outpatient therapy shall be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision;[f:]

(h)1. Group outpatient therapy shall:

a. Be a behavioral health therapeutic intervention provided in accordance with a recipient's identified plan of care;

b. Be provided to promote the:

(i) Health and wellbeing of the individual; and[or]

(ii) Restoration of a recipient to their best possible functional level from a substance use disorder or co-occurring disorder[Recovery from a substance use disorder, mental health disorder, or co-occurring-related disorders];

c.[b:] Consist of an in-person, or via telehealth as appropriate pursuant to 907 KAR 3:170.[a face-to-face] behavioral health therapeutic intervention provided in accordance with the recipient's identified treatment plan;

d.[e:] Be provided to a recipient in a group setting:

(i) Of nonrelated individuals; and

(ii) Not to exceed twelve (12) individuals in size;

e. Focus on the psychological needs of the recipients as evidenced in each recipient's plan of care;

f.[d:] Center on goals including building and maintaining healthy relationships, personal goals setting, and the exercise of personal judgment;

g.[e:] Not include physical exercise, a recreational activity, an educational activity, or a social activity; and

h.[f:] Not exceed three (3) hours per day alone or in combination with any other outpatient therapy per recipient unless additional time is medically necessary.

2. A family outpatient therapy[The] group shall have a:

a. Deliberate focus; and

b. Defined course of treatment.

3. The subject of a group receiving group outpatient therapy shall be related to each recipient participating in the group.

4. The provider shall keep individual notes regarding each recipient within the group and within each recipient's health record.

5. Family outpatient therapy shall be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision;[f:]

(i)1. Collateral outpatient therapy shall:

a. Consist of an in-person or appropriate telehealth, provided pursuant to 907 KAR 3:170.[a face-to-face] behavioral health consultation:

(i) With a parent or caregiver of a recipient, household member of a recipient, legal representative of a recipient, school personnel, treating professional, or other person with custodial control or supervision of the recipient; and

(ii) That is provided in accordance with the recipient's treatment plan;[and]

b. Not be reimbursable if the therapy is for a recipient who is at least twenty-one (21) years of age; and

c. Not exceed three (3) hours per day alone or in combination with any other outpatient therapy per recipient unless additional time is medically necessary.

2. Written consent by a parent or custodial guardian[Consent] to discuss a recipient's treatment with any person other than a parent or legal guardian shall be signed and filed in the recipient's health record.

3. Collateral outpatient therapy shall be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision;[f:]

(j)1. Screening, brief intervention, and referral to treatment for a substance use disorder shall:

a.[1:] Be an evidence-based early intervention approach for an individual with non-dependent substance use to provide an effective strategy for intervention prior to the need for more extensive or specialized treatment;[and]

b.[2:] Consist of:

(i)[a:] Using a standardized screening tool to assess an individual for risky substance use behavior;

(ii)[b:] Engaging a recipient who demonstrates risky substance use behavior in a short conversation and providing feedback and advice; and

(iii)[c:] Referring a recipient to additional substance use disorder or co-occurring disorder services if the recipient is determined to need[:

(i) Therapy; or

(ii) Other] additional services to address substance use if the recipient is determined to need other additional services;

c. Be provided in-person or via telehealth as appropriate according to 907 KAR 3:170;

d. Be provided by:

(i) An approved behavioral health practitioner; or

(ii) An approved behavioral health practitioner under supervision.

2. A screening and brief intervention that does not meet criteria for referral to treatment may be subject to coverage by the department.

(k)1. Day treatment shall be a nonresidential, intensive treatment program designed for a child under the age of twenty-one (21) years who has:

a. An emotional disability, ~~or~~ neurobiological disorder, or substance use disorder; and

b. A high risk of out-of-home placement due to a behavioral health issue.

2. Day treatment services shall:

a. Consist of an organized, behavioral health program of treatment and rehabilitative services (substance use disorder, mental health disorder, or co-occurring ~~mental health and substance use disorders~~);

b. Have unified policies and procedures that:

(i) Address the program philosophy, admission and discharge criteria, admission and discharge process, staff training, and integrated case planning; and

(ii) Have been approved by the recipient's local education authority and the day treatment provider;

c. Include:

(i) Individual outpatient therapy, family outpatient therapy, or group outpatient therapy;

(ii) Behavior management and social skill training;

(iii) Independent living skills that correlate to the age and development stage of the recipient; or

(iv) Services designed to explore and link with community resources before discharge and to assist the recipient and family with transition to community services after discharge; and

d. Be provided:

(i) In collaboration with the education services of the local education authority including those provided through 20 U.S.C. 1400 et seq. (Individuals with Disabilities Education Act) or 29 U.S.C. 701 et seq. (Section 504 of the Rehabilitation Act);

(ii) On school days and during scheduled breaks;

(iii) In coordination with the recipient's individualized education program~~[individualized educational plan]~~ if the recipient has an individualized education program~~[individualized educational plan]~~;

(iv) Under the supervision of a licensed or certified behavioral health practitioner or a behavioral health practitioner working under billing~~[clinical]~~ supervision; and

(v) With a linkage agreement with the local education authority that specifies the responsibilities of the local education authority and the day treatment provider.

3. To provide day treatment services, ~~a~~[an] RHC shall have:

a. The capacity to employ staff authorized to provide day treatment services in accordance with subparagraph 2. of this paragraph~~[subsection] [(3)(k) of this section]~~ and to coordinate the provision of services among team members;

b. The capacity to provide the full range of services as stated in subparagraphs 1 and 2 of this paragraph;

c. Demonstrated experience in serving individuals with behavioral health disorders, mental health disorders, and co-occurring disorders;

d. The administrative capacity to ensure quality of services;

e. A financial management system that provides documentation of services and costs;

f. The capacity to document and maintain individual case records; and

g. Knowledge of substance use disorders.

4. Day treatment shall not include a therapeutic clinical service that is included in a child's individualized education program~~[plan]~~.

(l)1. Comprehensive community support services shall:

a. Be activities necessary to allow an individual to live with maximum independence in community-integrated housing;

b. Be intended to ensure successful community living through

the utilization of skills training, cueing, or supervision as identified in the recipient's treatment plan;

c. Include:

(i) Reminding a recipient to take medications and monitoring symptoms and side effects of medications; or

(ii) Teaching parenting skills, teaching community resource access and utilization, teaching emotional regulation skills, teaching crisis coping skills, teaching how to shop, teaching about transportation, teaching financial management, or developing and enhancing interpersonal skills; and

d. Meet the requirements for comprehensive community support services established in 908 KAR 2:250.

2. To provide comprehensive community support services, ~~a~~[an] RHC shall have:

a. The capacity to employ staff authorized to provide comprehensive community support services in accordance with subsection (3)(l) of this section and to coordinate the provision of services among team members;

b. The capacity to provide the full range of comprehensive community support services as stated in subparagraph 1 of this paragraph;

c. Demonstrated experience in serving individuals with behavioral health disorders;

d. The administrative capacity to ensure quality of services;

e. A financial management system that provides documentation of services and costs; and

f. The capacity to document and maintain individual case records.

3. Comprehensive community support services shall be provided by:

a. An approved behavioral health practitioner, except for a licensed clinical alcohol and drug counselor; or

b. An approved behavioral health practitioner under supervision, except for a:

(i) Certified alcohol and drug counselor; or

(ii) Licensed clinical alcohol and drug counselor associate.

4. Support services for comprehensive community support services conducted by a rural health clinic~~[behavioral health multi-specialty group or a behavioral health provider group]~~ by an individual working under the supervision of an approved behavioral health practitioner shall~~[may]~~ be provided by a:

a. Community support associate; or

b. Registered behavioral technician under the supervision of a licensed behavioral analyst.

(m)1. Intensive outpatient program services shall:

a. Be an alternative to or transition from inpatient hospitalization or partial hospitalization for a mental health disorder, substance use disorder, or co-occurring disorders;

b. Offer a multi-modal, multi-disciplinary structured outpatient treatment program that is significantly more intensive than individual outpatient therapy, group outpatient therapy, or family outpatient therapy;

c. If provided for a substance use disorder, meet the service criteria, including the components for support systems, staffing, and therapies outlined in the most current version of the ASAM Criteria for intensive outpatient level of care services;

d. Be provided at least three (3) hours per day at least three (3) days per week;

e. Be provided at least six (6) hours per week for adolescents; and

f. [d.] Include:

(i) Individual outpatient therapy, group outpatient therapy, or family outpatient therapy unless contraindicated;

(ii) Crisis intervention; or

(iii) Psycho-education related to identified goals in the recipient's treatment plan.

2. During psycho-education, the recipient or family member shall be:

a. Provided with knowledge regarding the recipient's diagnosis, the causes of the condition, and the reasons why a particular treatment might be effective for reducing symptoms; and

b. Taught how to cope with the recipient's diagnosis or condition in a successful manner.

3. An intensive outpatient program treatment plan shall:

- Be individualized; and
- Focus on stabilization and transition to a lesser level of care.

4. To provide intensive outpatient program services, a[an] RHC shall have:

- Access to a board-certified or board-eligible psychiatrist for consultation;
- Access to a psychiatrist, other physician, physician's assistant, or advanced practiced registered nurse for medication prescribing and monitoring;
- Adequate staffing to ensure a minimum recipient-to-staff ratio of ten (10) to one (1);
- The capacity to provide services utilizing a recognized intervention protocol based on nationally accepted treatment principles;
- The capacity to employ staff authorized to provide intensive outpatient program services in accordance with subparagraph 4.[subsection (3)(m)] of this paragraph[section] and to coordinate the provision of services among team members;
- The capacity to provide the full range of intensive outpatient program services as stated in this paragraph;
- Demonstrated experience in serving individuals with behavioral health disorders;
- The administrative capacity to ensure quality of services;
- A financial management system that provides documentation of services and costs; and
- The capacity to document and maintain individual case records.

5. Intensive outpatient program services shall be provided by:

- An approved behavioral health practitioner; or
- An approved behavioral health practitioner under supervision.

(n)1. Therapeutic rehabilitation program services shall:

- Occur at the provider's site or in the community;
- Be provided to an adult with a severe and persistent mental illness or to a child (under the age of twenty-one (21) years) who has a serious emotional disability;
- Be designed to maximize the reduction of an intellectual disability and the restoration of the individual's functional level to the individual's best possible functional level; and
- Not be a residential program.

2. A recipient in a therapeutic rehabilitation program shall establish the recipient's own rehabilitation goals within the person-centered service plan.

3. A therapeutic rehabilitation program shall:

- Be delivered using a variety of psychiatric rehabilitation techniques;
- Focus on:
 - Improving daily living skills;
 - Self-monitoring of symptoms and side effects;
 - Emotional regulation skills;
 - Crisis coping skill; and
 - Interpersonal skills;~~and~~
- Be delivered individually or in a group; and
- Include:
 - An individualized plan of care identifying measurable goals and objectives including discharge and relapse prevention planning;
 - Coordination of services the individual ~~receives~~may be receiving; and
 - Referral to other necessary service supports as needed.

4. To provide therapeutic rehabilitation program services, a[an] RHC shall:

- Have the capacity to employ staff authorized to provide therapeutic rehabilitation program services in accordance with paragraph (n) of this subsection [(3)(n) of this section] and to coordinate the provision of services among team members;
- Have the capacity to provide the full range of therapeutic rehabilitation program services as stated in this paragraph;
- Have demonstrated experience in serving individuals with mental health disorders;
- Have the administrative capacity to ensure quality of services;

- Have a financial management system that provides documentation of services and costs; and
- Have the capacity to document and maintain individual case records.

5. Program staffing for a therapeutic rehabilitation program shall include:

- Licensed clinical supervision, consultation, and support to direct care staff; and
- Direct care staff to provide scheduled therapeutic activities, training, and support.

6. Therapeutic rehabilitation services shall be provided by:

- An approved behavioral health practitioner, except for a licensed clinical alcohol and drug counselor; or
- An approved behavioral health practitioner under supervision, except for a:
 - Certified alcohol and drug counselor; or
 - Licensed clinical alcohol and drug counselor associate.

7. If not provided by an allowed practitioner pursuant to clause 6. of this subparagraph, support services for therapeutic rehabilitation services shall be conducted by a provider:

- Working under the supervision of an approved behavioral health practitioner; and
- Who is:
 - An adult peer support specialist;
 - A family peer support specialist; or
 - A youth peer support specialist.

(o)1. Peer support services shall:

- Be emotional support that is provided by:
 - An individual who has been trained and certified in accordance with 908 KAR 2:220 and who is experiencing or has experienced a substance use disorder to a recipient by sharing a similar substance use disorder in order to bring about a desired social or personal change;
 - A parent or other family member, who has been trained and certified in accordance with 908 KAR 2:230, of a child having or who has had a substance use disorder to a parent or family member of a child sharing a similar substance use disorder in order to bring about a desired social or personal change;
 - An individual who has been trained and certified in accordance with 908 KAR 2:240 and identified as experiencing a substance use disorder; or
 - A registered alcohol and drug peer support specialist who has been trained and certified in accordance with KRS 309.0831 and is a self-identified consumer of substance use disorder services who provides emotional support to others with substance use disorder to achieve a desired social or personal change;
- Be an evidence-based practice;
- Be structured and scheduled non-clinical therapeutic activities with an individual recipient or a group of recipients;
- Promote socialization, recovery, self-advocacy, preservation, and enhancement of community living skills for the recipient;
- Except for the engagement into substance use disorder treatment through an emergency department bridge clinic, be coordinated within the context of a comprehensive, individualized plan of care developed through a person-centered planning process;
- Be identified in each recipient's plan of care; and
- Be designed to contribute directly to the recipient's individualized goals as ~~established~~specified in the recipient's plan of care.

2. To provide peer support services, a chemical dependency treatment center shall:

- Have demonstrated:
 - The capacity to provide peer support services for the behavioral health population being served including the age range of the population being served; and
 - Experience in serving individuals with behavioral health disorders;
- Employ peer support specialists who are qualified to provide peer support services in accordance with 908 KAR 2:220, 908 KAR 2:230, 908 KAR 2:240, or KRS 309.0831;
- Use an approved behavioral health practitioner to supervise

peer support specialists:

d. Have the capacity to coordinate the provision of services among team members;

e. Have the capacity to provide ongoing continuing education and technical assistance to peer support specialists;

f. Require individuals providing peer support services to recipients to provide no more than thirty (30) hours per week of direct recipient contact; and

g. Require peer support services provided to recipients in a group setting to not exceed eight (8) individuals within any group at one (1) time.

(p)1. Partial hospitalization services shall be:

a. Short-term with an average of four (4) to six (6) weeks.

b. Less than twenty-four (24) hours each day;

c. An intensive treatment program for an individual who is experiencing significant impairment to daily functioning ~~[due to a substance use disorder or co-occurring disorders]~~; and

d. Provided in-person or via telehealth as appropriate pursuant to the most recent version of The ASAM Criteria and 907 KAR 3:170.

2. Partial hospitalization may be provided to an adult or a minor.

3. Admission criteria for partial hospitalization shall be based on an inability of community-based therapies or intensive outpatient services to adequately treat the recipient.

4. A partial hospitalization program shall meet the service criteria, including the components for support systems, staffing, and therapies outlined in the most current version of The ASAM Criteria for partial hospitalization level of care services.

5. A partial hospitalization program shall consist of:

a. Individual outpatient therapy;

b. Group outpatient therapy;

c. Family outpatient therapy; ~~[or]~~

d. Medication management;

~~e. Psychoeducation; or~~

~~f. Peer support services.~~

6. The department shall not reimburse for educational, vocational, or job training services provided as part of partial hospitalization.

7.a. A rural health clinic's partial hospitalization program shall have an agreement with the local educational authority to come into the program to provide all educational components and instruction that are not Medicaid billable or reimbursable.

b. Services in a Medicaid eligible child's individualized education program shall be coverable under Medicaid.

8. Partial hospitalization shall be:

a. Provided for at least four (4) hours per day; and

b. Focused on one (1) primary presenting problem.

9. A partial hospitalization program operated by a rural health clinic shall:

a. Include the following personnel for the purpose of providing medical care:

(i) An advanced practice registered nurse, a physician assistant, or a physician available on site; and

(ii) A board-certified or board-eligible psychiatrist available for consultation; and

b. Have the capacity to:

(i) Provide services utilizing a recognized intervention protocol based on nationally accepted treatment principles;

(ii) Employ required practitioners and coordinate service provision among rendering practitioners; and

(iii) Provide the full range of services included in the scope of partial hospitalization established in this paragraph.

(q)1. Withdrawal management services provided by a rural health clinic shall:

a. Be provided in-person or via telehealth as consistent with 907 KAR 3:170 for recipients with a substance use disorder or co-occurring disorder and incorporated into a recipient's care along the continuum of care as needed;

b. Meet service criteria in accordance with the most current version of the ASAM Criteria for withdrawal management levels in an outpatient setting; and

c. If provided in an outpatient setting, comply with 908 KAR 1:374, Section 2.

2. A recipient who is receiving withdrawal management services shall meet the most current edition of diagnostic criteria for substance withdrawal management as established by the most recent version of the Diagnostic and Statistical Manual of Mental Disorders.

3. Withdrawal management services in an outpatient setting shall be provided by:

a. A physician;

b. A psychiatrist;

c. A physician assistant;

d. An advanced practice registered nurse; or

e. An approved behavioral health practitioner or behavioral health practitioner under supervision with oversight by a physician, advanced practice registered nurse, or physician assistant.

(r)1. Medication assisted treatment services shall be provided by an authorized prescribing provider who:

a. Is:

(i) A physician;

(ii) An advanced practice registered nurse;

(iii) A physician assistant; or

(iv) A psychiatrist;

b. Meets standards established pursuant to 201 KAR 9:270 or 201 KAR 20:065;

c. Maintains a current waiver under 21 U.S.C. 823(g)(2) to prescribe buprenorphine products including any waiving or expansion of buprenorphine prescribing authority by the federal government; and

d. Has experience and knowledge in addiction medicine.

2. Medication assisted treatment supporting behavioral health services shall /:

~~a.] Be co-located within the same practicing site as the practitioner who maintains a current waiver, as necessary, under 21 U.S.C. 823(g)(2) to prescribe buprenorphine products or via telehealth as appropriate pursuant to 907 KAR 3:170; or~~

~~[b. Have agreements in place for linkage to appropriate behavioral health treatment providers who specialize in substance use disorders and are knowledgeable in biopsychosocial dimensions of alcohol and other substance use disorders, such as:~~

~~(i) A licensed behavioral health services organization;~~

~~(ii) A multi-specialty group;~~

~~(iii) A provider group; or~~

~~(iv) An individual behavioral health practitioner.~~

~~3. Medication assisted treatment may be provided in a provider group or multi-specialty group operating in accordance with 908 KAR 1:374, Section 7.]~~

~~3.[4.] A medication assisted treatment program shall:~~

~~a. Assess the need for treatment including:~~

~~(i) A full patient history to determine the severity of the patient's substance use disorder; and~~

~~(ii) Identifying and addressing any underlying or co-occurring diseases or conditions, as necessary;~~

~~b. Educate the patient about how the medication works, including:~~

~~(i) The associated risks and benefits; and~~

~~(ii) Overdose prevention;~~

~~c. Evaluate the need for medically managed withdrawal from substances;~~

~~d. Refer patients for higher levels of care if necessary; and~~

~~e. Obtain informed consent prior to integrating pharmacologic or nonpharmacologic therapies.~~

~~(s)1. Applied behavior analysis services shall produce socially significant improvement in human behavior via the:~~

~~a. Design, implementation, and evaluation of environmental modifications;~~

~~b. Use of behavioral stimuli and consequences; or~~

~~c. Use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.~~

~~2. Applied behavior analysis shall be based on scientific research and the direct observation and measurement of behavior and environment, which utilize contextual factors, establishing~~

operations, antecedent stimuli, positive reinforcement, and other consequences to assist recipients in:

- a. Developing new behaviors;
 - b. Increasing or decreasing existing behaviors; and
 - c. Eliciting behaviors under specific environmental conditions.
3. Applied behavior analysis services may include principles, methods, and procedures of the experimental analysis of behavior and applied behavior analysis, including applications of those principles, methods, and procedures to:

- a. Design, implement, evaluate, and modify treatment programs to change the behavior of individuals;
- b. Design, implement, evaluate, and modify treatment programs to change the behavior of individuals that interact with a recipient;

- c. Design, implement, evaluate, and modify treatment programs to change the behavior of a group or groups that interact with a recipient; or

- d. Consult with individuals and organizations.

- 4.a. Applied behavior analysis services shall be provided by:

- (i) A licensed behavior analyst;
- (ii) A licensed assistant behavior analyst;
- (iii) An approved behavioral health practitioner with documented training in applied behavior analysis; or
- (iv) An approved behavioral health practitioner under supervision with documented training in applied behavior analysis.

b. A registered behavior technician under the supervision of an appropriate practitioner pursuant to clause a. of this subparagraph may provide support services, **which shall be performed as established in** ~~under~~ this paragraph.

(4)(a) Laboratory services shall be reimbursable in accordance with 907 KAR 1:028 if provided by a RHC if:

1. The RHC has the appropriate Clinical Laboratory Improvement Amendments (CLIA) certificate to perform laboratory testing pursuant to 907 KAR 1:028; and

2. The services are prescribed by a physician, advanced practice registered nurse, or physician assistant who **is employed by or** has a contractual relationship with the RHC.

(b) Laboratory services may be administered, as appropriate, by:

- 1. An approved behavioral health practitioner; or
- 2. An approved behavioral health practitioner under supervision.

(5)(a) The requirements established in 908 KAR 1:370 shall apply to any provider of a service to a recipient for a substance use disorder or co-occurring mental health and substance use disorders.

(b) The **withdrawal management**~~[detoxification program]~~ requirements established in 908 KAR 1:370 shall apply to a provider of a **withdrawal management**~~[detoxification]~~ service.

(6) The extent and type of assessment performed shall depend upon the problem of the individual seeking or being referred for services.

(7) A diagnosis or clinical impression shall be made using terminology established in the most current edition of the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders.

(8)(a) Direct **consultation**~~[contact]~~ between a provider or practitioner and a recipient shall be required for each service, except for a collateral service for a child under the age of twenty-one (21) years if the collateral service is in the child's plan of care.

(b) A service that does not meet the requirement in paragraph (a) of this subsection shall not be covered.

(9) A billable unit of service shall be actual time spent delivering a service in **an**~~[a face-to-face]~~ encounter.

(10) A service shall be:

- (a) Stated in the recipient's treatment plan;
- (b) Provided in accordance with the recipient's treatment plan;
- (c) Provided on a regularly scheduled basis, except for a screening or assessment; and

(d) Made available on a nonscheduled basis if necessary during a crisis or time of increased stress for the recipient.

(11) The following services or activities shall not be covered under this administrative regulation:

- (a) A behavioral health service provided to:
 - 1. A resident of:
 - a. A nursing facility; or
 - b. An intermediate care facility for individuals with an intellectual disability;
 - 2. An inmate of a federal, local, or state:
 - a. Jail;
 - b. Detention center; or
 - c. Prison; or
 - 3. An individual with an intellectual disability without documentation of an additional psychiatric diagnosis;
- (b) Psychiatric or psychological testing for another agency, including a court or school, that does not result in the individual receiving psychiatric intervention or behavioral health therapy from the independent provider;
- (c) A consultation or educational service provided to a recipient or to others;
- (d) Collateral outpatient therapy for an individual aged twenty-one (21) years or older;
- (e) A telephone call, an email, a text message, or other electronic contact that does not meet the requirements stated in the definition **for**~~of~~ telehealth established pursuant to KRS 205.510(16) and implemented pursuant to 907 KAR 3:170~~[face-to-face]~~;
- (f) Travel time;
- (g) A field trip;
- (h) A recreational activity;
- (i) A social activity; or
- (j) A physical exercise activity group.
- (12) A third party contract shall not be covered under this administrative regulation.

Section 4. Provision of Services. A~~[An]~~ RHC shall comply with the service provision requirements established by 42 C.F.R. 491.9.

Section 5. Immunizations. A~~[An]~~ RHC shall provide, upon request from a recipient, the following covered immunizations:

- (1) Diphtheria and tetanus toxoids and pertussis vaccine (DPT);
- (2) Measles, mumps, and rubella virus vaccine live (MMR);
- (3) Poliovirus vaccine, live, oral (any type(s)) (OPV); ~~or~~
- (4) Hemophilus B conjugate vaccine (HBCV);
- (5) Hepatitis A;
- (6) Meningococcal vaccines: ~~or~~
- (7) Meningococcal ACWY vaccine (MenACWY); or
- (8) **Any other vaccine that is recommended by the Advisory Committee on Immunization Practice (ACIP) vaccines.**

Section 6. Medical Necessity Requirement. To be covered pursuant to this administrative regulation, a service shall be:

- (1) Medically necessary for the recipient; and
- (2) Provided to a recipient.

Section 7. Noncovered Services. (1) The following services shall not be covered as rural health clinic services:

- (a) Services provided in a hospital as defined **by**~~[in]~~ 42 U.S.C. 1395x(e);
- (b) Institutional services;
- (c) Housekeeping, babysitting, or other similar homemaker services; **and**
- (d) Services **that**~~[which]~~ are not provided in accordance with restrictions imposed by law or administrative regulation.

(2) A third party contract shall not be covered under this administrative regulation.

Section 8. No Duplication of Service. (1) The department shall not reimburse for a service provided to a recipient by more than one (1) provider of any program in which the service is covered during the same time period.

(2) For example, if a recipient is receiving a service from an independent behavioral health service provider, the department shall not reimburse for the same service provided to the same

recipient during the same time period by a rural health clinic.

Section 9. Protection, Security, and Records Maintenance Requirements for All Services. (1)(a) A provider shall maintain a current health record for each recipient.

(b)1. A health record shall document each service provided to the recipient including the date of [the] service and [the] signature of the individual who provided the service.

2. The individual who provided the service shall date and sign the health record within seventy-two (72) hours of [on] the date that the individual provided the service.

(2)(a) Except as established in paragraph (b) of this subsection, a provider shall maintain a health record regarding a recipient for at least five (5) years from the date of the service or until any audit dispute or issue is resolved beyond five (5) years.

(b) If the secretary of the United States Department of Health and Human Services requires a longer document retention period than the period referenced in paragraph (a) of this subsection, pursuant to 42 C.F.R. 431.17, the period established by the secretary shall be the required period.

(3)(a) A provider shall comply with 45 C.F.R. Part 164.

(b) All information contained in a health record shall:

1. Be treated as confidential;
2. Not be disclosed to an unauthorized individual; and
3. If requested, be disclosed to an authorized representative of:
 - a. The department; or
 - b. Federal government.

(c)1. Upon request, a provider shall provide to an authorized representative of the department or federal government information requested to substantiate:

- a. Staff notes detailing a service that was rendered;
- b. The professional who rendered a service; and
- c. The type of service rendered and any other requested information necessary to determine, on an individual basis, if [whether] the service is reimbursable by the department.

2. Failure to provide information established [referenced] in subparagraph 1. of this paragraph shall result in denial of payment for any service associated with the requested information.

Section 10. Documentation and Records Maintenance Requirements for Behavioral Health Services. (1) The requirements in this section shall apply to health records associated with behavioral health services.

(2) A health record shall:

(a) Include:

1. An identification and intake record including:

- a. Name;
- b. Social Security number;
- c. Date of intake;
- d. Home (legal) address;
- e. Health insurance or Medicaid information;
- f. Referral source and address of referral source;
- g. Primary care physician and address;
- h. The reason the individual is seeking help including the presenting problem and diagnosis;

i. Any physical health diagnosis, if a physical health diagnosis exists for the individual, and information regarding:

(i) Where the individual is receiving treatment for the physical health diagnosis; and

(ii) The physical health provider; and

j. The name of the informant and any other information deemed necessary by the independent provider to comply with the requirements of:

- (i) This administrative regulation;
- (ii) The provider's licensure board;
- (iii) State law; or
- (iv) Federal law;

2. Documentation of the:

- a. Screening;
- b. Assessment;
- c. Disposition; and

d. Six (6) month review of a recipient's treatment plan each time a six (6) month review occurs;

3. A complete history including mental status and previous treatment;

4. An identification sheet;

5. A consent for treatment sheet that is accurately signed and dated; and

6. The individual's stated purpose for seeking services; and

(b) Be:

1. Maintained in an organized central file;

2. Provided [Furnished] to the Cabinet for Health and Family Services upon request;

3. Made available for inspection and copying by Cabinet for Health and Family Services' personnel;

4. Readily accessible; and

5. Adequate for the purpose of establishing the current treatment modality and progress of the recipient.

(3) Documentation of a screening shall include:

(a) Information relative to the individual's stated request for services; and

(b) Other stated personal or health concerns if other concerns are stated.

(4)(a) A provider's notes regarding a recipient shall:

1. Be made within seventy-two (72) [forty-eight (48)] hours of the reconciliation of the record of each service visit; and

2. Describe the:

- a. Recipient's symptoms or behavior, reaction to treatment, and attitude;
- b. Therapist's intervention;
- c. Changes in the treatment plan if changes are made; and
- d. Need for continued treatment if continued treatment is needed.

(b)1. Any edit to notes shall:

- a. Clearly display the changes; and
- b. Be initialed and dated.

2. Notes shall not be erased or illegibly marked out.

(c)1. Notes recorded by a practitioner working under supervision shall be co-signed and dated by the supervising professional providing the service.

2. If services are provided by a practitioner working under supervision, there shall be a monthly supervisory note recorded by the supervising professional reflecting consultations with the practitioner working under supervision concerning the:

- a. Case; and
- b. Supervising professional's evaluation of the services being provided to the recipient.

(5) Immediately following a screening of a recipient, the provider shall perform a disposition related to:

(a) An appropriate diagnosis;

(b) A referral for further consultation and disposition, if applicable; and

(c)1. Termination of services and referral to an outside source for further services; or

2. Termination of services without a referral to further services.

(6)(a) A recipient's treatment plan shall be reviewed at least once every six (6) months.

(b) Any change to a recipient's treatment plan shall be documented, signed, and dated by the rendering provider.

(7)(a) Notes regarding services to a recipient shall:

1. Be organized in chronological order;

2. Be dated;

3. Be titled to indicate the service rendered;

4. State a starting and ending time for the service; and

5. Be recorded and signed by the rendering provider and include the professional title (for example, licensed clinical social worker) of the provider.

(b) Initials, typed signatures, or stamped signatures shall not be accepted.

(c) Telephone contacts, family collateral contacts not covered under this administrative regulation, or other nonreimbursable contacts shall:

1. Be recorded in the notes; and
2. Not be reimbursable.

(8)(a) A termination summary shall:

1. Be required, upon termination of services, for each recipient

who received at least three (3) service visits; and

2. Contain a summary of the significant findings and events during the course of treatment including the:

a. Final assessment regarding the progress of the individual toward reaching goals and objectives established in the individual's treatment plan;

b. Final diagnosis of clinical impression; and

c. Individual's condition upon termination and disposition.

(b) A health record relating to an individual who terminated from receiving services shall be fully completed within ten (10) days following termination.

(9) If an individual's case is reopened within ninety (90) days of terminating services for the same or related issue, a reference to the prior case history with a note regarding the interval period shall be acceptable.

(10) If a recipient is transferred or referred to a health care facility or other provider for care or treatment, the transferring provider shall, if the recipient gives the provider written consent to do so, forward a copy or summary of the recipient's health record to the health care facility or other provider who is receiving the recipient.

(11)(a) If a provider's Medicaid program participation status changes as a result of voluntarily terminating from the Medicaid program, involuntarily terminating from the Medicaid program, a licensure suspension, or death of the provider, the health records of the provider shall:

1. Remain the property of the provider; and

2. ~~Comply with~~~~[Be subject to]~~ the retention requirements established in Section 9(2) of this administrative regulation.

(b) A provider shall have a written plan addressing how to maintain health records in the event of the provider's death.

Section 11. Medicaid Program Participation Requirements.

(1)(a) A participating RHC shall be currently:

1. Enrolled in the Kentucky Medicaid program in accordance with 907 KAR 1:672; and

2. Except as established in paragraph (b) of this subsection, participating in the Kentucky Medicaid program in accordance with 907 KAR 1:671.

(b) In accordance with 907 KAR 17:015, Section 3(3), a provider of a service to an enrollee shall not be required to be currently participating in the fee-for-service Medicaid program.

(2)(a) To be initially enrolled with the department, a[n] RHC shall:

1. Enroll in accordance with 907 KAR 1:672; and

2. Submit proof of its certification by the United States Department of Health and Human Services, Health Resources and Services Administration as a[n] RHC.

(b) To remain enrolled and participating in the Kentucky Medicaid program, a[n] RHC shall:

1. Comply with the enrollment requirements established in 907 KAR 1:672;

2. Comply with the participation requirements established in 907 KAR 1:671; and

3. Annually submit proof of its certification by the United States Department of Health and Human Services, Health Resources and Services Administration as a[n] RHC to the department.

(3) A[n] RHC that has been terminated from federal participation shall be terminated from Kentucky Medicaid program participation.

(4) A participating RHC and its staff shall comply with all applicable federal laws and regulations, state laws and administrative regulations, and local laws and regulations regarding the administration and operation of a[n] RHC.

(5)(a) If a[n] RHC receives any duplicate payment or overpayment from the department, regardless of reason, the provider shall return the payment to the department.

(b) Failure to return a payment to the department in accordance with paragraph (a) of this subsection may be:

1. Interpreted to be fraud or abuse; and

2. Prosecuted in accordance with applicable federal or state law.

Section 12. Third Party Liability. A provider shall comply with KRS 205.622.

Section 13. Use of Electronic Signatures. (1) The creation, transmission, storage, and other use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 ~~through~~~~to~~ 369.120.

(2) A provider that chooses to use electronic signatures shall:

(a) Develop and implement a written security policy that shall:

1. Be adhered to by each of the provider's employees, officers, agents, or contractors;

2. Identify each electronic signature for which an individual has access; and

3. Ensure that each electronic signature is created, transmitted, and stored in a secure fashion;

(b) Develop a consent form that shall:

1. Be completed and executed by each individual using an electronic signature;

2. Attest to the signature's authenticity; and

3. Include a statement indicating that the individual has been notified of his or her responsibility in allowing the use of the electronic signature; and

(c) Provide the department, immediately upon request, with:

1. A copy of the provider's electronic signature policy;

2. The signed consent form; and

3. The original filed signature.

Section 14. Auditing Authority. The department shall have the authority to audit any claim, medical record, or documentation associated with any claim or medical record.

Section 15. Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

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

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

Section 16. Appeals. (1) An appeal of an adverse action by the department regarding a service and a recipient who is not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

(2) An appeal of an adverse action by a managed care organization regarding a service and an enrollee shall be in accordance with 907 KAR 17:010.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING
OR RECEIPT OF WRITTEN COMMENTS

CABINET FOR HEALTH AND FAMILY SERVICES

Office of Inspector General

Division of Health Care

(Amended After Comments)

902 KAR 20:490. Rural emergency hospitals.

RELATES TO: KRS 2.015, 42 C.F.R. 485.500–485.546, 42 C.F.R. 485.618, 45 C.F.R. Part 160, Part 164, 42 U.S.C. 1320d-2 – 1320d-8

STATUTORY AUTHORITY: KRS 216B.042

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary for the proper administration of the licensure function, which includes establishing licensure standards and procedures to ensure safe, adequate, and efficient health facilities and health services. This administrative regulation establishes the minimum requirements for licensure as a rural emergency hospital.

Section 1. Definitions. "Rural emergency hospital (REH)" is defined by 42 C.F.R. 485.502 as an entity that:

(1) Operates for the purpose of providing emergency department services, observation care, and other outpatient medical and health services specified by the secretary of the U.S. Department of Health and Human Services in which the annual per patient average length of stay does not exceed twenty-four (24) hours; and

(2) Shall not provide inpatient services, except those furnished in a unit that is a distinct part licensed as a skilled nursing facility to furnish post-REH or post-hospital extended care services.

Section 2. Licensure.

(1) A facility shall be eligible to apply for a license as an REH if the facility **[is certified as an REH by the Centers for Medicare and Medicaid Services and]** was, as of December 27, 2020:

(a) Licensed as a critical access hospital pursuant to 906 KAR 1:110; or

(b) 1. Licensed as a general acute care hospital pursuant to 902 KAR 20:016;

2. Had fifty (50) or fewer beds; and

3. Was considered rural or treated as being located in a rural area in accordance with 42 C.F.R. 485.506(b) or (c).

(2) Except for beds the REH maintains in a distinct part unit licensed as a skilled nursing facility, the facility's inpatient beds shall be delicensed.

~~[(3) A facility that converts to an REH shall not be relicensed to operate as a critical access hospital or acute care hospital without first obtaining certificate of need.]~~

Section 3. Application and Fees.

(1) A facility that applies for initial licensure or annual renewal as an REH shall submit to the Office of Inspector General:

(a) A completed Application for Licensure to Operate a Rural Emergency Hospital; and

(b) An accompanying fee in the amount of \$1,000, made payable to the Kentucky State Treasurer.

(2) As a condition of annual renewal, the application required by subsection (1) of this section shall be submitted to the cabinet at least sixty (60) days prior to the date of expiration of the REH's licensure.

Section 4. Change of Status.

(1) An REH shall report a change of:

(a) Name or location in accordance with the requirements of 902 KAR 20:008, Section 3(3); or

(b) Ownership in accordance with the requirements of 902 KAR 20:008, Section 2(16).

(2) Failure to renew a license by the annual renewal date shall result in a late penalty pursuant to 902 KAR 20:008, Section 3(4).

Section 5. Services and Basic Requirements.

(1) An REH shall comply with applicable federal, state, and local laws and regulations pertaining to the operation of the facility, including compliance with 42 C.F.R. 485.506 – 485.546.

(2) An REH shall:

(a) Provide emergency department services and observation care, including compliance with the requirements of:

1. 42 C.F.R. 485.516; and

2. 42 C.F.R. 485.618 with respect to:

a. Twenty-four (24) hour availability of emergency services;

b. Equipment, supplies, and medication;

c. Blood and blood products;

d. Personnel; and

e. Coordination with emergency response systems;

(b) Provide basic laboratory services in accordance with 42 C.F.R. 485.518;

(c) Maintain, or have available, diagnostic radiologic services in accordance with 42 C.F.R. 485.520;

(d) Have pharmaceutical services that meet the needs of its patients in accordance with 42 C.F.R. 485.522; and

(e) In accordance with 42 C.F.R. 485.538, have in effect a transfer agreement with at least one (1) hospital that is a level I or level II trauma center for the referral and transfer of patients requiring emergency medical care beyond the capabilities of the REH.

(3) In accordance with 42 C.F.R. 485.524(a), an REH may provide outpatient and medical health diagnostic and therapeutic items and services that are commonly furnished in a physician's office or at another entry point into the health care delivery system, including:

(a) Therapeutic radiologic services;

(b) Laboratory services;

(c) Outpatient rehabilitation;

(d) Surgical services;

(e) Maternal health services; or

(f) Behavioral health services.

(4) An REH may provide skilled nursing facility services in a distinct part unit in accordance with 42 C.F.R. 485.546.

Section 6. Personnel. An REH shall assure that licensed personnel meet the applicable standards required by the appropriate professional licensing board and provide services within the applicable scope of practice.

Section 7. Patient Records.

(1) Ownership.

(a) Medical records shall be the property of the REH.

(b) The original medical record shall not be removed except by court order.

(c) Copies of medical records or portions thereof may be used and disclosed in accordance with the requirements established in this administrative regulation.

(2) Confidentiality and Security: Use and Disclosure.

(a) The REH shall maintain the confidentiality and security of patient records in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164, as amended, including the security requirements mandated by subparts A and C of 45 C.F.R. Part 164, or as provided by applicable federal or state law.

(b) The REH may use and disclose patient records. Use and disclosure shall be as established or required by HIPAA, 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164, or as established in this administrative regulation.

(c) An REH may establish higher levels of confidentiality and security than those required by HIPAA, 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164.

(d) Retention of records. After a patient's death or discharge, the completed medical record shall be placed in an inactive file and retained for at least:

1. Six (6) years; or
 2. Three (3) years after the patient reaches the age of majority in accordance with KRS 2.015, whichever is longer.
- (3) The REH shall:
- (a) Designate a specific location for the maintenance and storage of the agency's medical records;
 - (b) Have provisions for storage of medical records in the event the agency ceases to operate; and
 - (c) Safeguard the record and its content against loss, defacement, or tampering.

Section 8. Incorporation by Reference.

(1) The form, OIG-20:490, "Application for Licensure to Operate a Rural Emergency Hospital", December 2022 edition, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Inspector General, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be viewed on the Office of Inspector General's Web site at: <https://chfs.ky.gov/agencies/os/oig/dhc/Pages/lcapplications.aspx>. 902 KAR 20:490

ADAM MATHER, Inspector General
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: April 10, 2023

FILED WITH LRC: April 12, 2023 at 8:00 a.m.

CONTACT PERSON: Krista Quarles, Policy Specialist, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Kara Daniel; Stephanie Brammer-Barnes

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the minimum requirements for licensure as a rural emergency hospital (REH). REHs are a new provider type established by the Consolidated Appropriations Act of 2021. The REH designation provides an opportunity for critical access hospitals (CAHs) and certain rural hospitals to avert potential closure and continue to provide essential services for the communities they serve. Conversion to an REH allows for the provision of emergency services, observation care, and additional outpatient services, if elected by the REH, that do not exceed an annual per patient average of twenty-four (24) hours. Although REHs are prohibited from providing inpatient services, except those furnished in a unit that is a distinct part licensed as a skilled nursing facility to furnish post-REH or post-hospital extended care services, this level of care is intended to promote equity in health care for those living in rural communities by facilitating access to needed services.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the REH licensure category and require compliance with the federal Conditions of Participation established by 42 C.F.R. 485.500—485.546.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 216B.042 by establishing the minimum requirements for licensure as an REH.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing the minimum requirements for licensure as an REH.

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

(a) How the amendment will change this existing administrative regulation: This amended after comments regulation: 1. Clarifies that licensure as an REH shall be obtained prior to certification by

the Centers for Medicare and Medicaid Services (CMS); and 2. Deletes the requirement for an REH to obtain certificate of need approval prior to converting back to a critical access hospital or acute care hospital.

(b) The necessity of the amendment to this administrative regulation: This amended after comments regulation is necessary to clarify that licensure as an REH shall be obtained prior to certification from CMS.

(c) How the amendment conforms to the content of the authorizing statutes: This amended after comments regulation to the content of KRS 216B.042 by establishing the minimum requirements for licensure as an REH.

(d) How the amendment will assist in the effective administration of the statutes: This amended after comments regulation assists in the effective administration of the statutes by establishing the minimum requirements for licensure as an REH.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amended after comments regulation affects facilities seeking licensure and CMS certification as an REH in accordance with 42 C.F.R. 485.506. It is not known how many CAHs or rural hospitals will convert to an REH.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: In accordance with this administrative regulation, entities seeking licensure as an REH will be required to submit an initial and annual application to the cabinet with accompanying documentation. REHs will have to comply with the federal requirements established by 42 C.F.R. 485.500—485.546 as a condition of state licensure.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This administrative regulation establishes an initial and annual renewal fee of \$1,000. However, CAHs and other rural hospitals that convert to an REH already pay a higher licensure fee in accordance with 902 KAR 20:008, Section 3(2)(x) and (k) respectively.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): CAHs and rural hospitals that convert to an REH may avert potential closure and continue to provide essential services for the communities they serve.

(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 administrative regulation.

(b) On a continuing basis: There are no additional costs to the Office of Inspector General for implementation of this administrative regulation on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding used for the implementation and enforcement of the licensure function is from federal funds and state matching funds of general and agency appropriations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This administrative regulation establishes an initial and annual renewal fee of \$1,000. However, CAHs and other rural hospitals that convert to an REH already pay a higher licensure fee in accordance with 902 KAR 20:008, Section 3(2)(x) and (k) respectively.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation establishes an initial and annual renewal fee of \$1,000.

(9) TIERING: Is tiering applied? Tiering is not applicable as compliance with this administrative regulation applies equally to all entities regulated by it.

FISCAL NOTE

(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 rural emergency hospitals (REH) and the Cabinet for Health and Family Services, Office of Inspector General.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 216B.042 and 42 C.F.R. 485.500—485.546

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation establishes an initial and annual renewal fee of \$1,000. Because critical access hospitals (CAHs) and other rural hospitals that convert to an REH already pay licensure fees in accordance with 902 KAR 20:008, Section 3(2)(x) and (k) respectively, there is no increase in revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation establishes an initial and annual renewal fee of \$1,000. Because CAHs and other rural hospitals that convert to an REH already pay licensure fees in accordance with 902 KAR 20:008, Section 3(2)(x) and (k) respectively, there is no increase in revenue.

(c) How much will it cost to administer this program for the first year? There are no additional costs to the Office of Inspector General for implementation of this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? There are no additional costs to the Office of Inspector General for implementation of this administrative regulation 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:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? By discontinuing infrequently used inpatient beds, this administrative regulation will generate cost savings for CAHs and rural hospitals that convert to an REH.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? By discontinuing infrequently used inpatient beds, this administrative regulation will generate cost savings for CAHs and rural hospitals that convert to an REH.

(c) How much will it cost the regulated entities for the first year? This administrative regulation establishes an initial and annual renewal fee of \$1,000. However, CAHs and other rural hospitals that convert to an REH already pay a higher licensure fee in accordance with 902 KAR 20:008, Section 3(2)(x) and (k) respectively.

(d) How much will it cost the regulated entities for subsequent years? This administrative regulation establishes an initial and annual renewal fee of \$1,000. However, CAHs and other rural hospitals that convert to an REH already pay a higher licensure fee in accordance with 902 KAR 20:008, Section 3(2)(x) and (k) respectively.

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

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] It is not known how many entities will convert to an REH. However, CAHs and rural hospitals that discontinue infrequently used inpatient beds and convert to an REH may avert potential closure and continue to provide essential services for the communities they serve.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 42 C.F.R. 485.500—485.546, 42 C.F.R. 485.618, 45 C.F.R. Part 160, Part 164, 42 U.S.C. 1320d-2 – 1320d-8

(2) State compliance standards. KRS 216B.042

(3) Minimum or uniform standards contained in the federal mandate. 42 C.F.R. 485.500—485.546 establish the federal conditions of participation for the certification of rural emergency hospitals. In accordance with 42 C.F.R. 485.516, rural emergency hospitals must meet the critical access hospital requirements of 42 C.F.R. 485.618 for emergency services. 45 C.F.R. 160, 164, and 42 U.S.C. 1320d-2 – 1320d-8 establish the HIPAA privacy rules to protect individuals' medical records and other personal health information.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation does not impose requirements that are more strict than federal laws or regulations.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.

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](#).

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(Amendment)

301 KAR 6:001. Definitions for 301 KAR Chapter 6.

RELATES TO: KRS Chapter 235, 33 C.F.R. 175.15

STATUTORY AUTHORITY: KRS 235.280

NECESSITY, FUNCTION, AND CONFORMITY: KRS 235.280 requires the department to promulgate administrative regulations. This administrative regulation establishes definitions for terms used in 301 KAR Chapter 6. 46 U.S.C. Chapter 131 requires the state to comply specific elements of applicable federal laws and regulations which specify requirements for States RBS Program. 33 C.F.R. 175.13 defines wearable and throwable PFDs.

Section 1. Definitions.

- (1) "Adequate ventilation" means ventilation that met Boating Industry Association and U.S. Coast Guard requirements at the time the vessel was manufactured.
- (2) "Airborne device" means a kite, parachute, or similar device that holds a person aloft while towed behind a moving vessel.
- (3) "Class A" means vessels less than sixteen (16) feet in length.
- (4) "Class 1" means vessels sixteen (16) feet or over and less than twenty-six (26) feet in length.
- (5) "Class 2" means vessels twenty-six (26) feet or over and less than forty (40) feet in length.
- (6) "Class 3" means vessels forty (40) feet or more in length.
- (7) "Crossing" means a situation in which a vessel approaches another from an angle of 112.5 degrees or less from either side of the bow.
- (8) "Documented by the federal government" means a vessel that has been registered with, and issued official registration documents by, the United States Coast Guard.
- (9) "Idle speed" means the slowest possible speed at which maneuverability can be maintained.
- (10) "International diving flag" means a red flag with a white stripe running diagonally from an upper corner to the opposite lower corner.
- (11) "Length":
 - (a) Means the longest dimension of a boat measured along the centerline from the bow to the stern; and
 - (b) Does not mean the length including outboard motors, swim platforms, or similar attachments.
- (12) "Manually propelled racing vessel" means a racing shell, rowing scull, racing canoe, or racing kayak recognized by national or international racing associations for use in competitive racing, and not carrying or having been designed to carry equipment, except that which is solely for competitive racing.
- (13) "Overtaking" means a situation in which a faster vessel approaches a slower vessel from an angle of more than 112.5 degrees from either side of the bow of the slower vessel.
- (14) "Passing" means a situation in which vessels approach and pass each other from head on or nearly so.
- (15) "Personal Floatation Device or PFD" means any lifesaving device classified and approved by the regulations of the commandant of the U.S. Coast Guard.~~[(15) "Type I" means a personal flotation device:]~~
 - ~~[(a) Designed to turn an unconscious person in the water from a face-downward position to a vertical or slightly backward position; and~~
 - ~~(b) Having more than twenty (20) pounds of buoyancy.~~
 - (16) "Type II" means a personal flotation device:
 - (a) Designed to turn an unconscious person in the water from a face-downward position to a vertical or slightly backward position; and

- ~~(b) Having at least fifteen and one-half (15.5) pounds of buoyancy.~~
- ~~(17) "Type III" means a personal flotation device:~~
 - ~~(a) Designed to keep a conscious person in a vertical or slightly backward position; and~~
 - ~~(b) Having at least fifteen and one-half (15.5) pounds of buoyancy.]~~
- (16)[(18)] "Throwable personal flotation device" means a PFD designed to be thrown to someone in the water.~~[(Type IV" means a personal flotation device:~~
 - ~~(a) Designed to be thrown to a person in the water and not worn; and~~
 - ~~(b) Having at least sixteen and one-half (16.5) pounds of buoyancy.~~
- ~~(19) "Type V" means a special-use personal flotation device intended and approved by the U.S. Coast Guard for specific activities.]~~
- (17)[20] "Water skis" means rigid or inflatable skis, kneeboards, tubes, wakeboards, or similar devices.
- (18)[24] "Water skiing" means:
 - (a) The act of riding in or upon water skis while being towed behind a moving vessel or propelled by a boat's wake or while riding on or in a boat's wake directly behind a vessel that is underway; or
 - (b) Barefoot skiing.
- (19) "Wearable personal flotation device" means a PFD designed to be worn or otherwise attached to the body.

RICH STORM, Commissioner

APPROVED BY AGENCY: April 13, 2023

FILED WITH LRC: April 14, 2023 at 10:45 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 29, 2023, at 9:00 a.m., at KDFWR Administration Building, 1 Sportsman's Lane, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2023. 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: Jenny Gilbert, Legislative Liaison, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman's Lane, (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: It provides definitions for terms used in 301 KAR chapter 6.
 - (b) The necessity of the administrative regulation: The terms defined are not commonly understood or do not follow the commonly understood meaning of the terms.
 - (c) How does this administrative regulation conform to the authorizing statute: KRS 235.280 grants authority for the Commissioner, with approval of the Department of Fish and Wildlife Resources Commission, to promulgate regulations to govern the use of all waters of the state.
 - (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It provides

valuable details as to how terms will be interpreted in other regulations under 301 KAR Chapter 6.

(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 statutory authority is updated, changes are made to improve readability, and definitions are amended to address wearable and throwable PFDs.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to enhance safety for persons engaged in recreation upon the waters of the Commonwealth.

(c) How does the amendment conform to the authorizing statutes: It addresses the fair, reasonable, equitable, and safe use of the waters of the Commonwealth consistent with the dictates of KRS 235.280.

(d) How the amendment will assist in the effective administration of the statutes: It will specifically define the approved types of PFDs for recreational boating purposes.

(3) List the type and number of individuals, businesses, organizations or state and local governments that will be affected: All individuals utilizing the waters of the Commonwealth.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Individuals boating on the waters of the Commonwealth will have to comply with the PFD requirements within 301 KAR Chapter 6

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional costs will be incurred.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The amendments will increase safety of those participating in recreational boating activities upon the waters of the Commonwealth.

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

(a) Initially: There should be no additional initial costs to implement this amendment.

(b) On a continuing basis: There should be no additional continuing costs to implement this amendment.

(6) What is the source of funding to be used for implementation and enforcement of this administrative regulation: The Fish and Game 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 directly or indirectly increases any fees. This regulation does not establish any fees directly or indirectly.

(9) TIERING: Is tiering applied? Tiering is not applied as the definitions of the terms will be equally applicable to all individuals.

FISCAL NOTE

(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, Division of Law Enforcement.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 235.280

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties,

fire departments, or school districts) for the first year? This regulation will not generate 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 revenue.

(c) How much will it cost to administer this program for the first year? There will be no additional costs to administer the amendments 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 the amendments 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:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? n/a

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? n/a

(c) How much will it cost the regulated entities for the first year? n/a

(d) How much will it cost the regulated entities for subsequent years? n/a

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

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This regulation will not have a major economic impact.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. Title 46 U. S. C. Chapter 131, 33 C.F.R. 175.13

(2) State compliance standards. KRS 235

(3) Minimum or uniform standards contained in the federal mandate. § 175.13 Definitions. As used in this subpart: Personal flotation device or PFD means a device that is approved by the Commandant under 46 C.F.R. part 160. Throwable PFD means a PFD that is intended to be thrown to a person in the water. Wearable PFD means a PFD that is intended to be worn or otherwise attached to the body.

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

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. n/a

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

301 KAR 6:020. Boating safety equipment.

RELATES TO: KRS 235.205

STATUTORY AUTHORITY: KRS 235.200, 235.280, 33 C.F.R. 83, 46 C.F.R. 25

NECESSITY, FUNCTION, AND CONFORMITY: KRS 235.200 prohibits the operation of vessels without required equipment and authorizes the department to promulgate administrative regulations regarding this equipment. KRS 235.280 authorizes the department to promulgate administrative regulations to govern the fair, reasonable, equitable, and safe use of all waters of the state. This administrative regulation establishes the requirements for boating safety equipment in Kentucky. 33 C.F.R. 83 establishes the federal navigation requirements as they pertain to steering and sailing, lights and shapes, and sounds and light signs. 46 C.F.R. 25 establishes the federal safety requirements as they pertain to navigation and shipping vessels. This administrative regulation establishes the requirements for legal boating safety equipment in Kentucky.

Section 1. Engine Safety Equipment Requirements.

(1) Except as provided in subsection (2) of this section, a person shall not operate a vessel with an enclosed engine without effective U.S. Coast Guard-approved flame arresters on carburetors pursuant to 46 C.F.R. 25.

(2) A person may operate the following without flame arresters:

(a) An outboard engine; or

(b) A vessel with an engine completely open by design and not originally equipped with Underwriters Laboratory or U.S. Coast Guard-approved flame arresters pursuant to 46 C.F.R. 25.

(3) A person shall not operate a vessel without adequate ventilation of bilges, engine compartments, fuel compartments or other enclosures.

(4) A person shall not operate a vessel originally equipped with a carburetor drip pan without the drip pan in place and maintained in a functioning condition.

(5) A person shall not operate vessels whose bilges are not maintained free from oil or grease.

Section 2. Lighting Equipment.

(1) Between actual sunset and sunrise:

(a) Power driven boats less than sixty-five and six-tenths (65.6) feet in length whether operating or adrift, including sailboats operating under engine power, shall have:

1. Red and green sidelights. The red and green sidelights shall:

a. Have a red light indicating the port, or left side of the boat, and a green light indicating the starboard, or right side of the boat;

b. Be visible to another boat approaching from the side or head on;

c. Be visible from at least one (1) mile on a clear, dark night if the boat is less than thirty-nine and four tenths (39.4) feet in length; and

2. Either:

a. An all-around white light which shall be higher than the sidelights; or

b.

(i) A white masthead light that shines forward; and

(ii) A white stern light visible from the rear of the boat.

(b) An operator of a manually-powered vessel or sailboat less than twenty-two (22) feet, nine (9) inches in length shall:

1. Carry aboard and have immediately available for use a white light of sufficient intensity to illuminate the vessel and its occupants; and

2. Display the white light in time to prevent a collision from an approaching vessel.

(c) A person operating or responsible for a vessel anchored in a normal navigation channel or passageway shall display a white light visible in a 360 degree arc.

(2) Combination or separate red and green lights shall:

(a) Have an arc of visibility extending from dead ahead to 112.5 degrees on either side of the vessel;

(b) Show the red light on the port side, and the green light on the starboard side, of the vessel; and

(c) Be visible at a distance of at least one (1) mile on a dark night with clear atmosphere.

(3) White lights required by this section shall be visible at a distance of at least two (2) miles on a dark night with clear atmosphere.

(4) On a vessel under way between sunset and sunrise, an operator shall not display other lights which could be mistaken for the lights specified in this section.

Section 3. Signaling Devices.

(1) An operator of a Class 1 or larger vessel shall have on board a hand-, mouth-, or power-operated signaling device:

(a) Capable of producing a blast of two (2) seconds duration; and

(b) Audible for:

1. One-half (1/2) mile for Class 1 vessels.

2. One (1) mile for Class 2 vessels.

3. One and one-half (1-1/2) miles for Class 3 vessels.

(2) Nothing in this administrative regulation shall exempt a vessel from additional sound devices required by the U.S. Coast Guard pursuant to 33 C.F.R. 83.

Section 4. Personal Flotation Devices.

(1) Pursuant to 46 C.F.R. 25, an operator of a Class 1, 2, or 3 recreational vessel shall have on board a minimum of:

(a) One (1) wearable [Type I, Type II or Type III] personal flotation device for each person on board the vessel; and

(b) Except for canoes or kayaks, one (1) throwable [Type IV] personal flotation device per vessel.

(2) An operator of a Class A recreational vessel shall have on board for each person a minimum of one (1) wearable personal flotation device. [.]

~~[(a) Type I;~~

~~(b) Type II; or~~

~~(c) Type III personal flotation device.]~~

(3) Each wearable[A] personal flotation device shall be:

(a) Approved by the U.S. Coast Guard pursuant to 46 C.F.R. 25; ~~and~~

~~(b) In good and serviceable condition; [-]~~

~~[(4) A Type I, II, or III personal flotation device shall be:]~~

~~(c)[(a)] Of appropriate size for the wearer; [and]~~

~~(d)[(b)] Readily accessible; [-]~~

~~(e) Used in accordance with any requirements on the approval label; and~~

~~(f) Used in accordance with any requirements in its owner's manual if the approval label refers to such a manual.~~

~~[(4)][(5)] A throwable[Type IV] personal flotation device shall be immediately available for use.~~

~~[(5)][(6)] The following shall be exempt from the personal flotation device requirements of this section:~~

~~(a) Manually propelled racing vessels; or~~

~~(b) Sailboards.~~

~~[(7) An operator may substitute a Type V personal flotation device for another required personal flotation device, if the Type V device:~~

~~(a) Is approved by the U.S. Coast Guard for the type of vessel and activity in which the vessel is being used pursuant to 46 C.F.R. 25; and~~

~~(b) Is being used according to the approved conditions on the label.]~~

Section 5. Fire Extinguishers.

(1) Pursuant to 46 C.F.R. 25, an operator of a vessel which contains either butane gas, propane gas, kerosene, gasoline, or a petroleum-consuming device shall have the following on board:

(a) For a Class A or Class 1 vessel, one (1) B-1 fire extinguisher;

(b) For a Class 2 vessel:

1. With fixed systems, one (1) B-1 fire extinguisher;
 2. Without fixed systems, two (2) B-1 fire extinguishers;
- (c) For a Class 3 vessel with fixed systems:

1. Two (2) B-1 fire extinguishers; or
 2. One (1) B-2 fire extinguisher; or
- (d) For a Class 3 vessel without fixed systems:

1. Three (3) B-1 fire extinguishers; or
2. One (1) B-1 and one (1) B-2 fire extinguisher.

(2) An operator shall:

- (a) Maintain fire extinguishers in workable condition; and
- (b) Have fire extinguishers available for immediate and effective use.

Section 6. An operator shall not display flashing, rotating, or oscillating red lights on a vessel except for a vessel operated:

(1) For the purpose of firefighting or rescue by the U.S. Coast Guard;

- (2) By the Commonwealth of Kentucky;
- (3) By a county government;
- (4) By a city government; or
- (5) By another government agency.

Section 7. Vessels Without Required Safety Equipment.

(1) If a department conservation officer observes a vessel operating without the safety equipment established in this administrative regulation, the operator may be directed to take whatever immediate and reasonable steps are necessary to correct the deficiency, including returning to a mooring until the situation creating the unsafe condition is corrected.

(2) If a vessel is directed to return to a mooring, the officer may affix a notice to the vessel:

- (a) Indicating the nature of the unsafe condition; and
- (b) Requiring its correction before the vessel is further operated.

RICH STORM, Commissioner

APPROVED BY AGENCY: April 13, 2023

FILED WITH LRC: April 14, 2023 at 10:45 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 29, 2023, at 10:00 a.m., at KDFWR Administration Building, 1 Sportsman's Lane, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2023. 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: Jenny Gilbert, Legislative Liaison, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman's Lane, (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: It provides specific requirements for safety equipment and usage while on Kentucky waterways as regulated by 301 KAR chapter 6.

(b) The necessity of the administrative regulation: To educate the public on the necessary safety equipment needed for recreational activity on waterways.

(c) How does this administrative regulation conform to the authorizing statute: KRS 235.280 grants authority for the Commissioner, with approval of the Department of Fish and Wildlife Resources Commission, to promulgate regulations to govern the use of all waters of the state.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It provides valuable details as to how terms will be interpreted, and equipment required on vessels regulated under 301 KAR Chapter 6.

(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 statutory authority is updated, changes are made to improve readability, and definitions are amended to address PFDs.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to enhance safety for persons engaged in recreation upon the waters of the Commonwealth.

(c) How does the amendment conform to the authorizing statutes: It addresses the fair, reasonable, equitable, and safe use of the waters of the Commonwealth consistent with the dictates of KRS 235.280.

(d) How the amendment will assist in the effective administration of the statutes: It will specify approved safety equipment (PFDs) for those participating in recreational boating activities.

(3) List the type and number of individuals, businesses, organizations or state and local governments that will be affected: All individuals utilizing the waters of the Commonwealth.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Individuals engaged in recreational boating activities will have to comply with these PFD requirements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional costs will be incurred.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The amendments will increase safety of those participating in recreational boating activities upon the waters of the Commonwealth.

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

(a) Initially: There should be no additional initial costs to implement this amendment.

(b) On a continuing basis: There should be no additional continuing costs to implement this amendment.

(6) What is the source of funding to be used for implementation and enforcement of this administrative regulation: The Fish and Game 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 directly or indirectly increases any fees. This regulation does not establish any fees directly or indirectly.

(9) TIERING: Is tiering applied? Tiering is not applied as the definitions of the terms will be equally applicable to all individuals.

FISCAL NOTE

(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, Division of Law Enforcement.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 235.280

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

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

(c) How much will it cost to administer this program for the first year? There will be no additional costs to administer the amendments 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 the amendments 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:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? n/a

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? n/a

(c) How much will it cost the regulated entities for the first year? n/a

(d) How much will it cost the regulated entities for subsequent years? n/a

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

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This regulation will not have a major economic impact.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. Title 46 U. S. C. Chapter 131, 33 C.F.R. 175.15

(2) State compliance standards. KRS 235

(3) Minimum or uniform standards contained in the federal mandate. 33 C.F.R. § 175.15 Personal flotation devices required. Except as provided in §§ 175.17 and 175.25:

(a) No person may use a recreational vessel unless -

(1) At least one wearable PFD is on board for each person;

(2) Each PFD is used in accordance with any requirements on the approval label; and

(3) Each PFD is used in accordance with any requirements in its owner's manual, if the approval label makes reference to such a manual.

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

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. n/a

JUSTICE AND PUBLIC SAFETY CABINET Internal Investigations Branch (Amendment)

500 KAR 3:010. Definitions.

RELATES TO: KRS 61.360

STATUTORY AUTHORITY: KRS 15A.160

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.160

authorizes the secretary of the Justice and Public Safety Cabinet to promulgate administrative regulations in accordance with KRS Chapter 13A and direct proceedings and actions for the administration of all laws and functions which are vested in the cabinet, except laws and functions vested in the Department for Public Advocacy. KRS 61.360 authorizes the Governor or the Governor's agent to appoint Special Local Peace Officers. This administrative regulation establishes definitions for~~[defines terms used in]~~ 500 KAR Chapter 3 regulating commissions for Special Local Peace Officers~~[which pertain to the administration of KRS 61.360, "The Special Local Peace Officer Act", by the Governor or his designee].~~

Section 1. Definitions.

(1) "Cabinet" means the Justice and Public Safety Cabinet as defined by KRS 61.900(3).

(2) "Commission" means a commission issued to an individual by the Secretary of the Justice and Public Safety Cabinet, entitling the individual to perform special local peace officer duties on specific private property.

(3) "Private property" means specific, identified real property currently owned by an individual or entity~~[- company, or agency]~~ in the Commonwealth of Kentucky.

(4) "Property owner" means:

(a) The individual in the Commonwealth of Kentucky seeking appointment of a commission of a special local peace officer to protect the premises of a specific, identified private property that he or she owns; or

(b) A duly authorized agent or officer of an entity seeking appointment of a commission of a special local peace officer to protect the premises of a specific, identified private property owned by an entity rather than a person ["SLPO" means Special Local Peace Officer].

(5) "SLPO Act" means the Kentucky Revised Statutes cited in 500 KAR 3:020, Section 2(7)(a).

(6) "SLPO program administrator" means the person designated or~~[administrator]~~ appointed by the Secretary of the ~~[Justice]~~cabinet to administer the Special Local Peace Officer Program whose address is: SLPO Program Administrator, Justice and Public Safety Cabinet, Internal Investigations Branch ("IIB"), 125 Holmes Street, Frankfort, Kentucky 40601.

(7)[(6)] "Special local peace officer," or "SLPO" means an officer described in and appointed pursuant to~~[one who meets the requirements of]~~ KRS 61.360 and whose duties include:

(a) The protection of specific private property from intrusion, entry, larceny, vandalism, abuse, waste, or trespass;

(b) The prevention, observation or detection of, or apprehension for, unlawful activity on specific private property~~[premises]~~;

(c) The control of the operation and parking of motor vehicles, bicycles, and other vehicles, and the movement of pedestrian traffic on specific private property; and

(d) The answering of any intrusion alarm on specific private property.

KERRY HARVEY, Secretary

APPROVED BY AGENCY: March 16, 2023

FILED WITH LRC: March 21, 2023 at 12:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 26, 2023, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their

intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2023. 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: Nathan Goens, Attorney, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8216, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Nathan Goens

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation defines terms used in 500 KAR Chapter 3, which regulates commissions for special local peace officers.

(b) The necessity of this administrative regulation: This regulation is necessary for the efficient administration of the Special Local Peace Office Act.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The authorizing statutes permit the secretary of the Justice and Public Safety Cabinet to promulgate administrative regulations in accordance with KRS Chapter 13A and direct proceedings and actions for the administration of all laws and functions which are vested in the cabinet, except laws and functions vested in the Department for Public Advocacy. KRS 61.360 authorizes the Governor or the Governor's agent to appoint Special Local Peace Officers.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation provides definitions for the chapter.

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

(a) How the amendment will change this existing administrative regulation: The amendment provides additional definitions to assist property owners wishing to employ a commission SLPO.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to provide clarification to property owners wishing to employ a commission SLPO.

(c) How the amendment conforms to the content of the authorizing statutes: The authorizing statutes permit the secretary of the Justice and Public Safety Cabinet to promulgate administrative regulations in accordance with KRS Chapter 13A and direct proceedings and actions for the administration of all laws and functions which are vested in the cabinet, except laws and functions vested in the Department for Public Advocacy. KRS 61.360 authorizes the Governor or the Governor's agent to appoint Special Local Peace Officers.

(d) How the amendment will assist in the effective administration of the statutes: The amendment provides additional definitions to clarify the chapter.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects any private property owner wishing to employ an SLPO, those individuals seeking commission as a SLPO, and the Internal Investigations Branch in its investigation of SLPO commissions.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The regulated entities will need to follow the new definitions.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Additional cost is not anticipated.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The chapter is more clear.

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

(a) Initially: An increase in cost is not anticipated.

(b) On a continuing basis: An increase in cost is not anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funds budgeted for the biennium.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees or funding is not anticipated.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The amendment does not create or increase any fee.

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

FISCAL NOTE

(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 Internal Investigations Branch in its investigation of SLPO commissions.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 15A.160, 61.360

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? Revenue is generated by the fee in the statute and is not generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Revenue is generated by the fee in the statute and is not generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? Costs are not associated with this administrative regulation establishing definitions.

(d) How much will it cost to administer this program for subsequent years? Costs are not associated with this administrative regulation establishing definitions.

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:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? Cost savings are not anticipated.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? Cost savings are not anticipated.

(c) How much will it cost the regulated entities for the first year? The regulation does not increase costs from what is budgeted for the biennium.

(d) How much will it cost the regulated entities for subsequent years? An increase in costs is not anticipated.

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

regulation.

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] A major economic impact is not anticipated.

JUSTICE AND PUBLIC SAFETY CABINET
Internal Investigations Branch
(Amendment)

500 KAR 3:020. Filing and processing SLPO commissions.

RELATES TO: KRS 61.300, 61.360, 61.990, 62.010, 62.990

STATUTORY AUTHORITY: KRS 15A.160

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.160 authorizes the secretary of the Justice and Public Safety Cabinet to promulgate administrative regulations in accordance with KRS Chapter 13A and direct proceedings and actions for the administration of all laws and functions which are vested in the cabinet, except laws and functions vested in the Department for Public Advocacy. KRS 61.360 authorizes the Governor or the Governor's[his] agent to appoint Special Local Peace Officers. This administrative regulation establishes the criteria and procedure for applying for a commission as a Special Local Peace Officer.

Section 1. Qualifications to Apply for Commission as a Special Local Peace Officer. To qualify for a commission as a SLPO, an applicant shall present satisfactory evidence of compliance with the conditions and requirements established in KRS 61.360.

