



# ADMINISTRATIVE REGISTER OF KENTUCKY

The submission deadline for this edition of the *Administrative Register of Kentucky* was noon, September 15, 2024

### MEETING NOTICES

The **Administrative Regulation Review Subcommittee** is tentatively scheduled to meet on October 15, 2024, at 1:00 p.m. in room 149 Capitol Annex.

ARRS Tentative Agenda – 615 [Online agenda updated as needed](#)

### INDEXES & OTHER INFORMATION

Regulation Review Procedure .....	619	KRS Index .....	D - 9
ARRS Report.....	836	Certifications .....	D - 15
Other Committee Reports .....	840	Technical Amendments .....	D - 16
Locator Index - Effective Dates.....	D - 2	Subject Index.....	D - 17

#### EMERGENCIES

##### Personnel

- 101 KAR 002:210E. 2024 and 2025 Plan Year Handbooks for the Public Employee Health Insurance Program ..... 620

##### Board of Emergency Medical Services

- 202 KAR 007:201E. Emergency medical responders ..... 622
- 202 KAR 007:301E. Emergency medical technician..... 626
- 202 KAR 007:330E. Advanced emergency medical technician ..... 630
- 202 KAR 007:401E. Paramedics..... 634
- 202 KAR 007:560E. Ground vehicle staff ..... 640

#### AMENDED IN-PROCESS EMERGENCIES

##### Education Professional Standards Board

- 016 KAR 009:010E. Provisional and professional certificate for exceptional work experience ..... 645

##### State Board of Elections

- 031 KAR 004:031E. Reporting ..... 645

##### Public Service Commission

- 807 KAR 005:015E. Access and attachments to utility poles and facilities ..... 646

#### AS AMENDED

##### Education Professional Standards Board

- 016 KAR 009:030. Professional and provisional certificate for college faculty ..... 654

##### Department of Veterans' Affairs

- 017 KAR 004:030. Veterans' Service Organization Burial Honor Guard Program ..... 654
- 017 KAR 006:020. Kentucky Women Veterans Program and coordinating committee ..... 655
- 017 KAR 006:030. Kentucky Wounded or Disabled Veterans Program..... 657

##### State Board of Elections

- 031 KAR 004:031. Reporting..... 657

##### Finance and Administration Cabinet

- 200 KAR 005:021. Manual of policies and procedures .... 658

##### Board of Pharmacy

- 201 KAR 002:470. Change of ownership..... 659

##### Boxing and Wrestling Authority

- 201 KAR 027:006. Powers and duties of inspector ..... 659
- 201 KAR 027:023. Drug testing for unarmed combat shows..... 660
- 201 KAR 027:041. Managers..... 661
- 201 KAR 027:106. Violations, penalties, and appeals ..... 661

##### Department of Vehicle Regulation

- 601 KAR 009:220. Motor vehicle dealer plates ..... 662
- 601 KAR 023:040. Application form to become Kentucky electronic license title entity; and application form for electronic motor vehicle title application submission ..... 663

##### Department of Education

- 702 KAR 003:320. Finance officer certification requirements ..... 664

##### Department of Financial Institutions

- 808 KAR 010:260. Examination requirement for individuals advising the public on securities, broker-dealers, and agents ..... 667

##### Department for Public Health

- 902 KAR 004:030. Newborn screening program ..... 668

#### AMENDED AFTER COMMENTS

##### Department of Corrections

- 501 KAR 006:300. News media ..... 672
- 501 KAR 006:430. Corrections policies and procedures: communication, mail, and visiting ..... 674
- 501 KAR 006:460. Corrections policies and procedures: inmate work programs ..... 675
- 501 KAR 006:470. Corrections policies and procedures: inmate education and training..... 677
- 501 KAR 006:530. Corrections policies and procedures: programs and sentence credits..... 678

##### Department for Public Health

- 902 KAR 045:001. Definitions for hemp-derived cannabinoid products ..... 680
- 902 KAR 045:012. Hemp-derived cannabinoid product retail and food service establishment requirements ..... 682

902 KAR 045:021. Hemp-derived cannabinoid products registration, processing, manufacturing, storage and distribution requirements.....	685
902 KAR 045:031. Hemp-derived cannabinoid product sampling and testing requirements.....	690

**Office of the Secretary**

915 KAR 001:010. Initial and renewal applications for cannabis business licenses.....	696
915 KAR 001:020. Cannabis business licenses.....	700

**PROPOSED AMENDMENTS**

**Personnel**

101 KAR 002:210. 2025 Plan Year Handbook for the Public Employee Health Insurance Program.....	709
--	-----

**Board of Optometric Examiners**

201 KAR 005:005. Fines and fees.....	711
201 KAR 005:010. Application for licensure; endorsement.....	712
201 KAR 005:090. Annual renewal fee.....	714

**Board of Embalmers and Funeral Directors**

201 KAR 015:030. Fees.....	715
201 KAR 015:050. Apprenticeship and supervision requirements.....	717
201 KAR 015:110. Funeral establishment criteria.....	721
201 KAR 015:120. Requirements for applicants holding a license in another state.....	725
201 KAR 015:125. Surface transportation permit.....	727

**Board of Veterinary Examiners**

201 KAR 016:520. Approved veterinary medical programs for veterinarians; approved veterinary technology programs for veterinary technicians.....	729
201 KAR 016:530. Examination requirements for veterinarians and veterinary technicians.....	731
201 KAR 016:562. Duties and responsibilities of an animal euthanasia specialist.....	734
201 KAR 016:590. Continuing education requirements, veterinarians and veterinary technicians.....	736

**Board of Medical Imaging and Radiation Therapy**

201 KAR 046:035. Practice standards, scopes of practice, and ethical standards.....	739
201 KAR 046:040. Medical imaging technologist, advanced imaging professional, radiographer, nuclear medicine technologist, and radiation therapist licenses.....	741
201 KAR 046:060. Continuing education requirements ...	744
201 KAR 046:100. Medical Imaging and Radiation Therapy Scholarship and Continuing Education Fund.....	746

**Independent Administrative Bodies**

202 KAR 007:201. Emergency medical responders.....	748
202 KAR 007:301. Emergency medical technician.....	752
202 KAR 007:330. Advanced emergency medical technician.....	756
202 KAR 007:401. Paramedics.....	760
202 KAR 007:545. License classifications.....	765
202 KAR 007:560. Ground vehicle staff.....	768

**Tourism, Arts and Heritage Cabinet - Department of Fish and Wildlife Resources**

301 KAR 003:005. Public use of newly acquired or newly managed lands.....	772
---	-----

**Department for Environmental Protection**

401 KAR 047:110. Registered permit-by-rule.....	773
401 KAR 048:320. Operating requirements for less than one (1) acre or expanded less than two (2) acre construction or demolition debris landfills.....	777

**Justice and Public Safety Cabinet**

500 KAR 001:010. Definitions for 500 KAR Chapter 1.....	781
500 KAR 001:030. Request for hearing.....	783

**Transportation Cabinet**

603 KAR 005:050. Uniform traffic control devices.....	785
603 KAR 005:066. Weight (mass) limits for trucks.....	787
603 KAR 005:350. Off-highway vehicles, safety, and routes.....	789

**Department for Employment Services**

787 KAR 001:360. Overpayment waivers.....	791
---	-----

**Department of Financial Institutions**

808 KAR 009:010. Deferred deposit database compliance.....	793
--	-----

**Department for Public Health**

902 KAR 002:020. Reportable disease surveillance.....	795
902 KAR 002:040. Syndromic surveillance.....	804
902 KAR 028:010. Definitions for 902 KAR Chapter 28.....	806
902 KAR 028:020. Kentucky trauma system designation process.....	809
902 KAR 028:030. Kentucky's trauma system level IV criteria.....	812
902 KAR 028:040. Kentucky's Trauma Registry and Data Bank System.....	816

**NEW ADMINISTRATIVE REGULATIONS**

**State Board of Elections**

031 KAR 004:230. Post-election audit procedures.....	818
--	-----

**Teachers' Retirement System**

102 KAR 001:380. Qualified domestic relations orders for TRS 4 members.....	820
---	-----

**Board of Veterinary Examiners**

201 KAR 016:612. Notice to Comply (NOC) and Notice of Violation (NOV).....	824
201 KAR 016:614. Fines.....	826

**Board of Emergency Medical Services**

202 KAR 007:596. Mobile integrated healthcare licensure.....	828
--	-----

**Justice and Public Safety Cabinet**

500 KAR 001:021. Filing and processing of death benefit claims.....	831
---	-----

The **ADMINISTRATIVE REGISTER OF KENTUCKY** is the monthly supplement for the 2018 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: 51<sup>st</sup> Year of the Kentucky Register, page 318 (short form: 51 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)

© 2024 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 Jason Nemes  
Majority Whip

Senator David Yates  
Minority Whip

Representative Rachel Roberts  
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 Keturah Herron

Staff

Sarah Amburgey  
Stacy Auterson  
Laura Begin  
Emily Caudill  
Ange Darnell  
Emily Harkenrider  
Karen Howard  
Anna Latek  
Carrie Nichols



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, October 15, 2024 at 1:00 p.m.**  
**Annex Room 149**



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

**COUNCIL ON POSTSECONDARY EDUCATION**

**Public Educational Institutions**

013 KAR 002:120. Comprehensive funding model for the allocation of state general fund appropriations to public universities. (Filed with Emergency) (Deferred from August)

013 KAR 002:130. Comprehensive funding model for the allocation of state general fund appropriations to the Kentucky Community and Technical College System institutions. (Filed with Emergency) (Deferred from August)

**EDUCATION AND LABOR CABINET**

**Education Professional Standards Board**

**General Administration**

016 KAR 001:030. Procedures for educator certificate surrender, revocation, suspension, reinstatement, and reissuance, and for application denial. (Filed with Emergency)

**Teaching Certificates**

016 KAR 002:030. Substitute teachers. (Filed with Emergency)

**Alternative Routes to Certification**

016 KAR 009:010. Provisional and professional certificate for exceptional work experience. (Filed with Emergency)

016 KAR 009:080. University-based alternative certification program. (Filed with Emergency)

016 KAR 009:100. Alternative Route to Certification Institute. (Filed with Emergency)

**FINANCE AND ADMINISTRATION CABINET**

**Teachers' Retirement System**

**General Rules**

102 KAR 001:138. Crediting of interest for TRS 4 members.

102 KAR 001:350. Full actuarial cost purchase.

102 KAR 001:370. Annuitization and disbursement from supplemental benefit.

**Kentucky Public Pensions Authority**

**General Rules**

105 KAR 001:140. Employer's administrative duties.

105 KAR 001:142. Limitations and exclusions on creditable compensation in the last five fiscal years of service.

105 KAR 001:451. Quasi-governmental employer reports on independent contractors and leased employees.

**BOARDS AND COMMISSIONS**

**Board of Licensure for Professional Engineers and Land Surveyors**

201 KAR 018:010. Classes of applicants.

201 KAR 018:030. In training certificates.

201 KAR 018:192. Continuing professional development for professional land surveyors.

201 KAR 018:196. Continuing professional development for professional engineers.

**Board of Nursing**

201 KAR 020:056. Advanced practice registered nurse licensure and certification requirements.

201 KAR 020:215. Continuing competency requirements.

201 KAR 020:230. Renewal of licenses.

201 KAR 020:390. Nursing Incentive Scholarship Fund.

**Board of Interpreters for the Deaf and Hard of Hearing**

201 KAR 039:001. Definitions for 201 KAR Chapter 039. (Deferred from September)

201 KAR 039:060. Reinstatement of full license subject to disciplinary action. (Deferred from September)

201 KAR 039:100. Complaint procedure. (Deferred from September)

**KENTUCKY HOUSING CORPORATION**

202 KAR 002:020E. Rural Housing Trust Fund. (Filed with Ordinary) ("E" expires 05-03-2025)

## VOLUME 51, NUMBER 4 – October 1, 2024

### ENERGY AND ENVIRONMENT CABINET

#### Department for Environmental Protection Air Quality - General Administrative Procedures

401 KAR 050:038. Air emissions fee. (Not Amended After Comments) (Deferred from September)

### JUSTICE AND PUBLIC SAFETY CABINET

#### Department of Corrections

##### Office of the Secretary

501 KAR 006:021. Repeal of 501 KAR 006:020. (Deferred from August)  
501 KAR 006:280. Risk and needs assessment. (Deferred from August)  
501 KAR 006:300. News media. (Amended After Comments)  
501 KAR 006:310. Monitoring and operation of private prisons. (Deferred from August)  
501 KAR 006:320. Corrections policies and procedures: inmate funds. (Deferred from August)  
501 KAR 006:340. Corrections policies and procedures: research and information. (Not Amended After Comments)  
501 KAR 006:350. Inmate or offender or supervision record request. (Deferred from August)  
501 KAR 006:360. Corrections policies and procedures: safety and critical incident notification. (Deferred from August)  
501 KAR 006:370. Corrections policies and procedures: security and control. (Deferred from August)  
501 KAR 006:380. Corrections policies and procedures: special management and restrictive housing inmates, safekeepers, and contract prisoners. (Not Amended After Comments)  
501 KAR 006:390. Corrections policies and procedures: inmate diet. (Deferred from August)  
501 KAR 006:400. Corrections policies and procedures: inmate health care. (Not Amended After Comments)  
501 KAR 006:410. Corrections policies and procedures: inmate life and issues. (Not Amended After Comments)  
501 KAR 006:420. Corrections policies and procedures: inmate rules and discipline. (Deferred from August)  
501 KAR 006:430. Corrections policies and procedures: communication, mail, and visiting. (Filed with Emergency) (Amended After Comments)  
501 KAR 006:440. Corrections policies and procedures: inmate reception, orientation, and personal property. (Deferred from August)  
501 KAR 006:450. Corrections policies and procedures: classification. (Deferred from August)  
501 KAR 006:460. Corrections policies and procedures: inmate work programs. (Amended After Comments)  
501 KAR 006:470. Corrections policies and procedures: inmate education and training. (Amended After Comments)  
501 KAR 006:480. Library services. (Deferred from August)  
501 KAR 006:490. Corrections policies and procedures: inmate recreation and activities. (Deferred from August)  
501 KAR 006:500. Religious programs. (Deferred from August)  
501 KAR 006:510. Corrections policies and procedures: release preparation and temporary release. (Deferred from August)  
501 KAR 006:520. Citizen involvement, volunteer, and reentry mentor service programs. (Deferred from August)  
501 KAR 006:530. Corrections policies and procedures: programs and sentence credits. (Amended After Comments)  
501 KAR 006:540. Inmate record. (Deferred from August)

### KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

#### Board of Regents

739 KAR 001:060. Management of capital construction projects.  
739 KAR 001:070. Contracting for capital construction projects.

### PUBLIC PROTECTION CABINET

#### Department of Insurance

##### Health Insurance Contracts

806 KAR 017:570. Minimum standards for Medicare supplement insurance policies and certificates. (Not Amended After Comments)

### ENERGY AND ENVIRONMENT CABINET

#### Public Service Commission

##### Utilities

807 KAR 005:015E. Access and attachments to utility poles and facilities. (Emergency Only) ("E" expires 02-25-2025) (Emergency Amended After Comments) (Deferred from September)

### PUBLIC PROTECTION CABINET

#### Department of Financial Institutions

##### Credit Unions

808 KAR 003:050. Conduct of credit unions.

##### General

808 KAR 015:050. Out-of-State trust companies operating in Kentucky.

### CABINET FOR HEALTH AND FAMILY SERVICES

#### Department for Public Health

##### Sanitation

902 KAR 010:120. Kentucky public swimming and bathing facility operations.  
902 KAR 010:122. Repeal of 902 KAR 010:121 and 902 KAR 010:190.  
902 KAR 010:123. Kentucky public swimming and bathing facilities construction requirements.  
902 KAR 010:125. Kentucky public swimming and bathing facility safety requirements.  
902 KAR 010:127. Kentucky public beach requirements.

##### Kentucky Early Intervention System

902 KAR 030:200. Coverage and payment for services.

## VOLUME 51, NUMBER 4 – October 1, 2024

### Department for Public Health

#### Food and Cosmetics

- 902 KAR 045:001E. Definitions for hemp-derived cannabinoid products. (Filed with Ordinary) (“E” expires 02-17-2025) (Emergency Not Amended After Comments) (Deferred from August)
- 902 KAR 045:001. Definitions for hemp-derived cannabinoid products. (Filed with Emergency) (Amended After Comments)
- 902 KAR 045:012E. Hemp-derived cannabinoid product retail and food service establishment requirements. (Filed with Ordinary) (“E” expires 02-17-2025) (Emergency Not Amended After Comments) (Deferred from August)
- 902 KAR 045:012. Hemp-derived cannabinoid product retail and food service establishment requirements. (Filed with Emergency) (Amended After Comments)
- 902 KAR 045:021E. Hemp-derived cannabinoid products registration, processing, manufacturing, storage and distribution requirements. (Filed with Ordinary) (“E” expires 02-17-2025) (Emergency Not Amended After Comments) (Deferred from August)
- 902 KAR 045:021. Hemp-derived cannabinoid products registration, processing, manufacturing, storage and distribution requirements. (Filed with Emergency) (Amended After Comments)
- 902 KAR 045:031E. Hemp-derived cannabinoid product sampling and testing requirements. (Filed with Ordinary) (“E” expires 02-17-2025) (Emergency Not Amended After Comments) (Deferred from August)
- 902 KAR 045:031. Hemp-derived cannabinoid product sampling and tasting requirements. (Filed with Emergency) (Amended After Comments)

### Department for Medicaid Services

#### Medicaid Services

- 907 KAR 001:044. Coverage provisions and requirements regarding community mental health center behavioral health services. (Amended After Comments) (Deferred from March)

#### Behavioral Health

- 907 KAR 015:005. Definitions for 907 KAR Chapter 015. (Amended After Comments) (Deferred from March)

### Office of the Secretary

#### General

- 915 KAR 001:010. Initial and renewal application for cannabis business licenses. (Filed with Emergency) (Amended After Comments)
- 915 KAR 001:020. Cannabis business licenses. (Filed with Emergency) (Amended After Comments)

### Community for Community Based Services

#### Child Welfare

- 922 KAR 001:350. Requirements for public child welfare agency foster parents, adoptive parents, and respite care providers. (Filed with Emergency)
- 922 KAR 001:490. Background checks for foster and adoptive parents and relative and fictive kin caregivers.

#### Daycare

- 922 KAR 002:090. Child-care center licensure. (Filed with Emergency) (Deferred from September)
- 922 KAR 002:160. Child Care Assistance Program.

## 3. REGULATIONS REMOVED FROM OCTOBER’S AGENDA

### EDUCATION AND LABOR CABINET

#### Education Professional Standards Board

##### Teaching Certificates

- 016 KAR 002:160. Probationary certificate for teachers of exceptional children. (Deferred from May) (Withdrawn by Agency, 9-23-2024)

### BOARDS AND COMMISSIONS

#### Board of Pharmacy

- 201 KAR 002:030. License transfer and Non-Resident Pharmacist License. (Not Amended After Comments) (Deferred from September)
- 201 KAR 002:050. License and permits; fees. (Not Amended After Comments) (Deferred from September)
- 201 KAR 002:210. Patient records, drug regimen review, patient counseling, and final product verification. (Comments Received; SOC ext., due 10-15-2024)
- 201 KAR 002:370. Pharmacy services in a long-term care facility (LTCF). (Comments Received; SOC ext., due 10-15-2024)
- 201 KAR 002:465. Non-Resident Pharmacy Applications and Waivers. (Amended After Comments) (Deferred from September)
- 201 KAR 002:480. Telework and electronic supervision for remote prescription processing. (Comments Received; SOC ext., due 10-15-2024)

#### Board of Interpreters for the Deaf and Hard of Hearing

- 201 KAR 039:030. Application; qualifications for full licensure; and certification levels. (Comments Received; SOC ext., due 10-15-2024)
- 201 KAR 039:040. Fees. (Comments Received; SOC ext., due 10-15-2024)
- 201 KAR 039:050. Renewal and reinstatement of full licenses. (Comments Received; SOC ext., due 10-15-2024)
- 201 KAR 039:070. Application and qualifications for temporary licensure and extensions. (Comments Received; SOC ext., due 10-15-2024)
- 201 KAR 039:075. Supervision. (Comments Received; SOC ext., due 10-15-2024)
- 201 KAR 039:090. Continuing education unit requirements. (Comments Received; SOC ext., due 10-15-2024)
- 201 KAR 039:120. Code of ethics. (Comments Received; SOC ext., due 10-15-2024)
- 201 KAR 039:130. Registration for nonresident interpreters. (Comments Received; SOC ext., due 10-15-2024)

**VOLUME 51, NUMBER 4 – October 1, 2024**

**JUSTICE AND PUBLIC SAFETY CABINET**

**Parole Board**

501 KAR 001:080. Parole board policies and procedures. (Comments Received; SOC ext., due 10-15-2024)

**Department of Corrections**

**Office of the Secretary**

501 KAR 006:330. Corrections policies and procedures: personnel. (Filed with Emergency) (Withdrawn 9-13-2024, SOC not filed by deadline)

**CABINET FOR HEALTH AND FAMILY SERVICES**

**Community for Community Based Services**

**Child Welfare**

922 KAR 001:050. State funded adoption assistance. (Comments Received; SOC ext., due 10-15-2024)

922 KAR 001:060. Federal Title IV-E adoption assistance. (Comments Received; SOC ext., due 10-15-2024)

**Daycare**

922 KAR 002:120. Child-care center health safety standards. (Comments Received; SOC ext., due 10-15-2024)

---

*\*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**

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

STATEMENT OF EMERGENCY  
101 KAR 2:210E.

This emergency administrative regulation incorporates by reference the 2025 plan year handbook for the self-insured plan offered through the Public Employee Health Insurance Program, commonly known as the Kentucky Employees' Health Plan. KRS 18A.2254(1) requires the Personnel Cabinet to promulgate an administrative regulation that incorporates the plan year handbook by reference and to file the administrative regulation by September 15 of each year. This emergency administrative regulation is necessary to meet the filing deadline established by state law at KRS 18A.2254(1)(a)3. KRS 18A.2254(1)(a) requires the secretary of the Personnel Cabinet to annually promulgate an administrative regulation to incorporate by reference the plan year handbook. The handbook must contain, at a minimum, the premiums, employee contributions, employer contributions, and a summary of benefits, co-pays, coinsurance, and deductibles for each plan provided to public employees covered under the self-insured plan. The 2025 plan year handbook, or Benefits Selection Guide, contains the required and necessary information for public employees to make health insurance coverage decisions during open enrollment in October 2024. This administrative regulation incorporates by reference the 2025 Benefits Selection Guide that will be distributed by the Personnel Cabinet's Department of Employee Insurance to public employees covered under the self-insured plan. An ordinary administrative regulation is not sufficient due to the statutory filing deadlines and handbook distribution requirements. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is not identical to this emergency administrative regulation. This emergency administrative regulation will be in effect for part of the current 2024 plan year. The existing language in the Benefits Selection Guide for the 2024 plan year should remain until such time as the ordinary administrative regulation incorporating the Benefits Selection Guide for plan year 2025 replaces this emergency administrative regulation.

ANDY BESHEAR, Governor  
MARY ELIZABETH BAILEY, Secretary

PERSONNEL CABINET  
Office of the Secretary  
(Emergency Amendment)

101 KAR 2:210E. 2024 and 2025 Plan Year  
Handbooks[Handbook] for the Public Employee Health  
Insurance Program.

EFFECTIVE: September 13, 2024

RELATES TO: KRS 18A.030, 18A.225, 18A.2254

STATUTORY AUTHORITY: KRS 18A.030(2)(b),  
18A.2254(1)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.2254(1)(a)1 requires the secretary of the Personnel Cabinet to promulgate an administrative regulation to incorporate by reference the plan year handbook distributed by the Department of Employee Insurance to public employees covered under the self-insured plan and establishes the minimum requirements for the information included in the handbook. This administrative regulation incorporates by reference the plan year Benefits Selection Guide, which is the handbook distributed by the department to public employees for the 2024 and 2025 Plan Years[Year] as required by KRS 18A.2254(1)(a)1.

Section 1. The Department of Employee Insurance shall distribute or make available to the public employees covered under the self-insured plan the 2024 Plan Year Kentucky Employees' Health Plan Benefits Selection Guide, which shall include the premiums, employee contributions, employer contributions, and a summary of benefits, copays, coinsurance, and deductibles for each plan provided to the public employees covered under the self-insured plan.

Section 2.

(1) The Department of Employee Insurance shall distribute or make available to the public employees covered under the self-insured plan the 2025 Plan Year Kentucky Employees' Health Plan Benefits Selection Guide, which shall include the premiums, employee contributions, employer contributions, and a summary of benefits, copays, coinsurance, and deductibles for each plan provided to the public employees covered under the self-insured plan.

(2) The 2025 Plan Year Kentucky Employees' Health Plan Benefits Selection Guide shall govern the health plan benefits for public employees covered under the self-insured plan beginning January 1, 2025.

Section 3. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "2024 Plan Year Kentucky Employees' Health Plan Benefits Selection Guide", 2024 edition; and

(b) "2025 Plan Year Kentucky Employees' Health Plan Benefits Selection Guide", 2025 edition[-is incorporated by reference].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Personnel Cabinet, 501 High Street, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. The material incorporated by reference is also available on the Personnel Cabinet's Web site on the Kentucky Employees' Health Plan page under KEHP Documents at <https://personnel.ky.gov/Pages/Kentucky-Employees'-Health-Plan.aspx>.

MARY ELIZABETH BAILEY, Secretary

APPROVED BY AGENCY: September 11, 2024

FILED WITH LRC: September 13, 2024 at 8:25 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 21, 2024, at 10:00 a.m. at 501 High Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until 11:59 p.m. on October 31, 2024. 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: Will Adams, Staff Attorney, Office of Legal Services, Personnel Cabinet, 501 High Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 782-4370, fax (502) 564-5278, email Will.Adams@ky.gov.

## VOLUME 51, NUMBER 4– October 1, 2024

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Will Adams

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation incorporates by reference the 2025 plan year handbook containing information about the self-insured health insurance plans offered through the Public Employee Health Insurance Program. The handbook, commonly referred to as the Benefits Selection Guide, is distributed to plan holders participating in the self-insured program. The Benefits Selection Guide contains the premiums, employee contributions, employer contributions, and a summary of benefits, co-pays, coinsurance, and deductibles for each plan available to public employees through the self-insured program in 2025.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with the statutory mandate of KRS 18A.2254. More specifically, KRS 18A.2254(1)(a) requires the Personnel Cabinet to promulgate an administrative regulation that incorporates by reference the 2025 plan year handbook that will be distributed to the public employees covered by the Public Employee Health Insurance Program. The handbook must be filed with the Legislative Research Commission on or before September 15 each year.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation complies with KRS 18A.2254(1), the statute that establishes the self-insured plan and mandates the promulgation of the administrative regulation.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation aids in the effectuation of the statute, KRS 18A.2254, by incorporating by reference the 2025 plan year handbook for the Public Employee Health Insurance Program in an administrative regulation. Further, this administrative regulation is the method by which the Personnel Cabinet will comply with KRS 18A.2254.

(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 an amendment. The existing administrative regulation incorporates by reference the 2024 plan year handbook, which constitutes a compilation of the premium rates and contributions, benefit options, eligibility rules, and enrollment information for participants of the Public Employee Health Insurance Program for plan year 2024. The amendment adds and incorporates by reference the 2025 plan year handbook, which contains the premiums, employee contributions, employer contributions, and a summary of benefits, co-pays, coinsurance, and deductibles for each plan available to public employees for plan year 2025.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to give notice regarding the premiums, employee contributions, employer contributions, benefits, co-pays, coinsurance, and deductibles for each plan available to public employees under the Public Employee Health Insurance Program for plan year 2025. This amendment is also necessary to comply with the statutory mandate in KRS 18A.2254 to annually update the regulation incorporating the plan year handbook.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of KRS 18A.2254, the statute authorizing the self-insured plan under the Public Employee Health Insurance Program. KRS 18A.2254 mandates that the plan year handbook be incorporated by reference in an administrative regulation on or before September 15 each year. This amendment incorporates the 2025 plan year handbook by reference in accordance with KRS 18A.2254.

(d) How the amendment will assist in the effective administration of the statutes: This amendment conforms to the requirements of KRS 18A.2254, the statute authorizing the self-insured plan under the Public Employee Health Insurance Program. KRS 18A.2254 mandates that the plan year handbook be incorporated by reference in an administrative regulation on or before September 15 each year. This amendment incorporates the 2025 plan year handbook by reference in accordance with KRS 18A.2254.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this

administrative regulation: This administrative regulation affects employees of state and select county and local government entities, including employees of the local school boards and districts. This administrative regulation also affects certain retirees as specified by KRS 18A.225. More specifically, and as defined by KRS 18A.225(1)(a), this administrative regulation affects approximately 190,154 employees and retirees eligible to participate in the Public Employee Health Insurance Program. In total, this administrative regulation affects approximately 304,649 members in the self-insured plan and those waiving coverage, including employees, retirees, and qualifying dependents.

(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: Affected entities will not be required to take any additional action to comply with this administrative regulation that incorporates the 2025 plan year handbook. The 2025 Benefits Selection Guide will provide information to the public employees covered under the Public Employee Health Insurance Program about the premiums, employee contributions, employer contributions, and a summary of benefits, co-pays, coinsurance, and deductibles for the 2025 plan year.

(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 provides employer and employee premium contribution information for health plans available under the Public Employee Health Insurance Program for plan year 2025. There is no direct cost impact to employers participating in the Public Employee Health Insurance Program as a result of incorporating the 2025 plan year handbook into the administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): For plan year 2025, participating employers (entities) and participating employees and retirees and their beneficiaries and dependents covered under the Public Employee Health Insurance Program will have access to comprehensive health insurance benefits under all plans offered through the self-insured program. For plan year 2025, employee and employer contributions to health coverage premiums remain unchanged across all plans, as compared to 2024 premiums.

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

(a) Initially: Costs of implementing this administrative regulation initially are believed to be minimal.

(b) On a continuing basis: Costs of implementing this administrative regulation on a continuing basis are believed to be minimal.

(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 of this administrative regulation will be the Public Employee Health Insurance Trust Fund.

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

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

(9) TIERING: Is tiering applied? No, tiering is not applied because this administrative regulation applies equally to all participants in the Public Employee Health Insurance Program.

### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 18A.030(2)(b), 18A.2254(1)(a)

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Personnel Cabinet is the promulgating

**VOLUME 51, NUMBER 4– October 1, 2024**

agency. All state agencies and employees participating in the Public Employee Health Insurance Program are affected by the provisions of the incorporated plan year handbook.

(a) Estimate the following for the first year:

Expenditures: This administrative regulation itself is not anticipated to trigger direct expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: This administrative regulation itself will not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures, revenues, and cost savings specific to annual promulgation of this regulation are not anticipated to change in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): All county and local government employees and entities, including local school boards and districts and their employees, that participate in the Public Employee Health Insurance Program are affected by the provisions of the incorporated plan year handbook.

(a) Estimate the following for the first year:

Expenditures: This administrative regulation itself is not anticipated to trigger direct expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: This administrative regulation itself will not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures, revenues, and cost savings specific to annual promulgation of this regulation are not anticipated to change in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3): The plan year handbook incorporated in this administrative regulation also affects retirees under the age of 65 who are eligible to participate in the Program by virtue of their participation in one of the state-administered retirement systems.

(a) Estimate the following for the first year:

Expenditures: This administrative regulation itself is not anticipated to trigger direct expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: This administrative regulation itself will not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures, revenues, and cost savings specific to annual promulgation of this regulation are not anticipated to change in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This administrative regulation does not have a significant fiscal impact.

(b) Methodology and resources used to determine the fiscal impact: The provisions of this administrative regulation were reviewed, and a significant fiscal impact was not identified.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated. This administrative regulation only serves to incorporate the Public Employee Health Insurance Program handbook. It does not, by itself, impose requirements or fees on Program participants.

(b) The methodology and resources used to reach this conclusion: The provisions of this administrative regulation were reviewed, and a significant fiscal impact was not identified.

**STATEMENT OF EMERGENCY  
202 KAR 7:201E.**

This emergency amendment is necessary to address the imminent threat to public health, safety, and welfare posed by the shortage of emergency medical services personnel throughout the Commonwealth. There are not enough EMS personnel in Kentucky

working for EMS services. EMS agencies throughout the Commonwealth are having difficulty maintain adequate staffing levels. During the 2024 Regular Session, House Bill 57 became law. In relevant part, the bill amended KRS 311A.142(2) to allow the Kentucky Board of Emergency Medical Services (the "Board") to grant reciprocal certifications and licenses to individuals certified or licensed and in good standing with another state. Prior to the House Bill 57 amendments, the Board was only authorized to grant reciprocal certifications and licenses to EMS personnel holding credentials in a state contiguous to Kentucky. Consistent with the former statute, the current version of this administrative regulation only permits reciprocity to emergency medical responders (EMRs) certified or licensed in a state contiguous to Kentucky. This emergency amendment brings the administrative regulation into conformity with House Bill 57's amendment to KRS 311A.142(2) by making EMRs certified and in good standing in any other state eligible for a reciprocal Kentucky EMR certification. By promptly expanding reciprocity eligibility to EMRs certified and in good standing with any other state, this emergency amendment will mitigate the risks posed by the shortage of EMS personnel in the Commonwealth. An ordinary administrative regulation is not sufficient to address the imminent risk posed by the continued shortage of EMS personnel. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor  
JOHN R. HOLDER, Chair

**KENTUCKY BOARD OF EMERGENCY MEDICAL  
SERVICES  
(Emergency Amendment)**

**202 KAR 7:201E. Emergency medical responders.**

EFFECTIVE: September 3, 2024

RELATES TO: KRS 12.355, 311A.010, 311A.025, 311A.030, 311A.050-311A.090, 311A.095, 311A.100, 311A.120, 311A.140, 311A.145, 311A.160, 10 U.S.C. 121, 12304

STATUTORY AUTHORITY: KRS 311A.020, 311A.025, 311A.160

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311A.020 requires the board to promulgate administrative regulations relating to emergency medical responders. KRS 311A.025 and 311A.160 require the board to establish standards relating to emergency medical responders. This administrative regulation establishes the standards relating to emergency medical responders.

Section 1. Emergency Medical Responder Student Eligibility. An individual shall be eligible to enroll as a student in an Emergency Medical Responder training program if the applicant:

- (1) Is not currently subject to disciplinary action pursuant to KRS Chapter 311A that would prevent certification; and
- (2) Meets all additional requirements established by the EMS Training and Educational Institution (TEI).

Section 2. Certification Requirements. Individuals desiring initial certification as an Emergency Medical Responder shall:

- (1) Successfully complete a board approved training program that conforms to the United States Department of Transportation, National Highway Traffic Safety Administration, National Emergency Medical Services Education Standards-Emergency Medical Responder Instructional Guidelines, except that the education curriculum shall not be satisfied by the completion of refresher or transition courses alone;
- (2) Meet all educational standards established in 202 KAR 7:601;
- (3) Obtain certification as a NREMT-Emergency Medical Responder;
- (4) Submit a completed EMR Initial Certification Application in KEMSIS;
- (5) Pay the fee required for certification pursuant to 202 KAR 7:030;

VOLUME 51, NUMBER 4– October 1, 2024

(6) Undergo a background check pursuant to KRS 311A.050 and 311A.100, which shall be:

(a) National in scope for an applicant not currently certified at any level in Kentucky;

(b) Statewide in scope for an applicant with current certification in Kentucky;

(c) Less than six (6) months old when the applicant submits to the board all requirements for certification;

(d) Provided by a vendor that has been contracted through the board; and

(e) Submitted to the board by the company that conducts the background check; and

(7) Be a citizen of the United States, a permanent resident of the United States, or otherwise lawfully present in the United States, as evidenced by submission to the board of:

(a) A Social Security card;

(b) Birth certificate;

(c) A United States Citizenship and Immigration Services (U.S.C.I.S.) Permanent Resident Card (form I-551/Green Card); or

(d) Other legal authorization to live and work in the United States.

Section 3. Renewal of Certification and Continuing Education Requirements.

(1) An Emergency Medical Responder shall be eligible for certification renewal if:

(a) The applicant submits a completed EMR Certification Renewal Application in KEMSIS;

(b) The applicant maintains written evidence of:

1. HIV/AIDS training required by KRS 311A.120;

2. Pediatric Abusive Head Trauma training required by KRS 311A.120; and

3. Awareness of Sexual Violence Training required by KRS 311A.120;

(c) The applicant pays the fee pursuant to 202 KAR 7:030; and

(d) The applicant maintains evidence of:

1. Current certification by the NREMT as an Emergency Medical Responder, except that if this option is used, the board may request, though a continuing education audit, proof of continuing education to verify compliance with the requirements of this section; or

2. Successful completion of the NREMT Emergency Medical Responder National Component of the Continued Competency Program for Continuing Education, which shall be validated by entities authorized to conduct continuing education pursuant to 202 KAR 7:601.

(2) An application for certification renewal shall be denied if:

(a) Prior to the certification expiration date, the applicant has not met the applicable requirements of this section; or

(b) The applicant has been subjected to disciplinary action that prevents certification renewal at the time of application.

(3) A certified Emergency Medical Responder, in good standing, who is a member of a National Guard or military reserve unit called to active duty by presidential order pursuant to 10 U.S.C. §§ 121 and 12304, shall be renewed according to KRS 12.355 upon submission of the Military Extension Application.

(4) The board office may audit an Emergency Medical Responder's continuing education and continuing education records. The Emergency Medical Responder shall submit the documentation requested within ten (10) business days of receipt of the board's request.

(5) The Emergency Medical Responder shall maintain documentation of all continuing education for three (3) years from the date of completion.

(6) If documentation of continuing education hours consistent with this administrative regulation are not received using the board-approved submission process within ten (10) business days of receipt of the board's request, the Emergency Medical Responder certification for the individual shall be summarily revoked and the individual shall reapply for certification through Reinstatement, if eligible.

(7) The ten (10) business days for submission shall not apply to investigations pursuant to KRS Chapter 311A.

Section 4. Reinstatement of Certification.

(1) An Emergency Medical Responder whose certification has lapsed may reinstate his or her certificate by submitting to the board:

(a) A completed EMR Reinstatement Certification Application in KEMSIS;

(b) Evidence of previous certification as an Emergency Medical Responder in the Commonwealth of Kentucky;

(c) Proof of current training in:

1. Pediatric Abusive Head Trauma as required by KRS 311A.120;

2. Awareness of Sexual Violence Training required by KRS 311A.120; and

3. HIV/AIDS training required by KRS 311A.120; and

(d) Evidence of successful completion of the NREMT Emergency Medical Responder National Component of the Continued Competency Program for Continuing Education within twelve (12) months preceding his or her application for reinstatement of Emergency Medical Responder.