Section 2. Application for Commission and renewal of Commission as a Special Local Peace Officer. Applications from the property owner for an initial SLPO commission for a SLPO applicant shall be sent to the [cabinet]-SLPO program administrator and shall comply with the following requirements:

(1) An applicant shall meet [all of]the requirements of KRS 61.360 before a commission is granted. An applicant who qualifies may hold additional commissions for different property locations.

(2) The applicant shall complete two (2) notarized "SLPO Application Candidate Information (SLPO-1)" forms, which shall include the following:

(a) The name of the property owner;

(b) The name, address, date of birth, and Social Security number of the applicant and a detailed personal description;

(c) A certified copy of the applicant's birth certificate;

(d) Two (2) photographs of the applicant, which shall be:

1. Full face;

2. At least three (3) inches by five (5) inches in size; and

3. Taken within thirty (30) days prior to submission of the application;

(e) A copy of the applicant's military discharge or Form DD-214, if the applicant is a veteran;

(f) The signature of the property owner;

(g) A statement of all arrests and convictions, including traffic offenses committed within the past ten (10) years, violations, misdemeanors, or felonies; and

(h) The notarized signature of the applicant.

(3) The ten (10) dollar application fee shall be:

(a) Submitted with the application form;

(b) Nonrefundable; and

(c) Submitted by check or money order made payable to the Kentucky State Treasurer.

(4) Submission of any false or misleading information or the withholding of information requested on the application or by the cabinet investigator may be grounds for rejection without further

consideration.

(5) ~~[If not on file from a previous application,]~~An applicant shall be fingerprinted by an approved vendor. The property owner or applicant shall contact the SLPO program administrator for information related to an approved vendor[at the AFIS Section, Kentucky State Police, 1250 Louisville Road, Frankfort, Kentucky 40604].

(6) The application shall also contain the Authority to Release Information Form (SLPO-4) to allow the release of all necessary information to the SLPO program administrator. It shall be signed by the applicant and notarized or may be witnessed by the SLPO program administrator or SLPO program administrator's designee[a cabinet official].

(7) The applicant shall also sign the SLPO Acknowledgment Notice Form (SLPO-5), which indicates that the applicant:

(a) ~~[He has]~~Received, read, and understands:

1. KRS 61.300;

2. KRS 61.360;

3. KRS 61.991;

4. KRS 62.010;

5. KRS 62.990; and

6. The administrative regulations in 500 KAR Chapter 3;

(b) ~~[He]~~Acknowledges that the applicant's[his] authority is limited and restricted under the SLPO Act, cited in paragraph (a) of this subsection[; and

~~(c) He understands and acknowledges that his commission as a SLPO does not give him the right or authority to carry a concealed weapon off the premises of the said property, unless he holds a license to carry a concealed deadly weapon issued pursuant to KRS 237.140].~~

(8) A Letter of Intent Form (SLPO-3) shall be filed with each application by the property owner giving the name of applicant and the specific private property to be protected. If the property is owned by more than one person or entity, a single property owner may file. This letter shall accompany the application forms for an initial SLPO [initial]-application and renewal application[or renewals].

(9) A copy of or information to identify the bond issued as required by KRS 61.360.

(10) The applicant shall arrange for an interview with the SLPO program administrator or assigned cabinet investigator.

(11)~~[(10)]~~ If the application is incomplete, or otherwise defective or in conflict with the SLPO Act, cited in subsection (7)(a) of this section or 500 KAR Chapter 3, the application shall be returned to the property owner. An application may be corrected and resubmitted at no additional cost if it is resubmitted within sixty (60) days of the date the property owner[applicant] is sent notice of the deficiencies by the SLPO program administrator.

(12) In the case of a SLPO commission renewal, the process outlined for an initial SLPO commission shall be followed. However, in lieu of two (2) SLPO 1 Forms, two (2) complete, signed, and notarized SLPO Renewal Application Forms (SLPO-7) for each applicant shall be filed with the SLPO program administrator at least sixty (60) days before the expiration date of the existing commission.

Section 3. The Grant of the Commission and the Required Oath of Office. A commission for a SLPO[special local peace officer] shall be validated and granted as follows:

(1) If the applicant has successfully satisfied the requirements of the statutes cited in Section 2(7)(a) of this administrative regulation, a commission certificate [and a Special Local Peace Officer Recommendation of Background Investigator (SLPO-2) form]-shall be forwarded by the SLPO program administrator to the secretary or the secretary's designee for review. After the commission is issued by the secretary or the secretary's designee, a copy of the commission shall be placed in the SLPO's[officer's] file.

(2) If a commission is granted:

(a) The commission, one (1) application, and two (2) County Clerk Oath forms (SLPO-6) shall be forwarded by the cabinet to the property owner.

(b) The appointed applicant shall promptly take the application

and the two (2) County Clerk Oath forms to the county clerk in the county where the applicant is to serve and shall take the constitutional oath of office within thirty (30) days after notice of appointment.

(c) The county clerk shall then complete and sign the clerk's attestation on both County Clerk Oath forms and retain the application and one (1) of the County Clerk Oath forms for filing purposes in the county clerk's office.

(d) The applicant shall return the second County Clerk Oath form signed by the county clerk to the property owner.

(e) The property owner shall then return the second County Clerk Oath form to the ~~[cabinet]~~SLPO program administrator to indicate that the oath was administered and that the application and one (1) of the County Clerk Oath forms are filed with the county clerk.

(f) The property owner shall be allowed thirty (30) days to arrange for the appointed applicant to take the oath of office and return the second County Clerk Oath form ~~[is]~~to the ~~[cabinet]~~ SLPO program administrator. If the County Clerk Oath form not returned within thirty (30) days, the commission shall be revoked in accordance with KRS 62.010 and 62.990.

(g) The commission certificate shall be kept by the property owner so long as the SLPO[officer] is employed or until the SLPO's[his] authority is terminated by the expiration of the commission term or action of the property owner, the ~~[cabinet]~~ secretary, or the [cabinet]-secretary's designee.

(3) A SLPO Commission shall be issued for a period of two (2) years, if the SLPO[officer] continues to meet all statutory and regulatory criteria.

(4) After the SLPO[officer] has taken the constitutional oath of office, the property owner shall issue an identification card that shall be carried by the SLPO[officer] whenever the SLPO[he] is acting under the authority of KRS 61.360. The identification card shall be presented as required by any duly sworn peace officer or cabinet official and is subject to control by the cabinet. ~~[If for any reason a SLPO officer is terminated or otherwise relieved of his duties as a SLPO officer by the property owner or the cabinet, he shall immediately return this identification card to the officer's property owner.]~~The identification card shall be:

(a) Encased in plastic;

(b) Billfold size 2 1/4 inches x 3 1/2 inches;

(c) Composed as follows:

1. One (1) side containing the following language: "The holder of this card has been commissioned as a Special Local Peace Officer (SLPO), pursuant to KRS 61.360. As a SLPO, the holder of this card is deemed to be a peace officer within the meaning of KRS 527.020 and may exercise the limited powers of a peace officer granted by KRS 61.360"; and

2. The other side containing a full-faced photograph of the SLPO and:

a. The SLPO's name;

b. An identification or notation that the SLPO has been commissioned as a "Special Local Peace Officer";

c. The name and signature of the property owner employing the SLPO; and

d. The SLPO's badge number, if any; and

3. Immediately returned to and destroyed by the property owner employing the SLPO if for any reason the SLPO is terminated or otherwise relieved of the duties of a SLPO by the property owner or the SPLO's commission is terminated by the cabinet. It shall be the responsibility of the property owner to obtain and destroy the identification card from any SLPO whose employment or commission is terminated.

(5) A notice shall be forwarded to the property owner concerning any SLPO[officer] whose appointment has been suspended or revoked by the secretary or the secretary's designee. The property owner shall maintain current files and make renewal applications at least sixty (60) days prior to the commission's expiration date.

(6) The applicant shall not exercise the authority of a SLPO until the property owner has received the commission certificate from the cabinet.

(7) The SLPO commission certificate shall be held by the

property owner and shall be available for inspection by the SLPO[cabinet] program administrator or SLPO program administrator's[his] designee. The commission certificate remains the property of the cabinet and is to be returned upon the SLPO[s[officer's]] authority being withdrawn for any reason.

Section 4. Denial of an Application.

(1) If an application for commission as a SLPO is denied, within thirty (30) days of the determination, the SLPO program administrator shall serve upon the applicant a letter setting forth the basis of the SLPO program administrator's determination.

(2) The applicant and property owner may appeal the determination [in accordance with KRS Chapter 13B] within thirty (30) days of the date of the written notice that the application has been denied. An appeal shall be filed:

(a) In writing with the secretary or the secretary's designee; and

(b) Set forth the basis of the appeal [Within thirty (30) days of the date of the written notice that the application has been denied].

(3) Within thirty (30) days of receipt of a written appeal, the secretary or secretary's designee:

(a) May request additional information from the applicant, property owner, and the SLPO program administrator;

(b) Shall consider the information provided by the applicant, property owner, and SLPO program administrator; and

(c) Shall provide a written decision setting forth the factual basis in support of the determination.

(4)[(2)] An applicant who is denied a commission shall not submit another SLPO application for at least one (1) year.

Section 5. ~~[Renewals. A Letter of Intent Form (SLPO-3) from the property owner stating a request to renew a commission and two (2) complete signed and notarized SLPO Renewal Application Forms (SLPO-7) for each applicant involved shall be filed with the cabinet program administrator at least sixty (60) days before the expiration date of the existing commission. The applicant for renewal shall undergo a new background investigation to bring his records up-to-date.~~

Section 6. ~~[Records, Reports and Responsibility. [Each property owner employing SLPO officers shall keep his files current as to the expiration date on each officer's commission and as follows:]~~

(1) The property owner shall maintain a file for each SLPO that includes:

(a) The SLPO's commission certificate;

(b) The expiration date of the SLPO's commission;

(c) A copy of the identification card issued to the SLPO;

(d) Any complaint concerning the SLPO with the results of the investigation; and

(e) A copy of or information to identify the bond issued as required by KRS 61.360[keep the individual officer's commission certificates on file, to be returned to the cabinet upon termination of the officer's employment].

(2) The property owner shall post a copy of 500 KAR Chapter 3 and a copy of KRS 61.360 and 61.990 in a conspicuous location in any office or building that is designated security headquarters for persons operating as SLPOs[SLPO officers].

(3) Complaints or unusual incidents involving a SLPO[SLPO officers] shall be handled by the property owner whose private property is being protected by the SLPO [officer] involved. However, the property owner shall notify the ~~[cabinet]~~SLPO program administrator by direct verbal communication within twenty-four (24) hours of any reported incident involving any act as enumerated in KRS 61.360(1)(c) by any of its SLPOs[SLPO officers]. A written report shall be filed with the SLPO program administrator, within thirty (30) days of the original oral report, stating the details of the incident and listing any action taken by the property owner. If formal charges are pending, the property owner shall advise the SLPO program administrator as to all specific charges, trial dates, and the final disposition of all charges.

(4) The property owner shall mail or e-mail to the SLPO program administrator by June 30 of each year:

- (a) A current list of all active SLPO personnel; and
- (b) The number of arrests made or citations issued by the SLPO the previous calendar year.

~~[(5) The property owner shall issue each SLPO officer an identification card upon the individual's appointment. The identification card shall be:~~

- ~~(a) Encased in plastic;~~
- ~~(b) Billfold size 2 1/4 in. x 3 1/2 in.; and~~
- ~~(c) Composed as follows:~~

~~1. One (1) side containing the following language: "The holder of this card has been commissioned as a Special Local Peace Officer (SLPO), pursuant to KRS 61.360. As a SLPO, the holder of this card is deemed to be a peace officer within the meaning of KRS 527.020 and may exercise the limited powers of a peace officer granted by KRS 61.360"; and~~

~~2. The other side containing a full-faced photograph of the officer with his or her:~~

- ~~a. Name;~~
- ~~b. Identification or notation that the officer has been commissioned a "Special Local Peace Officer";~~
- ~~c. Property owner employing the officer;~~
- ~~d. Badge number, if any; and~~
- ~~e. Signature of the officer's property owner.~~

~~(6) The property owner shall be responsible for obtaining and destroying the identification card from any officer whose employment is terminated.]~~

~~[(7)] If the bond required by KRS 61.360 is cancelled or revoked, the property owner shall notify the cabinet of this fact and the reason for cancellation or revocation.~~

Section 6.[Section 7.] Violations. A property owner utilizing SLPO's shall be subject to inspection and investigation by the cabinet or SLPO program administrator for possible violations, which may include the inspection and investigation of all files related to any SLPO commission maintained by the property owner. Violations may result in prosecution and recommendation to the secretary or the secretary's designee that the commission affected be revoked.

Section 7.[Section 8.] Revocation or Suspension of SLPO Commissions.

(1) ~~If [it is determined by] the SLPO program administrator determines that a disqualifying factor in KRS 61.360(1) of the SLPO Act applies to a commissioned SLPO[an active SLPO commissioned officer], the SLPO program administrator shall notify the secretary or the secretary's designee who shall revoke or suspend the commission of the SLPO[any special local peace officer], after an administrative hearing conducted in accordance with KRS Chapter 13B, if the secretary or the secretary's designee[he] determines:~~

- ~~(a) That the SLPO[commission-holder] does not meet, or no longer meets the requirements and conditions for the commission;~~
- ~~(b) That the SLPO[commission-holder] has knowingly falsified an application or portion thereof, or has knowingly made any false or misleading statement of a material fact to the cabinet; or~~
- ~~(c) That the SLPO[commission-holder] has violated any of the Kentucky Revised Statutes or administrative regulations cited in Section 2(7)(a) of this administrative regulation, or order of the secretary or the secretary's designee.~~

(2) Upon revocation or suspension the SLPO program administrator shall notify the property owner involved to return the commission of the SLPO [officer-involved to the SLPO program administrator~~for the cabinet~~]. The property owner responsible for the SLPO [officer] shall forward a letter to the SLPO [officer] involved stating that the SLPO's[his] commission has been revoked or suspended and that the SLPO[he] shall immediately return the SLPO identification card to the property owner.

(3) The secretary or the secretary's designee may temporarily suspend the commission of an SLPO prior to holding a hearing pursuant to KRS Chapter 13B if the secretary or the secretary's designee[he] believes that the safety of the public requires that action. If a commission is temporarily suspended prior to holding a hearing pursuant to KRS Chapter 13B, the secretary or the

secretary's designee shall hold a KRS Chapter 13B hearing not later than thirty (30) days from the date of the temporary suspension unless the SLPO requests an extension for a time certain. If the SLPO requests an extension for a time certain, then the commission shall remain suspended until the conclusion of the hearing.

(4) The SLPO program administrator shall notify the county clerk in the SLPO's[officer's] county of jurisdiction if a SLPO's[SLPO officer's] commission has been surrendered, suspended, or revoked.

Section 8.[Section 9.] Procedures for Investigating Complaints or Unusual Incidents Involving a SLPO-[Officers].

(1) Complaints or unusual incidents involving a SLPO [officers] shall be handled by the property owner whose private property is being protected by the SLPO [officer-involved]. The property owner shall notify the cabinet of all incidents involving their SLPO personnel as indicated in Section 5[6] of this administrative regulation.

(2) The SLPO[cabinet] program administrator or other assigned investigator[officers] may investigate any complaints or unusual incidents involving a SLPO [officer-] if there is reason to believe the provisions of KRS 61.360 or other applicable laws have been violated and an investigation is necessary.

(3) Any investigation conducted by the cabinet shall become part of the official record of the SLPO [officer-involved].

Section 9.[Section 10.] Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "SLPO Application Candidate Information Form (SLPO-1)", 2023[July 1, 2010];
- (b) ~~["Special Local Peace Officer Recommendation of Background Investigator Form (SLPO-2)", May 8, 2008;]~~
- ~~[(c)] "Letter of Intent Form (SLPO-3)", 2023[July 28, 2008];~~
- ~~[(d)] "Authority to Release Information Form (SLPO-4)", 2023[July 28, 2008];~~
- ~~[(e)] "SLPO Acknowledgment Notice Form (SLPO-5)", 2023[April 29, 2009];~~
- ~~[(f)] "County Clerk Oath" Form (SLPO-6), 2023[July 1, 2010]; and~~
- ~~[(g)] "SLPO Renewal Application Form (SLPO-7)" 2023[July 1, 2010].~~

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be viewed on the Justice and Public Safety Cabinet Web site in the SLPO area at <https://justice.ky.gov/Departments-Agencies/iib/Pages/sleo.aspx> or <https://justice.ky.gov/about/pages/lrcfilings.aspx>.

KERRY HARVEY, Secretary

APPROVED BY AGENCY: March 21, 2023 at 12:30 p.m.

FILED WITH LRC: March 16, 2023

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 26, 2023, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until June 30, 2023. 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: Nathan Goens, Attorney, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8216, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Nathan Goens

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the procedure for applying for a commission as a Special Local Peace Officer (SLPO).

(b) The necessity of this administrative regulation: Provides an administrative process to approve SLPO commission applications.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 61.630 allows the Governor or his agent (Secretary) to approve and issue SLPO commissions.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation provides details regarding the SLPO commission application and approval process.

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

(a) How the amendment will change this existing administrative regulation: The amendment adds a definitions section to the regulation. It also updates language throughout to reflect gender-neutral references.

(b) The necessity of the amendment to this administrative regulation: The addition of definitions is necessary to provide clarity to the SLPO commission application and approval process.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 15A.160 authorizes the secretary of the Justice and Public Safety Cabinet to promulgate regulations. KRS 61.360 authorizes the Governor or his agent to appoint SLPOs.

(d) How the amendment will assist in the effective administration of the statutes: The amendment streamlines the SLPO commission application and approval process.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The regulation will affect property owners who need a SLPO on premises as well as SLPO applicants.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The entities will have to complete the application process set forth 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): The fees associated with the SLPO application process are established by statute (KRS 61.360) and are not imposed by the regulation. A \$10 fee is required to apply to be a SLPO.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The SLPO commission approval process will be improved.

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

(a) Initially: There are nominal costs associated with implementation of this regulation, which is a part of the budget for the Justice and Public Safety Cabinet.

(b) On a continuing basis: There are nominal costs associated with ongoing implementation of this regulation on a continuing basis, which is a part of the budget for the Justice and Public Safety Cabinet

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The cost is part of the budget for the Justice and Public Safety Cabinet.

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The fees associated with the SLPO application process are

established by statute (KRS 61.360) and are not imposed by the regulation.

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

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Justice and Public Safety Cabinet, a part of the executive branch of the state government, will be impacted by this regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 15A.160, KRS 61.360

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The fees associated with the SLPO application process are established by statute (KRS 61.360) and are not imposed by the regulation. Therefore, this regulation will no generate revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The fees associated with the SLPO application process are established by statute (KRS 61.360) and are not imposed by the regulation. Therefore, this regulation will no generate revenue.

(c) How much will it cost to administer this program for the first year? Implementation of this administrative regulation will cost approximately \$36,500.00. This cost is part of the budget for the Justice and Public Safety Cabinet.

(d) How much will it cost to administer this program for subsequent years? Administration of this administrative regulation will cost approximately \$36,500.00. This cost is part of the budget for the Justice and Public Safety Cabinet.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation: The fees are established by statute (KRS 61.360) and are not imposed by the regulation.

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? This regulation will not generate any cost savings for the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? This regulation will not generate any cost savings for the subsequent years.

(c) How much will it cost the regulated entities for the first year? The fees associated with the SLPO application process are established by statute (KRS 61.360) and are not imposed by the regulation. A \$10 fee is required to apply to be a SLPO, in addition to the nominal amount of time necessary to complete the SLPO application process.

(d) How much will it cost the regulated entities for subsequent years? The fees associated with the SLPO application process are established by statute (KRS 61.360) and are not imposed by the regulation. A \$10 fee is required in anytime an application for a SLPO commission is submitted for consideration.

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

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]. This administrative regulation is not anticipated to have a major economic impact.

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Building Code Enforcement
(Amendment)

815 KAR 4:030. Elevator licensing.

RELATES TO: KRS 198B.4003, 198B.4009, 198B.4011, 198B.4013, 198B.4023, 198B.4025, 198B.4027, 198B.4033

STATUTORY AUTHORITY: KRS 198B.4009, 198B.4011, 198B.4013, 198B.4023

NECESSITY, FUNCTION, AND CONFORMITY: KRS 198B.4009(3) authorizes the Department of Housing, Buildings and Construction to promulgate administrative regulations necessary to implement KRS 198B.400 through 198B.540. KRS 198B.4009(1) requires elevator contractors and elevator mechanics to be licensed. KRS 198B.4011 provides the eligibility requirements for issuance of an elevator contractor's license. KRS 198B.4013 provides the eligibility requirements for issuance of an elevator mechanic's license and an accessibility and residential elevator mechanic's license. KRS 198B.4023 authorizes the department to promulgate administrative regulations establishing the requirements for inactive license and reactivation procedures. KRS 198B.4025 establishes the continuing education requirements for elevator license renewals. KRS 198B.4027 provides the minimum insurance requirements for elevator contractor licensees. This administrative regulation establishes the licensure requirements for elevator contractors, elevator mechanics, and accessibility and residential elevator mechanics.

Section 1. General Requirements

(1) Elevator contractor.

(a) Supervision. The elevator contractor shall provide general supervision, and be primarily responsible for, all elevator work performed by the mechanics, employees, and subcontractors of the licensee.

(b) Change of licensee's information. A licensee who is an employee of a company and whose license represents the company shall notify the department, in writing, if the licensee ceases to represent the company or if the name of the company changes.

(2) Elevator mechanic.

(a) Supervision. The elevator mechanic shall provide general supervision for all helpers or apprentices assigned to the elevator mechanic in carrying out the installation, construction, alteration, replacement, maintenance, removal, or dismantling of any elevator or fixed guideway system.

(b) Limitation on applicability. A licensed elevator mechanic may perform work on accessibility and residential elevators without obtaining an accessibility and residential elevator license.

(3) Accessibility and residential elevator mechanic.

(a) Supervision. The accessibility and residential elevator mechanic shall provide general supervision for all helpers or apprentices assigned to the accessibility and residential elevator mechanic in carrying out the installation, construction, alteration, replacement, maintenance, removal, or dismantling of any accessibility lift or private residential elevator.

(b) Limitation on applicability. A licensed accessibility and residential elevator mechanic shall not hold out himself or herself as complying with all the elevator mechanic experience and

examination requirements.

Section 2. Initial Application Requirements.

(1) Filing the application.

(a) Elevator contractor. An applicant seeking an elevator contractor license shall submit to the department:

1. A completed Elevator Contractor License Application on Form EV-3;

2. An initial license application fee of \$240 for a twelve (12) month license. The initial license fee may be prorated for not less than seven (7) months or more than eighteen (18) months and shall expire on the final day of the applicant's birth month;

3. Proof of applicant's experience as required by KRS 198B.4011 and this administrative regulation;

4. A passport-sized color photograph of the applicant taken within the past six (6) months, except for an applicant that is a partnership, corporation, or other business entity;

5. Proof of insurance as required by KRS 198B.4027; and

6. If the elevator contractor applicant is an employee representing a company, the applicant shall state the company name on the application form. The company may provide the insurance certificates and shall be subject to this administrative regulation.

(b) Elevator mechanic and accessibility and residential elevator mechanic. An applicant seeking an elevator mechanic license or an accessibility and residential elevator mechanic license shall submit to the department:

1. A completed Elevator Mechanic License Application on Form EV-4;

2. An initial license application fee of ninety-six (96) dollars for a twelve (12) month license. The initial license fee may be prorated for not less than seven (7) months or more than eighteen (18) months and shall expire on the final day of the applicant's birth month;

3. Proof of the applicant's experience as required by KRS 198B.4013 and this administrative regulation; and

4. A passport-sized color photograph of the applicant taken within the past six (6) months.

(2) Termination of an application.

(a) The initial application shall remain pending until all requirements are met, up to a period of one (1) year after the date the application is received by the department.

(b) At the end of one (1) year, the application shall be void.

Section 3. Reciprocity.

(1) Out of state credentials.

(a) To be eligible for reciprocity, an applicant shall have a current license, certification, or registration in another state whose standards are substantially equal to those of this Commonwealth as established in KRS Chapter 198B and 815 KAR Chapter 4.

(b) The license, certificate, or registration shall be equivalent to the Kentucky license requested.

(2) Application.

(a) A reciprocal elevator license applicant shall submit the appropriate application and fee:

1. For an elevator contractor applicant, a completed Elevator Contractor License Application on Form EV-3 and \$240; and

2. For an elevator mechanic applicant or an accessibility and residential elevator mechanic applicant, a completed Elevator Mechanic License Application on Form EV-4 and ninety-six (96) dollars.

(b) If applying for both licenses, an application fee shall be submitted for each license with each application form.

(3) Experience.

(a) Elevator contractor. A reciprocal elevator contractor applicant shall meet the experience requirement in Section 5(1) of this administrative regulation.

(b) Elevator mechanic and accessibility and residential elevator mechanic. A reciprocal elevator mechanic or an accessibility and residential elevator mechanic shall meet the experience required by KRS 198B.4013(2).

Section 4. Examination Requirements. An applicant for an elevator mechanic license or an accessibility and residential elevator mechanic license shall take and pass the examination administered in compliance with this section.

(1) Examination criteria.

(a) Elevator Mechanic. For an application pursuant to KRS 198B.4013(2)(a), the examination shall test the applicant's knowledge of codes, standards, and current technological and industry recommended practices with respect to the proper installation, maintenance, repair, remodeling, or alteration of elevators, elevator systems, and fixed guideway systems.

(b) Accessibility and Residential elevator mechanic. For an application pursuant to KRS 198B.4013(2)(b), the examination shall test the applicant's knowledge of codes, standards, and current technological and industry recommended practices with respect to the proper installation, maintenance, repair, remodeling, or alteration of accessibility lifts and private residential elevators.

(2) The department or its designee shall develop, administer, and score the examinations in subsection (1)(a) and (b) of this section.

(3) Reasonable accommodations shall be made to provide accessibility to disabled applicants, upon request.

(4) Except as established in subsection (8) of this section, an applicant shall pass with a score of at least seventy (70) percent on the examinations in subsection (1)(a) or (b) in this section.

(5)

(a) A request to sit for an examination shall be made directly to the testing facility approved by the department.

(b) A list of facilities and contact information shall be provided by the department to applicants upon request.

(6) The cost shall not exceed \$100 for either the Kentucky Elevator Mechanic Examination or for the Kentucky Accessibility and Residential Elevator Mechanic Examination.

(7) A passing score on an approved elevator examination shall be valid for a period of three (3) years.

(8) Upon application by a testing agency, a national code group, or by an applicant for licensure, the department shall recognize another examination as equivalent to the examinations administered by the department or department's designee if the person or group submitting the examination demonstrates that the examinations cover the same material and require the same level of knowledge as the department's examinations.

Section 5. Experience Requirements.

(1) Minimum experience.

(a) Elevator contractor. An elevator contractor applicant shall have a minimum of three (3) years of verifiable experience as an elevator mechanic.

(b) Elevator mechanic and accessibility and residential elevator mechanic. An elevator mechanic applicant or an accessibility and residential elevator mechanic applicant shall meet the experience required by KRS 198B.4013(2).

(2) Records of experience. An applicant's experience shall be listed on the application form or included with submission of application form to the department.

(a) Proof of listed experience shall be provided by:

1. A W-2 form; or

2. An affidavit by an elevator contractor who directed and supervised the applicant.

(b) Additional proof of experience shall be requested by the department if the department has reason to believe that the experience shown is insufficient, falsified, or nonexistent.

Section 6. Inactive License Status.

(1) A licensee may request that a license be placed in inactive status.

(2) An elevator contractor licensee in inactive status shall not be required to maintain insurance as required by KRS 198B.4027.

(3) A certified elevator inspector may be licensed as an elevator contractor, elevator mechanic, or accessibility and residential elevator mechanic, but shall place the license in inactive status while having an active elevator inspector certification.

(4) A licensee shall not perform elevator work while the license

is inactive. Performing elevator work while holding an inactive license shall be grounds for revocation or suspension of all elevator licenses and certifications held by the licensee.

Section 7. Renewal and Reactivation Requirements and Procedures.

(1) Filing for renewal. Licenses shall be renewed each year. To renew a license, a licensee shall submit to the department:

(a) A completed, applicable form:

1. For elevator contractors, the Elevator Contractor License Application on Form EV-3; or

2. For elevator mechanics and accessibility and residential elevator mechanics, the Elevator Mechanic License Application on Form EV-4;

(b) A renewal fee made payable to the Kentucky State Treasurer of:

1. \$240 for an elevator contractor; or

2. Ninety-six (96) dollars for an elevator mechanic or an accessibility and residential elevator mechanic; and

(c) Proof of attendance and completion of continuing education prior to the application for renewal in accordance with 815 KAR 2:010.

(2) Each application for license renewal shall be submitted by each licensee with a United States postmark dated no later than the last day of the licensee's birth month.

(3) A renewal application submitted late, but with a United States postmark dated no more than sixty (60) days after the last day of the licensee's birth month, shall be accepted, but a restoration fee, in accordance with Section 8(1) of this administrative regulation, shall be added to the annual renewal fee.

(4) Failure to renew within sixty (60) days after the last day of the licensee's birth month shall terminate the license.

(5) To reactivate an inactive license, the inactive licensee shall:

(a) Pay the annual renewal fee;

(b) Pay the reactivation fee pursuant to Section 8(3) of this administrative regulation;

(c) Comply with the continuing education requirements established in 815 KAR 2:010; and

(d) Provide current proof of insurance required by KRS 198B.4027 if an elevator contractor.

Section 8. Special Service Fees. In addition to other fees required by this administrative regulation, the following fees shall also be applied:

(1) Restoration fee. The fee for renewal of an expired license shall be:

(a) Fifty (50) dollars for an elevator contractor; or

(b) Twenty-five (25) dollars for an elevator mechanic or accessibility and residential elevator mechanic.

(2) Reinstatement fee. The fee for reinstatement of a terminated license shall be:

(a) \$100 for an elevator contractor; or

(b) Twenty-five (25) dollars for an elevator mechanic or accessibility and residential elevator mechanic.

(3) Reactivation fee. The fee for reactivation of an inactive license shall be

(a) \$120 for an elevator contractor; or

(b) Forty-eight (48) dollars for an elevator mechanic or accessibility and residential elevator mechanic.

(4) Duplicate license fee. A verified lost or destroyed license shall be replaced upon payment of a ten (10) dollar fee.

Section 9. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Elevator Contractor License Application", Form EV-3, April 2023~~May 2020~~; and

(b) "Elevator Mechanic License Application", Form EV-4, April 2023~~May 2020~~.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, Division of Building Codes Enforcement, Elevator Inspection Branch~~Section~~, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m.

to 4:30 p.m. and is available online at <http://dhbc.ky.gov/Pages/default.aspx>.

RAY A. PERRY, Secretary
RICK W. RAND, Commissioner

APPROVED BY AGENCY: April 12, 2023

FILED WITH LRC: April 13, 2023 at 3:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 27, 2023, at 10:00 a.m., eastern time, in the Department of Housing, Buildings and Construction, 500 Mero St., First Floor, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until 11:59 p.m. eastern time on June 30, 2023. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person:

CONTACT PERSON: Molly B. Cassady, General Counsel, Department of Housing, Buildings and Construction, Mero St., Kentucky 40601, phone 502-782-5448, fax 502-573-1057; 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 licensure requirements for elevator contractors, elevator mechanics, and accessibility and residential mechanics, and the requirements for renewing and reactivating elevator licenses.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to assist the Elevator Section in carrying out its duty to implement KRS 198B.400 to 198B.540, regulate and monitor the elevator industry in the Commonwealth, and readily identify licensed individuals.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 198B.4009(3) authorizes the Department of Housing, Buildings and Construction to promulgate administrative regulations necessary to implement KRS 198B.400 to 198B.540. KRS 198B.4009(1) requires elevator contractors and elevator mechanics to be licensed. KRS 198B.4011 provides the eligibility requirements to be met for issuance of an elevator contractor's license. KRS 198B.4013 provides the eligibility requirements to be met for issuance of an elevator mechanic's license and an accessibility and residential elevator mechanic's license. KRS 198B.4023 authorizes the department to promulgate administrative regulations establishing the requirements for inactive licenses and reactivation procedures. KRS 198B.4025 establishes the continuing education requirements for elevator license renewals. KRS 198B.4027 provides the minimum insurance requirements for elevator contractor licenses.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the standards applicable to those seeking to obtain and maintain elevator licenses, and how the elevator examination will 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: This amendment removes references to KRS 164.772, which was repealed in 2019, from the Elevator Contractor and Elevator Mechanic application forms.

(b) The necessity of the amendment to this administrative

regulation: To remove references to KRS 164.772 for clarity.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment is authorized by KRS 198B.4009(3)'s grant of authority to regulate the Commonwealth's elevator industry.

(d) How the amendment will assist in the effective administration of the statutes: Removes inapplicable statutory references to eliminate confusion.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All licensed individuals engaged in the elevator and accessibility lift trade within the Commonwealth, those applicants seeking elevator licensure in the Commonwealth, and Department of Housing, Buildings and Construction personnel.

(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: This amendment will not impose any additional requirements on any of the regulated entities identified in question (3).

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): These amendments will not impose any additional costs on any of the regulated entities identified in question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): By removing inapplicable statutory references, the form will become less confusing for the applicant.

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

(a) Initially: There are no anticipated initial additional costs to administer these regulatory amendments.

(b) On a continuing basis: There are no anticipated additional costs to administer these regulatory amendments.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation of these amendments is anticipated to result in no additional costs to the agency. Any agency costs resulting from these administrative amendments will be met with existing agency funds.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied as all elevator contractors, elevator mechanics, and accessibility and residential elevator mechanic licensees will be subject to the amended requirements.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction, Division of Building Code Enforcement, Elevator Section 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. The amendments are authorized by KRS 198B.4009.

(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? These amendments are not anticipated to generate additional revenue for the state or local government for the first year.

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

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

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer these regulatory amendments 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

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? There are no anticipated cost savings associated with this administrative regulation for the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? There are no anticipated cost savings associated with this administrative regulation for subsequent years.

(c) How much will it cost the regulated entities for the first year? There are no anticipated costs to the regulated entities for the first year.

(d) How much will it cost the regulated entities for subsequent years? There are no anticipated costs to the regulated entities for subsequent years.

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

Cost Savings (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: None

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,00) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This administrative regulation will not have a major economic impact, as defined above.

PUBLIC PROTECTION CABINET

Department of Housing, Buildings and Construction Division of Heating, Ventilation and Air Conditioning (Amendment)

815 KAR 8:010. Licensing requirements for master HVAC contractors and journeyman HVAC mechanics.

RELATES TO: KRS 198B.650, 198B.654, 198B.656, 198B.658, 198B.659, 198B.660, 198B.664, 198B.668, 198B.672, 198B.676

STATUTORY AUTHORITY: KRS 198B.654(1), 198B.658, 198B.664, 198B.676(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 198B.654(1) requires the department to promulgate administrative regulations in accordance with KRS Chapter 13A to administer, coordinate, and enforce the provisions of KRS 198B.650 through

198B.689 and to conduct HVAC examinations. KRS 198B.658 requires the department to establish fees for HVAC licensure and certification. KRS 198B.664 requires the department to establish requirements, including fees, for license renewal and inactive licenses. KRS 198B.676(1) requires the department to establish fees by administrative regulation. This administrative regulation establishes the licensure requirements for master HVAC contractors and journeyman HVAC mechanics.

Section 1. General Requirements.

(1) Master HVAC Contractor.

(a) Supervision. The master HVAC contractor shall supervise and be primarily responsible for all HVAC work performed by the employees and subcontractors of the licensee or the company that the licensee represents, whichever is applicable.

(b) Company license. If a licensee, who is an employee of a company and whose license represents the company, if the licensee ceases to represent the company or if the name of the company changes, the licensee shall:

1. Notify the department in writing; and

2. Request a change of information.

(c) Death of a master HVAC contractor.

1. If the master HVAC contractor representing a company dies, the company shall notify the department within ten (10) days of the master HVAC contractor's death.

2. The 180-day interim period described in KRS 198B.667 shall begin on the date the master HVAC contractor dies.

3. The company shall not be required to renew the deceased's master HVAC contractor license, if the license renewal date falls within the 180-day interim period.

4. The company shall not use the deceased master HVAC contractor license after the expiration date of the interim period.

5. The company shall notify the department when the company has a replacement master HVAC contractor to represent the company on or before the expiration date of the interim period.

(2) Journeyman HVAC mechanic Supervision. The journeyman shall:

(a) Be physically on site;

(b) Personally observe and be responsible for each apprentice assigned to the journeyman in carrying out the installation, alteration, and repair of HVAC systems; and

(c) Otherwise operate under the general direction and supervision of the master HVAC contractor.

Section 2. Initial Application Requirements.

(1) Filing the application.

(a) Master HVAC contractor application. An applicant seeking a master HVAC contractor license shall submit to the department:

1. A completed Master HVAC Contractor License Application on Form HVAC 1;

2. An initial license application fee of \$250 for a twelve (12) month license;

3. Proof of the applicant's experience as required by KRS 198B.658(1)(c) and this administrative regulation; and

4. Proof of insurance as required by KRS 198B.668.

(b) If the master HVAC contractor applicant is an employee representing a company, the applicant shall state the company name on the application form. The company may provide the insurance certificates and shall be subject to this administrative regulation.

(c) Journeyman HVAC mechanic application. An applicant seeking a journeyman HVAC mechanic license shall submit to the department:

1. A completed Journeyman HVAC Mechanic License Application on Form HVAC 2;

2. An initial license application fee of fifty (50) dollars for a twelve (12) month license; and

3. Proof of the applicant's experience as established by KRS 198B.658(2)(c).

(d) Initial license fees may be prorated for not less than seven (7) months or more than eighteen (18) months and shall expire on the final day of the applicant's birth month.

(e) Master HVAC contractor applicants and journeyman HVAC

mechanic applicants shall provide to the department proof of satisfactory completion of the respective examination required by Section 4 of this administrative regulation.

(f) Master HVAC contractor applicants and journeyman HVAC mechanic applicants shall provide to the department a passport-sized, color photograph of the applicant taken within the past six (6) months.

(2) Termination of application.

(a) The initial application shall remain pending until all requirements are met, up to a period of one (1) year after the date the application is submitted to the department.

(b) At the end of one (1) year, the application shall be voided.

Section 3. An applicant for reciprocity shall:

(1) Comply with the requirements established in the reciprocity agreement between Kentucky and the state in which the applicant is licensed;

(2)

(a) For a Master HVAC Contractor license, comply with Section 2(1)(a) and (b) of this administrative regulation;

(b) For a Journeyman HVAC mechanic license, comply with Section 2(1)(c) of this administrative regulation; and

(c) If applying for both licenses, submit the application fee for each license with each application form.

Section 4. Examinations.

(1) The HVAC examinations shall be developed, administered, and scored by the department or its designee.

(2) Master HVAC Contractor examination requirements. The examination shall test the applicant's knowledge of:

(a) Codes, standards, and current technological and industry recommended practices with respect to the proper installation, maintenance, repair, remodeling, or alteration of all types of HVAC systems; and

(b) Law and regulation relating to HVAC business.

(3) Journeyman HVAC mechanic examination requirements.

(a) The examination shall test the applicant's knowledge of codes, standards, and current technological and industry recommended practices with respect to the proper installation, maintenance, and repair, remodeling, or alteration of all types of HVAC systems.

(b) A journeyman HVAC mechanic applicant may apply the passage of a master HVAC contractor's examination for the journeyman HVAC mechanic's examination requirement. The applicant may use the same master HVAC contractor's examination score to satisfy the master HVAC contractor's examination requirement if the examination score is valid pursuant to subsection (7) of this section.

(4) Except as provided in subsection (8) of this section, an applicant shall pass with a score of at least seventy (70) percent on the examination.

(5) Examination requests.

(a) Examination applicants who wish to take any HVAC examination provided by the department shall submit to the department:

1. A completed HVAC Examination Registration Form, Form HVAC-4;

2. The appropriate, non-refundable examination fee:

a. For a master HVAC contractor, \$150; or

b. For a journeyman HVAC mechanic, fifty (50) dollars; and

3. A passport-sized color photograph of the applicant taken within the past six (6) months.

(b) Notice of the time and place of examinations shall be given by the department at least one (1) week prior to the date of the examination to each person who has a registration form on file.

(c) If an applicant fails to complete the department-provided examination within one (1) year from the date of the first notice of examination, the application shall be void.

(d) An applicant who fails an examination may request to retake the examination. Except for the examination fee, an applicant shall not resubmit the requirements in paragraph (a) of this subsection.

(e) A request to sit for an examination provided by any facility

other than the department shall be made directly to a testing facility approved by the department.

(f) A list of facilities and contact information shall be provided by the department to applicants upon request.

(6) The examination shall be provided as set forth in KRS 198B.660.

(7) A passing score on the examination shall be valid for a period of three (3) years.

(8) Upon application by a testing agency, a national code group, or by an applicant for licensure, the department shall recognize another examination as equivalent to the examinations administered by the department if the person or group submitting the examination demonstrates that the examination covers the same material and requires the same level of knowledge as the department's examination.

(9) Reasonable accommodations shall be made if necessary to provide accessibility to disabled applicants, upon request.

Section 5. Experience Requirements.

(1) Records of experience. An applicant's experience shall be listed on the application form.

(a) Proof of experience shall be provided by:

1. A W-2 form;

2. An affidavit by a master HVAC contractor who directed and supervised the applicant;

3. A copy of a current master HVAC contractor license, journeyman HVAC mechanic license, or equivalent, held by the applicant in a state other than Kentucky, if the state requires licensure or equivalent;

4. Verifiable documentation demonstrating the nature and extent of HVAC contracting work performed in a state other than Kentucky, if the state does not require licensure or the equivalent; or

5. Department of Defense form DD 214.

(b) Additional proof of experience shall be requested by the department, prior to or after licensing, if the department has reason to believe that the experience shown is insufficient or nonexistent;

(2) One (1) year of HVAC experience shall consist minimally of 1,500 hours of HVAC work in a continuous twelve (12) month period.

Section 6. Inactive License Status.

(1) A licensee may request that his or her license be placed in inactive status.

(2) A master HVAC contractor licensee in inactive status shall not be required to maintain insurance as required by KRS 198B.668.

(3) A license that is in inactive status shall be exempt from annual renewal.

(4) A certified HVAC inspector may be licensed as a master HVAC contractor or licensed as a journeyman HVAC mechanic, but shall place the license in inactive status while having an active HVAC inspector certification.

(5) Performing HVAC work while holding an inactive license shall be grounds for revocation or suspension of all HVAC licenses and certifications held by the licensee.

Section 7. Renewal, Restoration, Reinstatement, and Reactivation Requirements and Procedures.

(1) Filing for renewal. A master HVAC contractor and a journeyman HVAC mechanic shall submit to the department:

(a) A completed Licensing Renewal Application, Form DHBC L-1 [renewal application notice];

(b)

1. A renewal fee of \$250 made payable to the Kentucky State Treasurer for a master HVAC contractor; or

2. A renewal fee of fifty (50) dollars made payable to the Kentucky State Treasurer for a journeyman HVAC mechanic;

(c) Proof of annual continuing education attendance in accordance with 815 KAR 2:010; and

(d) Proof of insurance as required by KRS 198B.668 for a master HVAC contractor.

(2)

VOLUME 49, NUMBER 11– MAY 1, 2023

(a) Except for a license placed in inactive status, application for license renewal shall be filed no later than the last day of the licensee's birth month.

(b) A license shall be renewed each year.

(c) A license that is not timely renewed shall immediately expire.

(3)

(a) The renewal fee shall be paid prior to renewal.

(b) The department shall send a renewal application notice to each licensee each year to be returned with the required fee.

(4) A renewal application notice filed late, but not more than sixty (60) days after the expiration of the license, shall be accepted, but a restoration fee, as established in Section 8(1) of this administrative regulation, shall be added to the renewal fee.

(5)

(a) A former licensee whose license has terminated as established in KRS 198B.664(3) may have his or her license reinstated if the licensee satisfies the application requirements for renewal as established in subsection 1 of this section and submits a reinstatement fee as established in Section 8(4) of this administrative regulation no later than three (3) years from the date the former license was terminated.

(b) A former licensee seeking licensure under this administrative regulation, but whose terminated license was not timely reinstated as established in paragraph (a) of this subsection, shall be required to satisfy all requirements applicable to new applicants for initial licensure as established in this administrative regulation.

(6) An inactive license shall be reactivated upon payment of the annual renewal fee, the reactivation fee, and upon compliance with the continuing education requirements established in 815 KAR 2:010.

(7) If an initial license is for a period of less than twelve (12) months, the initial license fee shall be reduced on a pro rata basis.

(8) The application for renewal, restoration, reinstatement, or reactivation shall be denied if the applicant fails to:

(a) Pay any applicable department fee;

(b) Comply with the continuing education requirements established in 815 KAR 2:010; or

(c) Provide the current insurance certificate required by KRS 198B.668, if a master HVAC contractor.

(9) A licensee who has not previously provided a passport-sized color photograph shall provide one (1) with the licensee's next application for renewal.

Section 8. Special Service Fees. In addition to the other fees required by this administrative regulation, the special fees established in this section shall also be applied.

(1) Restoration fee.

(a) The fee for restoration of an expired master HVAC contractor license shall be \$125.

(b) The fee for restoration of an expired journeyman HVAC mechanic license shall be twenty-five (25) dollars.

(2) Inactive status fee. The fee to place a license into inactive status shall be twenty (20) dollars.

(3) Reactivation fee. The fee for reactivation of an inactive license shall be twenty (20) dollars.

(4) Reinstatement fee.

(a) Master HVAC contractor. The fee for reinstatement of a terminated master contractor shall be \$250 for each twelve (12) month period, or additional fraction thereof, following the date the license was terminated, not to exceed \$750.

(b) Journeyman HVAC mechanic. The fee for reinstatement of a terminated journeyman HVAC mechanic license shall be fifty (50) dollars for each twelve (12) month period, or additional fraction thereof, following the date the license was terminated, not to exceed \$150.

Section 9. Revocation or Suspension of License. A license issued pursuant to this administrative regulation shall be subject to suspension or revocation by the department for any of the reasons stated in KRS 198B.672.

Section 10. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Master HVAC Contractor License Application", Form HVAC 1, April 2023[May-2020];

(b) "Journeyman HVAC Mechanic License Application", Form HVAC 2, April 2023[May-2020]; [and]

(c) "HVAC Examination Registration Form", Form HVAC-4, March 2022; and[-]

(d) "Licensing Renewal Application," Form DHBC L-1, April 2023.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, Division of Heating, Ventilation, and Air Conditioning, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. and is available online at <http://dhbc.ky.gov>.

RAY A. PERRY, Secretary

RICK W. RAND, Commissioner

APPROVED BY AGENCY: April 12, 2023

FILED WITH LRC: April 13, 2023 at 3:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 27, 2023 at 10:00 a.m., eastern time, in the Department of Housing, Buildings and Construction, 500 Mero Street, First Floor, Frankfort, Kentucky 40601. Individuals interest in being heard at this hearing shall notify this agency in writing by five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2023 at 11:59 p.m., eastern time. Send written notification of the intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person below:

CONTACT PERSON: Molly B. Cassady, General Counsel, Department of Housing, Buildings and Construction, Mero St., Kentucky 40601, phone 502-782-5448, fax 502-573-1057; 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 licensure requirements for master HVAC contractors and journeyman HVAC mechanics.

(b) The necessity of this administrative regulation: KRS 198B.654(1) requires the department to promulgate administrative regulations in accordance with KRS Chapter 13A to administer, coordinate, and enforce the provisions of KRS 198B.650 through 198B.689 and to conduct HVAC examinations. KRS 198B.658 requires the department to establish fees for HVAC licensure and certification. KRS 198B.664 requires the department to establish requirements, including fees, for license renewal and inactive licenses. KRS 198B.676(1) requires the department to establish fees by administrative regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 198B.654(1) requires the department to promulgate administrative regulations in accordance with KRS Chapter 13A to administer, coordinate, and enforce the provisions of KRS 198B.650 through 198B.689 and to conduct HVAC examinations. KRS 198B.658 requires the department to establish fees for HVAC licensure and certification. KRS 198B.664 requires the department to establish requirements, including fees, for license renewal and inactive licenses. KRS 198B.676(1) requires the department to establish fees by administrative regulation. This administrative regulation establishes the licensure

requirements for master HVAC contractors and journeyman HVAC mechanics including fees, experience, and examination requirements.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the licensure, fee, and examination requirements for master HVAC contractors and journeyman HVAC mechanics, which is required by KRS 198B.654, KRS 198B.658, KRS 198B.664, and KRS 198B.676.

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

(a) How the amendment will change this existing administrative regulation: This amendment amends two forms by removing language related to KRS 164.772, which was repealed in 2019. This amendment also creates a form, incorporated by reference, that is required for renewal.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update forms and assist in streamlining the renewal process for licensees.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 198B.654(1) requires the department to promulgate administrative regulations in accordance with KRS Chapter 13A to administer, coordinate, and enforce KRS 198B.650 to 198B.689 and to conduct examinations. KRS 198B.676(b) requires the department to establish by administrative regulation examination fees for master HVAC contractors and journeyman HVAC mechanics.

(d) How the amendment will assist in the effective administration of the statutes: This amendment is necessary to update forms and assist in streamlining the application and renewal process for licensees.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Any HVAC applicant or licensee and the Department of Housing, Buildings and Construction.

(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: Applicants and licensees will need to complete the updated forms.

(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 establish or increase a fee.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The HVAC license application and renewal process shall be streamlined.

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

(a) Initially: This amendment will not result in additional cost to the agency initially.

(b) On a continuing basis: This amendment will not result in 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: Any costs associated with the implementation and enforcement of this administrative regulation will be met with existing agency funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Any costs associated with the implementation and enforcement of this administrative regulation will be met with existing agency funds.

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

(9) TIERING: Is tiering applied? Tiering is not applied as all regulated entities are subject to the same amended requirements.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction, Division of Heating, Ventilation and Air Conditioning.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 198B.654(1) requires the department to promulgate administrative regulations in accordance with KRS Chapter 13A to administer, coordinate, and enforce the provisions of KRS 198B.650 through 198B.689 and to conduct HVAC examinations. KRS 198B.658 requires the department to establish fees for HVAC licensure and certification. KRS 198B.664 requires the department to establish requirements, including fees, for license renewal and inactive licenses. KRS 198B.676(1) requires the department to establish fees by 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? These amendments are not anticipated to generate additional revenue for the state or local government for the first year.

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

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

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer these regulatory amendments 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

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? There are no anticipated cost savings associated with this administrative regulation for the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? There are no anticipated cost savings associated with this administrative regulation for subsequent years.

(c) How much will it cost the regulated entities for the first year? There are no anticipated costs to the regulated entities for the first year.

(d) How much will it cost the regulated entities for subsequent years? There are no anticipated costs to the regulated entities for subsequent years.

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

Cost Savings (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: None.

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars

(\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]. This administrative regulation will not have a major economic impact, as defined above.

**PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Fire Prevention
(Amendment)**

815 KAR 10:060. [Kentucky-]Standards of Safety.

RELATES TO: KRS 198B.050, 227.300, 227.331, 227.715, 227.990, 234.140

STATUTORY AUTHORITY: KRS 227.300(1), (2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 227.300(1) requires the commissioner to promulgate an administrative regulation establishing the Kentucky Standards of Safety, which shall provide a reasonable degree of safety for human life against the exigencies of fire and panic and insuring as far as practicable against fire loss. This administrative regulation establishes the Kentucky Standards of Safety to supplement the Kentucky Building Code, 815 KAR 7:120, in matters of fire safety.

Section 1. Definitions.

(1) "Accepted" means that all deficiencies communicated, in writing, to the owner have been corrected to the satisfaction of the inspecting authority.

(2) "Distinct fire hazard":

(a) Means a condition that poses a threat to life or property, including a condition likely to inhibit escape from danger of fire or explosion; and

(b) Does not mean a condition in which the methods of construction met the uniform state building code requirements, as applicable, at the time of construction.

(3) "Fire protection sprinkler system" is defined by KRS 198B.550(6).

(4) "NFPA" means the National Fire Protection Association.

(5) "NICET" means the National Institute for Certification of Engineering Technologies.

(6) "Unsafe Building" means a building characterized by:

(a) Deficiency in means of egress;

(b) Danger to human life or public welfare by reason of illegal or improper use, occupancy, or maintenance;

(c) Non-compliance with the construction codes in place at time of construction;

(d) Significant damage including as the result of:

1. Fire;
2. Explosion;
3. Natural disaster;
4. Neglect; or
5. Vandalism;

(e) Falling away, hanging loose, or loosening of siding, block, or other building material, appurtenance, or part thereof; or

(f) Existence of structurally unsafe conditions.

Section 2. Scope.

(1) Applicability. This administrative regulation shall apply to all buildings except one (1) and two (2) family dwellings.

(2) Enforcement.

(a) State Fire Marshal. The State Fire Marshal shall:

1. Have primary jurisdiction over all property, unless a local government has established a fire inspection program by ordinance adopting this administrative regulation pursuant to KRS 227.320; and

2. Have exclusive jurisdiction over state-owned property and facilities licensed by the Kentucky Cabinet for Health and Family Services. A local fire chief may request authority for the inspection and enforcement responsibilities of licensed facilities from the State Fire Marshal.

(b) Local fire chief. Jurisdictions wherein a local fire chief is

designated by ordinance to operate a fire inspection program pursuant to KRS 227.320 shall have primary jurisdiction for the enforcement of all property within the local governmental boundary except as established in subparagraph (a)2. of this subsection.

Section 3. Existing Buildings and Conditions.

(1) The standards for the construction pursuant to 815 KAR 7:120, Kentucky Building Code, in effect at the time of construction, and for which there has been issued a lawful certificate of occupancy, shall supersede different construction standards regarding the requirements for egress facilities, fire protection, and built-in fire protection equipment established in this administrative regulation or conflicting local ordinances.

(2) Change of use. It shall be unlawful to make a change in the use of a building or portion thereof without project plan review and approval in accordance with 815 KAR 7:120, Kentucky Building Code, except as established in Chapter 34 therein.

(3) Buildings and conditions approved under other codes.

(a) Buildings constructed prior to promulgation of the uniform state building code. A building, or portion thereof, which was constructed and approved prior to the effective date of the uniform state building code shall be maintained as constructed and approved.

(b) Previous fire code. A building, or portion thereof, which was inspected, approved, or accepted pursuant to a previously adopted fire code shall:

1. Be maintained as previously approved or accepted; and

2. Not be required to make a modification or change for so long as the building is maintained and used as previously accepted or approved.

(c) Buildings not occupied or used for one (1) year or more. Prior to occupancy, a building shall be inspected by the State Fire Marshal or a designee to ensure that the structure is neither a distinct fire hazard nor an unsafe structure.

(4) Distinct Fire Hazards.

(a) A building shall be deemed a distinct fire hazard if the authority having jurisdiction determines:

1. A fire, explosion, or asphyxiation is likely to occur;

2. Conditions might provide a ready fuel supply to augment the spread or intensity of a fire or explosion;

3. A building is vacant, unguarded, and open to unauthorized entry;

4. An accumulation of combustible dust, debris, or materials is present;

5. Required exits or fire protection are in non-working condition or not present;

6. Objects are placed or installed so as to interfere with exits or exit routes;

7. Combustible materials or items are in dangerous proximity to an ignition source such as a stove, fireplace, or heater;

8. Electrical or mechanical systems or installations create a hazardous condition; or

9. Operations, conditions, processes, use, or materials being used fail to afford adequate safety to the public.

(b) If the State Fire Marshal or local fire chief determines that a distinct fire hazard exists, the fire hazard shall be remedied so as to render the property safe.

(c) The State Fire Marshal or a local fire chief shall use the standards established in this administrative regulation to identify and to order the correction of a distinct fire hazard acting in accordance with the procedures established in KRS Chapter 227 and this administrative regulation. In exercising authority granted, the following shall be applicable:

1. NFPA 1, Uniform Fire Code, 2018 edition, and the NFPA referenced standards included in Chapter 2 of NFPA 1 except:

a. NFPA 403, Guide for Aircraft Rescue and Fire Fighting Operation, 2018 edition;

b. NFPA 1031, Standard for Professional Qualifications for Fire Inspectors and Plan Examiner, 2014 edition;

c. NFPA 1192, Standard on Recreational Vehicles, 2018 edition;

d. NFPA 1194, Standard for Recreational Vehicle Parks and Campgrounds, 2018 edition;

e. NFPA 1901, Standard for Automotive Fire Apparatus, 2016 edition;

f. NFPA 1906, Standard for Wildland Fire Apparatus, 2016 edition;

g. NFPA 1925, Standard on Marine Fire-Fighting Vessels, 2013 edition;

h. NFPA 1963, Standard for Fire Hose Connections, 2014 edition;

i. NFPA 2113, Standard on Selection, Care, Use, and Maintenance of Flame-Resistant Garments for Protection of Industrial Personnel Against Short-Duration Thermal Exposures from Fire, 2015 edition;

j. NFPA 5000, Building Construction and Safety Code, 2018, edition;

k. Code reference 1.7.2, Minimum Qualifications to Enforce this Code;

l. Code reference 10.2.7, Minimum Fire Prevention Inspection Frequencies for Existing Occupancies;

m. Code reference 13.3.2.26, High Rise Buildings;

n. Code reference 13.3.2.8, Existing Assembly Occupancies; and

o. Code reference 13.6, Portable Extinguishers, which if required, shall be modified to exclude the provisions for installation of portable extinguishers in the occupancies listed in Table 13.6. Portable extinguishers shall be installed as required in the occupancy chapters of NFPA 101, Life Safety Code, 2018 Edition;

2. NFPA 101, Life Safety Code, 2018 edition, and the NFPA referenced standards included in Chapter 2 of NFPA 101 except Code reference 13.3.5;

3. For sites at which consumer fireworks are offered for sale, NFPA 1124, Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 Edition;

4. NFPA 70, National Electrical Code, 2017 Edition; and

5. 815 KAR 7:120, Kentucky Building Code.

(d) Modifications, alternatives, and interpretations. If the State Fire Marshal accepts or approves an alternative to a code provision or issues an interpretation and the alternative or interpretation is of general applicability, it shall be published and forwarded to all known fire inspectors and other persons requesting a copy.

(5) Abatement of fire hazards. The abatement of a distinct fire hazard pursuant to this administrative regulation shall not require construction measures that would exceed the requirements of the current edition of 815 KAR 7:120, Kentucky Building Code, if the building were being newly constructed.

(6) Maintenance of equipment.

(a) All fire suppression and fire protection equipment, systems, devices, and safeguards shall be maintained in accordance with the applicable NFPA referenced code and the manufacturer's recommendations.

(b) This administrative regulation shall not be the basis for removal or abrogation of a fire protection or safety system or device installed in a building without approval granted by the authority having jurisdiction.

(7) Cooperation with building official. The State Fire Marshal and the local fire chief shall coordinate and cooperate with the building code official having jurisdiction in assessing a building for relative fire safety and to assure that the proper standards are applied.

Section 4. Permits.

(1) State permits required. A permit shall be required from the State Fire Marshal for flammable, combustible, or hazardous material storage vessel installations.

(2) Local permits allowed.

(a) A permit from a local government shall not be required unless required by local ordinance.

(b) An inspection or permit fee, if applicable, shall be established within the local government adopting legislation.

Section 5. Enforcement of Violations.

(1) Notice of deficiency. If the State Fire Marshal or local fire chief observes an apparent violation of a provision of this administrative regulation or other codes or ordinances under state or local jurisdiction, the State Fire Marshal or local fire chief shall prepare a written notice of deficiency. The notice of deficiency shall state the applicable code provision violated and specify the date by which the required repairs or improvements shall be completed. Pursuant to KRS 227.336, corrective action shall be ordered remedied within a period of time not to exceed sixty (60) days.

(2) Services of notice. The written notice of deficiency shall be served personally or via certified U.S. Mail upon the owner or the owner's duly authorized agent and upon each other person responsible for the deficiency. Proof of service shall be required to perfect service.

(3) The State Fire Marshal shall commence enforcement action authorized in KRS 227.331 against any person who fails to correct a deficiency ordered to be remedied.

Section 6. Means of Appeal.

(1) Appeals of orders issued by the State Fire Marshal.

(a) An appeal to the State Fire Marshal from a notice of deficiency issued by the Division of Fire Prevention shall be:

1. In writing; and

2. Received by the Division of Fire Prevention, State Fire Marshal prior to the completion date specified in the notice of deficiency served.

(b) If the matter is not resolved by agreement of the affected parties and the State Fire Marshal, legal action shall be instituted pursuant to KRS Chapter 227.

(2) Appeal of an order to remedy. Pursuant to KRS 227.380, the owner of the subject property may appeal to the State Fire Marshal within ten (10) days following receipt of the issued order.

Section 7. Special Provisions.

(1) Fire incident reporting. The fire chief or highest ranking fire department officer may request investigative assistance from the State Fire Marshal.

(2) Fire protection systems testing and inspection.

(a) Reporting. Except as established in paragraph (c) of this subsection, an inspection or test required by this administrative regulation, Chapter 11, 13, or 20 of the NFPA 1, Uniform Fire Code shall be conducted and reported to the owner by a person authorized or certified by the department.

(b) Inspection and test reports.

1. A required inspection or test shall be recorded on the applicable form contained in NFPA 25 or NFPA 72.

2. The completed report shall be given to the owner and a copy shall be forwarded to the local fire chief or highest ranking fire department officer within ten (10) working days of the date of the inspection.

(c) Reporting exceptions.

1. Portable fire extinguishers and single station smoke detectors may be inspected and tested by the property owner or the property owner's agent.

2. Allowable reports by owners and owner agents shall not be required to be filed with the State Fire Marshal, but shall be kept on file within the building and available for review upon request by the State Fire Marshal.

a. Electric single station and electric multiple station smoke alarms shall be tested monthly. A log of the test shall be kept on site for review by the fire code official.

b. Battery powered smoke alarms shall be tested weekly. A log of the test results shall be kept on site for review by the fire code official.

c. Portable fire extinguishers shall be visually inspected monthly to ensure proper charge, accessibility, and that the extinguisher hose is free of obstruction.

(d) Frequency. Periodic testing and inspection of each fire suppression and each alarm system shall be performed as established in subparagraphs 1. through 3. of this paragraph.

1. Fire detection and alarm systems and all fire suppression systems in buildings other than state licensed hospitals, nursing

homes, and ambulatory surgical centers shall be inspected and tested for proper operation annually.

2. Fire detection and alarm systems and all fire suppression systems in state licensed hospitals, nursing homes, and ambulatory surgical centers shall be inspected and tested quarterly by a Kentucky certified inspector for sprinkler systems and fire alarms, respectively.

3. Systems or components for which the manufacturer recommends more frequent checks shall be performed as described by the manufacturer's instructions.

(e) Inspectors.

1. Fire alarm inspectors shall apply to be certified by the department on a Form FPS 33-01, Application for Fire Alarm Systems Certification, and shall:

a.

(i) Be qualified as NICET level two (2), level three (3), or level four (4) in fire alarm systems; or

(ii) Pass the examination for alarm inspector administered by an examination provider approved by the department;

b. Have had at least eighteen (18) months of experience in installation, repair, testing, or a combination thereof during the five (5) year period immediately preceding application;

c. Pay an annual certification fee of fifty (50) dollars for each classification applied for; and

d. Submit a passport-sized color photograph with the application.

2. For renewals of fire alarm inspector certification, an applicant shall:

a. Submit a completed Form FPS 33-02, Renewal Application for Fire Alarm Systems Certification, May 2020;

b. Pay an annual certification renewal fee of fifty (50) dollars for each classification held;

c. Submit a passport-sized color photograph with the renewal application; and

d.

(i) Provide proof of six (6) hours of continuing education from an approved provider obtained in the twelve (12) months prior to renewal; or

(ii) Provide proof of current NICET certification.

3. Penalties. An applicant shall be subject to penalties established in KRS 227.990 and may be denied certification or renewal for:

a. Failure of a certified fire alarm inspector to conduct an inspection in accordance with the NFPA 72 standard;

b. Submission of false inspection reports;

c. Performing inspections without first having been certified by the department as a fire alarm inspector; or

d. Making a false or misleading statement on an application for certification or renewal.

Section 8. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) NFPA 1, "Uniform Fire Code", 2018 edition;

(b) NFPA 101, "Life Safety Code", 2018 edition;

(c) NFPA 1124, Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 Edition;

(d) NFPA 70, "National Electrical Code®", 2017[2018] edition;

(e) FPS 33-01, "Application for Fire Alarm Systems Inspector Certification", April 2023[May-2020]; and

(f) FPS 33-02, "Renewal Application for Fire Alarm Systems Inspector Certification", April 2023[May-2020].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. and is available online at <http://dhbc.ky.gov>.

RAY A. PERRY, Secretary

RICK W. RAND, Commissioner

APPROVED BY AGENCY: April 12, 2023

FILED WITH LRC: April 13, 2023 at 3:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A

public hearing on this administrative regulation shall be held on June 27, 2023 at 10:00 a.m., eastern time, in the Department of Housing, Buildings and Construction, 500 Mero Street, First Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2023, at 11:59 p.m., eastern time. Send written notification of the intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person below:

CONTACT PERSON: Molly B. Cassady, General Counsel, Department of Housing, Buildings and Construction, Mero St., Kentucky 40601, phone 502-782-5448, fax 502-573-1057; 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 Kentucky Standards of Safety to supplement the Kentucky Building Code, promulgated as 815 KAR 7:120, in matters of fire safety.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the Kentucky Standards of Safety, which are required, pursuant to KRS 227.300(1), to provide a reasonable degree of safety for human life against the exigencies of fire and panic and insuring as far as is practicable against fire loss.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 227.300(1) requires the commissioner to promulgate reasonable administrative regulations based on good engineering practice and principles as embodied in recognized standards of fire prevention and protection, providing for a reasonable degree of safety for human life against the exigencies of fire and panic, and insuring as far as practicable against fire loss. These standards are to supplement the Uniform State Building Code, the Kentucky Building Code, 815 KAR 7:120, in matters of fire safety.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the Kentucky Standards of Safety to supplement the Kentucky Building Code, 815 KAR 7:120, in matters of fire safety, as required by KRS 227.300(1).

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

(a) How the amendment will change this existing administrative regulation: This amendment amends two forms by removing language related to KRS 164.772, which was repealed in 2019.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update forms.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 227.300(1) requires the commissioner to promulgate reasonable administrative regulations based on good engineering practice and principles as embodied in recognized standards of fire prevention and protection, providing for a reasonable degree of safety for human life against the exigencies of fire and panic, and insuring as far as practicable against fire loss. These standards are to supplement the Uniform State Building Code, the Kentucky Building Code, 815 KAR 7:120, in matters of fire safety.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation amendment is necessary to update forms.

(3) List the type and number of individuals, businesses,

organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect individuals submitting an "Application for Fire Alarm Systems Certification" FP 31-01 and "Renewal Application for Fire Alarm Systems Certification" FP 31-02.

(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: Applicants for fire alarm certification, initial or renewal, will be required to complete the updated form.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The application process will be streamlined.

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

(a) Initially: This amendment will not result in additional cost to the agency initially.

(b) On a continuing basis: This amendment will not result in 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: Implementation of this amendment is anticipated to result in no additional costs to the department. Any cost resulting from this amendment will be met with existing agency funds.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied as all regulated entities are subject to the same amended requirements.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction, Division of Fire Prevention and local fire departments or fire inspection programs will be impacted.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 227.300(1) requires the commissioner to promulgate reasonable administrative regulations based on good engineering practice and principles as embodied in recognized standards of fire prevention and protection, providing for a reasonable degree of safety for human life against the exigencies of fire and panic, and insuring as far as practicable against fire loss. These standards are to supplement the Uniform State Building Code, the Kentucky Building Code, 815 KAR 7:120, in matters of fire safety.

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

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

(c) How much will it cost to administer this program for the first year? There are no anticipated additional costs to administer this regulatory amendment for the first year.

(d) How much will it cost to administer this program for subsequent years? There are no additional costs to administer this regulatory amendment for subsequent years.

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

Revenues (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: None

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? This administrative regulation is not anticipated to generate cost saving for regulated entities for the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? This administrative regulation is not anticipated to generate cost saving for regulated entities for the subsequent year.

(c) How much will it cost the regulated entities for the first year? This administrative regulation is not anticipated to generate additional costs for regulated entities for the first year.

(d) How much will it cost the regulated entities for subsequent years? This administrative regulation is not anticipated to generate additional costs for regulated entities for subsequent years.

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

Cost Savings (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: None.

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This administrative regulation will not have a major economic impact, as defined above.

PUBLIC PROTECTION CABINET

Department of Housing, Buildings and Construction

Division of Plumbing

(Amendment)

815 KAR 20:030. Plumbing licenses.

RELATES TO: KRS 318.010, 318.020, 318.030, 318.040, 318.050, 318.054, 318.060, 318.080

STATUTORY AUTHORITY: KRS 198B.040(10), 318.040(1)(d), (2), (3), 318.050, 318.054(3), 318.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.130 requires the Department of Housing, Buildings and Construction to promulgate and amend the Kentucky State Plumbing Code to regulate plumbing. KRS 318.040(1)(d) authorizes the commissioner to promulgate administrative regulations establishing qualifications for a master plumber's license and a journeyman plumber's license. KRS 318.040(2) and (3) require the department to establish examination requirements and procedures. KRS 318.050 requires the department to establish reasonable application fees for licensure as a master plumber or journeyman plumber. KRS 318.054(3) requires the department to establish reasonable renewal fees for master plumbers and journeyman plumbers. This administrative regulation establishes the

application, examination, and renewal requirements for master plumbers and journeyman plumbers.

Section 1. Examinations.

(1) Examination applications.

(a) All examination applicants for any plumber's license shall submit to the department:

1. A completed Plumbing Examination Registration Form, Form PLB-3;

2. The appropriate non-refundable examination fee:

a. For a master plumber, \$150; or

b. For a journeyman plumber, fifty (50) dollars; and

3. A passport-sized color photograph of the applicant taken within the past six (6) months.

(b) If an applicant fails to successfully complete the appropriate examination within one (1) year from the date of the first notice of examination, the application shall be void.

(2) Examination design.

(a) The State Plumbing Examining Committee shall design the examination requirements.