(2) The applicant shall pay the fee required for reinstatement pursuant to 202 KAR 7:030.

(3) The applicant shall undergo a national background check provided by a vendor that has been contracted through the board. The applicant shall not directly submit a background check to meet the requirements of this section. The background check shall be submitted to the board by the company that conducts the background check.

(4) Background checks that are older than six (6) months shall not be considered current, and the applicant shall undergo another national background check prior to approval of reinstatement of certification.

(5) The applicant for reinstatement of certification shall bear the burden of proof of previous certification in Kentucky if the previous certification is in issue or dispute.

(6) An applicant who is ineligible for certification pursuant to KRS 311A.050 through 311A.090 shall be ineligible for reinstatement.

Section 5. Emergency Medical Responder Reciprocity.

(1) An individual who is certified in ~~another[a contiguous] state as an Emergency Medical Responder[to the Commonwealth of Kentucky]~~ or by the NREMT as a NREMT-Emergency Medical Responder or any member of the United States Armed Forces, or veteran who has transitioned within the past six (6) years from the United States Armed Forces, and has been registered by the National Registry as a NREMT-Emergency Medical Responder or EMT shall be eligible for reciprocity for Kentucky certification as an Emergency Medical Responder if the applicant submits:

(a) A completed EMR Reciprocity Certification Application in KEMSIS;

(b) Proof of the applicant's current unrestricted certification as a NREMT-Emergency Medical Responder or current Emergency Medical Responder certification in ~~another[a contiguous] state[to the Commonwealth of Kentucky]~~, or proof of completing a board-approved United States Armed Forces medical training course which included NREMT-Emergency Medical Technician certification; and

(c) Proof of current training in:

1. HIV/AIDS training required by KRS 311A.120;

2. Pediatric Abusive Head Trauma as required by KRS 311A.120; and

3. Awareness of Sexual Violence Training required by KRS 311A.120.

(2) An applicant shall pay the fee required for reciprocity pursuant to 202 KAR 7:030.

(3) An applicant for Emergency Medical Responder reciprocity shall undergo a national background check provided by a vendor that has been contracted through the board.

(a) An applicant shall not directly submit a background check to meet the requirements of this section. The background check shall be submitted to the board by the company that conducts the background check.

(b) Background checks that are older than six (6) months shall not be considered current, and the applicant shall undergo another

## VOLUME 51, NUMBER 4– October 1, 2024

national background check prior to approval of certification through reciprocity.

(4) An applicant shall not have been convicted of offenses described in KRS 311A.050.

(5) An applicant shall not have been subjected to discipline that would prevent reciprocity at the time of application.

(6) An Emergency Medical Responder certified pursuant to this administrative regulation shall not perform any procedures or skill on which the Emergency Medical Responder has not been trained. An Emergency Medical Responder who performs a skill for which the Emergency Medical Responder does not have documented training shall have exceeded the scope of practice and shall be in violation of KRS 311A.050.

(7) An Emergency Medical Responder certified pursuant to this section shall complete the Kentucky supplemental Emergency Medical Responder curricula for the procedures listed in 202 KAR 7:701 prior to beginning work for a licensed agency in Kentucky.

(a) Kentucky supplemental Emergency Medical Responder curricula consistent with 202 KAR 7:701 shall be provided during employee orientation, or by entities authorized to conduct continuing education pursuant to 202 KAR 7:601.

(b) Verification of competency on the supplemental curricula procedures in 202 KAR 7:701 shall be maintained by the Emergency Medical Responder for a minimum of three (3) years. Failure to submit the EMR Supplemental Curriculum Training Verification Report upon request shall result in revocation of the Emergency Medical Responder certification.

(c) If an Emergency Medical Responder certified pursuant to this section fails to supply verification of competency as required by subsection (7) of this section, the Emergency Medical Responder shall be ineligible to apply for and receive Emergency Medical Responder reciprocity certification until the applicant has submitted the EMR Supplemental Curriculum Training Verification Report as required by 202 KAR 7:701, and shall reapply for Reciprocity through the process listed in this section.

**Section 6. Scope of Practice.** An Emergency Medical Responder shall provide emergency medical services consistent with the skills and procedures in the National EMS Scope of Practice Model and 202 KAR 7:701.

### Section 7. Expiration of Certification.

(1) Certification periods and expiration dates shall be pursuant to KRS 311A.095.

(2) If an Emergency Medical Responder's certification lapses or expires, the Emergency Medical Responder shall cease provision of emergency medical services.

(3) An Emergency Medical Responder who has allowed his or her certification to lapse or expire shall reinstate certification pursuant to Section 4 of this administrative regulation.

### Section 8. Surrender of Certification.

(1) An Emergency Medical Responder surrendering certification shall:

(a) Submit a completed Voluntary Surrender of EMR Certification Application in KEMSIS; and

(b) Pay the fee pursuant to 202 KAR 7:030.

(2) The applicant shall notify the board's licensed service director with whom the applicant is affiliated immediately upon surrendering his or her certification.

### Section 9. Reporting Requirements.

(1) An Emergency Medical Responder shall maintain current demographic information in KEMSIS including:

(a) Legal name;

1. Any changes to an Emergency Medical Responder's legal name shall be submitted using the Name Change Application in KEMSIS; and

2. One (1) of the following documents as verification of name change:

a. Social Security card;

b. Driver's license; or

c. Passport;

(b) Mailing address;

(c) Email address; and

(d) Phone number.

(2) An Emergency Medical Responder who does not comply with this section shall be subject to disciplinary action pursuant to KRS Chapter 311A.

**Section 10. Exemptions from Emergency Medical Responder Administrative Regulations.** Certification requirements for an Emergency Medical Responder shall not apply to:

(1) United States military personnel or state National Guard or employees of the United States government while providing services on a United States government-owned or operated facility, or while engaged in the performance of their official duties under federal law, or while providing assistance in a mass casualty or disaster type situation; or

(2) An Emergency Medical Responder certified in another state or territory of the United States who:

(a) Comes into Kentucky to transport a patient from another state into Kentucky; or

(b) Is transporting a patient through the state of Kentucky to an out-of-Kentucky location.

**Section 11. Public Notice of Negative Action.** The board office shall cause to be published on the board website the name of an Emergency Medical Responder who:

(1) Is fined;

(2) Is placed on probationary status;

(3) Is placed on restricted status;

(4) Is suspended; or

(5) Has had his or her certification revoked.

### Section 12. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "National Emergency Medical Services Education Standards-Emergency Medical Responder Instructional Guidelines", The United States Department of Transportation, National Highway Traffic Safety Administration, DOT HS 811 077B, January 2009;

(b) "EMR Initial Certification Application" in KEMSIS, July 2019;

(c) "EMR Certification Renewal Application" in KEMSIS, July 2019;

(d) "EMR Reciprocity Certification Application" in KEMSIS, July 2019;

(e) "EMR Reinstatement Certification Application" in KEMSIS, July 2019;

(f) "National EMS Scope of Practice Model", National Highway Traffic Safety Administration, DOT HS 810 657, February 2007;

(g) "National EMS Scope of Practice Model", National Highway Traffic Safety Administration, DOT HS 812 666, February 2019;

(h) "EMR Supplemental Curriculum Training Verification Report", July 2019;

(i) "Voluntary Surrender of EMR Certification Application" in KEMSIS, July 2019;

(j) "National Registry of Emergency Medical Technicians National Continued Competency Program EMR", October 2016;

(k) "Name Change Application" in KEMSIS, July 2019;

(l) "Military Extension Application" in KEMSIS, July 2019; and

(m) "United States Citizenship and Immigration Services (U.S.C.I.S.) Permanent Resident Card (form I-551/Green Card)", July 2019.

(2) This material may be inspected, obtained, or copied, subject to applicable copyright law, at the Office of the Kentucky Board of Emergency Medical Services, 500 Mero Street, 5th Floor 5SE32, Frankfort, Kentucky 40601, by appointment, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material is also available on the board's Web site at: kyems.com.

JOHN R. HOLDER, Chair

APPROVED BY AGENCY: August 8, 2024

FILED WITH LRC: September 3, 2024 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 23, 2024, at 1:00 p.m. ET at the Kentucky Board of Emergency Medical

## VOLUME 51, NUMBER 4– October 1, 2024

Services, 500 Mero Street, 5th Floor 5SE32, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through October 31, 2024. 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: John K. Wood, counsel for the Kentucky Board of Emergency Medical Services, 163 East Main Street, Suite 200, Lexington, Kentucky 40507, phone (859) 225-4714, email [administrativeregulations@wgmfirm.com](mailto:administrativeregulations@wgmfirm.com).

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John K. Wood

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 311A.020 requires the board to promulgate administrative regulations relating to first responders. KRS 311A.025 and KRS 311A.160 require the board to establish standards relating to emergency medical responders. This administrative regulation establishes standards relating to emergency medical responders.

(b) The necessity of this administrative regulation: KRS 311A.020 requires the board to promulgate administrative regulations relating to first responders. KRS 311A.025 and KRS 311A.160 require the board to establish standards relating to emergency medical responders. This administrative regulation establishes standards relating to emergency medical responders.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 311A.020, KRS 311A.025 and KRS 311A.160 by establishing standards relating to emergency medical responders.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 311A.020 requires the board to promulgate administrative regulations relating to first responders. KRS 311A.025 and KRS 311A.160 require the board to establish standards relating to emergency medical responders. This administrative regulation assists in the effective administration of the foregoing statutes by establishing the standards relating to emergency medical responders.

(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 brings this administrative regulation into conformity with House Bill 57's amendment to KRS 311A.142(2) by making EMRs certified and in good standing in any other state eligible for a reciprocal Kentucky EMR certification. Prior to House Bill 57 becoming law, only EMS personnel in states contiguous to Kentucky were eligible for reciprocity.

(b) The necessity of the amendment to this administrative regulation: This emergency amendment is necessary to mitigate the staffing shortages that EMS agencies across the Commonwealth are facing.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 311A.020, KRS 311A.025 and KRS 311A.160 by establishing standards relating to emergency medical responders.

(d) How the amendment will assist in the effective administration of the statutes: KRS 311A.020 requires the board to promulgate administrative regulations relating to first responders. KRS 311A.025 and KRS 311A.160 require the board to establish standards relating to emergency medical responders. This amendment will assist in the effective administration of the foregoing statutes by establishing the standards relating to emergency medical responders.

(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 the Kentucky Board of Emergency Medical Services, emergency medical services providers, individuals seeking Emergency Medical Responder reciprocity, and local governments.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This amendment does not establish any new requirements. Emergency Medical Responders certified in any other state may seek a reciprocal Kentucky certification by meeting the existing requirements set forth in Section 5 of this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to any entity identified in question (3), other than administrative costs that may be incurred in recruiting and maintaining personnel.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Emergency Medical Responders certified in states not contiguous to Kentucky will benefit from this amendment by now being eligible for a reciprocal Kentucky certification. EMS agencies and local governments will benefit from the expanded pool of individuals eligible for a reciprocal Kentucky Emergency Medical Responder certification.

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

(a) Initially: Other than administrative costs, there will be no costs to the Board in implementing this administrative regulation.

(b) On a continuing basis: Other than administrative costs, there will be no costs to the Board in implementing this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Kentucky Board of Emergency Medical Services is a state agency that receives its annual budget from the state government.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied to this administrative regulation because the amendment applies to all Emergency Medical Responders.

### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 311A.020 requires the board to promulgate administrative regulations relating to first responders. KRS 311A.025 and KRS 311A.160 require the board to establish standards relating to emergency medical responders.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Emergency Medical Services.

(a) Estimate the following for the first year:

Expenditures: None.

Revenues: None.

Cost Savings: None.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? This amendment should not affect the Board's expenditures, revenues, or costs.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): All cities and counties.

(a) Estimate the following for the first year:

Expenditures: There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining personnel.

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining required personnel.

(4) Identify additional regulated entities not listed in questions (2) or (3): All EMS services.

(a) Estimate the following for the first year:

Expenditures: There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining personnel.

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining personnel.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining personnel.

(b) Methodology and resources used to determine the fiscal impact: No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining personnel.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This administrative regulation will not have an overall negative or adverse major economic impact to the affected entities.

(b) The methodology and resources used to reach this conclusion: No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining required personnel.

**STATEMENT OF EMERGENCY  
202 KAR 7:301E.**

This emergency amendment is necessary to address the imminent threat to public health, safety, and welfare posed by the shortage of emergency medical services personnel throughout the Commonwealth. There are not enough EMS personnel in Kentucky working for EMS services. EMS agencies throughout the Commonwealth are having difficulty maintain adequate staffing levels. During the 2024 Regular Session, House Bill 57 became law. In relevant part, the Bill amended KRS 311A.142(2) to allow the Kentucky Board of Emergency Medical Services (the "Board") to grant reciprocal certifications and licenses to individuals certified or licensed and in good standing with another state. Prior to the House Bill 57 amendments, the Board was only authorized to grant reciprocal certifications and licenses to EMS personnel holding credentials in a state contiguous to Kentucky. Consistent with the former statute, the current version of this administrative regulation only permits reciprocity to EMTs certified in a state contiguous to Kentucky. This emergency amendment brings the administrative regulation into conformity with House Bill 57's amendment to KRS 311A.142(2) by making EMTs certified and in good standing in any other state eligible for a reciprocal Kentucky EMT certification. By promptly expanding reciprocity eligibility to EMTs certified and in good standing with any other state, this emergency amendment will mitigate the risks posed by the shortage of EMS personnel in the Commonwealth. An ordinary administrative regulation is not sufficient to address the imminent risk posed by the continued shortage of EMS personnel. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor  
JOHN R. HOLDER, Chair

**KENTUCKY BOARD OF EMERGENCY MEDICAL  
SERVICES  
(Emergency Amendment)**

**202 KAR 7:301E. Emergency medical technician.**

EFFECTIVE: September 3, 2024

RELATES TO: KRS 12.355, 311A.010, 311A.025, 311A.050-311A.090, 311A.095, 311A.100, 311A.120, 311A.130, 311A.140, 311A.145, 311A.165, 10 U.S.C. 121, 12304

STATUTORY AUTHORITY: KRS 311A.020, 311A.025, 311A.030, 311A.140, 311A.165

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311A.025 requires the board to promulgate administrative regulations relating to Emergency Medical Technicians. This administrative regulation establishes requirements for Emergency Medical Technicians.

Section 1. Emergency Medical Technician Student Eligibility. An individual shall be eligible to enroll as a student in an Emergency Medical Technician education and training program if the applicant:

- (1) Is not currently subject to disciplinary action pursuant to KRS Chapter 311A that would prevent certification; and
- (2) Meets all additional requirements established by the EMS Training and Educational Institution (EMS-TEI).

Section 2. Certification Requirements. Individuals desiring initial certification as an Emergency Medical Technician shall:

- (1) Successfully complete a board approved education and training program that conforms to the curriculum of the United States Department of Transportation, National Highway Traffic Safety Administration National Emergency Medical Services Education Standards-Emergency Medical Technician Instructional Guidelines, except that the educational curriculum shall not be satisfied by the completion of refresher or transition courses alone;
- (2) Meet all educational standards established by 202 KAR 7:601;
- (3) Obtain certification as a NREMT-Emergency Medical Technician;
- (4) Submit a completed EMT Initial Certification Application in KEMSIS;
- (5) Pay the fee required for certification pursuant to 202 KAR 7:030;
- (6) Undergo a background check pursuant to KRS 311A.050 and 311A.100, which shall be:
  - (a) National in scope for an applicant not currently certified at any level in Kentucky;
  - (b) Statewide in scope for an applicant with current certification in Kentucky;
  - (c) Less than six (6) months old when the applicant submits to the board all requirements for certification;
  - (d) Provided by a vendor that has been contracted through the board; and
  - (e) Submitted to the board by the company that conducts the background check; and
- (7) Be a citizen of the United States, a permanent resident of the United States, or otherwise lawfully present in the United States, as evidenced by submission to the board of:
  - (a) A Social Security card;
  - (b) Birth certificate;
  - (c) A United States Citizenship and Immigration Services (U.S.C.I.S.) Permanent Resident Card (form I-551/Green Card); or
  - (d) Other legal authorization to live and work in the United States.

Section 3. Renewal of Certification and Continuing Education Requirements.

- (1) An Emergency Medical Technician shall be eligible for certification renewal if:
    - (a) The applicant submits a completed EMT Certification Renewal Application in KEMSIS;
    - (b) The applicant maintains written evidence of:
      - 1. HIV/AIDS training required by KRS 311A.120;
      - 2. Pediatric Abusive Head Trauma required by KRS 311A.120;
- and



## VOLUME 51, NUMBER 4– October 1, 2024

3. Awareness of Sexual Violence Training required by KRS 311A.120;

(c) The applicant pays the fee required for renewal pursuant to 202 KAR 7:030; and

(d) The applicant maintains evidence of:

1. Current certification by the NREMT as an Emergency Medical Technician, except that if this option is used, the board may request, through a continuing education audit, proof of continuing education to verify compliance with the requirements of this section; or

2. Successful completion of the NREMT Emergency Medical Technician National Component of the Continued Competency Program for Continuing Education, which shall be validated by entities authorized to conduct continuing education pursuant to 202 KAR 7:601.

(2) An application for certification renewal shall be denied if:

(a) Prior to the certification expiration date, the applicant has not met the applicable requirements of this section; or

(b) The applicant has been subjected to disciplinary action that prevents certification renewal at the time of application.

(3) A certified Emergency Medical Technician, in good standing, who is a member of a National Guard or a military reserve unit called to active duty by presidential order pursuant to 10 U.S.C. §§ 121 and 12304, shall be renewed according to KRS 12.355 upon submission of the Military Extension Application.

(4) The board office may audit an Emergency Medical Technician's continuing education and continuing education records. The Emergency Medical Technician shall submit the documentation requested within ten (10) business days of receipt of the board's request.

(5) If documentation of continuing education hours consistent with this administrative regulation are not received using the board-approved submission process within ten (10) business days of receipt of the board's request, the Emergency Medical Technician certification for the individual shall be summarily revoked and the individual shall reapply for certification through reinstatement if eligible.

(6) The ten (10) business days for submission shall not apply to investigations pursuant to KRS Chapter 311A.

(7) The Emergency Medical Technician shall maintain documentation of all continuing education for three (3) years from the date of completion.

### Section 4. Reinstatement of Certification.

(1) An Emergency Medical Technician whose certification has lapsed may reinstate his or her certificate by submitting to the board:

(a) A completed EMT Reinstatement Certification Application in KEMSIS;

(b) Evidence of previous certification as an Emergency Medical Technician in the Commonwealth of Kentucky;

(c) Proof of current training in:

1. Pediatric Abusive Head Trauma as required by KRS 311A.120;

2. Awareness of Sexual Violence Training required by KRS 311A.120; and

3. HIV/AIDS training required by KRS 311A.120; and

(d) Payment of the fee pursuant to 202 KAR 7:030.

(2) The applicant for reinstatement of certification shall undergo a national background check provided by a vendor that has been contracted through the board.

(a) An applicant shall not directly submit a background check to meet the requirements of this section. The background check shall be submitted to the board by the company that conducts the background check.

(b) Background checks that are older than six (6) months shall not be considered current, and the applicant shall undergo another national background check prior to approval of reinstatement of certification.

(3) An applicant for reinstatement of certification shall submit to the board evidence of successful completion of the NREMT Emergency Medical Technician National Component of the Continued Competency Program for Continuing Education within twelve (12) months preceding his or her application for reinstatement of the Emergency Medical Technician.

(4) The applicant for reinstatement of certification shall bear the burden of proof of previous certification in Kentucky if the previous certification is in issue or dispute.

(5) An applicant who is ineligible for certification pursuant to KRS 311A.050 through 311A.090 shall be ineligible for reinstatement.

### Section 5. Emergency Medical Technician Reciprocity.

(1) An individual who is certified in ~~another~~~~[a contiguous] state~~ ~~[to the Commonwealth of Kentucky]~~ or by the NREMT as an Emergency Medical Technician or any member of the United States Armed Forces, or veteran who has transitioned within the past six (6) years from the United States Armed Forces, and has been registered by the National Registry as a NREMT-Emergency Medical Technician shall be eligible for reciprocity for Kentucky certification as an Emergency Medical Technician if the applicant submits:

(a) A completed EMT Reciprocity Certification Application in KEMSIS;

(b) Proof of the applicant's current unrestricted certification as a NREMT-Emergency Medical Technician or current Emergency Medical Technician certification in ~~another~~~~[a contiguous] state~~ ~~[to the Commonwealth of Kentucky]~~, or proof of completing a board-approved United States Armed Forces medical training course which included NREMT-Emergency Medical Technician certification; and

(c) Proof of current training in:

1. HIV/AIDS training required by KRS 311A.120;

2. Pediatric Abusive Head Trauma as required by KRS 311A.120; and

3. Awareness of Sexual Violence Training required by KRS 311A.120.

(2) An applicant shall pay the fee required for certification through reciprocity pursuant to 202 KAR 7:030.

(3) An applicant for Emergency Medical Technician reciprocity shall undergo a national background check provided by a vendor that has been contracted through the board.

(a) An applicant shall not directly submit a background check to meet the requirements of this section. The background check shall be submitted to the board by the company that conducts the background check.

(b) Background checks that are older than six (6) months shall not be considered current, and the applicant shall undergo another national background check prior to approval of certification through reciprocity.

(4) An applicant shall not have been convicted of offenses described in KRS 311A.050.

(5) An applicant shall not have been subjected to discipline that would prevent reciprocity at the time of application.

(6) An Emergency Medical Technician certified pursuant to this administrative regulation shall not perform any procedures or skill on which the Emergency Medical Technician has not been trained. An Emergency Medical Technician who performs a skill for which the Emergency Medical Technician does not have documented training shall have exceeded the scope of practice and shall be in violation of KRS 311A.050.

(7) An Emergency Medical Technician certified pursuant to this section shall complete the Kentucky supplemental Emergency Medical Technician curricula for the procedures listed in 202 KAR 7:701 prior to beginning work for a licensed agency in Kentucky.

(a) Kentucky supplemental Emergency Medical Technician curricula consistent with 202 KAR 7:701 shall be provided during employee orientation, or by entities authorized to conduct continuing education pursuant to 202 KAR 7:601.

(b) Verification of competency on the supplemental curricula procedures in 202 KAR 7:701 shall be maintained by the Emergency Medical Technician for a minimum of three (3) years. Failure to submit the EMT Supplemental Curriculum Training Verification Report upon request shall result in revocation of the Emergency Medical Technician certification.

(c) If an Emergency Medical Technician certified pursuant to this section fails to supply verification of competency as required by subsection (7) of this section, the Emergency Medical Technician shall be ineligible to apply for and receive Emergency Medical

## VOLUME 51, NUMBER 4– October 1, 2024

Technician reciprocity certification until the applicant has submitted the EMT Supplemental Curriculum Training Verification Report as required by 202 KAR 7:701, and shall reapply for reciprocity through the process listed in this section.

**Section 6. Scope of Practice.** An Emergency Medical Technician shall provide emergency medical services consistent with the skills and procedures in the National EMS Scope of Practice Model and 202 KAR 7:701.

### Section 7. Expiration of Certification.

(1) Certification periods and expiration dates shall be pursuant to KRS 311A.095.

(2) If an Emergency Medical Technician's certification lapses or expires, the Emergency Medical Technician shall cease provision of emergency medical services.

(3) An Emergency Medical Technician who has allowed his or her certification to lapse or expire shall be required to reinstate certification pursuant to Section 4 of this administrative regulation.

### Section 8. Downgrading Certification.

(1) An Emergency Medical Technician currently certified as an Emergency Medical Technician by the board shall be eligible for certification downgrade if:

(a) The certification is in good standing with no pending disciplinary action;

(b) The applicant submits a completed EMT Certification Downgrade Application in KEMSIS; and

(c) The applicant pays the fee pursuant to 202 KAR 7:030.

(2) An Emergency Medical Technician shall only be eligible to downgrade his or her certification to an Emergency Medical Responder certification.

(3) Certification periods and expiration dates shall be pursuant to KRS 311A.095.

(4) An applicant shall undergo a background check pursuant to KRS 311A.050 and 311A.100. The background check shall be:

(a) Statewide in scope for an applicant with current certification in Kentucky;

(b) Less than six (6) months old when the applicant submits to the board all requirements for certification; and

(c) Provided by a vendor that has been contracted through the board.

(5) Downgrade shall be denied if the applicant has not met the requirements of this section or has been subject to disciplinary action that prevents certification at the time of application.

(6) The applicant shall be responsible for meeting the renewal requirements of the downgraded certification level issued prior to expiration of that certification.

(7) To reinstate the certification or license that was previously held, the applicant shall meet the regulatory requirements for that level of certification or licensure.

(8) The applicant shall notify the board's licensed service director with whom the applicant is affiliated immediately upon downgrading his or her certification.

(9) Once the applicant has downgraded his or her certification or license, the applicant shall no longer be permitted to provide emergency medical services at the previous certification or license level held.

(10) An applicant applying for downgrade who does not comply with this section shall be subject to disciplinary action pursuant to KRS Chapter 311A.

(11) All endorsements, certifications, or licenses held at the previous certification or license level shall be void at the completion of the downgrade.

### Section 9. Surrender of Certification.

(1) An Emergency Medical Technician surrendering certification shall:

(a) Submit a completed EMT Certification Surrender Application in KEMSIS; and

(b) Pay the fee pursuant to 202 KAR 7:030.

(2) The applicant shall notify the board's licensed service director with whom the applicant is affiliated immediately upon surrendering his or her certification.

### Section 10. Reporting Requirements.

(1) An Emergency Medical Technician shall maintain current demographic information in KEMSIS including:

(a) Legal name;

1. Any changes to an Emergency Medical Technician's legal name shall be submitted using the Name Change Application in KEMSIS; and

2. One (1) of the following documents as verification of name change:

a. Social Security card;

b. Driver's license; or

c. Passport;

(b) Mailing address;

(c) Email address; and

(d) Phone number.

(2) An Emergency Medical Technician who does not comply with this section shall be subject to disciplinary action pursuant to KRS Chapter 311A.

**Section 11. Exemptions from Emergency Medical Technician Administrative Regulations.** Certification requirements for an Emergency Medical Technician shall not apply to:

(1) United States military personnel or state National Guard or employees of the United States government while providing services on a United States government owned or operated facility, or while engaged in the performance of their official duties under federal law, or while providing assistance in a mass casualty or disaster type situation; or

(2) An Emergency Medical Technician certified in another state or territory of the United States who:

(a) Comes into Kentucky to transport a patient from another state into Kentucky; or

(b) Is transporting a patient through the state of Kentucky to an out-of-Kentucky location.

**Section 12. Public Notice of Negative Action.** The board office shall cause to be published on the board Web site the name of an Emergency Medical Technician who:

(1) Is fined;

(2) Is placed on probationary status;

(3) Is placed on restricted status;

(4) Is suspended; or

(5) Has had his or her certification revoked.

### Section 13. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "National Emergency Medical Services Education Standards-Emergency Medical Technician Instructional Guidelines", The United States Department of Transportation, National Highway Traffic Safety Administration, DOT HS 811 077C, January 2009;

(b) "EMT Initial Certification Application" in KEMSIS, July 2019;

(c) "EMT Certification Renewal Application" in KEMSIS, July 2019;

(d) "EMT Reciprocity Certification Application" in KEMSIS July 2019;

(e) "EMT Reinstatement Certification Application" in KEMSIS, July 2019;

(f) "National EMS Scope of Practice Model", National Highway Traffic Safety Administration, DOT HS 810 657, February 2007;

(g) "National EMS Scope of Practice Model", National Highway Traffic Safety Administration, DOT HS 812 666, February 2019;

(h) "EMT Supplemental Curriculum Training Verification Report", July 2019;

(i) "EMT Certification Downgrade Application" in KEMSIS, July 2019;

(j) "EMT Certification Surrender Application" in KEMSIS, July 2019;

(k) "National Registry of Emergency Medical Technicians National Continued Competency Program EMT", October 2016;

(l) "Name Change Application" in KEMSIS, July 2019;

(m) "Military Extension Application" in KEMSIS, July 2019; and

## VOLUME 51, NUMBER 4– October 1, 2024

(n) "United States Citizenship and Immigration Services (U.S.C.I.S.) Permanent Resident Card (form I-551/Green Card)", July 2019.

(2) This material may be inspected, obtained, or copied, subject to applicable copyright law, at the Office of the Kentucky Board of Emergency Medical Services, 500 Mero Street, 5th Floor 5SE32, Frankfort, Kentucky 40601, by appointment, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material is also available on the board's Web site at kyems.com.

JOHN R. HOLDER, Chair

APPROVED BY AGENCY: August 8, 2024

FILED WITH LRC: September 3, 2024 at 3 p.m.

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on October 23, 2024, at 1:00 p.m. ET at the Kentucky Board of Emergency Medical Services, 500 Mero Street, 5th Floor 5SE32, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through October 31, 2024. 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:** John K. Wood, counsel for the Kentucky Board of Emergency Medical Services, 163 East Main Street, Suite 200, Lexington, Kentucky 40507, phone (859) 225-4714, email [administrativeregulations@wgmfirm.com](mailto:administrativeregulations@wgmfirm.com).

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John K. Wood

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 311A.025 requires the board to promulgate administrative regulations relating to Emergency Medical Technicians. This administrative regulation establishes requirements for Emergency Medical Technicians.

(b) The necessity of this administrative regulation: KRS 311A.025 requires the board to promulgate administrative regulations relating to Emergency Medical Technicians. This administrative regulation is necessary to establish requirements for Emergency Medical Technicians.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 311A.025 by establishing requirements for Emergency Medical Technicians.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 311A.025 requires the board to promulgate administrative regulations relating to Emergency Medical Technicians. This administrative regulation assists in the effective administration of KRS 311A.025 by establishing requirements for Emergency Medical Technicians.

(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 brings this administrative regulation into conformity with House Bill 57's amendment to KRS 311A.142(2) by making EMTs certified and in good standing in any other state eligible for a reciprocal Kentucky certification. Prior to House Bill 57 becoming law, only EMS personnel in states contiguous to Kentucky were eligible for reciprocity.

(b) The necessity of the amendment to this administrative regulation: This emergency amendment is necessary to bring this administrative regulation into conformity with House Bill 57's amendment to KRS 311A.142(2) and to mitigate the staffing shortages that EMS agencies across the Commonwealth are facing.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 311A.025 by establishing requirements for Emergency Medical Technicians. This amendment also conforms to the recent amendment to KRS 311A.142(2) permitting reciprocity to EMS personnel licensed or certified and in good standing with another state.

(d) How the amendment will assist in the effective administration of the statutes: KRS 311A.025 requires the board to promulgate administrative regulations relating to Emergency Medical Technicians. This administrative regulation assists in the effective administration of KRS 311A.025 by establishing requirements for Emergency Medical Technicians.

(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 the Kentucky Board of Emergency Medical Services, emergency medical services providers, individuals seeking Emergency Medical Technician reciprocity, and local governments.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This amendment does not establish any new requirements. Emergency Medical Technicians certified in any other state may seek a reciprocal Kentucky certification by meeting the existing requirements set forth in Section 5 of this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to any entity identified in question (3), other than administrative costs that may be incurred in recruiting and maintaining personnel.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Emergency Medical Technicians certified in states not contiguous to Kentucky will benefit from this amendment by now being eligible for a reciprocal Kentucky certification. EMS agencies and local governments will benefit from the expanded pool of individuals eligible for a reciprocal Kentucky Emergency Medical Technician certification.

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

(a) Initially: Other than administrative costs, there will be no costs to the Board in implementing this administrative regulation.

(b) On a continuing basis: Other than administrative costs, there will be no costs to the Board in implementing this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Kentucky Board of Emergency Medical Services is a state agency that receives its annual budget from the state government.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied to this administrative regulation because the amendment applies to all Emergency Medical Technicians.

### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 311A.025 requires the board to promulgate administrative regulations relating to Emergency Medical Technicians. This administrative regulation establishes requirements for Emergency Medical Technicians.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Emergency Medical Services.

(a) Estimate the following for the first year:

Expenditures: None.

Revenues: None.

Cost Savings: None.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? This amendment should not affect the Board's expenditures, revenues, or costs.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): All cities and counties.

(a) Estimate the following for the first year:

Expenditures: There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining personnel.

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining required personnel.

(4) Identify additional regulated entities not listed in questions (2) or (3): All EMS services.

(a) Estimate the following for the first year:

Expenditures: There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining personnel.

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining personnel.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining personnel.

(b) Methodology and resources used to determine the fiscal impact: No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining personnel.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This administrative regulation will not have an overall negative or adverse major economic impact to the affected entities.

(b) The methodology and resources used to reach this conclusion: No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining required personnel.

**STATEMENT OF EMERGENCY  
202 KAR 7:330E.**

This emergency amendment is necessary to address the imminent threat to public health, safety, and welfare posed by the shortage of emergency medical services personnel throughout the Commonwealth. There are not enough EMS personnel in Kentucky working for EMS services. EMS agencies throughout the Commonwealth are having difficulty maintain adequate staffing levels. During the 2024 Regular Session, House Bill 57 became law. In relevant part, the Bill amended KRS 311A.142(2) to allow the Kentucky Board of Emergency Medical Services (the "Board") to grant reciprocal certifications and licenses to individuals certified or licensed and in good standing with another state. Prior to the House Bill 57 amendments, the Board was only authorized to grant reciprocal certifications and licenses to EMS personnel holding credentials in a state contiguous to Kentucky. Consistent with the former statute, the current version of this administrative regulation only permits reciprocity to Advanced Emergency Medical Technicians (AEMTs) certified in a state contiguous to Kentucky. This emergency amendment brings the administrative regulation

into conformity with House Bill 57's amendment to KRS 311A.142(2) by making AEMTs certified and in good standing in any other state eligible for a reciprocal Kentucky AEMT certification. By promptly expanding reciprocity eligibility to AEMTs certified and in good standing with any other state, this emergency amendment will mitigate the risks posed by the shortage of EMS personnel in the Commonwealth. An ordinary administrative regulation is not sufficient to address the imminent risk posed by the continued shortage of EMS personnel. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor

JOHN R. HOLDER, Chair

**KENTUCKY BOARD OF EMERGENCY MEDICAL  
SERVICES  
(Emergency Amendment)**

**202 KAR 7:330E. Advanced emergency medical technician.**

EFFECTIVE: September 3, 2024

RELATES TO: KRS 12.355, 38.030, Chapter 39, 39A.050, 311A.010, 311A.020, 311A.025, 311A.050-311A.090, 311A.095, 311A.100, 311A.120, 311A.140, 311A.145, 311A.150, 311A.195, 10 U.S.C. 121, 12304

STATUTORY AUTHORITY: KRS 311A.020, 311A.025, 311A.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311A.025(2) requires the board to promulgate administrative regulations relating to the standards for training, education, examination, certification, practice, and recertification of the Advanced Emergency Medical Technician (AEMT). This administrative regulation establishes requirements for Advanced Emergency Medical Technician.

Section 1. Advanced Emergency Medical Technician Student Eligibility. An individual shall be eligible to enroll as a student in an Advanced Emergency Medical Technician education and training program if the applicant:

(1) Is currently certified at a minimum of an Emergency Medical Technician by the board or the NREMT;

(2) Is not currently subject to disciplinary action pursuant to KRS Chapter 311A that would prevent certification; and

(3) Meets all additional requirements established by the EMS Training and Educational Institution (EMS-TEI).

Section 2. Certification Requirements.

(1) Individuals desiring initial certification as an Advanced Emergency Medical Technician shall:

(a) Successfully complete a board approved education and training program that conforms to the curriculum of the United States Department of Transportation, National Highway Traffic Safety Administration National Emergency Medical Services Education Standards-Advanced Emergency Medical Technician Instructional Guidelines, except that the educational curriculum shall not be satisfied by the completion of refresher or transition courses alone;

(b) Meet all educational standards established in 202 KAR 7:601;

(c) Obtain certification as a NREMT-Advanced Emergency Medical Technician;

(d) Be a citizen of the United States, a permanent resident of the United States, or otherwise lawfully present in the United States, as evidenced by submission to the board of:

1. A Social Security card;

2. Birth certificate;

3. A United States Citizenship and Immigration Services (U.S.C.I.S.) Permanent Resident Card (form I-551/Green Card); or

4. Other legal authorization to live and work in the United States.

(e) Submit a completed AEMT Initial Certification Application in KEMSIS; and

(f) Pay the fee pursuant to 202 KAR 7:030 for certification as an Advanced Emergency Medical Technician.

## VOLUME 51, NUMBER 4– October 1, 2024

(2) An applicant shall undergo a background check pursuant to KRS 311A.050 and 311A.100. The background check shall be:

(a) National in scope for an applicant not currently certified at any level in Kentucky;

(b) Statewide in scope for an applicant with current certification in Kentucky;

(c) Less than six (6) months old when the applicant submits to the board all requirements for certification; and

(d) Provided by a vendor that has been contracted through the board.

(3) An applicant shall not directly submit a background check. The background check shall be submitted to the board by the company that conducts the background check.

### Section 3. Renewal of Certification and Continuing Education Requirements.

(1) An Advanced Emergency Medical Technician shall be eligible for certification renewal if:

(a) The applicant submits a completed AEMT Certification Renewal Application in KEMSIS;

(b) The applicant maintains written evidence of:

1. HIV/AIDS training required by KRS 311A.120;

2. Pediatric Abusive Head Trauma as required by KRS 311A.120; and

3. Awareness of Sexual Violence Training required by KRS 311A.120;

(c) The applicant pays the fee required for renewal pursuant to 202 KAR 7:030; and

(2) The applicant maintains evidence of:

(a) Current certification by the National Registry of Emergency Medical Technicians as an Advanced Emergency Medical Technician, except that if this option is used, the board may request, through a continuing education audit, proof of continuing education to verify compliance with the continuing education requirements of this section; or

(b) Successful completion of the NREMT Advanced Emergency Medical Technician National Component of the Continued Competency Program, for Continuing Education which shall be validated by entities authorized to conduct continuing education pursuant to 202 KAR 7:601.