(b) All examinations shall include:

1. Written questions pertaining to basic principles of plumbing, KRS Chapter 318, 815 KAR Chapter 2, and 815 KAR Chapter 20; and

2. Inserting the proper pipe size on a prepared drawing that indicates all stacks, wastes, and vents and the connected plumbing fixtures.

a. The proper sizing of main stacks shall be given more importance than other piping.

b. Deductions shall be required for oversized piping and for undersized piping.

3. The journeyman plumber's license examination shall include a practical section in which the applicant shall demonstrate the ability to properly install plumbing by engaging in certain activities, such as making proper connections of various plumbing materials.

a. An applicant for a journeyman plumber's license examination shall furnish the plumbing materials required for the practical examination.

b. The department shall notify the applicant at least one (1) week prior to the date of examination as to what plumbing materials are needed.

4. The examination requirements shall be more complex for the master plumber's license examination than the journeyman plumber's license examination.

(3) Examination schedule.

(a) Regular examination of applicants for a master plumber's license or a journeyman plumber's license shall be conducted yearly during the months of February, May, August, and November.

(b) A special examination may be conducted during other times of a year as the department directs.

(c) Notice of the time and place of examination shall be given by the department at least one (1) week prior to the date of examination to each person who has a registration form on file, approved in accordance with subsection (1) of this section.

(4) Examination retakes. Within one (1) year from the date of the applicant's first notice of examination:

(a) An applicant who fails to attend or successfully complete an examination for which he has been scheduled may request to reschedule or retake the examination. Except for the examination fee, an applicant shall not resubmit the requirements in subsection 1 of this section.

(b) An applicant for a journeyman plumber's license who passes the written portion, the drawing portion, or the practical portion of the examination, but not all portions, may apply to retake only the portion failed.

(c) An applicant for a journeyman plumber's license who failed to achieve a passing score on the retaken portion of the examination may apply to retake the failed portion of the examination.

(d) An applicant shall pay the full examination fee for a retake of any portion of the examination.

(5) A passing score on an examination shall be valid for three

(3) years.

Section 2. Master Plumber License Application. To qualify for licensure as a master plumber, an applicant shall:

(1)(a) Have held a valid journeyman plumber's license for a minimum of two (2) years within the past five (5) years immediately preceding application and be actively employed in plumbing under the supervision of a licensed master plumber for a minimum of two (2) years;

(b) Hold an engineer license in Kentucky and be sufficiently experienced in mechanical engineering, as determined by the department based upon the number and complexity of the applicant's past mechanical engineer projects;

(c) Hold a valid plumbing license issued by another state for a minimum of two (2) years within the past five (5) years immediately preceding application; or

(d) Have been engaged in the practice of plumbing in another state that does not issue a plumbing license, in a capacity equivalent to a master plumber, for a minimum of four (4) consecutive years immediately preceding application.

(2) Master plumber license application.

(a) An applicant for a master plumber license shall submit to the department:

1. A completed Application for License as a Master Plumber, Form PLB-1;

2. Proof of successfully completing the Kentucky master plumber examination with a passing score of a minimum of eighty (80) percent obtained for each portion of the examination; and

3. A license fee of \$250.

(b) A master plumbing license applicant applying with experience under subsection (1)(c) or (d) of this section shall submit proof of successfully completing the journeyman plumber examination pursuant to Section 3(2)(b) of this administrative regulation.

(3) The initial license fee for a master plumber may be prorated for not less than seven (7) months or more than eighteen (18) months and shall expire on the final day of the applicant's birth month.

Section 3. Journeyman Plumber License Application. To qualify for licensure as a journeyman plumber, an applicant shall:

(1)(a) Have At least two (2) consecutive years of experience as an apprentice plumber; or

(b) Complete a department approved course that includes content on the practice of plumbing or the Kentucky State Plumbing Code and at least one (1) year of experience as an apprentice plumber.

(2) Journeyman plumber license application. An applicant for a journeyman plumber license shall submit to the department:

(a) A completed Application for License as a Journeyman Plumber, Form PLB-2;

(b) Proof of successfully completing the Kentucky journeyman plumber examination with a passing score of a minimum of seventy-five (75) percent obtained for each portion of the examination; and

(c) A license fee of sixty (60) dollars.

(3) The initial license fee for a journeyman plumber may be prorated for not less than seven (7) months or more than eighteen (18) months and shall expire on the final day of the applicant's birth month.

Section 4. License Renewals.

(1) Filing for renewal. A master plumber and a journeyman plumber shall submit to the department:

(a) The applicable renewal fee made payable to the Kentucky State Treasurer of:

1. \$250 for a master plumber; or

2. Sixty (60) dollars for a journeyman plumber;

(b) Proof of completing the continuing education requirements established in 815 KAR 2:010; ~~and~~

(c) Proof of insurance as required by KRS 318.030 for a master plumber; ~~and~~;

(d) A completed Form DHBC L-1, Licensing Renewal

Application.

(2) Inactive status.

(a) To place a plumbing license in inactive status:

1. A master plumber shall pay an initial inactive fee of \$125.

2. A journeyman plumber shall pay an initial inactive fee of thirty (30) dollars.

(b)

1. An inactive master plumber shall not secure a plumbing permit, advertise, represent himself as a qualified master plumber, or otherwise engage in the work of a master plumber.

2. An inactive journeyman plumber shall not represent himself as a qualified journeyman plumber or otherwise engage in the work of a journeyman plumber.

(c) To reactivate a plumbing license, the inactive licensed plumber shall complete all renewal requirements of subsection (1) of this section and pay the appropriate reactivation fee:

1. \$125 for a master plumber; or

2. Thirty (30) dollars for a journeyman plumber.

Section 5. Change of information.

(1) A licensee shall notify the department of any change to the name or address of the business or employer.

(2) Death of a master plumber.

(a) If the master plumber representing a company dies, the company shall notify the department within ten (10) days of the master plumber's death.

(b) The 180 day interim period established in KRS 318.054 shall begin on the date the master plumber dies.

(c) The company shall not be required to renew the deceased's master plumber license, if the license renewal date falls within the 180 day interim period.

(d) The company shall not use the deceased master plumber's license after the expiration date of the interim period.

(e) The company shall notify the department when the company has a replacement master plumber to represent the company.

Section 6. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Application for License as a Master Plumber", Form PLB-1, April 2023~~(October 2019)~~;

(b) "Application for License as a Journeyman Plumber", Form PLB-2, April 2023~~(October 2019)~~; [and]

(c) "Plumbing Examination Registration Form, Form PLB-3, October 2019; and[-]

(d) "Licensing Renewal Application", Form DHBC L-1, April 2023.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, Division of Plumbing, 500 Mero Street, Frankfort, Kentucky 40601-5412, Monday through Friday, 8 a.m. to 4:30 p.m. and is available online at <http://dhbc.ky.gov>.

RAY A. PERRY, Secretary

RICK W. RAND, Commissioner

APPROVED BY AGENCY: April 12, 2023

FILED WITH LRC: April 13, 2023 at 3:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 27, 2023 at 10:00 a.m., eastern time, in the Department of Housing, Buildings and Construction, 500 Mero Street, First Floor, Frankfort, Kentucky 40601. Individuals interest in being heard at this hearing shall notify this agency in writing by five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2023 at 11:59 p.m., eastern time. Send written notification of the

intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person below:

CONTACT PERSON: Molly B. Cassady, General Counsel, Department of Housing, Buildings and Construction, Mero St., Kentucky 40601, phone 502-782-5448, fax 502-573-1057; 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 application, examination, and renewal requirements for master plumbers and journeyman plumbers.

(b) The necessity of this administrative regulation: KRS 318.130 requires the Department of Housing, Buildings and Construction to promulgate and amend the Kentucky State Plumbing Code to regulate plumbing. KRS 318.040(1)(d) authorizes the commissioner to promulgate administrative regulations establishing qualifications for a master plumber's license and a journeyman plumber's license. KRS 318.040(2) and (3) require the department to establish examination requirements and procedures. KRS 318.050 requires the department to establish reasonable application fees for licensure as a master plumber or journeyman plumber. KRS 318.054(3) requires the department to establish reasonable renewal fees for master plumbers and journeyman plumbers.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 318.130 requires the Department of Housing, Buildings and Construction to promulgate and amend the Kentucky State Plumbing Code to regulate plumbing. KRS 318.040(1)(d) authorizes the commissioner to promulgate administrative regulations establishing qualifications for a master plumber's license and a journeyman plumber's license. KRS 318.040(2) and (3) require the department to establish examination requirements and procedures. KRS 318.050 requires the department to establish reasonable application fees for licensure as a master plumber or journeyman plumber. KRS 318.054(3) requires the department to establish reasonable renewal fees for master plumbers and journeyman plumbers. This administrative regulation establishes the application, examination, and renewal requirements for master plumbers and journeyman plumbers.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the application, examination, and renewal requirements for master plumbers and journeyman plumbers, as required by KRS 318.040(1)(d), (2), (3); 318.050; and 318.054(3).

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

(a) How the amendment will change this existing administrative regulation: This amendment amends two forms by removing logos, adding fee charts, and asking the applicant to provide their birth date instead of birth month. This amendment also creates a form, incorporated by reference, that is required for renewal.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update forms and assist in streamlining the application and renewal process for plumbing licensees.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 318.130 requires the Department of Housing, Buildings and Construction to promulgate and amend the Kentucky State Plumbing Code to regulate plumbing. KRS 318.040(1)(d) authorizes the commissioner to promulgate administrative regulations establishing qualifications for a master plumber's license and a journeyman plumber's license. KRS 318.040(2) and (3) require the department to establish examination requirements and procedures. KRS 318.050 requires the department to establish reasonable application fees for licensure as a master plumber or journeyman plumber. KRS 318.054(3) requires the department to establish reasonable renewal fees for

master plumbers and journeyman plumbers.

(d) How the amendment will assist in the effective administration of the statutes: This amendment is necessary to update forms and assist in streamlining the application and renewal process for plumbing licensees.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Any plumbing applicant or licensee and the Department of Housing, Buildings and Construction.

(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: Applicants and licensees will need to complete the updated forms.

(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 establish or increase a fee.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The plumbing license application and renewal process shall be streamlined.

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

(a) Initially: This amendment will not result in additional cost to the agency initially.

(b) On a continuing basis: This amendment will not result in 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: Any costs associated with the implementation and enforcement of this administrative regulation will be met with existing agency funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Any costs associated with the implementation and enforcement of this administrative regulation will be met with existing agency funds.

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

(9) TIERING: Is tiering applied? Tiering is not applied as all regulated entities are subject to the same amended requirements.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction, Division of Plumbing and Licensing Branch.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 318.130 requires the Department of Housing, Buildings and Construction to promulgate and amend the Kentucky State Plumbing Code to regulate plumbing. KRS 318.040(1)(d) authorizes the commissioner to promulgate administrative regulations establishing qualifications for a master plumber's license and a journeyman plumber's license. KRS 318.040(2) and (3) require the department to establish examination requirements and procedures. KRS 318.050 requires the department to establish reasonable application fees for licensure as a master plumber or journeyman plumber. KRS 318.054(3) requires the department to establish reasonable renewal fees for master plumbers and journeyman plumbers.

(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?

These amendments are not anticipated to generate additional revenue for the state or local government for the first year.

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

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

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer these regulatory amendments 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

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? There are no anticipated cost savings associated with this administrative regulation for the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? There are no anticipated cost savings associated with this administrative regulation for subsequent years.

(c) How much will it cost the regulated entities for the first year? There are no anticipated costs to the regulated entities for the first year.

(d) How much will it cost the regulated entities for subsequent years? There are no anticipated costs to the regulated entities for subsequent years.

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

Cost Savings (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: None.

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This administrative regulation will not have a major economic impact, as defined above.

PUBLIC PROTECTION CABINET

Department of Housing, Buildings and Construction Division of Building Code Enforcement (Amendment)

815 KAR 25:020. Recreational vehicles.

RELATES TO: KRS 227.550 - 227.665

STATUTORY AUTHORITY: KRS 227.570, 227.590, 227.620

NECESSITY, FUNCTION, AND CONFORMITY: KRS 227.590(1) requires the Department of Housing, Buildings and Construction to promulgate administrative regulations reasonably required[necessary] to effectuate the provisions of KRS 227.550 to 227.660[and carry out the department's responsibility as a state administrative agency]. KRS 227.570(1)(a) requires the department to promulgate administrative regulations establishing a process for licensing retailers and issuing certificates of acceptability to qualifying manufacturers. KRS 227.620(2) requires the department to promulgate administrative regulations

establishing application and fee requirements for a retailer's license. KRS 227.620(4)(a) requires the department to establish fees for a retailer's license, a manufacturer's "certificate of acceptability," and "Class B," "Class B1," and "Class B2" seals, in accordance with KRS 227.620(4)(a), 1. to 4. This administrative regulation establishes the requirements for retailers to obtain a license to sell recreational vehicles and the standards for issuing a certificate of acceptability to manufacturers of recreational vehicles.

Section 1. Standard for Recreational Vehicles. (1) All recreational vehicles manufactured for sale within the Commonwealth of Kentucky shall comply with the applicable standards set forth in the NFPA 1192 Standard on Recreational Vehicles.

Section 2. Licensed Retailers. (1) Application. An applicant for a recreational vehicle retailer license shall submit to the department:

(a) A completed Form HBC RV-2 Recreational Vehicle Retailer Application;

(b) A fee in the amount of \$200 for one (1) full year, or a reduced amount prorated on a monthly basis for a period of less than a full year, payable to the Kentucky State Treasurer; and

(c) Proof of liability insurance naming the department as the certificate holder in the minimum amount of at least:

1. \$200,000 bodily injury or death for each person;
2. \$300,000 bodily injury or death for each accident; and
3. \$100,000 property damage.

(2) Application review period. All licenses shall be granted or denied in accordance with KRS 227.620(3)

(3) Certified Retailer. A licensed retailer may complete inspections for the public if the retailer qualifies as a certified retailer.

(a) An applicant to become a certified retailer shall complete and submit to the department Form HBC MH/RV-2 Request for Approval to Inspect.

(b) A certified retailer shall not:

1. Perform negligent inspections or repairs on a unit; or
2. Apply the wrong seal to a unit.

(4) Out-of-state retailers. To inspect and apply Kentucky seals for used recreational vehicles that are sold by out-of-state retailers for delivery into Kentucky, an out-of-state retailer shall be a Kentucky certified retailer.

(5) Periodic reports.

(a) A retailer shall maintain a record of all new or used units sold to include the following:

1. Serial numbers;
2. B seal numbers;
3. Date manufactured;
4. Make of recreational vehicle; and
5. The name and address of the purchaser.

(b) The retailer shall make the report available to any department employee upon request.

Section 3. Certificate of Acceptability.

(1) Certificate of acceptability requirement. A manufacturer shall not manufacture, import, or sell any recreational vehicle in the Commonwealth unless the manufacturer has received a certificate of acceptability issued by the department.

(2) Requirements for issuance. An applicant for a certificate of acceptability shall submit to the department:

(a) A completed Form HBC MH/RV-1 Application of Certificate of Acceptability;

(b) Its in-plant quality control systems;

(c) An affidavit certifying compliance with the applicable standards, such as NFPA 1192 as adopted through REVA;

(d) A \$500 certification of acceptability fee for a full year, or a reduced amount prorated on a monthly basis for a period of less than a full year, by check or money order, made payable to the Kentucky State Treasurer; and

(e) Proof of general liability insurance to include lot and completed operations insurance in the minimum amount of at least:

1. \$300,000 bodily injury or death for each person;

2. \$400,000 bodily injury or death for each accident; and

3. \$100,000 property damage.

(3) In-plant quality control. To obtain in-plant quality control approval, a manufacturer shall submit to an inspection by the department for field certification of satisfactory quality control. Applications for approval of in-plant quality control systems shall contain the following:

(a) A certified copy of the plans and specifications of a model or model-group for electrical, heating, and plumbing systems. All plans shall be submitted on sheets, the minimum possible size of which is eight and one-half (8 1/2) inches by eleven (11) inches, and the maximum possible size of which is twenty-four (24) inches by thirty (30) inches.

(b) The manufacturer shall certify that the systems comply with:

1. NFPA 1192 Standards on Recreational Vehicles; or
2. ANSI A119.5 Park Trailers.

(c) A copy of the procedure that directs the manufacturer to construct recreational vehicles in accordance with the plans, specifying:

1. Scope and purpose.
2. Receiving and inspection procedure for basic materials.
3. Material storage and stock rotation procedure.
4. Types and frequency of product inspection.
5. Sample of inspection control form used.
6. Responsibility for quality control programs, indicating personnel, their assignments, experience, and qualifications.
7. Test equipment.
8. Control of drawings and material specifications.
9. Test procedures.

(4) Manufacturer and retailer. If the manufacturer is also a retailer, the manufacturer shall comply with retailer licensing provisions pursuant to Section 1 of this administrative regulation.

(5) Trade show. A certificate of acceptability shall not be required for manufacturers attending a recreational vehicle trade show within the Commonwealth of Kentucky if they do not sell recreational vehicles to Kentucky licensed retailers.

(6) Incorrect or Incomplete applications.

(a) If the department receives an incorrect or incomplete application, the department shall issue a correction notice specifying the defect to the applicant within thirty (30) days of receiving the application. If no corrected application is filed within thirty (30) days, the department shall deem the application abandoned and the fee forfeited.

(b) A corrected application submitted after the thirty (30) day period shall be processed as a new application.

(7) Proprietary information.

(a) The manufacturer shall label as proprietary any information relating to building systems or in-plant quality control systems that the manufacturer considers proprietary.

(b) The department, the inspection and evaluation personnel, and local enforcement agencies shall maintain and treat the designated information as proprietary unless the department determines that disclosure is necessary to carry out the purposes of KRS 227.550 through KRS 227.665 and 815 KAR Chapter 25.

(8) Alternative standards. A manufacturer may submit alternative standard for recreational vehicles established by another state, federal government, or other independent third party for review by the department. If the department finds that the alternative standard for recreational vehicles is applicable to the standard adopted by this administrative regulation, then a certificate of accessibility shall be issued for those recreational vehicles.

Section 4. License and Certificate Renewals.

(1) Expiration of a license and certificate. A license and a certificate of acceptability shall expire on:

(a) For individuals, the last day of the licensee's or certificate holder's birth month in the following year; or

(b) For business entities:

1. The licensee's or certificate holder's month of incorporation in the following year; or

2. The last day of the birth month of the principal officer of the

firm.

(2) Renewal procedure. A retailer and a manufacturer holding a certificate of acceptability wishing to renew a license or certificate shall submit to the department:

(a) A completed Form HBC MH/RV-3 License and Certification Renewal Application;

(b) Proof of continuing general liability insurance coverage; and

(c) A check or money order for the annual license fee payable to the Kentucky State Treasurer, in the amount of:

1. \$200 for a licensed retailer; or
2. \$500 for a certificate of acceptability.

Section 5. Recreational Vehicles in Manufacturers' or Retailers' Possession.

(1) Used recreational vehicle inspection.

(a) Prior to the offering for sale of any used recreational vehicle, or a recreational vehicle taken in trade, the retailer shall first certify that the electric, heating, plumbing, and fire and life safety systems are in a safe working condition.

(b) The retailer shall make any necessary repairs prior to offering the recreational vehicle for sale.

(c) The retailer shall affix a B seal to the recreational vehicle once any repairs have been made.

(d) If a seal is on the recreational vehicle prior to the inspection, the existing seal shall be removed and a new B seal placed on the recreational vehicle.

(2) Salvage units.

(a) A B2 seal shall be required if the retailer submits to the department an affidavit that the unit is a salvage unit.

(b) A salvage unit shall not be sold until it has been authorized, in writing, by the department to be labeled "salvage only" and the label has been affixed to the unit by the retailer.

(3) Sales between retailers.

(a) No seal shall be required if one (1) licensed retailer sells any unit to another licensed retailer.

(b) The retailer selling the unit shall submit prior notice of the sale to the department.

(4) All used recreational vehicles purchased outside the Commonwealth not bearing a Kentucky B seal shall be inspected as a used recreational vehicle by a certified retailer or the department.

(5)

(a) A recreational vehicle that is not in compliance with the requirements of this administrative regulation shall be:

1. Corrected prior to the retailer certifying the recreational vehicle or offering the recreational vehicle for sale; or

2. Classified as a salvage unit and issued a salvage label in accordance with this administrative regulation.

(b) All recreational vehicles requiring repairs or corrections prior to recreational vehicle certification shall be reported to the department specifying the repairs required to correct the deficiencies.

(6) A retailer shall submit a completed Form HBC RV-7 Recreational Vehicle Unit Certification Format to the department no later than the first week of each month.

(7) Fees for inspections. The fees for the inspection of recreational vehicles shall be:

(a) If performed by a certified retailer:

1. Twenty (20) dollars per hour;

2. Twenty-two (22) cents per mile, measured from the place of the certified retailer's place of business; and

3. Twenty-five (25) dollars for the seal.

(b) If performed by the department:

1. Thirty-five (35) dollars; and

2. Twenty-five (25) dollars for the seal.

Section 6. Serial Numbers, Model Numbers, and Date Manufactured. A clearly designated serial number, model number, and date manufactured shall be stamped into the tongue or front cross member of the frame at the lower left hand side (while facing the unit) and if there is no tongue or cross member, then a data plate with this information shall be affixed on the outside in a conspicuous place.

Section 7. Change of Information.

(1) Manufacturers or retailers shall notify the department in writing within thirty (30) days of a change in any of the following:

(a) The company or corporate name;

(b) The address of the company;

(c) Ownership interest of twenty-five (25) percent or more of the company within a twelve (12) month period; or

(d) The principal officers of the company.

(2) Manufacturers shall notify the department in writing within thirty (30) days of a change in any of the following:

(a) The location of any manufacturing facility; or

(b) The location of a new manufacturing facility.

(3) If the business location of a retailer is changed, the department shall reissue the license to reflect the change of location without charge if it is located within the same county. A change of location to another county, which is not adjacent to the initial county, shall require a new license.

Section 8. Temporary Licenses.

(1) An unlicensed retailer may offer for sale recreational vehicles within the Commonwealth of Kentucky if the retailer purchases a temporary license from the department.

(2) Temporary license requirements. An out-of-state applicant for a temporary license shall:

(a) Be a duly licensed retailer in a state other than Kentucky;

(b) Furnish to the department proof of liability insurance in the minimum amount of at least:

1. \$200,000 bodily injury or death for each person;

2. \$300,000 bodily injury or death for each accident; and

3. \$100,000 property damage;

(c) Provide documentation to the department of a physical inspection by an authorized representative of the department that confirms that a B seal is attached to each new unit the retailer proposes to display, show, or offer for sale;

(d) Submit to the department Form HBC RV-6 Temporary RV Retailer's License;

(e) Provide the department with the name, location, and time of the proposed event;

(f) Pay by check or money order a temporary license fee of \$100 made payable to the Kentucky State Treasurer;

(g) Certify to the department that the event shall comply with the Kentucky Fire code, 815 KAR 10:060;

(h) Possess a valid Kentucky sales tax certificate; and

(i) The state in which the applicant is licensed shall have reciprocal provisions for temporary licensing of Kentucky retailers.

(3) An application for a temporary license shall be submitted to the department at least thirty (30) days prior to an event at which the retailer intends to offer for sale or sell recreational vehicles.

(4) A retailer shall not be issued more than two (2) temporary licenses per calendar year.

(5) Used recreational vehicles. A temporary license retailer shall not display, show, or offer for sale within the Commonwealth any used recreational vehicles except for used recreational vehicles with a Kentucky seal.

(6) Duration of temporary license. A temporary license shall not exceed fifteen (15) days.

(7) Temporary licenses shall be prominently displayed at the location where the applicant is transacting business. The license shall be valid only for the location stated on the application.

Section 9. Seals.

(1) Application for seals. A licensed retailer shall submit to the department the following for B seals:

(a) A completed Form HBC MH-12, Application for Purchasing B Seals; and

(b) A fee of twenty-five (25) dollars for each B Seal requested, payable by check or money order to the Kentucky State Treasurer.

(2) Alteration or conversion of a unit bearing a seal.

(a) Any alteration of the plumbing, heat-producing equipment, electrical equipment installations or fire and life safety in a recreational vehicle which bears a seal, shall void the approval and the seal shall be returned to the department.

(b) The following shall not constitute an alteration or conversion:

1. Repairs with approved component parts by the manufacturer;
2. Conversion of listed fuel-burning appliances in accordance with the terms of the manufacturer's listing;
3. Adjustment and maintenance of equipment;
4. Replacement of equipment in kind; or
5. Any change that shall not affect those areas regulated by the NFPA 1192.

(c) Any retailer proposing an alteration to a recreational vehicle bearing a seal shall apply to the department. The application shall include:

1. Make and model of the recreational vehicle;
2. Serial number;
3. State seal number;
4. A complete description of the work to be performed together with plans and specifications if required; and
5. Location of the recreational vehicle where work is to be performed.

(d) Upon completion of the alteration, the applicant shall request the department to make an inspection.

(e) The applicant shall purchase a replacement seal, based on inspection of the alteration for a fee of twenty-five (25) dollars.

(3) Placement of B seals.

(a) Each B seal shall be assigned and affixed to a specific recreational vehicle.

(b) Assigned B seals shall not be transferable except upon prior approval of the department.

(c) A B seal that is not affixed as assigned shall be void, and the B seal shall be returned to or confiscated by the department.

(d) A B seal shall remain the property of the department and shall be seized by the department if there is a violation of KRS 227.550 to 227.665 or this administrative regulation.

(e) A B seal shall be securely affixed by the door on the handle side at approximately handle height.

(f) No other seal, stamp, cover, or other marking shall be placed within two (2) inches of the B seal.

(4) Lost or damaged seals.

(a) If a B seal becomes lost or damaged, the owner shall immediately notify the department in writing, specifying:

1. The manufacturer;
2. The recreational vehicle serial number; and
3. When possible, the B seal number.

(b) All damaged B seals shall be returned to the department.

(c) Damaged and lost B seals shall be replaced by the department after an inspection and payment of the appropriate fee under Section 3(10).

(5) Denial and repossession of seals.

(a) If the department discovers that a retailer fails to repair a used recreational vehicle under the standards and procedures set forth in KRS 227.550 to 227.665 and this administrative regulation; or fails to comply with any provision for placement of B seals, the department shall provide notice to the retailer of the violations.

(b) The retailer shall fix the violations, and the retailer shall submit proof to the department that the violations were fixed.

(c) If the retailer continues to offer for sale recreational vehicles in violation of KRS 227.550 to 227.665 or this administrative regulation, applications for new seals shall be denied and the seals previously issued and unused shall be confiscated. The department shall reimburse the retailer for the price of the confiscated unused seals.

(d) After the retailer submits proof that the violations have been fixed, the retailer shall resubmit an application for B seals.

(6) Red Tagging.

(a) If any recreational vehicle bearing a B seal is found to be in violation of KRS 227.550 to 227.665 or this administrative regulation, the department shall attach to the vehicle a red tag and furnish the retailer a copy of same.

(b) The department, a retailer, or a manufacturer shall not remove the red tag until the necessary corrections have been made and approved by an inspection conducted by the department or a certified retailer.

Section 10. Incorporation by reference.

(1) The following material is incorporated by reference:

(a) "Form HBC MH/RV-1, Application of Certificate of Acceptability", April 2023[May-2020];

(b) "Form HBC MH/RV-2, Request for Approval to Inspect", May 2020;

(c) "Form HBC MH/RV-3, License and Certification Renewal Application", April 2023[May-2020];

(d) "Form RV-2, Recreational Vehicle Retailer Application", April 2023[May-2020];

(e) "Form HBC RV-6, Temporary RV Retailer's License", May 2020;

(f) "Form HBC MH-12, Application for Purchasing Seals", May 2020;

(g) "Form HBC RV-7, Recreational Vehicle Unit Certification Format", November 2018;

(h) "NFPA 1192, Standard on Recreational Vehicles", 2018; and

(i) "ANSI A119.5, Park Trailers", 2015.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, Division of Building Code Enforcement, Manufactured Housing [Branch][Section], 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. and is available online at <http://dhbc.ky.gov>.

RAY A. PERRY, Secretary

RICK W. RAND, Commissioner

APPROVED BY AGENCY: April 12, 2023

FILED WITH LRC: April 13, 2023 at 3:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 27, 2023 at 10:00 a.m., eastern time, in the Department of Housing, Buildings and Construction, 500 Mero Street, First Floor, Frankfort, Kentucky 40601. Individuals interest in being heard at this hearing shall notify this agency in writing by five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2023 at 11:59 p.m., eastern time. Send written notification of the intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person below:

CONTACT PERSON: Molly B. Cassady, General Counsel, Department of Housing, Buildings and Construction, Mero St., Kentucky 40601, phone 502-782-5448, fax 502-573-1057; 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 requirements for retailers to obtain a license to sell recreational vehicles and the standards for issuing a certificate of acceptability to manufacturers of recreational vehicles.

(b) The necessity of this administrative regulation: KRS 227.590(1) requires the Department of Housing, Buildings and Construction to promulgate administrative regulations reasonably necessary to effectuate KRS 227.550 to 227.660. KRS 227.570(1)(a) requires the department to promulgate administrative regulations establishing a process for licensing retailers and issuing certificates of acceptability to qualifying manufacturers. KRS 227.620(2) requires the department to promulgate administrative regulations establishing application and

fee requirements for a retailer's license. KRS 227.620(4)(a) requires the department to establish fees for a retailer's license, manufacturer's "certificate of acceptability," and "Class B," "Class B1," and "Class B2" seals, in accordance with KRS 227.620(4)(a) 1. to 4.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 227.590(1) requires the Department of Housing, Buildings and Construction to promulgate administrative regulations reasonably necessary to effectuate KRS 227.550 to 227.660. KRS 227.570(1)(a) requires the department to promulgate administrative regulations establishing a process for licensing retailers and issuing certificates of acceptability to qualifying manufacturers. KRS 227.620(2) requires the department to promulgate administrative regulations establishing application and fee requirements for a retailer's license. KRS 227.620(4)(a) requires the department to establish fees for a retailer's license, manufacturer's "certificate of acceptability," and "Class B," "Class B1," and "Class B2" seals, in accordance with KRS 227.620(4)(a) 1. to 4.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the requirements for retailers to obtain a license to sell recreational vehicles and the standards for issuing a certificate of acceptability to manufacturers of recreational vehicles in accordance with KRS 227.590(1); KRS 227.570(1)(a); and 227.620(4)(a).

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

(a) How the amendment will change this existing administrative regulation: This amendment removes language related to KRS 164.772, which was repealed in 2019, from forms.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update forms and assist in streamlining the application and renewal processes for licensees and certificate holders.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 227.590 requires the Department of Housing, Buildings and Construction to promulgate administrative regulations reasonably necessary to effectuate KRS 227.550 to 227.660. KRS 227.570(4) requires the department to promulgate administrative regulations to establish standards for the certified installer seal program.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in making updates to forms and in streamlining the application and renewal processes for licensees and certificate holders.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Manufacturers and retailers of recreational vehicles are affected by this administrative regulation. The Department of Housing, Buildings and Construction is also 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: Manufacturers and retailers of recreational vehicles will be required to utilize the amended forms to comply with this amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment does not establish or increase a fee.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The recreational vehicle certificate and license application and renewal process shall be streamlined.

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

(a) Initially: There are no anticipated additional costs to implement this administrative regulation initially.

(b) On a continuing basis: There are no anticipated additional

costs 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: Funding for implementation and enforcement of this administrative regulation will be met with existing agency funds.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied as all regulated entities are subject to the same amended requirements.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 227.570(1)(a) KRS 227.590; and KRS 227.620(4)(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 is not anticipated to generate additional 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 amendment is not anticipated to generate additional revenue for state or local government in subsequent years.

(c) How much will it cost to administer this program for the first year? There are no anticipated additional costs to administer this amendment in the first year.

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer this amendment for subsequent years.

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

Revenues (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: None.

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? This administrative regulation is not anticipated to result in cost savings for the regulated entities for the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? This administrative regulation is not anticipated to result in cost savings for the regulated entities for subsequent years.

(c) How much will it cost the regulated entities for the first year? There are no anticipated costs to the regulated entities for the first year.

(d) How much will it cost the regulated entities for subsequent years? There are no anticipated costs to the regulated entities for subsequent years.

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

regulation.

Cost Savings (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: None.

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This administrative regulation will not have a major economic impact, as defined above.

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Building Code Enforcement
(Amendment)

815 KAR 25:060. Licensing and certifications with manufactured homes and mobile homes.

RELATES TO: KRS 227.550, 227.560, 227.570, 227.580, 227.590, 227.600, 227.610, 227.620, 227.630, 227.990

STATUTORY AUTHORITY: KRS 227.570(1)(a), (2), (3), [(4)], 227.580, 227.590

NECESSITY, FUNCTION, AND CONFORMITY: KRS 227.590(1) requires the department of Housing, Buildings and Construction to promulgate administrative regulations reasonably required to effectuate the provisions of KRS 227.550 to 227.660 governing the standards for the manufacture and sale of manufactured homes and mobile homes. KRS 227.580 makes it unlawful for a manufacturer to manufacture, import, or sell manufactured homes in Kentucky without a certificate of acceptability. KRS 227.570(3)[227.570(4)] requires the department to promulgate administrative regulations to establish standards for the certified installer seal program. KRS 227.570(1)(a) requires the department to promulgate administrative regulations establishing a process for licensing retailers and issuing certificates of acceptability. KRS 227.620(4)(a) requires the department to establish fees for a retailer's license, manufacturer's "certificate of acceptability," and "Class B," "Class B1," and "Class B2" seals, in accordance with KRS 227.620(4)(a) 1. to 4. This administrative regulation establishes the standards for licensing persons and companies engaged in the sale of manufactured homes and mobile homes, establishes standards for certificate[certification] of acceptability for manufacturers of manufactured homes, and establishes the requirements for certified installer seals and certification of manufactured home installers.

Section 1. Licensed Retailer.

(1) License application.

(a) Except as provided in subsection (2) of this section, a person shall not engage in the business of selling manufactured homes or mobile homes within this state without holding a valid license issued by the department for each location.

(b) Before engaging in business, an applicant shall submit to the department:

1. The completed Form HBC MH-2;

2. A copy of a valid Kentucky sales tax certificate;

3. A check or money order for the annual license fee, in the amount of \$250 for a full year, or a reduced amount prorated on a monthly basis for a period of less than a full year, payable to the Kentucky State Treasurer; and

4. Proof of insurance for general liability coverage that complies with KRS 227.610 in the amount of at least:

a. \$200,000 bodily injury or death for each person;

b. \$300,000 bodily injury or death for each accident;[and]

c. \$100,000 for damage to property.

(c) An applicant whose place of business is in another state and who possesses a valid retailer license in another state shall:

1. Comply with this section;

2. Not be required to maintain an established place of business within Kentucky, if the applicant is not offering a home for sale within Kentucky; and

3. Provide a Kentucky B seal for a used manufactured home or mobile home unit sold for delivery into Kentucky.

(2) Exemptions from Licensure as [a-]Retailer.

(a) A manufactured home shall be exempt from seal requirements and a retailer is exempt from licensing if the unit:

1. Is brought into Kentucky for exhibition purposes only;

2. Is not sold in Kentucky; and

3. Inspection does not reveal a condition hazardous to health or safety.

(b) Real estate developer and retailer venture. A retail license shall not be required of a developer who purchases new HUD homes from a licensed Kentucky retailer, places the homes on a parcel of land, and offers the homes for sale to ultimate consumers, if:

1. The developer receives prior written approval from the department;

2. The home was installed by a certificated[certified] installer;

3. The developer owns the homes and the lots upon which the homes are installed;

4. The manufacturer's warranty period begins upon possession and shall be transferred from the developer to the consumer-occupant;

5. The manufacturer's warranty support shall be performed in accordance with generally accepted[-]standards for retail transactions;

6. The developer's documentation contains the name and location of the:

a. Developer;

b. Development; and

c. Retailer; and

7. The retailer and installer provide[provides] the required services as warranted and as required by laws governing retailer and installer license or certification.

(3) Retailer's satellite location.

(a) An additional license shall not be required for[of] a fully [-]licensed retailer for the display or sale of a manufactured home located on an individual lot, in a subdivision, land-lease community, or manufactured home or mobile home park.

(b) A suitable sign identifying the name and business location of the retailer licensee shall be posted at the location.

(4) Qualified personnel required.

(a) Education requirements. A new retailer license or a renewal of an existing retailer license shall not be issued unless the retailer employs at least one (1) person in a management position who has successfully completed the educational training and departmental testing program administered as part of the Certified Installer Program under Section 4 of this administrative regulation. The proof of experience in Section 4(1)(a)4. shall not be required.

(b) Certification. The department shall classify a person qualifying under subsection (1) of this section as a certified manager.

(c) Exception. A certified manager shall not be required at each licensed location for a retailer with more than one (1) in-state location if:

1. The retailer has only one (1) set-up, installation, and delivery system located in Kentucky;

2. A certified manager supervises the work of the system; and

3. The arrangement is approved, in writing, by the department.

(5) Notification by Licensees.

(a) A retailer shall notify the department, in writing, within thirty (30) days of a change in any of the following:

1. Dealership name;

2. Address of business;

3. Retailer ownership interest of twenty-five (25) percent or more within a twelve (12) month period; or

4. A principal officer or chief managing officer of the firm.

(b) A change in ownership interest of less than twenty-five (25) percent of the company within a twelve (12) month period shall be reported at the time of the renewal of the license.

(c) A new license shall be required if an established business

changes location to a different county.

(6) Maintenance of Records. A retailer shall:

- (a) Complete and maintain Form HBC MH-7 for each new or used manufactured home or mobile home sold;
- (b) Retain the completed Form HBC MH-7, for three (3) years; and
- (c) Keep the form available for a field inspector upon request.

Section 2. Manufacturer's Certificate of Acceptability.

(1) Requirements for issuance. An applicant for a manufacturer's certificate of acceptability shall submit to the department:

- (a) A completed Form HBC MH/RV-1;
- (b) Proof of insurance for general liability coverage that complies with KRS 227.610 in the amount of at least:
 - 1. \$300,000 bodily injury or death for each person;
 - 2. \$400,000 bodily or injury or death for each accident; and
 - 3. \$100,000 for damage to property; and
- (c) A certificate of acceptability fee in the amount of \$500 for a full year, or a reduced amount prorated on a monthly basis for a period of less than a full year, by a check or money order made payable to the Kentucky State Treasurer.

(2) A manufacturer who is also a retailer shall comply with retailer licensing provisions in Section 1 of this administrative regulation.

(3) A manufacturer shall notify the department in writing, within thirty (30) days of a change in any of the following:

- (a) Business~~Corporate~~ name;
 - (b) Company address;
 - (c) Ownership interest of twenty-five (25) percent or more of the company within a twelve (12) month period;
 - (d) Location of the~~a~~ manufacturing facility;
 - (e) The number of facilities by virtue of the establishment of a new manufacturing facility; or
 - (f) A principal officer of the firm.
- (4) A change in ownership ~~[interest]~~ of less than twenty-five (25) percent of the company within a twelve (12) month period shall be reported at the time of the renewal of the certificate of acceptability.

(5)

(a) A manufacturer who considers information relating to a building or in-plant quality control system to be proprietary shall designate the information as proprietary at the time of plan submission.

(b) The designated information shall be maintained and treated as proprietary by:

- 1. The department;
- 2. Inspection and evaluation personnel; and
- 3. Local enforcement agencies.

Section 3. Certified Installers.

(1) Initial application.

(a) An applicant for installer certification~~[certified installer]~~ shall submit to the department:

- 1. A completed Form HBC MH-3, Certified Installer Application;
- 2. An application fee of \$100;
- 3. Proof of successful completion of a fifteen (15) hour approved course of education;
- 4. A passing score on the certified installer examination administered by the department;
- 5. A certificate verifying current worker's compensation insurance coverage or a notarized waiver of exemption.
- 6. Proof of general liability insurance coverage in an amount not less than \$250,000; and
- 7. Proof of experience in the form of:

a. A completed Form HBC MH-3A documenting the applicant's experience assisting in site preparation and installation of manufactured homes under the supervision of a certified installer for at least sixty (60) days and on at least five (5) homes; or

[4. Proof of regularly assisting in site preparation and installation functions:

- a. Under the supervision of a certified installer;

b. For at least sixty (60) days; and

c. On at least five (5) homes;]

b. An affidavit documenting the applicant's experience assisting in site preparation and installation of manufactured homes under the supervision of a certified installer for at least one (1) year, as attested to by three individuals who are licensed retailers, manufacturers, manufactured home community managers, manufactured home design professionals, or certified installers.

[5. A passing score on the certified installer examination given by the department; and

6. A certificate verifying current worker's compensation insurance coverage, if the applicant is employed at the time of application.]

(b) An applicant who possesses an active installation license issued by the United States Department of Housing and Urban Development pursuant to 24 C.F.R. § 3286.201 through 24 C.F.R. § 3286.211 shall be exempt from the requirements of subparagraphs 4. and 7. of paragraph (a) of this subsection.

(c) An applicant who possesses an active installation license or certification in good standing from a jurisdiction with which the department has reciprocity shall be exempt from the requirements of subparagraphs 4. and 7. of paragraph (a) of this subsection.

(d)[(b)] If an initial certificate is for a period of less than twelve (12) months, the fee shall be prorated pursuant to the schedule provided in Form HBC MH-3[reduced on a pro-rata monthly basis].

(2) An installer certification shall be issued in the name of the individual qualified under subsection (1) of this section. The individual may request that the certificate also bear the name of the employing company.

(3)

(a) If the certified installer changes his or her business name or is no longer associated with the company whose name appears upon the certificate, the certified installer shall inform the department and request an amended certificate reflecting the individual's status.

(b) If the certified installer is no longer associated with a company, that company shall not hold itself out as a certified installer or as having in its employ a certified installer until another certified person has become associated with that company.

(4) Certified Installer Seal. A certified installer who installs a manufactured home or mobile home in accordance with KRS 227.570(3) and this administrative regulation shall place a certified installer seal on the home.

(a) Certified installer seals shall be obtained from the department.

(b) The application shall be:

- 1. Filed on Form HBC MH-12, Application for Purchasing Seals; and
- 2. Accompanied by a fee of twenty-five (25) dollars for each seal.

(5) Application and placement of certified installer seals.

(a) Each certified installer seal consists of two (2) parts that shall be affixed as follows:

1. One (1) part shall be placed two (2) inches above the HUD label on the outside left corner of a manufactured home or on the outside left corner of a mobile home if a HUD label is not required; and

2. One (1) part shall be placed on the inside of the electrical panel in the manufactured home.

(b) Other seals, stamps, covers, or other markings shall not be placed within two (2) inches of the certified installer seal.

(6) Lost or damaged seals.

(a) If a certified installer seal becomes lost or damaged, the owner shall notify the department immediately, in writing, specifying:

- 1. The manufacturer;
- 2. The manufactured or mobile home serial number; and
- 3. The certified installer seal number, if known.

(b) A damaged seal shall be:

- 1. Promptly returned to the department; and
- 2. Replaced by the department for a fee of twenty-five (25) dollars.

VOLUME 49, NUMBER 11– MAY 1, 2023

(7) Recordkeeping. A certified installer shall:

- (a) Complete and maintain Form HBC MH 40-30, Monthly Certified Installer Certification, for each certified installation;
- (b) Retain the completed Form HBC MH 40-30, Monthly Certified Installer Certification, for three (3) years; and
- (c) Make a copy of the form available to a state inspector upon request.
- (d) A certified installer shall send the department a monthly report of the information found in HBC MH 40-30 by mail, electronic mail, or facsimile.

~~[Section 4. Incorrect or Incomplete Applications. If there is an incorrect or incomplete application, the department shall:~~

- ~~(1) Issue a correction notice to an applicant within thirty (30) days of receiving a defective or incomplete application specifying the defect;~~
- ~~(2) Deem the application abandoned and the fee forfeited for an applicant who fails to submit a corrected application in accordance with the information supplied on the application correction notice, within thirty (30) days of receipt; and~~
- ~~(3) Process as a new application, a corrected application submitted after the thirty (30)-day period.]~~

~~Section 4.~~ Section 5. Renewals.

~~(1) Expiration of licenses~~[a license] and certificates. A license, a certificate of acceptability, and an installer certification, unless renewed, revoked, or suspended, shall expire on:

- (a) For individuals, the last day of the licensee's birth month in the following year; or
- (b) For business organizations~~[corporations]~~:
 1. The licensee's month of incorporation in the following year; or
 2. The last day of the licensee's birth month in the following year.

~~(2) Renewal of licenses and~~[a license or] certificates.

~~(a) A retailer, manufacturer, or [a]-certified installer, wishing to renew a license or certification, shall submit the following:~~

1. A completed License and Certification Renewal, Form HBC MH/RV-3;
2. Proof of continuing general liability insurance coverage; and
3. A check or money order for the renewal~~[annual license]~~ fee, in the amount of:
 - a. \$250 for a licensed retailer;
 - b. \$500 for a certificate of acceptability; or
 - c. Fifty (50) dollars for an installer certification.

~~(b) A retailer, manufacturer, or certified installer shall renew a license or certificate before the license or certificate expires pursuant~~[according] to subsection (1) of this section.

~~(c) A certified installer shall submit proof of completion of the continuing education requirements established in 815 KAR 1:030.~~

~~(d) A retailer and [a]-manufacturer shall maintain at least minimum general liability insurance and shall notify the department if there is a change in insurance coverage.~~

~~(3) A certified installer may place his or her certification in inactive status.~~

~~(a) To place an installer certification in inactive status, a certified installer shall pay an initial inactive fee of fifty (50) dollars.~~

~~(b) An inactive certified installer shall return any unused certified installer seals to the department within thirty (30) days of his or her certification becoming inactive.~~

~~(c) An inactive certified installer shall not install manufactured or mobile homes, represent him or herself as a certified installer, or otherwise engage in the work of a certified installer.~~

~~(d) To reactivate an inactive installer certification, the certificate holder shall complete all renewal requirements of subsection (2) of this section and pay a fifty (50) dollar renewal fee.~~

~~Section 5.~~ Section 6. Incorporation by Reference.

~~(1) The following material is incorporated by reference:~~

- (a) Form HBC MH/RV-1, "Application of Certificate of Acceptability~~[for Manufactured Homes]~~", April 2023~~[May 2020]~~;
- (b) Form HBC MH-2, "Application for Manufactured Home Retailer's License", April 2023~~[May 2020]~~;

~~(c) Form HBC MH-3, "Certified Installer Application", April 2023~~[May 2020];

~~(d) Form HBC MH-3A, "Installer Training Verification Form", April 2023;~~

~~(e)~~[f)] Form HBC MH/RV-3, "License and Certification Renewal", April 2023~~[May 2020]~~;

~~(f)~~[g)] Form HBC MH-12, "Application for Purchasing Seals", May 2020;

~~(g)~~[h)] Form HBC MH-7, "Monthly Manufactured Home Retailer Certification Form~~[Format]~~", May 2020; and

~~(h)~~[i)] Form HBC MH 40-30, "Monthly Certified Installer Certification", May 2020.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, Division of Building Code Enforcement, Manufactured Housing Branch~~[Section]~~, 500 Mero Street, First Floor~~[101 Sea Hero Road, Suite 100]~~, Frankfort, Kentucky 40601~~[40601-5412]~~, Monday through Friday, 8 a.m. through~~[and]~~ 4:30 p.m. and is available online at https://dhbc.ky.gov~~[http://dhbc.ky.gov]~~.

RAY A. PERRY, Secretary

IRICK W. RAND, Commissioner

APPROVED BY AGENCY: April 12, 2023

FILED WITH LRC: April 13, 2023 at 3:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 27, 2023 at 10:00 a.m., eastern time, in the Department of Housing, Buildings and Construction, 500 Mero Street, First Floor, Frankfort, Kentucky 40601. Individuals interest in being heard at this hearing shall notify this agency in writing by five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2023 at 11:59 p.m., eastern time. Send written notification of the intent to be head at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person below:

CONTACT PERSON: Molly B. Cassady, General Counsel, Department of Housing, Buildings and Construction, Mero St., Kentucky 40601, phone 502-782-5448, fax 502-573-1057; 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 standards for licensing persons and companies engaged in the sale of manufactured homes and mobile homes, establishes standards for certificates of acceptability for manufacturers of manufactured homes, and establishes the requirements for certified installer seals ad certification of manufactured home installers.

(b) The necessity of this administrative regulation: KRS 227.590 requires the Department of Housing, Buildings and Construction to promulgate administrative regulations reasonably required to effectuate the provisions of KRS 227.550 to 227.660 and to carry out the department's responsibilities as a state administrative agency for the enforcement and administration of the National Manufactured Housing Construction and Safety Standards Act of 1974. KRS 227.580 makes it unlawful for a manufacturer to manufacture, import, or sell manufactured homes in Kentucky without a certificate of acceptability. KRS 227.570(3) requires the department to promulgate administrative regulations to establish standards for the certified installer seal program. KRS 227.570(1)(a) requires the Department of Housing, Buildings and

Construction to promulgate administrative regulations establishing a process for licensing retailers and issuing certificates of acceptability. KRS 227.620(4)(a) requires the department to establish fees for a retailer's license, manufacturer's "certificate of acceptability," and "Class B," "Class B1," and "Class B2" seals, in accordance with KRS 227.620(4)(a) 1. to 4.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 227.590 requires the Department of Housing, Buildings and Construction to promulgate administrative regulations reasonably required to effectuate the provisions of KRS 227.550 to 227.660 and to carry out the department's responsibilities as a state administrative agency for the enforcement and administration of the National Manufactured Housing Construction and Safety Standards Act of 1974. KRS 227.580 makes it unlawful for a manufacturer to manufacture, import, or sell manufactured homes in Kentucky without a certificate of acceptability. KRS 227.570(3) requires the department to promulgate administrative regulations to establish standards for the certified installer seal program. KRS 227.570(1)(a) requires the Department of Housing, Buildings and Construction to promulgate administrative regulations establishing a process for licensing retailers and issuing certificates of acceptability. KRS 227.620(4)(a) requires the department to establish fees for a retailer's license, manufacturer's "certificate of acceptability," and "Class B," "Class B1," and "Class B2" seals, in accordance with KRS 227.620(4)(a) 1. to 4. This administrative regulation establishes the standards for licensing persons and companies engaged in the sale of manufactured homes and mobile homes, establishes standards for certificates of acceptability for manufacturers of manufactured homes, and establishes the requirements for certified installer seals and certification of manufactured home installers.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the standards for licensing persons and companies engaged in the sale of manufactured homes and mobile homes, establishes standards for certificates of acceptability for manufacturers of manufactured homes, and establishes the requirements for certified installer seals and certification of manufactured home installers in accordance with KRS 227.590, KRS 227.570(3), and KRS 227.620.

(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 new pathways to installer certification, requires certified installers to carry \$250,000 general liability coverage, establishes an inactive status for certified installers, makes grammatical and technical edits for clarity, and removes from forms language related to KRS 164.772, which was repealed in 2019. Further, this amendment removes unnecessary requirements from retailer applications.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update forms and assist in streamlining the application and renewal processes for licensees and certificate holders. This amendment is also necessary to create new pathways to installer certification, require certified installers to carry general liability insurance, and establish an inactive status for certified installers.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 227.590 requires the Department of Housing, Buildings and Construction to promulgate administrative regulations governing the standards for the manufacture and sale of manufactured homes and mobile homes. KRS 227.570(3) requires the department to promulgate administrative regulations to establish standards for the certified installer seal program.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in making updates to forms, streamlining application and renewal processes for licensees and certificate holders, and creating new pathways to installer certification.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Manufacturers, retailers, and certified

installers of manufactured homes are affected by this administrative regulation. The Department of Housing, Buildings and Construction is also 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: Manufacturers, retailers, and certified installers of manufactured homes will be required to utilize the amended forms to comply with this amendment. Initial applicants for installer certification will have new pathways to fulfill certification requirements. Initial applicants for retailer licensure will have a less burdensome form to complete when applying. Certified installers will now be required to carry general liability insurance in an amount of not less than \$250,000.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Certified installers will be required to carry general liability insurance coverage in an amount of not less than \$250,000. This is the only additional cost the entities identified in question (3) will face.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): New pathways to installer certifications are created. Application and renewal processes are streamlined.

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

(a) Initially: There are no anticipated additional costs to implement this administrative regulation initially.

(b) On a continuing basis: There are no anticipated additional costs 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: Funding for implementation and enforcement of this administrative regulation will be met with existing agency funds.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied as all regulated entities are subject to the same amended requirements.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 227.590; KRS 227.570(1)(a) and (3); and KRS 227.620(4)(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 is not anticipated to generate additional 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 amendment is not anticipated to generate additional

revenue for state or local government in subsequent years.

(c) How much will it cost to administer this program for the first year? There are no anticipated additional costs to administer this amendment in the first year.

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer this amendment for subsequent years.

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

Revenues (+/-): Neutral
Expenditures (+/-): Neutral
Other Explanation: None.

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? This administrative regulation is not anticipated to result in cost savings for the regulated entities for the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? This administrative regulation is not anticipated to result in cost savings for the regulated entities for subsequent years.

(c) How much will it cost the regulated entities for the first year? For the first year, this administrative regulation will cost certified installers the price of a general liability insurance premium in an amount not less than \$250,000. Licensing and certification fees remain unchanged.

(d) How much will it cost the regulated entities for subsequent years? For subsequent years, this administrative regulation will cost certified installers the price of a general liability insurance premium in an amount not less than \$250,000. Licensing and certification fees remain unchanged.

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

Cost Savings (+/-): Neutral
Expenditures (+/-): Neutral
Other Explanation: None.

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This administrative regulation will not have a major economic impact, as defined above.

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Electrical
(Amendment)

815 KAR 35:060. Licensing of electrical contractors, master electricians, and electricians.

RELATES TO: KRS 164.772(3), 227A.010, 227A.060, 227A.100, 339.230, 29 C.F.R. 570

STATUTORY AUTHORITY: KRS 227A.040(1), (8), 227A.060, 227A.100(9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 227A.040(1) requires the Department of Housing, Buildings and Construction to administer and enforce KRS 227A.010 to 227A.140 and evaluate the qualifications of applicants for electrical licensure. KRS 227A.040(8) authorizes the Department of Housing, Buildings and Construction to promulgate administrative regulations to establish procedures governing the licensure of electrical contractors, master electricians, and electricians. KRS 227A.100(9) authorizes the department to promulgate administrative regulations governing an inactive license. This administrative regulation

establishes the eligibility requirements and application procedures for the licensing of electrical contractors, master electricians, and electricians.

Section 1. Initial Application Requirements.

(1) Filing the application.

(a) Electrical contractor. An applicant seeking an electrical contractor's license shall submit to the department:

1. A completed Electrical Contractor's License Application, Form EL-2;
 2. An application fee of \$200 for a twelve (12) month license;
 3. The name and license number of the master electrician affiliated with the applicant; and
 4. Proof of insurance as required by KRS 227A.060(1)(c).
- (b) Master Electrician. An applicant seeking a master electrician license shall submit to the department:
1. A completed Electrical License Application, Form EL-3;
 2. An application fee of \$100 for a twelve (12) month license; and

3. Proof of the applicant's experience as established by KRS 227A.060(2)(b) and this administrative regulation.

(c) Electrician. An applicant seeking an electrician license shall submit to the department:

1. A completed Electrical License Application, Form EL-3;
2. An application fee of fifty (50) dollars for a twelve (12) month license; and
3. Proof of the applicant's experience as established by KRS 227A.060(3)(b) and this administrative regulation.

(d) The application fees may be prorated for not less than seven (7) months or more than eighteen (18) months and shall expire on the final day of the applicant's birth month.

(2) Photograph requirement. All electrical license applicants shall submit a passport-sized color photograph of the applicant taken within the past six (6) months.

(3) Voiding of application.

(a) The initial application shall remain pending until all requirements are met, up to a period of one (1) year after the date the application is submitted.

(b) At the end of the one (1) year, the application shall be void.

Section 2. Reciprocity. An applicant for reciprocity shall:

(1) Comply with:

- (a) The requirements established in the reciprocity agreement between Kentucky and the state in which the applicant is licensed;
- (b) The general application requirements in Section 1(2) of this administrative regulation;

(2) Provide:

- (a) A copy of the applicant's license from the participating state;
- (b) A letter of good standing from the licensing authority of the state in which the applicant is currently licensed; and
- (3) If applying for an electrical contractor's license, proof of insurance as required by KRS 227A.060(1)(c).

Section 3. Verification of Experience.

(1) Records of experience. Proof of experience shall be provided by:

(a) Tax returns or other official tax documents that indicate the applicant's occupation or the nature of the applicant's business activities, including Federal Schedule C, Form 1040, Form 1099, or local occupational tax returns;

(b) A copy of a business license issued by a county or municipal government that did not issue electrical contractor's[contractors], master electrician's, or electrician's licenses prior to June 24, 2003, if the business license indicates the applicant operated as an electrical contractor or worker;

(c) A sworn affidavit, on the affiant's letterhead, certifying that the affiant has personal knowledge that the applicant has engaged in electrical work under the scope of the National Electrical Code, NFPA 70, incorporated by reference in 815 KAR 7:120 and 815 KAR 7:125, from~~worked as a master electrician or an electrician for~~ at least one (1) of the following:

1. An electrical workers union;

2. A licensed electrical contractor and licensed master electrician the applicant was or currently is employed by~~[A certified electrical inspector]; [or]~~

3. An industrial manufacturing facility or natural gas pipeline facility the applicant was or currently is employed by~~[An employer that employed the applicant as an electrician or a master electrician]; or~~

4. An electrical training program that has been approved by the department pursuant to 815 KAR 35:090 and is an apprenticeship program registered in accordance with 787 KAR 3:010.

(d) Records of a branch of the United States Armed Forces that indicate the applicant performed a function that primarily involved electrical work. Experience gained while in the military shall be deemed to have been earned in Kentucky.

(2) An applicant for a master electrician license or electrician license attending an accepted electrical training program in accordance with 815 KAR 35:090 shall provide the following with his or her application:

(a) An affidavit from the director or authorized agent of the electrical training program confirming the applicant's participation in the electrical training program; and

(b) Documentation that the applicant has completed the required number of hours in accordance with 815 KAR 35:090.

(3) Additional proof of experience shall be requested by the department, prior to or after licensing, if the department has reason to believe that the experience shown is insufficient or nonexistent.

(4) One (1) year of electrical experience shall consist minimally of 1,600 hours of electrical work under the scope of the National Electrical Code, NFPA 70, incorporated by reference in 815 KAR 7:120 and 815 KAR 7:125, in a contiguous twelve (12) month period.

Section 4. Examinations.

(1) An applicant for an electrical contractor's license, master electrician's license, or electrician's license shall pass with a minimum score of seventy (70) percent, an examination administered by an approved examination provider.

(2) A passing score shall be valid for a period of three (3) years.

(3) Reasonable accommodations shall be made to provide accessibility to disabled applicants, upon request.

(4) For an electrical contractor's license, an applicant that is a business entity shall designate a person to take the examination on behalf of the applicant. The designee shall be:

- (a) An owner of the applicant's business;
- (b) An officer of the applicant's business;
- (c) A director of the applicant's business; or
- (d) A full-time employee of the applicant's business.

(5) Upon application by a testing agency, a national code group, or by an applicant for licensure, the department may recognize another examination as equivalent to an examination administered by an approved examination provider. The person or group submitting the examination shall demonstrate that the examination covers the same material and requires the same level of knowledge as the approved examinations.

Section 5. Appeal Procedure.

(1) An applicant denied a license may appeal the decision to the commissioner of the department. The applicant shall submit written notice of the appeal to the department within ten (10) business days of receiving notice that the license application has been denied.

(2) The appeal shall be conducted pursuant to KRS Chapter 13B by a hearing officer appointed by the commissioner of the department.

Section 6. Proof of Insurance.

(1) An electrical contractor's insurance policy shall name the department as the certificate holder.

(2) The applicant shall provide proof of workers' compensation insurance by providing:

(a) An insurance certificate from an insurance provider approved by the Kentucky Department of Insurance; or

(b) A notarized statement that the applicant is not required to obtain workers' compensation coverage and the reason why the coverage is not required.

(3) Each electrical contractor shall require the contractor's liability and workers' compensation insurers to provide notice to the department if a policy:

- (a) Is cancelled, terminated, or not renewed; or
- (b) Limit is lowered.

(4) An electrical contractor shall advise the department of a:

- (a) Change in the contractor's insurance coverage, including cancellation or termination of any policy;
- (b) Change in the insurer providing the coverage; or
- (c) Changed circumstances that require the contractor to obtain coverage.

Section 7. Inactive License Status.

(1) A licensee may request that a license be placed in inactive status.

(2) An electrical contractor ~~license~~licensee in inactive status shall not be required to maintain liability insurance or provide proof to the department of compliance with workers' compensation laws.

(3) A certified electrical inspector may be licensed as an electrical contractor, master electrician, or electrician, but shall maintain that license as inactive while having an active electrical inspector certification.

(4) A licensee shall not perform electrical work while the license is inactive. Performing ~~[electrical]~~work that requires a license while holding an inactive license shall be grounds for revocation or suspension of all electrical licenses and certifications held by the licensee.

Section 8. Renewal Requirements.

(1) A license shall be valid for one (1) year and shall be renewed on or before the last day of the licensee's birth month. For electrical contractor licenses issued to corporations, partnerships, or business entities without a birth month, the renewal month shall be the month the license was issued.

(2) Filing for renewal. An electrical contractor, a master electrician, or an electrician shall submit to the department:

(a) A completed form DHBC L-1, Licensing Renewal Application~~;~~:

~~1. Electrical Contractor's License Application, Form EL-2 for an electrical contractor; or~~

~~2. Electrical License Application, Form EL-3 for a master electrician and electrician;~~

(b) A renewal fee of:

- 1. \$200 for an electrical contractor;
- 2. \$100 for a master electrician; and
- 3. Fifty (50) dollars for an electrician;

(c) Proof of annual continuing education ~~[attendance]~~in accordance with 815 KAR 2:010; and

(d) Proof of insurance as required by KRS 227A.060(1)(c) and this administrative regulation for an electrical contractor.

(3)

(a) A ~~[license]~~licensee that is in inactive status shall be exempt from annual renewal.

(b) An inactive license shall be reactivated upon payment of the annual renewal fee, the reactivation fee, and upon compliance with the continuing education requirements established in 815 KAR 2:010.

~~[(4)]~~

~~(a) A licensee who applies for reissuance of a license pursuant to 2018 Ky. Acts ch. 186, sec. 2 shall submit to the department:~~

~~1. A completed:~~

~~a. Electrical Contractor's License Application, Form EL-2 for an electrical contractor; or~~

~~b. Electrical License Application, Form EL-3 for a master electrician and electrician;~~

~~2. Proof of licensure as described in 2018 Ky Acts ch. 186, sec. 2;~~

~~3. A reissuance fee of \$100; and~~

~~4. Proof of insurance as required by KRS 227A.060(1)(c) and this administrative regulation for an electrical contractor.~~

~~(b) The reissued license shall be valid for one (1) year from the date of issuance. The reissued license holder shall obtain a full license if the reissued license holder passes the corresponding license examination pursuant to Section 4 of this administrative regulation.~~

~~(c) If the individual with the reissued license fails to take and pass an examination within one (1) year of reissuance, the department shall terminate the license.~~

~~(5) A licensee who has not previously provided a passport-sized color photograph shall provide one (1) with the licensee's next application for renewal.]~~

Section 9. Reinstatement and Late Fees.

(1) Application, renewal, reinstatement, and late fees shall not be refundable.

(2) The reinstatement fee for a terminated license pursuant to KRS 227A.100(4) shall be equal to the license renewal fee and shall be paid in addition to the license renewal fee.

(3) The late renewal fee shall be fifty (50) dollars. If all documents required to be submitted for renewal are postmarked on or before the last day of the renewal month, the filing shall be considered timely, and a late fee shall not be assessed.

Section 10. Change of Information.

(1) An electrical contractor and a master electrician shall notify the department of any change to the name of the electrical contractor's or master ~~electrician's~~[electrician-s] business and its address, employer, and the employer's address each time a change of information[employment] is made.

(2)

(a) Except as stated in subsection (3) of this section, if an electrical contractor designated by an entity as established in Section 4(4) of this administrative regulation leaves the employment or no longer maintains ~~and~~[an] interest in that entity, the entity shall designate another person who either:

1. Has passed the electrical contractor's examination; or

2. Successfully passes the electrical contractor's examination within thirty (30) days.

(b) Failure to have a designee that has passed the examination shall render the licensee no longer qualified to be licensed.

(3) Death of an electrical contractor or master electrician.

(a) If the electrical contractor or master electrician representing a company dies, the company shall notify the department within ten (10) days of the electrical contractor's or master electrician's death.

(b) The 180-[-]day interim period established in KRS 227.480 and KRS 227A.140 shall begin on the date the electrical contractor or master electrician dies.

(c) The company shall not be required to renew the deceased's electrical contractor or master electrician license[,] if the license renewal date falls within the 180-[-]day interim period.

(d) The company shall not use the deceased electrical contractor's or master electrician's license after the expiration date of the interim period.

(e) The company shall notify the department when the company has a replacement electrical contractor or master electrician to represent the company on or before the expiration date of the interim period.

Section 11. Provisional License.

(1) Application. An applicant seeking a provisional electrician license shall submit to the department:

(a) A completed Provisional[Provisional] Electrical License Application Form, EL-14;

(b) An application fee of fifty (50) dollars;

(c) A passport-sized color photograph of the applicant taken within the past six (6) months; and

(d) Proof of the applicant's experience as established by KRS 227A.060(4)(a)2.

(e) The Proof requested in paragraph (d) of this subsection shall be satisfied with the documents listed in Section 3(1) of this administrative regulation.

(2) Responsibilities. A provisional electrician license holder

shall have the same rights and responsibilities as an electrician licensed pursuant to KRS 227A.060(3) and this administrative regulation.

(3) Termination.

(a) A provisional electrician license shall be valid for one (1) year from the date of issuance. The provisional electrician license shall immediately terminate on the date of the one (1) year anniversary of the issuance of the provisional electrician license.

(b) The provisional electrician license holder shall no longer have the rights and responsibilities of an electrician licensed pursuant to KRS 227A.060(3) and this administrative regulation. The provisional electrician license holder shall revert to the individual's unlicensed status [as]before the issuance of the provisional license.

Section 12. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Electrical Contractor's License Application", Form EL-2, May 2020;

(b) "Electrical License Application", Form EL-3, May 2020; [and]

(c) "Provisional Electrical[Electrician] License Application", Form EL-14, May 2020[.]; and

(d) "Licensing Renewal Application", Form DHBC L-1, April 2023.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings, and Construction, Electrical Licensing, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. and is available online at <http://dhbc.ky.gov/Pages/default.aspx>.

RAY A. PERRY, Secretary

RICK W. RAND, Commissioner

APPROVED BY AGENCY: April 12, 2023

FILED WITH LRC: April 13, 2023 at 3:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 27, 2023 at 10:00 a.m., eastern time, in the Department of Housing, Buildings and Construction, 500 Mero Street, First Floor, Frankfort, Kentucky 40601. Individuals interest in being heard at this hearing shall notify this agency in writing by five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2023 at 11:59 p.m., eastern time. Send written notification of the intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person below:

CONTACT PERSON: Molly B. Cassady, General Counsel, Department of Housing, Buildings and Construction, Mero St., Kentucky 40601, phone 502-782-5448, fax 502-573-1057; 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 licensure requirements for electrical contractors, master electricians, and electricians.

(b) The necessity of this administrative regulation: KRS 227A.040(1) requires the Department of Housing, Buildings and Construction to administer and enforce KRS 227A.010 to 227A.140 and evaluate the qualifications of applicants for electrical licensure. KRS 227A.040(8) authorizes the Department of Housing, Buildings and Construction to promulgate administrative regulations to

establish procedures governing the licensure of electrical contractors, master electricians, and electricians. KRS 227A.100(9) authorizes the department to promulgate administrative regulations governing an inactive license. This administrative regulation establishes the eligibility requirements and application procedures for the licensing of electrical contractors, master electricians, and electricians.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 227A.040(8) authorizes the Department of Housing, Buildings and Construction to promulgate administrative regulations to establish procedures governing the licensure of electrical contractors, master electricians, and electricians. KRS 227A.100(9) authorizes the department to promulgate administrative regulations governing an inactive license. This administrative regulation establishes the eligibility requirements and application procedures for the licensing of electrical contractors, master electricians, and electricians.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 227A.040(1) requires the Department of Housing, Buildings and Construction to administer and enforce KRS 227A.010 to 227A.140 and evaluate the qualifications of applicants for electrical licensure. This administrative regulation establishes the eligibility requirements and application procedures for the licensing of electrical contractors, master electricians, and electricians, which is authorized by KRS 227A.040(8) and KRS 227A.100(9).

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

(a) How the amendment will change this existing administrative regulation: This amendment amends three forms by removing language related to KRS 164.772, which was repealed in 2019 and adding the prorated fee schedule to the forms. This amendment also creates a form, incorporated by reference, that is required for renewal. This amendment aims to further clarify the experience requirements for master electrician and electrician licenses. This amendment removes a section that allowed for reinstatement pursuant to 2018 Ky. Acts ch. 186, sec. 2, which was only in effect until July 31, 2020.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update forms, remove references to law no longer in effect, assist in streamlining the renewal process for licensees, and provide clarity to applicants.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 227A.040(8) authorizes the Department of Housing, Buildings and Construction to promulgate administrative regulations to establish procedures governing the licensure of electrical contractors, master electricians, and electricians.

(d) How the amendment will assist in the effective administration of the statutes: KRS 227A.040(1) requires the Department of Housing, Buildings and Construction to administer and enforce KRS 227A.010 to 227A.140 and evaluate the qualifications of applicants for electrical licensure. KRS 227A.040(8) authorizes the Department of Housing, Buildings and Construction to promulgate administrative regulations to establish procedures governing the licensure of electrical contractors, master electricians, and electricians. KRS 227A.100(9) authorizes the department to promulgate administrative regulations governing an inactive license. This amendment updates required electrical license application and renewal forms, removes references to law no longer in effect, assists in streamlining the renewal process for licensees, and provides clarity to applicants.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Any electrical contractor, master electrician, or electrician license applicant or current licensee and the Department of Housing, Buildings and Construction.

(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: Applicants and licensees will need to complete the updated forms.

(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 establish or increase a fee.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The electrical contractor, master electrician, and electrician license renewal process will be streamlined, and the application process will be clearer.

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

(a) Initially: This amendment will not result in additional cost to the agency initially.

(b) On a continuing basis: This amendment will not result in 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: Any costs associated with the implementation and enforcement of this administrative regulation will be met with existing agency funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Any costs associated with the implementation and enforcement of this administrative regulation will be met with existing agency funds.

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

(9) TIERING: Is tiering applied? Tiering is not applied as all regulated entities are subject to the same amended requirements.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction, Division of Electrical and licensing branch.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 227A.040(1) requires the Department of Housing, Buildings and Construction to administer and enforce KRS 227A.010 to 227A.140 and evaluate the qualifications of applicants for electrical licensure. KRS 227A.040(8) authorizes the Department of Housing, Buildings and Construction to promulgate administrative regulations to establish procedures governing the licensure of electrical contractors, master electricians, and electricians. KRS 227A.100(9) authorizes the department to promulgate administrative regulations governing an inactive license.

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

(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? These amendments are not anticipated to generate additional revenue for the state or local government for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? These amendments are not anticipated to generate additional revenue for the state of local government for subsequent years.

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

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer these regulatory amendments 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

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? There are no anticipated cost savings associated with this administrative regulation for the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? There are no anticipated cost savings associated with this administrative regulation for subsequent years.

(c) How much will it cost the regulated entities for the first year? There are no anticipated additional costs to the regulated entities for the first year.

(d) How much will it cost the regulated entities for subsequent years? There are no anticipated additional costs to the regulated entities for subsequent years.

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

Cost Savings (+/-): Neutral
Expenditures (+/-): Neutral
Other Explanation: None.

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This administrative regulation will not have a major economic impact, as defined above.

CABINET FOR HEALTH AND FAMILY SERVICES
Office of Inspector General
(Amendment)

900 KAR 14:010. Essential personal care visitor programs; visitation guidelines.

RELATES TO: KRS 194A.700(4), 216.510(1)

STATUTORY AUTHORITY: KRS 216.505

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216.505 requires the cabinet to promulgate administrative regulations, subject to applicable federal requirements, to establish guidelines for any individual designated as an essential personal care visitor to have in-person visitation with a resident of a health facility, health service, Medicaid waiver service, or psychiatric residential treatment facility~~[an assisted-living community, long-term care facility, or state-owned or operated mental or psychiatric hospital]~~ during a period when general visitation is limited or prohibited. This administrative regulation establishes guidelines for implementation of essential personal care visitor programs.

Section 1. Definitions.

(1) "Essential personal care visitor" means a family member, legal guardian, outside caregiver, friend, or volunteer who:

(a) Is eighteen (18) years of age or older;

(b) May have provided regular care and support to a resident prior to any restrictions on visitation;

(c) Is designated as being important to the mental, physical, or social well-being of the resident; and

(d) Meets an essential need of the resident, including companionship, assisting with personal care, or positively influencing the behavior of the resident.

(2) "Facility" means a:

(a) Health facility as defined by KRS 216.505(1)(a); or

(b) Psychiatric residential treatment facility as defined by KRS

216.505(1)(d).

(3) "Health service" is defined by KRS 216.505(1)(b).

(4) "Medicaid waiver service" is defined by KRS 216.505(1)(c).

(5) ~~[An assisted-living community as defined by KRS 194A.700(4);~~

~~(b) A long-term care facility as defined by KRS 216.510(1); or~~

~~(c) A mental hospital as defined by KRS 216.505(1)(c).~~

(3) "Personal care" means assisting a resident with essential everyday activities, which may include grooming, dressing, and eating.

(6) ~~(4)~~ "Resident" means an individual who:

(a) Resides in a health facility, including a psychiatric residential treatment facility~~[an assisted-living community or long-term care facility]; or~~

(b) Receives health services or Medicaid waiver services~~[is a patient of a mental hospital as defined by KRS 216.505(1)(c)].~~

Section 2. Essential personal care visitation.

(1) A facility, health service, or Medicaid waiver service shall:

(a) Allow essential personal care visitation as an exception from any prohibition against general visitation;

(b) Establish policies and procedures for the designation of at least one (1) essential personal care visitor, including a process for changing the designated essential personal care visitor; and

(c) In accordance with KRS 216.505(3)(h), not be required to permit an in-person visitor at all times.

(2) Designation of an essential personal care visitor shall be made in consultation with, and upon agreement by the:

(a) Resident; and

(b) Resident's representative, if applicable.

(3) A facility, health service, or Medicaid waiver service may require a written agreement with an essential personal care visitor.

(4) A facility, health service, or Medicaid waiver service may limit the total number of visitors permitted in the facility or service at any one (1) time.

(5) A facility, health service, or Medicaid waiver service may limit visitation by an essential personal care visitor to the resident or residents he or she is approved to visit.

(6) An essential personal care visitor who enters a facility, health service, or Medicaid waiver service during a period when general visitation is limited or prohibited shall:

(a) Assume the risk of contracting a communicable disease;

(b) Limit visitation to the resident's room or a facility-designated room within the building;

(c) Limit his or her movement within the facility;

(d) Follow the facility's safety protocols; and

(e) Inform the facility if he or she develops symptoms of a communicable disease within fourteen (14) days of the visit.

(7) If the resident has a roommate, an essential personal care visitor shall:

(a) Not enter the resident's room if the roommate is there unless the roommate agrees in advance; and

(b) Be prohibited from staying in the room for more than fifteen (15) minutes unless otherwise approved by the roommate or roommate's representative.

(8) An essential personal care visitor shall follow the same safety protocols required for facility, health service, or Medicaid waiver service staff, which may include one (1) or more of the following:

(a) Testing for a communicable disease, which may be the responsibility of the essential personal care visitor. If testing is provided by the facility, health service, or Medicaid waiver service, essential personal care visitors shall be tested on the same schedule as staff;

(b) Health screens, including screening for signs and symptoms of a communicable disease and denial of entry of any individual with signs and symptoms;

(c) Using appropriate personal protective equipment (PPE);

(d) Washing or sanitizing hands regularly;

(e) Maintaining a distance of six (6) feet from staff and other residents at all times. Social distancing from the resident receiving an essential personal care visit may be relaxed for a short period of time under certain circumstances, e.g., providing assistance with a

personal care activity; and

(f) Adhering to any other requirement the facility, health service, or Medicaid waiver service deems appropriate in accordance with guidance from the Centers for Disease Control and Prevention (CDC).

(9) During a period when general visitation is limited or prohibited, a facility, health service, or Medicaid waiver service shall:

(a) Be responsible for verifying and tracking the testing status of each essential personal care visitor if the facility or service requires testing as a safety protocol;

(b) Schedule essential personal care visits in advance or in accordance with a written agreement;

(c) Consider the number of other essential visitors who will be in the building at the same time when developing a visitation schedule;

(d) Establish limitations on the visitation frequency and length of the visits to keep staff and residents safe;

(e) Sanitize the area's high-frequency touched surfaces after the visit; and

(f) Continue to provide all required services and activities to a resident while an essential personal care visitor is with the resident.

Section 3. Training.

(1) If required by the facility's or service's written policies and procedures, each essential personal care visitor shall complete facility-designated training that includes basic information on infection prevention and control.

(2) A facility or service may post signage throughout the building[facility] that demonstrate key instructions to reinforce safe practices.

ADAM MATHER, Inspector General

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: March 24, 2023

FILED WITH LRC: March 29, 2023 at 8:00 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on June 26, 2023, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by June 19, 2023, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until June 30, 2023. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; Phone: 502-564-6746; Fax: 502-564-7091; CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles, Policy Analyst

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes guidelines for the implementation of essential personal care visitor programs in health facilities, health services, Medicaid waiver services, and psychiatric residential treatment facilities during a period when general visitation is limited or prohibited.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with the passage of SB 43 during the 2023 Regular Session of the General Assembly.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of SB 43 by establishing guidelines for the implementation of essential personal care visitor programs in health facilities, health services, Medicaid waiver services, and psychiatric residential treatment facilities.

(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 guidelines for implementation of essential personal care visitor programs in health facilities, health services, Medicaid waiver services, and psychiatric residential treatment facilities during a period when general visitation is limited or prohibited.

(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 SB 43, this amendment replaces the reference to "an assisted living community, long-term care facility, or state-owned or operated mental or psychiatric hospital" with "a health facility, health service, Medicaid waiver service, or psychiatric residential treatment facility", thereby increasing the number of facilities and programs required to implement essential personal care visitor programs during a period when general visitation is limited or prohibited.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to comply with the passage of SB 43 during the 2023 Regular Session of the General Assembly.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of KRS 216.505.

(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 guidelines for implementation of essential personal care visitor programs.

(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 licensed health facilities, including psychiatric residential treatment facilities, health services, and Medicaid waiver services. The Office of Inspector General regulates approximately 7,500 licensees. In addition, there are 2,261 Medicaid waiver service providers.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: In accordance with the requirements of SB 43 and this administrative regulation, an individual designated as an essential personal care visitor shall be exempt from any prohibition on general visitation in a health facility, health service, Medicaid waiver service, or psychiatric residential treatment facility.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will not be significant costs to facilities or services to implement essential personal care visitor programs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Essential personal care visitor programs are intended to help enhance the well-being and quality of life of Kentuckians in health facilities and other programs.

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

(a) Initially: There are no additional costs to the Cabinet for Health and Family Services for implementation of this administrative regulation.

(b) On a continuing basis: There are no additional costs to the Cabinet for Health and Family Services for implementation of this

administrative regulation on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general funds and agency monies are used to implement and enforce this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering is not applicable as compliance with this administrative regulation applies equally to all entities regulated by it.

FISCAL NOTE

(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 health facilities, health services, Medicaid waiver services, psychiatric residential treatment facilities, and the Cabinet for Health and Family Services.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. SB 43 from the 2023 Regular Session of the General Assembly.

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

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

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

(c) How much will it cost to administer this program for the first year? This administrative regulation imposes no additional costs on the administrative body.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred to implement this administrative regulation on a continuing basis.

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:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? This administrative regulation will not generate cost savings for regulated entities during the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? This administrative regulation will not generate cost savings for regulated entities during subsequent years.

(c) How much will it cost the regulated entities for the first year? This administrative regulation will not impose additional costs on regulated entities.

(d) How much will it cost the regulated entities for subsequent years? This administrative regulation will not impose additional costs on regulated entities.

Note: If specific dollar estimates cannot be determined, provide

a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This amendment will not have a major economic impact on the regulated entities.

CABINET FOR HEALTH AND FAMILY SERVICES

Office of Inspector General

Division of Health Care

(Amendment)

902 KAR 20:018. Operation and services; End Stage Renal Disease (ESRD) facilities.

RELATES TO: KRS 216B.010, 216B.015, 216B.040, 216B.042, 216B.045, 216B.050, 216B.055, 216B.075, 216B.085, 216B.105-216B.125, 216B.990(1), (2), 310.021, 314.041, 314.051, [KRS] Chapter 333, 335.100, 42 C.F.R. 494.1 – 494.180, 45 C.F.R. Part 160, Part 164, 42 U.S.C. 1320d-2 – 1320d-8

STATUTORY AUTHORITY: KRS 216B.042(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042(1) requires the cabinet to promulgate administrative regulations necessary for the proper administration of the licensure function, which includes establishing licensing standards and procedures to ensure safe, adequate, and efficient health services and health facilities. This administrative regulation establishes the minimum licensure requirements for the operation of and services provided by End Stage Renal Disease (ESRD) facilities.

Section 1. Definitions.

(1) "Administrator" means an individual who:

(a) Holds a baccalaureate degree or its equivalent;

(b) Has at least one (1) year of experience working in an ESRD unit; and

(c) Is responsible for the management of the ESRD facility.

(2) "Charge nurse" means a nurse responsible for each shift who:

(a) Is licensed to practice as a:

1. Registered nurse under KRS 314.041; or

2. Licensed practical nurse under KRS 314.051 and works under the supervision of a registered nurse; and

(b) Has at least twelve (12) months experience in providing nursing care, including three (3) months of experience in providing nursing care to patients on maintenance dialysis.

(3) "Dialysis technician" means a person credentialed by the Board of Nursing as a dialysis technician.

(4) [(3)] "End Stage [Stage-]Renal Disease" or "ESRD" means a medical condition in which a person's kidneys cease functioning on a permanent basis leading to the need for long-term dialysis or a kidney transplant to maintain life.

(5) [(4)] "ESRD facility" means a facility or entity that provides outpatient maintenance dialysis services, home dialysis training and support, or both.

(6) [(5)] "Medical director" means a Kentucky-licensed physician who:

(a) Is board-certified in internal medicine or pediatrics;

(b) Has completed a board-approved training program in nephrology; and

(c) 1. Has at least twelve (12) months of experience providing care to patients receiving dialysis; or

2. If the physician does not meet the requirements of paragraphs (a) through (c) of this subsection, has received approval in accordance with 42 C.F.R. 494.140(a)(2) to direct an ESRD facility.

~~(7)~~~~(6)~~ "Qualified dietician" means an individual who:

(a) Is licensed pursuant to KRS 310.021; and

(b) Has a minimum of one (1) year professional work experience in clinical nutrition as a registered dietitian.

~~(8)~~~~(7)~~ "Qualified medical record technician" means an individual who:

(a) Has graduated from a program for medical record technicians that is accredited by the Council on Medical Education of the American Medical Association and the American Medical Record Association; and

(b) Is certified as an accredited record technician by the American Medical Record Association.

~~(9)~~~~(8)~~ "Qualified registered nurse manager" means a nurse manager responsible for nursing services who:

(a) Is licensed to practice as a registered nurse under KRS 314.041;

(b) Is a full-time employee of the ESRD facility; and

(c) Has at least:

1. Twelve (12) months of experience in clinical nursing; and

2. Six (6) months of experience in providing nursing care to patients on maintenance dialysis.

~~(10)~~~~(9)~~ "Qualified social worker" means a clinical social worker licensed and practicing in accordance with KRS 335.100.

~~(11)~~~~(10)~~ "Renal transplantation center" means a hospital unit approved to provide kidney transplants and other medical and surgical specialty services required for the care of the ESRD transplant patients, including inpatient dialysis provided directly or under arrangement.

~~(12)~~~~(11)~~ "Self-care dialysis training" means a program to train an ESRD patient or the patient's helper, or both, to perform dialysis.

Section 2. Requirement for Service. An ESRD facility shall not be licensed or relicensed as an ESRD facility unless the facility meets the requirements of this administrative regulation.

Section 3. Administration and Operation.

(1) Licensee.

(a) The licensee shall be legally responsible for the operation of the ESRD facility and for compliance with federal, state, and local laws and administrative regulations pertaining to the operation of the facility.

(b) The licensee shall develop and enforce written policies for the administration and operation of the ESRD facility. Policies shall include:

1. Personnel practices and procedures;

2. Job descriptions for each level of personnel, including authority and responsibilities for each classification;

3. Qualifications for medical staff membership;

4. Medical care practices and procedures;

5. Prevention and control of hepatitis, peritonitis, and other infections, including appropriate procedures for:

a. Surveillance and reporting of infections;

b. Housekeeping;

c. Handling and disposal of waste and contaminants;

d. Sterilization and disinfection; and

e. Sterilization and maintenance of equipment; and

6. Procedures to be followed in an emergency, including fire, natural disaster, and equipment failure.

(2) Administrator. An ESRD facility shall have an administrator responsible for the management of the facility, including enforcement of written policies and protection of patients' rights.

(3) An ESRD facility shall:

(a) Demonstrate compliance with the requirements of 42 C.F.R. 494.1 through 494.180, except for an ESRD facility that is state-licensed only; and

(b) Maintain regularly scheduled hours during which dialysis services shall be available.

(4) Emergency coverage.

(a) An ESRD facility's governing body shall ensure that the facility shall provide each patient and facility staff member with written instructions for obtaining emergency medical care.

(b) An ESRD facility shall have available at the nursing station,

a roster with:

1. The names of physicians who may be called for emergencies;

2. When the physicians may be called; and

3. How the physicians may be reached.

(c) An ESRD facility shall have an agreement with a hospital that can provide the following services twenty-four (24) hours per day, seven (7) days per week:

1. Inpatient care;

2. Routine and emergency dialysis;

3. Other hospital services; and

4. Emergency medical care.

(d) The agreement shall:

1. Ensure that hospital services shall be available to the ESRD facility's patients as needed; and

2. Include reasonable assurances that each patient from the ESRD facility shall be accepted and treated in an emergency.

(5) Personnel. An adequate number of personnel shall be present to meet the needs of patients at all times, including emergency situations.

(a) Medical staff. An ESRD facility shall have an organized medical staff responsible for the:

1. Quality of all medical care provided to patients in the facility; and

2. Ethical and professional practices of the facility's staff.

(b)1. There shall be a medical director responsible for supervising the staff of the ESRD facility.

2. The medical director shall be a full- or part-time staff member.

3. In the medical director's absence, a physician meeting the qualifications of a medical director or a physician who has received approval in accordance with 42 C.F.R. 494.140(a)(2) to direct an ESRD facility shall be in the unit or immediately available while a patient is being dialyzed.

(c)1. The ESRD facility shall employ:

a. At least one (1) full-time qualified registered nurse manager responsible for nursing services; and

b. A charge nurse responsible for each shift.

2. If a patient is undergoing dialysis, a qualified registered nurse manager or charge nurse shall be on duty to supervise patient care.

(d) The ESRD facility shall employ the following ancillary personnel directly or by contract:

1. A qualified dietician;

2. A qualified medical records technician; and

3. A qualified social worker.

(6) Incident and accident reports.

(a) An ESRD facility shall submit an incident report to the cabinet no later than three (3) days after a reportable event as established by paragraph (c) of this subsection.

(b) An ESRD facility shall retain a copy of the incident report for inspection by the cabinet.

(c) A reportable event shall include:

1. An incident requiring emergency treatment or hospitalization;

2. A cleaning agent left in a machine that is subsequently used on a patient;

3. Contamination of the water supply;

4. Development of infection or communicable disease; or

5. An accident or other event having a direct or immediate bearing on the health, safety, or security of a patient or staff member.

Section 4. Services.

(1)(a) Except as established in paragraph (b) of this subsection, each patient shall be admitted under the medical authority and supervision of the medical director.

(b) In the absence of the medical director, a physician meeting the qualifications of a medical director or a physician who has received approval in accordance with 42 C.F.R. 494.140(a)(2) to direct an ESRD facility shall be responsible for patient admissions and supervision.

(2) Laboratory services.

(a) An ESRD facility shall have access to laboratory facilities and services (except tissue pathology and histocompatibility) to meet the needs of each ESRD patient.

(b) The laboratory that provides services shall be:

1. Located in a licensed hospital; or
 2. Licensed in accordance with KRS Chapter 333.
- (3) Medical records.

(a) An ESRD facility shall maintain complete, accurate, and accessible records for each patient, including home patients who elect to receive dialysis supplies and equipment from a supplier that is not a provider of ESRD services and all other home dialysis patients whose care is under the supervision of the facility.

(b) Organization. The supervisor of medical records shall be responsible for the proper documentation, completion, and preservation of the records.

(c) Indexing. Medical records shall be properly indexed and systematically filed.

(d) Ownership.

1. Medical records shall be the property of the ESRD facility.

2. The original medical record shall not be removed from the facility, except by court order or subpoena.

3. Copies of a medical record or portions of the record may be used and disclosed. Use and disclosure shall be as established by paragraph (e) of this subsection.

(e) Confidentiality and security; use and disclosure.

1. The ESRD facility shall maintain the confidentiality and security of medical records in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. 1320d-2 through 1320d-8, and 45 C.F.R. Parts 160 and 164, as amended, including the security requirements mandated by subparts A and C of 45 C.F.R. Part 164, or as provided by applicable federal or state law.

2. The facility may use and disclose medical records. Use and disclosure shall be as established or required by HIPAA, 42 U.S.C. 1320d-2 through 1320d-8, and 45 C.F.R. Parts 160 and 164, or as established in this administrative regulation.

(f) Content. A complete medical record shall be prepared for each patient admitted to the ESRD facility and include the:

1. Name and address of the person or agency responsible for the patient, if applicable;

2. Patient identification information, including the patient's:

- a. Name;
- b. Address;
- c. Date of birth;
- d. Gender; and
- e. Marital status;

3. Date of admission;

4. Date of transfer to renal transplantation center, if applicable;

5. Referring and attending physicians' names;

6. History and physical examination record prior to the initial treatment;

7. Treatment plans;

8. Records of special examinations, consultations, and clinical, laboratory, and x-ray services;

9. Doctors' orders, dated and signed;

10. Nurses' notes;

11. Dialysis chart including pulse, respiration, and blood pressure;

12. Social evaluation and plan developed by the social worker; and

13. Orders for medication and treatment written in ink and signed by the prescribing practitioner acting within the scope of practice; and

14. A record of each medication administered, including:

- a. Date and time of administration;
- b. Type of medication administered;
- c. Amount of medication administered;
- d. Method of administration;
- e. Name of the prescribing practitioner; and
- f. Name of the person who administered the medication.

(g) Retention of records. Medical records shall be retained for at least six (6) years from the date of the patient's discharge, transfer, or death.

(4) Pharmaceutical services.

(a) An ESRD facility shall have provisions for promptly obtaining prescribed drugs and biologicals from a licensed pharmacy.

(b) The ESRD facility shall provide appropriate methods and procedures for storage, control, and administering of drugs and biologicals.

(c) A medication shall be administered by one (1) of the following practitioners acting within the individual's professional scope of practice:

1. A physician;
2. A physician's assistant;
3. An advanced nurse registered practitioner;
4. A registered nurse;
5. A licensed practical nurse; or
6. A dialysis technician.

(5) Social services. The ESRD facility shall have a qualified social worker responsible for:

(a) Evaluation of each patient's psychosocial needs;

(b) Participating in the ESRD facility's interdisciplinary team review of patient progress and recommending any changes, if needed, in treatment based on the patient's current psychosocial needs;

(c) Providing casework, counseling services, and referrals for other social services to assist the patient in achieving and sustaining an appropriate psychosocial status as measured by a standardized mental and physical assessment tool chosen by the social worker;

(d) Referrals for vocational rehabilitation services; and

(e) Identifying community social agencies and other resources and assisting patients and their families to utilize those resources.

(6) Dietetic services.

(a) The nutritional needs of each patient shall be evaluated by the:

1. Attending physician; and
2. Qualified dietician.

(b) The dietician, in consultation with the attending physician, shall be responsible for:

1. Assessing the nutritional status of each patient;
2. Recommending therapeutic diets;
3. Counseling patients and their families on prescribed diets; and

4. Monitoring adherence and response to diets.

(7) Self-care dialysis support services.

(a) An ESRD facility that offers self-care dialysis training shall make the following services available, directly or through an agreement or arrangement with another ESRD facility, upon completion of patient training:

1. Monitoring the patient's home adaptation, including visits to the patient's home by ESRD facility personnel in accordance with the patient's plan of care;

2. Patient consultation as needed with a member of the ESRD facility's interdisciplinary team (a qualified social worker or qualified dietician);

3. A recordkeeping system to assure continuity of care;

4. Installation and maintenance of dialysis equipment;

5. Testing and appropriate treatment of the dialysis water;

6. Ordering of supplies as needed; and

7. Infection control, including hepatitis and peritonitis.

(b) A self-care and home dialysis training nurse shall:

1. Be a registered nurse licensed in accordance with KRS 314.041; and

2. Have at least twelve (12) months of experience in clinical nursing care and at least three (3) months of experience in the specific modality for which the nurse will provide self-care training.

(8) Dialysis services in a Medicare-certified nursing facility. A Medicare-certified ESRD facility or entity may provide dialysis services to a long-term care resident within a designated area of a Medicare-certified nursing facility as established in paragraphs (a) through (d) of this subsection.

(a)1. Prior to providing dialysis in the nursing facility, the ESRD facility or entity shall submit a Form CMS-3427 to the cabinet, completing Section 22 and all other applicable fields.

2. Form CMS-3427 is available for download from the Centers for Medicare and Medicaid Services (CMS) Web site at: <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing-Items/CMS-3427>.

(b)1. The ESRD facility or entity shall comply with the guidance established in the CMS State Operations Manual (SOM), chapter 2, section 2271A Dialysis in Nursing Homes.

2. The SOM, Chapter 2, section 2271A is available for download from the CMS Web site at: <https://www.cms.gov/regulations-and-guidance/guidance/manuals/downloads/som107c02.pdf>.

(c) 1. The ESRD facility shall enter into a written agreement with each Medicare-certified nursing facility for which the ESRD facility will provide dialysis services.

2. The written agreement shall state the responsibilities of the ESRD facility and the nursing facility regarding the care of the resident before, during, and after dialysis treatments.

(d) The ESRD facility shall be responsible for the safe delivery of dialysis to the nursing facility resident, including:

1. Review of ESRD staff qualifications, training, and competency evaluation; and
2. Monitoring of all ESRD personnel who:
 - a. Administer dialysis treatments in the nursing facility; and
 - b. Provide on-site supervision of dialysis treatments.

Section 5. Physical Environment.

(1) Building and equipment.

(a)1. An ESRD facility shall implement and maintain a program to ensure that all equipment shall be maintained and operated in accordance with the manufacturer's recommendations.

2. There shall be a program of preventive maintenance of equipment used in dialysis and related procedures in the ESRD facility.

(b) 1. Water used for dialysis purposes shall be analyzed periodically and treated as necessary to maintain a continuous water supply that is biologically and chemically compatible with acceptable dialysis techniques.

2. Records of test results and equipment maintenance shall be maintained at the ESRD facility.

(2) Infection control.

(a) The licensee shall provide and monitor a sanitary environment to minimize the transmission of infectious agents within and between the ESRD unit and any adjacent hospital or other public areas pursuant to 42 C.F.R. 494.30.

(b) An ESRD facility using a central-batch delivery system shall provide, on the premises or through affiliation agreements, sufficient individual delivery systems for the treatment of any patient requiring special dialysis solutions.

(3) Contamination prevention.

(a) An ESRD facility shall use appropriate techniques to prevent cross contamination between the unit and adjacent hospital or public areas including:

1. Food service areas;
2. Laundry;
3. Disposal of solid waste and blood-contaminated equipment; and
4. Disposal of contaminants into sewage systems.

(b) An ESRD facility shall maintain procedures, in accordance with applicable law and accepted public health procedures for the:

1. Handling, storage, and disposal of potential infectious waste; and
2. Cleaning and disinfection of contaminated surfaces, medical devices, and equipment.

Section 6. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "End Stage Renal Disease Application and Survey and Certification Report", Form CMS-3427, February 2022; and

(b) "CMS State Operations Manual (SOM), Chapter 2, Section 2271A, Dialysis in Nursing Homes", September 2018.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Inspector

General, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

ADAM MATHER, Inspector General

CARRIE BANAHAN, Deputy Secretary

APPROVED BY AGENCY: April 12, 2023

FILED WITH LRC: April 13, 2023 at 8:00 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on June 26, 2023, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by June 19, 2023, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until June 30, 2023. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the minimum licensure requirements for the operation of and services provided by end stage renal disease (ESRD) facilities.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with the requirements of KRS 216B.042(1), which requires the Cabinet for Health and Family Services to establish licensure standards and procedures to ensure safe, adequate, and efficient health facilities and health services.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 216B.042(1) by establishing the minimum licensure requirements for the operation of and services provided by ESRD facilities.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing the minimum licensure requirements for the operation of and services provided by ESRD facilities.

(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:

1. Adds a definition of "charge nurse" to align with 42 C.F.R. 494.140(b)(3); and

2. Allows a charge nurse responsible for each shift to be on duty in lieu of a qualified registered nurse manager when patients are undergoing dialysis.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to align with the federal nurse staffing requirements of 42 C.F.R. 494.140(b)(3).

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of KRS 216B.042 by establishing the minimum requirements for

licensure as an ESRD facility.

(d) How the amendment will assist in the effective administration of the statutes: This amendment assists in the effective administration of the statutes by aligning the state requirements for ESRD facilities with the federal Conditions for Coverage (CfC).

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment affects the 150 ESRD facilities licensed in Kentucky.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: ESRD facilities must ensure that a qualified registered nurse manager or charge nurse is on-site when patients are undergoing dialysis in an ESRD facility.

(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 impose additional costs on ESRD facilities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This amendment is clean-up to align the state requirements for ESRD facilities with the federal CfCs. It is intended to help address the shortage of registered nurses by allowing a charge nurse, who may be an experienced licensed practical nurse pursuant to 42 C.F.R. 494.140(b)(3), to be on-site in lieu of a qualified registered nurse manager when patients are undergoing dialysis.

(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 administrative regulation.

(b) On a continuing basis: There are no additional costs to the Office of Inspector General for implementation of this administrative regulation on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding used for the implementation and enforcement of the licensure function is from federal funds and state matching funds of general and agency appropriations.

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

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

(9) TIERING: Is tiering applied? Tiering is not applicable as compliance with this administrative regulation applies equally to all entities regulated by it.

FISCAL NOTE

(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 ESRD facilities. This administrative regulation also impacts the Cabinet for Health and Family Services, Office of Inspector General.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 216B.042 and 42 C.F.R. 494.140

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities,

counties, fire departments, or school districts) for the first year? This amendment will not generate additional revenue.

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

(c) How much will it cost to administer this program for the first year? There are no additional costs to the Office of Inspector General for implementation of this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? There are no additional costs to the Office of Inspector General for implementation of this administrative regulation 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:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? This amendment is intended to help address the shortage of registered nurses by allowing a charge nurse, who may be an experienced licensed practical nurse pursuant to 42 C.F.R. 494.140(b)(3), to be on-site in lieu of a qualified registered nurse manager when patients are undergoing dialysis. This amendment may therefore generate cost savings for ESRD facilities in addition to aligning the state requirements with the nurse staffing requirements in the federal CfCs.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? Please refer to the above response.

(c) How much will it cost the regulated entities for the first year? This administrative regulation will not impose additional costs on regulated entities.

(d) How much will it cost the regulated entities for subsequent years? This administrative regulation will not impose additional costs on regulated entities during subsequent years.

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

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This amendment will not have a major economic impact on the regulated entities.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 C.F.R. 494.1 – 494.180, 45 C.F.R. 160, 164, 42 U.S.C. 1320d-2 - 1320d-8

2. State compliance standards. KRS 216B.042

3. Minimum or uniform standards contained in the federal mandate. 42 C.F.R. 494.1 – 494.180 establish the federal Conditions of Coverage for the certification of ESRD facilities. 45 C.F.R. 160, 164, and 42 U.S.C. 1320d-2 – 1320d-8 establish the HIPAA privacy rules to protect individuals' medical records and other personal health information.

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

more strict than federal laws or regulations.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.

CABINET FOR HEALTH AND FAMILY SERVICES
Office of Inspector General
Division of Audits and Investigations
(Amendment)

902 KAR 55:015. Schedules of controlled substances.

RELATES TO: KRS 217.005-217.215, 218A.010, 218A.020, 218A.040, 218A.060, 218A.080, 218A.100, 218A.120, 218A.200, 21 C.F.R. 1308.11, 1308.12, 1308.13, 1308.14, 1308.15, 1308.35, 1308.49, 21 U.S.C. 301 – 399f, 801-971

STATUTORY AUTHORITY: KRS 218A.020(1), (3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218A.020(1) authorizes the Cabinet for Health and Family Services to promulgate administrative regulations in order to add, delete, or reschedule substances enumerated in KRS Chapter 218A. KRS 218A.020(3) authorizes the Cabinet for Health and Family Services to promulgate administrative regulations to control substances at the state level in the same numerical schedule corresponding to the federal schedule or control a substance in a more restrictive schedule than the federal schedule. This administrative regulation designates Schedule I, II, III, IV, and V drugs. This administrative regulation differs from the federal regulation, 21 C.F.R. 1308.11, because it designates tianeptine as a Schedule I controlled substance. The Cabinet for Health and Family Services recognizes that tianeptine has no accepted medical use in treatment and inclusion on Kentucky's Schedule I list will help reduce the risk to public health. This administrative regulation differs from the federal regulation, 21 C.F.R. 1308.14, because it designates pentazocine, barbitol, methylphenobarbital, and phenobarbital as a Schedule III controlled substance. The federal regulation designates these substances as a Schedule IV controlled substance. The Cabinet for Health and Family Services recognizes that pentazocine and derivatives of barbituric acid or its salts have significant abuse potential, and inclusion on Kentucky's Schedule III list will help reduce the risk to public health. This administrative regulation further differs from the federal regulation, 21 C.F.R. 1308.14-1308.15, because it designates nalbuphine as a Schedule IV controlled substance and gabapentin as a Schedule V controlled substance. The Cabinet for Health and Family Services recognizes that nalbuphine and gabapentin have significant abuse potential, and inclusion on Kentucky's controlled substances schedules will help reduce the risk to public health.

Section 1. Schedule I Controlled Substances.

(1) Each substance that is scheduled or designated as a Schedule I controlled substance under 21 C.F.R. 1308.11, including a substance temporarily scheduled or designated under 21 C.F.R. 1308.11(h) or 1308.49, shall be scheduled or designated at the state level as a Schedule I controlled substance.

(2) The Cabinet for Health and Family Services designates the following as a Schedule I controlled substance: tianeptine.

(3) The following shall be exempt from control as a Schedule I substance:

(a) Cannabis plant material, and products made therefrom, that contain tetrahydrocannabinols pursuant to the exemption established in 21 C.F.R. 1308.35; and

(b) Any substance or product exempt from the definition of marijuana pursuant to KRS 218A.010(27)(a) – (f).

Section 2. Schedule II Controlled Substances. Each substance that is scheduled or designated as a Schedule II controlled substance under 21 C.F.R. 1308.12 shall be scheduled or designated at the state level as a Schedule II controlled substance.

Section 3. Schedule III Controlled Substances.

(1) Except as provided by subsection (2) of this section, each substance that is scheduled or designated as a Schedule III controlled substance under 21 C.F.R. 1308.13 shall be scheduled or designated at the state level as a Schedule III controlled substance.

(2) The Cabinet for Health and Family Services designates the following as Schedule III controlled substances:

- (a) Pentazocine;
- (b) Barbitol;
- (c) Methylphenobarbital; and
- (d) Phenobarbital.

(3) This section shall not apply to any material, compound, mixture, or preparation containing any quantity of an anabolic steroid substance, or any isomer, ester, salt, or derivative thereof that is:

- (a) Expressly intended for administration through implant to livestock or other nonhuman species; and
- (b) Approved by the United States Food and Drug Administration for use as described in this subsection.

Section 4. Schedule IV Controlled Substances.

(1) Except as provided by subsection (2) of this section and Section 3(2) of this administrative regulation, each substance that is scheduled or designated as a Schedule IV controlled substance under 21 C.F.R. 1308.14 shall be scheduled or designated at the state level as a Schedule IV controlled substance.

(2) The Cabinet for Health and Family Services designates the following as a Schedule IV controlled substance: nalbuphine.

Section 5. Schedule V Controlled Substances.

(1) Except as provided by subsection (2) of this section, each substance that is scheduled or designated as a Schedule V controlled substance under 21 C.F.R. 1308.15 shall be scheduled or designated at the state level as a Schedule V controlled substance.

(2) The Cabinet for Health and Family Services designates the following as a Schedule V controlled substance: gabapentin.

Section 6. Dispensing Without Prescription. A controlled substance listed in Schedule V, which is not a prescription drug under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 to 399f, may be dispensed by a pharmacist without a prescription to a purchaser at retail, if:

(1) The medicinal preparation contains, in addition to the controlled substances, some drug or drugs conferring upon it medicinal qualities other than those possessed by the controlled substances alone;

(2) Not more than 240cc (eight (8) ounces) or more than forty-eight (48) dosage units of any controlled substance containing opium is dispensed at retail to the same purchaser in any given forty-eight (48) hour period;

(3) The labeling and packaging is in accordance with the current requirements of KRS 217.005 to 217.215, 21 U.S.C. 301 to 399f, and the United States Pharmacopeia;

(4) The preparation is dispensed or sold in good faith as a medicine and not for the purpose of evading the provisions of KRS Chapter 218A;

(5) The preparation is not displayed in areas open to the public;

(6) The dispensing is made only by a pharmacist and not by a nonpharmacist employee even if under the supervision of a pharmacist. After the pharmacist has fulfilled his or her professional and legal responsibilities as set forth in this section, the actual cash, credit transaction, or delivery may be completed by a nonpharmacist;

(7) The purchaser is at least eighteen (18) years of age;

(8) The pharmacist requires every purchaser of a controlled substance under this section not known to the pharmacist to furnish suitable identification, including proof of age if appropriate; and

(9) The dispensing of exempt controlled substances under this administrative regulation is recorded in a bound book that shall be

maintained in accordance with the recordkeeping requirements of KRS 218A.200 and contain the:

- (a) Name and address of the purchaser;
- (b) Name and quantity of controlled substance purchased;
- (c) Date of each purchase; and
- (d) Name or initials of the pharmacist who dispensed the substance to the purchaser.

ADAM MATHER, Inspector General
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY:
FILED WITH LRC:

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on June 27, 2023, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by June 16, 2023, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until June 30, 2023. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation designates Kentucky's schedules of controlled substances.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with KRS 218A.020.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 218A.020(3), which authorizes the Cabinet for Health and Family Services to promulgate administrative regulations to control substances at the state level in the same numerical schedule corresponding to the federal schedule or control a substance in a more restrictive schedule than the federal schedule.

(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 designating Kentucky's schedules of controlled substances.

(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 designates tianeptine as a Schedule I controlled substance.

(b) The necessity of the amendment to this administrative regulation: This amendment is in response to a recent request from Van Ingram, Executive Director, Office of Drug Control Policy. Mr. Ingram requested that the cabinet designate tianeptine as a Schedule I controlled substance via emergency administrative regulation and this identical ordinary regulation. Tianeptine has no

accepted medical use in treatment and inclusion on Kentucky's Schedule I list will help reduce the risk to public health. Tianeptine was recently banned by two of Kentucky's border states, Indiana and Ohio.

(c) How the amendment conforms to the content of the authorizing statutes: In accordance with KRS 218A.020(5), the Office of Drug Control Policy may request the cabinet to schedule any substance that meets the criteria to be scheduled under KRS Chapter 218A. This amendment conforms to the content of KRS 218A.040 by designating tianeptine as a Schedule I controlled substance.

(d) How the amendment will assist in the effective administration of the statutes: This amendment assists in the effective administration of KRS 218A.040 by designating tianeptine as a Schedule I controlled substance.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects Kentucky's pharmacists and prescribing practitioners who rely on state and federal regulations for information regarding scheduled drugs as well as state and local law enforcement agencies and the Department of Corrections. This amendment affects stores that currently sell tianeptine.

(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: Tianeptine products should be removed from store shelves and disposed of immediately.

(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 incurred by any entity identified in question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Tianeptine is an atypical tricyclic antidepressant that is not approved by the U.S. Food and Drug Administration (FDA) for medical use. The FDA has warned that many companies are illegally marketing and selling products containing tianeptine to the public with unproven beneficial claims, i.e., dietary supplement, treatment for anxiety, depression, or opioid disorder. Selling products containing tianeptine to consumers based on such false claims is dangerous, especially as it relates to the claim of treating opioid use disorder since reliance on these products may delay appropriate treatment and put consumers at greater risk of overdose and death. Moreover, in a 2022 update, the FDA warned consumers that it has identified cases in which people experienced serious harmful effects from abusing or misusing tianeptine by itself or with other drugs. These effects included agitation, drowsiness, confusion, sweating, rapid heartbeat, high blood pressure, nausea, vomiting, slowed or stopped breathing, coma, and death. The FDA also reports that poison control centers cases involving tianeptine exposure increased nationwide from 11 cases between 2000 and 2013 to 151 in 2020 alone. Inclusion on Kentucky's Schedule I list will help reduce the risk to public health by making possession of the drug illegal.

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

(a) Initially: There are no additional costs to the Office of Inspector General for implementation of this amendment.

(b) On a continuing basis: There are no additional costs to the Office of Inspector General for implementation of this amendment on a continuing basis.

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

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

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 increase any fees.

(9) TIERING: Is tiering applied? Tiering is not applicable as compliance with this administrative regulation applies equally to all individuals or entities regulated by it.

FISCAL NOTE

(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 Kentucky's pharmacists and prescribing practitioners who rely on state and federal regulations for information regarding scheduled drugs as well as state and local law enforcement agencies and the Department of Corrections.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 218A.020, 21 C.F.R. 1308.11, 1308.12, 1308.13, 1308.14, 1308.15, 1308.35, 1308.49

(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:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? This administrative regulation will not generate cost savings for regulated entities during the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? This administrative regulation will not generate cost savings for regulated entities during subsequent years.

(c) How much will it cost the regulated entities for the first year? This administrative regulation imposes no additional costs on regulated entities.

(d) How much will it cost the regulated entities for subsequent years? This administrative regulation imposes no additional costs on regulated entities during subsequent years.

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

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This administrative regulation is not expected to have a major economic impact on the regulated entities.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 21 C.F.R. 1308.11, 1308.12, 1308.13, 1308.14, 1308.15, 1308.35, 1308.49

(2) State compliance standards. KRS 218A.020

(3) Minimum or uniform standards contained in the federal mandate. 21 C.F.R. 1308.11 lists controlled substances that have been classified by the DEA as Schedule I drugs. 21 C.F.R. 1308.12 lists controlled substances that have been classified by the DEA as Schedule II drugs. 21 C.F.R. 1308.13 lists controlled substances that have been classified by the DEA as Schedule III drugs. 21 C.F.R. 1308.14 lists controlled substances that have been classified by the DEA as Schedule IV drugs. 21 C.F.R. 1308.15 lists controlled substances that have been classified by the DEA as Schedule V drugs. 21 C.F.R. 1308.35 exempts certain cannabis plant material, and products made therefrom, that contain tetrahydrocannabinols from scheduling. 21 C.F.R. 1308.49 allows the DEA to place a substance into Schedule I on a temporary basis if such action is necessary to avoid an imminent hazard to the public safety.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation differs from the federal regulation because it designates tianeptine as a Schedule I controlled substance. Tianeptine is not currently controlled under the federal Controlled Substances Act. This administrative regulation differs from the federal regulation because it designates pentazocine, barbitol, methylphenobarbital, and phenobarbital as a Schedule III controlled substance in Kentucky. The federal regulation designates these substances as a Schedule IV controlled substance. Designating pentazocine, barbitol, methylphenobarbital, and phenobarbital as a Schedule III controlled substance is not a new change to Kentucky's schedules of controlled substances. This administrative regulation differs from the federal regulation because it designates nalbuphine as a Schedule IV controlled substance and gabapentin as a Schedule V controlled substance. The federal regulation does not designate nalbuphine or gabapentin as controlled substances. Designating nalbuphine and gabapentin as a Schedule IV and Schedule V controlled substance respectively is not a new change to Kentucky's schedules of controlled substances.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The cabinet recognizes that tianeptine has no accepted medical use in treatment and inclusion on Kentucky's Schedule I list will help reduce the risk to public health. The cabinet also recognizes that pentazocine and derivatives of barbituric acid or its salts have significant abuse potential and inclusion as a Schedule III controlled substance in Kentucky will help reduce the risk to public health. The cabinet further recognizes that nalbuphine and gabapentin have significant abuse potential and inclusion in Kentucky's controlled substance schedules will help reduce the risk to public health.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Health Care Policy
(Amendment)

907 KAR 1:038. Hearing program coverage provisions and requirements.

RELATES TO: KRS 205.520, 205.622, 205.8451(9), 334.010(4), (9), 334A.020(5), 334A.030, 42 C.F.R. 400.203, 438.20, ~~44~~ 457.310, 42 U.S.C. 1396a, b, d, 1396r-6

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

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the Medicaid Program provisions and requirements regarding the coverage of audiology services and hearing instruments.

Section 1. Definitions.

(1) "Audiologist" is defined by KRS 334A.020(5).

(2) "CPT code" means a code used for reporting procedures and services performed by medical practitioners and published annually by the American Medical Association in Current Procedural Terminology.

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

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

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

(6) "Healthcare Common Procedure Coding System" or "HCPCS" means a collection of codes acknowledged by the Centers for Medicare and Medicaid Services (CMS) that represents procedures or items.

(7) "Hearing instrument" is defined by KRS 334.010(4).

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

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

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

(11) "Specialist in hearing instruments" is defined by KRS 334.010(9).

Section 2. General Requirements.

(1)(a) For the department to reimburse for a service or item, the service or item shall:

1. Be provided:

a. To a recipient[;

~~(i) Under the age of twenty-one (21) years, including the month in which the recipient becomes twenty-one (21); or~~

~~(ii) For evaluation and testing services, not limited by age, by an audiologist, only if the recipient has received a referral from a physician]; and~~

b. By a provider who is:

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

(ii) Except as provided by paragraph (b) of this subsection, currently participating in the Medicaid Program pursuant to 907 KAR 1:671; and

(iii) Authorized to provide the service in accordance with this administrative regulation;

2. Be covered in accordance with this administrative regulation;

3. Be medically necessary; ~~and~~

4. Have a CPT code or HCPCS code that is listed on the most current ~~Kentucky Department for~~ Medicaid ~~Audiology Services~~ ~~Hearing Program~~ Fee Schedule, posted on the department Web

site at: <https://chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>. Any fee schedule posted shall comply with all relevant existing rate methodologies utilized by the department and established by state and federal law. As appropriate and relevant, the department shall utilize the Medicaid Physician Fee Schedule established in 907 KAR 3:010 to inform and populate the ~~Audiology~~[Hearing Program] Fee Schedule; ~~and~~

5. Audiology service limits shall be as established on the Kentucky Medicaid Audiology Fee Schedule as available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>.

(b) In accordance with 907 KAR 17:015, Section 3(3), a provider of a service to an enrollee shall not be required to be currently participating in the fee-for-service Medicaid Program.

(2)(a) If a procedure is part of a comprehensive service, the department shall:

1. Not reimburse separately for the procedure; and

2. Reimburse one (1) payment representing reimbursement for the entire comprehensive service.

(b) A provider shall not bill the department multiple procedures or procedural codes if one (1) CPT code or HCPCS code is available to appropriately identify the comprehensive service provided.

(3) A provider shall comply with:

(a) 907 KAR 1:671;

(b) 907 KAR 1:672; and

(c) All applicable state and federal laws.

(4)(a) If a provider receives any duplicate payment or overpayment from the department, regardless of reason, the provider shall return the payment to the department.

(b) Failure to return a payment to the department in accordance with paragraph (a) of this subsection may be:

1. Interpreted to be fraud or abuse; and

2. Prosecuted in accordance with applicable federal or state law.

(c) Nonduplication of payments and third-party liability shall be in accordance with 907 KAR 1:005.

(d) A provider shall comply with KRS 205.622.

(5)(a) An in-state audiologist shall:

1. Maintain a current, unrevoked, and unsuspended license in accordance with KRS Chapter 334A;

2. Before initially enrolling in the Kentucky Medicaid Program, submit proof of the license referenced in subparagraph 1. of this paragraph to the department; and

3. Annually submit proof of the license referenced in subparagraph 1. of this paragraph to the department.

(b) An out-of-state audiologist shall:

1. Maintain a current, unrevoked, and unsuspended license to practice audiology in the state in which the audiologist is licensed;

2. Before initially enrolling in the Kentucky Medicaid Program, submit proof of the license referenced in subparagraph 1. of this paragraph to the department;

3. Annually submit proof of the license referenced in subparagraph 1. of this paragraph to the department;

4. Maintain a Certificate of Clinical Competence issued to the audiologist by the American Speech-Language-Hearing Association; and

5. Before enrolling in the Kentucky Medicaid Program, submit proof of having a Certificate of Clinical Competence issued to the audiologist by the American Speech-Language-Hearing Association.

(c) If an audiologist fails to comply with paragraph (a) or (b) of this subsection, as applicable based on if the audiologist is in-state or out-of-state, the:

1. Audiologist shall be ineligible to be a Kentucky Medicaid Program provider; and

2. Department shall not reimburse for any service or item provided by the audiologist effective with the date the audiologist fails or failed to comply.

(6)(a) An in-state specialist in hearing instruments shall:

1. Maintain a current, unrevoked, and unsuspended license issued by the Kentucky Licensing Board for Specialists in Hearing Instruments;

2. Before initially enrolling in the Kentucky Medicaid Program,

submit proof of the license referenced in subparagraph 1. of this paragraph to the department;

3. Annually submit proof of the license referenced in subparagraph 1. of this paragraph to the department;

4. Maintain a Certificate of Clinical Competence issued to the specialist in hearing instruments by the American Speech-Language-Hearing Association; and

5. Before enrolling in the Kentucky Medicaid Program, submit proof of having a Certificate of Clinical Competence issued to the specialist in hearing instruments by the American Speech-Language-Hearing Association.

(b) An out-of-state specialist in hearing instruments shall:

1. Maintain a current, unrevoked, and unsuspended license issued by the licensing board with jurisdiction over specialists in hearing instruments in the state in which the license is held;

2. Before initially enrolling in the Kentucky Medicaid Program, submit proof of the license referenced in subparagraph 1. of this paragraph to the department;

3. Annually submit proof of the license referenced in subparagraph 1 of this paragraph to the department;

4. Maintain a Certificate of Clinical Competence issued to the specialist in hearing instruments by the American Speech-Language-Hearing Association; and

5. Before enrolling in the Kentucky Medicaid Program, submit proof of having a Certificate of Clinical Competence issued to the specialist in hearing instruments by the American Speech-Language-Hearing Association.

(c) If a specialist in hearing instruments fails to comply with paragraph (a) or (b) of this subsection, as applicable based on if the specialist in hearing instruments is in-state or out-of-state, the:

1. Specialist in hearing instruments shall be ineligible to be a Kentucky Medicaid Program provider; and

2. Department shall not reimburse for any service or item provided by the specialist in hearing instruments effective with the date the specialist in hearing instruments fails or failed to comply.

Section 3. Audiology Services.

(1) Audiology service coverage shall be limited to one (1) complete hearing evaluation per calendar year.

(2) Unless a recipient's health care provider demonstrates, and the department agrees, that an additional hearing instrument evaluation is medically necessary, a hearing instrument evaluation shall:

(a) Include three (3) follow-up visits, which shall be:

1. Within the six (6) month period immediately following the fitting of a hearing instrument; and

2. Related to the proper fit and adjustment of the hearing instrument; and

(b) Include one (1) additional follow-up visit, which shall be:

1. At least six (6) months following the fitting of the hearing instrument; and

2. Related to the proper fit and adjustment of the hearing instrument.

(3)(a) A referral by a physician to an audiologist shall be required for an audiology service.

(b) The department shall not cover an audiology service if a referral from a physician to the audiologist was not made.

(c) An office visit with a physician shall not be required prior to the referral to the audiologist for the audiology service.

Section 4. Hearing Instrument Coverage. (1) Hearing instrument benefit coverage shall:

(a)[(1)]~~[If the benefit is a hearing instrument model,]~~ Be for a hearing instrument model that is:

1.~~[(a)]~~ Recommended by an audiologist licensed pursuant to KRS 334A.030; and

2.~~[(b)]~~ Available through a Medicaid-participating specialist in hearing instruments; and

(b)[(2)] Except as provided by Section 5(3) of this administrative regulation, not exceed \$1,200~~[\$800]~~ per ear every thirty-six (36) months.

(2) Hearing instrument coverage may include the replacement or upgrading of a hearing instrument battery if the upgrade is cost-

effective or extends the service life of the hearing instrument.

Section 5. Replacement of a Hearing Instrument.

(1) The department shall reimburse for the replacement of a hearing instrument if:

(a) A loss of the hearing instrument necessitates replacement;

(b) Extensive damage has occurred necessitating replacement;

(c) Medical necessity demonstrates that new or improved technology would significantly increase hearing; or

(d)[(e)] A medical condition necessitates the replacement of the previously prescribed hearing instrument in order to accommodate a change in hearing loss.

(2) If replacement of a hearing instrument is necessary within twelve (12) months of the original fitting, the replacement hearing instrument shall be fitted upon the signed and dated recommendation from an audiologist.

(3) If replacement of a hearing instrument becomes necessary beyond twelve (12) months from the original fitting:

(a) The recipient shall be examined by a physician with a referral to an audiologist; and

(b) The recipient's hearing loss shall be re-evaluated by an audiologist.

Section 6. Noncovered services. The department shall not reimburse for:

(1) A routine screening of ~~a~~[an individual or] group of individuals for identification of a hearing problem;

(2) Hearing therapy except as covered through the six (6) month adjustment counseling following the fitting of a hearing instrument;

(3) Lip reading instructions except as covered through the six (6) month adjustment counseling following the fitting of a hearing instrument;

(4) A service for which the recipient has no obligation to pay and for which no other person has a legal obligation to provide or to make payment;

(5) A telephone call;

(6) A service associated with investigational research; or

(7) A replacement of a hearing instrument for the purpose of incorporating a recent improvement or innovation unless the replacement results in appreciable improvement in the recipient's hearing ability as determined by an audiologist.

Section 7. Equipment.

(1) Equipment used in the performance of a test shall meet the current standards and specifications established by the American National Standards Institute.

(2)(a) A provider shall ensure that any audiometer used by the provider or provider's staff shall:

1. Be checked at least once per year to ensure proper functioning; and

2. Function properly.

(b) A provider shall:

1. Maintain proof of calibration and any repair, if any repair occurs; and

2. Make the proof of calibration and repair, if any repair occurs, available for departmental review upon the department's request.

Section 8. Service and equipment limits may be exceeded by prior authorization for children under 21 if medically necessary.

Section 9. Federal Approval and Federal Financial Participation.

The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

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

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

Section 10.~~[Section 9.]~~ Appeal Rights. An appeal of a negative action regarding a Medicaid recipient who is:

(1) Enrolled with a managed care organization shall be in

accordance with 907 KAR 17:010; or

(2) Not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

Section 11. Incorporation by Reference. (1) "KY Medicaid Audiology Fee Schedule", April 2023, is incorporated by reference.

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

(a) At the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.; or

(b) Online at the department's Web site located at <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>.

LISA D. LEE, Commissioner

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: April 7, 2023

FILED WITH LRC: April 12, 2023 at 8:00 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on June 26, 2023, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by June 19, 2023, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until June 30, 2023. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jonathan Scott

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the Kentucky Medicaid Hearing Program's service and coverage provisions and requirements.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish Kentucky Medicaid Hearing Program's service and coverage provisions and requirements.

(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 Kentucky Medicaid Hearing Program's service and coverage provisions and requirements.

(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 Kentucky Medicaid Hearing Program's service and coverage provisions and requirements.

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

(a) How the amendment will change this existing administrative regulation: The amendment changes the administrative regulation by implementing a state plan amendment that allows for adults to receive hearing services. The amendment also increases the

amount that can be charged per ear each thirty-six (36) months to \$1,200 from \$800. In addition, clarifications are made about how batteries can be provided to individuals with hearing aids. Finally, updated references to the department's hearing program fee schedule are included.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update the administrative regulation to reflect current hearing program policy, and to implement the approval of recent state plan amendments.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by implementing a state plan amendment and updating the administrative regulation to conform to recent statutory and regulatory updates to the Medicaid program.

(d) How the amendment will assist in the effective administration of the statutes: The amendment assists in the effective administration of the statutes by providing a periodic update of the hearing program, and to implement recently effective state plan amendments, administrative regulations, and statutes.

(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 all adult and children recipients in the Medicaid program by enhancing the quality of hearing products that can be offered to recipients. There are currently 1.7 million individuals in the Medicaid program. The adult population that is newly eligible could include as many as 900,000 individuals from the traditional and expansion Medicaid populations. In addition, this administrative regulation will affect audiology providers participating in the Kentucky Medicaid program.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. Regulated entities will be required to take no new actions. However, adult hearing testing and referral requirements have been clarified.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). No cost is imposed by the amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). Individual beneficiaries will benefit from access to hearing services such as hearing aids, testing, and improved batteries. Audiology providers will benefit from the opportunity to provide services to an additional population of Medicaid beneficiaries.

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

(a) Initially: The Department for Medicaid Services (DMS) anticipates an increase of about \$0.25 for each adult beneficiary's per member per month capitation (PMPM) managed care organization (MCO) capitation rate. The total state expenditure for this additional benefit should be about \$150,000. This expenditure should be balanced against expected savings that could be generated within the Medicaid adult population. Consistent with national trends, DMS expects that Medicaid hearing coverage will decrease the likelihood of dementia, depression, anxiety, and even myocardial infarctions. DMS furthermore expects that up to 16% of Kentucky adults have some degree of hearing loss, and that quality of life and employment opportunities could increase as a result of this additional benefit. As a result, this up-front expenditure should be balanced against expected savings that could be generated within the Medicaid adult population. Consistent with national trends, DMS expects that Medicaid audiology coverage will increase the likelihood of working full-time for adult beneficiaries. This could result in individuals leaving the Medicaid program as a result of receiving full-time employment. The department – due to the efficiencies created – will meet its budgetary requirements as established in House Bill 1 of the 2022 Regular Session.

(b) On a continuing basis: DMS anticipates that movement out of the Medicaid program will intensify in future years. DMS further

anticipates that the preventive care will reduce later utilization and bolster full-time employment opportunities. The department will revisit the PMPM for this service category with contracted actuaries prior to making future budget requests.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The sources of revenue to be used for implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX of the Social Security Act and matching state funds appropriated in the biennium budget.

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

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

(9) TIERING: Is tiering applied? Tiering is no longer applied within this administrative regulation as audiology services are now available to all Medicaid recipients.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396d(r)(4), 42 U.S.C. 1396a(a)(30)(A), 42 C.F.R. 441.56, and 45 C.F.R. 147.126.

(2) State compliance standards. KRS 194A.050(1) states, "The secretary shall promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs." KRS 205.520(3) states: "it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."

(3) Minimum or uniform standards contained in the federal mandate. EPDST hearing coverage must include at least testing and diagnosis and treatment for hearing defects, including hearing aids. Hearing services must also be, "provided- (i) at intervals which meet reasonable standards of medical practice, as determined by the State after consultation with recognized medical organizations involved in child health care, and (ii) at such other intervals, indicated as medically necessary, to determine the existence of a suspected illness or condition." Additionally, state Medicaid programs are required to take measures to monitor that services are appropriate. States are required to establish a plan for review of the appropriateness and quality of care and services furnished to Medicaid recipients by appropriate health care professionals. The plan helps protect against overutilization or unnecessary care and to assure that reimbursement is consistent with efficiency, economy and quality of care. 42 U.S.C. 1396a(a)(30)(A) requires Medicaid state plans to: "provide such methods and procedures relating to the utilization of, and the payment for, care and services available under the plan (including but not limited to utilization review plans as provided for in section 1903(i)(4)) as may be necessary to safeguard against unnecessary utilization of such care and services" 45 C.F.R. 147.126 prohibits the application of annual dollar limits on essential health benefits. Medicaid program benefits are included in the scope of essential health benefits.

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

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The requirements are not stricter than federal requirements.

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. 42 C.F.R. 441.56; KRS 205.520.

(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 will generate no revenue for DMS.

(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 will generate no revenue for DMS.

(c) How much will it cost to administer this program for the first year? The Department for Medicaid Services (DMS) anticipates an increase of about \$0.25 for each adult beneficiary's per member per month capitation (PMPM) managed care organization (MCO) capitation rate. This expenditure should be balanced against expected savings that could be generated within the Medicaid adult population. Consistent with national trends, DMS expects that Medicaid hearing coverage will decrease the likelihood of dementia, depression, anxiety, and even myocardial infarctions. DMS furthermore expects that up to 16% of Kentucky adults have some degree of hearing loss, and that quality of life and employment opportunities could increase as a result of this additional benefit. This could result in individuals leaving the Medicaid program as a result of receiving full-time employment. The department – due to the efficiencies created – will meet its budgetary requirements as established in House Bill 1 of the 2022 Regular Session.

(d) How much will it cost to administer this program for subsequent years? DMS anticipates that movement out of the Medicaid program will intensify in future years. DMS further anticipates that the preventive care will reduce later utilization. The department will revisit the PMPM for this service category with contracted actuaries prior to making future budget requests.

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:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? DMS anticipates cost savings for hearing services providers who will be able to receive Medicaid reimbursement for a previously uncovered population of 900,000 people. The audiology services providers would have previously sought private pay reimbursement for these services and many recipients may have not accessed services as a result. In addition, other services – such as an increased expenditure limit for hearing aids and batteries - are now available to the entirety of the Medicaid population. This will provide a stable source of funding for these services.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? DMS anticipates cost savings on an ongoing basis for vision services providers because expanded services, and higher quality products will now be from a more stable funding source.

(c) How much will it cost the regulated entities for the first year? DMS does not anticipate that regulated entities will incur costs as a result of this amendment in the first year.

(d) How much will it cost the regulated entities for subsequent

years? DMS does not anticipate that regulated entities will incur costs as a result of this amendment in subsequent years.

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

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] The administrative regulation will not have a major economic impact – as defined by KRS 13A.010 – on regulated entities. DMS anticipates that this amendment may result in additional reimbursement for dentists.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Health Care Policy
(Amendment)

907 KAR 1:632. Vision program coverage provisions and requirements.

RELATES TO: KRS 205.520, 205.622, 205.8451(7), (9), Chapter 320, Chapter 326, 326.030, 326.040, 369.101 to 369.120, 42 C.F.R. 400.203, 431.17, 438.2, 440.40, 440.60, 447 Subpart B, [42 U.S.C. 1396a-d,] 45 C.F.R. 147.126, Parts 160 and 164, 164.306, 164.316, 42 U.S.C. 1320d to 1320d-8, 1396a-d

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 42 C.F.R. 441.30, 42 C.F.R. 441.56(c)(1)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the Kentucky Medicaid Program provisions and requirements regarding the coverage of vision services.

Section 1. Definitions.

(1) "Current procedural terminology code" or "CPT code" means a code used for reporting procedures and services performed by medical practitioners and published annually by the American Medical Association in Current Procedural Terminology.

(2) "Department" means the Department for Medicaid ~~Services~~[~~Services~~] or its designee.

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

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

(5) "Healthcare Common Procedure Coding System" or "HCPCS" means a collection of codes acknowledged by the Centers for Medicare and Medicaid Services (CMS) that represents procedures or items.

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

(7) "Medicaid basis" means a scenario in which:

(a) A provider provides a service to a recipient as a Medicaid-participating provider in accordance with:

1. 907 KAR 1:671; and
2. 907 KAR 1:672;

(b) The Medicaid Program is the payer for the service; and

(c) The recipient is not liable for payment to the provider for the service[~~other than any cost-sharing obligation owed by the recipient to the provider.~~]

(8) "Medically necessary" or "medical necessity" means that a

covered benefit is determined to be needed in accordance with 907 KAR 3:130.

(9) "Ophthalmic dispenser" means an individual who is qualified to engage in the practice of ophthalmic dispensing in accordance with KRS 326.030 or 326.040.

(10) "Optometrist" means an individual who is licensed as an optometrist in accordance with KRS Chapter 320.

(11) "Provider" is defined by KRS 205.8451(7).

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

Section 2. General Requirements and Conditions of Participation.

(1)(a) For the department to reimburse for a vision service or item, the service or item shall be:

1. Provided:

- a. To a recipient; and
- b. By a provider who is:

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

(ii) Except as provided in paragraph (b) of this subsection, currently participating in the Medicaid Program pursuant to 907 KAR 1:671; and

(iii) Authorized by this administrative regulation to provide the given service or item;

2. Covered in accordance with this administrative regulation;

3. Medically necessary;

4. A service or item authorized within the scope of the provider's licensure; and

5. A service or item listed on the Kentucky Medicaid Vision Fee Schedule[~~Department for Medicaid Services Vision Program Fee Schedule.~~]

(b) In accordance with 907 KAR 17:015, Section 3(3), a provider of a service to an enrollee shall not be required to be currently participating in the fee-for-service Medicaid Program.

(2)(a) To be recognized as an authorized provider of vision services, an optometrist shall:

1. Be licensed by the:

- a. Kentucky Board of Optometric Examiners; or
- b. Optometric examiner board in the state in which the optometrist practices if the optometrist practices in a state other than Kentucky;

2. Submit to the department proof of licensure upon initial enrollment in the Kentucky Medicaid Program; and

3. Annually submit to the department proof of licensure renewal including the expiration date of the license and the effective date of renewal.

(b)1. To be recognized as an authorized provider of vision services, an in-state optician shall:

- a. Hold a current license in Kentucky as an ophthalmic dispenser;
- b. Comply with the requirements established in KRS Chapter 326;

c. Submit to the department proof of licensure upon initial enrollment in the Kentucky Medicaid Program; and

d. Annually submit to the department proof of licensure renewal including the expiration date of the license and the effective date of renewal.

2. To be recognized as an authorized provider of vision services, an out-of-state optician shall:

- a. Hold a current license in the state in which the optician practices as an ophthalmic dispenser;
- b. Submit to the department proof of licensure upon initial enrollment in the Kentucky Medicaid Program; and
- c. Annually submit to the department proof of licensure renewal including the expiration date of the license and the effective date of renewal.

(c) A physician shall be an authorized provider of vision services.

(3) A provider shall comply with:

- (a) 907 KAR 1:671;
- (b) 907 KAR 1:672;
- (c) All applicable state and federal laws; and
- (d) The confidentiality of personal records pursuant to 42

VOLUME 49, NUMBER 11– MAY 1, 2023

U.S.C. 1320d to 1320d-8 and 45 C.F.R. Parts 160 and 164.

(4)(a) A provider shall:

1. Have the freedom to choose whether to provide services to a recipient; and

2. Notify the recipient referenced in paragraph (b) of this subsection of the provider's decision to accept or not accept the recipient on a Medicaid basis prior to providing any services to the recipient.

(b) A provider may provide a service to a recipient on a non-Medicaid basis:

1. If the recipient agrees to receive the service on a non-Medicaid basis; and

2. The service is not a Medicaid covered service~~Whether or not the:~~

a. Provider is a Medicaid-participating provider; or

b. Service is a Medicaid-covered service.

Section 3. Vision Service Coverage.

(1) Vision service coverage shall be limited to a service listed with a CPT code or item with an HCPCS code on the Kentucky Medicaid Vision Fee Schedule~~Department for Medicaid Services Vision Program Fee Schedule~~ as available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>.

(2) Vision service limits shall be as established on the Kentucky Medicaid Vision Fee Schedule~~Department for Medicaid Services Vision Program Fee Schedule~~ as available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>.

(3) Vision service limits may be exceeded by prior authorization for children under twenty-one (21) if medically necessary.

Section 4. Coverage of Eyeglasses and Frames.

(1) To be eligible for eyeglasses covered by the department, a recipient shall:

(a) ~~Be under the age of twenty-one (21) years, including the month in which the recipient becomes twenty-one (21) years of age; and~~

(b) have a diagnosed visual condition that:

(a)[1-] Requires the use of eyeglasses;

(b)[2-] Is within one (1) of the following categories:

1.[a-] Amblyopia;

2.[b-] Post surgical eye condition;

3.[c-] Diminished or subnormal vision; or

4.[d-] Other diagnosis which indicates the need for eyeglasses;

and

(c)[3-] Requires a prescription correction in the stronger lens no weaker than:

1.[a-] +0.50, 0.50 sphere +0.50, or 0.50 cylinder;

2.[b-] 0.50 diopter of vertical prism; or

3.[c-] A total of two (2) diopter of lateral prism.

(2) Provisions regarding any limit on the number of eyeglasses covered shall be as established in 907 KAR 1:631.

(3) For the department to cover:

(a) A frame, the frame shall be:

1. First quality;

2. Free of defects;~~and~~

3. Deluxe; and

4. Have a warranty of at least one (1) year; or

(b) A lens, the lens shall be:

1. First quality;

2. Free of defects;

3. Meet the United States Food and Drug Administration's impact resistance standards; ~~and~~

4. Polycarbonate and scratch coated; and

5. If medically necessary, inclusive of prisms.

(4) The dispensing of eyeglasses shall include:

(a) Single vision prescriptions;

(b) Bi-focal vision prescriptions;

(c) Multi-focal vision prescriptions;

(d) Progressive lens prescriptions;

(e) Services to frames; or

(f)(e) Delivery of the completed eyeglasses which shall include:

1. Instructions in the use and care of the eyeglasses; and

2. Any adjustment, minor or otherwise, for a period of one (1) year.

(5) A provider shall be responsible, at no additional cost to the department or the recipient, for:

(a) An inaccurately filled prescription;

(b) Defective material; or

(c) An improperly fitted frame.

Section 5. Contact Lenses, Tint, and Plano Safety Glasses.

(1) The department shall ~~not~~reimburse for contact lenses substituted for eyeglasses if a medical indication prevents the use of eyeglasses~~unless:~~

(a) ~~The corrected acuity in a recipient's stronger eye is twenty (20)/fifty (50) and shall be improved with the use of contact lenses;~~

(b) ~~The visual prescription is of + 8.00 diopter or greater; or~~

(c) ~~The recipient's diagnosis is 4.00 diopter anisometropia~~.

(2) The department's reimbursement for contact lenses shall include daily contact lenses.

(3) The department shall not reimburse for tint unless the prescription specifically indicates a diagnosis of photophobia.

(4)[(3)] The department shall not reimburse for plano safety glasses unless the glasses are medically indicated for the recipient.

Section 6. Noncovered Services or Items. The department shall not reimburse for:

(1) Tinting if not medically necessary;

(2) Photochromics if not medically necessary;

(3) Anti-reflective coatings if not medically necessary;

(4) Other lens options which are not medically necessary;

(5) Low vision services;

(6) A press-on prism if not medically necessary; or

(7) A service with a CPT code or item with an HCPCS code that is not listed on the Kentucky Medicaid Vision Fee Schedule~~Department for Medicaid Services Vision Program Fee Schedule~~.

Section 7. Required Provider Documentation. (1)(a) In accordance with 42 C.F.R. 431.17, a provider shall maintain medical records of a service provided to a recipient for the period of time currently required by the United States Health and Human Services Secretary unless the department requires a retention period, pursuant to 907 KAR 1:671, longer than the period required by the United States Health and Human Services Secretary.

(b) If, pursuant to 907 KAR 1:671, the department requires a medical record retention period longer than the period required by the United States Health and Human Services Secretary, the medical record retention period established in 907 KAR 1:671 shall be the minimum record retention period.