(3) An application for certification renewal shall be denied if:

(a) Prior to the certification expiration date, the applicant has not met the applicable requirements of this section;

(b) The applicant has been subjected to disciplinary action that prevents certification renewal at the time of application; or

(c) The applicant is delinquent on fines or fees owed to the board pursuant to KRS 311A.055, 311A.060, or 202 KAR 7:030.

(4) A certified Advanced Emergency Medical Technician, in good standing, who is a member of a branch of the United States National Guard or a military reserve unit called to active duty by presidential order pursuant to 10 U.S.C. §§ 121 and 12304, shall be renewed in accordance with KRS 12.355 upon submission of the Military Extension Application.

(5) The board office may audit an Advanced Emergency Medical Technician's continuing education and continuing education records.

(6) The Advanced Emergency Medical Technician shall submit the documentation requested within ten (10) business days of receipt of the board's request. If documentation of continuing education hours consistent with this administrative regulation are not received using the board-approved submission process within ten (10) business days of receipt of the board's request, the Advanced Emergency Medical Technician certification for the individual shall be summarily revoked and the individual shall reapply for certification through Reinstatement if eligible.

(7) The ten (10) business days for submission shall not apply to investigations pursuant to KRS Chapter 311A.

(8) The Advanced Emergency Medical Technician shall maintain documentation of all continuing education for three (3) years from the date of completion.

### Section 4. Reinstatement of Certification.

(1) An Advanced Emergency Medical Technician whose Kentucky certification has lapsed shall be eligible for reinstatement of certification if the applicant submits:

(a) A completed AEMT Reinstatement Certification Application in KEMSIS; and

(b) Evidence of:

1. Previous certification as an Advanced Emergency Medical Technician in the Commonwealth of Kentucky;

2. Proof of current training in:

a. Pediatric Abusive Head Trauma as required by KRS 311A.120;

b. Awareness of Sexual Violence Training required by KRS 311A.120; and

c. HIV/AIDS training required by KRS 311A.120.

(2) The applicant shall pay the fee pursuant to 202 KAR 7:030.

(3) The applicant for reinstatement of certification shall undergo a national background check provided by a vendor that has been contracted through the board.

(a) An applicant shall not directly submit a background check to meet the requirements of this section. The background check shall be submitted to the board by the company that conducts the background check.

(b) Background checks that are older than six (6) months shall not be considered current, and the applicant shall undergo another national background check prior to approval of reinstatement of certification.

(4) The applicant for reinstatement of certification shall bear the burden of proof of previous certification in Kentucky if the previous certification is in issue or dispute.

(5) An applicant for reinstatement of an Advanced Emergency Medical Technician certification shall submit to the board evidence of successful completion of the NREMT Advanced Emergency Medical Technician National Component of the Continued Competency Program for Continuing Education within the twelve (12) months preceding application for reinstatement of the Advanced Emergency Medical Technician.

(6) An applicant who is ineligible for certification pursuant to KRS 311A.050 through 311A.090 shall be ineligible for reinstatement.

### Section 5. Advanced Emergency Medical Technician Reciprocity.

(1) An individual who is certified in ~~another~~~~[a contiguous] state[ to the Commonwealth of Kentucky]~~ or by the NREMT as an Advanced Emergency Medical Technician or any member of the United States Armed Forces, or veteran who has transitioned within the past six (6) years from the United States Armed Forces, and has been registered by the National Registry as an Advanced Emergency Medical Technician or EMT and has successfully completed a board-approved United States Armed Forces medical training course shall be eligible for reciprocity for certification as an Advanced Emergency Medical Technician in Kentucky if the applicant submits:

(a) A completed AEMT Reciprocity Certification Application in KEMSIS;

(b) Proof of the applicant's current unrestricted NREMT certification as an Advanced Emergency Medical Technician or current Advanced Emergency Medical Technician certification in ~~another~~~~[a contiguous] state[ to the Commonwealth of Kentucky]~~ or proof of completing a board-approved United States Armed Forces medical training course which included NREMT-Emergency Medical Technician certification; and

(c) Proof of current training in:

1. HIV/AIDS training required by KRS 311A.120;

2. Pediatric Abusive Head Trauma training required by KRS 311A.120; and

3. Awareness of Sexual Violence Training required by KRS 311A.120.

(2) An applicant shall pay the fee required for certification through reciprocity pursuant to 202 KAR 7:030.

## VOLUME 51, NUMBER 4– October 1, 2024

(3) An applicant for Advanced Emergency Medical Technician reciprocity shall undergo a national background check provided by a vendor that has been contracted through the board. An applicant shall not directly submit a background check. The background check shall be submitted to the board by the company that conducts the background check. Background checks that are older than six (6) months shall not be considered current, and the applicant shall undergo another national background check prior to approval of certification through reciprocity.

(4) An applicant shall not have been convicted of offenses described in KRS 311A.050.

(5) An applicant shall not have been subjected to discipline that would prevent reciprocity at the time of application.

(6) An Advanced Emergency Medical Technician certified pursuant to Section 2 of this administrative regulation shall not perform any procedures or skill on which the Advanced Emergency Medical Technician has not been trained. An Advanced Emergency Medical Technician who performs a skill for which the Advanced Emergency Medical Technician does not have documented training shall have exceeded the scope of practice and shall be in violation of KRS 311A.050.

(7) An Advanced Emergency Medical Technician certified pursuant to this section shall complete the Kentucky supplemental Advanced Emergency Medical Technician curricula for the procedures listed in 202 KAR 7:701 prior to beginning work for a licensed agency in Kentucky.

(8) Kentucky supplemental Advanced Emergency Medical Technician curricula consistent with 202 KAR 7:701 shall be provided during employee orientation, or by entities authorized to conduct continuing education pursuant to 202 KAR 7:601.

(9) Verification of competency on the supplemental curricula procedures in 202 KAR 7:701 shall be maintained by the Advanced Emergency Medical Technician for a minimum of three (3) years. Failure to submit the AEMT Supplemental Curriculum Training Verification Report shall result in revocation of Advanced Emergency Medical Technician certification.

(10) If an Advanced Emergency Medical Technician certified pursuant to this section fails to supply verification of competency as required by subsection (7) of this section the Advanced Emergency Medical Technician shall be ineligible to apply for and receive Advanced Emergency Medical Technician reciprocity certification until the applicant has submitted the AEMT Supplemental Curriculum Training Verification Report as required pursuant to 202 KAR 7:701, and shall reapply for Reciprocity through the process set forth in this section.

**Section 6. Scope of Practice.** An Advanced Emergency Medical Technician shall provide emergency medical services consistent with the skills and procedures in the National EMS Scope of Practice Model and 202 KAR 7:701.

### Section 7. Expiration of Certification.

(1) Certification periods and expiration dates shall be pursuant to KRS 311A.095.

(2) If an Advanced Emergency Medical Technician's certification lapses or expires, the Advanced Emergency Medical Technician shall cease provision of emergency medical services.

(3) An Advanced Emergency Medical Technician who has allowed his or her certification to lapse or expire shall be required to reinstate certification pursuant to Section 4 of this administrative regulation.

### Section 8. Downgrading Certification.

(1) An Advanced Emergency Medical Technician currently certified as an Advanced Emergency Medical Technician by the board shall be eligible for certification downgrade if:

(a) The certification is in good standing with no pending disciplinary action;

(b) The applicant submits a completed AEMT Certification Downgrade Application in KEMSIS; and

(c) The applicant pays the fee established in 202 KAR 7:030.

(2) An Advanced Emergency Medical Technician is only eligible to downgrade his or her certification to an Emergency Medical Technician or Emergency Medical Responder certification.

(3) Certification periods and expiration dates shall be pursuant to KRS 311A.095.

(4) An applicant shall undergo a background check pursuant to KRS 311A.050 and 311A.100. The background check shall be:

(a) Statewide in scope for an applicant with current certification in Kentucky;

(b) Less than six (6) months old when the applicant submits to the board all requirements for certification; and

(c) Provided by a vendor that has been contracted through the board.

(5) Downgrade shall be denied if the applicant has not met the requirements of this section or has been subject to disciplinary action that prevents certification at the time of application.

(6) The applicant shall be responsible for meeting the renewal requirements of the downgraded certification level issued prior to expiration of that certification.

(7) To reinstate the certification or license that was previously held, the applicant shall meet the regulatory requirements for that level of certification or licensure.

(8) The applicant shall notify the board's licensed service director with whom the applicant is affiliated immediately upon downgrading his or her certification.

(9) Once the applicant has downgraded his or her certification or license, the applicant is no longer permitted to provide emergency medical services at the previous certification or license level held.

(10) An applicant applying for downgrade who does not comply with this section shall be subject to disciplinary action pursuant to KRS Chapter 311A.

(11) All endorsements, certifications, or licenses held at the previous certification or license level shall be void at the completion of the downgrade.

### Section 9. Surrender of Certification.

(1) An Advanced Emergency Medical Technician surrendering certification shall:

(a) Submit a completed AEMT Certification Surrender Application in KEMSIS; and

(b) Pay the fee established in 202 KAR 7:030.

(2) The applicant shall notify the board's licensed service director with whom the applicant is affiliated immediately upon surrendering his or her certification.

### Section 10. Reporting Requirements.

(1) An Advanced Emergency Medical Technician shall maintain current demographic information in KEMSIS including:

(a) Legal name;

1. Any changes to an AMET's legal name shall be submitted using the Name Change Application in KEMSIS; and

2. One (1) of the following documents as verification of name change:

a. Social Security card;

b. Driver's license; or

c. Passport;

(b) Mailing address;

(c) Email address; and

(d) Phone number.

(2) An Advanced Emergency Medical Technician who does not comply with this section shall be subject to disciplinary action pursuant to KRS Chapter 311A.

**Section 11. Exemptions from Advanced Emergency Medical Technician Administrative Regulations.** Certification requirements for an Advanced Emergency Medical Technician shall not apply to:

(1) United States military members, state National Guard personnel, or employees of the United States government if the individual provides emergency medical services:

(a) On land owned by the United States government;

(b) In facilities owned by the United States government;

(c) In the performance of official duties under federal law; or

## VOLUME 51, NUMBER 4– October 1, 2024

(d) As part of assistance for a mass casualty or disaster incident pursuant to federal law or official state assistance request; or

(2) An Advanced Emergency Medical Technician certified in another state or territory of the United States who:

(a) Enters Kentucky with a patient being transported to a medical facility or other final destination in Kentucky; or

(b) Travels through Kentucky during the course of a patient transport from an out-of-state location to a destination outside of Kentucky.

Section 12. Public Notice of Negative Action. The board office shall cause to be published on the board Web site the name of an Advanced Emergency Medical Technician who:

- (1) Is fined;
- (2) Is placed on probationary status;
- (3) Is placed on restricted status;
- (4) Is suspended; or
- (5) Has had his or her certification revoked.

Section 13. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "National Emergency Medical Services Education Standards-Advanced Emergency Medical Technician Instructional Guidelines", The United States Department of Transportation, National Highway Traffic Safety Administration, DOT HS 811 077D, January 2009;

(b) "AEMT Initial Certification Application" in KEMSIS, July 2019;

(c) "AEMT Certification Renewal Application" in KEMSIS, July 2019;

(d) "AEMT Reciprocity Certification Application" in KEMSIS, July 2019;

(e) "AEMT Reinstatement Certification Application" in KEMSIS, July 2019;

(f) "AEMT Supplemental Curriculum Training Verification Report", July 2019;

(g) "National EMS Scope of Practice Model", National Highway Traffic Safety Administration, DOT HS 810 657, February 2007;

(h) "National EMS Scope of Practice Model", National Highway Traffic Safety Administration, DOT HS 812 666, February 2019;

(i) "AEMT Certification Downgrade Application" in KEMSIS, July 2019;

(j) "AEMT Certification Surrender Application" in KEMSIS, July 2019;

(k) "National Registry of Emergency Medical Technicians National Continued Competency Program AEMT", October 2016;

(l) "Name Change Application" in KEMSIS, July 2019;

(m) "Military Extension Application" in KEMSIS, July 2019; and  
(n) "United States Citizenship and Immigration Services (U.S.C.I.S.) Permanent Resident Card (form I-551/Green Card)", July 2019.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Kentucky Board of Emergency Medical Services, 500 Mero Street, 5th Floor 5SE32, Frankfort, Kentucky 40601, by appointment, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material is also available on the board's Web site at: [kyems.com](http://kyems.com).

JOHN R. HOLDER, Chair

APPROVED BY AGENCY: August 8, 2024

FILED WITH LRC: September 3, 2024 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 23, 2024, at 1:00 p.m. ET at the Kentucky Board of Emergency Medical Services, 500 Mero Street, 5th Floor 5SE32, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written

request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through October 31, 2024. 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: John K. Wood, counsel for the Kentucky Board of Emergency Medical Services, 163 East Main Street, Suite 200, Lexington, Kentucky 40507, phone (859) 225-4714, email [administrativeregulations@wgmfirm.com](mailto:administrativeregulations@wgmfirm.com).

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John K. Wood

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 311A.025(2) requires the Kentucky Board of Emergency Medical Services to promulgate administrative regulations relating to the standards for training, education, examination, certification, practice, and recertification of the advanced emergency medical technician (AEMT). This administrative regulation establishes requirements for Advanced Emergency Medical Technicians.

(b) The necessity of this administrative regulation: KRS 311A.025(2) requires the Kentucky Board of Emergency Medical Services to promulgate administrative regulations relating to the standards for training, education, examination, certification, practice, and recertification of the advanced emergency medical technician (AEMT). This administrative regulation is necessary to establish requirements for Advanced Emergency Medical Technicians.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 311A.025 by establishing the requirements for Advanced Emergency Medical Technicians.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 311A.025(2) requires the Kentucky Board of Emergency Medical Services to promulgate administrative regulations relating to the standards for training, education, examination, certification, practice, and recertification of the advanced emergency medical technician (AEMT). This administrative regulation assists in the effective administration of KRS 311A.025(2) by establishing requirements for Advanced Emergency Medical Technicians.

(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 brings this administrative regulation into conformity with House Bill 57's amendment to KRS 311A.142(2) by making AEMTs certified and in good standing in any other state eligible for a reciprocal Kentucky certification. Prior to House Bill 57 becoming law, only EMS personnel in states contiguous to Kentucky were eligible for reciprocity.

(b) The necessity of the amendment to this administrative regulation: This emergency amendment is necessary to bring this administrative regulation into conformity with House Bill 57's amendment to KRS 311A.142(2) and to mitigate the staffing shortages that EMS agencies across the Commonwealth are facing.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 311A.025 by establishing requirements for Advanced Emergency Medical Technicians. This amendment also conforms to the recent amendment to KRS 311A.142(2) permitting reciprocity to EMS personnel licensed or certified and in good standing with another state.

(d) How the amendment will assist in the effective administration of the statutes: KRS 311A.025(2) requires the Kentucky Board of Emergency Medical Services to promulgate administrative regulations relating to the standards for training, education, examination, certification, practice, and recertification of the advanced emergency medical technician (AEMT). This amendment will assist in the effective administration of KRS 311A.025(2) by establishing requirements for Advanced Emergency Medical Technician.

(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 the

**VOLUME 51, NUMBER 4– October 1, 2024**

Kentucky Board of Emergency Medical Services, emergency medical services providers, individuals seeking Advanced Emergency Medical Technician reciprocity, and local governments.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This amendment does not establish any new requirements. Advanced Emergency Medical Technicians certified in any other state may seek a reciprocal Kentucky certification by meeting the existing requirements set forth in Section 5 of this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to any entity identified in question (3), other than administrative costs that may be incurred in recruiting and maintaining personnel.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Advanced Emergency Medical Technicians certified in states not contiguous to Kentucky will benefit from this amendment by now being eligible for a reciprocal Kentucky certification. EMS agencies and local governments will benefit from the expanded pool of individuals eligible for a reciprocal Kentucky Advanced Emergency Medical Technician certification.

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

(a) Initially: Other than administrative costs, there will be no costs to the Board in implementing this administrative regulation.

(b) On a continuing basis: Other than administrative costs, there will be no costs to the Board in implementing this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Kentucky Board of Emergency Medical Services is a state agency that receives its annual budget from the state government.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied to this administrative regulation because the amendment applies to all Advanced Emergency Medical Technicians.

**FISCAL IMPACT STATEMENT**

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 311A.025(2) requires the Kentucky Board of Emergency Medical Services to promulgate administrative regulations relating to the standards for training, education, examination, certification, practice, and recertification of the advanced emergency medical technician (AEMT). This administrative regulation establishes requirements for Advanced Emergency Medical Technicians.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Emergency Medical Services.

(a) Estimate the following for the first year:

Expenditures: None.

Revenues: None.

Cost Savings: None.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? This amendment should not affect the Board's expenditures, revenues, or costs.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): All cities and counties.

(a) Estimate the following for the first year:

Expenditures: There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining personnel.

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining required personnel.

(4) Identify additional regulated entities not listed in questions (2) or (3): All EMS services.

(a) Estimate the following for the first year:

Expenditures: There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining personnel.

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining personnel.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining personnel.

(b) Methodology and resources used to determine the fiscal impact: No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining personnel.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This administrative regulation will not have an overall negative or adverse major economic impact to the affected entities.

(b) The methodology and resources used to reach this conclusion: No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining required personnel.

**STATEMENT OF EMERGENCY  
202 KAR 7:401E.**

This emergency amendment is necessary to address the imminent threat to public health, safety, and welfare posed by the shortage of paramedics throughout the Commonwealth. There are not enough EMS personnel in Kentucky working for EMS services. EMS agencies throughout the Commonwealth are having difficulty maintain adequate staffing levels. During the 2024 Regular Session, House Bill 57 became law. The Bill amended KRS 311A.142(2) to allow the Kentucky Board of Emergency Medical Services (the "Board") to grant reciprocal certifications and licenses to individuals certified or licensed and in good standing with another state. Prior to the House Bill 57 amendments, the Board was only authorized to grant reciprocal certifications and licenses to EMS personnel holding credentials in a state contiguous to Kentucky. Consistent with the former statute, the current version of this administrative regulation only permits reciprocity to paramedics licensed in a state contiguous to Kentucky. This emergency amendment brings the administrative regulation into conformity with House Bill 57's amendment to KRS 311A.142(2) by making paramedics licensed and in good standing in any other state eligible for a reciprocal Kentucky paramedic license. By promptly expanding reciprocity eligibility to paramedics licensed and in good standing with any other state, this emergency amendment will mitigate the risks posed by the shortage of paramedics in the Commonwealth. House Bill 57 also repealed KRS 311A.185, which permitted paramedics to pronounce death, required paramedic training in determination of death and preservation of evidence, and established resuscitation procedures. Those provisions were unnecessary, as coroners are better suited to determine and pronounce death and preservation of evidence and resuscitation procedures are more appropriately established by agency policies and medical protocols. Consistent with House Bill 57's repeal of KRS 311A.185, the requirements regarding



VOLUME 51, NUMBER 4– October 1, 2024

resuscitation procedures and determination of death and preservation of evidence have been stricken in this emergency amendment and in the identical ordinary amendment. Finally, this emergency amendment and the identical ordinary amendment contain a sunset provision for paramedic critical care endorsements. Under these amendments, critical care endorsements will not be valid after December 31, 2025. Paramedics wishing to provide critical care on and after January 1, 2026, must obtain an advanced practice paramedic license and certification as a critical care paramedic in accordance with 202 KAR 7:410. An ordinary administrative regulation is not sufficient to address the imminent risk posed by the continued shortage of EMS personnel. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor  
JOHN R. HOLDER, Chair

KENTUCKY BOARD OF EMERGENCY MEDICAL SERVICES  
(Emergency Amendment)

202 KAR 7:401E. Paramedics.

EFFECTIVE: September 3, 2024

RELATES TO: KRS 12.355, 72.020, 311A.025, 311A.030, 311A.050-311A.100, 311A.120, 311A.135, 311A.142, 311A.170, [311A.185-]311A.190, 446.400

STATUTORY AUTHORITY: KRS 311A.020, 311A.025, 311A.030, 311A.120, 311A.125, 311A.135, 311A.170

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311A.025 requires the board to promulgate administrative regulations relating to requirements and procedures for licensure, relicensure, and reciprocity for paramedics. This administrative regulation establishes those requirements and procedures.

Section 1. Paramedic Student Eligibility. Individuals shall be eligible to enroll as a student in a paramedic education and training program if the applicant:

- (1) Holds current unrestricted certification as an Emergency Medical Technician or Advanced Emergency Medical Technician in Kentucky or holds current unrestricted certification with the National Registry of Emergency Medical Technicians (NREMT) as an Emergency Medical Technician or Advanced Emergency Medical Technician;
- (2) Is not currently subject to disciplinary action pursuant to KRS Chapter 311A that would prevent licensure; and
- (3) Meets all additional requirements established by the EMS Training and Educational Institute (EMS-TEI).

Section 2. Licensure Requirements.

[(1)] Individuals desiring initial licensure as a paramedic shall:

[(1)][(a)] Successfully complete a board approved education and training program that conforms to the curriculum of the United States Department of Transportation, National Highway Traffic Safety Administration, National Emergency Medical Services Education Standards- Paramedic Instructional Guidelines;

[(2)][(b)] Successfully complete all EMS-Training and Educational Institute (EMS-TEI) requirements for the education or training program which:

[(a)][1-] Meet or exceed the National Emergency Medical Services Educational Standards- Paramedic Instructional Guidelines, which shall not be satisfied by the completion of refresher or transition courses alone; and

[(b)][2-] Meet all educational standards established in 202 KAR 7:601;

[(c)] [Present evidence of completion of education and training regarding determination of death and preservation of evidence as required by KRS 311A.185;]

[(3)][(d)] Obtain certification as a paramedic by the National Registry of Emergency Medical Technicians;

[(4)][(e)] Submit a completed Paramedic Initial Licensure Application in the Kentucky Emergency Medical Services Information System (KEMSIS);

[(5)][(f)] Pay the fee pursuant to 202 KAR 7:030;

[(6)][(g)] Undergo a background check pursuant to KRS 311A.050 and 311A.100:

[(a)][4-] The background check shall be:

1. [(a-)] National in scope for an applicant not currently certified at any level in Kentucky;

2. [(b-)] Statewide in scope for an applicant with current certification in Kentucky;

3. [(c-)] Less than six (6) months old when the applicant submits to the board all requirements for licensure; and

4. [(d-)] Provided by a vendor that has been contracted through the board; and

[(b)][2-] An applicant shall not directly submit a background check to meet the requirements of this section. The background check shall be submitted to the board by the company that conducts the background check; and

[(7)][(h)] Be a citizen of the United States, a permanent resident of the United States, or otherwise lawfully present in the United States, as evidenced by submission to the board of:

[(a)][4-] A social security card;

[(b)][2-] Birth certificate;

[(c)][3-] A United States Citizenship and Immigration Services (U.S.C.I.S.) Permanent Resident Card (form I-551/Green Card); or

[(d)][4-] Other legal authorization to live and work in the United States.

[(2)]

[(a)] [A paramedic licensed pursuant to this section shall complete training regarding determination of death and preservation of evidence as required by KRS 311A.185 prior to beginning work for a licensed agency in Kentucky.]

[(b)] [Training in determination of death and preservation of evidence as required by KRS 311A.185 shall be provided during employee orientation, or by entities authorized to conduct continuing education pursuant to 202 KAR 7:601.]

Section 3. Renewal of Licensure and Continuing Education Requirements.

(1) A paramedic shall be eligible for license renewal if:

(a) The applicant submits a completed Paramedic License Renewal Application in KEMSIS;

(b) The applicant maintains written evidence of:

1. HIV/AIDS training required by KRS 311A.120;

2. Pediatric Abusive Head Trauma as required by KRS 311A.120; and

3. Awareness of Sexual Violence Training required by KRS 311A.120;

(c) The applicant pays the fee pursuant to 202 KAR 7:030; and

(d) The applicant maintains evidence of:

1. Current certification by the NREMT as a paramedic, and if this option is used the board may request, through a continuing education audit, proof of continuing education to verify compliance with the continuing education requirements of this section; or

2. NREMT Paramedic National Component of the Continued Competency Program Paramedic for Continuing Education.

(2) All continuing education shall be validated by entities authorized to conduct continuing education pursuant to 202 KAR 7:601.

(3) An application for renewal of licensure shall be denied if:

(a) Prior to the licensure expiration date, the paramedic applicant has not met the applicable requirements of this administrative regulation; or

(b) The applicant has been subjected to disciplinary action that prevents relicensure at the time of application.

(4) A licensed paramedic, in good standing, who is a member of a National Guard or a military reserve unit called to active duty by presidential order pursuant to 10 U.S.C. 121 and 12304 shall be renewed in accordance with KRS 12.355 upon submission of the Military Extension Application.

(5) The board office may audit a paramedic's continuing education and continuing education records. The paramedic shall

## VOLUME 51, NUMBER 4– October 1, 2024

submit the documentation requested within ten (10) business days of receipt of the board's request.

(6) If documentation of continuing education hours consistent with this administrative regulation are not received using the board-approved submission process within ten (10) business days of receipt of the board's request, the paramedic license for the individual shall be summarily revoked and the individual shall reapply for licensure through reinstatement if eligible.

(7) The ten (10) business days for submission shall not apply to investigations pursuant to KRS Chapter 311A.

(8) The paramedic shall maintain documentation of all continuing education for three (3) years from the date of completion.

### Section 4. Reinstatement of License.

(1) A paramedic whose Kentucky license has lapsed may reinstate their license if the applicant submits:

(a) A completed Paramedic Reinstatement License Application in KEMSIS;

(b) Evidence of previous licensure as a paramedic in the Commonwealth of Kentucky;

(c) Evidence of current training in:

1. Pediatric Abusive Head Trauma as required by KRS 311A.120;

2. Awareness of Sexual Violence Training required by KRS 311A.120; and

~~[3.] [Training regarding determination of death and preservation of evidence as required by KRS 311A.185; and]~~

~~3.[4.] HIV/AIDS training required by KRS 311A.120; and~~

(d) Payment of the fee pursuant to 202 KAR 7:030.

(2)

(a) The applicant for reinstatement of license shall undergo a national background check provided by a vendor that has been contracted through the board.

(b) An applicant shall not directly submit a background check to meet the requirements of this section. The background check shall be submitted to the board by the company that conducts the background check.

(c) Background checks that are older than six (6) months shall not be considered current, and the applicant shall undergo another national background check prior to approval of reinstatement of license.

(3) The applicant for reinstatement of licensure shall bear the burden of proof of previous licensure in Kentucky if the previous paramedic license is in issue or dispute.

(4) An applicant shall provide evidence of successful completion of the NREMT-Paramedic national component of the continued competency program for continuing education within the twelve (12) months preceding application for reinstatement of the paramedic license.

(5) An applicant ineligible for licensure pursuant to KRS 311A.050 through 311A.090 shall be ineligible for reinstatement.

### Section 5. Paramedic Reciprocity.

(1) ~~An~~An~~[Pursuant to KRS 311A.142, an]~~ individual who is certified or licensed in another~~[a contiguous] state [to the Commonwealth of Kentucky]~~ or by the NREMT as a paramedic or any member of the United States Armed Forces, or veteran who has transitioned within the past six (6) years from the United States Armed Forces, and has been registered by the National Registry as a paramedic or has obtained National Registry as a paramedic by successfully completing a board-approved United States Armed Forces medical training course that meets the National Emergency Medical Services Education Standards for Paramedic, shall be eligible for reciprocity for Kentucky licensure as a paramedic if the applicant submits:

(a) A completed Paramedic Reciprocity Licensure Application in KEMSIS;

(b) Proof of the applicant's current unrestricted certification as a NREMT-Paramedic, or current paramedic license in another~~[a contiguous] state [to the Commonwealth of Kentucky]~~, or proof of completing a board-approved United States Armed Forces medical training course which included NREMT-Emergency Medical Technician certification and completion of a board-approved bridge course; and

(c) Completion of current training in:

1. HIV/AIDS training required by KRS 311A.120;

2. Pediatric Abusive Head Trauma training required by KRS 311A.120; and

3. Awareness of Sexual Violence Training required by KRS 311A.120;~~[- and]~~

~~[4.] [Training regarding determination of death and preservation of evidence as required by KRS 311A.185.]~~

(2) An applicant shall pay the fee required for licensure through reciprocity pursuant to 202 KAR 7:030.

(3) An applicant for paramedic reciprocity shall undergo a national background check provided by a vendor that has been contracted through the board. An applicant shall not directly submit a background check. The background check shall be submitted to the board by the company that conducts the background check. Background checks that are older than six (6) months shall not be considered current, and the applicant shall undergo another national background check prior to approval of licensure through reciprocity.

(4) An applicant shall not have been convicted of offenses described in KRS 311A.050.

(5) An applicant shall not have been subjected to discipline that would prevent reciprocity at the time of application.

(6) A paramedic licensed pursuant to this section shall not perform any procedures or skill on which the paramedic has not been trained. A paramedic who performs a skill for which the paramedic does not have documented training shall have exceeded the scope of practice and shall be in violation of KRS 311A.050.

~~[(7)] [A paramedic licensed pursuant to this section shall complete training regarding determination of death and preservation of evidence as required by KRS 311A.185 prior to beginning work for a licensed agency in Kentucky.]~~

~~[(a)] [Training in determination of death and preservation of evidence as required by KRS 311A.185 shall be provided during employee orientation, or by entities authorized to conduct continuing education pursuant to 202 KAR 7:604.]~~

~~[(b)] [Kentucky supplemental paramedic curricula consistent with 202 KAR 7:701 shall be provided during employee orientation, or by entities authorized to conduct continuing education pursuant to 202 KAR 7:604.]~~

~~[(c)] [Verification of competency on the supplemental curricula procedures in 202 KAR 7:701 shall be maintained by the paramedic for a minimum of three (3) years. Failure to submit the Paramedic Supplemental Curriculum Training Verification Report upon request shall result in revocation of the paramedic license.]~~

~~[(8)] [If a paramedic licensed pursuant to this section fails to supply verification of competency as required by subsection (7) of this section, the paramedic shall be ineligible to apply for and receive paramedic reciprocity license until the applicant has submitted the Paramedic Supplemental Curriculum Training Verification Report as required by 202 KAR 7:701 and shall reapply for reciprocity through the process listed in this section.]~~

Section 6. Scope of Practice. A paramedic shall provide emergency medical services consistent with the skills and procedures in the National EMS Scope of Practice Model and 202 KAR 7:701.

### Section 7. Expiration of Licensure.

(1) Licensure periods and expiration dates shall be pursuant to KRS 311A.095.

(2) If a paramedic license lapses or expires, the paramedic shall cease provision of emergency medical services.

(3) A paramedic who has allowed his or her license to lapse or expire shall be required to reinstate his or her licensure pursuant to Section 4 of this administrative regulation.

### Section 8. Downgrading Licensure.

(1) A paramedic currently licensed as a paramedic by the board shall be eligible for licensure downgrade if:

(a) The license is in good standing with no pending disciplinary action;

(b) The applicant submits a completed Paramedic License Downgrade Application in KEMSIS; and

VOLUME 51, NUMBER 4– October 1, 2024

(c) The applicant pays the fee pursuant to 202 KAR 7:030;  
(2) A paramedic shall only be eligible to downgrade his or her license to an Advanced Emergency Medical Technician, Emergency Medical Technician, or Emergency Medical Responder certification.

(3) Certification periods and expiration dates shall be pursuant to KRS 311A.095.

(4) The applicant shall undergo a background check pursuant to KRS 311A.050 and 311A.100. The background check shall be:

(a) Statewide in scope for an applicant with current certification in Kentucky;

(b) Less than six (6) months old when the applicant submits to the board all requirements for certification; and

(c) Provided by a vendor that has been contracted through the board.

(5) Downgrade shall be denied if the applicant has not met the requirements of this section or has been subject to disciplinary action that prevents certification at the time of application.

(6) The applicant shall be responsible for meeting the renewal requirements of the downgraded certification level issued prior to expiration of that certification.

(7) To reinstate the certification or license that was previously held, the applicant shall meet the regulatory requirements for that level of certification or licensure.

(8) The applicant shall notify the board's licensed service director with whom the applicant is affiliated immediately upon downgrading his or her license.

(9) Once the applicant has downgraded his or her certification or license, the applicant shall not provide emergency medical services at the previous certification or license level held.

(10) An applicant applying for downgrade that does not comply with this section shall be subject to disciplinary action pursuant to KRS Chapter 311A.

(11) All endorsements, certifications, or licenses held at the previous certification or license level shall be void at the completion of the downgrade.

Section 9. Surrender of License.

(1) A paramedic surrendering licensure shall:

(a) Submit a completed Paramedic License Surrender Application in KEMSIS; and

(b) Pay the fee pursuant to 202 KAR 7:030.

(2) The applicant shall notify the board's licensed service director with whom the applicant is affiliated immediately upon surrendering his or her license.

Section 10. Reporting Requirements.

(1) A paramedic shall maintain current demographic information in KEMSIS including:

(a) Legal name;

1. Any changes to the paramedic's legal name shall be submitted using the Name Change application in KEMSIS; and

2. One (1) of the following documents as verification of name change:

a. Social Security card;

b. Driver's license; or

c. Passport;

(b) Mailing address;

(c) Email address; and

(d) Phone number.

(2) A paramedic that does not comply with this section shall be subject to disciplinary action pursuant to KRS Chapter 311A.

[Section 11.] [Determination of Death Protocol.]

[(1)] [The paramedic shall determine and document that the following signs of death are present:]

[(a)] [Unresponsiveness;]

[(b)] [Apnea;]

[(c)] [Absence of a palpable pulse at the carotid site;]

[(d)] [Bilaterally fixed and dilated pupils; and]

[(e)] [Except in a case of trauma, asystole determined in two (2) leads on an electrocardiograph.]

[(2)] [The paramedic shall determine that one (1) of the following factors or conditions exist:]

[(a)] [Lividity of any degree;]

[(b)] [Rigor mortis of any degree;]

[(c)] [Presence of venous pooling in the body;]

[(d)] [Damage or destruction of the body which is incompatible with life;]

[(e)] [A copy of the Kentucky Emergency Medical Services Do Not Resuscitate (DNR) Order or identification bracelet or other means of identification evidencing a patient's desire not to be resuscitated in accordance with KRS 311A.170; or]

[(f)] [A properly executed Kentucky Medical Orders for Scope of Treatment (MOST) form.]

[(3)] [If a paramedic has determined and documented that the conditions of subsections (1) and (2) of this section exist, the paramedic may, subject to the provisions of this administrative regulation, declare the patient dead.]

[(4)] [The paramedic may contact medical control or other licensed physician, if authorized in writing by the medical director, for advice and assistance in making a determination required by this administrative regulation.]

[(5)] [If a paramedic determines a patient to be dead, the paramedic shall remain on the scene unless the paramedic's personal safety is jeopardized, until the arrival of the coroner, deputy coroner, or law enforcement officer from that jurisdiction.]

Section 11.[Section 12.] Discontinuance of Resuscitative Efforts.

[(1)] [A paramedic may discontinue resuscitation if:]

[(a)] [The patient has suffered cardiac arrest prior to arrival at the hospital;]

[(b)] [The paramedic has performed the resuscitative efforts required in the resuscitation protocol of the ambulance service medical director;]

[(c)] [The resuscitative efforts were unsuccessful; and]

[(d)] [The patient meets the criteria established in Section 11(4) of this administrative regulation.]

[(2)] [A paramedic may also discontinue resuscitation:]

[(a)] [If the safety of the paramedic is at risk; or]

[(b)] [At mass casualty incidents.]

[(3)] [A paramedic may discontinue resuscitation initiated by someone other than a paramedic if:]

[(a)] [The patient has suffered cardiac arrest;]

[(b)] [The resuscitative efforts required in the resuscitation protocol of the ambulance service medical director have been performed and documented;]

[(c)] [The resuscitative efforts were unsuccessful; and]

[(d)] [The patient meets the criteria established in Section 11(4) of this administrative regulation.]

[(4)] [If a paramedic discontinues resuscitation on a patient prior to transport of the patient to a medical facility, the paramedic shall make the notifications required by KRS 72.020 and at least one (1) member of the ambulance crew shall remain on the scene until the arrival of a coroner, deputy coroner, or law enforcement officer.]

[(5)] [If a paramedic discontinues resuscitation on a patient during transport to a medical facility, the paramedic shall make the notifications required by KRS 72.020 to the officials of the county in which the paramedic discontinued resuscitation. Upon making the notification, the paramedic shall determine from the coroner whether to remain at that location, to return the deceased to a facility within the primary service area of the ambulance provider, or to continue on to the medical facility with the deceased.]

[(6)] A paramedic shall discontinue resuscitation efforts if presented with a properly executed Kentucky Emergency Medical Services Do Not Resuscitate (DNR) Order, or properly executed Kentucky Medical Orders for Scope of Treatment (MOST) form.

[Section 13.] [Training of Paramedics in Determination of Death and Preservation of Evidence.]