(c) A provider shall maintain medical records of a service provided to a recipient in accordance with:

1. 45 C.F.R. 164.316; and

2. 45 C.F.R. 164.306.

(2) A provider shall maintain the following documentation in a recipient's medical record:

(a) Any covered service or covered item provided to the recipient;

(b) For each covered service or covered item provided to the recipient:

1. A signature by the individual who provided the service or item signed on the date the service or item was provided;

2. The date that the service or item was provided; and

3. Demonstration that the covered service or covered item was provided to the recipient;

(c) The diagnostic condition necessitating the service or item; and

(d) The medical necessity as substantiated by an appropriate medical order.

Section 8. No Duplication of Service. (1) The department shall not reimburse for a service provided to a recipient by more than one (1) provider of any program in which the service is covered

during the same time period.

(2) For example, if a recipient is receiving a speech-language pathology service from a speech-language pathologist enrolled with the Medicaid Program, the department shall not reimburse for the same service provided to the same recipient during the same time period via the physician services program.

Section 9. Third Party Liability. A provider shall comply with KRS 205.622.

Section 10. Auditing Authority. The department shall have the authority to audit any claim, medical record, or documentation associated with the claim or medical record.

Section 11. Use of Electronic Signatures.

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

(2) A provider that chooses to use electronic signatures shall:

(a) Develop and implement a written security policy that shall:

1. Be adhered to by each of the provider's employees, officers, agents, or contractors;

2. Identify each electronic signature for which an individual has access; and

3. Ensure that each electronic signature is created, transmitted, and stored in a secure fashion;

(b) Develop a consent form that shall:

1. Be completed and executed by each individual using an electronic signature;

2. Attest to the signature's authenticity; and

3. Include a statement indicating that the individual has been notified of his or her responsibility in allowing the use of the electronic signature; and

(c) Provide the department, immediately upon request, with:

1. A copy of the provider's electronic signature policy;

2. The signed consent form; and

3. The original filed signature.

Section 12. Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

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

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

Section 13. Appeal Rights. An appeal of a department decision regarding a Medicaid recipient who is:

(1) Enrolled with a managed care organization shall be in accordance with 907 KAR 17:010; or

(2) Not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

Section 14. Incorporation by Reference.

(1) "Kentucky Medicaid Vision Fee Schedule"["Department for Medicaid Services Vision Program Fee Schedule"], April 2023[May 13, 2014], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m. or online at the department's Web site at <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>[<http://www.chfs.ky.gov/dms/incorporated.htm>].

LISA D. LEE, Commissioner

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: April 7, 2023

FILED WITH LRC: April 12, 2023 at 8:00 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on June 26, 2023, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom

invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by June 19, 2023, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until June 30, 2023. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; Phone: 502-564-6746; Fax: 502-564-7091; CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jonathan Scott, Executive Advisor

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes Medicaid program coverage policies and requirements regarding vision services.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish Medicaid program coverage provisions and requirements regarding vision services.

(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 Medicaid program coverage provisions and requirements regarding vision services.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the authorizing statutes by establishing Medicaid program coverage provisions and requirements regarding vision services; by complying with a federal mandate; and by protecting Kentucky taxpayer monies from being spent if federal matching funds are not provided.

(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 administrative regulation by implementing a state plan amendment that allows for adults to receive vision services. The amendment also clarifies cost sharing requirements, how providers can deliver services on a non-Medicaid basis, requires a higher quality of frame, lens, and lens enhancements to be available to Medicaid recipients. In addition, clarification is made that contact lenses are covered and that daily contact lenses will be available to Medicaid recipients. Finally, updated references to the department's vision fee schedule are included.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update the administrative regulation to reflect current vision policy, and to implement the approval of recent state plan amendments.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by implementing a state plan amendment and updating the administrative regulation to conform to recent statutory and regulatory updates to the Medicaid program.

(d) How the amendment will assist in the effective administration of the statutes: The amendment assists in the effective administration of the statutes by providing a periodic update of the vision program, and to implement recently effective

state plan amendments, administrative regulations, and statutes.

(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 all adult and children recipients in the Medicaid program by enhancing the quality of vision products that can be offered to recipients. There are currently 1.7 million individuals in the Medicaid program. The adult population that is newly eligible could include as many as 900,000 individuals from the traditional and expansion Medicaid populations. In addition, this administrative regulation will affect vision service providers participating in the Kentucky Medicaid program.

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

(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 action is required of the regulated entities other than to properly bill for services and adhere to program integrity requirements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). No cost is imposed.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). Individual beneficiaries will benefit from access to vision services, such as eyeglasses and contact lenses. Vision services providers will benefit from the opportunity to provide services to an additional population of Medicaid beneficiaries.

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

(a) Initially: The Department for Medicaid Services (DMS) anticipates an increase of about \$0.75 for each adult beneficiary's per member per month capitation (PMPM) managed care organization (MCO) capitation rate. This upfront expenditure should be balanced against expected savings that could be generated within the Medicaid adult population. Consistent with national trends, DMS expects that Medicaid vision coverage will increase the likelihood of working full-time for adult beneficiaries. This could result in individuals leaving the Medicaid program as a result of receiving full-time employment. The department – due to the efficiencies created – will meet its budgetary requirements as established in House Bill 1 of the 2022 Regular Session.

(b) On a continuing basis: DMS anticipates that movement out of the Medicaid program will intensify in future years. DMS further anticipates that the preventive care will reduce later utilization. The department will revisit the PMPM for this service category with contracted actuaries prior to making future budget requests.

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in 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: This administrative regulation neither establishes nor directly nor indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is no longer applied within this administrative regulation as vision services are now available to all Medicaid recipients.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396a(a)(30)(A), 42 U.S.C. 1396a(a)(33), 42 C.F.R. 441.56(c)(1), 42 C.F.R. 441.30, Section 2711 of the Affordable Care Act, and 45 C.F.R. 147.126.

(2) State compliance standards. Vision services for Medicaid recipients are not mandated by Kentucky law; however, the Department for Medicaid Services is required by KRS 205.8453 to "institute other measures necessary or useful in controlling fraud and abuse." KRS 205.520(3) states: "it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."

(3) Minimum or uniform standards contained in the federal mandate. Coverage of vision services is mandated only for certain children within the early and periodic screening, diagnosis and treatment (EPSDT) program for individuals under age twenty-one (21). 42 C.F.R. 441.30 states, "The plan must provide for payment of optometric services as physician services, whether furnished by an optometrist or a physician, if—

(a) The plan does not provide for payment for services provided by an optometrist, except for eligibility determinations under §§435.531 and 436.531 of this subchapter, but did provide for those services at an earlier period; and

(b) The plan specifically provides that physicians' services include services an optometrist is legally authorized to perform." Additionally, state Medicaid programs are required to take measures to monitor that services are appropriate. States are required to establish a plan for review of the appropriateness and quality of care and services furnished to Medicaid recipients by appropriate health care professionals. The plan helps protect against overutilization or unnecessary care and to assure that reimbursement is consistent with efficiency, economy and quality of care. 42 U.S.C. 1396a(a)(30)(A) requires Medicaid state plans to: "provide such methods and procedures relating to the utilization of, and the payment for, care and services available under the plan (including but not limited to utilization review plans as provided for in section 1903(i)(4)) as may be necessary to safeguard against unnecessary utilization of such care and services" 45 C.F.R. 147.126 prohibits the application of annual dollar limits on essential health benefits. Medicaid program benefits are included in the scope of essential health benefits.

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

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

FISCAL NOTE

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.030(2), 194A.050(1), 205.520(3), 42 C.F.R. 441.30, 42 C.F.R. 441.56(c)(1), and 45 C.F.R. 147.126.

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

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

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

(c) How much will it cost to administer this program for the first year? The Department for Medicaid Services (DMS) anticipates an increase of about \$0.75 for each adult beneficiary's per member per month capitation (PMPM) managed care organization (MCO) capitation rate. This up-front expenditure should be balanced against expected savings that could be generated within the Medicaid adult population. Consistent with national trends, DMS expects that Medicaid vision coverage will increase the likelihood of working full-time for adult beneficiaries. This could result in individuals leaving the Medicaid program as a result of receiving full-time employment. The department – due to the efficiencies created – will meet its budgetary requirements as established in House Bill 1 of the 2022 Regular Session.

(b) On a continuing basis:

(d) How much will it cost to administer this program for subsequent years? DMS anticipates that movement out of the Medicaid program will intensify in future years. DMS further anticipates that the preventive care will reduce later utilization. The department will revisit the PMPM for this service category with contracted actuaries prior to making future budget requests.

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:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? DMS anticipates cost savings for vision services providers who will be able to receive Medicaid reimbursement for a previously uncovered population of 900,000 people. The vision services providers would have previously sought private pay reimbursement for these services and many recipients may have not accessed services as a result. In addition, other services – such as higher quality eyeglasses and daily contacts - are now available to the entirety of the Medicaid population. This will provide a stable source of funding for these services.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? DMS anticipates cost savings on an ongoing basis for vision services providers because expanded services, and higher quality products will now be from a more stable funding source.

(c) How much will it cost the regulated entities for the first year? DMS does not anticipate that regulated entities will incur costs as a result of this amendment in the first year.

(d) How much will it cost the regulated entities for subsequent years? DMS does not anticipate that regulated entities will incur costs as a result of this amendment in subsequent years.

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

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] The administrative regulation will not have a major economic impact – as defined by KRS 13A.010 – on regulated entities. DMS anticipates that this amendment may result in additional reimbursement for ophthalmologists and optometrists.

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*.

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Building Code Enforcement
(New Administrative Regulation)

815 KAR 7:130. Kentucky Industrialized Building Systems.

RELATES TO: KRS 198B.030; KRS 198B.062; KRS 318.134
 STATUTORY AUTHORITY: KRS 198B.040(10); KRS 198B.050(5); KRS 198B.060(18)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 198B.050(5) requires the Department of Housing, Buildings and Construction to promulgate administrative regulations which are necessary to implement the Uniform State Building Code or to carry out any other responsibility assigned to the department by KRS Chapter 198B. KRS 198B.040(10) requires the department to promulgate administrative regulations for the safe installation and operation of plumbing and plumbing fixtures. KRS 198B.060(18) authorizes the department to establish a schedule of fees for the functions performed under KRS Chapter 198B. KRS 198B.062 requires all buildings to be constructed according to the construction documents approved by the building official having jurisdiction of the building in accordance with KRS 198B.060. This administrative regulation establishes the plan review and out-of-state inspection processes and requirements for industrialized building systems.

Section 1. Definitions. (1) "Certificate of acceptability" means the certificate provided to the manufacturer by the department signifying the manufacturer's ability to manufacture, import, and sell industrialized building systems within the state.

(2) "Department" means Department of Housing, Buildings and Construction

(3) "Industrialized building system" is defined by KRS 198B.010(18).

(4) "KIBS" means the Kentucky Industrialized Building System program.

(5) "M-Seal" means a unique serialized seal applied by a third-party inspector in the factory indicating that the building was constructed in substantial compliance with the Kentucky Building Code, incorporated by reference at 815 KAR 7:120 or the Kentucky Residential Code, incorporated by reference at 815 KAR 7:125.

(6) "Third-party inspection agency" means a business entity that employs Kentucky certified building inspectors and is approved to conduct out-of-state inspections for substantial compliance with the Uniform State Building Code "Third-Party Inspector" means a building inspector certified by the department in accordance with 815 KAR 7:070 that is not employed by a local government or by the department and is authorized to conduct inspections on industrialized building systems at an out-of-state manufacturing facility.

(7) "Third-party inspector" means a building inspector certified by the department in accordance with 815 KAR 7:070 that is not employed by a local government or by the department and is authorized to conduct inspections on industrialized building systems at an out-of-state manufacturing facility.

(8) "Quality Assurance Manual" means a document that describes a business entities' construction practices, quality assurance measures, and dispute resolution procedures.

Section 2. Certificate of Acceptability.

(1) Any manufacturer who wishes to sell an industrialized building system for placement in Kentucky shall obtain a Certificate of Acceptability.

(2) An applicant for a manufacturer of industrialized building systems' Certificate of Acceptability shall submit to the department:

(a) A completed Form HBC KIBS-1, Application for Certificate

of Acceptability for Industrialized Building Systems;

(b) Quality Assurance Manual;

(c) Proof of insurance for general liability coverage in the amount of at least:

1. \$300,000 bodily injury or death for each person;

2. \$400,000 bodily injury or death for each accident; and

3. \$100,000 for damage to property; and

(d) A prorated certificate of acceptability fee of \$500.

Section 3. Plan submission.

(1)(a) Prior to manufacturing an industrialized building system for placement in Kentucky, a manufacturer shall submit model plans to the department for approval. Model plans are required once per model and approval shall remain in effect for the duration of the currently adopted Kentucky Building Code or Kentucky Residential Code.

(b) Applicants seeking model plan approval shall submit to the department:

1. A completed KIBS Model Application Form, Form HBC KIBS-2;

2. Construction documents; and

3. Plan review fee as established by 815 KAR 7:120 Section 3.

(2) (a) Prior to placement of every industrialized building system, except those classified as one- and two- family dwellings, site placement plans shall be submitted to the department for approval.

(b) Applicants seeking site placement plan approval shall submit to the department:

1. A completed KIBS Site Placement Application Form, Form HBC KIBS-3;

2. Site placement plans; and

3. Plan review fee as established by 815 KAR 7:120 Section 3.

Section 4. Out-of-state inspections. Prior to shipment of every industrialized building system, the structure shall be inspected for substantial code compliance by a third-party inspector, and an M-Seal shall be applied if the structure is in substantial compliance with the Kentucky Building Code or Kentucky Residential Code.

Section 5. M-Seals.

(1) A third-party inspector may request M-Seals from the department to place on inspected industrialized building systems. Requestors shall submit to the department:

(a) A completed Application for M-Seals, Form HBC KIBS-4, and

(b) A fee of twenty-five dollars (\$25) per M-Seal.

(2) Except for the initial request for M-Seals, a third-party inspector requesting M-Seals shall submit a completed Form HBC KIBS-5 to the department prior to receiving M-Seals.

(3) A third-party inspector shall:

(a) Affix a M-Seal to a structure that substantially complies with the Kentucky Building Code or Kentucky Residential Code;

(b) Not affix a M-Seal to a structure he or she has not personally inspected; and

(c) Not allow M-Seals he or she has received from the department to be used by another.

(4) Penalties. A third-party inspector who knowingly engages in activity intended to defraud or deceive the department shall be subject to certification revocation or suspension pursuant to KRS 198B.060(16)-(17).

Section 6. Plumbing. Plumbing Systems shall be inspected and approved by a plumbing inspector employed by the Kentucky Department of Housing, Buildings and Construction, Division of Plumbing.

Section 7. Incorporation by reference.

(1) The following material is incorporated by reference:

(a) Form HBC KIBS-1, "Application for Certificate of Acceptability for Industrialized Building Systems", April 2023;

(b) Form HBC KIBS-2, "KIBS Model Application Form", April 2023;

(c) Form HBC KIBS-3, "KIBS Site Placement Application Form", April 2023;

(d) Form HBC KIBS-4, "Application for M-Seals", April 2023;

(e) Form HBC KIBS-5, "M-Seal Verification Form", April 2023.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, Division of Building Code Enforcement, 500 Mero Street, Frankfort, Kentucky 40601-5412, Monday through Friday, 8 a.m. to 4:30 p.m. and is available online at <http://dhbc.ky.gov>.

RAY A. PERRY, Secretary

RICK W. RAND, Commissioner

APPROVED BY AGENCY: April 12, 2023

FILED WITH LRC: April 13, 2023 at 3:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 27, 2023 at 10:00 a.m., eastern time, in the Department of Housing, Buildings and Construction, 500 Mero Street, First Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2023 at 11:59 p.m., eastern time. Send written notification of the intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person below:

CONTACT PERSON: Molly B. Cassady, General Counsel, Department of Housing, Buildings and Construction, Mero St., Kentucky 40601, phone 502-782-5448, fax 502-573-1057; email molly.cassady@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Molly Cassady

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the plan review and out-of-state inspection processes and requirements for industrialized building systems.

(b) The necessity of this administrative regulation: KRS 198B.050(5) requires the Department of Housing, Buildings and Construction to promulgate administrative regulations which are necessary to implement the Uniform State Building Code or to carry out any other responsibility assigned to the department by KRS Chapter 198B. KRS 198B.040(10) requires the department to promulgate administrative regulations for the safe installation and operation of plumbing and plumbing fixtures. KRS 198B.060(18) authorizes the department to establish a schedule of fees for the functions performed under KRS Chapter 198B. KRS 198B.062 requires all buildings to be constructed according to the construction documents approved by the building official having jurisdiction of the building in accordance with KRS 198B.060.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 198B.050(5) requires the Department of Housing, Buildings and Construction to promulgate administrative regulations which are necessary to implement the Uniform State Building Code or to carry out any other responsibility assigned to the department by KRS Chapter 198B. KRS 198B.040(10) requires the department to promulgate

administrative regulations for the safe installation and operation of plumbing and plumbing fixtures. KRS 198B.060(18) authorizes the department to establish a schedule of fees for the functions performed under KRS Chapter 198B. KRS 198B.062 requires all buildings to be constructed according to the construction documents approved by the building official having jurisdiction of the building in accordance with KRS 198B.060. This administrative regulation establishes the plan review and out-of-state inspection processes and requirements for industrialized building systems brought into Kentucky.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the plan review and out-of-state inspection processes and requirements for industrialized building systems in accordance with KRS 198B.050(5); KRS 198B.060; and KRS 198B.062.

(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: All industrialized building systems set in Kentucky, their manufacturers, and third-party inspectors are affected by this administrative regulation. Further, department personnel and local building officials are 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: Manufacturers will be required to obtain a certificate of acceptability from the department to comply with this administrative regulation. Third-party inspectors will be required to account for seals applied to industrialized building systems to comply with this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Manufacturers will have to pay a prorated \$500 fee for a certificate of acceptability application and a \$500 renewal fee to maintain their certificates of acceptability. Third-party inspectors will have to pay \$25 per M-seal ordered. The fees associated with plan review are currently in effect pursuant to 815 KAR 7:120.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Benefits include a clearer, more consistent application of the requirements of the Kentucky Building Code and Kentucky Residential Code to industrialized building systems brought into Kentucky.

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

(a) Initially: Minimal costs to configure software for tracking issuance of certificates of acceptability, M-seals that have been issued to and applied by third-party inspectors.

(b) On a continuing basis: There are no anticipated additional costs 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: Funding for implementation and enforcement of this administrative regulation will be met with existing agency funds initially, and fees affiliated with plan review, model approval, certificates of acceptability, and M-seals on a continuing basis.

(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 establishes fees to cover operational costs for the implementation and enforcement of the administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation establishes a \$500 prorated application fee for certificates of acceptability and a \$500 annual renewal fee for certificates of acceptability. This administrative regulation also establishes a \$25 fee per M-seal ordered.

(9) TIERING: Is tiering applied? Tiering is not applied as all regulated entities are subject to the same amended requirements.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction as well as building inspection and plan review programs of local governments.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 198B.050(5); KRS 198B.040(10); KRS 198B.060(18).

(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 \$25 per M-seal issued, \$500, prorated, per certificate of acceptability application, and \$500 per certificate of acceptability renewal. It is estimated that the Department of Housing, Buildings and Construction will issue a total approximately 1226 M-seals to various third-party inspectors, for a total cost of \$30,650 in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will generate \$25 per M-seal issued, \$500, prorated, per certificate of acceptability application, and \$500 per certificate of acceptability renewal. It is estimated that the Department of Housing, Buildings and Construction will issue a total approximately 1226 M-seals to various third-party inspectors, for a total cost of \$30,650 in subsequent years, depending on construction activity.

(c) How much will it cost to administer this program for the first year? There are no anticipated additional costs to administer this amendment in the first year. Any unforeseen costs will be met with existing agency funds and resources.

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer this amendment for subsequent years. Any unforeseen costs will be met with existing agency funds and resources.

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: Revenues remain neutral as agency resources expended will be offset by application, renewal, plan review, and seal fees.

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? This administrative regulation is not anticipated to result in cost savings for the regulated entities for the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? This administrative regulation is not anticipated to result in cost savings

for the regulated entities for subsequent years.

(c) How much will it cost the regulated entities for the first year? This administrative regulation will cost manufacturers the cost of application fees (\$500, prorated) for the first year. It will also cost third-party inspectors the cost of M-seals (\$25 per seal) they purchase.

(d) How much will it cost the regulated entities for subsequent years? This administrative regulation will cost manufacturers the cost of renewal fees (\$500) for subsequent years. It will also cost third-party inspectors the cost of M-seals (\$25 per seal) they purchase.

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

Cost Savings (+/-): Neutral.

Expenditures (+/-): Increased by the amounts identified in 4(c) and 4(d).

Other Explanation: None.

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]. This administrative regulation will not have a major economic impact, as defined above.

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Health Care Policy

(New Administrative Regulation)

907 KAR 1:126. Dental services' coverage provisions and requirements.

RELATES TO: KRS 205.520, 205.622, 205.8451, 313.010, 313.040, 369.102(8), 369.101 to 369.120, 415.152, 42 C.F.R. 400.203, 415.170, 415.172, 415.174, 438.2, 45 C.F.R. Parts 160, 164, 42 U.S.C. 1320d, 1396a-d

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

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has the responsibility to administer the Medicaid program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the Kentucky Medicaid program provisions and requirements regarding the coverage of dental services.

Section 1. Definitions.

(1) "Comprehensive orthodontic" means a medically necessary dental service for treatment of a dentofacial malocclusion which requires the application of braces for correction.

(2) "Current Dental Terminology" or "CDT" means a publication by the American Dental Association of codes used to report dental procedures or services.

(3) "Debridement" means a preliminary procedure that:

(a) Entails the gross removal of plaque and calculus that interfere with the ability of a dentist to perform a comprehensive oral evaluation;

(b) Does not preclude the need for further procedures; and

(c) Is separate from a regular cleaning and is usually a preliminary or first treatment when an individual has developed very heavy plaque or calculus.

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

(5) "Direct practitioner interaction" means the billing dentist or oral surgeon is physically present with and evaluates, examines, treats, or diagnoses the recipient, unless the service can be

appropriately performed via telehealth pursuant to 907 KAR 3:170.

(6) "Disabling malocclusion" means a condition that meets the criteria established in Section 13(7) of this administrative regulation.

(7) "Electronic signature" is defined by KRS 369.102(8).

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

(9) "Implant" means a medical device that is surgically implanted into the jaw to restore a person's ability to chew or appearance. An implant provides support for artificial teeth including a crown, a bridge, or dentures.

(10) "Incidental" means that a medical procedure:

(a) Is performed at the same time as a primary procedure; and

(b) 1. Requires little additional practitioner resources; or

2. Is clinically integral to the performance of the primary procedure.

(11) "Integral" means that a medical procedure represents a component of a more complex procedure performed at the same time.

(12) "Locum tenens dentist" means a substitute dentist:

(a) Who temporarily assumes responsibility for the professional practice of a dentist participating in the Kentucky Medicaid Program; and

(b) Whose services are paid under the participating dentist's provider number.

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

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

(15) "Mutually exclusive" means that two (2) procedures:

(a) Are not reasonably performed in conjunction with one (1) another during the same patient encounter on the same date of service;

(b) Represent two (2) methods of performing the same procedure;

(c) Represent medically impossible or improbable use of CDT codes; or

(d) Are described in CDT as inappropriate coding of procedure combinations.

(16) "Other licensed medical professional" or "OLMP" means a health care provider other than a dentist who has been approved to practice a medical specialty by the appropriate licensure board.

(17) "Prepayment review" or "PPR" means a departmental review of a claim regarding a recipient who is not enrolled with a managed care organization to determine if the requirements of this administrative regulation have been met prior to authorizing payment.

(18) "Prior authorization" or "PA" means approval that a provider shall obtain from the department before being reimbursed for a covered service.

(19) "Provider" is defined by KRS 205.8451(7).

(20) "Public health hygienist" means an individual who:

(a) Is a dental hygienist as defined by KRS 313.010(6);

(b) Meets the public health hygienist requirements established in KRS 313.040(8);

(c) Meets the requirements for a public health registered dental hygienist established in 201 KAR 8:562; and

(d) Is employed by or through:

1. The Department for Public Health; or

2. A governing board of health.

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

(22) "Resident" is defined by 42 C.F.R. 415.152.

(23) "Timely filing" means receipt of a claim by Medicaid:

(a) Within twelve (12) months of the date the service was provided;

(b) Within twelve (12) months of the date retroactive eligibility was established; or

(c) Within six (6) months of the Medicare adjudication date if the service was billed to Medicare.

Section 2. Conditions of Participation.

(1) A participating provider shall:

(a) Be licensed as a provider in the state in which the practice is located;

(b) Comply with the terms and conditions established in the following administrative regulations:

1. 907 KAR 1:005;

2. 907 KAR 1:671; and

3. 907 KAR 1:672;

(c) Comply with the requirements to maintain the confidentiality of personal medical records pursuant to 42 U.S.C. 1320d and 45 C.F.R. Parts 160 and 164;

(d) Comply with all applicable state and federal laws; and

(e) Meet all applicable medical and dental standards of practice.

(2)(a) A participating provider shall:

1. Have the freedom to choose whether to accept an eligible Medicaid recipient; and

2. Notify the recipient of the decision prior to the delivery of service.

(b) If the provider accepts the recipient, the provider:

1. Shall bill Medicaid rather than the recipient for a covered service;

2. May bill the recipient for a service not covered by Kentucky Medicaid, if the provider informed the recipient of noncoverage prior to providing the service; and

3. Shall not bill the recipient for a service that is denied by the department for:

a. Being:

(i) Incidental;

(ii) Integral; or

(iii) Mutually exclusive;

b. Incorrect billing procedures, including incorrect bundling of procedures;

c. Failure to obtain prior authorization for the service; or

d. Failure to meet timely filing requirements.

(3)(a) In accordance with 907 KAR 17:015, Section 3(3), a provider of a service to an enrollee shall not be required to be currently participating in the fee-for-service Medicaid program.

(b) A provider of a service to an enrollee shall be enrolled in the Medicaid program.

(4)(a) If a provider receives any duplicate or overpayment from the department or managed care organization, regardless of reason, the provider shall return the payment to the department or managed care organization.

(b) Failure to return a payment to the department or managed care organization in accordance with paragraph (a) of this subsection may be:

1. Interpreted to be fraud or abuse; and

2. Prosecuted in accordance with applicable federal or state law.

(c) Nonduplication of payments and third-party liability shall be in accordance with 907 KAR 1:005.

(d) A provider shall comply with KRS 205.622.

Section 3. DMS Activities in Response to Federal Approval.

(1) The department shall negotiate the dental program with the federal government consistent with 42 U.S.C. 1396a.

(2) The department shall seek official federal approval when implementing new covered services. New covered services may be received via approved state plan amendments with the federal government or via other reliable methods of receiving federal approval.

Section 4. Record Maintenance.

(1)(a) A provider shall maintain comprehensive legible medical records that substantiate the services billed.

(b) A dental record shall be considered a medical record.

(2) A medical record shall be signed on the date of service by the:

(a) Provider; or

(b) Other practitioner authorized to provide the service in accordance with:

1. KRS 313.040; and
2. 201 KAR 8:562.
- (3) An X-ray shall be:
 - (a) Of diagnostic quality; and
 - (b) Maintained in a manner that identifies the:
 1. Recipient's name;
 2. Service date; and
 3. Provider's name.
- (4) A treatment regimen shall be documented to include:
 - (a) Diagnosis;
 - (b) Treatment plan;
 - (c) Treatment and follow-up; and
 - (d) Medical necessity.
- (5) Medical records, including X-rays, shall be maintained in accordance with 907 KAR 1:672.

Section 5. General and Certain Service Coverage Requirements.

- (1) A covered service shall be:
 - (a) Medically necessary; and
 - (b) Except as provided in subsection (2) of this section, furnished to a recipient through direct practitioner interaction.
- (2) A covered service provided by another licensed medical professional (OLMP) shall be covered if the:
 - (a) OLMP is employed by the supervising oral surgeon, dentist, or dental group;
 - (b) OLMP is licensed in the state of practice; and
 - (c) Supervising provider has direct practitioner interaction with the recipient, except for a service provided by a dental hygienist if the dental hygienist provides the service under general supervision of a practitioner in accordance with KRS 313.040.
- (3)(a) A medical resident may provide and the department shall cover services if provided under the direction of a program participating teaching physician in accordance with 42 C.F.R. 415.170, 415.172, and 415.174.
- (b) A dental resident, student, or dental hygiene student may provide and the department shall cover services under the direction or supervision of a program participating provider in or affiliated with an American Dental Association accredited institution.
- (4) Services provided by a locum tenens dentist shall be covered:
 - (a) If the locum tenens dentist:
 1. Has a national provider identifier (NPI) and provides the NPI to the department;
 2. Does not have a pending criminal or civil investigation regarding the provision of services;
 3. Is not subject to a formal disciplinary sanction from the Kentucky Board of Dentistry; and
 4. Is not subject to any federal or state sanction or penalty that would bar the dentist from Medicare or Medicaid participation; and
 - (b) For no more than sixty (60) continuous days.
- (5) Preventative services provided by a public health hygienist shall be covered.
- (6) The department shall cover the oral pathology procedures listed on the Kentucky Medicaid Dental Fee Schedule if provided by an oral pathologist who meets the condition of participation requirements established in Section 2 of this administrative regulation.
- (7) Coverage shall be limited to the procedures or services:
 - (a) Identified and established on the Kentucky Medicaid Dental Fee Schedule as available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>; or
 - (b) Established in this administrative regulation.
- (8) The department shall not cover a service provided by a provider or practitioner that exceeds the scope of services established for the provider or practitioner in:
 - (a) Kentucky Revised Statutes;
 - (b) Kentucky administrative regulations; or
 - (c) As established on the Kentucky Medicaid Dental Fee Schedule as available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>.
- (9) The department shall not reimburse for services under this

administrative regulation that are only cosmetic in nature.

Section 6. Diagnostic Service Coverage Limitations.

- (1)(a) Except as provided in paragraph (b) of this subsection, coverage for a comprehensive oral evaluation shall be limited to one (1) per twelve (12) month period, per recipient, per provider.
 - (b) The department shall cover a second comprehensive oral evaluation if the evaluation is provided in conjunction with a prophylaxis.
 - (c) A comprehensive oral evaluation shall not be covered in conjunction with the following:
 1. A limited oral evaluation for trauma related injuries;
 2. A space maintainer;
 3. Denture relining;
 4. A transitional appliance;
 5. A prosthodontic service;
 6. Temporomandibular joint therapy;
 7. An orthodontic service;
 8. Palliative treatment;
 9. An extended care facility call;
 10. A house call; or
 11. A hospital call.
 - (2)(a) Coverage for a limited oral evaluation shall:
 1. Be limited to a trauma related injury or acute infection; and
 2. Be limited to one (1) per date of service, per recipient, per provider.
 - (b) A limited oral evaluation shall not be covered in conjunction with another service except for:
 1. A periapical X-ray;
 2. A bitewing X-ray;
 3. A panoramic X-ray;
 4. Resin, anterior;
 5. A simple or surgical extraction;
 6. Surgical removal of a residual tooth root;
 7. Removal of a foreign body;
 8. Suture of a recent small wound;
 9. Intravenous sedation; or
 10. Incision and drainage of infection.
 - (3)(a) Except as provided in paragraph (b) of this subsection, the following limitations shall apply to coverage of a radiograph service:
 1. Bitewing X-rays shall be limited to four (4) per twelve (12) month period, per recipient, per provider;
 2. Periapical X-rays shall be limited to fourteen (14) per twelve (12) month period, per recipient, per provider;
 3. An intraoral complete X-ray series shall be limited to one (1) per twenty-four (24) month period, per recipient, per provider;
 4. Periapical and bitewing X-rays shall not be covered in the same twelve (12) month period as an intraoral complete X-ray series per recipient, per provider;
 5. A panoramic film shall:
 - a. Be limited to one (1) per twenty-four (24) month period, per recipient, per provider; and
 - b. Require prior authorization in accordance with Section 15(1), (2), and (3) of this administrative regulation for a recipient under the age of six (6) years;
 6. A cephalometric film shall be limited to one (1) per twenty-four (24) month period, per recipient, per provider; or
 7. A cephalometric and panoramic X-ray shall not be covered separately in conjunction with a comprehensive orthodontic consultation.
 - (b) The limits established in paragraph (a) of this subsection shall not apply to:
 1. An X-ray necessary for a root canal or oral surgical procedure; or
 2. An X-ray that:
 - a. Exceeds the established service limitations; and
 - b. Is determined by the department to be medically necessary.
- Section 7. Preventive Service Coverage Limitations.**
- (1)(a) Coverage of a prophylaxis shall be limited to one (1) per six (6) month period, per recipient.
 - (b) A prophylaxis shall not be covered in conjunction with

periodontal scaling or root planing.

(2)(a) Coverage of a sealant shall be limited to:

1. Each six (6) and twelve (12) year molar once every four (4) years with a lifetime limit of three (3) sealants per tooth, per recipient; and

2. An occlusal surface that is noncavitated.

(b) A sealant shall not be covered in conjunction with a restorative procedure for the same tooth on the same surface on the same date of service.

(3)(a) Coverage of a space maintainer shall require the following:

1. Fabrication;
2. Insertion;
3. Follow-up visits;
4. Adjustments; and
5. Documentation in the recipient's medical record to:

a. Substantiate the use for maintenance of existing interdental space; and

b. Support the diagnosis and a plan of treatment that includes follow-up visits.

(b) The date of service for a space maintainer shall be considered to be the date the appliance is placed on the recipient.

(c) Coverage of a space maintainer, an appliance therapy specified in the CDT orthodontic category, or a combination of the two (2) shall not exceed two (2) per twelve (12) month period, per recipient.

Section 8. Restorative Service Coverage Limitations.

(1) A four (4) or more surface resin-based anterior composite procedure shall not be covered if performed for the purpose of cosmetic bonding or veneering.

(2) Coverage of a prefabricated crown shall include any procedure performed for restoration of the same tooth.

(3) Coverage of a pin retention procedure shall be limited to:

- (a) A permanent molar;
- (b) One (1) per tooth, per date of service, per recipient; and
- (c) Two (2) per permanent molar, per recipient.

(4) Coverage of a restorative procedure performed in conjunction with a pin retention procedure shall be limited to one (1) of the following:

- (a) An appropriate medically necessary restorative material encompassing three (3) or more surfaces;
- (b) A permanent prefabricated resin crown; or
- (c) A prefabricated stainless-steel crown.

Section 9. Endodontic Service Coverage Limitations.

(1) A therapeutic pulpotomy shall not be covered if performed in conjunction with root canal therapy.

(2)(a) Coverage of root canal therapy shall require:

1. Treatment of the entire tooth;
2. Completion of the therapy; and
3. An X-ray taken before and after completion of the therapy.

(b) The following root canal therapy shall not be covered:

1. The Sargenti method of root canal treatment; or
2. A root canal that does not treat all root canals on a multi-rooted tooth.

Section 10. Periodontic Service Coverage Limitations.

(1) Coverage of a gingivectomy or gingivoplasty procedure shall require prepayment review and shall be limited to:

(a) A recipient with gingival overgrowth due to a:

1. Congenital condition;
2. Hereditary condition; or
3. Drug-induced condition; and

(b) One (1) per tooth or per quadrant, per provider, per recipient per twelve (12) month period.

(2) Coverage of a gingivectomy or gingivoplasty procedure shall require documentation in the recipient's medical record that includes:

- (a) Pocket-depth measurements;
- (b) A history of nonsurgical services; and
- (c) A prognosis.

(3) Coverage for a periodontal scaling and root planing

procedure shall:

(a) Not exceed one (1) per quadrant, per twelve (12) months, per recipient, per provider;

(b) Require prior authorization in accordance with Section 15(1), (2), and (4) of this administrative regulation; and

(c) Require documentation to include:

1. A periapical film or bitewing X-ray;
2. Periodontal charting of preoperative pocket depths; and
3. A photograph, if applicable.

(4) Periodontal scaling and root planing shall not be covered if performed in conjunction with dental prophylaxis.

Section 11. Prosthodontic Service Coverage Limitations.

(1) A denture repair in the following categories shall not exceed three (3) repairs per twelve (12) month period, per recipient:

- (a) Repair resin denture base; or
- (b) Repair cast framework.

(2) Coverage for the following services shall not exceed one (1) per twelve (12) month period, per recipient:

- (a) Replacement of a broken tooth on a denture;
- (b) Laboratory relining of:
 1. Maxillary dentures; or
 2. Mandibular dentures;
- (c) An interim maxillary partial denture; or
- (d) An interim mandibular partial denture.

(3) An interim maxillary or mandibular partial denture shall be limited to use:

- (a) During a transition period from a primary dentition to a permanent dentition;
- (b) For space maintenance or space management; or
- (c) As interceptive or preventive orthodontics.

Section 12. Maxillofacial Prosthetic Service Coverage Limitations. The following services shall be covered if provided by a board eligible or board-certified prosthodontist:

- (1) A nasal prosthesis;
- (2) An auricular prosthesis;
- (3) A facial prosthesis;
- (4) A mandibular resection prosthesis;
- (5) A pediatric speech aid;
- (6) An adult speech aid;
- (7) A palatal augmentation prosthesis;
- (8) A palatal lift prosthesis;
- (9) An oral surgical splint; or
- (10) An unspecified maxillofacial prosthetic.

Section 13. Oral and Maxillofacial Service Coverage Limitations. (1) The simple use of a dental elevator shall not constitute a surgical extraction.

(2) Root removal shall not be covered on the same date of service as the extraction of the same tooth.

(3) Coverage of surgical access of an unerupted tooth shall:

(a) Be limited to exposure of the tooth for orthodontic treatment; and

(b) Require prepayment review.

(4) Coverage of alveoplasty shall:

(a) Be limited to one (1) per quadrant, per lifetime, per recipient; and

(b) Require a minimum of a four (4) tooth area within the same quadrant.

(5) An occlusal orthotic device shall:

(a) Be covered for temporomandibular joint therapy;

(b) Require prior authorization in accordance with Section 15(1), (2), and (5) of this administrative regulation; and

(c) Be limited to one (1) per lifetime, per recipient.

(6) Frenulectomy shall be limited to two (2) per date of service.

(7) Coverage shall be limited to one (1) per lifetime, per recipient, for removal of the following:

- (a) Torus palatinus (maxillary arch);
- (b) Torus mandibularis (lower left quadrant); or
- (c) Torus mandibularis (lower right quadrant).

Section 14. Orthodontic Service Coverage Limitations.

(1) Coverage of an orthodontic service shall require prior authorization except as established in Section 15(1)(b) of this administrative regulation.

(2) The combination of space maintainers and appliance therapy shall be limited to two (2) per twelve (12) month period, per recipient.

(3) Space maintainers and appliance therapy shall not be covered in conjunction with comprehensive orthodontics.

(4) Orthodontic braces shall be limited to recipients under the age of twenty-one (21) years.

(5) Space maintainers shall be allowed for adults when:

(a) There has been an extraction or lost tooth;

(b) A permanent tooth is waiting for a partial;

(c) In preparation for an implant, if an implant is medically necessary and approved;

(d) A third molar is partially erupted; or

(e) There is a congenitally missing tooth.

(6) The department shall only cover new orthodontic brackets or appliances.

(7) An appliance for minor tooth guidance shall not be covered for the control of harmful habits.

(8) In addition to the limitations specified in subsection (1) of this section, a comprehensive orthodontic service shall:

(a) Require a referral by a dentist; and

(b) Be limited to the correction of a disabling malocclusion for transitional, full permanent dentition, or treatment of a cleft palate or severe facial anomaly.

(9) A disabling malocclusion shall:

(a) Exist if a patient:

1. Exhibits a severe overbite encompassing one (1) or more teeth in palatal impingement diagnosed by a lingual view of orthodontic models (stone or digital) showing palatal soft tissue contact;

2. Exhibits a true anterior open bite:

a. Either skeletal or habitual in nature that if left untreated will result in:

(i) The open bite persisting; or

(ii) A medically documented speech impediment; and

b. That does not include:

(i) One (1) or two (2) teeth slightly out of occlusion; or

(ii) Where the incisors have not fully erupted;

3. Demonstrates a significant antero-posterior discrepancy (Class II or III malocclusion that is comparable to at least one (1) full tooth Class II or III):

a. Dental or skeletal; and

b. If skeletal, requires a traced cephalometric radiograph supporting significant skeletal malocclusion;

4. Has an anterior crossbite that involves:

a. More than two (2) teeth within the same arch; or

b. A single tooth crossbite if there is evident detrimental changes in supporting tissues including:

(i) Obvious gingival stripping; or

(ii) A functional shift of the mandible or severe dental attrition for an individual under the age of twelve (12) years; or

c. An edge-to-edge crossbite if there is severe dental attrition due to a traumatic occlusion;

5. Demonstrates a handicapping posterior transverse discrepancy that:

a. May include several teeth, one (1) of which shall be a molar; and

b. Is handicapping in a function fashion as follows:

(i) Functional shift;

(ii) Facial asymmetry; or

(iii) A complete buccal or lingual crossbite;

6. Demonstrates a medically documented speech pathology resulting from the malocclusion;

7. Demonstrates a significant posterior open bite that does not involve:

a. Partially erupted teeth; or

b. One (1) or two (2) teeth slightly out of occlusion;

8. Except for third molars, demonstrates an impacted tooth that:

a. Will not erupt into the arch without orthodontic or surgical intervention; and

b.(i) Shows a documented pathology; or

(ii) Poses a significant threat to the integrity of the remaining dentition or to the health of the patient;

9. Has an extreme overjet in excess of eight (8) millimeters and one (1) of the skeletal conditions specified in subparagraphs 1 through 8 of this paragraph;

10. Has trauma or injury resulting in severe misalignment of the teeth or alveolar structures and does not include simple loss of teeth with no other affects;

11. Has a congenital or developmental disorder giving rise to a handicapping malocclusion;

12. Has a significant facial discrepancy requiring a combined orthodontic and orthognathic surgery treatment approach; or

13. Has developmental anodontia in which several congenitally missing teeth result in a handicapping malocclusion or arch deformation; and

(b) Not include:

1. One (1) or two (2) teeth being slightly out of occlusion;

2. Incisors not having fully erupted; or

3. A bimaxillary protrusion.

(10) Coverage of comprehensive orthodontic treatment shall not include orthognathic surgery.

(11) If comprehensive orthodontic treatment is discontinued prior to completion, the provider shall submit to the department:

(a) Documentation of the referral referenced in subsection (8) of this section; and

(b) A letter detailing:

1. Treatment provided, including dates of service;

2. Current treatment status of the patient; and

3. Charges for the treatment provided.

(12) Remaining portions of comprehensive orthodontic treatment may be authorized for prorated coverage upon compliance with the prior authorization requirements specified in Section 15(1), (2), and (7) of this administrative regulation if treatment:

(a) Is transferred to another provider; or

(b) Began prior to Medicaid eligibility.

Section 15. Adjunctive General Service Coverage Limitations.

(1)(a) Coverage of palliative treatment for dental pain shall be limited to one (1) per date of service, per recipient, per provider.

(b) Palliative treatment for dental pain shall not be covered in conjunction with another service except for a radiograph.

(2)(a) Coverage of a hospital or ambulatory surgical center call or extended care facility call shall be limited to one (1) per date of service, per recipient, per provider.

(b) A hospital call, ambulatory surgical center call, or extended care facility call shall not be covered in conjunction with:

1. Limited oral evaluation; or

2. Comprehensive oral evaluation.

(3) Intravenous sedation shall not be covered for local anesthesia or nitrous oxide.

Section 16. Implant Policy. (1) Implants shall meet the medical necessity criteria and be used to stabilize a retaining prosthetic device.

(2) Implants shall be limited to no more than:

(a) For an individual who has lost all of their natural teeth, a total of ten (10) but with a limit of five (5) for each arch; and

(b) For an individual who retains some natural teeth, a limit of eight (8) for replacement of individual teeth of for a larger restorative purpose such as a bridge that spans three (3) or more teeth.

Section 17. Prior Authorization.

(1)(a) The prior authorization requirements established in this administrative regulation shall apply to services for a recipient who is not enrolled with a managed care organization.

(b) A managed care organization shall not be required to apply the prior authorization requirements established in this administrative regulation for a recipient who is enrolled with the

managed care organization.

(c) Prior authorization shall be required for the following:

1. A panoramic film for a recipient under the age of six (6) years;

2. Periodontal scaling and root planing;

3. An occlusal orthotic device;

4. A preorthodontic treatment visit;

5. Removable appliance therapy;

6. Fixed appliance therapy;

7. A comprehensive orthodontic service; or

8. An implant.

(2) Limits may also be exceeded by prior authorization for children under the age of twenty-one (21) if medically necessary.

(3) A provider shall request prior authorization by submitting the following information to the department:

(a) A MAP 9, Prior Authorization for Health Services;

(b) Additional forms or information as specified in subsections (3) through (8) of this section; and

(c) Additional information required to establish medical necessity if requested by the department.

(4) A request for prior authorization of a panoramic film shall include a letter of medical necessity.

(5) A request for prior authorization of periodontal scaling and root planing shall include periodontal charting of preoperative pocket depths.

(6) A request for prior authorization of an occlusal orthotic device shall include a MAP 306, Temporomandibular Joint (TMJ) Assessment Form.

(7) A request for prior authorization of removable and fixed appliance therapy shall include:

(a) A MAP 396, Kentucky Medicaid Program Orthodontic Evaluation Form;

(b) Panoramic film or intraoral complete series; and

(c) Dental models or the digital equivalent of dental models.

(8) A request for prior authorization for comprehensive orthodontic services shall include:

(a) A MAP 396, Kentucky Medicaid Program Orthodontic Evaluation Form;

(b) A MAP 9A, Kentucky Medicaid Program Orthodontic Services Agreement;

(c) A cephalometric X-ray with tracing;

(d) A panoramic X-ray;

(e) Intraoral and extraoral facial frontal and profile pictures;

(f) An occluded and trimmed dental model or the digital equivalent of a model; and

(g) An oral surgeon's pretreatment work up notes if orthognathic surgery is required.

(9) If prior authorization for comprehensive orthodontic services is given following a request submitted pursuant to subsection (8) of this section, additional information shall be submitted as required in this subsection.

(a) After six (6) monthly visits are completed, but not later than twelve (12) months after the banding date of service, the provider shall submit:

1. A MAP 559, Six (6) Month Orthodontic Progress Report; and

2. An additional MAP 9, Prior Authorization for Health Services.

(b) Within three (3) months following completion of the comprehensive orthodontic treatment, the provider shall submit:

1. Beginning and final records; and

2. A MAP 700, Kentucky Medicaid Program Orthodontic Final Case Submission.

(10) Upon receipt and review of the materials required in subsection (7)(a) through (g) of this section, the department may request a second opinion from another provider regarding the proposed comprehensive orthodontic treatment.

(11) If a service that requires prior authorization is provided before the prior authorization is received, the provider shall assume the financial risk that the prior authorization may not be subsequently approved.

(12)(a) Prior authorization shall not be a guarantee of recipient eligibility.

(b) Eligibility verification shall be the responsibility of the provider.

(13) Upon review and determination by the department that removing a prior authorization requirement shall be in the best interest of a Medicaid recipient, the prior authorization requirement for a specific covered benefit shall be discontinued, at which time the covered benefit shall be available to all recipients without prior authorization, as necessary, an age limit related prior authorization may continue to be enforced.

Section 18. Use of Electronic Signatures.

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

(2) A dental service provider that chooses to use electronic signatures shall:

(a) Develop and implement a written security policy that shall:

1. Be adhered to by each of the provider's employees, officers, agents, or contractors;

2. Identify each electronic signature for which an individual has access; and

3. Ensure that each electronic signature is created, transmitted, and stored in a secure fashion;

(b) Develop a consent form that shall:

1. Be completed and executed by each individual using an electronic signature;

2. Attest to the signature's authenticity; and

3. Include a statement indicating that the individual has been notified of his or her responsibility in allowing the use of the electronic signature; and

(c) Provide the department, immediately upon request, with:

1. A copy of the provider's electronic signature policy;

2. The signed consent form; and

3. The original filed signature.

Section 19. Auditing Authority.

(1) The department or the managed care organization in which an enrollee is enrolled shall have the authority to audit any:

(a) Claim;

(b) Medical record; or

(c) Documentation associated with any claim or medical record.

(2) A dental record shall be considered a medical record.

Section 20. Federal Approval and Federal Financial Participation. The coverage provisions and requirements established in this administrative regulation shall be contingent upon:

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

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

Section 21. Appeal Rights. An appeal of a department decision regarding a Medicaid recipient who is:

(1) Enrolled with a managed care organization shall be in accordance with 907 KAR 17:010; or

(2) Not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

Section 22. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "MAP 9, Prior Authorization for Health Services", December 1995;

(b) "MAP 9A, Kentucky Medicaid Program Orthodontic Services Agreement", December 1995;

(c) "MAP 306, Temporomandibular Joint (TMJ) Assessment Form", December 1995;

(d) "MAP 396, Kentucky Medicaid Program Orthodontic Evaluation Form", March 2001;

(e) "MAP 559, Six (6) Month Orthodontic Progress Report", December 1995;

(f) "MAP 700, Kentucky Medicaid Program Orthodontic Final Case Submission", December 1995; and

(g) "KY Medicaid Dental Fee Schedule", April 2023.

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

(a) At the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.; or

(b) Online at the department's Web site located at <https://chfs.ky.gov/agencies/dms/dpo/bpb/Pages/dental.aspx>.

LISA D. LEE, Commissioner

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: April 7, 2023

FILED WITH LRC: April 1, 2023 at 8:00 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on June 26, 2023, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by June 19, 2023, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until June 30, 2023. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jonathan Scott

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the Kentucky Medicaid program provisions and requirements regarding the coverage of dental services. This administrative regulation contains a clear statement about federal approval as it relates to dental services. In addition, policy relating to the amount and approval of implants as well as clearer dental policy and fee schedule information. Additional restrictions have also been included around the use of orthodontic braces and space maintainers. Finally, a hospital call, ambulatory surgical center call, or extended care facility call based on dental pain may now be subject to coverage.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the Kentucky Medicaid program provisions and requirements regarding the coverage of dental services.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing the Kentucky Medicaid program provisions and requirements regarding the coverage of dental services.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the authorizing statutes by establishing the Kentucky Medicaid program provisions and requirements regarding the coverage of dental services.

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

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

(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 all adult and children recipients in the Medicaid program by establishing and enhancing the quality of dental services that can be offered to recipients. There are currently 1.7 million individuals in the Medicaid program. The adult population that is newly eligible could include as many as 900,000 individuals from the traditional and expansion Medicaid populations. In addition, Medicaid participating dental service providers will be affected by the amendments. Currently, there are 1,078 individual dentists, 158 group dental practices, sixty-nine (69) individual physicians who perform oral surgery, and nine (9) group physician practices that perform oral surgery enrolled in Kentucky's Medicaid program.

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

(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. Dental providers will need to ensure that they provide services within the limits established in the administrative regulation if they wish to be reimbursed for services.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). The amendment imposes no cost on the regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). Individual beneficiaries will benefit from the additional dental services and visits. Dental providers will benefit from the opportunity to provide services to an additional population of Medicaid beneficiaries.

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

(a) Initially: The department shall meet its budget obligations pursuant to HB 1 of the 2022 Regular Session. DMS anticipates that costs will be shifted within the Medicaid program and will be reflected in capitation rates of about \$1.00 PMPM for each member. This additional cost will be impacted by anticipated savings in hospital emergency department utilization, opioid utilization rates, and oral surgery. DMS anticipates savings and decreased utilization in these more expensive care settings. For example, Medicaid enrollees with preventive care may have 43% lower costs and can be as much as eight times less likely to have an emergency department visit for dental care. In addition, up to 1 million work hours could be saved in the Commonwealth if emergency dental care is avoided for Medicaid recipients. Finally, consistent with national trends, DMS expects additional job-seeking opportunities to be available to the adult population as a result of enhanced dental care and this could result in a movement out of the Medicaid program for some adult beneficiaries.

(b) On a continuing basis: DMS anticipates that movement out of the Medicaid program will intensify in future years. DMS further anticipates that preventive care will reduce later utilization. The department will revisit the PMPM for this service category with contracted actuaries prior to making future budget requests.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The sources of revenue to be used for implementation and enforcement of this administrative regulation are federal funds authorized under the Social Security Act, Title XIX and matching funds of general and restricted fund appropriations.

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

administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering is not applied within this administrative regulation as dental services are available to all Medicaid recipients.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396d(r)(3)

(2) State compliance standards. KRS 194A.050(1) states, "The secretary shall promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs." KRS 205.520(3) states: "it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."

(3) Minimum or uniform standards contained in the federal mandate. Coverage of dental services is mandated only for certain children within the early and periodic screening, diagnosis and treatment (EPSDT) program for individuals under age twenty-one (21.)

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

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

FISCAL NOTE

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1), 205.520(3), 42 U.S.C. 1396d(r)(3).

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

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

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

(c) How much will it cost to administer this program for the first year? The department shall meet its budget obligations pursuant to HB 1 of the 2022 Regular Session. DMS anticipates that costs will be shifted within the Medicaid program and will be reflected in capitation rates of about \$1.00 PMPM for each member. This additional cost will be impacted by anticipated savings in hospital emergency department utilization, opioid utilization rates, and oral surgery. DMS anticipates savings and decreased utilization in these more expensive care settings. For example, Medicaid

enrollees with preventive care may have 43% lower costs and can be up to eight times less likely to have an emergency department visit for dental care. In addition, up to 1 million work hours could be saved in the Commonwealth if emergency dental care is avoided for Medicaid recipients. Finally, consistent with national trends, DMS expects additional job-seeking opportunities to be available to the adult population as a result of enhanced dental care and this could result in a movement out of the Medicaid program for some adult beneficiaries.

(d) How much will it cost to administer this program for subsequent years? DMS anticipates that movement out of the Medicaid program will intensify in future years. DMS further anticipates that the preventive care will reduce later utilization. The department will revisit the PMPM for this service category with contracted actuaries prior to making future budget requests.

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:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? DMS anticipates cost savings for dentists who will be able to receive Medicaid reimbursement for a previously uncovered population of 900,000 people. The dentists would have previously sought private pay reimbursement for these services and many recipients may have not accessed services as a result. These changes therefore provide a stable source of funding for these services.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? DMS anticipates cost savings on an ongoing basis for dental services providers because expanded services for adult and children beneficiaries will now be from a more stable funding source.

(c) How much will it cost the regulated entities for the first year? DMS does not anticipate that regulated entities will incur costs as a result of this administrative regulation in the first year.

(d) How much will it cost the regulated entities for subsequent years? DMS does not anticipate that regulated entities will incur costs as a result of this administrative regulation in subsequent years.

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

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]. The administrative regulation will not have a major economic impact – as defined by KRS 13A.010 – on regulated entities. DMS anticipates that this administrative regulation may result in additional reimbursement for dentists.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of April 11, 2023

Call to Order and Roll Call

The April meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, April 11, 2023 at 1:00 p.m. in Room 149 of the Capitol Annex. Representative Lewis, Co-Chair, called the meeting to order, the roll call was taken.

Present were:

Members: Representative Derek Lewis, Co-Chair; Senator Damon Thayer; and Representatives Randy Bridges, Deanna Frazier Gordon, and Daniel Grossberg.

LRC Staff: Stacy Auterson, Emily Caudill, Ange Darnell, Emily Harkenrider, Karen Howard, Carrie Nichols, and Christy Young.

Guests: Joe Donohue, Board of Accountancy; Eden Davis, Christopher Harlow, Board of Pharmacy; Dr. Joe Ellis, Carson Kerr, Board of Optometric Examiners; Kelly Jenkins, Jeffrey R. Prather, Board of Nursing; Brian Clark, Steven Fields, Jenny Gilbert, Department of Fish and Wildlife Resources; Amy Barker, Leah Boggs, Department of Juvenile Justice; Buddy Hoskinson, Matt Lynch, Oran McFarlan, Office of Unemployment Insurance; Abigail Gall, Shaun Orme, Department of Insurance; Justin Burse, Marni Gibson, Chad Harlan, Jeff Jacob, Gary Stephens, Department of Financial Institutions; Doug Hardin, Kim Sutherland, Department of Charitable Gaming; Kara Daniel, Adam Mather, Office of Inspector General; Jonathan Scott, Department for Medicaid Services.

Administrative Regulations Reviewed by this Subcommittee:

BOARDS AND COMMISSIONS: Kentucky State Board of Accountancy

201 KAR 001:190. Examination sections, applications, and procedures. Joe Donohue, executive director, represented the board.

Co-Chair Lewis stated his appreciation for the board's work.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 9 through 11 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Pharmacy

201 KAR 002:380. Board authorized protocols. Eden Davis, general counsel, and Christopher Harlow, executive director, represented the board.

Co-Chair Lewis stated that he appreciated the board's willingness to revise this administrative regulation in response to stakeholders' concerns.

At the February 14, 2023 meeting of this subcommittee, a motion was made and seconded to approve the following amendments: (1) to amend Section 1 to add a definition for "protocol"; and (2) to amend Sections 1 through 3 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a statutory citation; (2) to amend Section 2 to reference the authorized conditions listed in Section 5; (3) to amend Section 3 to restore previous language requiring a protocol to contain the date and education or training of the pharmacist as referenced in Section 4; (4) to add a Section 4 to restore the previous language pertaining to the required pharmacist education and training, including that a failure to be educated and trained before utilizing a prescriber-approved protocol may result in disciplinary action pursuant to KRS 315.121(1)(a); (5) to add a Section 5 to: (a) restore the previous language on the list of authorized conditions for which board-authorized protocols may be established; and (b) include in this list, coronavirus (COVID-19) infection pursuant to recommendations by the CDC; and (6) to amend Section 5 to comply with the formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Optometric Examiners

201 KAR 005:002. Board administration and optometric practice. Dr. Joe Ellis, vice president, and Carson Kerr, executive director, represented the board.

A motion was made and seconded to approve the following

amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 3, 5, and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Nursing

201 KAR 020:411. Sexual Assault Nurse Examiner Program standards and credential requirements. 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 the RELATES TO paragraph and Sections 2, 7, 9, and 11 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 020:472. Initial approval for dialysis technician training programs.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, and 4 through 9 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 020:476. Dialysis technician credentialing requirements for initial credentialing, renewal, and reinstatement.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 3 and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

301 KAR 002:144. Fall wild turkey hunting. Steven Fields, staff attorney, and Jenny Gilbert, legislative liaison, represented the department.

In response to questions by Senator Thayer, Ms. Gilbert stated that the department did not have data to indicate whether or not Kentucky's turkey population was in decline, and the department was currently studying the matter. The department had received concerns from sportsmen that precipitated this proposed reduction in turkey limits, which might be temporary depending on biological findings. The two (2) turkey limit was per person during the fall turkey season, with additional provisions related to turkey beards. The turkey beard length helped a hunter judge the age of a

turkey. The department would report on the turkey population study once it was completed.

In response to a question by Co-Chair Lewis, Mr. Fields stated that Kentucky had been more conservative regarding protection of the turkey population than many states, which were experiencing significant decreases.

A motion was made and seconded to approve the following amendments: (1) to amend Section 5(4) to align the baited area provisions with 301 KAR 2:140; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 4 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.

301 KAR 002:300. Black bear seasons and requirements.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 3 through 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Licensing

301 KAR 005:001. Definitions for 301 KAR Chapter 5.

301 KAR 005:010. License agent applications and agreements.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

301 KAR 005:020. License agent requirements and responsibilities.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Sections 2, 4, and 5 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 6 to clarify the appeal process. Without objection, and with agreement of the agency, the amendments were approved.

301 KAR 005:022. License, tag, and permit fees.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1, 4, 5, and 7 to comply with the drafting requirements of KRS Chapter 13A; (2) to amend Section 1(10) to clarify that the hunting permit fee for Land Between the Lakes is federally established on the Web site; and (3) to amend Section 1 to revise licensure names in compliance with Senate Bill 241 from the 2023 Regular Session of the General Assembly. Without objection, and with agreement of the agency, the amendments were approved.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Juvenile Justice: Child Welfare

505 KAR 001:120E. Department of Juvenile Justice Policies and Procedures Manual; Health and Safety Services. Amy Barker, assistant general counsel, and Leah Boggs, general counsel, represented the department.

505 KAR 001:140E. Department of Juvenile Justice Policies and Procedures Manual: Detention Services.

A motion was made and seconded to approve the following amendments: to amend Section 1 and DJJPP 713, Restraints and Control, to specify that the policy applies to all state-operated juvenile detention centers and Level Four youth development centers. Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION AND LABOR CABINET: Office of Unemployment Insurance

787 KAR 001:090. Unemployed worker's reporting requirements. Oran McFarlan, deputy general counsel; Buddy Hoskinson, executive director; and Matt Lynch, staff attorney, represented the office.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

787 KAR 001:100. Week of unemployment defined.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Department of Insurance: Assets and Liabilities

806 KAR 006:072. Valuation of life insurance and annuity reserves. Abigail Gall, executive advisor, and Shaun Orme, executive advisor, represented the department.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department of Financial Institutions: Securities

808 KAR 010:440. Examples of dishonest or unethical practice for broker-dealers and agents. Justin Burse, acting commissioner; Marni Gibson, deputy commissioner; and Gary Stephens, assistant general counsel, represented the department.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 3 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

808 KAR 010:450. Examples of dishonest or unethical practice for investment advisers and investment adviser representatives.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 3 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Student Education Loan Servicing

808 KAR 016:010. Licensing, registration, renewal and fees.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 for consistency with the KRS 286.12-020(4); (2) to amend Section 3 for consistency with KRS 286.12-070(4); and (3) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 2 through 4 and 6 for clarity and to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

808 KAR 016:020. Recordkeeping requirements; unfair, deceptive, or predatory practices.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department of Charitable Gaming: Charitable Gaming

820 KAR 001:005. Charitable gaming licenses and exemptions. Doug Hardin, staff attorney, and Kim Sutherland, division director, represented the department.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 2 to comply with the

drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

820 KAR 001:025. Reports.

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.

820 KAR 001:130. Administrative actions.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: Controlled Substances

902 KAR 055:110. Monitoring system for prescription controlled substances. Kara Daniel, deputy inspector general, and Adam Mather, inspector general, represented the office.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1, 2, 4, and 11 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Medicaid Services

907 KAR 001:082. Coverage provisions and requirements regarding rural health clinic services. Jonathan Scott, regulation coordinator, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Sections 1 through 3, 5, 7, 9, 10, and 13 to comply with the drafting requirements of KRS Chapter 13A; (2) to amend Section 1 to add to the definition for “approved behavioral health practitioner under supervision” to include, “a behavioral health associate, as permissible pursuant to 907 KAR Chapter 15”; and (3) to amend Section 3 to: (a) clarify that day treatment services shall be provided under the supervision of a licensed or certified behavioral health practitioner or a behavioral health practitioner working under billing, rather than clinical supervision; (b) establish that service criteria for intensive outpatient programs shall be for substance use disorder; (c) add to the list of partial hospitalization criteria: 1. psychoeducation; and 2. peer support services; and (d) delete requirements for agreements to link providers. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred or removed from the April 11, 2023, subcommittee agenda:

DEPARTMENT OF LAW: Kentucky Opioid Abatement Advisory Commission

040 KAR 009:010E. General application procedure.

040 KAR 009:010. General application procedure.

040 KAR 009:020E. Local government application procedure.

040 KAR 009:020. Local government application procedure.

BOARDS AND COMMISSIONS: Board of Licensure for Long-Term Care Administrators

201 KAR 006:060. Fees.

Board of Nursing

201 KAR 020:478. Dialysis technician scope of practice, discipline, and miscellaneous requirements.

Board of Social Work

201 KAR 023:016. Temporary permission to practice.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Juvenile Justice: Child Welfare

505 KAR 001:120. Department of Juvenile Justice Policies and Procedures Manual: Health and Safety Services.

505 KAR 001:140. Department of Juvenile Justice Policies and Procedures Manual: Detention Services.

EDUCATION AND LABOR CABINET: Department of Education: Academic Standards

704 KAR 008:060. Required academic standards for social studies.

PUBLIC PROTECTION CABINET: Department of Financial Institutions: General Provisions

808 KAR 001:170. Licensing and registration.

CABINET FOR HEALTH AND FAMILY SERVICES: Health Services and Facilities

902 KAR 020:480. Assisted living communities.

902 KAR 020:490. Rural emergency hospitals.

The subcommittee adjourned at 1:30 p.m. The next meeting of this subcommittee was tentatively scheduled for May 9, 2023, at 1 p.m.

OTHER COMMITTEE REPORTS

COMPILER'S NOTE: In accordance with KRS 13A.290(10), the following reports were forwarded to the Legislative Research Commission by the appropriate jurisdictional committees and are hereby printed in the Administrative Register. The administrative regulations listed in each report became effective upon adjournment of the committee meeting at which they were considered.

NONE

CUMULATIVE SUPPLEMENT

Unless otherwise noted, information contained in these indexes relates only to administrative regulations printed in this, the 49th year of the *Administrative Register of Kentucky*, from July 2022 through June 2023.

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.

KRS Index

K- 15

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 - 28

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 - 30

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 - 31

A general index of administrative regulations published during this Register year, and is mainly broken down by agency.