[(1)] [The training program shall not be less than one (1) hour in length and, at a minimum, shall include:]

[(a)] [Information on and a copy of KRS 311A.170;]

[(b)] [Information on and a copy of this administrative regulation;]

[(c)] [Information on and a copy of KRS 72.020;]

[(d)] [Information on and a copy of KRS 446.400;]

VOLUME 51, NUMBER 4– October 1, 2024

~~[(e)] [Information on the duties of and role of the coroner and state medical examiner; and]~~

~~[(f)] [Information on preservation of evidence at the scene of a death.]~~

~~[(2)] [The training shall be:]~~

~~[(a)] [Provided as part of a paramedic training course conducted by an approved EMS-TEI via:]~~

~~[1.] [Classroom instruction;]~~

~~[2.] [Video conferencing or other distance learning media; or]~~

~~[3.] [Video presentation or computer based learning; and]~~

~~[(b)] [Conducted under the supervision of a medical director.]~~

~~[(3)] [The medical director of the ambulance service or EMS provider conducting the training shall request the coroner of the county in which the training is provided to attend and participate in the training.]~~

~~[(4)] [The EMS-TEI or the medical director providing the training shall maintain the following records:]~~

~~[(a)] [A copy of the course outline used in the training to verify that the training has been conducted in accordance with the requirements of this administrative regulation;]~~

~~[(b)] [A sign-in sheet with the printed and signed names and certification or license numbers and state of license of all paramedics who successfully completed the training, including the signature of the educator supervising the education program; and]~~

~~[(c)] [Curriculum vitae for each member of the course faculty.]~~

~~[(5)] [A certificate or letter of certification shall be provided to each participant in the program at the conclusion of the training.]~~

~~[(6)] [The board office shall maintain an approved curriculum, Prehospital Determination of Death, that may be used by entities providing training specified by this administrative regulation.]~~

~~Section 12.[Section 14.] Critical Care Endorsement.~~

~~(1) A paramedic licensed by the board may be granted a critical care endorsement upon completion of the Application for Paramedic Critical Care Endorsement, payment of the fee pursuant to 202 KAR 7:030, and completion of a board-approved training program that minimally meets the objectives of the University of Maryland Baltimore Campus CCEMTP Program.~~

~~(2) The critical care endorsement shall be valid if the paramedic maintains current licensure as a paramedic by the board.~~

~~(3) A paramedic with a critical care endorsement may perform the skills and procedures included in the paramedic's education and training subject to authorization by the medical director through established protocols.~~

~~(4) Notwithstanding subsections (1) through (3) of this section, on and after January 1, 2026, critical care endorsements shall not be valid. Paramedics wishing to provide critical care on and after January 1, 2026, shall obtain an advanced practice paramedic license and certification as a critical care paramedic in accordance with 202 KAR 7:410.~~

~~Section 13.[Section 15.] Exemptions from Paramedic Administrative Regulations. The Kentucky licensure requirements for a paramedic shall not apply to:~~

~~(1) United States military members, National Guard personnel, or employees of the United States government if the individual provides emergency medical services:~~

~~(a) On land owned by the United States government;~~

~~(b) In facilities owned by the United States government;~~

~~(c) In the performance of official duties under federal law; or~~

~~(d) As part of assistance for a mass casualty or disaster incident pursuant to federal law or official state assistance request; or~~

~~(2) A paramedic licensed in another state or territory of the United States who:~~

~~(a) Enters Kentucky with a patient being transported to a medical facility or other final destination in Kentucky; or~~

~~(b) Travels through Kentucky during the course of a patient transport from an out-of-state location to a destination outside of Kentucky.~~

~~Section 14.[Section 16.] Public Notice of Negative Action. The board office shall cause to be published on the board website the name of a paramedic that:~~

~~(1) Is fined;~~

~~(2) Is placed on probationary status;~~

~~(3) Is placed on restricted status;~~

~~(4) Is suspended; or~~

~~(5) Has had his or her certification revoked.~~

~~Section 15.[Section 17.] The paramedic shall document all items required by Sections 11 and 12 of this administrative regulation on the Patient Care Report required by KRS 311A.190.~~

~~Section 16.[Section 18.] Incorporation by Reference.~~

~~(1) The following material is incorporated by reference:~~

~~(a) "National Emergency Medical Services Education Standards-Paramedic Instructional Guidelines", The United States Department of Transportation, National Highway Traffic Safety Administration, DOT HS 811 077E, January 2009;~~

~~(b) "Paramedic Initial Licensure Application" in KEMSIS, April 2021;~~

~~(c) "Paramedic License Renewal Application" in KEMSIS, April 2021;~~

~~(d) "Paramedic Reciprocity Licensure Application" in KEMSIS, April 2021;~~

~~(e) [Kentucky Board of Emergency Medical Services, Prehospital Determination of Death Training Curriculum (05-02);]~~

~~[(f)] "Paramedic Reinstatement License Application" in KEMSIS, April 2021;~~

~~[(f)](g) "Kentucky Emergency Medical Services Do Not Resuscitate (DNR) Order", April 2021;~~

~~[(g)](h) "National EMS Scope of Practice Model", National Highway Traffic Safety Administration, DOT HS 810 657, February 2007;~~

~~[(h)](i) "National EMS Scope of Practice Model", National Highway Traffic Safety Administration, DOT HS 812 666, February 2019;~~

~~[(i)](j) "Kentucky Medical Orders for Scope of Treatment (MOST) Form", April 2021;~~

~~[(j)](k) "Application for Paramedic Critical Care Endorsement" in KEMSIS, April 2021;~~

~~[(k)](l) "Paramedic License Downgrade Application" in KEMSIS, April 2021;~~

~~[(l)](m) "Paramedic License Surrender Application", in KEMSIS April 2021;~~

~~[(m)](n) "National Registry of Emergency Medical Technicians National Continued Competency Program Paramedic", October 2016;~~

~~[(n)](o) "National Registry of Emergency Medical Technicians Advanced Level Examination Coordinator Manual", November 1, 2016;~~

~~[(o)](p) "Name Change Application" in KEMSIS, April 2021;~~

~~[(p)](q) "Military Extension Application" in KEMSIS, April 2021; and~~

~~[(q)](r) "United States Citizenship and Immigration Services (U.S.C.IS) Permanent Resident Card (form I-551/Green Card)", April 2021.~~

~~(2) This material may be inspected, obtained, or copied, subject to applicable copyright law, at the Office of the Kentucky Board of Emergency Medical Services, 500 Mero Street, 5th Floor 5SE32, Frankfort, Kentucky 40601, by appointment, Monday through Friday, 8 a.m. to 4:30 p.m.~~

~~(3) This material is also available on the board's Web site at kyems.com.~~

JOHN R. HOLDER, Chair

APPROVED BY AGENCY: August 8, 2024

FILED WITH LRC: September 3, 2024 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 23, 2024, at 1:00 p.m. ET at the Kentucky Board of Emergency Medical Services, 500 Mero Street, 5th Floor 5SE32, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is

## VOLUME 51, NUMBER 4– October 1, 2024

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 October 31, 2024. 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: John K. Wood, counsel for the Kentucky Board of Emergency Medical Services, 163 East Main Street, Suite 200, Lexington, Kentucky 40507, phone (859) 225-4714, email [administrativeregulations@wgmfirm.com](mailto:administrativeregulations@wgmfirm.com).

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John K. Wood

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 311A.025 requires the board to promulgate administrative regulations relating to requirements and procedures for licensure, relicensure and reciprocity for paramedics. This administrative regulation establishes those requirements and procedures.

(b) The necessity of this administrative regulation: KRS 311A.025 requires the board to promulgate administrative regulations relating to requirements and procedures for licensure, relicensure and reciprocity for paramedics. This administrative regulation is necessary to establish those requirements and procedures.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 311A.025 by establishing the requirements and procedures for licensure, relicensure, and reciprocity for paramedics. This amendment also conforms to the recent amendment to KRS 311A.142(2) permitting reciprocity to EMS personnel in good standing in any other state and the recent repeal of KRS 311A.185.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 311A.025 requires the board to promulgate administrative regulations relating to requirements and procedures for licensure, relicensure and reciprocity for paramedics. This administrative regulation assists in the effective administration of KRS 311A.025 by establishing those requirements and procedures.

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

(a) How the amendment will change this existing administrative regulation: This amendment brings this administrative regulation into conformity with House Bill 57's amendment to KRS 311A.142(2) by making paramedics licensed and in good standing in any other state eligible for a reciprocal Kentucky paramedic license. Prior to House Bill 57 becoming law, only EMS personnel in states contiguous to Kentucky were eligible for reciprocity. Consistent with House Bill 57's repeal of KRS 311A.185, the requirements regarding resuscitation procedures and determination of death and preservation of evidence have been stricken in this emergency amendment. Additionally, this amendment contains a sunset provision for paramedic critical care endorsements. Under this amendment, critical care endorsements will not be valid after December 31, 2025. On and after January 1, 2026, paramedics wishing to provide critical care will be required to obtain an advanced practice paramedic license and certification as a critical care paramedic in accordance with 202 KAR 7:410.

(b) The necessity of the amendment to this administrative regulation: This emergency amendment is necessary to bring this administrative regulation into conformity with House Bill 57's amendment to KRS 311A.142(2) and repeal of KRS 311A.185, and to mitigate the staffing shortages that EMS agencies across the Commonwealth are facing. This amendment is also necessary to establish a transition period for paramedics with critical care endorsements to become licensed as advanced practice paramedics and certified as critical care paramedics in accordance with 202 KAR 7:410.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of KRS 311A.025

by establishing the requirements and procedures for licensure, relicensure, and reciprocity for paramedics.

(d) How the amendment will assist in the effective administration of the statutes: KRS 311A.025 requires the board to promulgate administrative regulations relating to requirements and procedures for licensure, relicensure and reciprocity for paramedics. This amendment will assist in the effective administration of KRS 311A.025 by establishing those requirements and procedures.

(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 the Kentucky Board of Emergency Medical Services, emergency medical services providers, paramedics, individuals seeking a reciprocal paramedic license, and local governments.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This amendment does not establish any new requirements. Paramedics licensed in any other state may seek a reciprocal Kentucky license by meeting the existing requirements set forth in Section 5 of this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to any entity identified in question (3), other than administrative costs that may be incurred in recruiting and maintaining personnel.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Paramedics licensed in states not contiguous to Kentucky will benefit from this amendment by now being eligible for a reciprocal Kentucky paramedic license. EMS agencies and local governments will benefit from the expanded pool of individuals eligible for a reciprocal Kentucky paramedic license.

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

(a) Initially: Other than administrative costs, there will be no costs to the Board in implementing this administrative regulation.

(b) On a continuing basis: Other than administrative costs, there will be no costs to the Board in implementing this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Kentucky Board of Emergency Medical Services is a state agency that receives its annual budget from the state government.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied to this administrative regulation because the amendment applies to all paramedics.

### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 311A.025 requires the board to promulgate administrative regulations relating to requirements and procedures for licensure, relicensure and reciprocity for paramedics.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Emergency Medical Services.

(a) Estimate the following for the first year:

Expenditures: None.

Revenues: None.

Cost Savings: None.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? This amendment should not affect the Board's expenditures, revenues, or costs.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): All cities and counties.

(a) Estimate the following for the first year:

Expenditures: There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining personnel.

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining required personnel.

(4) Identify additional regulated entities not listed in questions (2) or (3): All EMS services.

(a) Estimate the following for the first year:

Expenditures: There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining personnel.

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining personnel.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining personnel.

(b) Methodology and resources used to determine the fiscal impact: No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining personnel.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This administrative regulation will not have an overall negative or adverse major economic impact to the affected entities.

(b) The methodology and resources used to reach this conclusion: No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining required personnel.

**STATEMENT OF EMERGENCY  
202 KAR 7:560E.**

This emergency amendment is necessary to prevent certain Class I agencies from having to downgrade from an advanced life support (ALS) license to a basic life support (BLS) license. The risk of such downgrades, which would be required without this emergency amendment, poses an imminent threat to public health, safety, and welfare. There are not enough paramedics in Kentucky working for EMS services. EMS agencies throughout the Commonwealth are having difficulty staffing paramedics. Pursuant to the current version of this administrative regulation, Class I ALS agencies are required to have at least one paramedic on-duty at all times. Due to the shortage of paramedics, multiple Class I ALS agencies (particularly small, rural ones) have been unable to meet that regulatory requirement. Without this emergency amendment, such agencies will have to either voluntarily downgrade their Class I license and begin providing only BLS services or the board will have to initiate disciplinary actions pursuant to KRS 311A.055 against the agencies for violating the regulatory requirement to have a paramedic on duty at all times. Ground ambulance services in Kentucky are licensed to provide either ALS or BLS care. The ALS services are trained and permitted to provide advanced care to patients whose conditions may worsen or who may succumb to their injury or illness if life-saving measures are not immediately provided. Such procedures include cardioversion, arrhythmia recognitions and treatment, extreme hypovolemia or hypertension, hyperglycemia, hypoglycemia, advanced airway management, and thoracic trauma.

The BLS services may provide basic care to all conditions and transport, but are not permitted to provide the potentially life-saving advanced treatment often required. If the non-compliant agencies downgrade to provide only BLS services, but are later able to hire a sufficient number of paramedics to meet the ALS staffing requirement, such agencies would be required to seek and acquire a new Certificate of Need before resuming ALS services. This emergency amendment would permit qualifying agencies to temporarily minimally staff AEMTs to provide some, but not all, of the aforementioned advanced procedures and care while maintaining their ALS license. Specifically, Class I ALS services that have been unable to have a paramedic on duty at all times, but have demonstrated a good faith effort to meet the requirement, would be granted a temporary waiver allowing the agency to keep its ALS license so long as it has an AEMT or a paramedic on duty at all times. If the Board has probable cause to believe that an agency requesting a temporary waiver has not attempted to meet the regulatory requirement in good faith, the agency will be entitled to a hearing in accordance with KRS Chapter 13B to determine whether a waiver should or should not be granted. All temporary waivers issued under this emergency amendment and the identical ordinary amendment will expire on December 31, 2026. Thereafter, all Class I ALS agencies will again be required to have a paramedic on duty at all times. Throughout the temporary waiver period, agencies issued a waiver will be required to submit quarterly reports to the Board providing a status update on the agency's efforts to staff paramedics. If an agency fails to submit a required report, the agency's temporary waiver will expire seven (7) days after the report is due if it still has not been received by the board. The board will publish on its website all agencies granted a temporary waiver under this amendment. This emergency amendment and the identical ordinary amendment also clarify the paramedic staffing requirements for Class III Adult Critical Care, Class IV ALS, and Class VI ALS agencies. Class III Adult Critical Care agencies will be required to staff an attendant licensed as a paramedic. Class IV ALS agencies will be required to have a paramedic on duty at all times. Class VI ALS agencies will be required to staff either an AEMT or a paramedic. An ordinary administrative regulation is not sufficient to address the imminent risk of certain Class I ALS services having to downgrade to a BLS license. By allowing such agencies to retain their ALS license and to temporarily operate with at least one AEMT or one (1) paramedic on duty, the agencies will be able to continue to provide some ALS services to their communities. Additionally, once the agencies are able to staff a sufficient number of paramedics, the temporary waivers would avoid the potentially lengthy process for an agency to regain its ALS license. The Commonwealth's shortage of paramedics continues to pose an imminent threat to public health, safety, and welfare. This emergency amendment is an attempt to provide agencies a path to maintain their ALS license and to continue to provide advanced care to their communities. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor  
JOHN R. HOLDER, Chair

**KENTUCKY BOARD OF EMERGENCY MEDICAL  
SERVICES  
(Emergency Amendment)**

**202 KAR 7:560E. Ground vehicle staff.**

EFFECTIVE: September 3, 2024  
RELATES TO: KRS 189.910-189.950, 311A.030, 311A.190  
STATUTORY AUTHORITY: KRS 311A.020, 311A.025, 311A.030, 311A.190

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311A.020 requires the Board of Emergency Medical Services to exercise all administrative functions in the regulation of the emergency medical services system and the licensing of ambulance services and medical first response agencies, except those regulated by the Board of Emergency Medical Services or the Cabinet for Health and

## VOLUME 51, NUMBER 4– October 1, 2024

Family Services. KRS 311A.030 requires the board to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers and medical first response agencies. This administrative regulation establishes the minimum staffing requirements for ground vehicles.

### Section 1. Staffing Requirements.

(1) Each Class I agency BLS ambulance shall at minimum, be staffed by:

- (a) A driver certified as an emergency medical responder (EMR); and
- (b) An attendant certified as an emergency medical technician (EMT).

(2) Each Class I agency ALS ambulance shall at minimum be staffed by:

- (a) A driver certified as an emergency medical responder (EMR); and
- (b) An attendant certified as an Advanced EMT or licensed as a paramedic.

1. Each Class I ALS agency [~~providing primary 911 emergency ambulance service~~] shall ensure that it has at least one (1) [~~there is a~~] paramedic on-duty at all times.

2. To ensure compliance, each agency shall maintain its work schedules from the previous twelve (12) months until reviewed by board staff during its annual inspection.

(3) Each Class I agency operating an ALS ambulance providing a BLS level of care shall at minimum be staffed by:

- (a) A driver certified as an emergency medical responder (EMR); and
- (b) An attendant certified as an emergency medical technician (EMT).

(4) Each Class II agency shall at minimum be staffed by:

- (a) A driver certified as an emergency medical responder (EMR); and
- (b) An attendant certified as an emergency medical technician (EMT).

(5) A Class III Adult Critical Care ambulance agency shall at minimum be staffed by:

- (a) A driver certified as an emergency medical responder (EMR);
- (b) An attendant licensed as a paramedic; and
- (c) One (1) licensed:
  - 1. Registered nurse;
  - 2. Advanced practice registered nurse;
  - 3. Respiratory therapist;
  - 4. Physician assistant;
  - 5. Physician; or
  - 6. Additional paramedic.

(6)

(a) Each Class III Pediatric Specialty Care Ambulance Agency shall at minimum be staffed by:

- 1. A driver certified as an emergency medical responder (EMR);
- 2. A primary attendant licensed as a registered nurse; and
- 3. One (1) additional attendant licensed as a:
  - a. Registered nurse;
  - b. Advanced practice registered nurse;
  - c. Respiratory therapist;
  - d. Physician assistant;
  - e. Physician; or
  - f. Paramedic.

(b) Any attendant hired after January 1, 2020 shall acquire and maintain within one (1) year of hire, a specialty certification in Pediatric Critical Care or Neonatal Critical Care acquired through successful completion of a validated examination administered by an independent entity not associated with a specific course or program of education.

(7)

(a) Each Class III Neonatal Specialty Care Ambulance Agency shall at minimum be staffed by:

- 1. A driver certified as an emergency medical responder (EMR);
- 2. A primary attendant licensed as a registered nurse; and
- 3. One (1) additional attendant licensed as:
  - a. An advanced practice registered nurse;

- b. A respiratory therapist;
- c. A physician assistant;
- d. A physician;
- e. A registered nurse; or
- f. Paramedic.

(b) Any attendant hired after January 1, 2020 shall acquire and maintain within one (1) year of hire, a specialty certification in Pediatric Critical Care or Neonatal Critical Care acquired through successful completion of a validated examination administered by an independent entity not associated with a specific course or program of education.

(8) Each Class IV agency operating a BLS ambulance shall at minimum be staffed by:

- (a) A driver certified as an emergency medical responder (EMR); and
- (b) An attendant certified as an emergency medical technician (EMT).

(9) Each Class IV service operating an ALS ambulance shall at minimum be staffed by:

- (a) A driver certified as an emergency medical technician (EMT); and
- (b) An attendant certified as an Advanced EMT or licensed as a paramedic.

(c) Each Class IV ALS agency shall have at least one (1) licensed paramedic on duty at all times. To ensure compliance, each agency shall maintain its work schedules from the previous twelve (12) months until reviewed by board staff during its annual inspection.

(10) Each Class VI BLS medical first response agency shall at minimum be staffed by a certified:

- (a) Emergency medical responder (EMR); or
- (b) Emergency medical technician (EMT).

(11) Each Class VI ALS medical first response agency shall at minimum be [~~minimally~~] staffed by:

- (a) A certified Advanced EMT; or
- (b) A licensed paramedic.

(12) Each Class VIII BLS agency shall be minimally staffed by a certified:

- (a) Emergency medical responder (EMR); or
- (b) Emergency medical technician (EMT).

(13) Each Class VIII ALS agency shall be minimally staffed by:

- (a) A certified Advanced EMT; or
- (b) A licensed paramedic.

~~[(14)]~~ [Each Class I ALS, Class III ACC, Class IV ALS, and Class VI ALS agency shall have a licensed paramedic on duty at all times.]

~~[(14)]~~ [(15)] At all times, the attendant shall monitor the patient and remain with the patient in the patient compartment.

~~[(15)]~~ [(16)] This administrative regulation shall not prevent an agency from utilizing staff other than those required by this administrative regulation in:

- (a) Disasters;
- (b) Mass casualty incidents; or
- (c) Extraordinary scene conditions that would impair the safety of the patient or personnel operating at the scene.

~~[(16)]~~ [(17)] Alternative staff shall not operate a licensed vehicle unless the:

- (a) Agency administrator so directs; and
- (b) Vehicle is out of service and not subject to an emergency response.

### Section 2. Temporary Waiver of Paramedic Staffing Requirement.

(1) Notwithstanding Section 1(2)(b)1. of this administrative regulation or 202 KAR 7:550, Section 10(5), if the board grants a temporary waiver to a Class I ALS agency pursuant to this section, the agency shall ensure that it has at least one (1) AEMT or one (1) paramedic on duty at all times.

(2) A Class I ALS agency may request a temporary waiver by submitting to the office of the board a sworn and notarized affidavit from the agency's chief operations or service director. In the affidavit, the chief operations or service director shall:

(a) Explain why the agency is unable to have at least one (1) paramedic on duty at all times;

## VOLUME 51, NUMBER 4– October 1, 2024

(b) Explain the steps the agency has taken to have at least one (1) paramedic on duty at all times;

(c) Identify the number of paramedics the agency has on staff;

(d) Identify the compensation the agency pays paramedics;

(e) Identify the additional steps the agency will take to hire paramedics;

(f) Identify the number of ambulances the agency has staffed each day; and

(g) Certify that the chief local elected official of the agency's geographic service area has been notified, in writing, that the agency is requesting a temporary waiver pursuant to this section.

(3) The chief operations or service director shall attach to the affidavit any documentation supporting the statements made in the affidavit.

(4) In addition to the affidavit and any supporting documentation submitted pursuant to subsections (2) and (3) of this section, the board may consider any other relevant information in determining whether to grant a temporary waiver.

(5) The board shall grant a request for a temporary waiver if it determines that the agency has made a good faith effort to have at least one (1) paramedic on duty at all times but has been unable to do so.

(6) If the board has probable cause to believe that the agency has not made a good faith effort to have at least one (1) paramedic on duty at all times, the board shall refer the matter for a hearing in accordance with KRS Chapter 13B to determine whether a temporary waiver should be granted to the agency.

(7) An agency granted a temporary waiver pursuant to this section shall submit a report to the office of the board on January 1, April 1, July 1, and October 1 of each year. Each report shall include:

(a) The additional steps the agency has taken to hire paramedics since the last report deadline or, if no report deadline has passed, since the temporary waiver was granted;

(b) The number of paramedics on staff;

(c) The number of days that the agency was without at least one (1) paramedic on duty at all times since the last report deadline or, if no report deadline has passed, since the temporary waiver was granted;

(d) The number of paramedic employment applications received by the agency since the last report deadline or, if no report deadline has passed, since the temporary waiver was granted; and

(e) For each paramedic who applied for employment with the agency since the last report deadline or, if no report deadline has passed, since the temporary waiver was granted, but was not hired by the agency, the reasons why the paramedic was not hired.

(8) An agency granted a temporary waiver in the month preceding a report deadline is not required to submit the next month's report. (For example, if the temporary waiver is granted in March 2025, the agency is not required to submit the April 1, 2025 report.)

(9) All temporary waivers granted pursuant to this section shall expire on December 31, 2026.

(10) Notwithstanding subsection (9) of this section, if an agency fails to submit a report required by subsection (7) of this section, the agency's temporary waiver shall expire seven (7) days after the report deadline if the report still has not been received by the office of the board by that date.

(11) The board shall publish on its Web site all agencies that have been granted a temporary waiver pursuant to this section.

### Section 3. Motor Vehicle Operator Requirements.

(1) Each person operating a vehicle shall:

(a) Be at least eighteen (18) years of age;

(b) Hold a valid driver's license in any state or territory of the United States; and

(c) Complete at least four (4) hours of driver training and education every two (2) years.

(2) The driver training and education shall consist of a:

(a) Review of driving a vehicle under emergency conditions;

(b) Review of KRS 189.910 through 189.950 regarding operation of emergency vehicles;

(c) Demonstration by the student of forward and back-up driving maneuvers in a controlled situation, such as in an obstacle course designed specifically for this purpose; and

(d) Review of defensive driving techniques and procedures with hands-on experience or exposure by visual aids or planned demonstrations.

Section 4.[Section 3.] Public Notice of Negative Action. The board office shall cause to be published, on the KBEMS Web site or similar publication of the board, or otherwise disseminate, the name of any licensed agency that is fined, placed on probationary status, placed on restricted status, suspended, or had a license revoked.

JOHN R. HOLDER, Chair

APPROVED BY AGENCY: August 8, 2024

FILED WITH LRC: September 3, 2024 at 3 p.m.

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on October 23, 2024, at 1:00 p.m. ET at the Kentucky Board of Emergency Medical Services, 500 Mero Street, 5th Floor 5SE32, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through October 31, 2024. 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:** John K. Wood, counsel for the Kentucky Board of Emergency Medical Services, 163 East Main Street, Suite 200, Lexington, Kentucky 40507, phone (859) 225-4714, email [administrativeregulations@wgmfirm.com](mailto:administrativeregulations@wgmfirm.com).

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John K. Wood

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the minimum staffing requirements for EMS ground vehicles.

(b) The necessity of this administrative regulation: KRS 311A.030 requires the Board to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers and medical first response agencies. This administrative regulation establishes the minimum staffing requirements for EMS ground vehicles.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 311A.030 by establishing the minimum staffing requirements for ground vehicles.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 311A.030 requires the Board to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers and medical first response agencies. This administrative regulation assists in the effective administration of KRS 311A.030 by establishing the minimum staffing requirements for ground vehicles.

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

(a) The amendment will change this existing administrative regulation: Class I ALS services are required to have at least one (1) paramedic on duty at all times. Under this amendment, Class I ALS agencies can request a temporary waiver of the one-paramedic-on-duty requirement from the Board. Agencies issued a temporary waiver will be required to have either an AEMT or a paramedic on duty at all times. The Board will issue a temporary waiver to any



## VOLUME 51, NUMBER 4– October 1, 2024

Class I ALS agency that demonstrates that it has attempted to meet minimum paramedic staffing requirement in good faith, but has been unable to do so. If the Board has probable cause to believe that an agency requesting a waiver has not made a good faith effort to meet the staffing requirement, the Board will refer the matter for a hearing in accordance with KRS Chapter 13B to determine whether the agency should be granted a temporary waiver. All temporary waivers issued under this amendment will expire on December 31, 2026. Thereafter, all Class I ALS agencies will again be required to have a paramedic on duty at all times. Agencies issued a temporary waiver will be required to submit quarterly reports to the Board providing a status update of the agency's efforts to hire paramedics. If an agency fails to submit a required report, the agency's temporary waiver will expire seven (7) days after the report deadline if the report still has not been received by the Board by that date.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to prevent certain Class I ALS agencies from downgrading to Class I BLS services.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 311A.030 requires the Board to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers and medical first response agencies. This administrative regulation establishes the minimum staffing requirements for ground vehicles.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of KRS 311A.030 by establishing the minimum staffing requirements for ground vehicles.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All Class I ALS services, cities and counties, and the public will be affected by this administrative regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Any Class I ALS that cannot meet the requirement to have at least one (1) paramedic on duty at all times may apply for a temporary waiver of that requirement under this amendment. The agency's chief operations or service director will have to submit an affidavit providing information regarding the agency's paramedic staffing and its efforts to hire paramedics. The agency is required to notify the chief local elected official of the agency's geographic service area that the agency is applying for a temporary waiver pursuant to this amendment. Agencies issued a temporary waiver will be required have either an AEMT or a paramedic on duty at all times. Agencies granted a temporary waiver must submit quarterly reports to the Board providing an update on their efforts to hire paramedics. Class I ALS agencies granted a temporary waiver pursuant to this amendment should be prepared for the expiration of the waivers on December 31, 2026.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to any entity identified in question (3), other than administrative costs that may be incurred in recruiting and maintaining required personnel and in submitting required reports.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Patients served by Class I ALS agencies that cannot meet the requirement to have at least one (1) paramedic on duty at all times will benefit from this amendment by retaining access to some ALS services. Without this amendment, certain agencies would be required to downgrade to a BLS license, under which the agency could not provide ALS services. Class I ALS agencies struggling to meet the paramedic staffing requirement will benefit from this amendment by not having to downgrade their license and thereby avoid the need to obtain a new Certificate of Need once the agency is able to hire a sufficient number of paramedics.

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

(a) Initially: Other than administrative costs, there will be no costs to the Board in implementing this administrative regulation.

(b) On a continuing basis: Other than administrative costs, there will be no costs to the Board in implementing this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Kentucky Board of Emergency Medical Services is a state agency that receives its annual budget from the state government.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied to this administrative regulation because the amendment establishes minimum staffing requirements for all EMS services.

### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 311A.030.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Emergency Medical Services.

(a) Estimate the following for the first year:

Expenditures: None.

Revenues: None.

Cost Savings: None.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? This amendment should not affect the Board's expenditures, revenues, or costs.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): All cities and counties with Class I ALS ambulance services that cannot meet the current minimum staffing requirements will be affected by this amendment.

(a) Estimate the following for the first year:

Expenditures: There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining required personnel and in submitting required reports.

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining required personnel and in submitting required reports.

(4) Identify additional regulated entities not listed in questions (2) or (3): All Class I ALS services.

(a) Estimate the following for the first year:

Expenditures: There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining required personnel and in submitting required reports.

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining required personnel and in submitting required reports.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining required personnel and in submitting required reports.

(b) Methodology and resources used to determine the fiscal impact: No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining required personnel and in submitting required reports.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This

administrative regulation will not have an overall negative or adverse major economic impact to the affected entities.

(b) The methodology and resources used to reach this conclusion:

No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining required personnel and in submitting required reports.

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

**EDUCATION AND LABOR CABINET**  
**Education Professional Standards Board**  
**(Emergency As Amended at ARRS, September 10, 2024)**

**16 KAR 9:010E. Provisional and professional certificate for exceptional work experience.**

EFFECTIVE: September 10, 2024

Prior Versions:

Emergency Amendment - 51 Ky.R. 197

RELATES TO: KRS 161.028, 161.030, 161.048

STATUTORY AUTHORITY: KRS 161.028, 161.030, 161.048

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.048 establishes the eligibility requirements for a candidate seeking to participate in an alternative teacher preparation program and requires the board to promulgate administrative regulations establishing standards and procedures for alternative certification options. This administrative regulation establishes the requirements for issuance [and renewal] of a provisional and professional certificate based on exceptional work experience.

Section 1. Definitions.

(1) "Exceptional work experience" means a person with recognized superiority as compared with others in rank, status, and attainment or superior knowledge and skill in comparison with the generally accepted standards in the area in which certification is sought.

(2) "Population based certificate" means a certificate for teaching elementary, exceptional children, or interdisciplinary early childhood education.

Section 2. Verification of exceptional qualifications of an applicant for certification, in a field of endeavor taught or service practiced in a public school of Kentucky, shall include:

(1) Sufficient documentation that demonstrates to the local school district and the Education Professional Standards Board that an applicant is one who has exceptional work experience and has talents and abilities commensurate with the teacher standards, established in 16 KAR 1:010;

(2) Documentation of [may include] advanced degrees earned, distinguished employment, evidence of related study or experience, publications, professional awards, achievement, or recognition attained for contributions to an applicant's field of endeavor; and

(3) Recommendations from professional associations, former employers, professional colleagues, or any other individual or group whose evaluations [shall] support exceptional work in the field.

(4) [3] Exceptional work experience shall not apply to population based certificates.

Section 3. Certification Requirements.

(1) An eligible candidate for certification other than a population based certificate who meets the requirements of KRS 161.048(2) and 16 KAR 2:010, Section 3(1), shall be issued a one (1) [two (2)] year provisional certificate for exceptional work experience.

(2) The provisional certificate shall be issued for the content area and grade range corresponding to the candidate's degree and teaching experience.

(3) The provisional certificate shall be valid for teaching the content area and grade range indicated on the face of the certificate.

(4) If a candidate does not complete one (1) year of successful teaching experience during the initial provisional certificate, the candidate may apply to renew the provisional certificate.

(5) Application for renewal of the one (1) [two (2)] year provisional certificate shall be submitted to the EPSB and be in compliance with 16 KAR 2:010, Section 3(1).

(6) Upon completion of one (1) year of successful teaching experience on the provisional certificate, the candidate may apply for the professional certificate.

(7) [2] Application for the professional certificate shall be submitted to the EPSB and shall:

(a) Contain proof of successful completion of one (1) year of teaching experience;

(b) Contain a recommendation from the employing school district; and

(c) Be in compliance with 16 KAR 2:010, Section 3(1).

FILED WITH LRC: September 10, 2024

CONTACT PERSON: Todd Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321; email regcomments@education.ky.gov.

**STATE BOARD OF ELECTIONS**  
**(Emergency As Amended at ARRS, September 10, 2024)**

**31 KAR 4:031E. Reporting.**

EFFECTIVE: September 10, 2024

Prior Versions:

New Emergency Administrative Regulation - 50 Ky.R. 2152

Emergency As Amended at ARRS - 51 Ky.R. 220

RELATES TO: KRS 117.085, 117.086, 117.235, 117.255, 117.265, 117.275, 117.355, 118.025, 118.215, 118.425, 118.770, 119.307

STATUTORY AUTHORITY: KRS 117.015(1)(a), 117.086(5), 117.275(15), 117.355(4), 118.425(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1)(a) authorizes the State Board of Elections to promulgate administrative regulations necessary to implement the provisions of KRS Chapter 117. KRS 117.355[4] requires the State Board of Elections to prescribe the forms for the precinct election sheriff and the county board of elections to report election irregularities and recommendations for improving the election process, to report special ballot and voter assistance usage statistics, and to report other information required by the state board. KRS 117.086(5) requires the State Board of Elections to prescribe a form on which the county board of elections shall report the number of rejected absentee ballots and the reasons for rejection of those ballots. KRS 118.425(4) requires the State Board of Elections to prescribe a form by which the county board of elections shall make out duplicate certificates of the total number of votes received by each of the candidates for office and the total number of votes for an against each of the ballot questions. KRS 117.275(15) requires a secure online connection be available for the transmission of unofficial election results from county boards of election to the State Board of Elections following the tallying of votes. This administrative regulation establishes the procedure and forms for the county clerk, the county board of elections, and the precinct election sheriff to report election and voting data after the election.

Section 1. [The following] Reporting forms shall be filed and pursuant to in accordance with the referenced statutes:

(1) [Pursuant to] KRS 117.355(1), the precinct election sheriff shall file the Precinct Election Sheriff's Post-election [Postelection] Report, SBE 53, with the chair of the county board of elections and the local grand jury;

(2) [Pursuant to] KRS 117.355(2), the county board of elections [election] shall file the County Board of Elections Post-election [Postelection] Report, SBE 54, with the State Board of Elections and the local grand jury;

VOLUME 51, NUMBER 4– October 1, 2024

(3) ~~[Pursuant to]~~ KRS 117.275(7) and 117.355(2), the county board of elections shall file the County Board of Elections ~~Post-election~~~~[Postelection]~~ Statistical Report, SBE 54A, with the State Board of Elections;

(4) ~~[Pursuant to]~~ KRS 117.355(2), the county board of elections shall file the County Board of Elections Precinct Election Officials Absence Report, SBE 54B, with the State Board of Elections;

(5) ~~[Pursuant to]~~ KRS 117.275(12) and 117.086(4)(c), the county clerk shall file the County Board of Elections Provisional Ballots Issued to Voters and Counted, SBE 54C, with the State Board of Elections.

(6) ~~[Pursuant to]~~ KRS 117.086(4)(a)-(b), the county clerk shall file the Absentee Ballot Report, SBE 33A, with the State Board of Elections;

(7) ~~[Pursuant to]~~ KRS 117.086(5), the county board of elections shall file the Number of Rejected Absentee Ballots and Reasons for Rejected Ballots, SBE 33B; and

(8) ~~[Pursuant to]~~ KRS 117.275(11)-(12) and 118.425(4), the county board of elections shall file the Certification Official Count and Record of Election Totals, SBE 49, with the Secretary of State.

Section 2. Any form described in Section 1 of this administrative regulation that is capable of being recorded or filled automatically through the State Board of Elections' Voter Registration System may be deemed by the State Board of Elections as being transmitted following the successful capture of all required information by the Voter Registration System.

Section 3.

(1) Pursuant to KRS 117.275(15), the State Board of Elections shall develop and maintain a platform with a secure online connection for the transmission of unofficial election results from county boards of election to the State Board of Elections following the tallying of votes for all primary, and regular elections, as well as special elections for statewide office, the General Assembly, and the United States Congress.

(2) Beginning at 6:00 p.m., prevailing time, on the day of a primary or regular election, as well as a special election for statewide office, the General Assembly, and the United States Congress, county boards of election shall use the secure online platform maintained by the State Board of Elections to transmit their county's unofficial election tally. The unofficial vote tally transmitted shall include precinct-by-precinct totals from counts of all mail-in absentee ballots, excused in-person absentee ballots, no-excuse in-person absentee ballots, and election day ballots, and shall include totals for those candidates who have filed a declaration of intent with the Secretary of State to be a write-in candidate pursuant to KRS 117.265(2), provided five (5) percent or more of the votes cast in that candidate's election, were for write-in candidates. Unofficial vote tallies transmitted using the secure online platform shall be transmitted using a computer-file-type and format selected by the State Board of Elections, which shall be selected following the certification of candidates by the Secretary of State pursuant to KRS 118.215(1), or immediately after receiving the Secretary of State's certification pursuant to KRS 118.770.

(3) The State Board of Elections shall display the tally information received from the county boards of election through the secure online transmittal platform on a secure ~~Web site~~~~[website]~~ freely available to the general public. The display shall list precinct-by-precinct tallies for all candidates and questions, but shall only list a candidate's precinct absentee vote totals as cumulative.

(4) County boards of election or county clerks shall verify with the State Board of Elections that their county's unofficial vote tally has been successfully transmitted to the State Board of Elections no later than six (6) hours after the close of polls. ~~If~~~~Should~~ a county's tally ~~is not completed~~~~[be complete]~~ six (6) hours after the close of polls, a representative of the county clerk's office shall update the State Board of Elections by telephone as to the status of the tally transmittal at the end of the sixth hour and then subsequently at the top of each following hour unless the transmittal is completed before ~~that~~~~[such]~~ time.

Section 4. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Precinct Election Sheriff's ~~Post-election~~~~[Postelection]~~ Report", SBE 53, 04/2024;

(b) "County Board of Elections Post-election Report", SBE 54, 04/2024;

(c) "County Board of Elections Post-election Statistical Report", SBE 54A, 04/2024;

(d) "County Board of Elections Precinct Election Officials Absence Report", SBE 54B, 04/2024 [~~September 2002~~];

(e) "County Board of Elections Provisional Ballots Issued to Voters and Counted", SBE 54C, 04/2024;

~~(f)~~ "Absentee Ballot Report", SBE 33A, 04/2024;

~~(g)~~~~(#)~~ "Number of Rejected Absentee Ballots and Reasons for Rejected Ballots", SBE 33B, 04/2024; and

~~(h)~~~~(g)~~ "Certification Official Count and Record of Election Totals", SBE 49, 04/2024.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Elections, 140 Walnut Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be obtained on the board's Web site at <https://elect.ky.gov>.

FILED WITH LRC: September 10, 2024

CONTACT PERSON: Taylor Brown, General Counsel, 140 Walnut Street, Frankfort, Kentucky 40601, phone (502) 782-9499, email TaylorA.Brown@ky.gov.