LOCATOR INDEX - EFFECTIVE DATES

| Regulation Number | Ky.R. Page No. | Effective Date | Regulation Number | Ky.R. Page No. | Effective Date |
|---|-------------------|-------------------|----------------------|-------------------|-------------------|
| 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 <i>Register</i> year 49. 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 <i>Register</i> year, the new Ky.R. number will appear next to the page number entry. To view versions of regulations published in prior <i>Registers</i> , please visit our online Administrative Registers of Kentucky . | | | | | |
| SYMBOL KEY: | | | 105 KAR 001:450E | 48 Ky.R. 2921 | 5-5-2022 |
| * Statement of Consideration not filed by deadline | | | Withdrawn | # | 8-15-2022 |
| ** Withdrawn, deferred more than twelve months (KRS 13A.300(2)(e) and 13A.315(1)(d)) | | | 105 KAR 001:451E | 49 Ky.R. 722 | 8-19-2022 |
| *** Withdrawn before being printed in Register | | | Am Comments | 1243 | 11-15-2022 |
| IJC Interim Joint Committee | | | 200 KAR 017:110E | 48 Ky.R. 5 | 6-2-2021 |
| (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. | | | As Amended | 1098 | 9-14-2021 |
| | | | Expired | | 2-27-2022 |
| | | | 200 KAR 017:111E | 49 Ky.R. 247 | 6-21-2022 |
| | | | Replaced | 1411 | 4-4-2023 |
| | | | 201 KAR 002:106E | 48 Ky.R. 1997 | 12-14-2021 |
| | | | Replaced | 2116 | 6-2-2022 |
| | | | 201 KAR 002:380E | 49 Ky.R. 523 | 8-8-2022 |
| | | | Withdrawn | | 3-23-2023 |
| | | | 201 KAR 002:412E | 48 Ky.R. 1466 | 10-11-2021 |
| | | | Withdrawn | | 6-27-2022 |
| | | | 201 KAR 002:413E | 49 Ky.R. 250 | 6-27-2022 |
| | | | Withdrawn | | 3-22-2023 |
| | | | 201 KAR 002:414E | 49 Ky.R. 2046 | 3-22-2023 |
| | | | 201 KAR 012:030E | 49 Ky.R. 253 | 7-12-2022 |
| | | | Replaced | 1042 | 1-31-2023 |
| | | | 201 KAR 012:060E | 49 Ky.R. 257 | 7-12-2022 |
| | | | Replaced | 1045 | 1-31-2023 |
| | | | 201 KAR 012:082E | 49 Ky.R. 259 | 7-12-2022 |
| | | | Replaced | 1046 | 1-31-2023 |
| | | | 201 KAR 012:190E | 49 Ky.R. 264 | 7-12-2022 |
| | | | Replaced | 1050 | 1-31-2023 |
| | | | 201 KAR 012:230E | 49 Ky.R. 266 | 7-12-2022 |
| | | | Replaced | 410 | 1-31-2023 |
| | | | 201 KAR 012:260E | 49 Ky.R. 267 | 7-12-2022 |
| | | | Replaced | 1050 | 1-31-2023 |
| | | | 201 KAR 012:290E | 49 Ky.R. 269 | 7-12-2022 |
| | | | Replaced | 1051 | 1-31-2023 |
| | | | 201 KAR 015:030E | 48 Ky.R. 2689 | 4-7-2022 |
| | | | Replaced | 2836 | 11-1-2022 |
| | | | 201 KAR 015:040E | 48 Ky.R. 2692 | 4-7-2022 |
| | | | Replaced | 2838 | 11-1-2022 |
| | | | 201 KAR 015:050E | 48 Ky.R. 2693 | 4-7-2022 |
| | | | Replaced | 49 Ky.R. 322 | 11-1-2022 |
| | | | 201 KAR 015:110E | 48 Ky.R. 2697 | 4-7-2022 |
| | | | Replaced | 2843 | 11-1-2022 |
| | | | 201 KAR 015:125E | 48 Ky.R. 2700 | 4-7-2022 |
| | | | Replaced | 2846 | 11-1-2022 |
| | | | 201 KAR 020:070E | 48 Ky.R. 2702 | 4-6-2022 |
| | | | As Amended | 49 Ky.R. 14 | 6-17-2022 |
| | | | Replaced | 325 | 8-25-2022 |
| | | | 201 KAR 020:260E | 48 Ky.R. 2168 | 1-11-2022 |
| | | | Amended | 2948 | 5-10-2022 |
| | | | Expired | | 10-8-2022 |
| | | | 201 KAR 020:480E | 48 Ky.R. 2367 | 2-2-2022 |
| | | | Amended | 2951 | 5-10-2022 |
| | | | Replaced | 2959 | 7-20-2022 |
| | | | 201 KAR 023:016E | 49 Ky.R. 976 | 10-3-2022 |
| | | | 201 KAR 023:051E | 49 Ky.R. 1239 | 11-15-2022 |
| | | | 201 KAR 026:175E | 49 Ky.R. 977 | 9-30-2022 |
| | | | Withdrawn | | 11-7-2022 |
| | | | 201 KAR 026:225E | 49 Ky.R. 981 | 9-30-2022 |
| | | | Withdrawn | | 11-7-2022 |
| | | | 201 KAR 046:020E | 48 Ky.R. 2172 | 12-21-2021 |
| | | | Replaced | 2274 | 7-20-2022 |
| | | | 202 KAR 007:545E | 48 Ky.R. 2704 | 3-30-2022 |
| | | | Replaced | 2851 | 11-1-2022 |
| | | | 202 KAR 007:560E | 48 Ky.R. 2926 | 5-3-2022 |
| | | | Replaced | 3036 | 9-28-2022 |
| | | | 202 KAR 007:701E | 49 Ky.R. 272 | 7-12-2022 |
| 016 KAR 009:110E | 49 Ky.R. 240 | 7-13-2022 | | | |
| Replaced | 1248 | 3-7-2023 | | | |
| 031 KAR 002:030E | 49 Ky.R. 718 | 9-1-2022 | | | |
| 031 KAR 003:031E | 48 Ky.R. 2902 | 4-28-2022 | | | |
| Replaced | 1026 | 1-31-2023 | | | |
| 031 KAR 004:071E | 48 Ky.R. 2904 | 4-28-2022 | | | |
| Replaced | 1027 | 1-31-2023 | | | |
| 031 KAR 004:131E | 48 Ky.R. 2906 | 4-28-2022 | | | |
| Replaced | 1027 | 1-31-2023 | | | |
| 031 KAR 004:141E | 48 Ky.R. 2909 | 4-28-2022 | | | |
| Replaced | 1029 | 1-31-2023 | | | |
| 031 KAR 004:195E | 48 Ky.R. 256 | 6-23-2021 | | | |
| Expired | | 3-20-2022 | | | |
| 031 KAR 004:196E | 48 Ky.R. 2911 | 4-28-2022 | | | |
| Replaced | 1029 | 1-31-2023 | | | |
| 031 KAR 004:200E | 48 Ky.R. 258 | 6-23-2021 | | | |
| Expired | | 3-20-2022 | | | |
| 031 KAR 004:201E | 48 Ky.R. 2913 | 4-28-2022 | | | |
| Replaced | 1030 | 1-31-2023 | | | |
| 031 KAR 004:210E | 48 Ky.R. 2914 | 4-28-2022 | | | |
| Replaced | 1030 | 1-31-2023 | | | |
| 031 KAR 005:011E | 48 Ky.R. 2916 | 4-28-2022 | | | |
| Replaced | 1030 | 1-31-2023 | | | |
| 031 KAR 005:025E | 48 Ky.R. 259 | 6-23-2021 | | | |
| Expired | | 3-20-2022 | | | |
| 031 KAR 005:026E | 48 Ky.R. 2918 | 4-28-2022 | | | |
| Replaced | 1031 | 1-31-2023 | | | |
| 040 KAR 009:010E | 49 Ky.R. 1563 | 1-6-2023 | | | |
| 040 KAR 009:020E | 49 Ky.R. 1565 | 1-6-2023 | | | |
| 101 KAR 002:095E | 48 Ky.R. 2684 | 4-15-2022 | | | |
| Replaced | 2795 | 9-27-2022 | | | |
| 101 KAR 002:210E | 49 Ky.R. 719 | 9-15-2022 | | | |
| Replaced | 857 | 4-4-2023 | | | |
| 101 KAR 006:020E | 48 Ky.R. 2687 | 4-15-2022 | | | |
| Replaced | 2878 | 9-27-2022 | | | |
| 102 KAR 001:360E | 48 Ky.R. 2167 | 12-28-2021 | | | |
| Expired | | 9-24-2022 | | | |
| 102 KAR 001:361E | 49 Ky.R. 974 | 9-22-2022 | | | |
| 103 KAR 043:340E | 49 Ky.R. 6 | 6-2-2022 | | | |
| Expired | | 2-27-2023 | | | |
| 105 KAR 001:415E | 49 Ky.R. 243 | 6-28-2022 | | | |
| Am Comments | 748 | 9-15-2022 | | | |
| As Amended | 1241 | 11-9-2022 | | | |
| Replaced | 1250 | 3-7-2023 | | | |

LOCATOR INDEX - EFFECTIVE DATES

| Regulation Number | 46 Ky.R. Page No. | Effective Date | Regulation Number | 46 Ky.R. Page No. | Effective Date |
|---------------------|-------------------|----------------|-------------------|-------------------|----------------|
| As Amended | 751 | 9-13-2022 | Replaced | | 8-25-2022 |
| Replaced | 1059 | 11-15-2022 | | | 3-29-2023 |
| 300 KAR 001:020E | 49 Ky.R. 525 | 7-25-2022 | 901 KAR 005:120E | 49 Ky.R. 2052 | 6-30-2022 |
| Withdrawn | | 8-25-2022 | Am Comments | 49 Ky.R. 286 | 9-13-2022 |
| 300 KAR 001:021E | 49 Ky.R. 727 | 8-25-2022 | Replaced | 755 | 1-12-2023 |
| 300 KAR 006:011E | 48 Ky.R. 2929 | 4-29-2022 | 902 KAR 002:020E | 48 Ky.R. 2939 | 4-26-2022 |
| Replaced | 49 Ky.R. 1062 | 1-31-2023 | Replaced | 49 Ky.R. 830 | 11-15-2022 |
| 503 KAR 001:140E | 49 Ky.R. 277 | 7-13-2022 | 902 KAR 002:230E | 48 Ky.R. 1474 | 10-1-2021 |
| Replaced | 1074 | 1-31-2023 | Expired | | 6-28-2022 |
| 503 KAR 003:130E | 49 Ky.R. 732 | 8-18-2022 | 902 KAR 002:240E | 48 Ky.R. 1476 | 10-1-2021 |
| 505 KAR 001:120E | 49 Ky.R. 1567 | 1-13-2023 | As Amended | 2014 | 12-9-2021 |
| Am Comments | 1886 | 3-6-2023 | Expired | | 6-28-2022 |
| 505 KAR 001:140E | 49 Ky.R. 1569 | 1-13-2023 | 902 KAR 002:250E | 48 Ky.R. 1477 | 10-1-2021 |
| Am Comments | 1888 | 3-6-2023 | Expired | | 6-28-2022 |
| As Amended | 2075 | 4-11-2023 | 902 KAR 020:490E | 49 Ky.R. 1576 | 12-29-2022 |
| 601 KAR 002:233E | 47 Ky.R. 2335 | 4-12-2021 | 902 KAR 055:015E | 49 Ky.R. 2054 | 3-23-2023 |
| Replaced | 48 Ky.R. 429 | 11-30-2021 | 907 KAR 001:026E | 49 Ky.R. 1579 | 12-29-2022 |
| 603 KAR 010:011E | 48 Ky.R. 736 | 7-30-2021 | As Amended | 1731 | 2-14-2023 |
| Expired | | 4-26-2022 | Am Comments | 1890 | 3-15-2023 |
| 701 KAR 008:010E | 49 Ky.R. 984 | 10-13-2022 | 907 KAR 001:038E | 49 Ky.R. 1586 | 12-29-2022 |
| 701 KAR 008:020E | 49 Ky.R. 989 | 10-13-2022 | As Amended | 1736 | 2-14-2023 |
| 701 KAR 008:030E | 49 Ky.R. 998 | 10-13-2022 | Resubmitted | 49 Ky.R. 2057 | 4-12-2023 |
| 701 KAR 008:040E | 49 Ky.R. 1001 | 10-13-2022 | 907 KAR 001:065E | 49 Ky.R. 288 | 7-1-2022 |
| 701 KAR 008:050E | 49 Ky.R. 1005 | 10-13-2022 | Replaced | 1313 | 1-12-2023 |
| 702 KAR 001:192E | 48 Ky.R. 1999 | 12-8-2021 | 907 KAR 001:126E | 49 Ky.R. 2062 | 4-12-2023 |
| Am Comments | 2374 | 2-11-2022 | 907 KAR 001:632E | 49 Ky.R. 1590 | 12-29-2022 |
| As Amended | | 3-7-2022 | As Amended | 1738 | 2-14-2023 |
| Expired | | 9-4-2022 | | 49 Ky.R. 2069 | 4-12-2023 |
| 787 KAR 001:090E | 49 Ky.R. 1571 | 12-22-2022 | 907 KAR 003:160E | 49 Ky.R. 1008 | 9-30-2022 |
| 787 KAR 001:100E | 49 Ky.R. 1575 | 12-22-2022 | Replaced | 1622 | 2-16-2023 |
| 787 KAR 001:360E | 48 Ky.R. 2937 | 4-28-2022 | 907 KAR 004:020E | 49 Ky.R. 532 | 7-19-2022 |
| Replaced | 49 Ky.R. 563 | 12-6-2022 | Replaced | 1273 | 1-12-2023 |
| 800 KAR 001:020E | 48 Ky.R. 2174 | 12-17-2021 | 907 KAR 004:030E | 49 Ky.R. 535 | 7-19-2022 |
| Am Comments | 2554 | 3-15-2022 | Replaced | 1275 | 1-12-2023 |
| Expired | | 9-13-2022 | 907 KAR 020:020E | 49 Ky.R. 538 | 7-19-2022 |
| 803 KAR 002:182E(r) | 47 Ky.R. 2531 | 5-13-2021 | Replaced | 648 | 1-12-2023 |
| | 48 Ky.R. 2531 | 11-2-2021 | 907 KAR 020:100E | 49 Ky.R. 542 | 7-19-2022 |
| Expired | | 2-7-2022 | Replaced | 651 | 1-12-2023 |
| 803 KAR 002:321E | 48 Ky.R. 2001 | 11-23-2021 | 907 KAR 023:020E | 49 Ky.R. 9 | 6-1-2022 |
| Replaced | 2141 | 7-5-2022 | Replaced | 49 Ky.R. 820 | 10-26-2022 |
| 803 KAR 002:330E | 48 Ky.R. 753 | 7-20-2021 | 908 KAR 003:010E | 48 Ky.R. 2550 | 2-21-2022 |
| Expired | | 4-16-2022 | Replaced | 49 Ky.R. 370 | 8-25-2022 |
| 803 KAR 002:426E | 48 Ky.R. 2003 | 11-23-2021 | 921 KAR 004:122E | 48 Ky.R. 2005 | 12-1-2021 |
| Replaced | 2143 | 7-5-2022 | Replaced | 2146 | 6-2-2022 |
| 803 KAR 025:089E | 49 Ky.R. 284 | 6-24-2022 | 922 KAR 001:360E | 48 Ky.R. 2176 | 12-28-2021 |
| As Amended | 754 | 9-13-2022 | Replaced | 3014 | 7-20-2022 |
| Replaced | 1263 | 3-7-2023 | 922 KAR 002:160E | 49 Ky.R. | 7-1-2022 |
| 803 KAR 025:195E | 48 Ky.R. 2710 | 4-15-2022 | As Amended | 1015 | 10-11-2022 |
| Am Comments | 49 Ky.R. 15 | 6-14-2022 | Replaced | 1098 | 11-15-2022 |
| Replaced | 49 Ky.R. 813 | 1-3-2023 | | | |
| 803 KAR 025:305E | 48 Ky.R. 1473 | 9-28-2021 | | | |
| Expired | | 6-25-2022 | | | |
| 807 KAR 005:001E | 49 Ky.R. 734 | 9-14-2022 | | | |
| 810 KAR 004:010E | 49 Ky.R. 2048 | 3-29-2023 | | | |
| 900 KAR 005:020E | 48 Ky.R. 2368 | 1-27-2022 | | | |
| Am Comments | 2715 | 4-15-2022 | | | |
| As Amended | 49 Ky.R. 306 | 7-14-2022 | | | |
| Replaced | 347 | 8-25-2022 | | | |
| | 49 Ky.R. 1880 | 3-15-2023 | | | |
| 900 KAR 006:075E | 48 Ky.R. 2370 | 1-27-2022 | | | |
| Am Comments | 2716 | 4-15-2022 | | | |
| As Amended | 49 Ky.R. 306 | 7-14-2022 | | | |
| Replaced | 347 | 8-25-2022 | | | |
| | 49 Ky.R. 1882 | 3-15-2023 | | | |
| 900 KAR 012:005E | 49 Ky.R. 530 | 8-8-2022 | | | |
| Replaced | 49 Ky.R. 640 | 1-12-2023 | | | |
| 900 KAR 014:010E | 48 Ky.R. 2548 | 2-21-2022 | | | |
| As Amended | 2556 | 3-7-2022 | | | |
| Am Comments | 48 Ky.R. 2952 | 5-11-2022 | | | |
| As Amended | 49 Ky.R. 308 | 7-14-2022 | | | |

ORDINARY ADMINISTRATIVE REGULATIONS

| | | |
|-----------------|---------------|-----------|
| 009 KAR 001:070 | 48 Ky.R. 2529 | |
| As Amended | 2955 | 7-19-2022 |
| 011 KAR 004:080 | | |
| Amended | 48 Ky.R. 2779 | |
| As Amended | 49 Ky.R. 309 | 11-1-2022 |
| Amended | 1330 | |
| As Amended | 1741 | |
| 011 KAR 005:001 | | |
| Amended | 49 Ky.R. 1332 | |
| As Amended | 1741 | |
| 011 KAR 005:037 | 49 Ky.R. 1370 | |
| As Amended | 1743 | |
| 011 KAR 005:145 | | |
| Amended | 48 Ky.R. 2781 | |
| As Amended | 49 Ky.R. 309 | 11-1-2022 |
| Amended | 1335 | |
| As Amended | 1744 | |

LOCATOR INDEX - EFFECTIVE DATES

| Regulation Number | 46 Ky.R. Page No. | Effective Date | Regulation Number | 46 Ky.R. Page No. | Effective Date |
|----------------------|----------------------|-------------------|----------------------|----------------------|-------------------|
| 011 KAR 015:090 | | | 101 KAR 002:066 | | |
| Amended | 48 Ky.R. 2783 | | Amended | 48 Ky.R. 2792 | 9-27-2022 |
| As Amended | 49 Ky.R. 310 | 11-1-2022 | 101 KAR 002:181 | 49 Ky.R. 2030 | |
| 011 KAR 016:020 | | | 101 KAR 002:095 | | |
| Amended | 48 Ky.R. 2788 | | Amended | 48 Ky.R. 2795 | 9-27-2022 |
| As Amended | 49 Ky.R. 314 | 11-1-2022 | Amended | 49 Ky.R. 1966 | |
| 011 KAR 022:010 | 48 Ky.R. 2875 | | 101 KAR 002:102 | 48 Ky.R. 2797 | |
| As Amended | 49 Ky.R. 315 | 11-1-2022 | As Amended | 49 Ky.R. 549 | 9-27-2022 |
| 011 KAR 023:010 | 48 Ky.R. 2877 | | 101 KAR 002:190 | | |
| As Amended | 49 Ky.R. 316 | 11-1-2022 | Amended | 48 Ky.R. 2802 | 9-27-2022 |
| 013 KAR 003:050 | | | 101 KAR 002:210 | | |
| Amended | 49 Ky.R. 856 | | Amended | 49 Ky.R. 857 | 4-4-2023 |
| As Amended | 1411 | 4-4-2023 | 101 KAR 003:015 | 48 Ky.R. 2805 | |
| 016 KAR 003:080 | | | As Amended | 49 Ky.R. 553 | 9-27-2022 |
| Amended | 48 Ky.R. 2614 | 10-4-2022 | 101 KAR 003:045 | | |
| 016 KAR 004:060 | | | Amended | 49 Ky.R. 1968 | |
| Amended | 49 Ky.R. 1810 | | 101 KAR 006:020 | 48 Ky.R. 2878 | 9-27-2022 |
| 016 KAR 009:100 | 49 Ky.R. 479 | | 102 KAR 001:361 | 49 Ky.R. 1199 | |
| As Amended | 1023 | 1-31-2023 | As Amended | 1598 | |
| 016 KAR 009:110 | 49 Ky.R. 481 | | 105 KAR 001:001 | | |
| As Amended | 1024 | | Amended | 49 Ky.R. | |
| As Amended | 1248 | 3-7-2023 | As Amended | 1899 | |
| 017 KAR 003:020 | | | 105 KAR 001:071 | 49 Ky.R. 1201 | |
| Amended | 49 Ky.R. 1469 | | 105 KAR 001:365 | | |
| As Amended | 1898 | | Amended | 49 Ky.R. | |
| 030 KAR 002:010 | | | As Amended | 1900 | |
| Amended | 48 Ky.R. 2111 | | 105 KAR 001:371 | 49 Ky.R. 1202 | |
| As Amended | 2558 | 7-5-2022 | 105 KAR 001:390 | | |
| 030 KAR 009:010 | 49 Ky.R. 1198 | | Amended | 48 Ky.R. 2811 | 9-27-2022 |
| As Amended | 1590 | | As Amended | 49 Ky.R. 317 | |
| 031 KAR 002:030 | 49 Ky.R. 937 | | 105 KAR 001:411 | 49 Ky.R. 1203 | |
| 031 KAR 003:031 | 48 Ky.R. 3108 | | Am Comments | 1633 | |
| As Amended | 49 Ky.R. 1026 | 1-31-2023 | As Amended | 1750 | |
| 031 KAR 004:071 | 48 Ky.R. 3109 | | 105 KAR 001:415 | 49 Ky.R. 485 | |
| As Amended | 49 Ky.R. 1027 | 1-31-2023 | Am Comments | 1106 | |
| 031 KAR 004:131 | 48 Ky.R. 3111 | | As Amended | 1250 | 3-7-2023 |
| As Amended | 49 Ky.R. 1027 | 1-31-2023 | 105 KAR 001:450 | 48 Ky.R. 3125 | |
| 031 KAR 004:141 | 48 Ky.R. 2917 | | Withdrawn | * | 8-15-2022 |
| As Amended | 49 Ky.R. 1029 | 1-31-2023 | 105 KAR 001:451 | 49 Ky.R. 938 | |
| 031 KAR 004:170 | | | Am Comments | 1447 | |
| Amended | 48 Ky.R. 3026 | | As Amended | 1598 | |
| As Amended | 49 Ky.R. 1029 | 1-31-2023 | 106 KAR 001:141 | 49 Ky.R. 161 | |
| 031 KAR 004:196 | 48 Ky.R. 3116 | | As Amended | 1033 | 11-16-2022 |
| As Amended | 49 Ky.R. 1029 | 1-31-2023 | 106 KAR 001:171 | 49 Ky.R. 163 | |
| 031 KAR 004:201 | 48 Ky.R. 3118 | | As Amended | 1033 | 11-16-2022 |
| As Amended | 49 Ky.R. 1030 | 1-31-2023 | 106 KAR 001:181 | 49 Ky.R. 165 | |
| 031 KAR 004:210 | 48 Ky.R. 3119 | | As Amended | 1034 | 11-16-2022 |
| As Amended | 49 Ky.R. 1030 | 1-31-2023 | 106 KAR 001:191 | 49 Ky.R. 166 | |
| 031 KAR 005:011 | 48 Ky.R. 3121 | | As Amended | 1034 | 11-16-2022 |
| As Amended | 49 Ky.R. 1030 | 1-31-2023 | 106 KAR 001:201 | 49 Ky.R. 168 | |
| 031 KAR 005:026 | | | As Amended | 1034 | 11-16-2022 |
| As Amended | 49 Ky.R. 1031 | 1-31-2023 | 106 KAR 001:211 | 49 Ky.R. 170 | |
| 040 KAR 002:150 | | | As Amended | 1035 | 11-16-2022 |
| Amended | 49 Ky.R. 1129 | | 106 KAR 001:221 | 49 Ky.R. 173 | |
| As Amended | 1744 | | As Amended | 1037 | 11-16-2022 |
| 040 KAR 009:010 | 49 Ky.R. 1707 | | 106 KAR 001:231 | 49 Ky.R. 176 | |
| 040 KAR 009:020 | 49 Ky.R. 1709 | | As Amended | 1038 | 11-16-2022 |
| 045 KAR 001:030 | | | 106 KAR 001:241 | 49 Ky.R. 177 | |
| Amended | 49 Ky.R. | | As Amended | 1038 | 11-16-2022 |
| 045 KAR 001:040 | | | 106 KAR 001:251 | 49 Ky.R. 179 | |
| Amended | 49 Ky.R. 1958 | | As Amended | 1039 | 11-16-2022 |
| 045 KAR 001:050 | | | 106 KAR 001:261 | 49 Ky.R. 181 | |
| Amended | 49 Ky.R. 1135 | | As Amended | 1039 | 11-16-2022 |
| As Amended | 1597 | | 106 KAR 001:291 | 49 Ky.R. 182 | |
| 101 KAR 001:325 | | | As Amended | 1040 | 11-16-2022 |
| Amended | 49 Ky.R. 1337 | | 106 KAR 001:341 | 49 Ky.R. 184 | |
| 101 KAR 002:034 | | | As Amended | 1040 | 11-16-2022 |
| Amended | 49 Ky.R. 1960 | | 106 KAR 001:371 | 49 Ky.R. 185 | |
| 101 KAR 002:046 | | | As Amended | 1040 | 11-16-2022 |
| Amended | 48 Ky.R. 2790 | 9-27-2022 | 106 KAR 002:021 | 49 Ky.R. 186 | |

LOCATOR INDEX - EFFECTIVE DATES

| Regulation Number | 46 Ky.R. Page No. | Effective Date | Regulation Number | 46 Ky.R. Page No. | Effective Date |
|-------------------|-------------------|----------------|-------------------|-------------------|----------------|
| As Amended | 1041 | 11-16-2022 | Amended | 49 Ky.R. 1340 | |
| 106 KAR 002:031 | 49 Ky.R. 188 | | As Amended | 1757 | 3-9-2023 |
| As Amended | 1041 | 11-16-2022 | 201 KAR 008:520 | | |
| 109 KAR 017:010 | 49 Ky.R. 2031 | | Amended | 48 Ky.R. 2822 | |
| 200 KAR 001:016 | 49 Ky.R. 190 | | As Amended | 49 Ky.R. 1758 | 3-9-2023 |
| As Amended | 758 | | 201 KAR 008:533 | 49 Ky.R. 1859 | |
| 200 KAR 017:111 | 49 Ky.R. 488 | | 201 KAR 008:550 | | |
| As Amended | 1411 | 4-4-2023 | Amended | 48 Ky.R. 2824 | |
| 200 KAR 041:010 | 49 Ky.R. 943 | | Am Comments | 49 Ky.R. 600 | |
| As Amended | 1412 | | As Amended | 759 | 10-26-2022 |
| 201 KAR 001:100 | | | 201 KAR 008:563 | 49 Ky.R. 1863 | |
| Amended | 47 Ky.R. 1816 | | 201 KAR 008:571 | | |
| As Amended | 2575 | | Amended | 49 Ky.R. 1342 | |
| 201 KAR 001:190 | | | As Amended | 1759 | 3-9-2023 |
| Amended | 48 Ky.R. 2112 | | 201 KAR 008:600 | 48 Ky.R. 2531 | |
| As Amended | 2558 | 7-5-2022 | Withdrawn | * | 6-15-2022 |
| Amended | 49 Ky.R. 1639 | | 201 KAR 008:601 | 49 Ky.R. 948 | |
| As Amended | 2076 | | As Amended | 1761 | 3-9-2023 |
| 201 KAR 002:015 | | | 201 KAR 009:305 | | |
| Amended | 48 Ky.R. 2815 | | Amended | 49 Ky.R. 369 | |
| As Amended | 49 Ky.R. 758 | 11-15-2022 | As Amended | 1041 | 11-15-2022 |
| 201 KAR 002:020 | | | 201 KAR 009:470 | | |
| Amended | 48 Ky.R. 2817 | | Amended | 49 Ky.R. 1344 | 3-9-2023 |
| As Amended | 49 Ky.R. 320 | 8-25-2022 | 201 KAR 011:121 | | |
| 201 KAR 002:030 | | | Amended | 48 Ky.R. 2830 | |
| Amended | 49 Ky.R. 859 | 1-4-2023 | Am Comments | 49 Ky.R. 606 | |
| Withdrawn | | | As Amended | 1601 | |
| 201 KAR 002:050 | | | 201 KAR 012:030 | | |
| Amended | 48 Ky.R. 2819 | 8-25-2022 | Amended | 49 Ky.R. 397 | |
| 201 KAR 002:106 | | | As Amended | 1042 | 1-31-2023 |
| Amended | 48 Ky.R. 2116 | 6-2-2022 | 201 KAR 012:060 | | |
| 201 KAR 002:225 | | | Amended | 49 Ky.R. 401 | |
| Amended | 48 Ky.R. 2820 | | As Amended | 1045 | 1-31-2023 |
| As Amended | 49 Ky.R. 321 | 8-25-2022 | 201 KAR 012:082 | | |
| 201 KAR 002:360 | | | Amended | 49 Ky.R. 403 | |
| Amended | 49 Ky.R. 862 | | As Amended | 1046 | 1-31-2023 |
| As Amended | 1754 | 3-9-2023 | 201 KAR 012:190 | | |
| 201 KAR 002:380 | | | Amended | 49 Ky.R. 408 | |
| Amended | 49 Ky.R. 625 | | As Amended | 1050 | 1-31-2023 |
| Am Comments | 1451 | | 201 KAR 012:230 | | |
| As Amended | 1755 | | Amended | 49 Ky.R. 410 | 1-31-2023 |
| As Amended | 2078 | | 201 KAR 012:260 | | |
| 201 KAR 002:430 | 48 Ky.R. 1063 | | Amended | 49 Ky.R. 411 | |
| Am Comments | 2239 | | As Amended | 1050 | 1-31-2023 |
| Withdrawn | | 7-1-2022 | 201 KAR 012:290 | | |
| 201 KAR 002:440 | 48 Ky.R. 2131 | | Amended | 49 Ky.R. 413 | |
| Am Comments | 2758 | | As Amended | 1051 | 1-31-2023 |
| As Amended | 2956 | 7-20-2022 | 201 KAR 014:015 | | |
| 201 KAR 002:450 | 49 Ky.R. 693 | | Amended | 48 Ky.R. 1830 | 7-5-2022 |
| Am Comments | 1454 | | 201 KAR 014:030 | | |
| As Amended | 1757 | 3-9-2023 | Amended | 48 Ky.R. 1831 | 7-5-2022 |
| 201 KAR 002:460 | 49 Ky.R. 946 | | 201 KAR 014:040 | | |
| Withdrawn | | 1-4-2023 | Amended | 48 Ky.R. 1833 | |
| 201 KAR 005:002 | 49 Ky.R. 1371 | | As Amended | 2561 | 7-5-2022 |
| Am Comments | 1943 | | 201 KAR 014:050 | | |
| As Amended | 2080 | | Amended | 48 Ky.R. 1834 | |
| 201 KAR 005:038 | 49 Ky.R. 1209 | | As Amended | 2561 | 7-5-2022 |
| Withdrawn | | 11-15-2022 | 201 KAR 014:065 | | |
| 201 KAR 005:045 | 49 Ky.R. 1211 | | Amended | 48 Ky.R. 1835 | 7-5-2022 |
| Withdrawn | | 11-15-2022 | 201 KAR 014:085 | | |
| 201 KAR 005:055 | | | Amended | 48 Ky.R. 1837 | |
| Amended | 49 Ky.R. 1974 | | As Amended | 2562 | 7-5-2022 |
| 201 KAR 005:105 | 49 Ky.R. 1212 | | 201 KAR 014:105 | | |
| Withdrawn | | 11-15-2022 | Amended | 48 Ky.R. 1839 | |
| 201 KAR 006:040 | | | As Amended | 2564 | 7-5-2022 |
| Amended | 48 Ky.R. 1828 | | 201 KAR 014:110 | | |
| As Amended | 2720 | 7-20-2022 | Amended | 48 Ky.R. 1841 | |
| 201 KAR 006:060 | | | As Amended | 2564 | 7-5-2022 |
| Amended | 48 Ky.R. 3029 | | 201 KAR 014:115 | | |
| 201 KAR 008:016 | | | Amended | 48 Ky.R. 1843 | |

LOCATOR INDEX - EFFECTIVE DATES

| Regulation Number | 46 Ky.R. Page No. | Effective Date | Regulation Number | 46 Ky.R. Page No. | Effective Date |
|-------------------|-------------------|----------------|-------------------|-------------------|----------------|
| As Amended | 2565 | 7-5-2022 | As Amended | 2724 | 7-20-2022 |
| 201 KAR 014:125 | | | Amended | 49 Ky.R. 1812 | |
| Amended | 48 Ky.R. 1844 | | 201 KAR 020:370 | | |
| As Amended | 2566 | 7-5-2022 | Amended | 48 Ky.R. 2618 | |
| 201 KAR 014:150 | | | As Amended | 49 Ky.R. 20 | 8-25-2022 |
| Amended | 48 Ky.R. 1846 | | Amended | 1346 | |
| As Amended | 2567 | 7-5-2022 | As Amended | 1762 | 3-9-2023 |
| 201 KAR 014:180 | | | 201 KAR 020:390 | | |
| Amended | 48 Ky.R. 1848 | | Amended | 49 Ky.R. 1815 | |
| As Amended | 2567 | 7-5-2022 | 201 KAR 020:411 | | |
| 201 KAR 015:030 | | | Amended | 49 Ky.R. 1642 | |
| Amended | 48 Ky.R. 2836 | 11-1-2022 | As Amended | 2082 | |
| 201 KAR 015:040 | | | 201 KAR 020:472 | | |
| Amended | 48 Ky.R. 2838 | 11-1-2022 | Amended | 49 Ky.R. 1645 | |
| 201 KAR 015:050 | | | As Amended | 2084 | |
| Amended | 48 Ky.R. 2839 | | 201 KAR 020:476 | | |
| As Amended | 49 Ky.R. 322 | 11-1-2022 | Amended | 49 Ky.R. 1649 | |
| 201 KAR 015:110 | | | As Amended | 2087 | |
| Amended | 48 Ky.R. 2843 | 11-1-2022 | 201 KAR 020:478 | | |
| 201 KAR 015:125 | | | Amended | 49 Ky.R. 1652 | |
| Amended | 48 Ky.R. 2846 | 11-1-2022 | 201 KAR 020:480 | | |
| 201 KAR 016:550 | | | Amended | 48 Ky.R. 2500 | |
| Amended | 49 Ky.R. 1473 | | As Amended | 2959 | 7-20-2022 |
| As Amended | 1903 | | 201 KAR 020:490 | | |
| 201 KAR 016:552 | 49 Ky.R. 1540 | | Amended | 49 Ky.R. 420 | |
| As Amended | 1905 | | As Amended | 1056 | 11-15-2022 |
| 201 KAR 016:560 | | | 201 KAR 020:620 | | |
| Amended | 49 Ky.R. 1475. | | Amended | 49 Ky.R. 422 | |
| As Amended | 1907 | | As Amended | 1057 | 11-15-2022 |
| 201 KAR 016:562 | 49 Ky.R. 1543 | | 201 KAR 020:650 | | |
| As Amended | 1908 | | Amended | 49 Ky.R. 423 | |
| 201 KAR 016:572 | | | As Amended | 1058 | 11-15-2022 |
| Amended | 49 Ky.R. 1478 | | 201 KAR 021:025 | | |
| As Amended | 1909 | | Amended | 49 Ky.R. 1976 | |
| 201 KAR 016:610 | | | 201 KAR 021:041 | | |
| Amended | 49 Ky.R. 1480 | | Amended | 49 Ky.R. 1978 | |
| 201 KAR 017:110 | | | 201 KAR 021:042 | | |
| Amended | 48 Ky.R. 2498 | | Amended | 49 Ky.R. 1981 | |
| As Amended | 2958 | 7-20-2022 | 201 KAR 021:075 | | |
| 201 KAR 019:035 | | | Amended | 49 Ky.R. 1983 | |
| Amended | 48 Ky.R. 3031 | | 201 KAR 021:095 | | |
| As Amended | 49 Ky.R. 558 | 12-6-2022 | Amended | 49 Ky.R. 1985 | |
| 201 KAR 019:087 | | | 201 KAR 021:105 | 49 Ky.R. 2032 | |
| Amended | 48 Ky.R. 3033 | | 201 KAR 022:001 | | |
| As Amended | 49 Ky.R. 558 | 12-6-2022 | Amended | 48 Ky.R. 2266 | |
| 201 KAR 020:070 | | | As Amended | 2726 | 7-20-2022 |
| Amended | 48 Ky.R. 2847 | | 201 KAR 022:020 | | |
| As Amended | 49 Ky.R. 325 | 8-25-2022 | Amended | 48 Ky.R. 2501 | |
| 201 KAR 020:085 | | | As Amended | 2960 | 7-20-2022 |
| Amended | 48 Ky.R. 2615 | | 201 KAR 022:053 | | |
| As Amended | 49 Ky.R. 19 | 8-25-2022 | Amended | 48 Ky.R. 2267 | |
| 201 KAR 020:110 | | | As Amended | 2727 | 7-20-2022 |
| Amended | 48 Ky.R. 2616 | | Amended | 49 Ky.R. 627 | |
| As Amended | 49 Ky.R. 19 | 8-25-2022 | As Amended | 1252 | 1-12-2023 |
| 201 KAR 020:220 | | | 201 KAR 022:070 | | |
| Amended | 48 Ky.R. 1849 | | Amended | 48 Ky.R. 2503 | 7-20-2022 |
| As Amended | 2721 | 7-20-2022 | 201 KAR 022:170 | | |
| 201 KAR 020:240 | | | Amended | 48 Ky.R. 2505 | |
| Amended | 48 Ky.R. 2849 | | As Amended | 2961 | 7-20-2022 |
| As Amended | 49 Ky.R. 326 | 8-25-2022 | Amended | 49 Ky.R. 1483 | |
| 201 KAR 020:260 | | | As Amended | 1910 | |
| Amended | 49 Ky.R. 413 | | 201 KAR 023:016 | 49 Ky.R. 1214 | |
| As Amended | 1053 | 11-15-2022 | 201 KAR 023:051 | 49 Ky.R. 1374 | |
| 201 KAR 020:280 | | | Am Comments | 1803 | |
| Amended | 48 Ky.R. 1841 | | As Amended | 1910 | |
| As Amended | 2723 | 7-20-2022 | 201 KAR 026:115 | | |
| 201 KAR 020:310 | | | Amended | 1859 | |
| Amended | 49 Ky.R. 417 | 11-15-2022 | As Amended | 2568 | 6-2-2022 |
| 201 KAR 020:360 | | | 201 KAR 026:125 | | |
| Amended | 48 Ky.R. 1855 | | Amended | 48 Ky.R. 1861 | |

LOCATOR INDEX - EFFECTIVE DATES

| Regulation Number | 46 Ky.R. Page No. | Effective Date | Regulation Number | 46 Ky.R. Page No. | Effective Date |
|-------------------|-------------------|----------------|-------------------|-------------------|----------------|
| As Amended | 2568 | 6-2-2022 | 201 KAR 042:061 | 48 Ky.R. 1971 | |
| 201 KAR 026:130 | | | As Amended | 2582 | 7-5-2022 |
| Amended | 48 Ky.R. 1863 | | 201 KAR 042:070 | | |
| As Amended | 2569 | 6-2-2022 | Amended | 48 Ky.R. 1255 | |
| 201 KAR 026:155 | | | As Amended | 2584 | 7-5-2022 |
| Amended | 48 Ky.R. 1866 | | 201 KAR 042:080 | | |
| As Amended | 2571 | 6-2-2022 | Amended | 48 Ky.R. 1891 | |
| 201 KAR 026:160 | | | As Amended | 2585 | 7-5-2022 |
| Amended | 48 Ky.R. 1868 | | 201 KAR 042:110 | | |
| As Amended | 2572 | 6-2-2022 | Amended | 48 Ky.R. 1258 | |
| 201 KAR 026:175 | | | As Amended | 2587 | 7-5-2022 |
| Amended | 48 Ky.R. 1870 | 6-2-2022 | 201 KAR 043:010 | | |
| 201 KAR 026:180 | | | Amended | 48 Ky.R. 1894 | |
| Amended | 48 Ky.R. 1873 | | As Amended | 49 Ky.R. 22 | 10-4-2022 |
| 201 KAR 026:185 | | | 201 KAR 043:020 | | |
| Amended | 48 Ky.R. 1873 | 6-2-2022 | Amended | 48 Ky.R. 1896 | |
| 201 KAR 026:190 | | | As Amended | 49 Ky.R. 23 | 10-4-2022 |
| Amended | 48 Ky.R. 1875 | | 201 KAR 043:030 | | |
| As Amended | 2573 | 6-2-2022 | Amended | 48 Ky.R. 1898 | |
| 201 KAR 026:215 | | | As Amended | 49 Ky.R. 24 | 10-4-2022 |
| Amended | 48 Ky.R. 1878 | 6-2-2022 | 201 KAR 043:040 | | |
| 201 KAR 026:225 | | | Amended | 48 Ky.R. 1900 | |
| Amended | 48 Ky.R. 1880 | 6-2-2022 | Am Comments | 2602 | |
| 201 KAR 026:230 | | | As Amended | 49 Ky.R. 24 | 10-4-2022 |
| Amended | 48 Ky.R. 1882 | | 201 KAR 043:050 | | |
| As Amended | 2574 | 6-2-2022 | Amended | 48 Ky.R. 1904 | |
| 201 KAR 026:250 | | | Am Comments | 2605 | |
| Amended | 48 Ky.R. 1884 | 6-2-2022 | As Amended | 49 Ky.R. 27 | 10-4-2022 |
| 201 KAR 026:270 | | | 201 KAR 043:060 | | |
| Amended | 48 Ky.R. 1886 | | Amended | 48 Ky.R. 1909 | |
| As Amended | 2576 | 6-2-2022 | As Amended | 49 Ky.R. 31 | 10-4-2022 |
| 201 KAR 026:310 | | | 201 KAR 043:070 | | |
| Amended | 1888 | | Repealed | 49 Ky.R. 33 | 10-4-2022 |
| Am Comments | 2459 | | 201 KAR 043:071 | 48 Ky.R. 1974 | |
| As Amended | 2576 | 6-2-2022 | As Amended | 49 Ky.R. 33 | 10-4-2022 |
| 201 KAR 031:010 | | | 201 KAR 043:080 | | |
| Amended | 49 Ky.R. 1137 | | Amended | 48 Ky.R. 1911 | |
| 201 KAR 031:031 | 49 Ky.R. 1215 | | Am Comments | 2610 | |
| 201 KAR 031:040 | | | As Amended | 49 Ky.R. 33 | 10-4-2022 |
| Amended | 49 Ky.R. 1140 | | 201 KAR 043:090 | 48 Ky.R. 1975 | |
| As Amended | 1605 | | As Amended | 49 Ky.R. 33 | 10-4-2022 |
| 201 KAR 031:050 | | | 201 KAR 043:100 | | |
| Amended | 49 Ky.R. 1142 | | Amended | 48 Ky.R. 1913 | |
| As Amended | 1606 | | As Amended | 49 Ky.R. 34 | 10-4-2022 |
| 201 KAR 033:015 | | | 201 KAR 046:020 | | |
| Amended | 48 Ky.R. 2507 | | Amended | 48 Ky.R. 2274 | 7-20-2022 |
| As Amended | 2962 | 7-20-2022 | 201 KAR 046:060 | | |
| 201 KAR 035:070 | | | Amended | 48 Ky.R. 2509 | |
| Amended | 48 Ky.R. 2270 | | As Amended | 2966 | 7-20-2022 |
| As Amended | 2963 | 7-20-2022 | 202 KAR 007:201 | | |
| 201 KAR 042:010 | | | Amended | 49 Ky.R. 1484 | |
| Amended | 48 Ky.R. 1241 | 7-5-2022 | As Amended | 1911 | |
| 201 KAR 042:020 | | | 202 KAR 007:301 | | |
| Amended | 48 Ky.R. 1242 | | Amended | 49 Ky.R. 1488 | |
| As Amended | 2577 | | As Amended | 1913 | |
| As Amended IJC | 21 | 6-2-2022 | 202 KAR 007:330 | | |
| 201 KAR 042:030 | | | Amended | 49 Ky.R. 1492 | |
| Amended | 48 Ky.R. 1244 | | As Amended | 1916 | |
| As Amended | 2578 | 7-5-2022 | 202 KAR 007:401 | | |
| 201 KAR 042:035 | | | Amended | 49 Ky.R. 1497 | |
| Amended | 48 Ky.R. 1246 | | 202 KAR 007:545 | | |
| As Amended | 2578 | 7-5-2022 | Amended | 48 Ky.R. 2851 | 11-1-2022 |
| 201 KAR 042:040 | | | 202 KAR 007:555 | | |
| Amended | 48 Ky.R. 1248 | | Amended | 49 Ky.R. 1502 | |
| As Amended | 2579 | 7-5-2022 | 202 KAR 007:560 | | |
| 201 KAR 042:050 | | | Amended | 48 Ky.R. 3036 | 9-28-2022 |
| Amended | 48 Ky.R. 1251 | | 202 KAR 007:601 | | |
| As Amended | 2581 | 7-5-2022 | Amended | 49 Ky.R. 1506 | |
| 201 KAR 042:060 | | | 202 KAR 007:701 | | |
| Amended | 48 Ky.R. 1253 | | Amended | 49 Ky.R. 425 | |

LOCATOR INDEX - EFFECTIVE DATES

| Regulation Number | 46 Ky.R. Page No. | Effective Date | Regulation Number | 46 Ky.R. Page No. | Effective Date |
|-------------------|-------------------|----------------|-------------------------------|-------------------|----------------|
| As Amended | 1059 | 11-15-2022 | Recodified to 301 KAR 005:022 | | 1-13-2023 |
| 300 KAR 001:020 | 49 Ky.R. 694 | | 301 KAR 003:120 | | |
| Withdrawn | | 8-25-2022 | Amended | 49 Ky.R. 1516 | |
| 300 KAR 001:021 | 49 Ky.R. 950 | | As Amended | 1920 | |
| As Amended | 1414 | 4-4-2023 | 301 KAR 004:001 | | |
| 300 KAR 006:011 | 48 Ky.R. 3130 | | Amended | 48 Ky.R. 899 | |
| As Amended | 49 Ky.R. 1062 | 1-31-2023 | As Amended | 49 Ky.R. 35 | |
| 301 KAR 001:001 | 49 Ky.R. 2034 | | As Amended IJC | 561 | 8-18-2022 |
| 301 KAR 001:201 | | | 301 KAR 004:010 | | |
| Amended | 48 Ky.R. 2856 | 8-18-2022 | Amended | 48 Ky.R. 901 | |
| 301 KAR 001:410 | | | As Amended | 2968 | 6-9-2022 |
| Amended | 48 Ky.R. 1915 | 5-31-2022 | 301 KAR 004:020 | | |
| Amended | 49 Ky.R. 430 | | Amended | 48 Ky.R. 902 | |
| As Amended | 1067 | 11-3-2022 | As Amended | 2968 | 6-9-2022 |
| 301 KAR 002:015 | | | 301 KAR 004:100 | | |
| Amended | 49 Ky.R. 1144 | 2-2-2023 | Amended | 48 Ky.R. 906 | |
| Amended | 49 Ky.R. 1818 | | As Amended | 2968 | 6-9-2022 |
| 301 KAR 002:075 | | | 301 KAR 004:110 | | |
| Amended | 49 Ky.R. 864 | | Amended | 48 Ky.R. 908 | |
| As Amended | 1607 | 2-2-2023 | As Amended | 2969 | 6-9-2022 |
| 301 KAR 002:081 | | | Amended | 49 Ky.R. 1822 | |
| Amended | 49 Ky.R. 869 | | 301 KAR 005:001 | | |
| As Amended | 1611 | 2-2-2023 | Amended | 48 Ky.R. 910 | |
| 301 KAR 002:082 | | | As Amended | 2589 | 6-9-2022 |
| Amended | 49 Ky.R. 876 | | Amended | 49 Ky.R. 1659 | |
| As Amended | 1616 | 2-2-2023 | 301 KAR 005:010 | | |
| 301 KAR 002:090 | | | Amended | 49 Ky.R. 1661 | |
| Amended | 49 Ky.R. 77 | | As Amended | 2092 | |
| As Amended | 765 | 10-20-2022 | 301 KAR 005:020 | | |
| Amended | 49 Ky.R. 1819 | | Amended | 49 Ky.R. 1662 | |
| 301 KAR 002:095 | | | As Amended | 2093 | |
| Amended | 49 Ky.R. 79 | | 301 KAR 005:022 | | |
| As Amended | 766 | 10-20-2022 | Recodified from 301-003:022 | | 1-13-2023 |
| 301 KAR 002:132 | | | 49 Ky.R. 1664 | | |
| Amended | 48 Ky.R. 2861 | | As Amended | 2094 | |
| As Amended | 49 Ky.R. 327 | 8-18-2022 | 301 KAR 005:030 | | |
| 301 KAR 002:142 | | | Amended | 48 Ky.R. 911 | |
| Amended | 49 Ky.R. 81 | 11-3-2022 | As Amended | 2589 | 6-9-2022 |
| 301 KAR 002:144 | | | 301 KAR 005:100 | | |
| Amended | 49 Ky.R. 1654 | | Amended | 48 Ky.R. 913 | |
| As Amended | 2089 | | As Amended | 2591 | 6-9-2022 |
| 301 KAR 002:172 | | | 301 KAR 006:001 | | |
| Amended | 48 Ky.R. 2866 | | Amended | 48 Ky.R. 915 | |
| As Amended | 49 Ky.R. 330 | 8-18-2022 | As Amended | 2033 | |
| 301 KAR 002:185 | | | Am Comments | 823 | |
| Amended | 49 Ky.R. 880 | | Amended | 49 Ky.R. 2128 | |
| As Amended | 1417 | 2-2-2023 | 301 KAR 006:020 | | |
| 301 KAR 002:219 | 49 Ky.R. 1376 | | Amended | 49 Ky.R. 2130 | |
| 301 KAR 002:221 | | | 302 KAR 026:010 | 49 Ky.R. 191 | 10-20-2022 |
| Amended | 48 Ky.R. 2869 | | 302 KAR 026:020 | 49 Ky.R. 193 | |
| As Amended | 49 Ky.R. 333 | 8-18-2022 | As Amended | 767 | 10-20-2022 |
| Amended | 1348 | | 302 KAR 026:030 | 49 Ky.R. 203 | |
| As Amended | 1763 | | As Amended | 775 | 10-20-2022 |
| 301 KAR 002:222 | | | 302 KAR 026:040 | 49 Ky.R. 205 | 10-20-2022 |
| Amended | 49 Ky.R. 1987 | | 302 KAR 026:050 | 49 Ky.R. 207 | |
| 301 KAR 002:225 | | | As Amended | 776 | 10-20-2022 |
| Amended | 49 Ky.R. 882 | | 302 KAR 026:060 | 49 Ky.R. 210 | |
| As Amended | 1418 | 2-2-2023 | As Amended | 778 | 10-20-2022 |
| 301 KAR 002:228 | | | 302 KAR 026:070 | 49 Ky.R. 212 | |
| Amended | 49 Ky.R. 1350 | | As Amended | 778 | 10-20-2022 |
| As Amended | 1764 | | 302 KAR 026:080 | 49 Ky.R. 215 | |
| 301 KAR 002:245 | 49 Ky.R. 1545 | | As Amended | 780 | 10-20-2022 |
| As Amended | 1919 | | 302 KAR 026:090 | 49 Ky.R. 218 | |
| 301 KAR 002:251 | | | As Amended | 782 | 10-20-2022 |
| Amended | 49 Ky.R. 886 | | 302 KAR 026:100 | 49 Ky.R. 220 | 10-20-2022 |
| 301 KAR 002:300 | | | 302 KAR 026:150 | 49 Ky.R. 222 | |
| Amended | 49 Ky.R. 83 | 10-20-2022 | As Amended | 783 | 10-20-2022 |
| Amended | 1656 | | 302 KAR 027:010 | | |
| As Amended | 2090 | | Repealed | 49 Ky.R. 494 | 11-3-2022 |
| 301 KAR 003:022 | | | 302 KAR 027:011 | 49 Ky.R. 494 | 11-3-2022 |

LOCATOR INDEX - EFFECTIVE DATES

| Regulation Number | 46 Ky.R. Page No. | Effective Date | Regulation Number | 46 Ky.R. Page No. | Effective Date |
|----------------------|----------------------|-------------------|----------------------|----------------------|-------------------|
| 302 KAR 027:020 | | | Amended | 49 Ky.R. 891 | 4-4-2023 |
| Repealed | 49 Ky.R. 494 | 11-3-2022 | 500 KAR 010:030 | | |
| 302 KAR 027:040 | | | Amended | 49 Ky.R. 894 | 4-4-2023 |
| Repealed | 49 Ky.R. 494 | 11-3-2022 | 500 KAR 010:040 | | |
| 302 KAR 027:050 | | | Amended | 49 Ky.R. 896 | |
| Repealed | 49 Ky.R. 494 | 11-3-2022 | As Amended | 1420 | 4-4-2023 |
| 302 KAR 027:060 | | | 500 KAR 016:010 | 49 Ky.R. 1378 | |
| Repealed | 49 Ky.R. 494 | 11-3-2022 | As Amended | 1765 | |
| 302 KAR 028:010 | | | 501 KAR 006:030 | | |
| Repealed | 49 Ky.R. 494 | 11-3-2022 | Amended | 48 Ky.R. 2118 | |
| 302 KAR 028:011 | 49 Ky.R. 495 | 11-3-2022 | As Amended | 2592 | 7-5-2022 |
| 302 KAR 028:020 | | | 501 KAR 006:040 | | |
| Repealed | 49 Ky.R. 494 | 11-3-2022 | Amended | 49 Ky.R. 1353 | |
| 302 KAR 028:030 | | | Am Comments | 1805 | |
| Repealed | 49 Ky.R. 494 | 11-3-2022 | As Amended | 1923 | |
| 302 KAR 028:040 | | | 501 KAR 006:050 | | |
| Repealed | 49 Ky.R. 494 | 11-3-2022 | Amended | 49 Ky.R. 899 | |
| 302 KAR 028:050 | | | Am Comments | 1455 | |
| Repealed | 49 Ky.R. 494 | 11-3-2022 | As Amended | 1621 | |
| 302 KAR 028:060 | | | 501 KAR 006:080 | | |
| Repealed | 49 Ky.R. 494 | 11-3-2022 | Amended | 49 Ky.R. 902 | |
| 302 KAR 029:010 | | | As Amended | 1422 | 4-4-2023 |
| Repealed | 49 Ky.R. 494 | 11-3-2022 | 501 KAR 006:130 | | |
| 302 KAR 029:011 | 49 Ky.R. 496 | 11-3-2022 | Amended | 49 Ky.R. 903 | |
| 302 KAR 029:020 | | | As Amended | 1422 | 4-4-2023 |
| Repealed | 49 Ky.R. 494 | 11-3-2022 | 501 KAR 006:150 | | |
| 302 KAR 029:030 | | | Amended | 49 Ky.R. 1824 | |
| Repealed | 49 Ky.R. 494 | 11-3-2022 | 501 KAR 006:290 | 48 Ky.R. 1978 | |
| 302 KAR 029:040 | | | Am Comments | 2484 | |
| Repealed | 49 Ky.R. 494 | 11-3-2022 | As Amended | 2593 | 7-5-2022 |
| 302 KAR 029:050 | | | 502 KAR 010:010 | | |
| Repealed | 49 Ky.R. 494 | 11-3-2022 | Amended | 48 Ky.R. 1260 | |
| 302 KAR 029:060 | | | As Amended | 49 Ky.R. 334 | 8-16-2022 |
| Repealed | 49 Ky.R. 494 | 11-3-2022 | 502 KAR 010:020 | | |
| 302 KAR 040:010 | | | Amended | 48 Ky.R. 1262 | |
| Amended | 49 Ky.R. 1145 | | As Amended | 49 Ky.R. 335 | 8-16-2022 |
| As Amended | 1620 | | 502 KAR 010:030 | | |
| 302 KAR 050:021 | | | Amended | 48 Ky.R. 1263 | |
| Amended | 48 Ky.R. 1631 | | Am Comments | 2241 | 8-16-2022 |
| Am Comments | 2460 | 7-5-2022 | 502 KAR 010:035 | | |
| 302 KAR 050:031 | | | Amended | 48 Ky.R. 1264 | |
| Amended | 48 Ky.R. 1640 | | As Amended | 49 Ky.R. 335 | 8-16-2022 |
| Am Comments | 2469 | 7-5-2022 | 502 KAR 010:040 | | |
| 302 KAR 050:046 | 48 Ky.R. 1672 | | Amended | 48 Ky.R. 1266 | |
| Am Comments | 2476 | 7-5-2022 | Am Comments | 2243 | |
| 302 KAR 050:056 | | | As Amended | 49 Ky.R. 335 | 8-16-2022 |
| Amended | 48 Ky.R. 1647 | | 502 KAR 010:050 | | |
| Am Comments | 2478 | 7-5-2022 | Amended | 48 Ky.R. 1268 | |
| 302 KAR 050:080 | | | As Amended | 49 Ky.R. 337 | 8-16-2022 |
| Amended | 48 Ky.R. 1652 | | 502 KAR 010:060 | | |
| Am Comments | 2483 | 7-5-2022 | Amended | 48 Ky.R. 1269 | |
| 302 KAR 079:009 | 49 Ky.R. 225 | 10-20-2022 | As Amended | 49 Ky.R. 338 | 8-16-2022 |
| 302 KAR 079:010 | | | 502 KAR 010:070 | | |
| Repealed | 49 Ky.R. 225 | 10-20-2022 | Amended | 48 Ky.R. 1270 | |
| 401 KAR 051:010 | | | Am Comments | 2246 | 8-16-2022 |
| Amended | 48 Ky.R. 2278 | | 502 KAR 010:080 | | |
| As Amended | 2729 | 6-9-2022 | Amended | 48 Ky.R. 1272 | |
| 401 KAR 058:040 | | | As Amended | 49 Ky.R. 338 | 8-16-2022 |
| Amended | 49 Ky.R. 1996 | | 502 KAR 010:090 | | |
| 401 KAR 063:060 | | | Amended | 48 Ky.R. 1273 | |
| Amended | 49 Ky.R. 1148 | | As Amended | 49 Ky.R. 339 | 8-16-2022 |
| 500 KAR 002:020 | | | 502 KAR 010:110 | | |
| Amended | 49 Ky.R. 2002 | | Amended | 48 Ky.R. 1276 | |
| 500 KAR 003:010 | | | As Amended | 49 Ky.R. 341 | 8-16-2022 |
| Amended | 49 Ky.R. 2132 | | 502 KAR 010:120 | | |
| 500 KAR 003:020 | | | Amended | 48 Ky.R. 1278 | |
| Amended | 49 Ky.R. 213 | 4 | As Amended | 49 Ky.R. 342 | 8-16-2022 |
| 500 KAR 010:001 | | | 502 KAR 011:010 | | |
| Amended | 49 Ky.R. 890 | 4-4-2023 | Amended | 48 Ky.R. 1280 | |
| 500 KAR 010:020 | | | As Amended | 49 Ky.R. 784 | 1-3-2023 |

LOCATOR INDEX - EFFECTIVE DATES

| Regulation Number | 46 Ky.R. Page No. | Effective Date | Regulation Number | 46 Ky.R. Page No. | Effective Date |
|-------------------|-------------------|----------------|-------------------|-------------------|----------------|
| 502 KAR 011:060 | | | Amended | 49 Ky.R. 87 | 10-18-2022 |
| Amended | 48 Ky.R. 1282 | | 603 KAR 005:350 | 49 Ky.R. 498 | |
| As Amended | 49 Ky.R. 786 | 1-3-2023 | As Amended | 1255 | 3-1-2023 |
| 502 KAR 011:070 | | | 605 KAR 001:130 | | |
| Amended | 48 Ky.R. 1284 | | Amended | 48 Ky.R. 2646 | |
| As Amended | 49 Ky.R. 786 | 1-3-2023 | 701 KAR 008:010 | | |
| 502 KAR 013:010 | | | Amended | 49 Ky.R. 1153 | |
| Amended | 48 Ky.R. 1289 | | As Amended | 1924 | |
| Am Comments | 2248 | | 701 KAR 008:020 | | |
| As Amended | 49 Ky.R. 1070 | 1-31-2023 | Amended | 49 Ky.R. 1158 | |
| 502 KAR 013:030 | | | As Amended | 1928 | |
| Amended | 48 Ky.R. 1291 | | 701 KAR 008:030 | | |
| As Amended | 49 Ky.R. 1071 | 1-31-2023 | Amended | 49 Ky.R. 1167 | |
| 502 KAR 013:040 | | | 701 KAR 008:040 | | |
| Amended | 48 Ky.R. 1292 | | Amended | 49 Ky.R. 1170 | |
| As Amended | 49 Ky.R. 1072 | 1-31-2023 | As Amended | 19355 | |
| 502 KAR 013:050 | | | 701 KAR 008:050 | 49 Ky.R. 1216 | |
| Amended | 48 Ky.R. 1294 | | 702 KAR 001:116 | 48 Ky.R. 2133 | |
| As Amended | 49 Ky.R. 1073 | 1-31-2023 | As Amended | 2595 | 7-5-2022 |
| 502 KAR 013:060 | | | 702 KAR 001:140 | | |
| Amended | 48 Ky.R. 1295 | | Amended | 48 Ky.R. 3039 | |
| As Amended | 49 Ky.R. 1073 | 1-31-2023 | As Amended | 49 Ky.R. 562 | 9-20-2022 |
| 502 KAR 013:080 | | | 702 KAR 001:191 | 48 Ky.R. 1078 | |
| Amended | 48 Ky.R. 1297 | | Am Comments | 2106 | |
| As Amended | 49 Ky.R. 1074 | 1-31-2023 | As Amended | 2210 | 5-3-2022 |
| 502 KAR 015:010 | | | 702 KAR 003:090 | | |
| Amended | 48 Ky.R. 1300 | | Amended | 48 Ky.R. 2513 | |
| As Amended | 2594 | 7-5-2022 | As Amended | 2970 | 8-30-2022 |
| 502 KAR 015:020 | | | 702 KAR 007:125 | | |
| Amended | 48 Ky.R. 1301 | | Amended | 49 Ky.R. 633 | |
| As Amended | 2405 | | As Amended | 1256 | 3-7-2023 |
| 502 KAR 030:010 | | | 702 KAR 007:170 | 48 Ky.R. 2139 | |
| Amended | 48 Ky.R. 1306 | | Am Comments | 2760 | |
| Am Comments | 2250 | | As Amended | 2971 | 8-30-2022 |
| As Amended | 49 Ky.R. 36 | 10-4-2022 | 703 KAR 005:270 | | |
| 502 KAR 030:020 | | | Amended | 49 Ky.R. 1832 | |
| Amended | 48 Ky.R. 1308 | | 704 KAR 003:303 | | |
| Am Comments | 2252 | | Amended | 49 Ky.R. 1521 | |
| As Amended | 49 Ky.R. 37 | 10-4-2022 | 704 KAR 003:305 | | |
| 502 KAR 030:030 | | | Amended | 49 Ky.R. 91 | |
| Amended | 48 Ky.R. 1309 | | Am Comments | 1109 | |
| Am Comments | 2253 | | As Amended | 1425 | 4-4-2023 |
| As Amended | 49 Ky.R. 38 | 10-4-2022 | 704 KAR 003:395 | 48 Ky.R. 2135 | |
| 502 KAR 030:050 | | | As Amended | 2596 | 7-5-2022 |
| Amended | 48 Ky.R. 1310 | | 704 KAR 003:535 | 49 Ky.R. 699 | |
| Am Comments | 2254 | | As Amended | 1260 | 3-7-2023 |
| As Amended | 49 Ky.R. 38 | 10-4-2022 | 704 KAR 008:060 | | |
| 502 KAR 030:060 | | | Amended | 49 Ky.R. 1523 | |
| Amended | 48 Ky.R. 1312 | | 704 KAR 008:120 | 49 Ky.R. 1547 | |
| As Amended | 49 Ky.R. 39 | 10-4-2022 | As Amended | 1938 | |
| 502 KAR 030:070 | | | 704 KAR 019:002 | | |
| Amended | 48 Ky.R. 1314 | | Amended | 48 Ky.R. 2120 | |
| Am Comments | 2256 | 10-4-2022 | Am Comments | 2762 | |
| 503 KAR 001:140 | | | As Amended | 2971 | 8-30-2022 |
| Amended | 49 Ky.R. 433 | | 705 KAR 004:041 | | |
| As Amended | 1074 | 1-31-2023 | Amended | 49 Ky.R. 638 | |
| 503 KAR 003:130 | 49 Ky.R. 955 | | As Amended | 1262 | 3-7-2023 |
| As Amended | 1423 | 4-4-2023 | 707 KAR 001:002 | | |
| 503 KAR 007:010 | 49 Ky.R. 957 | | Amended | 49 Ky.R. 1525 | |
| As Amended | 1424 | 4-4-2023 | As Amended | 1938 | |
| 505 KAR 001:120 | | | 739 KAR 002:060 | | |
| Amended | 49 Ky.R. 1668 | | Amended | 49 Ky.R. 2007 | |
| 505 KAR 001:140 | | | 739 KAR 002:070 | | |
| Amended | 49 Ky.R. 1670 | | Amended | 49 Ky.R. 96 | |
| 600 KA 004:010 | | | As Amended | 787 | 11-15-2022 |
| Amended | 49 Ky.R. 630 | | 780 KAR 003:020 | | |
| As Amended | 1254 | 3-1-2023 | Amended | 48 Ky.R. 2515 | 8-30-2022 |
| 601 KAR 014:050 | | | 781 KAR 001:010 | | |
| Amended | 49 Ky.R. 1826 | | Amended | 48 Ky.R. 999 | |
| 603 KAR 005:155 | | | As Amended | 49 Ky.R. 41 | 10-4-2022 |

LOCATOR INDEX - EFFECTIVE DATES

| Regulation Number | 46 Ky.R. Page No. | Effective Date | Regulation Number | 46 Ky.R. Page No. | Effective Date |
|----------------------|----------------------|-------------------|----------------------|----------------------|-------------------|
| 781 KAR 001:020 | | | 791 KAR 001:150 | | |
| Amended | 48 Ky.R. 1002 | | Amended | 48 Ky.R. 1050 | |
| As Amended | 49 Ky.R. 43 | 10-4-2022 | As Amended | 49 Ky.R. 805 | 1-3-2023 |
| 781 KAR 001:030 | | | 791 KAR 001:155 | | |
| Amended | 48 Ky.R. 1006 | | Amended | 48 Ky.R. 1051 | |
| As Amended | 49 Ky.R. 45 | 10-4-2022 | As Amended | 49 Ky.R. 805 | 1-3-2023 |
| 781 KAR 001:040 | | | 791 KAR 001:160 | | |
| Amended | 48 Ky.R. 1008 | | Amended | 48 Ky.R. 1053 | |
| As Amended | 49 Ky.R. 46 | 10-4-2022 | As Amended | 49 Ky.R. 806 | 1-3-2023 |
| 781 KAR 001:050 | | | 803 KAR 001:005 | | |
| Amended | 48 Ky.R. 1011 | | Amended | 48 Ky.R. 145 | |
| As Amended | 49 Ky.R. 48 | 10-4-2022 | 803 KAR 001:006 | 48 Ky.R. 2326 | |
| 782 KAR 001:010 | | | Am Comments | 2765 | |
| Amended | 48 Ky.R. 1014 | | As Amended | 2973 | 8-30-2022 |
| As Amended | 49 Ky.R. 49 | 10-4-2022 | Amended | 49 Ky.R. 1530 | |
| 782 KAR 001:070 | | | 803 KAR 001:025 | | |
| Amended | 48 Ky.R. 1020 | | Amended | 48 Ky.R. 149 | |
| As Amended | 49 Ky.R. 55 | 10-4-2022 | 803 KAR 001:026 | 48 Ky.R. 2328 | |
| 787 KAR 001:090 | | | As Amended | 2974 | 8-30-2022 |
| Amended | 49 Ky.R. 1672 | | 803 KAR 001:060 | | |
| As Amended | 2096 | | Amended | 48 Ky.R. 154 | |
| 787 KAR 001:100 | | | 803 KAR 001:061 | 48 Ky.R. 2331 | |
| Amended | 49 Ky.R. 1675 | | Am Comments | 2737 | |
| As Amended | 2097 | | As Amended | 2977 | 8-30-2022 |
| 787 KAR 001:360 | | | 803 KAR 001:064 | 48 Ky.R. 2335 | |
| Amended | 48 Ky.R. 3041 | | As Amended | 2980 | 8-30-2022 |
| As Amended | 49 Ky.R. 563 | 12-6-2022 | 803 KAR 001:066 | | |
| 787 KAR 002:040 | | | Amended | 48 Ky.R. 164 | |
| Amended | 2872 | | 803 KAR 001:067 | 48 Ky.R. 2336 | |
| As Amended | 49 Ky.R. 344 | | As Amended | 2980 | 8-30-2022 |
| As Amended | 790 | | 803 KAR 001:068 | 48 Ky.R. 2337 | |
| 787 KAR 003:020 | 48 Ky.R. 1980 | | As Amended | 2980 | 8-30-2022 |
| Am Comments | 2611 | | 803 KAR 001:070 | | |
| As Amended | 2732 | 8-2-2022 | Amended | 48 Ky.R. 166 | |
| 791 KAR 001:010 | | | 803 KAR 001:071 | 48 Ky.R. 2339 | |
| Amended | 48 Ky.R. 1024 | | Am Comments | 2770 | |
| As Amended | 49 Ky.R. 790 | 1-3-2023 | As Amended | 2981 | 8-30-2022 |
| 791 KAR 001:020 | | | 803 KAR 001:075 | | |
| Amended | 48 Ky.R. 1028 | | Amended | 48 Ky.R. 178 | |
| As Amended | 49 Ky.R. 793 | 1-3-2023 | 803 KAR 001:076 | 48 Ky.R. 2342 | |
| 791 KAR 001:025 | | | As Amended | 2984 | 8-30-2022 |
| Amended | 48 Ky.R. 1032 | | 803 KAR 001:080 | | |
| As Amended | 49 Ky.R. 796 | 1-3-2023 | Amended | 48 Ky.R. 180 | |
| 791 KAR 001:027 | | | 803 KAR 001:081 | 48 Ky.R. 2344 | |
| Amended | 48 Ky.R. 1034 | | As Amended | 2985 | 8-30-2022 |
| As Amended | 49 Ky.R. 797 | 1-3-2023 | Amended | 49 Ky.R. 1355 | |
| 791 KAR 001:030 | | | 803 KAR 001:090 | | |
| Amended | 48 Ky.R. 1035 | | Amended | 48 Ky.R. 184 | |
| As Amended | 49 Ky.R. 798 | 1-3-2023 | 803 KAR 001:091 | 48 Ky.R. 2347 | |
| 791 KAR 001:035 | | | Am Comments | 2774 | |
| Amended | 48 Ky.R. 1037 | | As Amended | 2987 | |
| As Amended | 49 Ky.R. 799 | 1-3-2023 | 803 KAR 002:321 | 48 Ky.R. 2141 | 7-5-2022 |
| 791 KAR 001:040 | | | 803 KAR 002:402 | | |
| Amended | 48 Ky.R. 1039 | | Amended | 48 Ky.R. 2517 | 10-4-2022 |
| As Amended | 49 Ky.R. 799 | 1-3-2023 | 803 KAR 002:411 | | |
| 791 KAR 001:050 | | | Amended | 48 Ky.R. 2519 | 10-4-2022 |
| Amended | 48 Ky.R. 1040 | | 803 KAR 002:419 | | |
| As Amended | 49 Ky.R. 800 | 1-3-2023 | Amended | 48 Ky.R. 2521 | 10-4-2022 |
| 791 KAR 001:060 | | | 803 KAR 002:426 | 48 Ky.R. 2143 | 7-5-2022 |
| Amended | 48 Ky.R. 1042 | | 803 KAR 002:445 | | |
| As Amended | 49 Ky.R. 800 | 1-3-2023 | Amended | 48 Ky.R. 2522 | 10-4-2022 |
| 791 KAR 001:070 | | | 803 KAR 005:005 | 48 Ky.R. 2660 | |
| Amended | 48 Ky.R. 1044 | | As Amended | 49 Ky.R. 56 | 10-4-2022 |
| As Amended | 49 Ky.R. 801 | 1-3-2023 | 803 KAR 025:089 | | |
| 791 KAR 001:080 | | | Amended | 49 Ky.R. 440 | |
| Amended | 48 Ky.R. 1046 | | As Amended | 1263 | 3-7-2023 |
| As Amended | 49 Ky.R. 802 | 1-3-2023 | 803 KAR 025:195 | | |
| 791 KAR 001:100 | | | Amended | 48 Ky.R. 2881 | |
| Amended | 48 Ky.R. 1048 | | Am Comments | 49 Ky.R. 611 | |
| As Amended | 49 Ky.R. 803 | 1-3-2023 | As Amended | 806 | 1-3-2023 |