ENERGY AND ENVIRONMENT CABINET  
Public Service Commission  
(Emergency As Amended at ARRS, September 10, 2024)

807 KAR 5:015E. Access and attachments to utility poles and facilities.

EFFECTIVE: September 10, 2024

Prior Versions:

Emergency Amendment - 51 Ky.R. 14

Emergency Amended After Comments - 51 Ky.R. 474

RELATES TO: KRS Chapter 278, 47 U.S.C. 224(c)

STATUTORY AUTHORITY: KRS 278.030(1), 278.040(2), 278.5464

NECESSITY, FUNCTION, AND CONFORMITY: KRS 278.040(3) authorizes the commission to promulgate administrative regulations to implement the provisions of KRS Chapter 278. KRS 278.040(2) requires the commission to have exclusive jurisdiction over the regulation of rates and service of utilities. KRS 278.030(1) authorizes utilities to demand, collect, and receive fair, just, and reasonable rates. KRS 278.030(2) requires every utility to furnish adequate, efficient, and reasonable service. KRS 278.5464 requires the commission to promulgate administrative regulations regarding pole attachments under its jurisdiction, including those necessary for the provision of broadband. 47 U.S.C.A. 224(c) requires that state regulation of pole attachments shall only preempt federal regulation of poles under federal jurisdiction if the state regulates the rates, terms, and conditions of access to those poles, has the authority to consider and does consider the interest of the customers of attachers and the pole owning utilities, has effective rules and administrative regulations governing attachments, and addresses complaints regarding pole attachments within 180~~[360]~~ days. This administrative regulation establishes the process by which the commission regulates the rates, terms, and conditions of utility pole attachments and access to other utility facilities, establishes specific criteria and procedures for obtaining access to utility poles within the commission's jurisdiction, and establishes a process by which the complaints of those seeking to access utility facilities shall be addressed within the period established by federal law. The amendments establish an expedited complaint process to address issues pertaining to contract negotiations. 2024 Kentucky S.J.R. 175, 2024 Regular Session requires the Commission to promulgate emergency regulations addressing issues pertaining to broadband attachments to utility poles.

VOLUME 51, NUMBER 4– October 1, 2024

Section 1. Definitions.

(1) "Attachment" means any attachment by a cable television system operator, telecommunications carrier, broadband internet provider, or governmental unit to a pole owned or controlled by a utility.

(2) "Broadband internet provider":

(a) Means a person who owns, controls, operates, or manages any facility used or to be used to offer internet service to the public with download speeds of at least twenty-five (25) megabits per second and upload speeds of at least three (3) megabits per second; and

(b) Does not mean a utility with an applicable joint use agreement with the utility that owns or controls the poles to which it is seeking to attach.

(3) "Communications space" means the lower usable space on a utility pole, which is typically reserved for low-voltage communications equipment.

(4) "Complex make-ready" means any make-ready that is not simple make-ready, such as the replacement of a utility pole; splicing of any communication attachment or relocation of existing wireless attachments, even within the communications space; and any transfers or work relating to the attachment of wireless facilities.

(5) "Existing attacher" means any person or entity with equipment lawfully on a utility pole.

(6) "Governmental unit" means an agency or department of the federal government; a department, agency, or other unit of the Commonwealth of Kentucky; or a county or city, special district, or other political subdivision of the Commonwealth of Kentucky.

(7) "Macro cell facility" means a wireless communications system site that is typically high-power and high-sited, and capable of covering a large physical area, as distinguished from a distributed antenna system, small cell, or WiFi attachment, for example.

(8) "Make-ready" means the modification or replacement of a utility pole, or of the lines or equipment on the utility pole, to accommodate additional facilities on the utility pole.

(9) "New attacher" means a cable television system operator, telecommunications carrier, broadband internet provider, or governmental unit requesting to attach new or upgraded facilities to a pole owned or controlled by a utility, except that a new attacher does not include a utility with an applicable joint use agreement with the utility that owns or controls the pole to which it is seeking to attach or a person seeking to attach macro cell facilities.

(10) "Red tagged pole" means a pole that a utility that owns or controls the pole that:

(a) Is designated for replacement based on the pole's non-compliance with an applicable safety standard;

(b) Is designated for replacement within two (2) years of the date of its actual replacement for any reason unrelated to a new attacher's request for attachment; or

(c) Would have needed to be replaced at the time of replacement even if the new attachment were not made.

(11) "Telecommunications carrier":

(a) Means a person who owns, controls, operates, or manages any facility used or to be used for or in connection with the transmission or conveyance over wire, in air, or otherwise, any message by telephone or telegraph for the public, for compensation; and

(b) Does not mean a utility with an applicable joint use agreement with the utility that owns or controls the poles to which it is seeking to attach.

(12) "Simple make-ready" means make-ready in which existing attachments in the communications space of a pole could be rearranged without any reasonable expectation of a service outage or facility damage and does not require splicing of any existing communication attachment or relocation of an existing wireless attachment.

Section 2. Duty to Provide Access to Utility Poles and Facilities.

(1) Except as established in paragraphs (a) through (c) of this subsection, a utility shall provide any cable television system operator, telecommunications carrier, broadband internet provider, or governmental unit nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by it.

(a) A utility may deny access to any pole, duct, conduit, or right-of-way on a non-discriminatory basis if there is insufficient capacity or for reasons of safety, reliability, or generally applicable engineering purposes.

(b) A utility shall not be required to provide access to any pole that is used primarily to support outdoor lighting.

(c) A utility shall not be required to secure any right-of-way, easement, license, franchise, or permit required for the construction or maintenance of attachments or facilities from a third party for or on behalf of a person or entity requesting access pursuant to this administrative regulation to any pole, duct, conduit, or right-of-way owned or controlled by the utility.

(2) A request for access to a utility's poles, ducts, conduits or rights-of-way shall be submitted to a utility in writing, either on paper or electronically, as established by a utility's tariff or a special contract between the utility and person requesting access.

(3) If a utility provides access to its poles, ducts, conduits, or rights-of-way pursuant to an agreement that establishes rates, terms, or conditions for access not contained in its tariff:

(a) The rates, terms, and conditions of the agreement shall be in writing; and

(b) The utility shall file the written agreement with the commission pursuant to 807 KAR 5:011, Section 13.

Section 3. Pole Attachment Tariff Required.

(1) A utility that owns or controls utility poles located in Kentucky shall maintain on file with the commission a tariff that includes rates, terms, and conditions governing pole attachments in Kentucky that are consistent with the requirements of this administrative regulation and KRS Chapter 278.

(2) The tariff may incorporate a standard contract or license for attachments if its terms and conditions are consistent with the requirements of this administrative regulation and KRS Chapter 278.

(3) Standard contracts or licenses for attachments permitted by subsection (2) of this section shall prominently indicate that the contracts or licenses are based wholly on the utility's tariff and that the tariff shall control if there is a difference.

(4) The tariff may include terms, subject to approval by the commission, that are fair, just, and reasonable and consistent with the requirements of this administrative regulation and KRS Chapter 278, such as certain limitations on liability, indemnification and insurance requirements, and restrictions on access to utility poles for reasons of lack of capacity, safety, reliability, or generally applicable engineering standards.

(5)

(a) The tariff shall include the URL for a utility-maintained Web site.

(b) The Web site shall include:

1. A certificate form that a new attacher shall submit to the utility that shall require a new attacher to:

a. Certify that the person filing the application has reviewed the utility's requirements, pole attachment tariff, and applicable law and that the application meets these requirements to the best of the new attacher's knowledge and ability;

b. Designate appropriate personnel responsible for overseeing all attachments with the utility; and

c. Identify appropriate personnel associated with each application, who shall be responsible for coordinating with the utility and ensuring that attachment-related issues are addressed in a timely manner;

2. Pole attachment information including the identity and contact information for contractors approved to conduct surveys and make-ready self-help;

3. Construction standards for attachments; and

4. The identity and contact information for:

a. The primary utility personnel responsible for invoicing, payment, make-ready work, and escalation of disputes; and

b. The alternate utility personnel responsible for invoicing, payment, make-ready work, and escalation of disputes if the primary personnel are unavailable.

(6) Overlapping.

(a) A utility shall not require prior approval for:

VOLUME 51, NUMBER 4– October 1, 2024

1. An existing attacher that overlashes its existing wires on a pole; or

2. A third party overlashing of an existing attachment that is conducted with the permission of an existing attacher.

(b)

1. A utility shall not prevent an attacher from overlashing because another existing attacher has not fixed a preexisting violation.

2. A utility shall not require an existing attacher that overlashes its existing wires on a pole to fix preexisting violations caused by another existing attacher, unless failing to fix the preexisting violation would create a capacity, safety, reliability, or engineering issue.

(c)

1. A utility shall not require more than thirty (30) days' advance notice of planned overlashing.

2. If a utility requires advance notice for overlashing, then the utility shall include the notice requirement in its tariff or include the notice requirement in the attachment agreement with the existing attacher.

3. If, after receiving advance notice, the utility determines that an overlash would create a capacity, safety, reliability, or engineering issue, it shall provide specific documentation of the issue to the party seeking to overlash within the thirty (30) day advance notice period and the party seeking to overlash shall address any identified issues before continuing with the overlash either by modifying its proposal or by explaining why, in the party's view, a modification is unnecessary.

(d)

1. A party that engages in overlashing shall be responsible for its own equipment and shall ensure that it complies with reasonable safety, reliability, and engineering practices.

2. If damage to a pole or other existing attachment results from overlashing or overlashing work causes safety or engineering standard violations, then the overlashing party shall be responsible at its expense for any necessary repairs.

(e) An overlashing party shall notify the affected utility within fifteen (15) days of completion of the overlash on a particular pole.

1. The notice shall provide the affected utility at least ninety (90) days from receipt in which to inspect the overlash.

2. The utility shall have fourteen (14) days after completion of its inspection to notify the overlashing party of any damage or code violations to its equipment caused by the overlash.

3. If the utility discovers damage or code violations caused by the overlash on equipment belonging to the utility, then the utility shall inform the overlashing party and provide adequate documentation of the damage or code violations.

4. The utility shall either:

a. Complete any necessary remedial work and bill the overlashing party for the reasonable costs related to fixing the damage or code violations; or

b. Require the overlashing party to fix the damage or code violations at its expense within fourteen (14) days following notice from the utility.

(7)(6) Signed standard contracts or licenses for attachments allowed by subsection (2) of this section shall be submitted to the commission but shall not be filed pursuant to 807 KAR 5:011, Section 13.

(8)(7) Tariffs conforming to the requirements of this administrative regulation and with a proposed effective date no later than November 30/October~~August~~[March]~~– 31~~, 2024~~[2022]~~, shall be filed by October 31/November 30/July 31~~[February 28]~~, 2024~~[2022]~~.

Section 4. Procedure for New Attachers to Request Utility Pole Attachments.

(1) All time limits established in this section shall be calculated according to 807 KAR 5:001, Section 4(7).

(2) Application review and survey.

(a) Application completeness.

1. A new attacher shall:

a. Prior to submitting a pole attachment application to a utility:

(i) Review the application for completeness; and~~(i)~~

(ii) Submit the information required by Section 3(5) of this administrative regulation; and

b. Submit the written certification with the pole attachment application. If the utility uses an electronic system to manage pole attachments, this certification shall be uploaded to the utility's designated system.

2. A utility shall review a new attacher's pole attachment application for completeness before reviewing the application on its merits and shall notify the new attacher within the time established in subparagraph 8. of this paragraph~~ten (10) business days~~ after receipt of the new attacher's pole attachment application if the application is incomplete.

3.[2.] A new attacher's pole attachment application shall be considered complete if the application provides the utility with the information necessary under its procedures, as established in the utility's applicable tariff or a special contract regarding pole attachments between the utility and the new attacher, to begin to survey the affected poles.

4.[3.] If the utility notifies a new attacher that its attachment application is not complete, then the utility shall state all reasons for finding it incomplete.

5. A utility shall not require a new attacher to submit a survey or pole loading analysis as a filing requirement for an application.

6. A new attacher may submit a survey with an application of 500 poles or less, which the utility shall accept if the new attacher used an approved contractor listed on the utility's Web site and the survey was conducted no longer than thirty (30) days prior to submission. A utility shall conduct the survey for applications exceeding 500 poles.

7. If a utility rejects an application, the rejection shall state the reason for the denial and shall include specific citations to this administrative regulation and the utility's tariff that form the basis of the rejection.

8. A utility shall complete a review of an application of 500 poles or less within ten (10) business days after receipt of the application. A utility shall have an additional one (1) business day to complete its review for each additional 500-pole increment in an application.

9. A new attacher, if it submits an application while a previous application is still under review, may prioritize the order in which a utility shall review the applications. Prioritizing a new application resets the respective review time period of the new attacher's deprioritized applications currently under review over which the new application is being prioritized.

10.[4.] If the utility does not respond within the time prescribed in subparagraph 8. of this paragraph~~ten (10) business days~~ after receipt of the application, or if the utility rejects the application as incomplete but fails to state any reasons in the utility's response, then the application shall be deemed complete and the time for the utility's next procedural step begins to run.

(b) Survey and application review on the merits.

1. A utility shall complete a survey of poles for which access has been requested within forty-five (45) days of receipt of a complete application to attach facilities to its utility poles (or within 120/195~~sixty (60)~~ days in the case of larger orders as established in subsection (8)~~(7)~~ of this section) for the purpose of determining if the attachments may be made and identifying any make-ready to be completed to allow for the attachment.

2. Participation of attachers in surveys conducted by a utility.

a. A utility shall allow the new attacher and any existing attachers on the affected poles to be present for any field inspection conducted as part of a utility's survey conducted pursuant paragraph (b)1. of this subsection.

b. A utility shall use commercially reasonable efforts to provide the affected attachers with advance notice of not less than five (5) business days of any field inspection as part of the survey and shall provide the date, time, and location of the inspection, and name of the contractor, if any, performing the inspection.

3. If a new attacher has conducted a survey pursuant to subsection (11)~~(40)~~(b) of this section, or a new attacher has otherwise conducted and provided a survey, after giving existing attachers notice and an opportunity to participate in a manner consistent with subsection (11)~~(40)~~(b), a utility may elect to satisfy survey obligations established in this paragraph by notifying affected

VOLUME 51, NUMBER 4– October 1, 2024

attachers of the intent to use the survey conducted by the new attacher and by providing a copy of the survey to the affected attachers within the time period established in subparagraph 1. of this paragraph.

4. Based on the results of the applicable survey and other relevant information, a utility shall respond to the new attacher either by granting access or denying access within forty-five (45) days of receipt of a complete application to attach facilities to its utility poles (or within ~~120[105][sixty (60)]~~ days in the case of larger orders as described in subsection ~~(8)[(7)]~~ of this section).

5. A utility's denial of a new attacher's pole attachment application shall be specific, shall include all relevant evidence and information supporting the denial, and shall explain how the evidence and information relate to a denial of access for reasons of lack of capacity, safety, reliability, or engineering standards.

6. Payment of survey costs and estimates.

a. A utility's tariff may require prepayment of the costs of surveys made to review a pole attachment application, or some other reasonable security or assurance of credit worthiness before a utility shall be obligated to conduct surveys pursuant to this section.

b. If a utility's tariff requires prepayment of survey costs, the utility shall include a per pole estimate of costs in the utility's tariff and the payment of estimated costs shall satisfy any requirement that survey costs be prepaid.

c. The new attacher shall be responsible for the costs of surveys made to review the new attacher's pole attachment application even if the new attacher decides not to go forward with the attachments.

(3) Payment of make-ready estimates.

(a) Within fourteen (14) days of providing a response granting access pursuant to subsection (2)(b)4. of this section, a utility shall send a new attacher whose application for access has been granted a detailed, itemized estimate in writing, on a pole-by-pole basis if requested and reasonably calculable, and consistent with subsection (6)(b) of this section, of charges to perform all necessary make-ready.

(b) A utility shall provide documentation that is sufficient to determine the basis of all estimated charges, including any projected material, labor, and other related costs that form the basis of the estimate.

(c) A utility may withdraw an outstanding estimate of charges to perform make-ready beginning fourteen (14) days after the estimate is presented.

(d) A new attacher may accept a valid estimate and make payment any time after receipt of an estimate, except a new attacher shall not accept the estimate after the estimate is withdrawn.

(e) Invoices for estimates shall clearly identify the application or project for which payment is requested.

(f) Payment for the estimate shall clearly identify the application(s) or project(s) for which payment is made.

(4) Make-ready. Upon receipt of payment for survey costs owed pursuant to the utility's tariff and the estimate specified in subsection (3)(d) of this section, a utility shall, as soon as practical but in no case more than seven (7) days, notify all known entities with existing attachments in writing that could be affected by the make-ready.

(a) For make-ready in the communications space, the notice shall:

1. State where and what make-ready will be performed;

2. State a date for completion of make-ready in the communications space that is no later than ~~forty-five (45)[thirty (30)]~~ days after notification is sent (or up to ~~120[105][seventy-five (75)]~~ days in the case of larger orders as established in subsection ~~(8)[(7)]~~ of this section);

3. State that any entity with an existing attachment may modify the attachment. Modification shall be consistent with the specified make-ready before the date established for completion;

4. State that, if make-ready is not completed by the completion date established by the utility in subparagraph 2. of this paragraph, the new attacher may complete the make-ready, which shall be completed as specified pursuant to subparagraph 1. of this paragraph; and

5. State the name, telephone number, and email address of a person to contact for more information about the make-ready procedure.

(b) For make-ready above the communications space, the notice shall:

1. State where and what make-ready will be performed;

2. State a date for completion of make-ready that is no later than ninety (90) days after notification is sent (or ~~165[135]~~ days in the case of larger orders, as established in subsection ~~(8)[(7)]~~ of this section).

3. State that any entity with an existing attachment may modify the attachment. Modification shall be consistent with the specified make-ready before the date established for completion;

4. State that the utility may assert the utility's right to up to fifteen (15) additional days to complete make-ready;

5. State that if make-ready is not completed by the completion date established by the utility in subparagraph 2. of this paragraph (or, if the utility has asserted its fifteen (15) day right of control, fifteen (15) days later), the new attacher may complete the make-ready, which shall be completed as specified pursuant to subparagraph 1. of this paragraph; and

6. State the name, telephone number, and email address of a person to contact for more information about the make-ready procedure.

(c) Once a utility provides the notices required by this subsection, the utility shall provide the new attacher with a copy of the notices and the existing attachers' contact information and address where the utility sent the notices. The new attacher shall be responsible for coordinating with existing attachers to encourage completion of make-ready by the dates established by the utility pursuant to paragraph (a)2. of this subsection for communications space attachments or paragraph (b)2. of this subsection for attachments above the communications space.

(5) A utility shall complete its make-ready in the communications space by the same dates established for existing attachers in subsection (4)(a)2. of this section or its make-ready above the communications space by the same dates for existing attachers in subsection (4)(b)2. of this section (or if the utility has asserted its fifteen (15) day right of control, fifteen (15) days later).

(6) An attacher shall, within fifteen (15) business days following completion of all attachments within an application, provide written notice to a utility in the manner and form stated in the utility's tariff.

(7)[(6)] Final invoice.

(a) Within a reasonable period, not to exceed 120 days after a utility completes the utility's make-ready, the utility shall provide the new attacher:

1. A detailed, itemized final invoice of the actual survey charges incurred if the final survey costs for an application differ from any estimate previously paid for the survey work or if no estimate was previously paid; and

2. A detailed, itemized final invoice, on a pole-by-pole basis if requested and reasonably calculable, of the actual make ready costs to accommodate attachments if the final make-ready costs differ from the estimate provided pursuant to subsection (3)(d) of this section.

(b) Limitations on make ready costs.

1. A utility shall not charge a new attacher, as part of any invoice for make-ready, to bring poles, attachments, or third-party or utility equipment into compliance with current published safety, reliability, and pole owner construction standards if the poles, attachments, or third-party or utility equipment were out of compliance because of work performed by a party other than the new attacher prior to the new attachment.

2. A utility shall not charge a new attacher, as part of any invoice for make ready, the cost to replace any red tagged pole with a replacement pole of the same type and height.

3. If a red tagged pole is replaced with a pole of a different type or height, then the new attacher shall be responsible, as part of any invoice for make ready, only for the difference, if any, between the cost for the replacement pole and the cost for a new utility pole of the type and height that the utility would have installed in the same location in the absence of the new attachment.

4. The make ready cost, if any, for a pole that is not a red tagged pole to be replaced with a new utility pole to accommodate the new attacher's attachment shall be charged in accordance with the

VOLUME 51, NUMBER 4– October 1, 2024

utility's tariff or a special contract regarding pole attachments between the utility and the new attacher.

~~(8)(7)~~ For the purposes of compliance with the time periods in this section:

(a) A utility shall apply the timeline as established in subsections (2) through (4) of this section to all requests for attachment up to the lesser of ~~500~~~~[300]~~ poles or ~~.75~~~~[zero and five tenths (0.5)]~~ percent of the utility's poles in the state;

(b) A utility may, for every ~~full~~~~]-500-pole increment~~, add up to fifteen (15) days to the survey period established in subsection (4) of this section to larger orders up to the lesser of ~~3,000~~~~[1,000]~~ poles or ~~three (3)~~~~[1.50]~~ percent of the utility's poles in Kentucky;

(c) A utility may, for every ~~full~~~~]-500-pole increment~~, add up to ~~fifteen (15)~~~~[forty-five (45)]~~ days to the make-ready periods established in subsection (4) of this section to larger orders up to the lesser of ~~3,000~~~~[1,000]~~ poles or ~~three (3)~~~~[1.50]~~ percent of the utility's poles in Kentucky;

(d) A utility ~~and a new attacher, unless the utility owns or controls fewer than 500 poles, shall negotiate a special contract in good faith [the timing of -] all requests for attachment larger than the lesser of 3,000~~~~[1,000]~~ poles or ~~three (3)~~~~[1.50]~~ percent of the utility's poles in Kentucky, ~~or upon receipt of three (3) separate applications averaging 1,000 poles or one (1) percent of the utility's poles in Kentucky for any three (3) months over a five (5) month period.~~ The special contract, at a minimum, shall contain:[:]

1. An agreement for a prepaid account from the new attacher to cover the cost of the request;

2. Direction from the new attacher regarding make ready work that the utility ~~may~~~~[can]~~ complete without further direction from the new attacher including:

a. The maximum cost per pole; ~~and~~

b. The total cost for make ready work for each project or line of each project;

3. The new attacher's prioritization of projects if the new attacher has submitted multiple requests for attachment;

4. Contact information, including phone numbers and email addresses, for all necessary utility and new attacher personnel;

5. The cadence, location, and necessary personnel for each project; and

6. The timing of surveys and make ready.

(e) If a special contract identified in paragraph (d) of this subsection cannot be agreed to within fifteen (15) business days from submission of a formal written request to engage from the attacher, the new attacher may file a complaint with the commission, with a copy served contemporaneously to the utility, on which the commission shall rule within twenty (20) business days of filing of the complaint.

(f)(~~e~~) For the calculation of any deadlines in this regulation ~~a~~~~[A] utility may treat multiple applications~~~~[requests]~~ from a single new attacher as one (1) ~~application~~~~[request]~~ if the ~~applications~~~~[requests]~~ are submitted within thirty (30) days of~~[during the same calendar month as]~~~~[within thirty (30) days of]~~ one another; and

(g)(~~f~~) As soon as reasonably practicable, but no less than ~~ninety (90)~~~~[sixty (60)]~~ days before the new attacher expects to submit an application in which the number of requests exceed the lesser of the amounts identified in paragraph (a) of this subsection, a new attacher shall provide written notice to a utility in the manner and form stated in the utility's tariff that the new attacher expects to submit a ~~[high volume]-~~request.

(9)(~~8~~) Deviations from make-ready timeline.

(a) A utility may deviate from the time limits specified in this section before offering an estimate of charge if the new attacher failed to satisfy a condition in the utility's tariff or in a special contract between the utility and the new attacher.

(b) A utility may deviate from the time limits established in this section during performance of make-ready for good and sufficient cause that renders it infeasible for the utility to complete make-ready within the time limits established in this section. A utility that so deviates shall immediately notify, in writing, the new attacher and affected existing attachers and shall identify the affected poles and include a detailed explanation of the reason for the deviation and a new completion date. The utility shall deviate from the time limits

established in this section for a period no longer than necessary to complete make-ready on the affected poles and shall resume make-ready without discrimination once the utility returns to routine operations.

(c) An existing attacher may deviate from the time limits established in this section during performance of complex make-ready for reasons of safety or service interruption that renders it infeasible for the existing attacher to complete complex make-ready within the time limits established in this section. An existing attacher that so deviates shall immediately notify, in writing, the new attacher and other affected existing attachers and shall identify the affected poles and include a detailed explanation of the basis for the deviation and a new completion date, which shall not extend beyond sixty (60) days from the completion date provided in the notice specified in subsection (4) of this section as sent by the utility (or up to ~~120~~~~[105]~~ days in the case of larger orders specified in subsection ~~(8)~~~~(6)~~(b) and (c) of this section). The existing attacher shall not deviate from the time limits established in this section for a period for longer than necessary to complete make-ready on the affected poles.

(10)(~~9~~) Self-help remedy.

(a) Surveys. If a utility fails to complete a survey as established in subsection (2)(b) of this section, then a new attacher may conduct the survey in place of the utility by hiring a contractor to complete a survey, which shall be completed as specified in Section 5 of this administrative regulation.

1. A new attacher shall allow the affected utility and existing attachers to be present for any field inspection conducted as part of the new attacher's survey.

2. A new attacher shall use commercially reasonable efforts to provide the affected utility and existing attachers with advance notice of not less than five (5) business days of a field inspection as part of any survey the attacher conducts.

3. The notice shall include the date and time of the survey, a description of the work involved, and the name of the contractor being used by the new attacher.

(b) Make-ready. If make-ready is not complete by the applicable date established in subsection (4) of this section, then a new attacher may conduct the make-ready in place of the utility and existing attachers by hiring a contractor to complete the make-ready, which shall be completed as specified in Section 5 of this administrative regulation. The make-ready shall be performed in compliance with this administrative regulation, the utility's tariff, and the construction standards listed on the utility's Web site. Make-ready work performed by the new attacher within the electric space shall be conducted by an approved contractor listed on the utility's Web site.

1. A new attacher shall allow the affected utility and existing attachers to be present for any make-ready.

2. A new attacher shall use commercially reasonable efforts to provide the affected utility and existing attachers with advance notice of not less than seven (7) days of the impending make-ready.

3. The notice shall include the date and time of the make-ready, a description of the work involved, and the name of the contractor being used by the new attacher.

(c) The new attacher shall notify an affected utility or existing attacher immediately if make-ready damages the equipment of a utility or an existing attacher or causes an outage that is reasonably likely to interrupt the service of a utility or existing attacher.

(d) Pole replacements. Self-help shall not be available for pole replacements.

(11)(~~10~~) One-touch make-ready option. For attachments involving simple make-ready, new attachers may elect to proceed with the process established in this subsection in lieu of the attachment process established in subsections (2) through (6) and (9) of this section.

(a) Attachment application.

1. A new attacher electing the one-touch make-ready process shall elect the one-touch make-ready process in writing in its attachment application and shall identify the simple make-ready that it will perform. It is the responsibility of the new attacher to ensure that its contractor determines if the make-ready requested in an attachment application is simple.



2. Application completeness.

a. The utility shall review the new attacher's attachment application for completeness before reviewing the application on its merits and shall notify the new attacher within ten (10) business days after receipt of the new attachers attachment application whether or not the application is complete.

b. An attachment application shall be considered complete if the application provides the utility with the information necessary under its procedures, as established in the utility's applicable tariff or a special contract regarding pole attachments between the utility and the new attacher, to make an informed decision on the application.

c. If the utility notifies the new attacher that an attachment application is not complete, then the utility shall state all reasons for finding the application incomplete.

d. If the utility fails to notify a new attacher in writing that an application is incomplete within ten (10) business days of receipt, then the application shall be deemed complete.

3. Application review on the merits. The utility shall review on the merits a complete application requesting one-touch make-ready and respond to the new attacher either granting or denying an application within fifteen (15) days of the utility's receipt of a complete application (or within thirty (30) days in the case of larger orders as established in subsection (8)(7)(b) of this section or within a time negotiated in good faith for requests equal to or larger than those established in (8)(7)(d)).

a. If the utility denies the application on its merits, then the utility's decision shall be specific, shall include all relevant evidence and information supporting its decision, and shall explain how the evidence and information relate to a denial of access.

b. Within the fifteen (15) day application review period (or within thirty (30) days in the case of larger orders as established in subsection (8)(7)(b) of this section or within a time negotiated in good faith for requests equal to or larger than those established in (8)(7)(d)), a utility or an existing attacher may object to the designation by the new attacher's contractor that certain make-ready is simple.

c. An objection made pursuant to clause b. of this subparagraph shall be specific and in writing, include all relevant evidence and information supporting the objection, be made in good faith, and explain how the evidence and information relate to a determination that the make-ready is not simple.

d. If the utility's or the existing attacher's objection to the new attacher's determination that make-ready is simple complies with clause c. of this subparagraph, then the make-ready shall be deemed to be complex and the new attacher shall not proceed with the affected proposed one-touch make-ready.

(b) Surveys.

1. The new attacher shall be responsible for all surveys required as part of the one-touch make-ready process and shall use a contractor as established in Section 5(2) of this administrative regulation to complete surveys.

2. The new attacher shall allow the utility and any existing attachers on the affected poles to be present for any field inspection conducted as part of the new attacher's surveys.

3. The new attacher shall use commercially reasonable efforts to provide the utility and affected existing attachers with advance notice of not less than five (5) business days of a field inspection as part of any survey and shall provide the date, time, and location of the surveys, and name of the contractor performing the surveys.

(c) Make-ready. If the new attacher's attachment application is approved by the pole owner and if the attacher has provided at least fifteen (15) days prior written notice of the make-ready to the affected utility and existing attachers, the new attacher may proceed with make-ready. The new attacher shall use a contractor in the manner established for simple make-ready in Section 5(2) of this administrative regulation.

1. The prior written notice shall include the date and time of the make-ready, a description of the work involved, the name of the contractor being used by the new attacher, and provide the affected utility and existing attachers a reasonable opportunity to be present for any make-ready.

2. The new attacher shall notify an affected utility or existing attacher immediately if make-ready damages the equipment of a

utility or an existing attacher or causes an outage that is reasonably likely to interrupt the service of a utility or existing attacher.

3. In performing make-ready, if the new attacher or the utility determines that make-ready classified as simple is complex, then all make-ready on the impacted poles shall be halted and the determining party shall provide immediate notice to the other party of its determination and the impacted poles. All remaining make-ready on the impacted poles shall then be governed by subsections (2) through (9) of this section, and the utility shall provide the notices and estimates required by subsections (2)(a), (3), and (4) of this section as soon as reasonably practicable.

(d) Post-make-ready timeline. A new attacher shall notify the affected utility and existing attachers within fifteen (15) days after completion of make-ready on a one-touch make ready application.

Section 5. Contractors for Survey and Make-ready.

(1) Contractors for self-help complex and above the communications space make-ready. A utility shall make available and keep up-to-date a reasonably sufficient list of contractors the utility authorizes to perform self-help surveys and make-ready that is complex and self-help surveys and make-ready that is above the communications space on the utility's poles. The new attacher shall use a contractor from this list to perform self-help work that is complex or above the communications space. New and existing attachers may request the addition to the list of any contractor that meets the minimum qualifications in subsection (3) of this section and the utility shall not unreasonably withhold its consent.

(2) Contractors for surveys and simple work. A utility may keep up-to-date a reasonably sufficient list of contractors the utility authorizes to perform surveys and simple make-ready. If a utility provides this list, then the new attacher shall choose a contractor from the list to perform the work. New and existing attachers may request the addition to the list of any contractor that meets the minimum qualifications in subsection (3) of this section and the utility shall not unreasonably withhold its consent.

(a)

1. If the utility does not provide a list of approved contractors for surveys or simple make-ready or no utility-approved contractor is available within a reasonable time period, then the new attacher may choose its own qualified contractor that shall meet the requirements in subsection (3) of this section.

2. If choosing a contractor that is not on a utility-provided list, the new attacher shall certify to the utility that the attacher's contractor meets the minimum qualifications established in subsection (3) of this section upon providing notices required by Section 4(9)(a)2., (9)(b)2., (10)(b)3., and (10)(c) of this administrative regulation.

(b)

1. The utility may disqualify any contractor chosen by the new attacher that is not on a utility-provided list, but a disqualification shall be based on reasonable safety or reliability concerns related to the contractor's failure to meet any of the minimum qualifications established in subsection (3) of this section or to meet the utility's publicly available and commercially reasonable safety or reliability standards.

2. The utility shall provide notice of the utility's objection to the contractor within the notice periods established by the new attacher in Section 4(9)(a)2., (9)(b)2., (10)(b)3., and (10)(c) of this administrative regulation and in the utility's objection must identify at least one available qualified contractor.

(3) Contractor minimum qualification requirements. Utilities shall ensure that contractors on a utility-provided list, and new attachers shall ensure that contractors selected pursuant to subsection (2)(a) of this section, meet the minimum requirements established in paragraphs (a) through (e) of this subsection.

(a) The contractor has agreed to follow published safety and operational guidelines of the utility, if available, but if unavailable, the contractor shall agree to follow National Electrical Safety Code (NESC) guidelines.

(b) The contractor has acknowledged that the contractor knows how to read and follow licensed-engineered pole designs for make-ready, if required by the utility.

(c) The contractor has agreed to follow all local, state, and federal laws and regulations including the rules regarding Qualified

## VOLUME 51, NUMBER 4– October 1, 2024

and Competent Persons under the requirements of the Occupational and Safety Health Administration (OSHA) rules.

(d) The contractor has agreed to meet or exceed any uniformly applied and reasonable safety and reliability thresholds established by the utility, if made available.

(e) The contractor shall be adequately insured or shall establish an adequate performance bond for the make-ready the contractor will perform, including work the contractor will perform on facilities owned by existing attachers.

(4) A consulting representative of a utility may make final determinations, on a nondiscriminatory basis, if there is insufficient capacity and for reasons of safety, reliability, and generally applicable engineering purposes.

### Section 6. Notice of Changes to Existing Attachers.

(1) Unless otherwise established in a joint use agreement or special contract, a utility shall provide an existing attacher no less than sixty (60) days written notice prior to:

(a) Removal of facilities or termination of any service to those facilities if that removal or termination arises out of a rate, term, or condition of the utility's pole attachment tariff or any special contract regarding pole attachments between the utility and the attacher; or

(b) Any modification of facilities by the utility other than make-ready noticed pursuant to Section 4 of this administrative regulation, routine maintenance, or modifications in response to emergencies.

(2) Stays from removals, terminations, and modifications noticed pursuant to subsection (1) of this section.

(a) An existing attacher may request a stay of the action contained in a notice received pursuant to subsection (1) of this section by filing a motion pursuant to 807 KAR 5:001, Section 4 within fifteen (15) days of the receipt of the first notice provided pursuant to subsection (1) of this section.

(b) The motion shall be served on the utility that provided the notice pursuant to 807 KAR 5:001, Section 5(1).

(c) The motion shall not be considered unless it includes the relief sought, the reasons for such relief, including a showing of irreparable harm and likely cessation of cable television system operator or telecommunication service, a copy of the notice, and a certification that service was provided pursuant to paragraph (b) of this subsection.

(d) The utility may file a response within ten (10) days of the date the motion for a temporary stay was filed.

(e) No further filings under this subsection shall be considered unless requested or authorized by the commission.

(3) Transfer of attachments to new poles.

(a) Unless an applicable tariff or special contract or Section 4 of this administrative regulation establishes a different timeframe, existing attachers shall transfer their attachments within sixty (60) days of receiving written notice from the utility pole owner.

(b) Existing attachers may deviate from the time limit established in paragraph (a) of this subsection for good and sufficient cause that renders it infeasible for the existing attacher to complete the transfer within the time limit established. An existing attacher that requires such a deviation shall immediately notify, in writing, the utility and shall identify the affected poles and include a detailed explanation of the reason for the deviation and the date by which the attacher shall complete the transfer. An existing attacher shall deviate from the time limits established in paragraph (a) of this subsection for a period no longer than is necessary to complete the transfer.

(c) If an existing attacher fails to transfer its attachments within the timeframe established in paragraph (a) of this subsection and the existing attacher has not notified the utility of good and sufficient cause for extending the time limit pursuant to paragraph (a) of this subsection, a utility pole owner may transfer attachments and the transfer shall be at the existing attacher's expense.

(d) A utility pole owner may transfer an existing attacher's attachment prior to the expiration of any period established by paragraph (a) or (b) of this subsection if an expedited transfer is necessary for safety or reliability purposes.

Section 7. Complaints for Violations of This Administrative Regulation.

(1) Contents of complaint. Each complaint shall be headed "Before the Public Service Commission," shall establish the names of the complainant and the defendant, and shall state:

(a) The full name and post office address of the complainant;

(b) The full name and post office address of the defendant;

(c) Fully, clearly, and with reasonable certainty, the act or omission, of which complaint is made, with a reference, if practicable, to the law, order, or administrative regulation, of which a failure to comply is alleged, and other matters, or facts, if any, as necessary to acquaint the commission fully with the details of the alleged failure; and

(d) The relief sought.

(2) Signature. The complainant or his or her attorney, if applicable, shall sign the complaint. A complaint by a corporation, association, or another organization with the right to file a complaint, shall be signed by its attorney.

(3) How filed.

(a) Complaints shall be filed in accordance with the electronic filing procedures in 807 KAR 5:001, Section 8; and

(b) The complainant shall serve a copy of the complaint on the defendant at the same time as it files the complaint with the commission. ~~[The filing party shall file two (2) copies in paper medium with the commission in the manner required by 807 KAR 5:001, Section 8(12)(a)2.]~~

(4) Procedure on filing of complaint.

(a) Upon the filing of a complaint, the commission shall immediately examine the complaint to ascertain if it establishes a prima facie case and conforms to this administrative regulation.

1. If the commission finds that the complaint does not establish a prima facie case or does not conform to this administrative regulation, the commission shall notify the complainant and provide the complainant an opportunity to amend the complaint within a stated time.

2. If the complaint is not amended within the time or the extension as the commission, for good cause shown, shall grant, the complaint shall be dismissed.

(b) If the complaint, either as originally filed or as amended, establishes a prima facie case and conforms to this administrative regulation, the commission shall serve an order upon the person complained of, accompanied by a copy of the complaint, directed to the person complained of and requiring that the matter complained of be satisfied, or that the complaint be answered in writing within ten (10) days from the date of service of the order. The commission may require the answer to be filed within a shorter period if the complaint involves an emergency situation or otherwise would be detrimental to the public interest.

(5) Satisfaction of the complaint. If the defendant desires to satisfy the complaint, he or she shall submit to the commission, within the time allowed for satisfaction or answer, a statement of the relief that the defendant is willing to give. Upon the acceptance of this offer by the complainant and with the approval of the commission, pursuant to KRS Chapter 278 and this administrative regulation, the case shall be dismissed.

(6) Answer to complaint. If the complainant is not satisfied with the relief offered, the defendant shall file an answer to the complaint within the time stated in the order or the extension as the commission, for good cause shown, shall grant.

(a) The answer shall contain a specific denial of the material allegations of the complaint as controverted by the defendant and also a statement of any new matters constituting a defense.

(b) If the defendant does not have information sufficient to answer an allegation of the complaint, the defendant may so state in the answer and place the denial upon that ground.

(7) Burden of proof.

(a) The complainant has the burden of establishing it is entitled to the relief sought.

(b) The commission may presume that a pole replaced to accommodate a new attachment was a red tagged pole if:

1. There is a dispute regarding the condition of the pole at the time it was replaced; and

2. The utility failed to document and maintain records that inspections were conducted pursuant to 807 KAR 5:006 and that no deficiencies were found on the pole or poles at issue, or if

**VOLUME 51, NUMBER 4– October 1, 2024**

inspections of poles are not required pursuant to 807 KAR 5:006, the utility failed to periodically inspect and document the condition of its poles.

(8) Time for final action.

(a) The commission shall take final action on a complaint regarding the rates, terms, or conditions for access to a utility's pole, duct, conduit, or right-of-way within sixty (60)~~1480~~ days of a complaint establishing a prima facie case being filed, unless the commission finds it is necessary to continue the proceeding for good cause for up to 180~~360~~ days from the date the complaint establishing a prima facie case is filed.

(b) The period within which final action shall be taken may be extended beyond 180~~360~~ days upon agreement of the complainant and defendant and approval of the commission.

FILED WITH LRC: September 10, 2024

CONTACT PERSON: John E.B. Pinney, Executive Advisor,  
Kentucky Public Service Commission, 211 Sower Boulevard,  
Frankfort, Kentucky 40601, phone (502) 782-2587, fax (502) 564-  
7279, email jeb.pinney@ky.gov.

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY  
AND REVIEWING SUBCOMMITTEE

ARRS = Administrative Regulation Review Subcommittee  
IJC = Interim Joint Committee

EDUCATION AND LABOR CABINET  
Education Professional Standards Board  
(As Amended at ARRS, September 10, 2024)

16 KAR 9:030. Professional and provisional certificate for college faculty.

RELATES TO: KRS [160.380(5)(c),—]161.020, 161.028, 161.030, 161.048

STATUTORY AUTHORITY: KRS 161.028, 161.030, 161.048

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.048 ~~establishes~~authorizes the eligibility requirements for a candidate seeking to participate in an alternative teacher preparation program and requires the board to promulgate administrative regulations establishing standards and procedures for alternative certification options. This administrative regulation establishes the requirements for [and renewal of] the professional and provisional certificate for college faculty.

Section 1. Prerequisites.

(1) A ~~one (1)~~~~two (2)~~ year provisional certificate for college faculty may be issued to an eligible candidate who meets the requirements of KRS 161.048(4).

(2) Application for a provisional certificate shall be submitted to the EPSB and shall:

(a) Contain proof of a master's degree or doctoral degree in the academic content area for which certification is sought;

(b) Contain verification of qualifying teaching experience from a regionally or nationally accredited institution of higher education; and

(c) Be in compliance with 16 KAR 2:010, Section 3(1).

(3) The provisional certificate for college faculty shall be issued for the content area and grade range corresponding to the candidate's degree and teaching experience.

(4) The provisional certificate for college faculty shall be valid for teaching the content area and grade range indicated on the face of the certificate.

[(a)] [An eligible candidate who meets the requirements of KRS 161.048(4)(a) and (b) shall be issued a statement of eligibility for the professional certificate for college faculty valid for five (5) years.]

[(b)] [Application for the statement of eligibility for the professional certificate for college faculty shall be made on Form CA-194.]

[(2)] [Upon confirmation of employment in an assignment for the grade level and specialization identified on the statement of eligibility, a provisional teaching certificate shall be issued.]

[(3)] [Upon successful completion of the Kentucky Teacher Internship Program as provided in KRS 161.030 and 16 KAR 7:010, the professional certificate for college faculty shall be issued for an additional four (4) years.]

Section 2. Renewal.

(1) If a candidate does not complete one (1) year of successful teaching experience during the initial provisional certificate, the candidate may apply to renew the provisional certificate.

(2) Application for renewal of the ~~one (1)~~~~two (2)~~ year provisional certificate for college faculty shall be submitted to the EPSB and be in compliance with 16 KAR 2:010, Section 3(1). [Each five (5) year renewal of the professional certificate for college faculty shall require:]

[(1)] [Three (3) years of successful classroom teaching experience; or]

[(2)] [Six (6) semester hours of additional graduate credit.]

Section 3. Equivalent College Teaching Experience.

(1) Ninety (90) semester credit hours taught at the postsecondary level at a regionally- or nationally-accredited

institution of higher education shall be accepted as the equivalent of five (5) years of full-time teaching experience.

(2) The ninety (90) hours of college teaching experience may:

(a) Be accumulated at more than one (1) institution of higher education; and

(b) Include part-time teaching or adjunct teaching positions.

(3)

(a) In place of regular full-time teaching experience, as established in subsection (1) of this section, a full-time faculty member's experience at a regionally- or nationally-accredited institution of higher education may include ~~the following activities in lieu of regular full-time teaching experience as established in subsection (1) of this section~~:

1. Action research;

2. Service to the P-12 schools; or

3. Other activities undertaken as part of a full-time faculty member's assigned responsibilities at the institution of higher education.

(b) The head of the faculty member's unit shall verify the validity of the experiences or responsibilities in this subsection in place in lieu of a regular full-time teaching load on a per semester basis.

Section 4.

(1) Upon completion of one (1) year of successful teaching experience on the provisional certificate for college faculty, the candidate may apply for the professional certificate.

(2) Application for the professional certificate shall be submitted to the EPSB and shall:

(a) Contain proof of successful completion of one (1) year of teaching experience;

(b) Contain a recommendation from the employing school district; and

(c) Be in compliance with 16 KAR 2:010, Section 3(1). [An applicant for a professional certificate for college faculty who is not currently certified as an educator in Kentucky shall submit a national and state criminal background check performed in accordance with KRS 160.380(5)(c) within twelve (12) months prior to the date of application.]

[Section 5.] [Incorporation by Reference.]

[(1)] ["Form CA-194", 08/15, is incorporated by reference.]

[(2)] [This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Education Professional Standards Board, 100 Airport Road, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.]

FILED WITH LRC: September 10, 2024

CONTACT PERSON: Todd Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321; email regcomments@education.ky.gov.

OFFICE OF THE GOVERNOR  
Department of Veterans Affairs  
Office of Kentucky Veterans' Services  
(As Amended at ARRS, September 10, 2024)

17 KAR 4:030. Veterans' Service Organization Burial Honor Guard Program.

RELATES TO: KRS 40.360, 40.362, 40.364, 40.366, 10 U.S.C. 1491

STATUTORY AUTHORITY: KRS 40.360(3), 40.364(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 40.360(3) and 40.364(1) require the Kentucky Department of Veterans' Affairs to promulgate administrative regulations to implement and administer the Veterans' Service Organization Burial Honor Guard

VOLUME 51, NUMBER 4– October 1, 2024

Program. This administrative regulation establishes the requirements for the Veterans' Service Organization Burial Honor Guard Program.

Section 1. Definitions.

(1) "Authorized provider" means a veterans' service organization or any other military or civilian organization that has been trained in rendering military funeral honors according to requirements established in 10 U.S.C. 1491.

(2) "Discharge under other than dishonorable conditions" means, for the purpose of this administrative regulation, honorable or general under honorable conditions service characterization. "Eligible veteran" means a person who:

~~(a) [Has served the state and nation on active duty in the U.S. Armed Forces; received a discharge under other than dishonorable conditions (that is with an honorable or general under honorable conditions service characterization); and has never been convicted of a federal or state capital offense; or]~~

~~(b) [At the time of death, was honorably serving in the U.S. Reserves or the Air or Army National Guard without being previously convicted of a federal or state capital offense; or]~~

~~(c) [Was previously interred or cremated, notwithstanding the date of death.]~~

~~[4.]~~

~~[a.] [Has served the state and nation in the armed forces; and]~~

~~[b.] [Was discharged under other than dishonorable conditions, that is with an honorable or general under honorable conditions service characterization; or]~~

~~[2.] [At the time of death, was a member of the Selective Reserve or Kentucky National Guard;]~~

~~(b) [Was recently deceased, or cremated remains are being interred, or, if not recently deceased, the burial honors are being rendered for historical reasons; and]~~

~~(c) [Was never convicted of a federal or state capital offense.]~~

(3) "Veterans' service organization" or "VSO" means an organization serving American veterans such as Veterans of Foreign Wars, American Veterans[AMVETS], Disabled American Veterans, Vietnam Veterans of America, and American Legion.

Section 2. Eligibility for Burial Honors.

(1) An individual shall be eligible for burial honors if he or she:

(a) Served the state and nation on active duty in the U.S. Armed Forces; received a discharge under other than dishonorable conditions; and has never been convicted of a federal or state capital offense; or

(b) At the time of death, was honorably serving in the U.S. Reserves or the Air or Army National Guard without being previously convicted of a federal or state capital offense.

(2) An individual who meets the requirements of (1)(a) or (b) of this section shall be eligible if he or she was previously interred or cremated, regardless of the date of death.

Section 3. Program Responsibilities.

(1) The Kentucky Department of Veterans Affairs shall:

(a) Pay a stipend in the amount provided by subsection (2) of this section to the military burial honor guard detail supplied by the authorized provider for the military honors rendered by that detail; and

(b) Maintain a central repository for recording all data required by KDVA Form Veterans' Service Organization Request for Honors Stipend.

(2) The maximum amount of the stipend shall be \$100[sixty (60) dollars] for each ceremony provided by the VSO. The stipend amount shall be determined as follows:

(a) For playing "Taps" on CD or other recording device, zero dollars;

(b) For having a live bugler or ceremonial bugler play the song "Taps", instead of using a CD or other recording device, fifteen (15) dollars[ten (10) dollars];

(c) For folding and presenting the United States Flag with the song "Taps":

1. Played on CD, thirty (30) dollars[twenty-five (25) dollars]; or

2. Performed by a live bugler or ceremonial bugler, fifty (50) dollars

(d) For folding and presenting the United States Flag with a rifle team, with a minimum of three (3) firers, with the song "Taps":

1. Played on CD or other pre-recorded device, eighty (80) dollars[fifty (50) dollars]; or

2. Performed by a live bugler or ceremonial bugler, \$100[sixty (60) dollars].

(3) Authorized providers shall:

(a) Render military burial honors in accordance with the requirements established in 10 U.S.C. 1491;

(b) Require a flag folding ceremony as part of the military burial honors in which the United States flag is folded by the military burial honor guard;

(c) Ensure that the folded flag is presented during the ceremony to the deceased's next of kin or family representative by a member of the eligible veteran's own military service (USMC, USA, USAF, USSF, USN, U.S.C.G[U.S.C.G.]); and

(d) After each rendering of military burial honors, provide the Kentucky Department of Veterans Affairs a completed KDVA Form 07/24[04/04].

Section 4.[Section 3.] To be eligible to receive a stipend, a veterans' service organization shall:

(1) Register as a state vendor and receive a state vendor number. Registration shall be completed online at [www.eprocurement.ky.gov](http://www.eprocurement.ky.gov);

(2) Verify the veteran's service from the veteran's DD Form 214, Certificate of Release or Discharge from Active Duty or NGB Form 22, National Guard Report of Separation and Record of Service; and[DD-214 form; and]

(3) Not receive an honorarium, donation, or other payment from the funeral home or the veteran's family for the military burial honors provided for the veteran.

Section 5.[Section 4.] Incorporation by Reference.

(1) KDVA Form, "Veterans' Service Organization Request for Honors Stipend", 09/24[07/24][11/06], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Veterans' Affairs, 1111[B] Louisville Road, Suite B, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. or at <https://veterans.ky.gov/Pages/index.aspx>.

FILED WITH LRC: September 10, 2024

CONTACT PERSON: Juan Renaud, Deputy Commissioner, Office of the Commissioner; or Alvin Duncan, State Cemeteries Director; 1111 Louisville Rd., Suite B, Frankfort, Kentucky 40601; phone (502) 782.5721; fax (502) 564.9240; email [juan.renaud@ky.gov](mailto:juan.renaud@ky.gov) or [alvin.duncan@ky.gov](mailto:alvin.duncan@ky.gov).

OFFICE OF THE GOVERNOR  
Department of Veterans' Affairs  
Office of Kentucky Veterans Services  
(As Amended at IJC on Veterans, Military Affairs, and Public Protection, August 28, 2024)

17 KAR 6:020. Kentucky Women Veterans Program and coordinating committee. Administrative procedures.

RELATES TO: KRS 40.310, [40.560,]40.600

STATUTORY AUTHORITY: KRS 40.600, 45A.097

NECESSITY, FUNCTION, AND CONFORMITY: KRS 40.600(1) establishes the Kentucky Women Veterans Program. KRS 40.600(5) requires the establishment of a Women Veterans Coordinating Committee. KRS 40.600(6) authorizes the program 40.540 requires the department to promulgate administrative regulations required for the effective administration of KRS 40.310 through KRS 40.560. KRS 40.600 authorizes the Kentucky Department of Veterans Affairs] to accept and expend moneys that may be appropriated by the General Assembly; and other moneys[monies] received from any other source, including donations and grants. KRS 40.600(7) authorizes

~~the Department of Veterans' Affairs to promulgate administrative regulations to implement KRS 40.600. KRS 45A.097 allows a governmental body to accept donations and gifts from persons or businesses to further the governmental body's mission or to benefit the Commonwealth. This administrative regulation establishes procedures for expenditures and fundraising by the Kentucky Women Veterans Program. It also establishes reporting requirements for the coordinating committee and other contributions from a government unit and authorizes the department to administer the funds through the use of agency accounts. KRS 40.600 requires the Kentucky Department of Veterans Affairs to manage the funds and authorize expenditures. This administrative regulation also establishes a coordinating committee to make recommendations for fund expenditures and outlines the administrative procedures of the coordinating committee.~~

Section 1. Definitions.

- (1) ~~"Commissioner" means the Commissioner of the Kentucky Department of Veterans Affairs.~~
- ~~(2) "Coordinating Committee" means the Women Veterans Program Coordinating Committee.~~
- (2) "KDVA" means the Kentucky Department of Veterans Affairs.
- ~~(3) "Fund" means the Kentucky Women Veterans Program Fund.~~
- ~~(4) "Woman Veteran" means a woman who served in the United States Armed Forces or in forces incorporated as part of the United States Armed Forces, and who was discharged under other than dishonorable conditions.~~

Section 2. Expenditures and Fundraising.

- (1) Women Veterans Program funds shall be used solely for the purposes and functions described in KRS 40.600 in accordance with this subsection and subsection (2) of this section, money appropriated from the fund shall be expended in support of the Women Veterans Program's activities or events that directly benefit women veterans, including the following activities or events:
  - ~~(a) [Educational sessions or training seminars focused on eligibility requirements for women veterans seeking federal and state veterans' benefits and services;]~~
  - ~~(b) [Research projects focused on collecting and retaining demographic or service-connected disability data for Kentucky's women veterans;]~~
  - ~~(c) [Dissemination of benefit information for women veterans through circulars, brochures, social media, and other media outlets;]~~
  - ~~(d) [Annual meetings or conferences focused on engagement of Kentucky's women veterans and discussions of issues specific to women veterans;]~~
  - ~~(e) [Job fairs, job placement services, other similar programs, or a combination of these focused on employing women veterans;]~~
  - ~~(f) [Therapeutic opportunities focused on improving the mental and emotional wellbeing of Kentucky's women veterans;]~~
  - ~~(g) [Entrepreneurial opportunities for women veterans seeking to establish or expand female veteran-owned businesses;]~~
  - ~~(h) [Programs, memorials, monuments, and other projects that bring public recognition and awareness to the sacrifices, needs, and contributions of Kentucky's women veterans.]~~
  - ~~(i) [Other services designed to make gaining access to federal and state benefits and services more convenient, efficient, or feasible for Kentucky's women veterans.]~~
  - ~~(j) [Costs associated with the above, such as transportation, meals, lodging, and salaries].~~
- (2) Fundraising. If fundraising on behalf of the Women Veterans Program, the Kentucky Department of Veterans Affairs may accept a gift, donation, or grant from an individual, a corporation, or a government entity, provided that the funds are not restricted to tax exempt organizations as defined by Title 26, Section 501(c)

~~of the Internal Revenue Code. Moneys received from gifts, donations, or grants shall be used solely for the purposes and functions described in KRS 40.600.~~

- ~~(3) The Women Veterans Coordinating Committee established in KRS 40.600(5) shall:~~
  - ~~(a) Prepare an annual report each fiscal year that:~~
    - ~~1. Provides meeting minutes for each committee meeting;~~
    - ~~2. Summarizes the recommendations made by the committee; and~~
    - ~~3. Details financial expenditures undertaken on behalf of Kentucky's women veterans; and~~
  - ~~(b) Submit the annual report by July 20<sup>th</sup> to be included in KDVA's Annual Report and posted on the Women Veterans Program page of KDVA's Web site.~~

~~[Section 3.] [Coordinating Committee for the Women Veterans Program.]~~

- ~~(1) [The committee shall consist of ten (10) members, including:]~~
  - ~~(a) [The commissioner of the Kentucky Department of Veterans Affairs;]~~
  - ~~(b) [The women veterans program coordinator of the Kentucky Department of Veterans Affairs;]~~
  - ~~(c) [Two (2) members from state government:]~~
    - ~~1. [A Senator appointed by the President of the Kentucky Senate;]~~
    - ~~2. [A Representative appointed by the Speaker of the Kentucky House of Representatives.]~~
  - ~~(d) [Two (2) members from public agencies that provide grants, benefits, or services to women veterans.]~~
  - ~~(e) [Four (4) members from private organizations that provide grants, benefits, or service to women veterans.]~~
    - ~~(2) [The commissioner of the Kentucky Department of Veterans Affairs shall appoint the public agencies and private organizations represented on the committee.]~~
      - ~~(a) [A public agency and private organization specified in subsection (1)(d) and (e) of this section shall recommend two (2) members of the agency or organization to serve on to the committee.]~~
        - ~~(b) [The commissioner of the Kentucky Department of Veterans Affairs shall appoint one (1) member from each agency and each organization from the names submitted by the agencies and organizations.]~~
          - ~~(e) [Where possible, at least seven (7) members of the coordinating committee shall be women veterans.]~~
        - ~~(3) [Terms of members. Except in cases of retirement, resignation, or other inability or unwillingness to serve, the initial appointments to the committee shall be as established in paragraphs (a) and (b) of this subsection.]~~
          - ~~(a) [A member appointed pursuant to subsection (1)(c) of this section shall serve for a period of two (2) years.]~~
          - ~~(b) [A member appointed pursuant to subsection (1)(d) and (e) of this section shall serve for a period of three (3) years.]~~
        - ~~(4) [The committee shall:]~~
          - ~~(a) [Meet at the call of the commissioner of Kentucky Department of Veterans Affairs, at least once per quarter.]~~
          - ~~(b) [Make recommendations for fiscally responsible uses of funds donated, gifted, or designated to the Women Veterans Program, including:]~~
            - ~~1. [Propose, investigate, and approve activities that support Kentucky's women veterans;]~~
            - ~~2. [Establish guidelines for approved activities, including funding parameters.]~~
          - ~~(c) [Prepare meeting minutes that summarize each meeting, including recommendations made by the committee;]~~
          - ~~(d) [Prepare an annual report that summarizes recommendations made by the committee and financial activities undertaken on behalf of Kentucky's women veterans;]~~
          - ~~(e) [Submit an annual report by July 20<sup>th</sup> of each year to be included in the Kentucky Department of Veterans Affairs Annual Report.]~~
            - ~~(5) [The commissioner shall assign duties as appropriate to the Kentucky Department of Veterans Affairs' staff or~~

VOLUME 51, NUMBER 4– October 1, 2024

~~members of the coordinating committee to assist with administration of the committee.]~~

~~[Section 4.] [Coordinating Committee Procedures. Coordinating committee procedures shall be in accordance with the approved by-laws of the Women Veterans Coordinating Committee.]~~

FILED WITH LRC: August 28, 2024

CONTACT PERSON: Juan Renaud, Deputy Commissioner, Office of the Commissioner, 1111 Louisville Rd., Suite B, Frankfort, Kentucky 40601; phone (502) 782-5721; fax (502) 564-9240; email juan.renaud@ky.gov.

OFFICE OF THE GOVERNOR  
Department of Veterans Affairs  
Office of Kentucky Veterans Services  
(As Amended at IJC on Veterans, Military Affairs, and Public Protection, August 28, 2024)

17 KAR 6:030. Kentucky Wounded or Disabled Veterans Program. Administrative procedures.

RELATES TO: KRS 40.310, ~~[40.560,]~~40.350  
STATUTORY AUTHORITY: KRS 40.350

NECESSITY, FUNCTION, AND CONFORMITY: KRS 40.350(1) establishes the Kentucky Wounded or Disabled Veterans Program. KRS 40.350(7) authorizes the program[40.540 requires the department to promulgate administrative regulations required for the effective administration of KRS 40.310 through KRS 40.560. KRS 40.350 authorizes the Kentucky Department of Veterans Affairs] to accept and expend moneys that may be appropriated by the General Assembly; and other moneys[monies] received from any other source, including donations and grants. KRS 40.350(6) authorizes the Department of Veterans' Affairs to promulgate administrative regulations to implement KRS 40.350. This administrative regulation establishes procedures for expenditures and fundraising by the Kentucky Wounded or Disabled Veterans Program and other contributions from a government unit and authorizes the department to administer the funds through the use of agency accounts. KRS 40.350 requires the Kentucky Department of Veterans Affairs to manage the funds and authorize expenditures and establish a Program Coordinator to facilitate the administration of the Wounded or Disabled Veterans Program].

Section 1. Definitions.

(1) ~~["Commissioner" means the Commissioner of the Kentucky Department of Veterans Affairs.]~~

~~[(2)] ["Coordinator" means the Coordinator of the Wounded or Disabled Veterans Program.]~~

~~[(3)] "Disabled Veteran" means a veteran who was deemed disabled while serving in the United States Armed Forces, under conditions other than dishonorable, or was deemed disabled by the United States Department of Veterans Affairs after being discharged, under conditions other than dishonorable.~~

~~[(2)][(4)] ["Fund" means the Wounded or Disabled Veterans Program Fund.]~~

~~[(3)] [(5)] "Wounded Veteran" means a veteran who was wounded while serving in the United States Armed Forces, who was discharged under conditions other than dishonorable.~~

Section 2. Expenditures and Fundraising.

(1) ~~[In accordance with this section and sections (2)-(4), Money appropriated from the fund shall be expended in support of][the][Wounded or Disabled Veterans Program's initiatives][as authorized by KRS 40.350][that are focused on easing the transition from active service for wounded or disabled veterans or ensuring that wounded or disabled veterans receive the federal, state, and private benefits to which they are entitled][.]~~

~~[(2)] Wounded or Disabled Veterans Program funds shall be used solely for the purposes and functions described in KRS 40.350[Program's initiatives shall focus on at least one (1) of the following:]~~

~~[(a)] [Performing outreach to improve wounded or disabled veterans' awareness of eligibility for federal, state, and private wounded or disabled veterans' services and benefits;]~~

~~[(b)] [Supporting legislation and policies on the local, state, and national levels to advocate and bringing public awareness to wounded or disabled issues;]~~

~~[(c)] [Collaborating with federal, state, and private agencies that provide services to wounded or disabled veterans, including entering into data-sharing agreements with the United States Department of Veterans Affairs and the Department of Defense to obtain timely information with regard to the addresses and medical statuses of Kentucky's wounded or disabled veterans;]~~

~~[(d)] [Assessing the needs of wounded or disabled veterans with respect to benefits and services;]~~

~~[(e)] [Reviewing programs, research projects, and other initiatives that are designed to address or meet the needs of Kentucky's wounded or disabled veterans;]~~

~~[(f)] [Incorporating wounded or disabled veterans' issues in strategic planning concerning benefits and services;]~~

~~[(g)] [Monitoring and researching issues relating to wounded or disabled veterans and disseminating information and opportunities throughout the Program's network;]~~

~~[(h)] [Providing guidance and direction to wounded or disabled veterans applying for grants, benefits, or services via conferences, seminars, and training workshops with federal, state, and private agencies;]~~

~~[(i)] [Promoting events and activities that recognize and honor wounded or disabled veterans;]~~

~~[(j)] [Providing facilities, as appropriate, in support of the Program through grants and other sources of funding].~~

~~[(2)][(3)] [Terms of Data-Sharing. With the consent of a wounded or disabled veteran, the Program's coordinator, or his or her designee, may obtain personal information concerning wounded or disabled veterans for the sole purpose of implementing the Program. Under the provisions of KRS 61.878, the information shall not be subject to public disclosure.]~~

~~[(4)] Fundraising. If fundraising on behalf of the Wounded or Disabled Veterans Program, the Kentucky Department of Veterans Affairs may accept a gift, donation, or grant from an individual, a corporation, or a government entity, provided that the funds are not restricted to tax exempt organizations as defined by Title 26, Section 501(c) of the Internal Revenue[Review] Code. Moneys received from gifts, donations, or grants shall be used solely for the purposes and functions described in KRS 40.350.~~

FILED WITH LRC: August 28, 2024

CONTACT PERSON: Juan Renaud, Deputy Commissioner, Office of the Commissioner, 1111 Louisville Rd., Suite B, Frankfort, Kentucky 40601; phone (502) 782-5721; fax (502) 564-9240; email juan.renaud@ky.gov.

STATE BOARD OF ELECTIONS  
(As Amended at ARRS, September 10, 2024)

31 KAR 4:031. Reporting.

RELATES TO: KRS 117.085, 117.086, 117.235, 117.255, 117.265, 117.275, 117.355, 118.025, 118.215, 118.425, 118.770, 119.307

STATUTORY AUTHORITY: KRS 117.015(1)(a), 117.086(5), 117.275(15), 117.355(4), 118.425(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1)(a) authorizes the State Board of Elections to promulgate administrative regulations necessary to implement the provisions of KRS Chapter 117. KRS 117.355[(4)] requires the State Board of Elections to prescribe the forms for the precinct election sheriff and the county board of elections to report election irregularities and

VOLUME 51, NUMBER 4– October 1, 2024

recommendations for improving the election process, to report special ballot and voter assistance usage statistics, and to report other information required by the state board. KRS 117.086(5) requires the State Board of Elections to prescribe a form on which the county board of elections shall report the number of rejected absentee ballots and the reasons for rejection of those ballots. KRS 118.425(4) requires the State Board of Elections to prescribe a form by which the county board of elections shall make out duplicate certificates of the total number of votes received by each of the candidates for office and the total number of votes for an against each of the ballot questions. KRS 117.275(15) requires a secure online connection be available for the transmission of unofficial election results from county boards of election to the State Board of Elections following the tallying of votes. This administrative regulation establishes the procedure and forms for the county clerk, the county board of elections, and the precinct election sheriff to report election and voting data after the election.

Section 1. ~~The following~~ Reporting forms shall be filed and pursuant to in accordance with the referenced statutes:

(1) ~~Pursuant to~~ KRS 117.355(1), the precinct election sheriff shall file the Precinct Election Sheriff's Post-election ~~Postelection~~ Report, SBE 53, with the chair of the county board of elections and the local grand jury;

(2) ~~Pursuant to~~ KRS 117.355(2), the county board of elections ~~election~~ shall file the County Board of Elections Post-election ~~Postelection~~ Report, SBE 54, with the State Board of Elections and the local grand jury;

(3) ~~Pursuant to~~ KRS 117.275(7) and 117.355(2), the county board of elections shall file the County Board of Elections Post-election ~~Postelection~~ Statistical Report, SBE 54A, with the State Board of Elections;

(4) ~~Pursuant to~~ KRS 117.355(2), the county board of elections shall file the County Board of Elections Precinct Election Officials Absence Report, SBE 54B, with the State Board of Elections;

(5) ~~Pursuant to~~ KRS 117.275(12) and 117.086(4)(c), the county clerk shall file the County Board of Elections Provisional Ballots Issued to Voters and Counted, SBE 54C, with the State Board of Elections.

(6) ~~Pursuant to~~ KRS 117.086(4)(a)-(b), the county clerk shall file the Absentee Ballot Report, SBE 33A, with the State Board of Elections;

(7) ~~Pursuant to~~ KRS 117.086(5), the county board of elections shall file the Number of Rejected Absentee Ballots and Reasons for Rejected Ballots, SBE 33B; and

(8) ~~Pursuant to~~ KRS 117.275(11)-(12) and 118.425(4), the county board of elections shall file the Certification Official Count and Record of Election Totals, SBE 49, with the Secretary of State.

Section 2. Any form described in Section 1 of this administrative regulation that is capable of being recorded or filed automatically through the State Board of Elections' Voter Registration System may be deemed by the State Board of Elections as being transmitted following the successful capture of all required information by the Voter Registration System.

Section 3.

(1) Pursuant to KRS 117.275(15), the State Board of Elections shall develop and maintain a platform with a secure online connection for the transmission of unofficial election results from county boards of election to the State Board of Elections following the tallying of votes for all primary, and regular elections, as well as special elections for statewide office, the General Assembly, and the United States Congress.

(2) Beginning at 6:00 p.m., prevailing time, on the day of a primary or regular election, as well as a special election for statewide office, the General Assembly, and the United States Congress, county boards of election shall use the secure online platform maintained by the State Board of Elections to transmit their county's unofficial election tally. The unofficial vote tally transmitted shall include precinct-by-precinct totals from counts of all mail-in absentee ballots, excused in-person absentee ballots, no-excuse in-person absentee ballots, and election day ballots, and shall include totals for those candidates who have filed a declaration of intent with

the Secretary of State to be a write-in candidate pursuant to KRS 117.265(2), provided five (5) percent or more of the votes cast in that candidate's election, were for write-in candidates. Unofficial vote tallies transmitted using the secure online platform shall be transmitted using a computer-file-type and format selected by the State Board of Elections, which shall be selected following the certification of candidates by the Secretary of State pursuant to KRS 118.215(1), or immediately after receiving the Secretary of State's certification pursuant to KRS 118.770.

(3) The State Board of Elections shall display the tally information received from the county boards of election through the secure online transmittal platform on a secure Web site ~~website~~ freely available to the general public. The display shall list precinct-by-precinct tallies for all candidates and questions, but shall only list a candidate's precinct absentee vote totals as cumulative.

(4) County boards of election or county clerks shall verify with the State Board of Elections that their county's unofficial vote tally has been successfully transmitted to the State Board of Elections no later than six (6) hours after the close of polls. ~~If Should~~ a county's tally is not completed ~~be complete~~ six (6) hours after the close of polls, a representative of the county clerk's office shall update the State Board of Elections by telephone as to the status of the tally transmittal at the end of the sixth hour and then subsequently at the top of each following hour unless the transmittal is completed before that ~~such~~ time.

Section 4. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Precinct Election Sheriff's Post-election ~~Postelection~~ Report", SBE 53, 04/2024;

(b) "County Board of Elections Post-election Report", SBE 54, 04/2024;

(c) "County Board of Elections Post-election Statistical Report", SBE 54A, 04/2024;

(d) "County Board of Elections Precinct Election Officials Absence Report", SBE 54B, 04/2024 ~~September 2002~~;

(e) "County Board of Elections Provisional Ballots Issued to Voters and Counted", SBE 54C, 04/2024;

(f) "Absentee Ballot Report", SBE 33A, 04/2024;

(g) ~~(f)~~ "Number of Rejected Absentee Ballots and Reasons for Rejected Ballots", SBE 33B, 04/2024; and

(h) ~~(g)~~ "Certification Official Count and Record of Election Totals", SBE 49, 04/2024.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Elections, 140 Walnut Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be obtained on the board's Web site at <https://elect.ky.gov>.

FILED WITH LRC: September 10, 2024

CONTACT PERSON: Taylor Brown, General Counsel, 140 Walnut Street, Frankfort, Kentucky 40601, phone (502) 782-9499, email [TaylorA.Brown@ky.gov](mailto:TaylorA.Brown@ky.gov).

FINANCE AND ADMINISTRATION CABINET  
(As Amended at ARRS, September 10, 2024)

200 KAR 5:021. Manual of policies and procedures.

RELATES TO: KRS Chapter 45A ~~45A.045(2)~~ [Chapter 45A]  
STATUTORY AUTHORITY: KRS 45A.045(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 45A.045(2) requires the Finance and Administration Cabinet to publish a manual of policies and procedures, which is to be incorporated by reference as an administrative regulation pursuant to KRS Chapter 13A. This administrative regulation incorporates the Finance and Administration Cabinet Manual of Policies and Procedures.

Section 1. A state agency shall follow the procurement requirements in the Finance and Administration Cabinet Manual of Policies and Procedures. ~~A state agency shall follow~~



VOLUME 51, NUMBER 4– October 1, 2024

the procurement requirements in the Finance and Administration Cabinet Manual of Policies and Procedures.]

Section 2. [Section 2.] Incorporation by Reference.

(1) "Finance and Administration Cabinet Manual of Policies and Procedures", revised August[May] 2024[February–2016], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Finance and Administration Cabinet, Office of General Counsel, 200 Mero Street, 5th Floor[Office of Policy and Audit, Policy Branch, Room 493, Capitol Annex], Frankfort, Kentucky 40622[40601], Monday through Friday, 8 a.m. to 4:00[4:30] p.m. This material may also be obtained at the Finance and Administration Cabinet's Web site, https://finance.ky.gov/office-of-the-secretary/office-of-policy-and-audit/Pages/Finance-Policies.aspx[www.finance.ky.gov/services/policies/Pages/default.aspx].

FILED WITH LRC: September 10, 2024

CONTACT PERSON: Cary Bishop, Assistant General Counsel, Office of General Counsel, 200 Mero Street, 5th Floor, Frankfort, Kentucky 40622, phone (502) 564-6660, fax (502) 564-9875, email cary.bishop@ky.gov.

BOARD AND COMMISSIONS

Board of Pharmacy

(As Amended at ARRS, September 10, 2024)

201 KAR 2:470. Change of ownership.

RELATES TO: KRS 315.035(5), 315.036(1), 315.340(6), 315.350(4), [315.405(5),]315.4104(1)

STATUTORY AUTHORITY: 315.191(1)

NECESSITY, FUNCTION, AND CONFORMITY: 315.191(1) authorizes the board to promulgate administrative regulations to regulate pharmacists, pharmacies, wholesalers, and manufacturers. KRS 315.035(5)[discusses changes of ownership of a pharmacy and] requires that if there is a change of ownership of a pharmacy notice is to be provided by a buyer at least[no fewer than] five (5) days prior to the date of sale before the transaction occurs and authorizes a buyer to operate under a seller's permit pending the application. [Due to the nature of business structures, it is not clear when a change of ownership of a regulated entity is considered to occur, and therefore.] This administrative regulation clarifies criteria in[provides clarity for] making [those] determinations for when a change of ownership of a regulated entity is considered to occur for various business structures.

Section 1. Change of entity ownership requiring a new license or permit means:

(1) Partnership. For[In the case of] a partnership, the removal, addition, or substitution of a partner.

(2) Unincorporated sole proprietorship. For[In the case of] an unincorporated sole proprietorship, the transfer of title and property to another party.

(3) Corporation.

(a) For[In the case of] a corporation, the merger of the licensed corporation into another corporation or the consolidation of two (2) or more corporations, resulting in the creation of a new corporation.

(b) Transfer of corporate stock or the merger of another corporation into the licensed corporation does not constitute change of entity ownership; however, notification pursuant to Section 2 of this administrative regulation shall be provided within thirty (30) days of the transaction occurring.

(4) Limited liability company (LLC).

(a) For[In the case of] an LLC, the merger of the licensed LLC into another LLC or the consolidation of two (2) or more LLCs, resulting in the creation of a new LLC.

(b) Transfer of company stock or the merger of another LLC into the licensed LLC does not constitute change of ownership; however, notification pursuant to Section 2 of this administrative regulation shall be provided within thirty (30) days of the transaction occurring.

Section 2. Procedure.

(1) Written notice of the following shall be provided to the board no more than thirty (30) calendar days after the transaction occurs:

(a) A transfer of stock of greater than ten (10) percent in a non-publicly traded corporation which is the direct owner of an entity;

(b) A transfer of membership interest in an LLC[a limited liability company] which is the direct owner of an entity; and

(c) A change of corporate officer.

(2) Written notification shall include providing a copy of the purchase agreement if there is[in the case of] a stock or membership interest transfer. Purchase amounts and proprietary information may be redacted.

Section 3. Responsibility. A permit or license holder which has been served with a complaint and notice of hearing pursuant to KRS Chapter 13B for a pending disciplinary proceeding with the board of Pharmacy shall[may] not change ownership until the issuance of a final order by the board or upon the agreement of all parties to the terms of a settlement.

FILED WITH LRC: September 10, 2024

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.

PUBLIC PROTECTION CABINET

Boxing and Wrestling Commission

(As Amended at ARRS, September 10, 2024)

201 KAR 27:006. Powers and duties of inspector.

RELATES TO: KRS 229.011, 229.025, 229.031, 229.035[229.024, 229.041, 229.054], 229.061, 229.155, 229.171, 229.190, 229.200[, 229.991][, EO 2016-270]

STATUTORY AUTHORITY: KRS 229.171[, 229.180]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 229.171(1) authorizes the commission[authority] to exercise sole jurisdiction over all unarmed combat[boxing, kickboxing, mixed martial arts, and wrestling] shows[, exhibitions,] and licensees in the commonwealth. [Executive Order 2016-270, effective May 16, 2016, abolished the Kentucky Boxing and Wrestling Authority and established the Kentucky Boxing and Wrestling Commission.] This administrative regulation establishes the duties of an inspector.

Section 1.

(1) The executive director or the executive director's designee shall assign an inspector to monitor each boxing, [elimination event,] mixed martial arts, and kickboxing show.