LOCATOR INDEX - EFFECTIVE DATES

| Regulation Number | 46 Ky.R. Page No. | Effective Date | Regulation Number | 46 Ky.R. Page No. | Effective Date |
|-------------------------------|--------------------------------|-------------------|--------------------------------|----------------------|-------------------|
| 803 KAR 030:010 Amended | 49 Ky.R. 1836 | | Amended | | |
| 804 KAR 001:102 As Amended | 48 Ky.R. 2884 49 Ky.R. 344 | 11-1-2022 | 810 KAR 008:020 Amended | 49 Ky.R. 2016 | |
| 804 KAR 011:041 As Amended | 48 Ky.R. 2886 49 Ky.R. 345 | 11-1-2022 | 810 KAR 009:010 Amended | 48 Ky.R. 3050 | |
| 804 KAR 014:011 As Amended | 48 Ky.R. 2888 49 Ky.R. 1549 | 11-1-2022 | As Amended | 49 Ky.R. 570 | 12-6-2022 |
| 806 KAR 003:250 As Amended | 1942 | | 815 KAR 007:120 Amended | 48 Ky.R. 3053 | |
| 806 KAR 006:072 As Amended | 49 Ky.R. 1710 2098 | | Am Comments | 49 Ky.R. 617 | 11-15-2022 |
| 806 KAR 009:025 Amended | 49 Ky.R. 99 | | 815 KAR 008:010 Amended | 48 Ky.R. 3056 | |
| As Amended | 810 | 1-3-2023 | As Amended | 813 | 1-3-2023 |
| 806 KAR 009:380 As Amended | 48 Ky.R. 2889 49 Ky.R. 346 | 11-1-2022 | Amended | 49 Ky.R. 2141 | |
| 806 KAR 009:390 As Amended | 48 Ky.R. 2891 49 Ky.R. 346 | 11-1-2022 | 815 KAR 010:060 Amended | 48 Ky.R. 3060 | |
| 806 KAR 017:280 Amended | 49 Ky.R. 1174 | | Am Comments | 49 Ky.R. 620 | 11-15-2022 |
| As Amended | 1766 | | Amended | 2145 | |
| 806 KAR 017:290 Amended | 49 Ky.R. 1178 | | 815 KAR 020:030 Amended | 49 Ky.R. 2148 | |
| As Amended | 1769 | | 815 KAR 025:020 Amended | 49 Ky.R. 2151 | |
| 806 KAR 017:350 Amended | 48 Ky.R. 605 | | 815 KAR 025:060 Amended | 49 Ky.R. 2156 | |
| Withdrawn | | 7-26-2022 | 815 KAR 035:060 Amended | 49 Ky.R. 2160 | |
| Repealed | 49 Ky.R. 702 | 3-7-2023 | 820 KAR 001:001 Amended | 49 Ky.R. 108 | |
| 806 KAR 017:531 As Amended | 49 Ky.R. 702 48 Ky.R. 3138 | 3-7-2023 | As Amended | 1083 | 1-31-2023 |
| Am Comments | 49 Ky.R. 616 | | 820 KAR 001:005 Amended | 49 Ky.R. 1683 | |
| As Amended | 813 | | As Amended | 2107 | |
| Reprint | 973 | 1-3-2023 | 820 KAR 001:025 Amended | 49 Ky.R. 1686 | |
| 806 KAR 037:010 Amended | 49 Ky.R. 104 | | As Amended | 2109 | |
| As Amended | 1080 | 1-31-2023 | 820 KAR 001:130 Amended | 49 Ky.R. 1689 | |
| 806 KAR 039:030 Amended | 49 Ky.R. 905 | | As Amended | 2110 | |
| Withdrawn | | 12-1-2022 | 820 KAR 001:032 Amended | 49 Ky.R. 111 | |
| 808 KAR 001:170 Amended | 49 Ky.R. 1184 | | As Amended | 1084 | 1-31-2023 |
| 806 KAR 010:440 Amended | 49 Ky.R. 1676 | | 900 KAR 001:050 Amended | 48 Ky.R. 3139 | 2-16-2023 |
| As Amended | 2100 | | 900 KAR 005:020 Amended | 48 Ky.R. 2524 | |
| 806 KAR 010:450 Amended | 49 Ky.R. 1679 | | Am Comments | 49 Ky.R. 69 | |
| As Amended | 2102 | | As Amended | 347 | 8-25-2022 |
| 808 KAR 016:010 As Amended | 49 Ky.R. 1713 2104 | | Amended | 49 Ky.R. 2024 | |
| 808 KAR 016:020 As Amended | 49 Ky.R. 1716 2105 | | 900 KAR 006:075 Amended | 48 Ky.R. 2526 | |
| 810 KAR 003:020 Amended | 48 Ky.R. 2620 | | Am Comments | 49 Ky.R. 70 | |
| As Amended | 49 Ky.R. 58 | 10-4-2022 | As Amended | 347 | 8-25-2022 |
| 810 KAR 004:010 Amended | 48 Ky.R. 2626 | 10-4-2022 | Amended | 49 Ky.R. 2026 | |
| 810 KAR 004:030 Amended | 48 Ky.R. 2629 | 10-4-2022 | 900 KAR 010:120 Amended | 49 Ky.R. 124 | |
| Amended | 49 Ky.R. 2138 | | As Amended | 1263 | |
| 810 KAR 004:060 Amended | 48 Ky.R. 2633 | 10-4-2022 | Reprint | 1402 | 1-12-2023 |
| 810 KAR 007:040 Amended | 49 Ky.R. 2011 | | 900 KAR 010:200 Repealed | 48 Ky.R. 2144 | 6-2-2022 |
| 810 KAR 007:050 Amended | 48 Ky.R. 2282 | | 900 KAR 010:201 48 Ky.R. | 48 Ky.R. 2144 | 6-2-2022 |
| As Amended | 2732 | 8-2-2022 | 900 KAR 012:005 Amended | 49 Ky.R. 640 | 1-12-2023 |
| 815 KAR 007:130 As Amended | 49 Ky.R. 2153 | | 900 KAR 013:010 Amended | 48 Ky.R. 2348 | 7-20-2022 |
| 810 KAR 008:010 Amended | 48 Ky.R. 3043 | | 900 KAR 014:010 Am Comments | 48 Ky.R. 2662 | |
| As Amended | 49 Ky.R. 564 | 12-6-2022 | As Amended | 49 Ky.R. 74 | 8-25-2022 |
| | | | Amended | 308 | |
| | | | Amended | 2164 | |
| | | | 900 KAR 020:201 Amendment | 48 Ky.R. 2144 | |
| | | | Am Comments | 49 Ky.R. 442 | |
| | | | | 1305 | |

LOCATOR INDEX - EFFECTIVE DATES

| Regulation Number | 46 Ky.R. Page No. | Effective Date | Regulation Number | 46 Ky.R. Page No. | Effective Date |
|-------------------|-------------------|----------------|---------------------------|-------------------|----------------|
| As Amended | 1429 | 1-12-2023 | Am Comments | 3010 | 8-25-2022 |
| 901 KAR 005:130 | 49 Ky.R. 500 | | 906 KAR 001:210 | 49 Ky.R. 703 | |
| Am Comments | 1307 | 1-12-2023 | As Amended | 1434 | 1-12-2023 |
| 901 KAR 005:140 | 49 Ky.R. 502 | | 907 KAR 001:008 | | |
| Am Comments | 1308 | 1-12-2023 | Amended | 49 Ky.R. 133 | |
| 902 KAR 002:020 | | | Am Comments | 1114 | |
| Amended | 48 Ky.R. 3063 | | As Amended | 1272 | 1-12-2023 |
| Am Comments | 49 Ky.R. 830 | 11-15-2022 | 907 KAR 001:026 | | |
| 902 KAR 004:030 | | | Amended | 49 Ky.R. 1691 | |
| Amended | 48 Ky.R. 3071 | 9-28-2022 | As Amended | 1773 | |
| 902 KAR 008:060 | | | 907 KAR 001:038 | | |
| Amended | 48 Ky.R. 3076 | | Amended | 49 Ky.R. 1698 | |
| As Amended | 49 Ky.R. 571 | 9-28-2022 | As Amended | 1779 | |
| 902 KAR 008:100 | | | Amended | 2174 | |
| Amended | 48 Ky.R. 3079 | | 907 KAR001:044 | | |
| As Amended | 49 Ky.R. 572 | 9-28-2022 | Amended | 49 Ky.R. 135 | |
| 902 KAR 008:120 | | | Withdrawn | | 10-7-2022 |
| Amended | 48 Ky.R. 3082 | | 907 KAR 001:065 | | |
| As Amended | 49 Ky.R. 816 | 10-26-2022 | Amended | 49 Ky.R. 444 | |
| 902 KAR 008:160 | | | Am Comments | 1313 | 1-12-2023 |
| Amended | 49 Ky.R. 907 | | 907 KAR 001:082 | | |
| As Amended | 1430 | 1-12-2023 | Amended | 48 Ky.R. 3092 | |
| 902 KAR 010:120 | | | Am Comments | 838 | |
| Amended | 48 Ky.R. 638 | | As Amended | 2113 | |
| Am Comments | 1784 | | 907 KAR 001:104 | | |
| As Amended | 2419 | | Amended | 48 Ky.R. 3105 | |
| As Amended | 2735 | | 907 KAR 001:126 | 49 Ky.R. 2185 | |
| As Amended at IJC | | 7-20-2022 | 907 KAR 003:190 | 49 Ky.R. 1868 | |
| 902 KAR 010:121 | | | 907 KAR 001:632 | | |
| Amended | 48 Ky.R. 1396 | | Amended | 49 Ky.R. 1702 | |
| Am Comments | 2263 | | As Amended | 1781 | |
| As Amended | 49 Ky.R. 349 | 7-20-2022 | Amended | 2178 | |
| 902 KAR 010:140 | | | 907 KAR 001:680 | | |
| Amended | 48 Ky.R. 3088 | | Amended | 49 Ky.R. 911 | |
| As Amended | 49 Ky.R. 575 | 9-28-2022 | As Amended | 1783 | 3-9-2023 |
| 902 KAR 010:190 | | | 907 KAR 003:010 | | |
| Amended | 48 Ky.R. 715 | | Amended | 49 Ky.R. 913 | 3-9-2023 |
| Am Comments | 1806 | | 907 KAR 003:160 | | |
| As Amended | 2440 | 7-20-2022 | Amended | 49 Ky.R. 1188 | |
| 902 KAR 020:016 | | | As Amended | 1622 | 2-16-2023 |
| Amended | 48 Ky.R. 2285 | | 907 KAR 003:170 | | |
| Am Comments | 2993 | 8-25-2022 | Amended | 48 Ky.R. 1667 | |
| 902 KAR 020:018 | | | Am Comments | 2485 | |
| Amended | 48 Ky.R. 2123 | | As Amended | 2598 | 6-2-2022 |
| As Amended | 49 Ky.R. 63 | 8-25-2022 | 907 KAR 004:020 | | |
| Amended | 2166 | | Amended | 49 Ky.R. 642 | |
| 902 KAR 020:106 | | | As Amended | 1273 | 1-12-2023 |
| Amended | 48 Ky.R. 2298 | | 907 KAR 004:030 | | |
| Am Comments | 3005 | 8-25-2022 | Amended | 49 Ky.R. 645 | |
| 902 KAR 020:365 | 49 Ky.R. 504 | | As Amended | 1275 | 1-12-2023 |
| Am Comments | 131 | | 907 KAR 020:020 | | |
| As Amended | 1432 | 1-12-2023 | Amended | 49 Ky.R. 648 | 1-12-2023 |
| 902 KAR 020:470 | 49 Ky.R. 1219 | | 907 KAR 020:050 | | |
| Am Comments | 1807 | | Amended | 49 Ky.R. 1194 | |
| 902 KAR 020:480 | 49 Ky.R. 1380 | | As Amended | 1784 | 3-9-2023 |
| Am Comments | 1946 | | 907 KAR 020:100 | | |
| 902 KAR 020:490 | 49 Ky.R. 1719 | | Amended | 49 Ky.R. 651 | 1-12-2023 |
| Am Comments | 2125 | | 907 KAR 023:020 | | |
| 902 KAR 021:040 | 49 Ky.R. 506 | | Amended | 49 Ky.R. 140 | |
| As Amended | 1096 | 11-15-2022 | As Amended | 820 | 10-26-2022 |
| 902 KAR 030:120 | | | 908 KAR 001:374 | | |
| Amended | 48 Ky.R. 2635 | | Amended | 49 Ky.R. 656 | |
| As Amended | 49 Ky.R. 577 | 9-28-2022 | Am Comments | 1458 | |
| 902 KAR 055:015 | | | As Amended Standing Comms | 1786 | 2-16-2023 |
| Amended | 49 Ky.R. 2171 | | 908 KAR 003:010 | | |
| 902 KAR 055:110 | | | Amended | 48 Ky.R. 2639 | |
| Amended | 49 Ky.R. 1357 | | As Amended | 49 Ky.R. 370 | 09-28-2022 |
| As Amended | 2111 | | 910 KAR 001:090 | | |
| 906 KAR 001:110 | | | Amended | 49 Ky.R. 451 | |
| Amended | 48 Ky.R. 2302 | | As Amended | 1276 | 1-12-2023 |

LOCATOR INDEX - EFFECTIVE DATES

| Regulation Number | 46 Ky.R. Page No. | Effective Date | Regulation Number | 46 Ky.R. Page No. | Effective Date |
|-------------------|-------------------|----------------|-------------------|-------------------|----------------|
| As Amended | 1626 | 3-16-2023 | 922 KAR 001:360 | | |
| 910 KAR 001:180 | | | Amended | 48 Ky.R. 2306 | |
| Amended | 49 Ky.R. 1841 | | Am Comments | 3014 | 7-20-2022 |
| 910 KAR 001:190 | | | 922 KAR 001:470 | | |
| Amended | 48 Ky.R. 1956 | | Amended | 48 Ky.R. 2128 | |
| Am Comments | 2490 | 6-2-2022 | Am Comments | 2775 | |
| 911 KAR 001:060 | | | As Amended | 2987 | 7-20-2022 |
| Amended | 49 Ky.R. 1361 | | 922 KAR 001:530 | | |
| As Amended | 1796 | 3-16-2023 | Amended | 48 Ky.R. 2313 | |
| 911 KAR 001:085 | | | As Amended | 49 Ky.R. 67 | 7-20-2022 |
| Amended | 49 Ky.R. 1366 | | 922 KAR 002:165 | 49 Ky.R. 1221 | |
| As Amended | 1799 | 3-16-2023 | As Amended | 1631 | 2-16-2023 |
| 911 KAR 001:090 | 49 Ky.R. 1391 | | 922 KAR 002:160 | | |
| As Amended | 1801 | | Amended | 49 Ky.R. 469 | |
| 921 KAR 001:380 | | | As Amended | 1098 | 11-15-2022 |
| Amended | 49 Ky.R. 144 | 10-26-2022 | 922 KAR 002:280 | | |
| 921 KAR 001:400 | | | Amended | 48 Ky.R. 2316 | |
| Amended | 49 Ky.R. 457 | 11-15-2022 | As Amended | 2988 | 7-20-2022 |
| 921 KAR 002:006 | | | 922 KAR 005:070 | | |
| Amended | 49 Ky.R. 667 | | Amended | 48 Ky.R. 2311 | |
| As Amended | 1280 | 3-16-2023 | Am Comments | 3021 | |
| 921 KAR 002:016 | | | As Amended IJC | 49 Ky.R. 596 | 8-25-2022 |
| Amended | 49 Ky.R. 676 | | | | |
| As Amended | 1288 | 2-16-2023 | | | |
| 921 KAR 002:017 | | | | | |
| Amended | 49 Ky.R. 918 | 2-16-2023 | | | |
| 921 KAR 002:035 | | | | | |
| Amended | 49 Ky.R. 921 | 2-16-2023 | | | |
| 921 KAR 002:040 | | | | | |
| Amended | 49 Ky.R. 924 | 2-16-2023 | | | |
| 921 KAR 002:050 | | | | | |
| Amended | 49 Ky.R. 926 | 2-16-2023 | | | |
| 921 KAR 002:060 | | | | | |
| Amended | 49 Ky.R. 929 | | | | |
| As Amended | 1435 | 2-16-2023 | | | |
| 921 KAR 002:370 | | | | | |
| Amended | 49 Ky.R. 931 | 2-16-2023 | | | |
| 921 KAR 002:500 | | | | | |
| Amended | 49 Ky.R. 684 | 3-16-2023 | | | |
| 921 KAR 002:510 | | | | | |
| Amended | 49 Ky.R. 687 | 3-16-2023 | | | |
| 921 KAR 002:520 | | | | | |
| Amended | 49 Ky.R. 690 | 3-16-2023 | | | |
| 921 KAR 003:027 | 48 Ky.R. 236 | | | | |
| 921 KAR 004:122 | 48 Ky.R. 2146 | 6-2-2022 | | | |
| 922 KAR 001:100 | | | | | |
| Amended | 49 Ky.R. 1847 | | | | |
| 922 KAR 001:290 | 48 Ky.R. 3142 | | | | |
| Am Comments | 49 Ky.R. 851 | | | | |
| As Amended | 1436 | 2-16-2023 | | | |
| 922 KAR 001:300 | | | | | |
| Amended | 49 Ky.R. 148 | | | | |
| Am Comments | 1117 | | | | |
| As Amended | 1294 | 2-16-2023 | | | |
| 922 KAR 001:310 | | | | | |
| Amended | 48 Ky.R. 2642 | | | | |
| Am Comments | 49 Ky.R. 373 | | | | |
| As Amended | 579 | 9-28-2022 | | | |
| 922 KAR 001:315 | 48 Ky.R. 2665 | | | | |
| Am Comments | 49 Ky.R. 387 | 9-28-2022 | | | |
| 922 KAR 001:330 | | | | | |
| Amended | 49 Ky.R. 1851 | | | | |
| 922 KAR 001:340 | | | | | |
| Amended | 48 Ky.R. 2656 | | | | |
| Am Comments | 49 Ky.R. 392 | | | | |
| As Amended | 593 | 9-28-2022 | | | |
| 922 KAR 001:350 | | | | | |
| Amended | 49 Ky.R. 460 | | | | |
| Am Comments | 1320 | | | | |
| As Amended | 1439 | 2-16-2023 | | | |

SYMBOL KEY:

- * Statement of Consideration not filed by deadline
- ** Withdrawn, deferred more than twelve months (KRS 13A.300(2)(e) and 13A.315(1)(d))
- *** Withdrawn before being printed in Register
- IJC Interim Joint Committee
- (r) Repealer regulation: KRS 13A.310(3)-on the effective date of an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.

KRS INDEX

| KRS SECTION | REGULATION | KRS SECTION | REGULATION |
|-----------------|------------------|-----------------|------------------|
| 1.020 | 200 KAR 041:010 | 17.500 | 922 KAR 001:300 |
| 2.015 | 902 KAR 020:490E | 18A.005 | 101 KAR 001:325 |
| | 902 KAR 020:490 | 18A.030 | 101 KAR 002:034 |
| | 922 KAR 001:300 | | 101 KAR 002:095 |
| | 922 KAR 001:350 | | 101 KAR 002:210E |
| 7 | 201 KAR 005:002 | | 101 KAR 002:210 |
| 12.020 | 603 KAR 005:350 | 18A.0751 | 101 KAR 001:325 |
| 12.245 | 201 KAR 012:030 | 18A.110 | 101 KAR 002:034 |
| 12.290 | 910 KAR 001:090 | | 101 KAR 002:095 |
| 12.355 | 202 KAR 007:401 | | 101 KAR 002:181 |
| 12.357 | 806 KAR 009:025 | | 101 KAR 003:045 |
| 13B | 201 KAR 016:610 | 18A.111 | 101 KAR 001:325 |
| | 301 KAR 002:082 | 18A.155 | 101 KAR 003:045 |
| | 503 KAR 001:140 | 18A.165 | 101 KAR 002:034 |
| | 701 KAR 008:030E | 18A.202 | 101 KAR 003:045 |
| | 701 KAR 008:030 | 18A.225 | 101 KAR 002:210E |
| | 910 KAR 001:090 | | 101 KAR 002:210 |
| | 911 KAR 001:090 | 18A.2254 | 101 KAR 002:210E |
| 13B.010-13B.170 | 910 KAR 001:180 | | 101 KAR 002:210 |
| 13B.050 | 911 KAR 001:085 | 36.470 | 106 KAR 002:021 |
| 13B.080-160 | 902 KAR 021:040 | 36.474 | 106 KAR 002:021 |
| 13B.050 | 922 KAR 001:300 | | 106 KAR 002:031 |
| 14.025 | 030 KAR 009:010 | 36.476 | 106 KAR 002:021 |
| 15.291 | 040 KAR 009:010E | 36.477 | 106 KAR 002:031 |
| | 040 KAR 009:010 | 38.030 | 202 KAR 007:330 |
| | 040 KAR 009:020E | 39 | 202 KAR 007:330 |
| | 040 KAR 009:010 | 39A.050 | 106 KAR 001:141 |
| 15.293 | 040 KAR 009:010E | | 106 KAR 001:171 |
| | 040 KAR 009:010 | | 106 KAR 001:181 |
| | 040 KAR 009:020E | | 106 KAR 001:191 |
| | 040 KAR 009:020 | | 106 KAR 001:211 |
| 15.330 | 503 KAR 001:140 | | 106 KAR 001:221 |
| 15.334 | 500 KAR 002:020 | | 202 KAR 007:330 |
| 15.380 | 503 KAR 001:140 | | 202 KAR 007:701 |
| 15.382 | 503 KAR 001:140 | 39A.070 | 106 KAR 001:201 |
| 15.383 | 500 KAR 002:020 | 39A.180 | 201 KAR 023:016E |
| 15.384 | 503 KAR 001:140 | | 201 KAR 023:051E |
| 15.392 | 503 KAR 001:140 | | 201 KAR 023:051 |
| 15.394 | 503 KAR 001:140 | 39A.190 | 201 KAR 023:016E |
| 15.396 | 503 KAR 001:140 | | 201 KAR 023:051E |
| 15.3971 | 503 KAR 001:140 | | 201 KAR 023:051 |
| 15.400 | 503 KAR 001:140 | 39A.350-39A.366 | 201 KAR 008:533 |
| 15.440 | 503 KAR 001:140 | 39B.010 | 106 KAR 001:231 |
| | 503 KAR 003:130E | 39B.020 | 106 KAR 001:201 |
| | 503 KAR 003:130 | | 106 KAR 001:211 |
| 15.540 | 503 KAR 001:140 | | 106 KAR 001:241 |
| 15.565 | 503 KAR 001:140 | 39B.030 | 106 KAR 001:201 |
| 15.580 | 503 KAR 001:140 | 39B.060 | 106 KAR 001:201 |
| 15A.011 | 500 KAR 016:010 | 39B.990 | 106 KAR 001:231 |
| 15A.065 | 505 KAR 001:120E | 39C.010 | 106 KAR 001:141 |
| | 505 KAR 001:120 | 39C.050 | 106 KAR 001:201 |
| | 505 KAR 001:140E | | 106 KAR 001:211 |
| | 505 KAR 001:140 | | 106 KAR 001:221 |
| 15A.067 | 505 KAR 001:120E | | 106 KAR 001:261 |
| | 505 KAR 001:120 | 39C.070 | 106 KAR 001:181 |
| | 505 KAR 001:140E | | 106 KAR 001:191 |
| | 505 KAR 001:140 | 39C.080 | 106 KAR 001:171 |
| 15A.070 | 503 KAR 003:130E | 39C.110 | 106 KAR 001:251 |
| | 503 KAR 003:130 | 39E.010 | 106 KAR 001:201 |
| 15A.200-245 | 505 KAR 001:140E | | 106 KAR 001:221 |
| | 505 KAR 001:140 | 39E.110 | 106 KAR 001:201 |
| 15A.305 | 505 KAR 001:140E | 39E.150 | 106 KAR 001:201 |
| | 505 KAR 001:140 | 39F.020 | 106 KAR 001:341 |
| 16.505 | 105 KAR 001:365 | 39F.030 | 106 KAR 001:291 |
| | 105 KAR 001:411 | 39F.100 | 106 KAR 001:341 |
| | 105 KAR 001:415 | 39F.110 | 106 KAR 001:341 |
| 16.505-16.652 | 105 KAR 001:001 | 39F.140 | 106 KAR 001:371 |
| 16.576 | 105 KAR 001:411 | 39F.170 | 106 KAR 001:251 |
| 16.578 | 105 KAR 001:365 | 39F.190 | 106 KAR 001:201 |
| 16.583 | 105 KAR 001:365 | 40.320 | 017 KAR 003:020 |
| 17.165 | 922 KAR 001:300 | 40.325 | 017 KAR 003:020 |

| KRS SECTION | REGULATION | KRS SECTION | REGULATION |
|---------------|------------------|---------------|------------------|
| 41.305 | 500 KAR 016:010 | 65.810 | 807 KAR 005:001E |
| 42.630 | 200 KAR 041:010 | 69.370 | 109 KAR 017:010 |
| 42.650 | 200 KAR 041:010 | 68.210 | 045 KAR 001:030 |
| 42.740 | 200 KAR 041:010 | | 045 KAR 001:040 |
| 43.070 | 045 KAR 001:030 | | 045 KAR 001:050 |
| | 045 KAR 001:040 | 72.020 | 202 KAR 007:401 |
| | 045 KAR 001:050 | | 501 KAR 006:050 |
| 43.075 | 045 KAR 001:030 | 72.025 | 501 KAR 006:050 |
| | 045 KAR 001:040 | 74 | 807 KAR 005:001E |
| | 045 KAR 001:050 | 75.400 | 739 KAR 002:060 |
| 45.031 | 200 KAR 017:111 | 78.510 | 105 KAR 001:365 |
| 45.237-241 | 921 KAR 002:017 | | 105 KAR 001:411 |
| | 921 KAR 002:510 | | 105 KAR 001:415 |
| 49.220 | 803 KAR 030:010 | 78.510-78.852 | 105 KAR 001:001 |
| 61.300 | 500 KAR 002:020 | 78.545 | 105 KAR 001:365 |
| | 500 KAR 003:020 | 78.5512 | 105 KAR 001:365 |
| 61.360 | 500 KAR 003:010 | 78.5516 | 105 KAR 001:365 |
| | 500 KAR 003:020 | 78.5532 | 105 KAR 001:365 |
| 61.505 | 105 KAR 001:071 | 78.5536 | 105 KAR 001:365 |
| | 105 KAR 001:365 | | 105 KAR 001:411 |
| | 105 KAR 001:371 | | 105 KAR 001:415 |
| | 105 KAR 001:411 | 78.5540 | 105 KAR 001:365 |
| | 105 KAR 001:415 | 78.5542 | 105 KAR 001:365 |
| 61.510 | 105 KAR 001:365 | 95.010 | 739 KAR 002:060 |
| | 105 KAR 001:411 | 91A.350 | 300 KAR 001:020 |
| | 105 KAR 001:415 | | 300 KAR 001:021E |
| | 105 KAR 001:451E | | 300 KAR 001:021 |
| | 105 KAR 001:451 | 95A.040 | 739 KAR 002:060 |
| 61.510-61.705 | 105 KAR 001:001 | 95A.210 | 739 KAR 002:060 |
| 61.542 | 105 KAR 001:365 | 95A.262 | 739 KAR 002:070 |
| 61.543 | 105 KAR 001:451E | 117.001 | 031 KAR 002:030E |
| | 105 KAR 001:451 | | 031 KAR 002:030 |
| 61.552 | 105 KAR 001:365 | 117.379 | 031 KAR 002:030E |
| | 105 KAR 001:451E | | 031 KAR 002:030 |
| | 105 KAR 001:451 | 118.126 | 030 KAR 009:010 |
| 61.555 | 105 KAR 001:071 | 131.020 | 103 KAR 043:340E |
| 61.5955 | 105 KAR 001:365 | 131.130 | 103 KAR 043:340E |
| 61.597 | 105 KAR 001:365 | 138.210 | 103 KAR 043:340E |
| 61.5991 | 105 KAR 001:451E | 138.220 | 103 KAR 043:340E |
| | 105 KAR 001:451 | 138.226 | 103 KAR 043:340E |
| 61.625 | 105 KAR 001:365 | 138.228 | 103 KAR 043:340E |
| 61.637 | 105 KAR 001:365 | 138.290 | 103 KAR 043:340E |
| 61.640 | 105 KAR 001:365 | 142.361 | 907 KAR 001:065E |
| 61.645 | 105 KAR 001:371 | | 907 KAR 001:065 |
| | 105 KAR 001:451E | 142.363 | 907 KAR 001:065 |
| | 105 KAR 001:451 | 147.126 | 907 KAR 001:632E |
| 61.675 | 105 KAR 001:451E | 148.0222 | 603 KAR 005:350 |
| | 105 KAR 001:451 | 148.522 | 300 KAR 001:020 |
| 61.680 | 105 KAR 001:365 | | 300 KAR 001:021E |
| 61.685 | 105 KAR 001:451E | 148.525 | 300 KAR 001:020 |
| | 105 KAR 001:451 | | 300 KAR 001:020 |
| 61.701 | 105 KAR 001:411 | | 300 KAR 001:021E |
| | 105 KAR 001:415 | 150.010 | 301 KAR 001:001 |
| 61.702 | 105 KAR 001:365 | | 301 KAR 001:410 |
| | 105 KAR 001:411 | | 301 KAR 002:075 |
| | 105 KAR 001:415 | | 301 KAR 002:081 |
| 61.870-61.884 | 201 KAR 016:610 | | 301 KAR 002:082 |
| | 807 KAR 005:001E | | 301 KAR 002:090 |
| | 922 KAR 001:350 | | 301 KAR 002:144 |
| 61.900-61.930 | 500 KAR 002:020 | | 301 KAR 002:185 |
| 61.931-934 | 807 KAR 005:001E | | 301 KAR 002:221 |
| 61.932 | 200 KAR 001:016 | | 301 KAR 002:222 |
| 61.933 | 200 KAR 001:016 | | 301 KAR 002:228 |
| 61.990 | 500 KAR 002:020 | | 301 KAR 002:300 |
| | 500 KAR 003:020 | | 301 KAR 004:110 |
| 61.991 | 500 KAR 002:020 | 150.015 | 301 KAR 002:015 |
| 62.010 | 500 KAR 002:020 | | 301 KAR 002:075 |
| | 500 KAR 003:020 | | 301 KAR 002:081 |
| 62.990 | 500 KAR 002:020 | | 301 KAR 002:082 |
| | 500 KAR 003:020 | | 301 KAR 002:185 |
| 64.810 | 045 KAR 001:030 | | 301 KAR 002:245 |
| | 045 KAR 001:040 | 150.021 | 301 KAR 002:075 |
| | 045 KAR 001:050 | 150.025 | 301 KAR 001:001 |
| 64.830 | 109 KAR 017:010 | | 301 KAR 002:090 |

| KRS SECTION | REGULATION | KRS SECTION | REGULATION |
|-------------|-----------------|-------------|------------------|
| | 301 KAR 002:221 | 150.399 | 301 KAR 002:251 |
| | 301 KAR 002:245 | 150.410 | 301 KAR 003:120 |
| | 301 KAR 004:110 | 150.415 | 301 KAR 002:251 |
| 150.061 | 301 KAR 005:022 | 150.416 | 301 KAR 002:251 |
| 150.092 | 301 KAR 004:110 | 150.445 | 301 KAR 001:410 |
| | 301 KAR 002:245 | 150.450 | 301 KAR 005:022 |
| 150.105 | 301 KAR 002:300 | 150.485 | 301 KAR 005:022 |
| 150.170 | 301 KAR 004:110 | 150.520 | 301 KAR 005:022 |
| | 301 KAR 001:410 | 150.525 | 301 KAR 005:022 |
| | 301 KAR 002:075 | 150.600 | 301 KAR 005:022 |
| | 301 KAR 002:144 | 150.603 | 301 KAR 005:022 |
| | 301 KAR 002:245 | 150.620 | 301 KAR 001:410 |
| | 301 KAR 002:251 | 150.660 | 301 KAR 005:022 |
| | 301 KAR 002:300 | 150.720 | 301 KAR 005:022 |
| 150.175 | 301 KAR 001:410 | 150.722 | 301 KAR 002:245 |
| | 301 KAR 002:142 | 150.990 | 301 KAR 001:410 |
| | 301 KAR 002:144 | | 301 KAR 002:075 |
| | 301 KAR 002:300 | | 301 KAR 002:081 |
| | 301 KAR 005:010 | | 301 KAR 002:082 |
| | 301 KAR 005:020 | | 301 KAR 002:142 |
| 150.180 | 301 KAR 002:095 | | 301 KAR 002:144 |
| | 301 KAR 002:251 | | 301 KAR 002:185 |
| | 301 KAR 005:022 | | 301 KAR 002:221 |
| 150.183 | 301 KAR 002:075 | | 301 KAR 002:222 |
| | 301 KAR 002:081 | | 301 KAR 002:228 |
| | 301 KAR 002:082 | | 301 KAR 002:251 |
| | 301 KAR 003:120 | | 301 KAR 002:300 |
| | 301 KAR 005:022 | | 301 KAR 005:020 |
| 150.186 | 301 KAR 002:082 | 150.995 | 301 KAR 002:251 |
| 150.190 | 301 KAR 002:081 | 151.601 | 200 KAR 017:111 |
| 150.195 | 301 KAR 002:075 | 151.603 | 301 KAR 002:225 |
| | 301 KAR 002:081 | 151.605 | 200 KAR 017:111 |
| | 301 KAR 002:082 | 151B.403 | 013 KAR 003:050 |
| | 301 KAR 005:001 | 156.070 | 704 KAR 003:303 |
| 150.235 | 301 KAR 001:410 | | 704 KAR 003:535 |
| | 301 KAR 002:081 | | 704 KAR 008:060 |
| | 301 KAR 002:082 | | 704 KAR 008:120 |
| 150.240 | 301 KAR 005:022 | 156.160 | 704 KAR 003:303 |
| 150.275 | 301 KAR 003:120 | | 704 KAR 003:305 |
| | 301 KAR 004:110 | | 704 KAR 003:535 |
| | 301 KAR 005:022 | | 704 KAR 008:060 |
| 150.280 | 301 KAR 002:095 | | 704 KAR 008:120 |
| | 301 KAR 004:110 | 156.196 | 701 KAR 008:010E |
| | 301 KAR 005:022 | 156.802 | 705 KAR 004:041 |
| 150.290 | 301 KAR 002:095 | 157.196 | 701 KAR 008:010 |
| | 301 KAR 005:022 | 157.200 | 701 KAR 008:010E |
| 150.305 | 301 KAR 002:090 | | 701 KAR 008:010 |
| | 301 KAR 002:142 | | 707 KAR 001:002 |
| | 301 KAR 002:144 | 157.220 | 707 KAR 001:002 |
| | 301 KAR 002:221 | 157.224 | 707 KAR 001:002 |
| | 301 KAR 002:222 | 157.226 | 707 KAR 001:002 |
| | 301 KAR 002:228 | 157.230 | 707 KAR 001:002 |
| 150.320 | 301 KAR 002:081 | 157.250 | 707 KAR 001:002 |
| | 301 KAR 002:082 | 157.260 | 707 KAR 001:002 |
| 150.330 | 301 KAR 002:075 | 157.270 | 707 KAR 001:002 |
| | 301 KAR 002:081 | 157.280 | 707 KAR 001:002 |
| | 301 KAR 002:082 | 157.285 | 707 KAR 001:002 |
| | 301 KAR 002:090 | 157.290 | 707 KAR 001:002 |
| | 301 KAR 002:219 | 157.320 | 702 KAR 007:125 |
| | 301 KAR 002:221 | 157.350 | 702 KAR 007:125 |
| | 301 KAR 002:222 | 157.360 | 707 KAR 001:002 |
| | 301 KAR 002:225 | 158.030 | 701 KAR 008:010E |
| | 301 KAR 003:120 | | 701 KAR 008:010 |
| 150.340 | 301 KAR 002:221 | | 702 KAR 007:125 |
| | 301 KAR 002:222 | | 707 KAR 001:002 |
| | 301 KAR 002:225 | 158.050 | 701 KAR 008:010E |
| | 301 KAR 002:228 | | 701 KAR 008:010 |
| 150.360 | 301 KAR 002:081 | 158.070 | 701 KAR 008:010E |
| | 301 KAR 002:090 | | 701 KAR 008:010 |
| | 301 KAR 002:144 | | 701 KAR 008:020E |
| 150.370 | 301 KAR 002:081 | | 701 KAR 008:020 |
| | 301 KAR 002:251 | | 702 KAR 007:125 |
| 150.390 | 301 KAR 002:144 | 158.100 | 701 KAR 008:010E |
| | 301 KAR 002:245 | | 701 KAR 008:010 |

| KRS SECTION | REGULATION | KRS SECTION | REGULATION |
|-------------|------------------|-------------|------------------|
| | 702 KAR 007:125 | | 701 KAR 008:040 |
| | 707 KAR 001:002 | | 701 KAR 008:050E |
| 158.135 | 013 KAR 003:050 | | 701 KAR 008:050 |
| 158.140 | 704 KAR 003:305 | 160.1593 | 701 KAR 008:010E |
| 158.142 | 704 KAR 003:305 | | 701 KAR 008:010 |
| 158.143 | 013 KAR 003:050 | | 701 KAR 008:020E |
| 158.150 | 707 KAR 001:002 | | 701 KAR 008:020 |
| 158.196 | 704 KAR 008:060 | | 701 KAR 008:030E |
| 158.240 | 702 KAR 007:125 | | 701 KAR 008:030 |
| 158.281 | 701 KAR 008:010E | | 701 KAR 008:040E |
| | 701 KAR 008:010 | | 701 KAR 008:040 |
| 158.441 | 503 KAR 007:010 | | 701 KAR 008:050E |
| 158.4410 | 503 KAR 007:010 | | 701 KAR 008:050 |
| 158.4414 | 503 KAR 007:010 | 160.1594 | 701 KAR 008:010E |
| 158.4416 | 704 KAR 003:535 | | 701 KAR 008:010 |
| 158.443 | 503 KAR 007:010 | | 701 KAR 008:020E |
| 158.645 | 703 KAR 005:270 | | 701 KAR 008:020 |
| | 704 KAR 003:303 | | 701 KAR 008:030E |
| | 704 KAR 003:305 | | 701 KAR 008:030 |
| | 704 KAR 008:060 | | 701 KAR 008:040E |
| | 704 KAR 008:120 | | 701 KAR 008:040 |
| 158.6451 | 703 KAR 005:270 | | 701 KAR 008:050E |
| | 704 KAR 003:303 | | 701 KAR 008:050 |
| | 704 KAR 003:305 | 160.1595 | 701 KAR 008:010E |
| | 704 KAR 003:535 | | 701 KAR 008:010 |
| | 704 KAR 008:060 | | 701 KAR 008:020E |
| | 704 KAR 008:120 | | 701 KAR 008:020 |
| 158.6453 | 703 KAR 005:270 | | 701 KAR 008:030E |
| | 704 KAR 003:303 | | 701 KAR 008:030 |
| | 704 KAR 008:060 | | 701 KAR 008:040E |
| | 704 KAR 008:120 | | 701 KAR 008:040 |
| 158.6455 | 013 KAR 003:050 | | 701 KAR 008:050E |
| | 703 KAR 005:270 | | 701 KAR 008:050 |
| 158.649 | 701 KAR 008:020E | 160.1596 | 701 KAR 008:010E |
| | 701 KAR 008:020 | | 701 KAR 008:010 |
| | 703 KAR 005:270 | | 701 KAR 008:020E |
| 158.810 | 705 KAR 004:041 | | 701 KAR 008:020 |
| 159.010 | 701 KAR 008:010E | | 701 KAR 008:030E |
| | 701 KAR 008:010 | | 701 KAR 008:030 |
| | 702 KAR 007:125 | | 701 KAR 008:040E |
| 159.030 | 702 KAR 007:125 | | 701 KAR 008:040 |
| 159.035 | 702 KAR 007:125 | | 701 KAR 008:050E |
| 159.140 | 702 KAR 007:125 | | 701 KAR 008:050 |
| | 922 KAR 001:330 | 160.1597 | 701 KAR 008:010E |
| 159.170 | 702 KAR 007:125 | | 701 KAR 008:010 |
| 160.1590 | 701 KAR 008:010E | | 701 KAR 008:020E |
| | 701 KAR 008:010 | | 701 KAR 008:020 |
| | 701 KAR 008:020E | | 701 KAR 008:030E |
| | 701 KAR 008:020 | | 701 KAR 008:030 |
| | 701 KAR 008:030E | | 701 KAR 008:040E |
| | 701 KAR 008:030 | | 701 KAR 008:040 |
| | 701 KAR 008:040E | | 701 KAR 008:050E |
| | 701 KAR 008:040 | | 701 KAR 008:050 |
| | 701 KAR 008:050E | 160.1598 | 701 KAR 008:010E |
| | 701 KAR 008:050 | | 701 KAR 008:010 |
| 160.1591 | 701 KAR 008:010E | | 701 KAR 008:020E |
| | 701 KAR 008:010 | | 701 KAR 008:020 |
| | 701 KAR 008:020E | | 701 KAR 008:030E |
| | 701 KAR 008:020 | | 701 KAR 008:030 |
| | 701 KAR 008:030E | | 701 KAR 008:040E |
| | 701 KAR 008:030 | | 701 KAR 008:040 |
| | 701 KAR 008:040E | | 701 KAR 008:050E |
| | 701 KAR 008:040 | | 701 KAR 008:050 |
| | 701 KAR 008:050E | 160.1599 | 701 KAR 008:010E |
| | 701 KAR 008:050 | | 701 KAR 008:010 |
| 160.15911 | 701 KAR 008:050E | | 701 KAR 008:020E |
| | 701 KAR 008:050 | | 701 KAR 008:020 |
| 160.1592 | 701 KAR 008:010E | | 701 KAR 008:030E |
| | 701 KAR 008:010 | | 701 KAR 008:030 |
| | 701 KAR 008:020E | | 701 KAR 008:040E |
| | 701 KAR 008:020 | | 701 KAR 008:040 |
| | 701 KAR 008:030E | | 701 KAR 008:050E |
| | 701 KAR 008:030 | | 701 KAR 008:050 |
| | 701 KAR 008:040E | 160.290 | 704 KAR 003:303 |

| KRS SECTION | REGULATION | KRS SECTION | REGULATION |
|-------------------|------------------|-------------------|------------------|
| | 704 KAR 008:060 | | 922 KAR 001:350 |
| | 704 KAR 008:120 | | 922 KAR 002:160 |
| | 707 KAR 001:002 | 194A.700 | 900 KAR 014:010E |
| 160.345 | 704 KAR 003:535 | | 900 KAR 014:010 |
| 160.346 | 701 KAR 008:010E | | 910 KAR 001:180 |
| | 701 KAR 008:010 | 194A.700-194A.729 | 902 KAR 020:480 |
| | 703 KAR 005:270 | 196 | 501 KAR 006:040 |
| 160.380 | 704 KAR 003:535 | | 501 KAR 006:050 |
| 161.011 | 701 KAR 008:040E | | 501 KAR 006:080 |
| | 701 KAR 008:040 | | 501 KAR 006:130 |
| 161.020 | 016 KAR 004:060 | | 501 KAR 006:150 |
| 161.028 | 016 KAR 004:060 | 196.700-196.736 | 500 KAR 010:001 |
| | 016 KAR 009:100 | | 500 KAR 010:020 |
| | 016 KAR 009:110 | | 500 KAR 010:030 |
| 161.030 | 016 KAR 004:060 | | 500 KAR 010:040 |
| | 016 KAR 009:100 | 197 | 501 KAR 006:040 |
| | 016 KAR 009:110 | | 501 KAR 006:050 |
| 161.048 | 016 KAR 009:100 | | 501 KAR 006:080 |
| | 016 KAR 009:110 | | 501 KAR 006:130 |
| 161.141 | 701 KAR 008:010E | | 501 KAR 006:150 |
| | 701 KAR 008:010 | 198B.030 | 815 KAR 007:130 |
| | 701 KAR 008:020E | 198B.050 | 815 KAR 010:060 |
| | 701 KAR 008:020 | 198B.050-198B.090 | 922 KAR 001:300 |
| | 701 KAR 008:040E | 198B.062 | 815 KAR 007:130 |
| | 701 KAR 008:040 | 198B.260 | 908 KAR 001:374 |
| 161.200 | 702 KAR 007:125 | 198B.4003 | 815 KAR 004:030 |
| 161.661 | 102 KAR 001:361E | 198B.4009 | 815 KAR 004:030 |
| | 102 KAR 001:361 | 198B.4011 | 815 KAR 004:030 |
| 161.800 | 701 KAR 008:040E | 198B.4013 | 815 KAR 004:030 |
| | 701 KAR 008:040 | 198B.4023 | 815 KAR 004:030 |
| 164.518 | 011 KAR 004:080 | 198B.4025 | 815 KAR 004:030 |
| 164.740-164.785 | 011 KAR 005:001 | 198B.4027 | 815 KAR 004:030 |
| 164.744 | 011 KAR 004:080 | 198B.4033 | 815 KAR 004:030 |
| | 011 KAR 005:037 | 198B.650 | 815 KAR 008:010 |
| | 011 KAR 005:145 | 198B.654 | 815 KAR 008:010 |
| 164.748 | 011 KAR 004:080 | 198B.656 | 815 KAR 008:010 |
| 164.753 | 011 KAR 004:080 | 198B.658 | 815 KAR 008:010 |
| | 011 KAR 005:037 | 198B.659 | 815 KAR 008:010 |
| | 011 KAR 005:145 | 198B.660 | 815 KAR 008:010 |
| 164.7535 | 011 KAR 004:080 | 198B.664 | 815 KAR 008:010 |
| | 011 KAR 005:037 | 198B.668 | 815 KAR 008:010 |
| | 011 KAR 005:145 | 198B.672 | 815 KAR 008:010 |
| 164.769 | 011 KAR 004:080 | 198B.676 | 815 KAR 008:010 |
| 164.772 | 815 KAR 035:060 | 199 | 300 KAR 001:020 |
| 164.780 | 011 KAR 004:080 | | 300 KAR 001:021E |
| 164.785 | 011 KAR 004:080 | 199.011 | 922 KAR 001:100 |
| 164.7889 | 011 KAR 005:145 | | 922 KAR 001:300 |
| 164.7890 | 011 KAR 004:080 | | 922 KAR 001:350 |
| 164.7894 | 011 KAR 004:080 | 199.430 | 922 KAR 001:100 |
| 165A.330 | 806 KAR 009:025 | 199.520 | 922 KAR 001:100 |
| 174.020 | 603 KAR 005:350 | 199.525 | 922 KAR 001:100 |
| 176.010 | 603 KAR 005:155 | 199.555 | 101 KAR 003:045 |
| 176.050 | 603 KAR 005:155 | | 106 KAR 002:031 |
| 176.5061-176.5069 | 601 KAR 014:050 | 199.570 | 922 KAR 001:100 |
| 177.106 | 603 KAR 005:155 | 199.572 | 922 KAR 001:100 |
| 177.830 | 603 KAR 005:155 | 199.575 | 922 KAR 001:100 |
| 177.990 | 603 KAR 005:155 | 199.640 | 922 KAR 001:300 |
| 186.401 | 601 KAR 014:050 | 199.642 | 922 KAR 001:300 |
| 186.450 | 601 KAR 014:050 | 199.650 | 922 KAR 001:300 |
| 186.531 | 601 KAR 014:050 | 199.660 | 922 KAR 001:300 |
| 186.535 | 601 KAR 014:050 | 199.670 | 922 KAR 001:300 |
| 189.125 | 922 KAR 001:300 | 199.881-888 | 922 KAR 002:165 |
| 189.281 | 603 KAR 005:350 | 199.894 | 922 KAR 002:160 |
| 189.390 | 603 KAR 005:350 | 199.8943 | 922 KAR 002:165 |
| 189.515 | 603 KAR 005:350 | 199.896 | 922 KAR 002:160 |
| 189.520 | 603 KAR 005:350 | 199.898 | 922 KAR 002:160 |
| 194.540 | 201 KAR 020:620 | 199.8982 | 922 KAR 002:160 |
| 194A.005 | 922 KAR 001:330 | 199.899 | 922 KAR 002:160 |
| | 922 KAR 001:350 | 200.080-200.120 | 505 KAR 001:120E |
| 194A.030 | 911 KAR 001:085 | | 505 KAR 001:120 |
| | 911 KAR 001:090 | | 505 KAR 001:140E |
| 194A.060 | 907 KAR 001:044 | | 505 KAR 001:140 |
| | 921 KAR 002:035 | 200.460 | 911 KAR 001:060 |
| | 922 KAR 001:100 | 200.460-200.499 | 911 KAR 001:085 |

| KRS SECTION | REGULATION | KRS SECTION | REGULATION |
|-------------------|------------------|-------------------|------------------|
| 200.654 | 911 KAR 001:090 | 205.5639 | 907 KAR 023:020 |
| 202A.011 | 911 KAR 001:090 | 205.565 | 907 KAR 003:010 |
| | 907 KAR 001:044 | 205.592 | 907 KAR 020:050 |
| 202B.010 | 922 KAR 001:330 | 205.622 | 907 KAR 001:026E |
| 205 | 922 KAR 001:100 | | 907 KAR 001:026 |
| 205.010 | 921 KAR 002:040 | | 907 KAR 001:038E |
| | 910 KAR 001:180 | | 907 KAR 001:038 |
| | 921 KAR 002:006 | | 907 KAR 001:044 |
| 205.170 | 921 KAR 002:060 | | 907 KAR 001:126E |
| 205.175 | 921 KAR 002:035 | | 907 KAR 001:632E |
| 205.177 | 921 KAR 002:035 | | 907 KAR 001:632 |
| 205.193 | 921 KAR 002:050 | | 907 KAR 023:020 |
| 205.200 | 921 KAR 002:016 | 205.6316 | 907 KAR 023:020 |
| | 921 KAR 002:017 | 205.6317 | 911 KAR 001:090 |
| | 921 KAR 002:035 | 205.6481-205.6497 | 907 KAR 004:020 |
| | 921 KAR 002:050 | | 907 KAR 004:030 |
| | 921 KAR 002:370 | 205.703 | 921 KAR 002:006 |
| | 921 KAR 002:500 | 205.705 | 921 KAR 001:380 |
| | 921 KAR 002:520 | 205.710-205.802 | 921 KAR 001:380 |
| 205.201 | 910 KAR 001:180 | | 921 KAR 001:400 |
| 205.203 | 910 KAR 001:180 | 205.720 | 921 KAR 002:006 |
| 205.2001 | 921 KAR 002:016 | 205.8451 | 907 KAR 001:026E |
| 205.2003 | 921 KAR 002:017 | | 907 KAR 001:026 |
| | 921 KAR 002:500 | | 907 KAR 001:038E |
| 205.2005 | 921 KAR 002:006 | | 907 KAR 001:038 |
| 205.210 | 921 KAR 002:016 | | 907 KAR 001:044 |
| 205.211 | 921 KAR 002:016 | | 907 KAR 001:126E |
| | 921 KAR 002:017 | | 907 KAR 001:632E |
| | 921 KAR 002:500 | | 907 KAR 001:632 |
| | 921 KAR 002:510 | | 910 KAR 001:090 |
| | 921 KAR 002:520 | 205.900-205.925 | 910 KAR 001:090 |
| 205.232 | 921 KAR 002:050 | 205.990 | 921 KAR 001:400 |
| 205.240 | 921 KAR 002:035 | 205.992 | 921 KAR 001:380 |
| 205.245 | 921 KAR 002:035 | 206.10 | 921 KAR 002:035 |
| | 921 KAR 002:050 | 209.005 | 500 KAR 016:010 |
| 205.455 | 910 KAR 001:090 | 209.030 | 910 KAR 001:180 |
| 205.455-465 | 910 KAR 001:180 | 209.032 | 902 KAR 020:480 |
| 205.510 | 900 KAR 012:005 | 210.366 | 201 KAR 026:175E |
| 205.510-205.647 | 907 KAR 004:020 | 210.370-210.485 | 907 KAR 003:010 |
| 205.520 | 907 KAR 001:008 | 211.090 | 902 KAR 021:040 |
| | 907 KAR 001:026E | 211.1751 | 902 KAR 008:160 |
| | 907 KAR 001:026 | 211.180 | 902 KAR 021:040 |
| | 907 KAR 001:038E | 211.332 | 201 KAR 021:105 |
| | 907 KAR 001:038 | | 900 KAR 012:005 |
| | 907 KAR 001:126E | 211.334 | 201 KAR 021:105 |
| | 907 KAR 001:632E | 211.335 | 201 KAR 021:105 |
| | 907 KAR 001:632 | 211.336 | 201 KAR 021:105 |
| | 907 KAR 001:680 | 211.340 | 902 KAR 020:470 |
| | 907 KAR 003:190 | 244.341 | 902 KAR 020:470 |
| | 907 KAR 020:020 | 211.342 | 902 KAR 020:470 |
| | 907 KAR 020:050 | 211.350-211.380 | 922 KAR 001:300 |
| | 907 KAR 020:100 | 211.461-211.466 | 907 KAR 004:030 |
| | 911 KAR 001:090 | 211.645 | 911 KAR 001:085 |
| 205.5375 | 907 KAR 020:050 | | 911 KAR 001:090 |
| 205.5510-205.5520 | 907 KAR 023:020 | 211.647 | 911 KAR 001:085 |
| 205.557 | 907 KAR 003:160E | | 911 KAR 001:090 |
| | 907 KAR 003:160 | 211.684 | 922 KAR 001:330 |
| 205.559 | 900 KAR 012:005 | 212.230 | 902 KAR 008:160 |
| 205.5591 | 900 KAR 012:005 | 212.240 | 902 KAR 008:160 |
| 205.560 | 907 KAR 001:008 | 212.245 | 902 KAR 008:160 |
| | 907 KAR 003:010 | 212.890 | 902 KAR 008:160 |
| | 907 KAR 003:160E | 213.011 | 901 KAR 005:130 |
| | 907 KAR 003:160 | 213.046 | 911 KAR 001:085 |
| | 907 KAR 023:020 | | 911 KAR 001:090 |
| 205.5605 | 907 KAR 003:190 | | 921 KAR 001:380 |
| 205.5606 | 907 KAR 003:190 | | 921 KAR 001:400 |
| | 911 KAR 001:090 | 213.081 | 040 KAR 002:150 |
| 205.5607 | 907 KAR 003:190 | | 901 KAR 005:140 |
| 205.561 | 907 KAR 023:020 | 213.096 | 901 KAR 005:130 |
| 205.5631 | 907 KAR 023:020 | 213.098 | 040 KAR 002:150 |
| 205.5632 | 907 KAR 023:020 | 213.101 | 901 KAR 005:120 |
| 205.5634 | 907 KAR 023:020 | 213.106 | 901 KAR 005:120 |
| 205.5636 | 907 KAR 023:020 | 213.991 | 901 KAR 005:140 |
| 205.5638 | 907 KAR 023:020 | 214.034 | 922 KAR 001:300 |

| KRS SECTION | REGULATION | KRS SECTION | REGULATION |
|-------------------|------------------|-------------------|------------------|
| 214.036 | 922 KAR 001:330 | | 302 KAR 026:100 |
| | 922 KAR 002:160 | | 302 KAR 027:011 |
| 214.615 | 201 KAR 008:533 | | 302 KAR 028:011 |
| | 201 KAR 008:563 | | 302 KAR 029:011 |
| | 201 KAR 008:571 | 217B.120 | 302 KAR 026:150 |
| 216.2970 | 911 KAR 001:085 | | 302 KAR 027:011 |
| | 911 KAR 001:090 | | 302 KAR 028:011 |
| 216.380 | 907 KAR 001:065 | 217B.190 | 302 KAR 029:011 |
| 216.510 | 900 KAR 014:010E | 217B.515 | 302 KAR 029:011 |
| | 900 KAR 014:010 | 217B.520 | 302 KAR 029:011 |
| 216.515 | 902 KAR 020:480 | 217B.525 | 302 KAR 029:011 |
| 216.530 | 902 KAR 020:480 | 217B.545 | 302 KAR 029:011 |
| 216.532 | 902 KAR 020:480 | 217B.550 | 302 KAR 026:150 |
| 216.595 | 902 KAR 020:480 | | 302 KAR 029:011 |
| 216.718 | 902 KAR 020:480 | 217B.585 | 302 KAR 029:011 |
| 216.718-216.728 | 906 KAR 001:210 | 218A.010 | 902 KAR 055:110 |
| 216.765 | 902 KAR 020:480 | | 902 KAR 055:015E |
| 216.785-216.793 | 906 KAR 001:210 | | 902 KAR 055:015 |
| 216.789 | 902 KAR 020:480 | 218A.020 | 902 KAR 055:015E |
| 216B.010 | 900 KAR 006:075E | | 902 KAR 055:015 |
| | 900 KAR 006:075 | 218A.040 | 902 KAR 055:015E |
| | 902 KAR 020:018 | | 902 KAR 055:015 |
| 216B.010-216B.130 | 900 KAR 005:020E | 218A.060 | 902 KAR 055:015E |
| | 900 KAR 005:020 | | 902 KAR 055:015 |
| 216B.015 | 900 KAR 006:075E | 218A.080 | 902 KAR 055:015E |
| | 900 KAR 006:075 | | 902 KAR 055:015 |
| | 902 KAR 020:018 | 218A.100 | 902 KAR 055:015E |
| | 902 KAR 020:365 | | 902 KAR 055:015 |
| | 902 KAR 020:480 | 218A.120 | 902 KAR 055:015E |
| 216B.020 | 902 KAR 020:480 | | 902 KAR 055:015 |
| 216B.040 | 900 KAR 006:075E | 218A.180 | 908 KAR 001:374 |
| | 900 KAR 006:075 | 218A.200 | 902 KAR 020:480 |
| | 902 KAR 020:018 | | 902 KAR 055:015E |
| 216B.042 | 902 KAR 020:018 | | 902 KAR 055:015 |
| 216B.045 | 902 KAR 020:018 | 218A.202 | 902 KAR 055:110 |
| 216B.050 | 902 KAR 020:018 | | 908 KAR 001:374 |
| 216B.055 | 902 KAR 020:018 | 218A.205 | 201 KAR 008:533 |
| 216B.062 | 900 KAR 006:075E | 218A.240 | 902 KAR 055:110 |
| | 900 KAR 006:075 | 222.231 | 908 KAR 001:374 |
| 216B.075 | 902 KAR 020:018 | 222.462 | 908 KAR 001:374 |
| 216B.085 | 902 KAR 020:018 | 224.10-100 | 401 KAR 058:040 |
| 216B.090 | 900 KAR 006:075E | | 401 KAR 063:060 |
| | 900 KAR 006:075 | 224.20-100 | 401 KAR 058:040 |
| 216B.095 | 900 KAR 006:075E | 224.20-110 | 401 KAR 058:040 |
| | 900 KAR 006:075 | | 401 KAR 063:060 |
| 216B.105 | 902 KAR 020:365 | 224.20-120 | 401 KAR 058:040 |
| | 902 KAR 020:480 | 224A.011 | 200 KAR 017:111 |
| 216B.105-216B.125 | 902 KAR 020:018 | 224A.020 | 200 KAR 017:111 |
| 216B.115 | 900 KAR 006:075E | 224A.035 | 200 KAR 017:111 |
| | 900 KAR 006:075 | 224A.040 | 200 KAR 017:111 |
| 216B.160 | 902 KAR 020:480 | 224A.050-224A.314 | 200 KAR 017:111 |
| 216B.165 | 902 KAR 020:480 | 227.300 | 815 KAR 010:060 |
| 216B.200-216B.210 | 902 KAR 020:365 | 227.331 | 815 KAR 010:060 |
| 216B.400 | 201 KAR 020:411 | 227.550 | 815 KAR 025:060 |
| 216B.455 | 900 KAR 006:075E | 227.550-227.665 | 815 KAR 025:020 |
| | 900 KAR 006:075 | 227.560 | 815 KAR 025:060 |
| 216B.990 | 900 KAR 006:075E | 227.570 | 815 KAR 025:060 |
| | 900 KAR 006:075 | 227.580 | 815 KAR 025:060 |
| | 902 KAR 020:018 | 227.590 | 815 KAR 025:060 |
| 217.005-217.215 | 902 KAR 055:015E | 227.600 | 815 KAR 025:060 |
| | 902 KAR 055:015 | 227.610 | 815 KAR 025:060 |
| 217.015 | 907 KAR 023:020 | 227.620 | 815 KAR 025:060 |
| 217.177 | 201 KAR 016:550 | 227.630 | 815 KAR 025:060 |
| 217.186 | 201 KAR 002:360 | 227.715 | 815 KAR 010:060 |
| 217.211 | 806 KAR 017:280 | 227.990 | 815 KAR 010:060 |
| 217B | 302 KAR 026:010 | | 815 KAR 025:060 |
| | 302 KAR 026:020 | 227A.010 | 815 KAR 035:060 |
| | 302 KAR 026:030 | 227A.060 | 815 KAR 035:060 |
| | 302 KAR 026:040 | 227A.100 | 815 KAR 035:060 |
| | 302 KAR 026:050 | 230.215 | 810 KAR 004:010E |
| | 302 KAR 026:060 | | 810 KAR 007:040 |
| | 302 KAR 026:070 | | 810 KAR 008:020 |
| | 302 KAR 026:080 | 230.225 | 810 KAR 008:020 |
| | 302 KAR 026:090 | 230.240 | 810 KAR 008:020 |

| KRS SECTION | REGULATION | KRS SECTION | REGULATION |
|-------------|------------------|--------------------------|-----------------|
| 230.260 | 810 KAR 007:040 | 286.9-071 | 808 KAR 001:170 |
| | 810 KAR 008:020 | 286.9-073 | 808 KAR 001:170 |
| 230.265 | 810 KAR 008:020 | 286.9-080 | 808 KAR 001:170 |
| 230.290 | 810 KAR 008:020 | 286.12-030 | 808 KAR 016:010 |
| 230.320 | 810 KAR 008:020 | 286.12-040 | 808 KAR 016:010 |
| 230.370 | 810 KAR 008:020 | 286.12-050 | 808 KAR 016:020 |
| 230.770 | 810 KAR 007:040 | 286.12-060 | 808 KAR 016:010 |
| 230.802 | 810 KAR 007:040 | 286.12-070 | 808 KAR 016:010 |
| 234.140 | 815 KAR 010:060 | 286.12-080 | 808 KAR 016:020 |
| 235 | 301 KAR 006:001 | 292 | 808 KAR 010:450 |
| 235.205 | 301 KAR 006:020 | 292.337 | 808 KAR 010:440 |
| 238.500 | 820 KAR 001:001 | 292.480 | 808 KAR 010:440 |
| 238.505 | 820 KAR 001:032 | 304 | 900 KAR 010:120 |
| 238.510 | 820 KAR 001:130 | 304.1-050 | 806 KAR 006:072 |
| 238.515 | 820 KAR 001:005 | | 806 KAR 017:290 |
| | 820 KAR 001:130 | | 806 KAR 037:010 |
| 238.525 | 820 KAR 001:005 | 304.2-100 | 806 KAR 017:290 |
| 238.530 | 820 KAR 001:005 | 304.2-140 | 806 KAR 017:280 |
| | 820 KAR 001:025 | 304.2-230 | 806 KAR 017:290 |
| | 820 KAR 001:130 | 304.2-290 | 806 KAR 006:072 |
| 238.535 | 820 KAR 001:005 | 304.2-310 | 806 KAR 017:280 |
| 238.540 | 820 KAR 001:005 | | 806 KAR 017:290 |
| 238.545 | 820 KAR 001:032 | 304.3-240 | 806 KAR 006:072 |
| 238.550 | 820 KAR 001:025 | 304.6 | 806 KAR 006:072 |
| 238.555 | 820 KAR 001:005 | 304.14-110 | 900 KAR 010:120 |
| | 820 KAR 001:025 | 304.15-410 | 806 KAR 006:072 |
| | 820 KAR 001:130 | 304.17-412 | 806 KAR 017:280 |
| 238.560 | 820 KAR 001:025 | 304.17A-005 | 806 KAR 017:280 |
| | 820 KAR 001:130 | | 806 KAR 017:290 |
| 238.570 | 820 KAR 001:025 | | 900 KAR 012:005 |
| 238.995 | 820 KAR 001:130 | | 907 KAR 004:020 |
| 257.160 | 201 KAR 016:560 | | 907 KAR 004:030 |
| | 201 KAR 016:562 | 304.17A-138 | 900 KAR 012:005 |
| 258.005 | 902 KAR 008:160 | 304.17A.163 | 806 KAR 017:280 |
| 258.015 | 922 KAR 001:350 | 304.17A.1631 | 806 KAR 017:280 |
| 258.035 | 922 KAR 001:350 | | 806 KAR 017:290 |
| 258.065 | 301 KAR 002:081 | 304.17A.167 | 806 KAR 017:280 |
| | 301 KAR 002:082 | 304.17A-168 | 806 KAR 017:280 |
| 258.085 | 301 KAR 002:081 | | 806 KAR 017:290 |
| | 301 KAR 002:082 | 304.17A-243 | 900 KAR 010:120 |
| 260.020 | 302 KAR 040:010 | 304.17A-245 | 900 KAR 010:120 |
| 260.030 | 302 KAR 040:010 | 304.17A-505 | 806 KAR 017:290 |
| 260.038 | 302 KAR 040:010 | 304.17A-535 | 806 KAR 017:280 |
| 271B | 922 KAR 001:300 | | 806 KAR 017:290 |
| 273.161 | 922 KAR 001:300 | 304.17A-600 | 806 KAR 017:280 |
| 275.206 | 808 KAR 010:450 | | 806 KAR 017:290 |
| 278.010 | 807 KAR 005:001E | 304.17A-607 | 806 KAR 017:280 |
| 278.020 | 807 KAR 005:001E | | 806 KAR 017:290 |
| 278.100 | 807 KAR 005:001E | 304.17A-617 | 806 KAR 017:290 |
| 278.180 | 807 KAR 005:001E | 304.17A-619 | 806 KAR 017:280 |
| 278.300 | 807 KAR 005:001E | 304.17A-621-304.17A.-631 | 806 KAR 017:290 |
| 278.410 | 807 KAR 005:001E | 304.17A-623 | 806 KAR 017:280 |
| 281.010 | 907 KAR 004:030 | 304.17B-021 | 806 KAR 017:351 |
| 286.4 | 808 KAR 001:170 | 304.17B-023 | 806 KAR 017:351 |
| 286.8-010 | 808 KAR 001:170 | 304.17C-010 | 806 KAR 017:280 |
| 286.8-020 | 808 KAR 001:170 | 304.17C-030 | 806 KAR 017:280 |
| 286.8-030 | 808 KAR 001:170 | 304.18-045 | 806 KAR 017:280 |
| 286.8-032 | 808 KAR 001:170 | 304.24-390 | 806 KAR 037:010 |
| 286.8-034 | 808 KAR 001:170 | 304.24-400 | 806 KAR 037:010 |
| 286.8-036 | 808 KAR 001:170 | 304.24-415 | 806 KAR 037:010 |
| 286.8-060 | 808 KAR 001:170 | 304.3-750 | 806 KAR 003:250 |
| 286.8-070 | 808 KAR 001:170 | 304.3-768 | 806 KAR 003:250 |
| 286.8-080 | 808 KAR 001:170 | 304.32-147 | 806 KAR 017:280 |
| 286.8-090 | 808 KAR 001:170 | 304.32-330 | 806 KAR 017:280 |
| 286.8-140 | 808 KAR 001:170 | 304.33 | 806 KAR 037:010 |
| 286.8-255 | 808 KAR 001:170 | 304.37-010 | 806 KAR 037:010 |
| 286.8-260 | 808 KAR 001:170 | 304.37-020 | 806 KAR 037:010 |
| 286.8-290 | 808 KAR 001:170 | 304.37-030 | 806 KAR 037:010 |
| 286.9-010 | 808 KAR 001:170 | 304.37-110 | 806 KAR 037:010 |
| 289.9-020 | 808 KAR 001:170 | 304.37-120 | 806 KAR 037:010 |
| 286.9-030 | 808 KAR 001:170 | 304.37-130 | 806 KAR 037:010 |
| 286.9-040 | 808 KAR 001:170 | 304.38-225 | 806 KAR 017:280 |
| 286.9-050 | 808 KAR 001:170 | 304.39-060 | 806 KAR 039:030 |
| 286.9-060 | 808 KAR 001:170 | 304.4-010 | 806 KAR 009:025 |

| KRS SECTION | REGULATION | KRS SECTION | REGULATION |
|-------------------|-----------------|-------------|------------------|
| 304.40-075 | 201 KAR 008:533 | 311A.142 | 202 KAR 007:401 |
| | 201 KAR 008:563 | 311A.145 | 202 KAR 007:201 |
| 304.40-320 | 900 KAR 012:005 | | 202 KAR 007:301 |
| 304.5-040 | 907 KAR 004:020 | | 202 KAR 007:330 |
| | 907 KAR 004:030 | 311A.150 | 202 KAR 007:330 |
| 304.6 | 806 KAR 037:010 | 311A.160 | 202 KAR 007:201 |
| 304.9-030 | 806 KAR 009:025 | | 202 KAR 007:701 |
| 304.9-105 | 806 KAR 009:025 | 311A.165 | 202 KAR 007:301 |
| 304.9-130 | 806 KAR 009:025 | | 202 KAR 007:701 |
| 304.9-150 | 806 KAR 009:025 | 311A.170 | 202 KAR 007:401 |
| 304.9-160 | 806 KAR 009:025 | | 202 KAR 007:701 |
| 304.9-230 | 806 KAR 009:025 | 311A.175 | 202 KAR 007:701 |
| 304.9-260 | 806 KAR 009:025 | 311A.185 | 202 KAR 007:401 |
| 304.9-270 | 806 KAR 009:025 | 311A.190 | 202 KAR 007:401 |
| 304.9-295 | 806 KAR 009:025 | | 202 KAR 007:555 |
| 304.9-320 | 806 KAR 009:025 | 311A.195 | 202 KAR 007:330 |
| 304.9-430 | 806 KAR 009:025 | 312.019 | 201 KAR 021:025 |
| 304.9-642 | 806 KAR 009:025 | | 201 KAR 021:105 |
| 304.39-110 | 603 KAR 005:350 | 312.055 | 201 KAR 021:025 |
| 304.47-050 | 806 KAR 017:280 | 312.085 | 201 KAR 021:041 |
| 310.021 | 902 KAR 020:018 | | 201 KAR 021:042 |
| 311 | 911 KAR 001:090 | 312.095 | 201 KAR 021:041 |
| 311.530-311.620 | 201 KAR 009:470 | | 201 KAR 021:042 |
| 311.595 | 901 KAR 005:120 | 312.145 | 201 KAR 021:041 |
| 311.5975 | 900 KAR 012:005 | | 201 KAR 021:042 |
| 311.621-311.643 | 201 KAR 009:470 | 312.175 | 201 KAR 021:041 |
| 311.720 | 901 KAR 005:120 | | 201 KAR 021:042 |
| | 902 KAR 020:365 | | 201 KAR 021:095 |
| | 922 KAR 001:350 | 312.200 | 201 KAR 021:075 |
| 311.732 | 901 KAR 005:140 | | 201 KAR 021:095 |
| 311.7731 | 902 KAR 020:365 | 312.207 | 201 KAR 016:572 |
| 311.7733 | 902 KAR 020:365 | 312.220 | 201 KAR 021:105 |
| 311.7734 | 902 KAR 020:365 | 313.010 | 201 KAR 008:533 |
| 311.774 | 901 KAR 005:120 | | 907 KAR 001:026E |
| 311.781 | 901 KAR 005:120 | | 907 KAR 001:026 |
| 311.782 | 901 KAR 005:120 | | 907 KAR 001:126E |
| 311.783 | 901 KAR 005:120 | 313.021 | 201 KAR 008:016 |
| 311.840 | 907 KAR 003:010 | | 201 KAR 008:601 |
| | 922 KAR 001:350 | 313.022 | 201 KAR 008:016 |
| 311.901 | 201 KAR 009:305 | | 201 KAR 008:601 |
| 311.905 | 201 KAR 009:305 | 313.030 | 201 KAR 008:533 |
| 311.909 | 201 KAR 009:305 | | 201 KAR 008:563 |
| 311.990 | 201 KAR 009:470 | | 201 KAR 008:571 |
| 311A.010 | 202 KAR 007:201 | 313.035 | 911 KAR 001:060 |
| | 202 KAR 007:301 | 313.040 | 201 KAR 008:563 |
| | 202 KAR 007:330 | | 907 KAR 001:026E |
| 311A.020 | 202 KAR 007:330 | | 907 KAR 001:026 |
| 311A.025 | 202 KAR 007:201 | | 907 KAR 001:126E |
| | 202 KAR 007:301 | 313.045 | 201 KAR 008:571 |
| | 202 KAR 007:330 | 313.050 | 201 KAR 008:571 |
| | 202 KAR 007:401 | 313.060 | 201 KAR 008:563 |
| 311A.030 | 202 KAR 007:201 | 313.080 | 201 KAR 008:563 |
| | 202 KAR 007:401 | | 201 KAR 008:571 |
| | 202 KAR 007:555 | 313.130 | 201 KAR 008:563 |
| 311A.050 | 202 KAR 007:330 | | 201 KAR 008:571 |
| | 202 KAR 007:601 | 313.254 | 201 KAR 008:533 |
| 311A.050-311A.100 | 202 KAR 007:401 | | 201 KAR 008:563 |
| 311A.060 | 202 KAR 007:201 | 313.550 | 201 KAR 008:016 |
| | 202 KAR 007:301 | 314.011 | 201 KAR 020:390 |
| 311A.090 | 202 KAR 007:330 | | 201 KAR 020:411 |
| 311A.095 | 202 KAR 007:201 | | 201 KAR 020:490 |
| | 202 KAR 007:301 | | 907 KAR 003:160E |
| | 202 KAR 007:330 | | 907 KAR 003:160 |
| 311A.100 | 202 KAR 007:330 | | 922 KAR 001:350 |
| 311A.120 | 202 KAR 007:401 | | 922 KAR 002:160 |
| | 202 KAR 007:601 | 314.021 | 201 KAR 020:478 |
| 311A.130 | 202 KAR 007:301 | 314.025 | 201 KAR 020:390 |
| | 202 KAR 007:601 | 314.026 | 201 KAR 020:390 |
| 311A.135 | 202 KAR 007:401 | 314.027 | 201 KAR 020:390 |
| | 202 KAR 007:701 | 314.035 | 201 KAR 020:472 |
| 311A.140 | 202 KAR 007:201 | | 201 KAR 020:476 |
| | 202 KAR 007:301 | | 201 KAR 020:478 |
| | 202 KAR 007:330 | 314.041 | 201 KAR 020:260 |
| | 202 KAR 007:701 | | 201 KAR 020:370 |