(2) The executive director or the executive director's designee may assign an inspector to monitor a wrestling show based on:

(a) The availability of an inspector;

(b) The need to conduct periodic inspections; and

(c) Knowledge or information that a violation or potential violation may occur.

Section 2. Inspector's Duties.

(1) Except as otherwise established in 201 KAR Chapter 27, the inspector shall exercise immediate and full supervision, control, and regulation of any show on behalf of the commission and shall be responsible directly to the commission.

(2) The inspector's powers shall include authority:

(a) Over each contestant, licensed or unlicensed, on the premises before, during, and after a show relating to the show;

(b) To conduct hearings and issue decisions or rulings on questions, disputes, protests, complaints, or objections relating to the show;

(c) To enforce the provisions of KRS Chapter 229 and 201 KAR Chapter 27;

(d) To issue violations and penalties as established in KRS Chapter 229 and 201 KAR Chapter 27;

VOLUME 51, NUMBER 4– October 1, 2024

(e) To eject or exclude from the premises or any part thereof any person whom the inspector reasonably believes is intoxicated or under the influence of a legal or illegal drug and who may create a hazard to others or interfere with the show;

(f) To investigate possible violations of KRS Chapter 229 or 201 KAR Chapter 27;

(g) To examine the books and records of any person who conducts a show or exhibition;

(h) To issue a license required by 201 KAR 27:008; and

(i) To approve the form and sufficiency of any bond filed in accordance with KRS ~~229.035~~229.054.

Section 3. Appeal. Any decision made pursuant to this administrative regulation may be appealed to the full commission in the manner prescribed in KRS 229.190.

FILED WITH LRC: September 10, 2024

CONTACT PERSON: Doug Hardin, Staff Attorney, 500 Mero Street 254 CW, Frankfort, Kentucky 40601, phone (502) 782-8204, and email doug.hardin@ky.gov.

**PUBLIC PROTECTION CABINET  
Boxing and Wrestling Commission  
(As Amended at ARRS, September 10, 2024)**

**201 KAR 27:023. Drug testing for unarmed combat~~boxing, kickboxing, mixed martial arts,~~ ~~and~~ ~~wrestling~~, and ~~elimination event~~ shows.**

RELATES TO: KRS ~~229.025~~229.071, 229.081, 229.091, 229.111, 229.171, ~~229.180,~~ ~~229.200,~~ ~~229.991,~~ ~~EO 2016-270~~

STATUTORY AUTHORITY: KRS 229.171~~;~~ ~~229.180~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 229.171(1) authorizes the ~~commission~~authority to exercise sole jurisdiction over all ~~unarmed combat~~boxing, kickboxing, mixed martial arts, and wrestling shows~~,~~ ~~exhibitions,~~ and licensees in the commonwealth. ~~[Executive Order 2016-270, effective May 16, 2016, abolished the Kentucky Boxing and Wrestling Authority and established the Kentucky Boxing and Wrestling Commission.]~~This administrative regulation establishes the policies, procedures, and penalty guidelines associated with drug testing for participants in ~~unarmed combat~~boxing, kickboxing, mixed martial arts, ~~and~~ ~~wrestling~~, and ~~elimination event~~ shows and exhibitions.

Section 1. Definitions.

(1) "In-competition" means the period commencing twelve (12) hours before the beginning of a bout, match, or exhibition of unarmed combat in which the licensee is scheduled to participate through the end of the bout, match, or exhibition and the sample collection process related to the bout match or exhibition.

(2) "Out-of-competition" means any period that is not in-competition.

(3) "Prohibited List" means the World Anti-Doping Agency Prohibited List ~~dated January 2024~~.

Section 2. Applicability. This administrative regulation shall apply to all contestants, judges, and referees in ~~unarmed combat~~boxing, kickboxing, mixed martial arts, wrestling, and elimination events.

Section 3. Prohibitions.

(1) The Prohibited List shall be used in conjunction with this administrative regulation.

(2) Except as established in Section 4 of this administrative regulation, the substances and methods listed in the following classes of the World Anti-Doping Agency Prohibited List shall be prohibited in-competition and out-of-competition:

(a) S0. Non-approved substances;

(b) S1. Anabolic agents;

(c) S2. Peptide hormones, growth factors, and related substances and mimetics;

(d) S3. Beta-2 agonists;

(e) S4. Hormone and metabolic modulators;

(f) S5. Diuretics and masking agents;

(g) M1. Manipulation of blood and blood components;

(h) M2. Chemical and physical manipulation; and

(i) M3. Gene Doping.

(3) Except as established in Section 4 of this administrative regulation, the following substances listed in the World Anti-Doping Agency Prohibited List shall be prohibited only ~~if~~while a licensee is in-competition:

(a) S6. Stimulants;

(b) S7. Narcotics;

(c) S8. Cannabinoids; and

(d) S9. Glucocorticoids~~;~~ ~~and~~

~~(e)~~ ~~[P1. Alcohol].~~

Section 4. Approved Substances. The following types of drugs or injections are approved:

(1) Antacids, such as Maalox;

(2) Antibiotics, antifungals, or antivirals for which the licensee has a prescription;

(3) Antidiarrheals, such as Imodium, Kaopectate, or Pepto-Bismol;

(4) Antihistamines for colds or allergies, such as Bromphen, Brompheniramine, Chlorpheniramine Maleate, Chlor-Trimeton, Dimetane, Hismal, PBZ, Seldane, Tavist-1, or Teldrin;

(5) Antinauseants, such as Dramamine or Tigan;

(6) Antipyretics, such as Tylenol;

(7) Antitussives, such as Robitussin, if the antitussive does not contain codeine;

(8) Antulcer products, such as Carafate, Pepcid, Reglan, Tagamet, or Zantac;

(9) Asthma products in aerosol form, such as Brethine, Metaproterenol (Alupent), or Salbutamol (Albuterol, Proventil, or Ventolin);

(10) Asthma products in oral form, such as Aminophylline, Cromolyn, Nasalide, or Vancetil;

(11) Ear products, such as Auralgan, Cerumenex, Cortisporin, Debrox, or Vosol;

(12) Hemorrhoid products, such as Anusol-HC, Preparation H, or Nupercainal;

(13) Laxatives, such as Correctol, Doxidan, Dulcolax, Efferyllium, Ex-Lax, Metamucil, Modane, or Milk of Magnesia;

(14) Nasal products, such as AYR Saline, HuMist Saline, Ocean, or Salinex; and

(15) The following decongestants and any decongestant that is pharmaceutically similar:

(a) Afrin; or

(b) Oxymetazoline HCL Nasal Spray.

Section 5. Testing Requirement. ~~[(1)]~~A licensed ~~unarmed combat~~boxer, kickboxer, professional mixed martial artist, amateur mixed martial artist, wrestling, or elimination event contestant, judge, or referee shall submit to a blood test, urinalysis, or chemical test at any time, in-competition or out-of-competition, if the commission or a representative of the commission directs him or her to do so.

Section 6. Violations and Penalties.

(1) A licensee who violates any provision of this administrative regulation shall be subject to a penalty issued by the commission.

(2) A blood test shall not be required within seven (7) days of the bout, competition, or exhibition unless directed by the commission upon finding of probable cause that a violation of Section 3 of this administrative regulation has occurred.

(3)

(a) In addition to any other penalty issued by the commission pursuant to KRS 229.200 and 201 KAR 27:106, if a contestant who won or drew a bout is found to have violated the provisions of this administrative regulation, the commission may change the result of that bout to a no decision loss if the commission finds that the drug used may have affected the result.

(b) A note shall be placed on the contestant's record that the change in decision was the result of testing positive for a banned substance or prohibited method.

VOLUME 51, NUMBER 4– October 1, 2024

(4) The commission shall investigate each alleged violation of this administrative regulation.

Section 7. Penalty Guidelines. The guidelines for use in determining a penalty pursuant to ~~201 KAR 27:106~~ **201 KAR 27:106**, Section 3 shall be as follows:

- (1) For cannabis or cannabinoids:
(a) 1st offense: six (6) month suspension and a fine of fifty (50) dollars;
(b) 2nd offense: twelve (12) month suspension and a \$100 fine;
(c) 3rd offense: twenty-four (24) month suspension and a \$250 fine; or
(d) 4th offense: lifetime ban and a \$500 fine;
(2) For sedatives, muscle relaxants, sleep aids, anxiolytics, opiates, or opioids:
(a) 1st offense: eighteen (18) month suspension and a \$100 fine;
(b) 2nd offense: twenty-four (24) month suspension and a \$250 fine;
(c) 3rd offense: thirty-six (36) month suspension and a \$500 fine; or
(d) 4th offense: lifetime ban and a \$1,000 fine;
(3) For diuretics being used to cut weight:
(a) 1st offense: twenty-four (24) month suspension and a \$250 fine;
(b) 2nd offense: thirty-six (36) month suspension and a \$500 fine; or
(c) 3rd offense: lifetime ban and a \$1,000 fine;
(4) For stimulants:
(a) 1st offense: twenty-four (24) month suspension and a \$250 fine;
(b) 2nd offense: thirty-six (36) month suspension and a \$500 fine; or
(c) 3rd offense: lifetime ban and a \$1,000 fine;
(5) For anabolic steroids:
(a) 1st offense: thirty-six (36) month suspension and a \$500 fine;
(b) 2nd offense: forty-eight (48) month suspension and a \$750 fine; or
(c) 3rd offense: lifetime ban and a \$1,000 fine; or
(6) For avoiding or refusing testing or detection, altering or adulterating a urine or blood sample, providing a urine or blood sample not from the contestant, or using any masking agent:
(a) 1st offense: forty-eight (48) month suspension and a \$750 fine; or
(b) 2nd offense: lifetime ban and a \$1,000 fine.

Section 8. Incorporation by Reference.

(1) "World Anti-Doping Agency Prohibited List", January 2024, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Boxing and Wrestling Commission office at 500 Mero St, 218NC, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m., and is available online at https://www.wada-ama.org/en/resources/world-anti-doping-code-and-international-standards/prohibited-list.

FILED WITH LRC: September 10, 2024

CONTACT PERSON: Doug Hardin, Staff Attorney, 500 Mero Street 254 CW, Frankfort, Kentucky 40601, phone (502) 782-8204, and email doug.hardin@ky.gov.

PUBLIC PROTECTION CABINET
Boxing and Wrestling Commission
(As Amended at ARRS, September 10, 2024)

201 KAR 27:041. Managers.

RELATES TO: KRS 229.025[229.021, 229.081, 229.091], 229.171[, EO 2016-270]

STATUTORY AUTHORITY: KRS [229.081, 229.091,]229.171[, 229.180]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 229.171(1) authorizes the commission[authority] to exercise sole jurisdiction over all unarmed combat[boxing, kickboxing, mixed

martial arts, and wrestling] shows[, exhibitions,] and licensees in the commonwealth. [Executive Order 2016-270, effective May 16, 2016, abolished the Kentucky Boxing and Wrestling Authority and established the Kentucky Boxing and Wrestling Commission.]This administrative regulation establishes standards governing the conduct of managers.

Section 1. Duties and Responsibilities.

- (1) A manager shall only do business with a promoter, ring official, or contestant who holds an active license.
(2) A manager shall not act or attempt to act for a contestant unless authorized by the contestant.
(3) A contract between a manager and a contestant shall be filed with the commission as evidence of the manager's authority to act for the contestant.
(4) A manager shall keep accurate records of the receipts and expenses of the contestants under the manager's[their] management and control. These records shall be available to the contestants and to the commission.

FILED WITH LRC: September 10, 2024

CONTACT PERSON: Doug Hardin, Staff Attorney, 500 Mero Street 254 CW, Frankfort, Kentucky 40601, phone (502) 782-8204, and email doug.hardin@ky.gov.

PUBLIC PROTECTION CABINET
Boxing and Wrestling Commission
(As Amended at ARRS, September 10, 2024)

201 KAR 27:106. Violations, penalties, and appeals.

RELATES TO: KRS 229.025[229.024], 229.031, 229.131[229.071,][229.091], 229.155, 229.171, [229.180,]229.190, 229.200[, 229.991, EO 2016-270]

STATUTORY AUTHORITY: KRS 229.025[229.071, 229.091], 229.155, 229.171, [229.180,]229.190, 229.200[, 229.991]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 229.171(1) authorizes the commission[authority] to exercise sole jurisdiction over all unarmed combat[boxing, kickboxing, mixed martial arts, and wrestling] shows[, exhibitions,] and licensees in the commonwealth. [Executive Order 2016-270, effective May 16, 2016, abolished the Kentucky Boxing and Wrestling Authority and established the Kentucky Boxing and Wrestling Commission.]This administrative regulation establishes[provides] the policies and procedures that govern the finding of a violation of KRS Chapter 229 or 201 KAR Chapter 27, the issuance of a penalty, and the appeal of a penalty.

Section 1. Violations.

(1) A person shall be guilty of a violation for any of the [following] actions listed in KRS 229.200(1)(a)-(i):

- (a) [Violating any provision of KRS Chapter 229;]
(b) [Violating any provision of 201 KAR Chapter 27;]
(c) [Being found guilty of, pleading guilty to, pleading no contest to, or entering an Alford plea to a crime, other than a traffic violation, that is detrimental to the interests of boxing, kickboxing, mixed martial arts, or wrestling generally or to the public interest, convenience, or necessity in any jurisdiction;]
(d) [Being found liable in a civil action for any claim that involves fraud or dishonesty in any jurisdiction if the person is a licensed promoter, manager, referee, or judge;]
(e) [Violating a law related to boxing, kickboxing, mixed martial arts, elimination events, or wrestling in any jurisdiction;]
(f) [Placing a bet or wager on any bout or match in which the person participates or works;]
(g) [Serving as, or consorting or associating with any person who is, a bookmaker or illegal gambler;]
(h) [Participating in an unlicensed event; or]
(i) [Declaring bankruptcy if the person is a licensed promoter, manager, referee, or judge].

(2) A person shall be guilty of a violation if the person authorizes or ratifies any of the actions in subsection (1) of this section if the

## VOLUME 51, NUMBER 4– October 1, 2024

action is taken by the person's agent, employee, shareholder, member, officer, or director.

(3) A person who commits a violation shall be issued a notice of violation.

### Section 2. Penalties.

(1) If the commission has reason to believe that a person has committed a violation, the commission may impose one (1) or more of the penalties listed in KRS 229.200(2) following actions:

~~[(a)] [Issue a cease and desist order;]~~

~~[(b)] [Declare a contestant ineligible to compete or disqualify the contestant;]~~

~~[(c)] [Eject the person from the premises at which the show or exhibition is taking place;]~~

~~[(d)] [Issue a fine;]~~

~~[(e)] [Suspend, reprimand, revoke, probate, or refuse to renew or issue a license; or]~~

~~[(f)] [Refer the person for criminal prosecution].~~

(2) In issuing a penalty pursuant to subsection (1) of this section, the commission shall consider:

(a) The severity of the violation;

(b) The licensee's history of violations and penalties; ~~and~~

(c) The violation's potential impact on health, safety, and the outcome of a contest; and

(d) If the penalty is for a violation of ~~201 KAR 27:023~~ 201 KAR 27:024, the penalty guidelines established in ~~201 KAR 27:023~~ 201 KAR 27:024, Section 7.

(3) A person whose license is currently suspended shall ~~not be prohibited from~~:

(a) ~~Be~~ Being present in a locker room that is used during a commission-sanctioned event; and

(b) ~~Be~~ Being located within the six (6) foot area surrounding the ring or cage at a commission-sanctioned event.

### Section 3. Inspector's Authority to Issue a Violation and a Penalty.

(1) Pursuant to KRS 229.155, the commission shall authorize its inspectors to:

(a) Issue a notice of violation in accordance with Section 1 of this administrative regulation; and

(b) Issue a penalty in accordance with Section 2 of this administrative regulation.

(2) A penalty issued by an inspector shall be subject to appeal pursuant to Section 5 of this administrative regulation.

### Section 4. Reciprocity of a Penalty.

(1) A licensee who is subjected to a penalty in any jurisdiction shall report to the commission within ten (10) days the date, type, and reason for the penalty given and the name of the regulatory body that ordered the penalty.

(2) The commission shall enforce the penalty given by any other regulatory body ~~[unless the licensee shows good cause why the commission should not reciprocally enforce the penalty].~~

### Section 5. Appeals.

(1) Any person issued a penalty may appeal the penalty to the full commission pursuant to KRS 229.190.

~~(2)~~

~~[(a)]~~ An appeal shall be filed within twenty (20) days of the date the penalty is issued.

~~[(b)] [The provisions of KRS Chapter 13B shall govern all administrative appeals.]~~

~~(3)~~ ~~(2)~~ A contestant may petition the commission to change a decision rendered at the end of a professional contest or exhibition in which he or she competed. The commission shall not change a decision rendered at the end of any contest or exhibition unless:

(a) The commission determines that there was collusion affecting the result of the contest or exhibition;

(b) The compilation of the scorecards of the judges discloses an error which shows that the decision was given to the wrong unarmed combatant; or

(c) As the result of an error in interpreting a provision of KRS Chapter 229 this chapter, the referee has rendered an incorrect decision.

Section 6. Effect of Expiration of License on Jurisdiction of the Commission. The expiration of a license shall not deprive the commission of jurisdiction to:

(1) Proceed with an investigation of the former licensee; or

(2) Issue a penalty against the former licensee.

FILED WITH LRC: September 10, 2024

CONTACT PERSON: Doug Hardin, staff attorney, 500 Mero Street 254 CW, Frankfort, Kentucky 40601, phone (502) 782-8204, and email doug.hardin@ky.gov.

## TRANSPORTATION CABINET Department of Vehicle Regulation Division of Motor Vehicle Licensing (As Amended at ARRS, September 10, 2024)

### 601 KAR 9:220. Motor vehicle dealer plates.

RELATES TO: KRS Chapters 186, 190

STATUTORY AUTHORITY: KRS 186.070

NECESSITY, FUNCTION, AND CONFORMITY: KRS 186.070(4) authorizes the cabinet to promulgate this administrative regulation to administer KRS 186.070. This administrative regulation which establishes ~~To establish~~ the criteria for the issuance and use of a motor vehicle dealer plate and provides to provide for the cancellation of a dealer plate for misuse of the plate.

### Section 1. Definitions.

(1) "Bona fide salesman or employee" is defined by ~~means as defined in~~ KRS 186.070(1)(e).

(2) "Commission" means the Kentucky Motor Vehicle Commission.

(3) "Commissioner" means the Commissioner of the Department of Vehicle Regulation or his or her designee.

(4) "Demonstration trip" means a temporary use of a vehicle by a single prospective customer or his or her employee for a reasonable evaluative purpose incidental to the sale of the vehicle.

(5) "Dealer plate" means any base plate or supplemental plate issued pursuant to KRS 186.070.

(6) "Licensed motor vehicle dealer" is defined by ~~means a motor vehicle dealer as defined in~~ KRS 190.010 and licensed by the commission pursuant to the provisions of KRS Chapter 190.

(7) "Misuse" means use of a dealer plate in a manner unauthorized by KRS 186.070 or Section 3 of this administrative regulation.

### Section 2. Issuance of Dealer Plates.

(1) Effective with the issuance of dealer plates for the licensing period beginning January 1, 1996, the maximum number of dealer plates ~~that~~ which may be issued to a licensed motor vehicle dealer who has been licensed for an uninterrupted period beginning on or prior to January 1, 1994, shall be based upon the total number of that dealer's vehicle sales for the period from July through the following June immediately preceding the date of the report of the information on vehicle sales by the dealer to the commission.

~~(2)~~

(a) For a motor vehicle dealer licensed after January 1, 1994, beginning on the first day of January following an uninterrupted eighteen (18) month licensing period from the date of the first issuance of the dealer's license by the commission, the number of dealer plates issued shall depend upon the number of that dealer's vehicle sales for the period from July through the following June preceding the date of the report of the information by the dealer to the commission.

(b) A motor vehicle dealer licensed for less than eighteen (18) uninterrupted months may apply for any number of dealer plates.

(3) The maximum number of dealer plates issued to a motor vehicle dealer shall be as follows:

(a) Ten (10) or fewer vehicle sales - one (1) dealer plate;

(b) Eleven (11) through twenty-five (25) vehicle sales - two (2) dealer plates;

(c) Twenty-six (26) through fifty (50) vehicle sales - three (3) dealer plates;

(d) Fifty-one (51) through seventy-five (75) vehicle sales - four (4) dealer plates;

(e) Seventy-six (76) through 100 vehicle sales - five (5) dealer plates; and

(f) For more than 100 vehicle sales, the number of dealer plates issued shall be as requested by the dealer.

(4)

**(a)** Upon recommendation by the commission to the commissioner, and for good cause shown, a dealer who is restricted in the number of plates issued based upon his or her sales figures may receive an additional plate or plates.

**(b) A few examples of good cause include instances such as:**

**1. Lost or stolen plates with a police report submitted to the commission;**

**2. "Pro-business" activities approval if the loss of a plate causes a burden to the dealership for test drives;**

**3. Transportation of vehicles to and from auto auctions;**

**4. Transportation of vehicles to be serviced or repaired; and**

**5. If the number of yearly vehicle sales are impacted by unforeseen circumstances like COVID-19, tornado, fire, flood, and temporary economic downturn nationally.**

(5)

(a) The information on vehicle sales shall be provided by the commission to the Transportation Cabinet.

(b) The Transportation Cabinet shall cause the information to be entered into the automated vehicle information system.

Section 3. Use of Dealer Plates.

(1) Use of a motor vehicle bearing a dealer plate upon the highways by a licensed dealer or bona fide salesman of the dealer shall consist of the use of the motor vehicle upon the highways at any time with the intent of offering or advertising the vehicle for sale to the public.

(2) A bona fide employee of the dealer who is not a licensed salesman shall only operate a motor vehicle bearing a dealer plate:

(a) ~~If~~ **When** testing the mechanical operation of the vehicle;

(b) ~~If~~ **When** transporting vehicles to or from the dealer's place of business; or

(c) For the necessary operation in furtherance of the dealer's business during the dealer's business hours.

(3) A bona fide employee of the dealer who is not a licensed salesman shall not operate the vehicle for personal purposes or in demonstration or advertising to a prospective customer.

(4) A prospective customer ~~may operate a vehicle with a properly issued dealer plate, but shall be limited to one (1) demonstration trip~~ **who is operating upon the highways a motor vehicle bearing a dealer plate, shall be limited to one (1) demonstration trip unless he is accompanied by the licensed dealer to whom the dealer's plate was issued or a licensed salesman of the dealer.**

Section 4. Cancellation of Dealer Plates Upon Misuse.

(1) A final order issued by the commission finding misuse of a dealer plate shall be forwarded to the commissioner.

(2) Upon receipt of the commission's final order, if no appeal from the commission's final order has been filed, and the time for taking an appeal has expired, or, if an appeal has been filed, after a ruling has been entered upholding the finding of the commission, the commissioner shall cause the dealer plate involved in the misuse to be canceled.

**Section 5. Appeal from Final Order of Commission. The final order of the commission cancelling dealer plates may be appealed in accordance with KRS Chapter 13B.**

FILED WITH LRC: September 10, 2024

CONTACT PERSON: Jon Johnson, Staff Attorney  
 Manager/Assistant General Counsel, Transportation Cabinet, Office of Legal Services, 200 Mero Street, Frankfort, Kentucky 40622, phone (502) 564-7650, fax (502) 564-5238, email jon.johnson@ky.gov.

TRANSPORTATION CABINET  
 Department of Vehicle Regulation  
 Division of Motor Vehicle Licensing

(As Amended at IJC on Transportation, September 17, 2024)

**601 KAR 23:040. Application form to become Kentucky electronic license title entity; and application form for electronic motor vehicle title application submission.**

RELATES TO: KRS ~~186A.005~~, 186A.017

STATUTORY AUTHORITY: KRS 186A.017

NECESSITY, FUNCTION, AND CONFORMITY: KRS 186A.017 establishes the requirements and procedures to become an approved entity pursuant to KRS 186A.005(1). KRS 186A.017(7) requires the Transportation Cabinet to promulgate administrative regulations to establish an electronic title application and registration system by which title applications, salvage title applications, title lien statements, other supporting documents, signatures, and fees can be transmitted through the title application process in an electronic format.

Section 1. Definitions.

(1) "Applicant" means any Kentucky automobile dealer or lienholder making application to become an approved entity.

(2) "Application" means form TC 96-361 available electronically to establish qualifications to be an approved entity.

(3) "Approved entity" is defined by KRS 186A.005(1).

(4) "Cabinet" means the Transportation Cabinet.

(5) "Electronic Title Application Review Committee" or "committee" means the committee responsible for approving or rejecting properly submitted applications.

Section 2. Electronic Title Application Review Committee.

(1) The committee shall consist of:

(a) The Director of the Division of Motor Vehicle Licensing, or a proxy;

(b) Assistant Director, Division of Motor Vehicle Licensing, or a proxy;

(c) Title Branch Manager of the Division of Motor Vehicle Licensing, or a proxy;

(d) Investigator Supervisor of the Division of Motor Vehicle Licensing, or a proxy; and

(e) Assistant Director, Dealer Commission, Department of Vehicle Regulation, or a proxy.

(2) **For the committee to conduct business, there shall be a quorum present.** A simple majority of the members present at a meeting shall be required to recommend approval or denial of an application.

**(3) If there is a tie vote, the tie-breaking vote shall be made by the Commissioner of the Department of Vehicle Regulation.**

Section 3. Applicant Qualification Standards.

(1) Applicants that are dealerships shall be a legal entity ~~legally~~ authorized to conduct business in the Commonwealth of Kentucky, with proper documentation with the Commonwealth of Kentucky Secretary of State's office for all purposes including service of process and principal place of business address. A dealer approved entity shall submit electronically ~~its~~ **their** title and registration applications to the county clerk's office of the county in which ~~it~~ **is** ~~they are~~ doing business or the county where the buyer has their primary residence. **While scanning documents electronically, all applicants, dealerships, or lienholders shall use a color scanner capable of scanning double-sided with a minimum resolution of 300** ~~600~~ **dpi.**

(2) Applicants, dealerships, or lienholders shall be up to date on all annual reports or other required business filings and the entity in question shall be in good business standing.

(3) Applicant dealerships shall be in good standing with the ~~Kentucky~~ Motor Vehicle ~~Dealer~~ Commission.

(4) Applicant dealerships shall not have any open investigative cases with the Division of Motor Vehicle Licensing or the Motor Vehicle Commission.

(5) Applicant dealerships, lienholders, and any other user using this system consents to the requirements of KRS 186A.017 and other applicable laws.

(6) Applicant, dealership, or lienholder addresses shall be accurate and up to date with official street addresses. Post-office box addresses shall not be used. If the official street addresses change, notice of the address change shall be made as soon as possible to the county clerk of the county where the business is located.

(7) An applicant shall return the completed form, TC 96-361, to the Transportation Cabinet address listed on the application form. Pursuant to KRS 186A.017 ~~(4)(3)~~, the application fee of \$150 shall be submitted with the application.

(8) [~~Possible~~] Grounds for denial of a new application shall include:

- (a) An incomplete application;
- (b) An application containing false or misleading information;
- (c) Prior criminal history involving fraud, perjury, or history of trafficking in stolen vehicles covered under this administrative regulation;
- (d) Any history of theft or other crime relating to an intentional or negligent concealment of title source;
- (e) Evidence of past involvement in theft of vehicles or vehicle parts;
- (f) Falsification or tampering with existing odometer readings; or
- (g) Failure to maintain a proper street address, or failure to provide update of new address change.

(9) If an application becomes approved and later it is found by the committee that any of the possible grounds of denial in subsection ~~(8)(7)~~ of this section were concealed, or developed at a later date, the committee shall immediately notify the applicant by letter that its/their approved status shall be revoked.

(10) If an application has been denied or revoked for any cause, the cabinet shall notify the applicant at its most recent known address by letter. The letter shall provide a brief explanation for the denial.

Section 4. Appeal of Denials or Revocations of Prior Approval.

(1) Within thirty (30) days of the date of the denial or revocation letter, an applicant may appeal the decision in writing [by letter] stating that it is an appeal of the denial or revocation in question with a copy of the denial or revocation letter attached.

(2) Appeals shall be addressed to the Commissioner of the Department of Vehicle Regulation, 200 Mero Street, Frankfort, Kentucky 40622.

(3) Appeals shall be governed by KRS Chapter 13B.

Section 5. Incorporation by Reference.

(1) Form TC 96-361, "Application to Become a KYELT Approved Entity", October 2023, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Motor Vehicle Licensing, 2nd Floor, Transportation Cabinet Office Building, 200 Mero Street, Frankfort, Kentucky 40622, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material is also available on Transportation Cabinet's Web site at drive.ky.gov.

FILED WITH LRC: September 17, 2024

CONTACT PERSON: Jon Johnson, Staff Attorney Manager/Assistant General Counsel, Transportation Cabinet, Office of Legal Services, 200 Mero Street, Frankfort, Kentucky 40622, phone (502) 564-7650, fax (502) 564-5238, email jon.johnson@ky.gov,

EDUCATION AND LABOR CABINET

Board of Education

Department of Education

(As Amended at ARRS, September 10, 2024)

702 KAR 3:320. Finance officer certification requirements.

RELATES TO: KRS 160.431, 161.020(1)(b)

STATUTORY AUTHORITY: KRS 156.070, 160.431

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.070 authorizes the Kentucky Board of Education to promulgate administrative regulations necessary for the efficient management, control, and operation of the schools and programs under its jurisdiction. KRS 160.431(2) requires the Kentucky Board of Education to promulgate administrative regulations identifying and prescribing the criteria and procedures for school finance officer certification and continuing education. This administrative regulation establishes the standards for school finance officer certification and continuing education.

Section 1. Definitions.

(1) "Break in service" means an end to the employment relationship of the individual as the designated finance officer for a Kentucky school district without a transfer of employment to another Kentucky school district to serve as the designated finance officer.

(2) "Finance officer" means a person appointed pursuant to KRS 160.431(1).

(3) "Finance officer intern" means any finance officer who has obtained a provisional certificate under Section 3 of this administrative regulation but who has not acquired a full certificate under Section 4 of this administrative regulation.

(4) "Interim finance officer" means an individual who is serving as a district finance officer in a temporary capacity.

(5) "Mentor" means an individual approved by the department to oversee a finance officer intern through the Kentucky Finance Officer [Internship] Program.

Section 2. Initial Qualifications. An individual shall be eligible to be employed as a finance officer on or after July 1, 2015, if the individual:

(1) Is employed on June 30, 2015, as a finance officer in a Kentucky school district and does not have a six (6) month or longer employment break in service as a finance officer in any Kentucky school district after June 30, 2015. A six (6) month or longer break in service as a finance officer in any Kentucky school district after June 30, 2015, shall terminate the individual's qualification for employment as a finance officer under this subsection; or

(2) Obtains a provisional or full certificate under Section 3 or 4 of this administrative regulation.

Section 3. Provisional Certification.

(1) An individual who is seeking to be employed as a finance officer in a Kentucky school district who does not meet the requirements of Section 2(1) of this administrative regulation and who does not possess a full certificate shall secure a provisional certificate by submitting the Provisional Certification Application Form [~~KDE-FOCP-1~~] to the department to verify the individual meets the following eligibility requirements:

(a) A minimum of ten (10) years' work experience in local school district finance confirmed by the district of employment; or

(b) A minimum of a bachelor's degree from any accredited postsecondary institution; and

[~~(b)~~]

1. A minimum of twelve (12) credit hours in accounting coursework from any accredited postsecondary institution;

2. A minimum of four (4) years' work experience primarily in accounting or finance, confirmed by the district of employment; or

3. A minimum of two (2) years' work experience in finance in a local school district, confirmed by the district of employment.

VOLUME 51, NUMBER 4– October 1, 2024

(2) The department shall issue a provisional certificate to an individual providing proof of the eligibility requirements of subsection (1) of this section and proof of an offer of employment as a finance officer in a Kentucky school district.

(3) A finance officer provisional certificate shall be in effect until:

(a) The individual obtains full certification;

(b) The individual fails to provide to the department the proof of progress toward full certification required by subsection (4) of this section; or

(c) ~~Three (3)~~~~[five (5)]~~ years have passed since the provisional certificate's issuance date.

(4) The provisional certificate holder shall annually submit proof of progress toward full certification to the department by the anniversary of the issuance date of the provisional certificate. Failure to provide this annual proof of progress or to obtain full certification within ~~three (3)~~~~[five (5)]~~ years of the issuance of a provisional certificate shall result in the loss of the provisional certificate.

Section 4. Full Certification.

(1) An individual who is eligible for employment as a finance officer under Section 2(2) of this administrative regulation shall apply for full certification prior to the expiration of the provisional certificate by submitting the Full Certification Application Form~~[, KDE-FOCP-2,]~~ to the department to verify:

(a) Current provisional certification;

(b) Completion of the Kentucky Finance Officer ~~[Internship Program [(KFIIP)-]under Section 5 of this administrative regulation;~~

(c) Fifteen (15) hours of finance officer training from the Finance Officer Curriculum, ~~[KDE-FOCP-6,]~~ provided by a department-approved training provider; and

(d) Twelve (12) hours of training in the state-approved school district financial software package provided by a department-approved training provider.

(2) A full certificate shall be renewed automatically unless the finance officer fails to meet the biennial continuing education requirements of Section 6 of this administrative regulation.

Section 5. Finance Officer Provisional Certification~~[Kentucky Finance Officer Internship Program (KFIIP)].~~

(1) Within thirty (30) days of employment as a finance officer, the individual shall~~[the provisionally certified finance officer shall]~~ apply for the provisional certification~~[participation in the KFIIP].~~

(2) An assessment committee~~[The KFIIP Assessment Committee]~~ shall consist of:

(a) The mentor assigned by the department;

(b) The employing district's superintendent or designee; and

(c) A department representative. ~~[; and]~~

(3) The mentor and intern shall complete a signed Mentor-Intern Agreement.

(4)~~[(3)]~~ Mentors shall meet the following qualification requirements:

(a) Possess full certification under this administrative regulation or meet the requirements of Section 2(1) of this administrative regulation;

(b) Complete the department's mentor training; and

(c) Complete the Mentor Application Form~~[, KDE-FOCP-5].~~

(5)~~[(4)]~~ Mentors shall:

(a) Work with finance officer interns to develop a chronological task plan based on the Finance Officer Curriculum~~[, KDE-FPO-6];~~

(b) Continue the mentorship for a period of twelve (12) consecutive months;

(c) Document the time spent mentoring and provide a summary of the content on the Curriculum Summary Form~~[form KDE-FOCP-3];~~

(d) Document attendance by the finance officer intern at any mentoring meetings during the internship; and

(e) Serve as a mentor for no more than two (2) individuals concurrently.

(6)~~[(5)]~~ Mentors shall be eligible to earn, as a mentor, a maximum of twenty (20)~~[twenty-one (21)]~~ hours of continuing education~~[, not to exceed one (1) hour per month,]~~ during the mentorship, toward the requirement of KRS 160.431(3) for the mentor training and mentor contact.

(7)~~[(6)]~~

(a) Mentors shall be eligible to receive from available funds an annual stipend, not to exceed ~~\$1,500~~~~[\$1,000]~~ each fiscal year per individual mentored, from the department for the mentorship.

(b) A district may also choose to reimburse the mentor for any expenses, including travel, and provide a separate, additional stipend to the mentor.

(c) If the ~~[KFIIP-]Assessment Committee~~ requires a finance officer intern to repeat a portion or the entire internship curriculum under subsection (9) of this section, then a mentor shall not be eligible to receive the stipend from the department for additional fiscal years of mentorship required by the ~~[KFIIP-]Assessment Committee~~.

(d) The district may still reimburse and provide a stipend to a mentor of a finance officer intern in any additional fiscal years of internship required by the ~~[KFIIP-]Assessment Committee~~.

(e) A partially completed mentorship may be subject to a reduced stipend approved by the department.

(8)~~[(7)]~~ The ~~[KFIIP-]Assessment Committee~~ shall:

(a) Assist in the development of the intern's chronological task plan required in subsection (4)(a) of this section;

(b) Meet six (6) months after the initiation of the internship to assess progress;

(c) Assess whether the finance officer intern completed the internship; and

(d) Complete the Assessment Committee Report Form~~[, KDE-FOCP-4].~~

(9)~~[(8)]~~ As part of its assessment, the ~~[KFIIP-]Assessment Committee~~ shall consider:

(a) Documentation provided by the mentor, pursuant to subsection (5)~~[(4)]~~ of this section;

(b) The superintendent's recommendation of the provisional ~~[finance officer intern]~~~~[officer's]~~~~[finance officer intern's]~~ superintendent based on actual work performance; and

(c) Internal approval~~[The report]~~ by the department of work product submissions and interactions.

(10)~~[(9)]~~ Based upon the information obtained pursuant to subsection (7) of this section, the ~~[KFIIP-]Assessment Committee~~ shall do one (1) of the following at the end of the internship:

(a) Declare the internship completed;

(b) Require the finance officer intern to repeat a portion of the internship curriculum; or

(c) Require the finance officer intern to repeat the entire internship curriculum.

(11)~~[(10)]~~ The finance officer intern may request a different mentor if the ~~[KFIIP-]Assessment Committee~~ requires the internship to be repeated.

(12)~~[(11)]~~ The mentor may request to be replaced by another mentor if the ~~[KFIIP-]Assessment Committee~~ requires the internship to be repeated.

Section 6. Continuing Education.

(1) Fully certified finance officers and those qualified under Section 2(1) of this administrative regulation shall meet the continuing education requirements of KRS 160.431(3). A break in service for any length of time for any finance officer shall not reduce the continuing education requirements of KRS 160.431(3).

(2)

(a) Each finance officer shall complete at least eighteen ~~(18)~~~~[twelve (12)]~~ hours of continuing education by June 30 of each fiscal year; and

(b) Each finance officer shall complete at least forty-two (42) hours of continuing education in a biennium, ending June 30.