| KRS SECTION | REGULATION | KRS SECTION | REGULATION |
|-----------------|------------------|-----------------|------------------|
| | 902 KAR 020:018 | | 815 KAR 020:030 |
| 314.042 | 201 KAR 020:370 | 318.050 | 815 KAR 020:030 |
| 314.051 | 201 KAR 020:370 | 318.054 | 815 KAR 020:030 |
| | 902 KAR 020:018 | 318.060 | 815 KAR 020:030 |
| 314.071 | 201 KAR 020:370 | 318.080 | 815 KAR 020:030 |
| 314.089 | 201 KAR 020:478 | 318.134 | 815 KAR 007:130 |
| 314.091 | 201 KAR 020:370 | 319 | 911 KAR 001:090 |
| | 201 KAR 020:478 | 319.032 | 201 KAR 026:175E |
| | 201 KAR 020:478 | 319.050 | 201 KAR 026:175E |
| 314.103 | 201 KAR 020:370 | 319.053 | 201 KAR 026:175E |
| | 201 KAR 020:411 | 319.064 | 201 KAR 026:175E |
| | 201 KAR 020:476 | 319.071 | 201 KAR 026:175E |
| | 201 KAR 020:478 | | 201 KAR 026:225E |
| 314.111 | 201 KAR 020:260 | 320 | 907 KAR 001:632E |
| | 201 KAR 020:310 | | 907 KAR 001:632 |
| | 201 KAR 020:360 | 320.230 | 201 KAR 005:002 |
| 314.131 | 201 KAR 020:260 | 320.295 | 201 KAR 005:002 |
| | 201 KAR 020:472 | 320.300 | 201 KAR 005:002 |
| | 201 KAR 020:476 | | 201 KAR 005:055 |
| 314.137 | 201 KAR 020:472 | 320.310 | 201 KAR 005:002 |
| | 201 KAR 020:476 | 320.390 | 201 KAR 005:055 |
| | 201 KAR 020:478 | 320.295 | 201 KAR 005:038 |
| 314.142 | 201 KAR 020:411 | 320.310 | 201 KAR 005:045 |
| 314.400-314.414 | 201 KAR 020:620 | | 201 KAR 005:105 |
| 314.404-314.416 | 201 KAR 020:650 | 321.185 | 301 KAR 002:075 |
| 314.475 | 201 KAR 020:310 | 321.190 | 201 KAR 016:610 |
| | 201 KAR 020:370 | 321.207 | 201 KAR 016:550 |
| | 201 KAR 020:411 | | 201 KAR 016:552 |
| 314.991 | 201 KAR 020:478 | | 201 KAR 016:560 |
| 315.010 | 201 KAR 002:380 | | 201 KAR 016:562 |
| | 201 KAR 002:413E | 321.235 | 201 KAR 016:550 |
| | 201 KAR 002:414E | | 201 KAR 016:552 |
| 315.020 | 201 KAR 002:413E | | 201 KAR 016:560 |
| | 201 KAR 002:414E | | 201 KAR 016:562 |
| 315.025 | 201 KAR 002:450 | | 201 KAR 016:610 |
| 315.030 | 201 KAR 002:450 | 321.351 | 201 KAR 016:550 |
| 315.0351 | 201 KAR 002:450 | | 201 KAR 016:552 |
| | 201 KAR 002:460 | | 201 KAR 016:560 |
| 315.050 | 201 KAR 002:030 | | 201 KAR 016:562 |
| | 201 KAR 002:413E | | 201 KAR 016:610 |
| | 201 KAR 002:414E | 321.353 | 201 KAR 016:610 |
| 315.065 | 201 KAR 002:413E | 321.360 | 201 KAR 016:610 |
| | 201 KAR 002:414E | 322.340 | 807 KAR 005:001E |
| 315.121 | 201 KAR 002:450 | 322A.030 | 201 KAR 031:031 |
| 315.131 | 201 KAR 002:450 | | 201 KAR 031:040 |
| 315.135 | 201 KAR 002:413E | 322A.040 | 201 KAR 031:040 |
| | 201 KAR 002:414E | 322A.045 | 201 KAR 031:040 |
| 315.191 | 201 KAR 002:030 | 322A.050 | 201 KAR 031:010 |
| | 201 KAR 002:380 | 322A.060 | 201 KAR 031:010 |
| | 201 KAR 002:460 | | 201 KAR 031:050 |
| 315.205 | 201 KAR 002:413E | 322A.070 | 201 KAR 031:010 |
| | 201 KAR 002:414E | | 201 KAR 031:050 |
| 315.210 | 201 KAR 002:030 | 325.261 | 201 KAR 001:190 |
| 317A.020 | 201 KAR 012:030 | 325.270 | 201 KAR 001:190 |
| | 201 KAR 012:082 | 326 | 907 KAR 001:632E |
| | 201 KAR 012:290 | | 907 KAR 001:632 |
| 317A.050 | 201 KAR 012:030 | 326.030 | 907 KAR 001:632E |
| | 201 KAR 012:082 | | 907 KAR 001:632 |
| | 201 KAR 012:260 | 326.040 | 907 KAR 001:632E |
| | 201 KAR 012:290 | | 907 KAR 001:632 |
| 317A.060 | 201 KAR 012:030 | 326.060 | 201 KAR 005:002 |
| | 201 KAR 012:060 | | 201 KAR 005:038 |
| | 201 KAR 012:230 | 327.300 | 201 KAR 022:170 |
| | 201 KAR 012:290 | 333 | 902 KAR 020:018 |
| 317A.062 | 201 KAR 012:260 | 334.010 | 907 KAR 001:038E |
| 317A.070 | 201 KAR 012:190 | | 907 KAR 001:038 |
| 317A.090 | 201 KAR 012:082 | 334A | 911 KAR 001:090 |
| 317A.140 | 201 KAR 012:060 | 334A.020 | 907 KAR 001:038E |
| | 201 KAR 012:190 | | 907 KAR 001:038 |
| 317A.145 | 201 KAR 012:030 | | 911 KAR 001:085 |
| | 201 KAR 012:190 | | 911 KAR 001:090 |
| 318.010 | 815 KAR 020:030 | 334A.030 | 907 KAR 001:038E |
| 318.020 | 815 KAR 020:030 | | 907 KAR 001:038 |
| 318.030 | 815 KAR 020:030 | 335.010-335.160 | 201 KAR 023:051E |
| 318.040 | 815 KAR 020:030 | | 201 KAR 023:051 |

| KRS SECTION | REGULATION | KRS SECTION | REGULATION |
|-----------------|------------------|-------------------|------------------|
| 335.080 | 201 KAR 023:016E | | 907 KAR 001:044 |
| | 201 KAR 023:016 | | 907 KAR 001:632E |
| 335.090 | 201 KAR 023:016E | | 907 KAR 001:632 |
| | 201 KAR 023:016 | | 907 KAR 003:010 |
| 335.100 | 201 KAR 023:016E | 403.160 | 921 KAR 001:400 |
| | 201 KAR 023:016 | 403.210-403.240 | 921 KAR 001:400 |
| | 902 KAR 020:018 | 403.211 | 921 KAR 001:380 |
| 335.990 | 201 KAR 023:051E | 403.707 | 201 KAR 020:411 |
| | 201 KAR 023:051 | 403.720 | 921 KAR 002:006 |
| 337 | 803 KAR 001:006 | | 921 KAR 002:370 |
| 337.275 | 803 KAR 001:081 | 405.430 | 921 KAR 001:380 |
| | 922 KAR 002:160 | | 921 KAR 001:400 |
| 337.285 | 803 KAR 001:081 | 405.440 | 921 KAR 001:400 |
| 337.355 | 201 KAR 002:450 | 405.450 | 921 KAR 001:400 |
| 337.365 | 201 KAR 002:450 | 405.467 | 921 KAR 001:380 |
| 339.230 | 815 KAR 035:060 | 405.520 | 921 KAR 001:380 |
| 341.350 | 787 KAR 001:090E | 405.991 | 921 KAR 001:400 |
| | 787 KAR 001:090 | 406.021 | 921 KAR 001:380 |
| 341.360 | 787 KAR 001:090E | | 921 KAR 001:400 |
| | 787 KAR 001:090 | 406.025 | 921 KAR 001:380 |
| 341.370 | 787 KAR 001:090E | | 921 KAR 001:400 |
| | 787 KAR 001:090 | 407.5101-407.5903 | 921 KAR 001:380 |
| 341.380 | 787 KAR 001:090E | 414 | 907 KAR 003:010 |
| | 787 KAR 001:090 | 415.110 | 907 KAR 003:010 |
| | 787 KAR 001:100E | 415.152 | 907 KAR 001:026E |
| | 787 KAR 001:100 | | 907 KAR 001:026 |
| 342.0011 | 803 KAR 025:089 | | 907 KAR 001:126E |
| | 803 KAR 030:010 | 415.170 | 907 KAR 001:026E |
| 342.019 | 803 KAR 025:089 | | 907 KAR 001:026 |
| 342.020 | 803 KAR 025:089 | | 907 KAR 001:126E |
| 342.035 | 803 KAR 025:089 | 415.172 | 907 KAR 001:026E |
| 342.122 | 803 KAR 030:010 | | 907 KAR 001:026 |
| 342.1221 | 803 KAR 030:010 | | 907 KAR 001:126E |
| 342.1222 | 803 KAR 030:010 | 415.174 | 907 KAR 001:026E |
| 342.1223 | 803 KAR 030:010 | | 907 KAR 001:026 |
| 342.1231 | 803 KAR 030:010 | | 907 KAR 001:126E |
| 342.340 | 803 KAR 030:010 | 415.208 | 907 KAR 001:044 |
| 342.650 | 803 KAR 030:010 | 416.164 | 907 KAR 001:008 |
| 362 | 202 KAR 007:601 | 416.166 | 907 KAR 001:008 |
| 363.900-363.908 | 302 KAR 079:009 | 421.500-421.575 | 201 KAR 020:411 |
| 365 | 202 KAR 007:601 | 422.317 | 907 KAR 001:044 |
| 365.015 | 807 KAR 005:001E | 424 | 922 KAR 001:300 |
| 367.93103 | 040 KAR 002:150 | 424.300 | 807 KAR 005:001E |
| 367.93105 | 040 KAR 002:150 | 431.17 | 907 KAR 001:044 |
| 367.93115 | 040 KAR 002:150 | | 907 KAR 001:632E |
| 367.93117 | 040 KAR 002:150 | | 907 KAR 001:632 |
| 367.97501 | 040 KAR 002:150 | 431.52 | 907 KAR 001:044 |
| 367.97504 | 040 KAR 002:150 | 431.600 | 922 KAR 001:330 |
| 367.97507 | 040 KAR 002:150 | 431.600-431.660 | 201 KAR 020:411 |
| 367.97511 | 040 KAR 002:150 | 434.840-434.860 | 907 KAR 001:044 |
| 367.97514 | 040 KAR 002:150 | 435.603 | 911 KAR 001:090 |
| 367.97517 | 040 KAR 002:150 | 438.2 | 907 KAR 001:026E |
| 367.97521 | 040 KAR 002:150 | | 907 KAR 001:026 |
| 367.97524 | 040 KAR 002:150 | | 907 KAR 001:038E |
| 367.97527 | 040 KAR 002:150 | | 907 KAR 001:038 |
| 369.101-369.120 | 907 KAR 001:026E | | 907 KAR 001:126E |
| | 907 KAR 001:026 | | 907 KAR 001:632E |
| | 907 KAR 001:044 | | 907 KAR 001:632 |
| | 907 KAR 001:126E | | 907 KAR 003:010 |
| | 907 KAR 001:632E | 439 | 501 KAR 006:040 |
| 369.102 | 907 KAR 001:632 | | 501 KAR 006:050 |
| | 807 KAR 005:001E | | 501 KAR 006:080 |
| | 907 KAR 001:026E | | 501 KAR 006:050 |
| | 907 KAR 001:026 | | 501 KAR 006:150 |
| | 907 KAR 001:126E | 440.40 | 907 KAR 001:632E |
| 381.280 | 500 KAR 016:010 | | 907 KAR 001:632 |
| 387.010 | 701 KAR 008:010E | 440.50 | 907 KAR 003:010 |
| | 701 KAR 008:010 | 440.60 | 907 KAR 001:632E |
| 391.010 | 040 KAR 002:150 | | 907 KAR 001:632 |
| 400.203 | 907 KAR 001:026E | 440.120 | 907 KAR 023:020 |
| | 907 KAR 001:026 | 446.400 | 202 KAR 007:401 |
| | 907 KAR 001:126E | 447 | 907 KAR 001:632E |
| | 907 KAR 001:038E | | 907 KAR 001:632 |
| | 907 KAR 001:038 | 447.10 | 907 KAR 003:010 |

| KRS SECTION | REGULATION | KRS SECTION | REGULATION |
|-----------------|------------------|-------------|------------------|
| 447.200-447.205 | 907 KAR 003:010 | | 922 KAR 001:350 |
| 447.271 | 907 KAR 001:008 | 17 C.F.R. | 808 KAR 010:450 |
| 447.325 | 907 KAR 003:010 | 20 C.F.R. | 922 KAR 002:160 |
| 447.45 | 907 KAR 023:020 | 21 C.F.R. | 902 KAR 020:480 |
| 447.500-447.520 | 907 KAR 023:020 | | 902 KAR 055:015E |
| 454.220 | 921 KAR 001:400 | | 902 KAR 055:015 |
| 457.310 | 907 KAR 001:038E | | 908 KAR 001:374 |
| | 907 KAR 001:038 | 26 C.F.R. | 900 KAR 010:120 |
| 485.500-485.546 | 902 KAR 020:490 | 29 C.F.R. | 202 KAR 007:555 |
| 485.618 | 902 KAR 020:490 | | 401 KAR 058:040 |
| 503.110 | 922 KAR 001:330 | | 803 KAR 001:081 |
| 508.125 | 922 KAR 001:330 | | 815 KAR 035:060 |
| 527.100 | 922 KAR 001:350 | | 900 KAR 010:120 |
| 527.110 | 922 KAR 001:350 | 33 C.F.R. | 301 KAR 006:001 |
| 529.010 | 922 KAR 001:330 | 34 C.F.R. | 011 KAR 004:080 |
| 531.31-531.58 | 803 KAR 001:081 | | 707 KAR 001:002 |
| 532.045 | 922 KAR 001:330 | | 922 KAR 002:160 |
| 600-645 | 505 KAR 001:120 | 40 C.F.R. | 302 KAR 026:020 |
| | 505 KAR 001:140 | | 302 KAR 026:150 |
| 600.010 | 922 KAR 001:330 | | 302 KAR 027:011 |
| 600.020 | 921 KAR 002:500 | | 302 KAR 028:011 |
| | 922 KAR 001:100 | | 302 KAR 079:009 |
| | 922 KAR 001:300 | | 401 KAR 058:040 |
| | 922 KAR 001:330 | | 401 KAR 063:060 |
| | 922 KAR 001:350 | 42 C.F.R. | 900 KAR 010:120 |
| | 922 KAR 002:160 | | 902 KAR 020:018 |
| 605.080 | 922 KAR 001:300 | | 902 KAR 020:490E |
| 605.090 | 922 KAR 001:100 | | 902 KAR 020:490 |
| | 922 KAR 001:300 | | 902 KAR 055:110 |
| | 922 KAR 001:330 | | 907 KAR 001:008 |
| | 922 KAR 001:350 | | 907 KAR 001:026E |
| 605.120 | 922 KAR 002:160 | | 907 KAR 001:026 |
| 605.130 | 922 KAR 001:330 | | 907 KAR 001:038E |
| 610.010 | 922 KAR 001:330 | | 907 KAR 001:038 |
| 610.110 | 922 KAR 001:300 | | 907 KAR 001:044 |
| | 922 KAR 001:350 | | 907 KAR 001:065 |
| 610.170 | 921 KAR 001:380 | | 907 KAR 001:126E |
| 615.010 | 922 KAR 001:300 | | 907 KAR 001:632E |
| 615.030 | 922 KAR 001:100 | | 907 KAR 001:632 |
| | 922 KAR 001:300 | | 907 KAR 003:010 |
| 615.040 | 922 KAR 001:300 | | 907 KAR 004:020 |
| 620.010-620.050 | 922 KAR 001:330 | | 907 KAR 004:030 |
| 620.020 | 201 KAR 020:620 | | 907 KAR 020:020 |
| | 907 KAR 003:160E | | 907 KAR 023:020 |
| | 907 KAR 003:160 | | 908 KAR 001:374 |
| | 922 KAR 001:300 | | 911 KAR 001:090 |
| | 922 KAR 002:160 | | 922 KAR 001:350 |
| 620.030 | 922 KAR 001:300 | 45 C.F.R. | 807 KAR 005:001E |
| | 922 KAR 001:350 | | 900 KAR 010:120 |
| 620.050 | 907 KAR 003:160E | | 902 KAR 020:018 |
| | 907 KAR 003:160 | | 902 KAR 020:480 |
| | 922 KAR 001:100 | | 902 KAR 020:490E |
| | 922 KAR 001:350 | | 902 KAR 020:490 |
| 620.070 | 922 KAR 001:330 | | 907 KAR 001:026E |
| 620.072 | 922 KAR 001:330 | | 907 KAR 001:026 |
| 620.090 | 922 KAR 001:300 | | 907 KAR 001:044 |
| 620.140 | 922 KAR 001:300 | | 907 KAR 001:126E |
| | 922 KAR 001:350 | | 907 KAR 001:632E |
| 620.230 | 922 KAR 001:300 | | 907 KAR 001:632 |
| 620.350 | 922 KAR 001:330 | | 921 KAR 001:380 |
| 620.360 | 922 KAR 001:100 | | 921 KAR 001:400 |
| | 922 KAR 001:350 | | 921 KAR 002:006 |
| 620.363 | 922 KAR 001:350 | | 921 KAR 002:016 |
| 620.990 | 922 KAR 001:330 | | 921 KAR 002:017 |
| 625 | 922 KAR 001:350 | | 921 KAR 002:035 |
| 625.045 | 922 KAR 001:100 | | 921 KAR 002:370 |
| 625.108 | 922 KAR 001:100 | | 921 KAR 002:500 |
| 654.1-654.5 | 011 KAR 004:080 | | 921 KAR 002:510 |
| 654.30-654.52 | 011 KAR 004:080 | | 921 KAR 002:520 |
| 7 C.F.R. | 302 KAR 040:010 | | 922 KAR 001:100 |
| | 902 KAR 008:160 | | 922 KAR 001:350 |
| | 922 KAR 002:160 | | 922 KAR 002:160 |
| 16 C.F.R. | 302 KAR 079:009 | 47 C.F.R. | 807 KAR 005:001E |
| | 603 KAR 005:350 | 50 C.F.R. | 301 KAR 002:075 |

| KRS SECTION | REGULATION | KRS SECTION | REGULATION |
|-------------|--|-------------------------------------|--|
| 7 U.S.C. | 301 KAR 003:120 302 KAR 026:010 302 KAR 026:020 302 KAR 026:150 302 KAR 027:011 302 KAR 028:011 302 KAR 029:011 921 KAR 002:006 922 KAR 002:160 | | 201 KAR 002:414E 401 KAR 063:060 701 KAR 008:010E 701 KAR 008:010 902 KAR 020:018 902 KAR 020:480 902 KAR 020:490E 902 KAR 020:490 907 KAR 001:026E 907 KAR 001:026 907 KAR 001:038E 907 KAR 001:038 907 KAR 001:126E 907 KAR 001:632E 907 KAR 001:632 907 KAR 001:680 907 KAR 003:010 907 KAR 003:190 907 KAR 020:050 910 KAR 001:180 911 KAR 001:090 921 KAR 002:035 921 KAR 002:040 921 KAR 002:050 921 KAR 002:060 921 KAR 002:370 922 KAR 001:100 922 KAR 002:165 922 KAR 001:330 302 KAR 029:011 106 KAR 001:141 106 KAR 001:171 921 KAR 002:035 |
| 8 U.S.C. | 921 KAR 002:006 921 KAR 002:016 922 KAR 001:350 | | |
| 10 U.S.C. | 202 KAR 007:330 | | |
| 15 U.S.C. | 808 KAR 010:450 | | |
| 20 U.S.C. | 908 KAR 001:374 011 KAR 004:080 701 KAR 008:010E 701 KAR 008:010 703 KAR 005:270 707 KAR 001:002 807 KAR 005:001E 921 KAR 002:016 922 KAR 001:300 | | |
| 21 U.S.C. | 902 KAR 055:015E 902 KAR 055:015 921 KAR 002:006 | | |
| 22 U.S.C. | 921 KAR 002:006 | | |
| 25 U.S.C. | 921 KAR 002:016 922 KAR 001:100 | | |
| 26 U.S.C. | 922 KAR 002:160 105 KAR 001:365 105 KAR 001:411 900 KAR 010:120 921 KAR 002:016 | 49 U.S.C. 50 U.S.C. 52 U.S.C. | |
| 29 U.S.C. | 701 KAR 008:010E 701 KAR 008:010 921 KAR 002:016 922 KAR 002:160 900 KAR 012:005 921 KAR 002:370 922 KAR 002:160 | | |
| 30 U.S.C. | 803 KAR 030:010 | | |
| 31 U.S.C. | 045 KAR 001:050 | | |
| 33 U.S.C. | 803 KAR 030:010 | | |
| 38 U.S.C. | 017 KAR 003:020 105 KAR 001:365 105 KAR 001:415 106 KAR 001:141 106 KAR 001:171 106 KAR 001:181 106 KAR 001:191 106 KAR 001:201 106 KAR 001:221 201 KAR 002:413E 900 KAR 010:120 900 KAR 012:005 907 KAR 001:044 907 KAR 001:065 907 KAR 004:020 907 KAR 004:030 907 KAR 020:020 907 KAR 023:020 921 KAR 001:380 921 KAR 001:400 921 KAR 002:006 921 KAR 002:500 921 KAR 002:016 922 KAR 002:160 921 KAR 002:510 921 KAR 002:520 922 KAR 001:300 922 KAR 001:350 922 KAR 002:160 | | |
| 42 U.S.C. | 105 KAR 001:411 | | |

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 |
|-------------------|-------------------|--|
| 009 KAR 001:025 | 02-21-2023 | Remain in Effect without Amendment |
| 013 KAR 002:045 | 06-22-2022 | Remain in Effect without Amendment |
| 016 KAR 002:110 | 12-01-2022 | To be Amended, filing deadline 06-01-2024 |
| 016 KAR 002:140 | 12-01-2022 | To be Amended, filing deadline 06-01-2024 |
| 016 KAR 002:150 | 12-01-2022 | To be Amended, filing deadline 06-01-2024 |
| 016 KAR 002:160 | 12-01-2022 | To be Amended, filing deadline 06-01-2024 |
| 016 KAR 002:170 | 12-01-2022 | To be Amended, filing deadline 06-01-2024 |
| 016 KAR 002:200 | 12-01-2022 | To be Amended, filing deadline 06-01-2024 |
| 016 KAR 004:030 | 09-08-2022 | To be amended, filing deadline 03-08-2024 |
| 016 KAR 009:030 | 12-01-2022 | To be Amended, filing deadline 06-01-2024 |
| 031 KAR 003:040 | 09-02-2022 | To be amended, filing deadline 03-02-2024 |
| 031 KAR 004:120 | 09-02-2022 | Remain in Effect without Amendment |
| 031 KAR 004:180 | 09-02-2022 | To be amended, filing deadline 03-02-2024 |
| 106 KAR 003:010 | 12-02-2022 | Remain in Effect without Amendment |
| 200 KAR 005:021 | 02-22-2023 | Remain in Effect without Amendment |
| 201 KAR 001:050 | 12-02-2022 | Remain in Effect without Amendment |
| 201 KAR 001:063 | 12-02-2022 | Remain in Effect without Amendment |
| 201 KAR 001:081 | 12-02-2022 | Remain in Effect without Amendment |
| 201 KAR 001:140 | 12-02-2022 | Remain in Effect without Amendment |
| 201 KAR 001:150 | 12-02-2022 | Remain in Effect without Amendment |
| 201 KAR 002:220 | 09-09-2022 | To be amended, filing deadline 03-09-2024 |
| 201 KAR 005:030 | 11-10-2022 | Remain in Effect without Amendment |
| 201 KAR 005:110 | 11-10-2022 | Remain in Effect without Amendment |
| 201 KAR 009:025 | 01-11-2023 | Remain in Effect without Amendment |
| 201 KAR 009:250 | 04-13-2023 | Remain in Effect without Amendment |
| 201 KAR 009:305 | 09-08-2022 | To be amended, filed on 07-13-2022 |
| 201 KAR 009:470 | 01-11-2023 | To be amended, going through process now 1-12-2023 |
| 201 KAR 033:020 | 03-03-2023 | Remain in Effect without Amendment |
| 201 KAR 033:030 | 03-03-2023 | Remain in Effect without Amendment |

| 201 KAR 044:010 | 07-01-2022 | Remain in Effect without Amendment |
|-------------------|-------------------|---|
| Regulation Number | Letter Filed Date | Action |
| 301 KAR 001:146 | 08-04-2022 | To be amended, filing deadline 02-04-2024 |
| 500 KAR 013:020 | 08-25-2022 | To be amended, filing deadline 02-24-2024 |
| 501 KAR 001:080 | 11-29-2022 | To be amended, filing deadline 11-29-2021 |
| 501 KAR 003:010 | 03-02-2023 | To be amended, filing deadline 09-02-2024 |
| 501 KAR 003:020 | 03-02-2023 | Remain in Effect without Amendment |
| 501 KAR 003:030 | 03-02-2023 | Remain in Effect without Amendment |
| 501 KAR 003:040 | 03-02-2023 | Remain in Effect without Amendment |
| 501 KAR 003:050 | 03-02-2023 | Remain in Effect without Amendment |
| 501 KAR 003:060 | 03-02-2023 | To be amended, filing deadline 09-02-2024 |
| 501 KAR 003:070 | 03-02-2023 | Remain in Effect without Amendment |
| 501 KAR 003:080 | 03-02-2023 | To be amended, filing deadline 09-02-2024 |
| 501 KAR 003:090 | 03-02-2023 | To be amended, filing deadline 09-02-2024 |
| 501 KAR 003:100 | 03-02-2023 | To be amended, filing deadline 09-02-2024 |
| 501 KAR 003:140 | 03-02-2023 | To be amended, filing deadline 09-02-2024 |
| 501 KAR 003:160 | 03-02-2023 | Remain in Effect without Amendment |
| 501 KAR 006:050 | 09-14-2022 | To be amended, filing deadline 3-14-2024 |
| 501 KAR 007:010 | 03-02-2023 | To be amended, filing deadline 09-02-2024 |
| 501 KAR 007:020 | 03-02-2023 | Remain in Effect without Amendment |
| 501 KAR 007:030 | 03-02-2023 | Remain in Effect without Amendment |
| 501 KAR 007:050 | 03-02-2023 | Remain in Effect without Amendment |
| 501 KAR 007:070 | 03-02-2023 | Remain in Effect without Amendment |
| 501 KAR 007:080 | 03-02-2023 | To be amended, filing deadline 09-02-2024 |
| 501 KAR 007:090 | 03-02-2023 | To be amended, filing deadline 09-02-2024 |
| 501 KAR 013:010 | 03-02-2023 | To be amended, filing deadline 09-02-2024 |
| 601 KAR 009:135 | 06-02-2022 | Remain in Effect without Amendment |
| 603 KAR 005:155 | 07-26-2022 | Remain in Effect without Amendment |
| 702 KAR 001:170 | 08-09-2022 | Remain in Effect without Amendment |
| 803 KAR 001:035 | 06-13-2022 | Remain in Effect without Amendment |
| 803 KAR 002:402 | 08-26-2022 | To be amended, filing deadline 2-26-2024 |

CERTIFICATION LETTER SUMMARIES

| 803 KAR 002:445 | 08-26-2022 | To be amended, filing deadline 02-26-2024 |
|-------------------|-------------------|--|
| Regulation Number | Letter Filed Date | Action |
| 804 KAR 010:031 | 09-13-2022 | Remain in Effect without Amendment |
| 806 KAR 003:210 | 03-21-2023 | Remain in Effect without Amendment |
| 808 KAR 012:020 | 09-16-2022 | Remain in Effect without Amendment |
| 902 KAR 020:180 | 12-14-2022 | Remain in Effect without Amendment |
| 902 KAR 020:200 | 12-14-2022 | Remain in Effect without Amendment |
| 902 KAR 020:205 | 12-14-2022 | Remain in Effect without Amendment |
| 902 KAR 100:037 | 12-14-2022 | Remain in Effect without Amendment |
| 907 KAR 001:026 | 01-30-2023 | To be amended, in process when letter came |
| 907 KAR 001:044 | 06-09-2022 | Remain in Effect without Amendment |
| 907 KAR 001:055 | 10-18-2022 | Remain in Effect without Amendment |
| 907 KAR 001:160 | 01-30-2023 | Remain in Effect without Amendment |
| 907 KAR 001:170 | 01-30-2023 | Remain in Effect without Amendment |
| 907 KAR 001:350 | 06-09-2022 | Remain in Effect without Amendment |
| 907 KAR 001:595 | 01-30-2023 | Remain in Effect without Amendment |
| 907 KAR 001:626 | 01-30-2023 | Remain in Effect without Amendment |
| 907 KAR 003:090 | 01-30-2023 | Remain in Effect without Amendment |
| 907 KAR 003:210 | 01-30-2023 | Remain in Effect without Amendment |
| 907 KAR 007:010 | 01-30-2023 | Remain in Effect without Amendment |
| 907 KAR 007:015 | 01-30-2023 | Remain in Effect without Amendment |
| 907 KAR 009:005 | 10-18-2022 | Remain in Effect without Amendment |

| Regulation Number | Letter Filed Date | Action |
|-------------------|-------------------|---|
| 907 KAR 009:015 | 10-18-2022 | Remain in Effect without Amendment |
| 907 KAR 009:020 | 10-18-2022 | Remain in Effect without Amendment |
| 907 KAR 010:014 | 08-10-2022 | Remain in Effect without Amendment |
| 907 KAR 010:016 | 08-10-2022 | Remain in Effect without Amendment |
| 907 KAR 010:020 | 1/30/2023 | Remain in Effect without Amendment |
| 907 KAR 010:025 | 1/30/2023 | Remain in Effect without Amendment |
| 907 KAR 015:085 | 8/10/2022 | Remain in Effect without Amendment |
| 908 KAR 002:065 | 04-21-2023 | Remain in Effect without Amendment |
| 910 KAR 001:170 | 06-09-2022 | To be Amended, Filing deadline 12-09-2023 |
| 910 KAR 001:270 | 08-11-2022 | To be amended, filing deadline 02-11-2024 |
| 921 KAR 002:006 | 10-03-2022 | To be amended, filed 8-4-2022 |
| 921 KAR 002:016 | 10-03-2022 | To be amended, filed 8-4-2022 |
| 921 KAR 002:017 | 10-03-2022 | To be amended, filed 9-12-2022 |
| 921 KAR 002:046 | 10-03-2022 | Remain in Effect without Amendment |
| 921 KAR 002:050 | 10-03-2022 | To be amended, filed 9-12-2022 |
| 921 KAR 002:060 | 10-03-2022 | To be amended, filed 9-12-2022 |
| 921 KAR 002:370 | 10-03-2022 | To be amended, filed 9-12-2022 |
| 921 KAR 002:500 | 10-03-2022 | To be amended, filed 8-4-2022 |
| 921 KAR 002:510 | 10-03-2022 | To be amended, filed 8-4-2022 |
| 921 KAR 002:520 | 10-03-2022 | To be amended, filed 8-4-2023 |

TECHNICAL AMENDMENT INDEX

The Technical Amendment Index is a list of administrative regulations that have had technical, nonsubstantive amendments made during the 49th 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 |
|----------------------|-------------------|----------------------|-------------------|
| 010 KAR 006:010 | 11-10-2022 | 803 KAR 002:181 | 11-10-2022 |
| 013 KAR 003:020 | 11-10-2022 | 803 KAR 002:300 | 11-10-2022 |
| 013 KAR 003:030 | 11-10-2022 | 803 KAR 002:301 | 11-10-2022 |
| 013 KAR 003:040 | 11-10-2022 | 803 KAR 002:303 | 11-10-2022 |
| 013 KAR 003:060 | 11-10-2022 | 803 KAR 002:304 | 11-10-2022 |
| 101 KAR 002:102 | 01-12-2023 | 803 KAR 002:305 | 11-10-2022 |
| 201 KAR 012:010 | 07-14-2022 | 803 KAR 002:307 | 11-10-2022 |
| 201 KAR 020:390 | 07-12-2022 | 803 KAR 002:310 | 11-10-2022 |
| 201 KAR 020:600 | 07-12-2022 | 803 KAR 002:311 | 11-10-2022 |
| 201 KAR 020:670 | 07-12-2022 | 803 KAR 002:312 | 11-10-2022 |
| 505 KAR 001:080 | 12-14-2022 | 803 KAR 002:313 | 11-10-2022 |
| 702 KAR 005:030 | 11-18-2022 | 803 KAR 002:314 | 11-10-2022 |
| 703 KAR 005:080 | 03-08-2023 | 803 KAR 002:315 | 11-10-2022 |
| 704 KAR 003:455 | 11-18-2022 | 803 KAR 002:316 | 11-10-2022 |
| 705 KAR 003:141 | 11-18-2022 | 803 KAR 003:317 | 11-10-2022 |
| 725 KAR 001:010 | 11-10-2022 | 803 KAR 002:318 | 11-10-2022 |
| 725 KAR 001:020 | 11-10-2022 | 803 KAR 002:320 | 11-10-2022 |
| 725 KAR 001:025 | 11-10-2022 | 803 KAR 002:321 | 11-10-2022 |
| 725 KAR 001:030 | 11-10-2022 | 803 KAR 002:325 | 11-10-2022 |
| 725 KAR 001:030 | 11-10-2022 | 803 KAR 002:400 | 11-10-2022 |
| 725 KAR 001:040 | 11-10-2022 | 803 KAR 002:401 | 11-10-2022 |
| 780 KAR 002:010 | 11-10-2022 | 803 KAR 002:402 | 11-10-2022 |
| 780 KAR 003:030 | 11-10-2022 | 803 KAR 002:403 | 11-10-2022 |
| 780 KAR 003:035 | 11-10-2022 | 803 KAR 002:404 | 11-10-2022 |
| 780 KAR 003:100 | 11-10-2022 | 803 KAR 002:405 | 11-10-2022 |
| 780 KAR 003:120 | 11-10-2022 | 803 KAR 002:406 | 11-10-2022 |
| 780 KAR 003:130 | 11-10-2022 | 803 KAR 002:407 | 11-10-2022 |
| 780 KAR 006:010 | 11-10-2022 | 803 KAR 002:410 | 11-10-2022 |
| 780 KAR 006:020 | 11-10-2022 | 803 KAR 002:411 | 11-10-2022 |
| 780 KAR 006:030 | 11-10-2022 | 803 KAR 002:412 | 11-10-2022 |
| 781 KAR 001:010 | 11-10-2022 | 803 KAR 002:418 | 11-10-2022 |
| 782 KAR 001:010 | 11-10-2022 | 803 KAR 002:420 | 11-10-2022 |
| 787 KAR 001:030 | 11-10-2022 | 803 KAR 002:421 | 11-10-2022 |
| 787 KAR 001:040 | 11-10-2022 | 803 KAR 002:422 | 11-10-2022 |
| 787 KAR 001:070 | 11-10-2022 | 803 KAR 002:424 | 11-10-2022 |
| 787 KAR 001:090 | 11-10-2022 | 803 KAR 002:425 | 11-10-2022 |
| 787 KAR 001:110 | 11-10-2022 | 803 KAR 002:440 | 11-10-2022 |
| 787 KAR 001:140 | 11-10-2022 | 803 KAR 002:445 | 11-10-2022 |
| 787 KAR 001:160 | 11-10-2022 | 803 KAR 002:500 | 11-10-2022 |
| 787 KAR 001:170 | 11-10-2022 | 803 KAR 002:600 | 11-10-2022 |
| 787 KAR 001:180 | 11-10-2022 | 803 KAR 003:060 | 3-2-2023 |
| 787 KAR 001:210 | 11-10-2022 | 803 KAR 025:012 | 10-31-2022 |
| 787 KAR 001:220 | 11-10-2022 | 803 KAR 025:030 | 10-31-2022 |
| 787 KAR 001:230 | 11-10-2022 | 803 KAR 025:040 | 10-31-2022 |
| 787 KAR 001:240 | 11-10-2022 | 803 KAR 025:070 | 10-31-2022 |
| 787 KAR 001:250 | 11-10-2022 | 803 KAR 025:075 | 10-31-2022 |
| 787 KAR 001:290 | 11-10-2022 | 803 KAR 025:092 | 10-31-2022 |
| 787 KAR 001:310 | 11-10-2022 | 803 KAR 025:101 | 10-31-2022 |
| 787 KAR 001:360 | 12-06-2022 | 803 KAR 025:110 | 10-31-2022 |
| 787 KAR 002:010 | 11-10-2022 | 803 KAR 025:120 | 10-31-2022 |
| 787 KAR 002:030 | 11-10-2022 | 803 KAR 025:125 | 10-31-2022 |
| 787 KAR 002:040 | 11-10-2022 | 803 KAR 025:130 | 10-31-2022 |
| 787 KAR 003:010 | 11-10-2022 | 803 KAR 025:150 | 10-31-2022 |
| 787 KAR 003:020 | 11-10-2022 | 803 KAR 025:160 | 10-31-2022 |
| 803 KAR 001:035 | 11-10-2022 | 803 KAR 025:165 | 10-31-2022 |
| 803 KAR 001:061 | 11-10-2022 | 803 KAR 025:170 | 10-31-2022 |
| 803 KAR 001:091 | 11-10-2022 | 803 KAR 025:200 | 10-31-2022 |
| 803 KAR 002:010 | 11-10-2022 | 803 KAR 025:210 | 10-31-2022 |
| 803 KAR 002:019 | 11-10-2022 | 803 KAR 025:280 | 10-31-2022 |
| 803 KAR 002:060 | 11-10-2022 | 803 KAR 050:010 | 3-28-2023 |
| 803 KAR 002:170 | 11-10-2022 | 902 KAR 045:065 | 11-28-2022 |

TECHNICAL AMENDMENT INDEX

| | |
|-----------------|------------|
| 907 KAR 001:450 | 11-28-2022 |
| 921 KAR 002:046 | 3-22-2023 |
| 921 KAR 002:055 | 3-22-2023 |
| 922 KAR 001:315 | 3-22-2023 |
| 922 KAR 001:380 | 4-13-2023 |

SUBJECT INDEX

AGING AND INDEPENDENT LIVING

Aging Services

Personal care attendant program and assistance services; 910 KAR 001:090

AGRICULTURE

Agricultural Pest Control

Repeal of 302 KAR 027:010, 302 KAR 027:020, 302 KAR 027:040, 302 KAR 027:050, and 302 KAR 027:060; 302 KAR 027:011

Motor Fuel, Regulation and Inspection

Repeal of 302 KAR 079:010; 302 KAR 079:009

Organic Agricultural Product Certification

Certification of organic production, processing, or handling operations; 302 KAR 040:010

Ornamental Turf Lawn and Interior Plantscape Pest Control

Repeal of 302 KAR 028:010, 302 KAR 028:020, 302 KAR 028:030, 302 KAR 028:040, 302 KAR 028:050, and 302 KAR 028:060; 302 KAR 028:011

Pesticides

Applicator, non-certified; training, supervision; 302 KAR 026:070

Certification and licensing; 302 KAR 026:020

Definitions; 302 KAR 026:010

Notice posting, lawn, turf, ornamental, interior plantscape; 302 KAR 026:080

Penalties; 302 KAR 026:150

Recordkeeping; 302 KAR 026:030

Schools, pest management in; 302 KAR 026:090

Service vehicles; identification of; 302 KAR 026:060

Storage and handling; 302 KAR 026:040

Structural Pest Control Settlement proceedings; 302 KAR 026:100

Trainee registration and supervision; 302 KAR 026:050

Structural Pest Control

Repeal of 302 KAR 029:010, 302 KAR 029:020, 302 KAR 029:040, 302 KAR 029:050, 302 KAR 029:060 and 302 KAR 029:070; 302 KAR 029:011

ALCOHOLIC BEVERAGE CONTROL

Advertising Distilled Spirits and Wine

General advertising practices; 804 KAR 001:102

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

ARCHITECTS

Continuing education; 201 KAR 019:087

Qualifications for examination and licensure; 201 KAR 019:035

AUDITOR OF PUBLIC ACCOUNTS

Audits

Audits of county fee officials; 045 KAR 001:040

Audits of fiscal courts; 045 KAR 001:050

Audits of sheriffs' tax settlements; 045 KAR 001:030

BOARDS AND COMMISSIONS

See also Occupations and Professions

See listing below for other possible, specific subject headings:

Accountancy, State Board of; 201 KAR Chapter 001

Alcohol and Drug Counselors; 201 KAR Chapter 022

Applied Behavior Analysis Licensing; 201 KAR Chapter 043

Architects, 201 KAR Chapter 019

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

Long-Term Care Administrators, 201 KAR Chapter 006

Massage Therapy; 201 KAR Chapter 042

Medical Imaging and Radiation Therapy; 201 KAR Chapter 046

Medical Licensure; 201 KAR Chapter 009

Nursing, 201 KAR Chapter 020

Optometric Examiners, 201 KAR Chapter 005

Pharmacy; 201 KAR Chapter 002

Physical Therapy; 201 KAR Chapter 022

Real Estate Commission; 201 KAR Chapter 011

Registration for Professional Geologists; 201 KAR Chapter 031

Speech-Language Pathology and Audiology; 201 KAR Chapter 017

Social Work; 201 KAR Chapter 023

State Board of Accountancy; 201 KAR Chapter 001

Veterinary Examiners, 201 KAR Chapter 016

CERTIFICATE OF NEED

Nonsubstantive review; 900 KAR 006:075

CHARITABLE GAMING

Administrative actions; 820 KAR 001:130

Charitable gaming licenses and exemptions; 820 KAR 001:005

Definitions; 820 KAR 001:001

Pulltabs; 820 KAR 001:032

Reports; 820 KAR 001:025

CHILDCARE

Daycare

Employee Child Care Assistance Partnership; 922 KAR 002:165

Child Care Assistance Program; 922 KAR 002:160

CHILD SUPPORT

Enforcement program, application and intergovernmental process; 921 KAR 1:380

Establishment, review, and modification of child support and medical support orders; 921 KAR 001:400

CHILD WELFARE

Background checks for private child-caring or child-placing staff members; 922 KAR 001:290

Child protective services; 922 KAR 001:330

Facilities standards; 922 KAR 001:300

Public agency adoptions; 922 KAR 001:100

Requirements for public child welfare agency foster parents, adoptive parents, and respite care providers; 922 KAR 001:350

CHIROPRACTIC EXAMINERS

Board; officers, duties, and compensation; 201 KAR 021:025

Licensing; standards, fees; 201 KAR 021:041

Licensure, registration, and standards of persons performing peer review; 201 KAR 021:095

Peer review committee procedures and fees; 201 KAR 021:075

Standards, applications and approval of continuing education; 201 KAR 021:042

Telehealth chiropractic services; 201 KAR 021:105

COMMUNITY BASED SERVICES

Child Welfare (922 KAR Chapter 001)

Child Support (922 KAR Chapter 001)

Daycare (922 KAR Chapter 002)

K-TAP, Kentucky Works, Welfare to Work, State Supplementation (921 KAR Chapter 002)

Supplemental Nutrition Assistance Program (921 KAR Chapter 003)

COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Fire Commission, 739 KAR Chapter 002

Certification and qualifications of fire and emergency services instructors; 739 KAR 002:060

Volunteer fire department loan fund; 739 KAR 002:070

DAYCARE

SUBJECT INDEX

See *Childcare*

DENTISTRY

Anesthesia and sedation related to dentistry; 201 KAR 008:550
Licensure of dentists; 201 KAR 008:533
Licensure of dental hygienists; 201 KAR 008:563
Mobile dental facilities and portable dental units; 201 KAR 008:601
Registration of dental assistants; 201 KAR 008:571
Registration of dental laboratories; 201 KAR 008:016

DISASTER AND EMERGENCY SERVICES

See *Emergency Services*; 106 KAR Chapter 001

EDUCATION

See also: *Postsecondary Education (KAR Title 013)*

Academic Standards

Required academic standards for social studies; 704 KAR 008:060
Required Kentucky academic standards for science; 704 KAR 008:120

Charter Schools

Charter school appeal process; 701 KAR 008:030
Charter school funding; 701 KAR 008:050
Charter school student application, lottery, and enrollment; 701 KAR 008:010
Conversion charter school petition, conversion, and operation; 701 KAR 008:040

Evaluation of charter school authorizers; 701 KAR 008:020

Exceptional and Handicapped Programs

Definitions; 707 KAR 001:002

General Administration

Student records; hearing procedures; 702 KAR 001:140

Instruction

High school, minimum requirements for graduation; 704 KAR 003:305

Office of Instruction

Required academic standards; 704 KAR 003:303

Office of Learning Programs Development

Full-time enrolled online, virtual, and remote learning programs; 704 KAR 003:335

Office of Special Instructional Services

Work-based learning program standards; 705 KAR 004:041

School Terms, Attendance and Operation

Pupil attendance; 702 KAR 007:125

EDUCATION PROFESSIONAL STANDARDS BOARD

Adult Education and Literacy

GED ® eligibility requirements; 013 KAR 003:050

Alternative Routes to Certification

Alternative route to certification institute; 016 KAR 009:100
Expedited route to certification; 016 KAR 009:110

Certification Procedures

Certificate renewals and teaching experience; 016 KAR 004:060

Education Assessment and Accountability

703 KAR 005:270; Kentucky's Accountability System.

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

Board of Emergency Medical Services

Advanced emergency medical technician; 202 KAR 007:330
Emergency medical technician; 202 KAR 007:301
Emergency medical responders; 202 KAR 007:201
Ground agencies; 202 KAR 007:555
Ground vehicle staff; 202 KAR 007:560
License classifications; 202 KAR 007:545
Paramedics; 202 KAR 007:401

Scope of practice matters; 202 KAR 007:701

Training, education, and continuing education; 202 KAR 007:601

EMERGENCY SERVICES

Fund allocation; rescue aid; 106 KAR 001:341

Funding; 106 KAR 001:141

Local

Director appointment process; 106 KAR 001:241

Exercise; 106 KAR 001:221

Ordinance requirement; 106 KAR 001:231

Plan; 106 KAR 001:201

Training; 106 KAR 001:211

Military Assistance Trust Funds

Family Trust Fund; 106 KAR 002:021

National Guard Adoption Benefit Program; 106 KAR 002:031

Project application; 106 KAR 001:181

Reimbursement

Eligibility list, supplementary state fund; 106 KAR 001:261

Project application; 106 KAR 001:191

Rescue aid fund

Allocation; 106 KAR 001:341

Expenditure documentation; 106 KAR 001:371

Specialized rescue squad alternative affiliation agreement process; 106 KAR 001:291

Quarterly report, local agency program; 106 KAR 001:171

Worker's compensation enrollment form; 106 KAR 001:251

ENERGY AND ENVIRONMENT CABINET

Public Service Commission

Rules of procedure; 807 KAR 005:001E

ENVIRONMENTAL PROTECTION

Asbestos

Requirements for asbestos abatement entities; 401 KAR 058:040

General Standards of Performance

List of hazardous air pollutants, petitions process, lesser quantity designations, and source category list; 401 KAR 063:060

EXAMINERS OF PSYCHOLOGY

Continuing education; 201 KAR 026:175E

Renewal and reinstatement; 201 KAR 026:225E

FINANCE AND ADMINISTRATION CABINET

Commonwealth Office of Technology

The Kentucky state plane coordinate system; 200 KAR 041:010

Infrastructure Authority

Guidelines for Kentucky Infrastructure Authority drinking water and wastewater grant program; 200 KAR 017:111

Technology Office

Data breach notification forms; 200 KAR 001:016

FINANCIAL INSTITUTIONS

General Provisions

Licensing and registration; 808 KAR 001:170

Student Education Loan Servicing

Licensing, registration, renewal and fees; 808 KAR 016:010

Recordkeeping requirements; unfair, deceptive, or predatory practices; 808 KAR 016:020

FISH AND WILDLIFE RESOURCES

Fish

Definitions for 301 KAR Chapter 1; 301 KAR 001:001

Taking of fish by traditional fishing methods; 301 KAR 001:201

Game

Black bear seasons and requirements; 301 KAR 002:300

Deer hunting seasons, zones, and requirements; 301 KAR 002:172

Dove, wood duck, teal, and other migratory game bird hunting; 301 KAR 002:225

Elk hunting seasons, permits, zones, and requirements; 301

SUBJECT INDEX

KAR 002:132
Fall wild turkey hunting; 301 KAR 002:144
Feeding of wildlife; 301 KAR 002:015
Hunter education; 301 KAR 002:185
Hunting and trapping seasons and limits for furbearers; 301 KAR 002:251
Means by which migratory game birds may be taken; 301 KAR 002:090
Migratory birds; means by which birds may be take; 301 KAR 002:090
Repeal of 301 KAR 002:224 and 301 KAR 002:226; 301 KAR 002:219
Sandhill crane hunting requirements; 301 KAR 002:228
Taking of fish by nontraditional fishing methods; 301 KAR 001:410
Transportation and holding of live exotic wildlife; 301 KAR 002:082
Transportation and holding of live native wildlife; 301 KAR 002:081
Turkey Spring hunting of wild; 301 KAR 002:142
Wanton waste and disposal of big game and upland game birds; 301 KAR 002:245
Waterfowl hunting requirements on public lands; 301 KAR 002:222
Waterfowl seasons and limits; 301 KAR 002:221
Wildlife; importation, possession, and transportation of; 301 KAR 002:095
Wildlife rehabilitation permit; 301 KAR 002:075
Hunting and Fishing
Commercial nuisance wildlife control; 301 KAR 003:120
Licensing
Definitions for 301 KAR Chapter 5; 301 KAR 005:001
License agent applications and agreements; 301 KAR 005:010
License agent requirements and responsibilities; 301 KAR 005:020
License, tag, and permit fees; 301 KAR 005:022
Water Patrol
Boating safety equipment; 301 KAR 006:020
Definitions for 301 KAR Chapter 6; 301 KAR 006:001
Wildlife
Administration of drugs to wildlife; 301 KAR 004:110

FOOD STAMPS

See Supplemental Nutritional Assistance Program, 921 KAR Chapter 003

HEALTH AND FAMILY SERVICES

Administration
Background checks, Child and adult protection employees subject to; 900 KAR 001:050
Certificate of Need; 900 KAR Chapter 6
Child Support; 921 KAR Chapter 001
Developmental Health, Developmental and Intellectual Disabilities
Licensure of nonhospital-based outpatient alcohol and other drug treatment entities; 908 KAR 001:374
Essential Personal Care Visitor Programs
Essential personal care visitor programs; visitation guidelines; 900 KAR 014:010
Health Benefit Exchange; 900 KAR Chapter 010
Medicaid Services; KAR Title 907
State Health Plan; 900 KAR Chapter 5

HEALTH BENEFIT EXCHANGE

Eligibility and enrollment; 900 KAR 010:120

HERITAGE COUNCIL

Historic rehabilitation tax credit certifications; 300 KAR 006:011

HIGHWAYS

Traffic
Off-highway vehicles, safety, and routes; 603 KAR 005:350
Vegetation management; 603 KAR 005:155

HORSE RACING COMMISSION

Flat and Steeplechase Racing
Horses; 810 KAR 004:010E
Hearings and Appeals
Hearings, reviews, and appeals; 810 KAR 009:010
Incentive and Development Funds
Kentucky Standardbred Development Fund and Kentucky Standardbred Breeders' Incentive Fund; 810 KAR 007:040
Medication Guidelines
Drug, medication, and substance classification schedule; 810 KAR 008:020
Medication; testing procedures; prohibited practices; 810 KAR 008:010

HOUSING, BUILDINGS AND CONSTRUCTION

Building Code
Kentucky Industrialized Building Systems; 815 KAR 007:130
Electrical
Licensing of electrical contractors, master electricians, and electricians; 815 KAR 035:060
Elevator Safety
Elevator licensing; 815 KAR 004:030
Heating, Ventilation, and Air Conditioning Licensing Requirements
Licensing requirements for master HVAC contractors and journeyman HVAC mechanics; 815 KAR 008:010
Kentucky Building Code
Kentucky Building Code; 815 KAR 007:120
Manufactured Homes and Recreational Vehicles
Recreational vehicles; 815 KAR 025:020
Licensing and certifications with manufactured homes and mobile homes; 815 KAR 025:060
Plumbing
Plumbing licenses; 815 KAR 020:030
Standards of Safety
Kentucky standards of safety; 815 KAR 010:060
Standards of Safety; 815 KAR 010:060

INSURANCE

Agents, Consultants, Solicitors and Adjustors
Licensing process; 806 KAR 009:025
Limited lines self-service storage space insurance requirements; 806 KAR 009:380
Portable electronics retailer license; 806 KAR 009:390
Assets and Liabilities
Valuation of life insurance and annuity reserves; 806 KAR 006:072
Authorization of Insurers and General Requirements
Cybersecurity reporting procedures; 806 KAR 003:250
Health Insurance Contracts
Annual report mental health parity nonquantitative treatment limitation compliance; 806 KAR 017:585
Independent External Review Program; 806 KAR 017:290
Registration, utilization review, and internal appeal; 806 KAR 017:280
Repeal of 806 KAR 17:350; 806 KAR 017:531
Insurance Holding Company Systems and Other Insurance Filings
General; 806 KAR 037:010
Motor Vehicle Reparations (No-fault)
Kentucky no-fault rejection form; 806 KAR 039:030
Surplus Lines
Examples of dishonest or unethical practice for broker-dealers and agents; 806 KAR 010:440
Examples of dishonest or unethical practice for investment advisers and investment adviser representatives; 806 KAR 010:450

JUSTICE AND PUBLIC SAFETY CABINET

Department of Corrections
Department of Corrections manuals; 501 KAR 006:080
Eastern Kentucky Correctional Complex policies and procedures; 501 KAR 006:150
Kentucky State Penitentiary policies and procedures; 501 KAR 006:040
Luther Luckett Correctional Complex; 501 KAR 006:050
Western Kentucky Correctional Complex; 501 KAR 006:130

SUBJECT INDEX

Department of Criminal Justice Training
Online basic and in-service training; 503 KAR 003:130
On-site review of school security risk assessments and written approval of local board of education's noncompliance with KRS 158.4414(2); 503 KAR 007:010
Kentucky State Corrections Commission
Administration and application procedure for community corrections grant program; 500 KAR 010:020
Community Corrections Board and grant recipient requirements; 500 KAR 010:030
Definitions for 500 KAR Chapter 010; 500 KAR 010:001
Program review; 500 KAR 010:040
Office of the Secretary
Funds disbursement from the elder and vulnerable victims trust fund; 500 KAR 016:010
Special Law Enforcement Officers
Filing and processing SLEO commissions; 500 KAR 002:020
Special Local Peace Officers
Definitions; 500 KAR 003:010
Filing and processing SLPO commissions; 500 KAR 003:020

JUVENILE JUSTICE

Child Welfare
505 KAR 001:140. Department of Juvenile Justice Policies and Procedures Manual: Detention Services
505 KAR 001:120. Department of Juvenile Justice Policies and Procedures Manual: Health and Safety Services

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

Kentucky Higher Education Assistance Authority
Student aid applications; 011 KAR 004:080
KHEAA Grant Programs
CAP grant award determination procedure; 011 KAR 005:145
CAP grant student eligibility; 011 KAR 005:037
Definitions pertaining to 011 KAR Chapter 005; 011 KAR 005:001

KENTUCKY RETIREMENT SYSTEMS

General Rules
Definitions for 105 KAR Chapter 1. 105 KAR 001:001
Hospital and medical insurance for retired members and Kentucky Retirement Systems Insurance Fund Trust; 105 KAR 001:411
Hybrid cash balance plan; 105 KAR 001:365
Repeal of 105 KAR 001:070; 105 KAR 001:071
Repeal of 105 KAR 001:370; 105 KAR 001:371
Reimbursement of hospital and medical insurance premiums for Medicare eligible retired members reemployed with a participating employer; 105 KAR 001:415
Kentucky Retirement Systems
Quasi-governmental employer reports on independent contractors and leased employees; 105 KAR 001:451

K-TAP, KENTUCKY WORKS, WELFARE TO WORK, STATE SUPPLEMENTATION

Delegation of power for oaths and affirmations; 921 KAR 002:060
Family Assistance Short Term (FAST); 921 KAR 002:500
Kentucky Works Program (KWP) supportive services; 921 KAR 002:017
Procedures for determining initial and continuing eligibility; 921 KAR 002:040
Relocation Assistance Program (RAP); 921 KAR 002:510
Right to apply and reapply; 921 KAR 002:035
Standards of need and amount for the Kentucky Transitional Assistance Program (KTAP); 921 KAR 002:016
Technical requirements for the Kentucky Transitional Assistance Program (KTAP); 921 KAR 002:006
Technical requirements for Kentucky Works Program (KWP); 921 KAR 002:370
Time and manner of payments; 921 KAR 002:050
Work Incentive (WIN); 921 KAR 002:520

LABOR CABINET

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
Overpayment waivers; 787 KAR 001:360
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
Unemployed worker's reporting requirements; 787 KAR 001:090
Voluntary election of coverage; 787 KAR 001:260
Week of unemployment defined; 787 KAR 001:100

LAW ENFORCEMENT COUNCIL

Department of Criminal Justice Training
General Training Provision
Online basic and in-service training Kentucky Law Enforcement Council; 503 KAR 003:130
Peace officer, telecommunicator, and court security officer professional standards; 503 KAR 001:140

LICENSURE FOR LONG-TERM CARE ADMINISTRATORS

Fees; 201 KAR 006:060

LOCAL GOVERNMENT

County Attorney
County Attorney Annual Settlement; 109 KAR 017:010

MEDICAID SERVICES

Kentucky Children's Health Insurance Program
Kentucky Children's Health Insurance Program Medicaid Expansion Title XXI of the Social Security Act; 907 KAR 004:020
Kentucky Children's Health Insurance Program Phase III Title XXI of the Social Security Act; 907 KAR 004:030
Medicaid Eligibility
Income standards for Medicaid other than Modified Adjusted Gross Income (MAGI) standards or for former foster care individuals; 907 KAR 020:020
Modified Adjusted Gross Income (MAGI) Medicaid eligibility standards; 907 KAR 020:100
Presumptive eligibility; 907 KAR 020:050
Medicaid Services
Advanced practice registered nurse (services); 907 KAR 001:104
Ambulatory surgical center; 907 KAR 001:008
Community mental health center behavioral health services
Coverage provisions and requirements regarding rural health clinic services; 907 KAR 001:082
Dental services' coverage provisions and requirements; 907 KAR 001:126
Hearing program coverage provisions and requirements; 907 KAR 001:038.
Payments for price-based nursing facility services; 907 KAR 001:065
Vaccines for children program; 907 KAR 001:680
Vision program coverage provisions and requirements; 907 KAR 001:632
Payments and Services
Outpatient drugs, reimbursement; 907 KAR 023:020
Reimbursement for physicians' services; 907 KAR 003:010
Reimbursement for treatment related to clinical trials; 907 KAR 003:190
Specialized children's services clinics Outpatient Pharmacy Program; 907 KAR 003:160

SUBJECT INDEX

MEDICAL LICENSURE

Continued licensure of athletic trainers; 201 KAR 009:305
Standardized medical order for scope of treatment form; 201 KAR 009:470

MILITARY AFFAIRS

Disaster and Emergency Services, See Emergency Services

NURSING

Applications for licensure; 201 KAR 020:370
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
Faculty for prelicensure registered nurse and practical nurse programs; 201 KAR 020:310
Fees for applications and for services; 201 KAR 020:240
Initial approval for dialysis technician training programs; 201 KAR 020:472
Licensure by examination; 201 KAR 020:070
Licensed certified professional midwives permitted medical tests and formulary; 201 KAR 020:650
Licensed practical nurse infusion therapy scope of practice; 201 KAR 020:490
Licensing requirements for licensed certified professional midwives; 201 KAR 020:620
Nursing Incentive Scholarship Fund; 201 KAR 020:390
Organization and administration standards for prelicensure registered nurse or practical nurse programs of nursing; 201 KAR 020:260
Sexual Assault Nurse Examiner Program standards and credential requirements; 201 KAR 020:411

OFFICE FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS

Appeals; 911 KAR 001:090
Early Hearing Detection and Intervention Program; 911 KAR 001:085
Homecare program for the elderly; 911 KAR 001:180
Medical staff; 911 KAR 001:060

OFFICE OF THE ATTORNEY GENERAL

Department of Law
Cremation forms and inspections; 040 KAR 002:150
Protocol for operation of local multidisciplinary teams on child sex abuse; 040 KAR 003:020
Kentucky Opioid Abatement Advisory Commission
General application procedure; 040 KAR 009:010.
Local government application procedure; 040 KAR 009:020

OFFICE OF INSPECTOR GENERAL

Controlled Substances
Monitoring system for prescription-controlled substances; 902 KAR 055:110
Schedules of controlled substances; 902 KAR 055:015
Essential Personal Care Visitor Program
Essential personal care visitor programs; visitation guidelines; 900 KAR 014:010E
Health Services and Facilities
Assisted living communities; 902 KAR 020:480
Kentucky abortion-including drug certification program and registration of qualified physicians; 902 KAR 020:365
Kentucky heart attack response and treatment recognition process; 902 KAR 020:470
Operation and services; End Stage Renal Disease (ESRD) facilities; 902 KAR 020:018
Rural emergency hospitals; 902 KAR 020:490
Telehealth
Telehealth terminology and requirements; 900 KAR 012:005

OPTOMETRIC EXAMINERS

Advertising; 201 KAR 005:038
Board administration and optometric practice; 201 KAR 005:002
Expungement; 201 KAR 005:105
Telehealth; 201 KAR 005:055
Unprofessional conduct; 201 KAR 005:045

PERSONNEL

Personnel Board
Probationary periods; 101 KAR 001:325
Personnel Cabinet; Classified
Classified compensation administrative regulations; 101 KAR 002:034
Classified service general requirements; 101 KAR 002:095
Repeal of 101 KAR 002:180; 101 KAR 002:181
Personnel Cabinet, Unclassified
2023 plan year handbook for the public employee health insurance program; 101 KAR 002:21
Compensation plan and pay incentives for unclassified service; 101 KAR 003:045

PHARMACY

Board authorized protocols; 201 KAR 002:380
License transfer and non-resident pharmacist license; 201 KAR 002:030
Opioid antagonist dispensing; 201 KAR 002:360
Ordering and administering vaccinations; 201 KAR 002:414E
Out of state pharmacy permits; 201 KAR 002:460
Unprofessional conduct of a pharmacy permit holder; 201 KAR 002:450

PHYSICAL THERAPY

Code of ethical standards and standards of practice for physical therapists and physical therapist assistants; 201 KAR 022:053
Physical Therapy Compact Commission; 201 KAR 022:170

PROFESSIONAL GEOLOGISTS

Applications and examinations; 201 KAR 031:040
Fees; 201 KAR 031:010
Renewals; 201 KAR 031:050
Repeal of 201 KAR 031:030; 201 KAR 031:031

PUBLIC HEALTH

Communicable Diseases
Reportable disease surveillance; 902 KAR 002:020
Local Health Departments
Disciplinary procedures applicable for local health department employees; 902 KAR 008:100
Leave provisions applicable to employees of local health departments; 902 KAR 008:120
Local health department operations requirements; 902 KAR 008:160
Salary adjustments for local health departments; 902 KAR 008:060
Maternal and Child Health
Newborn screening program; 902 KAR 004:030
Programs for the Underserved
Community health worker certification; 902 KAR 021:040
Vital Statistics
Abortion reporting; 901 KAR 005:120
Certificate of abortion; 901 KAR 005:130
Permit to transport fetal remains; 901 KAR 005:140

PUBLIC PROTECTION CABINET

Charitable Gaming; KAR Title 820

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)

SUBJECT INDEX

REVENUE

See also *Selective Excise Tax*

SECRETARY OF STATE

Filings

Lieutenant Governor Designation form; 030 KAR 009:010

SELECTIVE EXCISE TAX

Motor Fuel

Prices and annual survey value; 103 KAR 043:340

SOCIAL WORK

Renewal, expiration, termination, and reinstatement of license;
201 KAR 023:051

Temporary permission to practice; 201 KAR 023:016

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 004:201

Consolidation of precincts and precinct election officers; 031
KAR 004:196

Delivery and return of absentee ballots transmitted to covered
voters via facsimile or electronically; 031 KAR 004:131

Establishment of risk-limiting audit pilot program; 031 KAR
004:210

Exceptions to prohibition on electioneering; 031 KAR 004:170
Recanvas procedures; 031 KAR 004:071

Submission of the federal postcard application via electronic
mail; 031 KAR 004:141

Statewide Voter Registration

Voting precinct and address of overseas voter whose last place
of residence is in the Commonwealth is no longer a
recognized residential address; 031 KAR 003:031

Voting

Ballot standards and election security; 031 KAR 005:026

Use of the federal writ-in absentee ballot; 031 KAR 005:011

Electronic Voting Systems

E-poll book product certification; 031 KAR 002:030

STATE HEALTH PLAN

Facilities and services, 900 KAR 005:020

TEACHER'S RETIREMENT SYSTEM

General Rules

Disability retirement for TRS 4 members with less than five
years of service; 102 KAR 001:361

TOURISM

Process for the distribution of tourism recovery and investment
funds appropriated by the General Assembly in the 2022
Regular Session from the State Fiscal Recovery Fund of the
American Rescue Plan Act of 2021; 300 KAR 001:021

TRANSPORTATION

Highways; See 603 Chapter 005

Motorcycle and Bicycle Safety

Motorcycle Safety Education Program; 601 KAR 014:050

Office for Civil Rights and Small Business Development

Certification of disadvantaged business enterprises; 600 KAR
004:010

VETERANS AFFAIRS

State Veteran's Nursing Home

Changes for room and board, goods, and services at state
veterans' nursing homes; 017 KAR 003:020

VETERINARY EXAMINERS

Authorization for animal control agencies to apply for restricted

controlled substances certificate from DEA; 201 KAR
016:550

Certificate renewal for animal control agencies and animal
euthanasia specialists; renewal notice; 201 KAR 016:572

Certification as an animal euthanasia specialist; 201 KAR
016:560

Duties and responsibilities of an animal euthanasia specialist;
201 KAR 016:562

Procedures for grievances, investigations, and administrative
charges; 201 KAR 016:610

Responsibilities for certified animal control agencies; limitations
on drugs; 201 KAR 016:552

WORKERS' CLAIMS

Labor Standards; Wages and Hours

803 KAR 001:006. Employer-employee relationship.

Workers' Claims

Utilization review, appeal of utilization review decisions and
medical bill audit; 803 KAR 025:195

Workers' Compensation medical fee schedule for physicians;
803 KAR 025:089

Workers' Compensation Funding Commission

Special fund assessments; 803 KAR 030:010

WORKFORCE INVESTMENT

Office of Employment and Training

Local workforce development area governance; 787 KAR
002:040

WORKPLACE STANDARDS

Labor Standards; Wages and Hours

Board, lodging, gratuities and other allowances; 803 KAR
001:081

Workers' Compensation Funding Commission

Special fund assessments; 803 KAR 030:010

SUBJECT INDEX