(3) The department shall approve continuing education courses offered by providers that:

(a) Include the following subject areas:

1. Evaluation of financial staff;

2. Financial system management, including payroll, purchasing, budgeting, general ledger, and financial reporting;

3. Alignment of the financial budget with federal and state law requirements;

4. Analysis of district financial data and provision of financial reports to the local board of education, school councils, and the department;

VOLUME 51, NUMBER 4– October 1, 2024

5. Comprehension of the district vision for education and the role of district finances in accomplishing that vision;

6. Interpretation, use, and communication of financial data and financial strengths and weaknesses of the district to the local board of education, school councils, and the community; ~~or~~

7. Professional development designed to support any existing district improvement plan; ~~or~~

~~8.] Courses offered as Continuing Professional Education (CPE) provided by professional organizations;~~

~~(b) Adhere to research-based principles of adult learning;~~  
~~(c) Reflect current thinking in the field and promote generally accepted accounting practices;~~

~~(d) Provide for active engagement of participants; ~~and~~~~

~~(e) Extend participants' learning, financial, and leadership skills; ~~and~~~~

~~(f) Contain course materials instructional in nature and not marketing or sales oriented; ~~and~~~~

~~(g) Are considered as Continuing Professional Education (CPE) provided by professional organizations.~~

~~(4) Continuing education course providers approved by the department shall;~~

~~[(a)] Structure a training program so as to improve and maintain the quality and effectiveness of the financial operations in the public school districts of the Commonwealth;~~

~~[(b)] Ensure that training is intensive and designed specifically for finance officers;~~

~~[(c)] Have an established organizational structure or be an affiliate of this type of organization;~~

~~[(d)] Develop and submit programs to the department for approval at least thirty (30) days prior to the scheduled delivery of the continuing education program;~~

~~[(e)] maintain the necessary records to:~~

~~(a) 1.] Evaluate every continuing education course session;~~

~~(b) 2.] Track attendance; ~~and~~~~

~~(c) 3.] Provide evidence of course completion consisting of a document prepared by the course sponsor indicating the attendee completed a formal program of learning including the:~~

~~1. Names of the attendee and program sponsor;~~

~~2. Program title and field of study;~~

~~3. Dates attended; ~~and~~~~

~~4. Number of hours awarded.~~

~~(d) Maintain certificate of completion records for a period of five (5) years;~~

~~(e) Ensure assigned trainers have skill, knowledge, and experience relevant to the subject matter; ~~and~~~~

~~(f) Disclose the subject areas in which training is to be provided. Award certificates of completion to continuing education course attendees that provide the name of session, approval number, hours of continuing education credit awarded, and the name of the sponsor of the training;~~

~~[(ff)] Provide evidence that the assigned trainers have knowledge, skill, and experience relevant to the particular training;~~

~~[(g)] Conduct training as approved; ~~and~~~~

~~[(h)] Identify in all program promotional literature the following:~~

~~1.] The two (2) year cycle for which training approval is granted;~~

~~2.] The subject areas for which training is approved; ~~and~~~~

~~3.] The approval number assigned by the department for finance officer continuing education course eligibility.~~

Section 7. Revocation and Appeal for Reinstatement of Full Certification.

(1)

(a) Failure to meet the annual requirement of ~~eighteen (18)~~ twelve (12) hours of continuing education of Section 6(2) of this administrative regulation shall result in a temporary suspension of a finance officer's full certification.

(b) The department shall notify the district superintendent of the temporary suspension.

(c) The certificate holder shall complete the required number of hours of continuing education by the end of the biennial period.

(d) Three (3) temporary suspensions shall result in revocation of the full certification.

(2) Failure to meet the biennial requirement of forty-two (42) hours of continuing education shall result in revocation of the full certification.

(3) The certificate holder may appeal to the department for reinstatement of a provisional or full certification which has been revoked under subsections (1) or (2) of this section if:

(a) The certificate holder requests reinstatement and provides supporting documentation to the department; and

(b) The certificate holder has fulfilled all requirements of the provisional or full certification including the required continuing education for the latest fiscal year.

(4) The department shall review and ~~decide~~ make a determination regarding reinstatement within thirty (30) days of receipt of the appeal. The department shall reinstate a certificate holder who has met the requirements of subsection (3) of this section.

Section 8. Grandfather Status.

(1) An individual ~~who is~~ eligible for grandfather status pursuant to Section 2(1) of this administrative regulation shall submit the Provisional Certification Application Form ~~to the department.~~ to the department.

(2) An individual with grandfather status may obtain full certification if either:

(a) The department approves the individual as a mentor in the Kentucky Finance Officer Program ~~[KFOP]~~ in accordance with the requirements of this administrative regulation; or

(b) The individual meets all provisional and full certification requirements, including successful completion of the Kentucky Finance Officer Program ~~[KFOP]~~.

Section 9. Interim Finance Officer.

(1) Upon written notice of a district's finance officer's departure, it shall be the responsibility of the superintendent to ensure the position vacancy is immediately posted and a search for a successor finance officer is undertaken.

(2)

(a) The search process shall continue until a qualified full-time applicant is hired by the district.

(b) During the search for a full-time finance officer, the district superintendent may extend a limited contract to employ an interim finance officer.

1. A limited contract with an interim finance officer shall expire upon the employment of a qualified full-time applicant or June 30 of each fiscal year.

2. If a district superintendent wishes to extend the contract of the interim finance officer beyond the end of the fiscal year, a request must be made to the Office of Finance and Operations, Division of District Support; ~~and~~

3. The district may retain the former interim finance officer as a consultant as needed.

Section 10. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Assessment Committee Report", May 2024;

(b) "Curriculum Summary", May 2024;

(c) "Finance Officer Curriculum", May 2024;

(d) "**Application for Full Certification**" "**Full Certification Application**"; May 2024;

(e) "Mentor Application", May 2024;

(f) "**Mentor/Intern**" "**Mentor-Intern**" Agreement", May 2024; ~~and~~

(g) "**Application for Provisional Certification**" "**Provisional Certification Application**"; May 2024.

[(a)] ["Provisional Certification Application", FOCP-1, July 2015;]

[(b)] ["Full Certification Application", FOCP-2, July 2015;]

[(c)] ["Intern Progress Report", FOCP-3, July 2015;]

[(d)] ["Assessment Committee Report", FOCP-4, July 2015;]

[(e)] ["Mentor Application", FOCP-5, July 2015; ~~and~~

[(f)] ["Finance Officer Curriculum", FOCP-6, July 2015;]

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Education, 300 Sower Boulevard, 4th Floor ~~[500 Mero Street, First Floor, Capital Plaza Tower]~~, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. or at



VOLUME 51, NUMBER 4– October 1, 2024

<https://www.education.ky.gov/districts/legal/Pages/Kentucky-Revised-Statutes.aspx>

FILED WITH LRC: September 10, 2024  
CONTACT PERSON: Todd G. Allen, General Counsel,  
Kentucky Department of Education, 300 Sower Boulevard, 5th  
Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-  
564-9321, email regcomments@education.ky.gov.

**PUBLIC PROTECTION CABINET**  
**Department of Financial Institutions**  
**(As Amended at IJC on Banking and Insurance, September 17,**  
**2024)**

**808 KAR 10:260. Examination requirement for individuals  
advising the public on securities, broker-dealers, and agents.**

RELATES TO: KRS 292.310, 292.330, 292.331(3), 292.337,  
292.338, 292.500(3), 15 U.S.C sec. 78c

STATUTORY AUTHORITY: KRS 292.331(3), 292.500(3)  
NECESSITY, FUNCTION, AND CONFORMITY: KRS  
292.331(3) authorizes the commissioner to require an examination  
as evidence of knowledge of the securities business as a condition  
of registration. KRS 292.500(3) authorizes the commissioner to  
classify securities, persons, and matters within his or her jurisdiction  
and prescribe different requirements for different classes. This  
administrative regulation requires an individual who advises the  
public regarding securities to successfully complete a written  
examination that demonstrates knowledge of the requirements of  
the securities laws and exempts certain individuals from the  
examination requirement. This administrative regulation also sets  
the examination requirements for agents[individuals] who  
participate in the FINRA Maintaining Qualifications Program (FINRA  
MQP) pursuant to FINRA Rule 1240(c) and investment adviser  
representatives who, provided the individual elects to  
participate in the NASAA Examination Validity Extension Program  
(NASAA EVEP).

Section 1. Except as provided in Section 2 of this administrative  
regulation, to register in Kentucky as [an individual, including] an  
investment adviser or an investment adviser representative, an  
individual[who advises the public regarding the value of a  
security or the advisability of investing in, purchasing, or  
selling a security] shall demonstrate competence in the law of  
securities by providing the commissioner with proof of obtaining a  
passing score, as determined by the Financial Industry Regulatory  
Authority (FINRA), on one (1) of the following examinations:

(1) The Uniform Investment Advisor Law Examination (Series  
65 examination); or

(2) Both:

(a) The General Securities Representative Examination (Series  
7 examination); and

(b) The Uniform Combined State Law Examination (Series 66  
examination).

Section 2. The following individuals shall not be required to take  
and pass the examinations referenced in Section 1 of this  
administrative regulation[examination]:

(1) An individual who registered as an investment adviser or  
investment adviser representative in a state on or before January 1,  
2000 and has been continuously registered since that date, except  
that the commissioner may require the examinations identified in  
Section 1 of this administrative regulation for an individual found to  
have violated a state or federal securities law as a condition of  
continued registration;

(2) An individual who currently holds one (1) of the following  
professional designations and is in compliance with all continuing  
education and other requirements of good standing for the  
designation:

(a) Certified Financial Planner (CFP) issued by the Certified  
Financial Planner Board of Standards, Inc.;

(b) Chartered Financial Consultant (ChFC) issued by The  
American College, Bryn Mawr, Pennsylvania;

(c) Personal Financial Specialist (PFS) granted by the American  
Institute of Certified Public Accountants;

(d) Chartered Financial Analyst (CFA) granted by the  
Association for Investment Management and Research; or

(e) Certified Investment Management Analyst (CIMA)  
awarded by the Investment & Wealth Institute;[Chartered  
Investment Counselor (CIC) granted by the Investment Counsel  
Association of America; or]

(3) An individual who:

(a) Was registered as a broker-dealer[an] [a broker-dealer]  
agent prior to January 1, 1988;;

(b) Has been continuously registered since that date; and

(c) Has had no reportable disclosures on Form U-4, as  
incorporated by reference in 808 KAR 10:010; or

(4) An individual who was registered as an investment  
advisor representative, relying on the professional designation  
of Chartered Investment Counselor (CIC) prior to January 1,  
2025, has been continuously registered since that date and has  
no reportable disclosures on Form U-4, as incorporated by  
reference in 808 KAR 10:010.

Section 3. An individual not required to take and pass any  
examination because of holding a designation specified in Section  
2(2) of this administrative regulation may be required to take the  
examination if that individual fails to maintain the designation in good  
standing.

Section 4. A registered investment adviser shall not employ an  
individual as an investment adviser or as one who represents an  
investment adviser representative unless that individual has  
complied with this administrative regulation.

Section 5.

(1) To register in Kentucky as an [a broker-dealer or] agent, [an  
individual or a principal, if] the applicant [is an entity,] shall:

(a) [(1)] Pass the FINRA Securities Industry Essentials (SIE)  
and an appropriate examination, which depending on the proposed  
business, shall be one (1) of the following FINRA examinations:  
Series 4, 1, 2, 6, 7, 9, 10, 11, 14, 16, 17, 22, 23, 24, 26, 27, 28, 39,  
50, 51 [40], 52, 53, 54, 57, [62, or] 79, 82, 86, 87, or 99; and

(b) [(2)] Pass the North American Securities Administrators  
Association ([“NASAA[”] Series 63 or Series 66 examination.

(2) To register in Kentucky as a broker-dealer, the applicant  
shall employ an individual who:

(a) Has passed the appropriate examinations listed in  
subsection (1) [Section 5] of this section [administrative  
regulation]; and

(b) Is to be deemed a principal of the broker-dealer.

Section 6.

(1) Except as provided in subsections (2) and (3) of this Section,  
an [An] individual who has been unregistered for a period of time in  
excess of two (2) years shall be required to take and pass the  
examinations specified in Sections 1 and 5 of this administrative  
regulation unless the commissioner grants a waiver for good cause  
shown in response to a written request by the investment adviser,  
broker-dealer, or issuer which the individual will represent.

(2) An individual who has been unregistered as an agent in any  
state for a period of time in excess of two (2) years but less than five  
(5) years, shall be deemed in compliance with the examination  
requirements of Section 5 of this administrative regulation if:

(a) The individual [who] has elected to participate in the FINRA  
Maintaining Qualifications Program (FINRA MQP) pursuant to  
FINRA Rule 1240(c);

(b) The individual's, and whose] FINRA qualifying  
examinations remain valid pursuant to participation in the FINRA  
MQP; and

(c) [, shall be deemed in compliance with the examination  
requirements of Section 5 of this administrative regulation,  
provided] The individual elects to participate in the NASAA  
Examination Validity Extension Program (NASAA EVEP) within two  
(2) years of agent registration termination.]; and

(3) An individual who terminates his or her registration as an  
investment adviser representative may, for purposes of

compliance with the examination requirements of Section 1 of this administrative regulation, maintain the validity of his or her Series 65/Uniform Investment Adviser Law Examination, or the investment adviser representative portion of the Series 66/Uniform Combined State Law Examination, as applicable, without being employed by or associated with an investment adviser or a federally covered investment adviser for a maximum of five (5) years following the termination of the individual's investment adviser representative registration if, provided the individual:

(a) Previously passed the examination for which the individual seeks to maintain validity under this administrative regulation ~~rule~~;

(b) Was registered as an investment adviser representative for at least one (1) year immediately preceding the termination of the investment adviser representative registration;

(c) Was not subject to a statutory disqualification, as defined in 15 U.S.C. sec. 78c(a)(39), [Section 3(a)(39) of the Exchange Act] while registered as an investment adviser representative or at any period after termination of the registration;

(d) Elects to participate in the NASAA EVEP under this paragraph within two (2) years from the effective date of the termination of the investment adviser representative registration;

(e) Does not have a deficiency under KRS 292.338 ~~the investment adviser representative continuing education program~~ at the time the investment adviser representative registration becomes ineffective; and

(f)

1. Completes annually, ~~not~~ later than December 31 of each calendar year in which the person participates in the investment adviser representative NASAA EVEP and for each calendar year that elapses after the individual's investment adviser representative registration became ineffective, regardless of when the individual elects to participate in NASAA EVEP, the continuing education requirements set forth in KRS 292.338(2).

~~1. [Six (6) credits of investment adviser representative continuing education Ethics and Professional Responsibility Content offered by an authorized provider, including at least three (3) hours covering the topic of ethics; and]~~

~~2. [Six (6) credits of IAR CE Products and Practice Content offered by an authorized provider;]~~

~~4. [An individual who elects to participate in NASAA EVEP must complete the credits required by subsection (3)(f) of this section for each calendar year that elapses after the individual's investment adviser representative registration became ineffective, regardless of when the individual elects to participate in NASAA EVEP].~~

2. (5) An individual who complies with the FINRA MQP under FINRA Rule 1240(c) shall be deemed in compliance with KRS 292.338(2)(b) subsection (3)(f)2. of this section.

FILED WITH LRC: September 17, 2024

CONTACT PERSON: Gary Stephens, Assistant General Counsel and Marni Gibson, Commissioner, 500 Mero Street, 2 SW 19, Frankfort, Kentucky 40601, phone 502-782-9046, fax 502-573-8787, email Gary.Stephens@ky.gov and Marni.Gibson@ky.gov.

**CABINET FOR HEALTH AND FAMILY SERVICES**  
**Department for Public Health**  
**Division of Laboratory Services**  
**(As Amended at ARRS, September 10, 2024)**

**902 KAR 4:030. Newborn screening program.**

RELATES TO: KRS 194A.050, 211.090, 211.180(1), 214.155  
 STATUTORY AUTHORITY: KRS 194A.050(1), 211.090(3), 214.155

NECESSITY, FUNCTION, AND CONFORMITY: KRS 214.155 requires the Cabinet for Health and Family Services to operate a newborn screening program for inborn errors of metabolism and other inherited and congenital disorders and conditions, and to establish a schedule of fees to cover the actual costs to the cabinet for the program. This administrative regulation requires that infants

be tested for inborn errors of metabolism and other inherited and congenital disorders and conditions as specified in KRS 214.155, and establishes the schedule of fees to cover actual costs of the newborn screening program. The selection of screened conditions is based upon the recommended uniform screening panel as authored by the American College of Medical Genetics and commissioned by the Health Resources and Services Administration, U.S. Department of Health and Human Services.

Section 1. Definitions.

(1) "Blood spot testing" means laboratory testing that is performed on newborn infants to detect a wide variety of inherited and congenital disorders and conditions by using a laboratory-authorized filter paper specimen card.

(2) "Critical congenital heart disease" or "CCHD" means an abnormality in the structure or function of the heart that exists at birth and places an infant at significant risk of disability or death if not diagnosed and treated soon after birth.

(3) "Diagnostic echocardiogram" means a test that uses ultrasound to provide an image of the heart that is performed by a technician trained to perform pediatric echocardiograms.

(4) "Laboratory" means the Division of Laboratory Services within the Cabinet for Health and Family Services, Department for Public Health.

(5) "Pediatric cardiologist" means a pediatrician that is board-certified to provide pediatric cardiology care.

(6) "Program" means the Newborn Screening Program for inherited and congenital disorders and conditions operated by the Cabinet for Health and Family Services, Department for Public Health.

(7) "Pulse oximetry testing" means a noninvasive test that estimates the percentage of hemoglobin in blood that is saturated with oxygen.

(8) "Submitter" means a hospital, primary care provider, health department, birthing center, laboratory, or midwife submitting an infant's blood specimen for the purpose of newborn screening.

Section 2. Tests for inborn errors of metabolism or other inherited or congenital disorders and conditions for newborn infants as part of newborn screening shall be consistent with the U.S. Department of Health and Human Services' Recommended Uniform Screening Panel and include the following:

- (1) 2-Methyl-3-hydroxybutyric aciduria (2M3HBA);
- (2) 2-Methylbutyryl-CoA dehydrogenase deficiency (2MBDH);
- (3) 3-Methylcrotonyl-CoA carboxylase deficiency (3MCC);
- (4) 3-Methylglutaconic aciduria (3MGA);
- (5) 3-Hydroxy 3-Methylglutaric aciduria (HMG);
- (6) Argininemia (ARG);
- (7) Argininosuccinic acidemia (ASA);
- (8) Beta-ketothiolase deficiency (BKT);
- (9) Biotinidase disorder (BIOT);
- (10) Carnitine acylcarnitine translocase deficiency (CACT);
- (11) Carnitine palmitoyltransferase deficiency I (CPT-I);
- (12) Carnitine palmitoyltransferase deficiency II (CPT-II);
- (13) Carnitine uptake defect (CUD);
- (14) Citrullinemia type I (CIT-I);
- (15) Citrullinemia type II (CIT-II);
- (16) Congenital adrenal hyperplasia (CAH);
- (17) Congenital hypothyroidism (CH);
- (18) Critical congenital heart disease (CCHD);
- (19) Cystic fibrosis (CF);
- (20) Ethylmalonic encephalopathy (EE);
- (21) Galactosemia (GAL);
- (22) Glutaric acidemia type I (GA I);
- (23) Glutaric acidemia type II (GA-II);
- (24) Glycogen storage disease type II (GSD-II, Pompe Disease);
- (25) Guanidinoacetate methyltransferase deficiency (GAMT);
- (26) Homocystinuria (HCY);
- (27) ~~(26)~~ Hypermethioninemia (MET);
- (28) ~~(27)~~ Hyperphenylalaninemia (H-PHE);
- (29) ~~(28)~~ Isobutyryl-CoA dehydrogenase deficiency (IBG);
- (30) ~~(29)~~ Isovaleric acidemia (IVA);
- (31) ~~(30)~~ Long-chain hydroxyacyl-CoA dehydrogenase deficiency (LCHAD);

## VOLUME 51, NUMBER 4– October 1, 2024

- (32) Malonic academia (MAL);  
(33) Maple syrup urine disease (MSUD);  
(34) Medium-chain acyl-CoA dehydrogenase deficiency (MCAD);  
(35) Methylmalonic acidemia (Cbl A,B);  
(36) Methylmalonic acidemia (Cbl C,D);  
(37) Methylmalonic acidemia mutase deficiency (MUT);  
(38) Mucopolysaccharidosis type I (MPS-I, Hurler's Disease);  
(39) Mucopolysaccharidosis type II (MPS-II, Hunter's Disease);  
(40) Multiple carboxylase deficiency (MCD);  
(41) Non-ketotic Hyperglycinemia (NKHG);  
(42) Phenylketonuria (PKU);  
(43) Propionic acidemia (PA);  
(44) Severe combined immunodeficiency (SCID);  
(45) Short-chain acyl-CoA dehydrogenase deficiency (SCAD);  
(46) Sickle cell disease (Hb S/S);  
(47) Sickle cell hemoglobin C disease (Hb S/C);  
(48) Sickle cell S Beta Thalassemia (Hb S/Th);  
(49) Spinal muscular atrophy (SMA);  
(50) Trifunctional protein deficiency (TFP);  
(51) Tyrosinemia type I (TYR-I);  
(52) Tyrosinemia type II (TYR-II);  
(53) Tyrosinemia type III (TYR-III);  
(54) Various Hemoglobinopathies (includes Hb E);  
(55) Very long-chain acyl-CoA deficiency (VLCAD); and  
(56) X-linked adrenoleukodystrophy (X-ALD).

Section 3. Tests for inborn errors of metabolism or other inherited or congenital disorders and conditions for newborn infants as part of newborn screening shall include the following disorder that is not recommended by the U.S. Department of Health and Human Services, but is required by Kentucky law: Krabbe Disease (KD).

### Section 4. Submitter Responsibilities.

(1) Except as provided in KRS 214.155(3) and (5), the administrative officer or other person in charge of the hospital or institution caring for newborn infants and the attending primary care provider or midwife shall administer to, or verify administration of tests to, every infant in its care prior to hospital discharge:

(a) A blood spot test to detect inborn errors of metabolism and other inherited and congenital disorders and conditions identified in Sections 2 and 3 of this administrative regulation; and

(b) Pulse oximetry testing to detect critical congenital heart disease.

(2) If a baby is not born in a hospital or institution, the attending primary care provider or midwife shall ensure that both tests required by subsection (1) of this section are:

(a) Administered between twenty-four (24) and forty-eight (48) hours of age;

(b) Acted upon if abnormal; and

(c) Reported to the program by fax or by the cabinet's web-based system.

(3) A capillary blood spot specimen shall be obtained from a newborn infant not requiring an extended stay due to illness or prematurity between twenty-four (24) and forty-eight (48) hours of age.

(4) If the infant is to remain in the hospital due to illness or prematurity, the hospital shall obtain the capillary blood spot specimen from that infant after twenty-four (24) and before seventy-two (72) hours of age.

(5) Except as provided by subsection (6) of this section, the pulse oximetry testing shall be performed when the infant is twenty-four (24) hours of age or older and shall occur prior to discharge.

(6) If the infant is discharged prior to twenty-four (24) hours of age, the blood spot and pulse oximetry testing shall be performed as close to twenty-four (24) hours of age as possible.

(7) If an infant is transferred from the birth hospital to another hospital during the newborn hospital stay, the requirements established in this subsection shall apply.

(a) The sending hospital shall obtain the capillary blood spot specimen for the newborn screening blood test and the pulse

oximetry testing for CCHD if the infant is twenty-four (24) hours of age or more when the infant is transferred to another hospital.

(b) The receiving hospital shall ensure the newborn screening blood spot test and the pulse oximetry testing are performed if the infant is less than twenty-four (24) hours of age when the infant is transferred.

(8) If an infant expires before the newborn screening blood spot test and pulse oximetry test have been performed, the program shall be notified within five (5) calendar days.

(9) If the information on the filter paper specimen card obtained by the submitter and sent to the laboratory is incomplete or inadequate, then the submitter, upon request of the program, shall:

(a) Attempt to locate the infant and obtain a complete and adequate specimen within ten (10) days; and

(b) Report to the program a specimen that is unable to be obtained within ten (10) days.

(10) A submitter that is responsible for the collection of the initial blood spot specimen and pulse oximetry testing for newborn screening shall:

(a) Provide to an infant's parent or guardian educational materials regarding newborn screening and pulse oximetry testing;

(b) Designate a newborn screening coordinator and physician responsible for the coordination of the facility's newborn screening compliance by having a newborn screening protocol;

(c) Notify the program of the name of the individuals designated in paragraph (b) of this subsection each year in January and if the designated individual changes; and

(d) Develop a written protocol for tracking newborn screening compliance, which shall:

1. Be submitted to the program each year in January; and

2. Include, at a minimum:

a. A requirement that the name of the primary care provider that will be attending the infant after birth or discharge or, if known, the primary care provider who will be caring for the infant after discharge, shall be placed on the filter paper specimen card sent with the initial blood spot specimen to the laboratory. If the infant is in the neonatal intensive care unit, the name of the attending neonatologist may be placed on the filter specimen card sent with the initial blood spot specimen to the laboratory;

b. Verification that:

(i) Each infant born at that facility has had a specimen obtained for newborn screening and pulse oximetry testing on or before discharge;

(ii) All information on the specimen card has been thoroughly completed; and

(iii) The specimen has been submitted appropriately;

c. A process to ensure that final results of the pulse oximetry screening are entered into the cabinet's web-based system; and

d. A procedure to assure the hospital or facility that identifies that an infant has not had a specimen obtained for newborn screening and pulse oximetry testing prior to discharge shall:

(i) Notify the program;

(ii) Use every reasonable effort to locate the infant;

(iii) Notify the parent or guardian and the primary care provider immediately; and

(iv) Recommend that the infant present to the hospital or primary care provider immediately for a newborn screening blood spot specimen and pulse oximetry testing.

(11) A hospital or facility shall report each written refusal, in accordance with KRS 214.155(5), to the program within five (5) calendar days.

### Section 5. Blood Specimen Collection.

(1) A capillary blood spot specimen required by Section 4 of this administrative regulation shall be obtained by a heel stick.

(2) Blood from the heel stick shall be applied directly to the filter paper specimen card.

(3) All circles shall be saturated completely using a drop of blood per circle on a filter paper specimen card.

(4) The specimen collector shall provide information requested by the laboratory on the filter paper specimen card, information requested by the laboratory.

## VOLUME 51, NUMBER 4– October 1, 2024

(5) The capillary blood spot specimen shall be air dried for three (3) hours and then shall be mailed or sent to the laboratory:

- (a) Within twenty-four (24) hours of collection of the specimen;
- or
- (b) The next business day in which mail or delivery service is available.

(6) A submitter sending a blood spot specimen via regular mail services shall send the specimen to the following address: Cabinet for Health and Family Services, Department for Public Health, Division of Laboratory Services, 100 Sower Boulevard, Frankfort, Kentucky 40602.

(7) A submitter sending a blood spot specimen via expedited mail services shall ensure the specimen is sent to the following address: Cabinet for Health and Family Services, Department for Public Health, Division of Laboratory Services, 100 Sower Boulevard, Suite 204, Frankfort, Kentucky 40602.

(8) Specimens processed or tracked under the newborn screening program shall be limited to specimens on infants less than six (6) months of age.

### Section 6. Unsatisfactory or Inadequate Blood Specimen.

(1) If a specimen is unsatisfactory or inadequate to produce a valid result, the laboratory shall notify the submitter and the parent on the filter paper specimen card that the newborn screen needs to be repeated as soon as possible.

(2) If a requested repeat specimen has not been received within ten (10) business days from the date the repeat request was issued, the program shall notify the parent by mail of the need for a repeat screening test.

Section 7. Special Circumstances - Blood Transfusion. If a newborn infant requires a blood transfusion, the requirements for newborn screening established in this section shall apply.

(1) The hospital shall obtain a capillary blood spot specimen for newborn screening prior to the infant being transfused, except in an emergency situation.

(2) If the pre-transfusion blood spot specimen was obtained before twenty-four (24) hours of age, or if it was not obtained due to an emergency situation, then the hospital or primary care provider shall use all reasonable efforts to obtain a repeat capillary blood specimen from the transfused infant and submit it to the laboratory according to the following schedule:

(a) Seventy-two (72) hours after the last blood transfusion, rescreen for inborn errors of metabolism and inherited and congenital disorders and conditions listed in Sections 2 and 3 of this administrative regulation; and

(b) Ninety (90) days after the last blood transfusion, rescreen for any disorder that relies on red blood cell analysis such as hemoglobinopathies, galactosemia, and biotinidase deficiency.

### Section 8. Reporting Results of Newborn Screening Blood Tests.

(1) Normal Results. Upon receipt of a normal lab result, the laboratory shall send the result to the primary care provider and the submitter.

(2) Abnormal Results.

(a) The laboratory shall report abnormal, presumptive positive, or equivocal results of tests for inborn errors of metabolism, inherited and congenital disorders and conditions to the program.

(b) The submitter and primary care provider shall receive a copy of all abnormal, presumptive positive, and equivocal results.

(c) In addition, a primary care provider shall be notified of an abnormal, presumptive positive, or equivocal result in the manner established in this paragraph.

1. Upon receipt of an abnormal, equivocal, or a presumptive positive lab result, the laboratory shall notify the primary care provider listed on the filter paper specimen card within two (2) business days of the result and the need for follow-up testing.

2. Upon receipt of a presumptive positive lab result, the program shall notify the primary care provider listed on the filter paper specimen card of the result and recommend immediate consultation with a university pediatric specialist.

3. If the program is unable to determine the infant's primary care provider to notify them of an abnormal, presumptive positive, or

equivocal result and the need for follow-up, the program shall use every available means to notify the infant's parent.

(d) The Cabinet for Health and Family Services shall share pertinent test results with a state university-based specialty clinic or primary care provider who informs the cabinet they are treating the infant who received the test.

(e) The cabinet may share pertinent test results with the local health department in the infant's county of residence that conducts newborn screening follow-up activities.

(f) A specialty clinic or primary care provider shall report results of diagnostic testing to the program within thirty (30) days or earlier upon request.

(g) If a requested repeat specimen has not been received within ten (10) business days from the date the repeat request was issued, the program shall notify the parent by mail of the need for a repeat screening test.

Section 9. Pulse Oximetry Screening for Critical Congenital Heart Disease. Pulse oximetry screening for critical congenital heart defects required by Section 2 of this administrative regulation shall be consistent with the standard of care according to national recommendations by the American Academy of Pediatrics.

### Section 10. Pulse Oximetry Screening Process.

(1) Except as provided by KRS 214.155(3) and subsections (2) and (4) of this section, pulse oximetry testing shall be performed when the infant is between twenty-four (24) and forty-eight (48) hours of age and shall occur no later than the day of discharge.

(2) If the infant is discharged prior to twenty-four (24) hours of age, the blood spot and pulse oximetry testing shall be performed as close to twenty-four (24) hours of age as possible.

(3) An infant in a neonatal intensive care unit shall be screened when medically appropriate after twenty-four (24) hours of age but prior to discharge.

(4) An infant who has been identified with critical congenital heart disease prior to birth or prior to twenty-four (24) hours of age shall be exempt from the pulse oximetry screening process.

(5) Pulse oximetry screening shall be performed by placing pediatric pulse oximetry sensors simultaneously on the infant's right hand and either foot to obtain oxygen saturation results.

(6) If using a single pediatric pulse oximetry sensor, pulse oximetry screening shall be performed on the infant's right hand and either foot, one after the other, to obtain oxygen saturation results.

### Section 11. Pulse Oximetry Testing Results.

(1) A passed result shall not require further action if:

(a) The pulse oximetry reading in both extremities is greater than or equal to ninety-five (95) percent; and

(b) The difference between the readings of both the upper and lower extremity is less than or equal to three (3) percent.

(2)

(a) A pending result shall:

1. Occur if:

a. The pulse oximetry reading is between ninety (90) and ninety-four (94) percent; or

b. The difference between the readings of both the upper and lower extremity is greater than three (3) percent; and

2. Be repeated using the pulse oximetry screening in one (1) hour.

(b) If a repeated pulse oximetry screen is also interpreted as pending, it shall be performed again in one (1) hour.

(c) If the pulse oximetry result on the third screen continues to meet the criteria as pending after three (3) screenings have been performed, it shall be considered failed and the procedures established in subsection (3) of this section shall be followed.

(3) A failed result shall:

(a) Occur if:

1. The initial pulse oximetry reading is less than ninety (90) percent in the upper or lower extremity; or

2. The provisions of subsection (2)(c) of this section apply; and

(b) Require the following actions:

1. The primary care provider shall be notified immediately;

2. The infant shall be evaluated for the cause of the low saturation reading; and

**VOLUME 51, NUMBER 4– October 1, 2024**

3. If CCHD cannot be ruled out as the cause of the low saturation reading, the attending physician or advanced practice registered nurse shall:

- a. Order a diagnostic echocardiogram to be performed without delay;
- b. Ensure the diagnostic echocardiogram be interpreted as soon as possible; and
- c. If the diagnostic echocardiogram results are abnormal, obtain a consultation with a pediatric cardiologist prior to hospital discharge.

Section 12. Reporting Results of Pulse Oximetry Screening.

- (1) Final results of the pulse oximetry screening shall be entered into the cabinet's web-based system.
- (2) A failed result shall be immediately reported to the program by fax or by the cabinet's web-based system.

Section 13. Newborn Screening Fees.

(1)

(a) A submitter, ***other than a midwife***, obtaining and sending a blood spot specimen to the laboratory shall be billed a fee of \$200~~[150]~~ for the initial newborn screening test.

(b) A midwife obtaining and sending a blood spot specimen to the laboratory shall be billed a fee of fifty (50) dollars for the initial newborn screening test.

(2) A submitter obtaining and sending a repeat blood spot specimen to the laboratory shall not be charged an additional fee.

(3) Fees due the Cabinet for Health and Family Services shall be collected through a monthly billing system.

FILED WITH LRC: September 10, 2024

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING  
OR RECEIPT OF WRITTEN COMMENTS

JUSTICE AND PUBLIC SAFETY CABINET  
Department of Corrections  
(Amended After Comments)

501 KAR 6:300. News media.

RELATES TO: KRS Chapters 196, 197, 439  
STATUTORY AUTHORITY: KRS 196.035, 197.020, 197.110,  
439.470

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. KRS 439.470 requires the commissioner to promulgate administrative regulations for the conduct of persons placed on probation or parole but not conflict with conditions of the parole board or court. This administrative regulation establishes procedures concerning news media for the Department of Corrections.

Section 1. Definitions.

- (1) "DOC" means the Department of Corrections.
- (2) "News media" means a form of mass media that focuses on delivering news to the general public, but does not include broadcast programs syndicated by independent producers, television stations, networks, or others for the primary purpose of entertainment.
- (3) "PIO" means public information officer.
- (4) "VSB" means the Victim Services Branch.

Section 2.

(1) A news media request or inquiry shall be handled by the Division of Public Affairs at the DOC headquarters in Frankfort, Kentucky.

(2) A request by a news media representative to visit an institution, probation and parole office, or other DOC office shall be reviewed on a case-by-case basis and a decision rendered by the Division of Public Affairs in conjunction with the warden, director, or commissioner.

(3) Credentials. A state issued photo ID shall be required to verify the identity of a news media representative. An identification card issued by the reporter's place of employment may also be required if needed to verify the credentials of a media representative. In the absence of an employee identification card, the DOC may refuse admittance if the identification is suspect.

(4) Live broadcasts including television, radio, phone, and virtual communication from inside the perimeter of an institution shall not be permitted at any time.

(5) Arrangements for interviews and visits by representatives of the media shall be made in advance to the Division of Public Affairs. A brief summary of the purpose of the visit or interview shall be provided and shall be subject to approval. Approved interviews shall primarily be conducted virtually. Private prison and community center administrators shall refer all news media inquiries concerning DOC policies, DOC inmates, or DOC clients to the Division of Public Affairs.

(6) The Division of Public Affairs staff shall make this administrative regulation available in advance of a media visit to ensure that members of the news media are aware of the requirements. Each news media representative shall sign a Corrections Media Release Form upon each visit to a DOC institution or office, indicating familiarity with this administrative regulation and agree to abide by it. Failure by a news media

representative to comply with this administrative regulation may result in immediate removal from the institution or office and may constitute grounds for denying the representative or his or her agency permission to attend future media events within a DOC institution or office.

Section 3. Inmate INTERVIEWS AND PHOTographs.

(1) Media representatives may be permitted to interview an inmate if the inmate gives written consent to be interviewed. A news media representative wishing to interview an inmate shall submit to the Division of Public Affairs a brief summary of the purpose of the interview, which is subject to approval.

(2) An approved interview by a news media representative shall include only the news media representative, the inmate, and DOC staff. There shall not be anyone else present including family members, lawyers, or others.

(3) The Division of Public Affairs may establish time limits for an interview or other media event coverage.

(4) A news media interview shall not be permitted for an inmate in a high security unit, in protective custody, on watch, or on other significant medical or mental health status. An inmate involved in an internal affairs investigation may also be prohibited from granting interviews until that case is closed.

(5) The news media shall not interview an inmate away from institutional grounds except with direct authorization from the commissioner.

(6) An inmate shall not receive compensation or anything of value, in exchange for or as a result of participating in an interview. A media representative or entity who violates this stipulation may be restricted from further access to inmate interviews.

(7) The Division of Public Affairs may grant or deny an interview request. The Division of Public Affairs may consider safety and security concerns in an interview denial. The Division of Public Affairs may terminate an interview or coverage within a DOC facility if a disruption of any type occurs.

(8) A recording device may be used by a media representative during an interview with prior approval.

(9) If an inmate interview is approved, the Victim Services Branch shall review the inmate's information to determine if the inmate has any registered victims. The VSB shall attempt to contact a registered victim to notify the victim of the interview in advance of the interview.

(10) If a media visit has been approved, the media representative may take photographs of specific parts of the correctional institution or probation and parole office with approval of the appropriate warden or director.

(a) Media shall be escorted at all times while on institutional or office grounds by the designated staff.

(b) If news media films or photographs an inmate or an offender under supervision in which the inmate or offender may be identified, a signed copy of the Corrections Release Form shall be obtained from the inmate or offender to provide written consent before the video or photo may be shown or shared.

(11) Parole hearings. Because parole hearings are considered an open proceeding, an inmate who appears may be filmed, photographed, or recorded without signing a consent form; however, the general provisions of this section shall still apply to any interview before or after the hearing. Interviews shall not be conducted outside the parole hearing without prior DOC approval and the inmate's written permission using the Corrections Release Form.

Section 4. DOC Institutional Grounds.

(1) News media wanting to video or photograph the exterior of a correctional institution shall notify the Division of Public Affairs. News media shall remain in the parking lot. Any video or photograph obtained shall not include an identifiable inmate.

(2) High security areas, control centers, control panels and any other area designated by the warden for safety or security reasons shall not be filmed or photographed.

VOLUME 51, NUMBER 4– October 1, 2024

Section 5. Dissemination of Information.

(1) Dissemination of DOC information shall be the responsibility of the Division of Public Affairs including contact from a national or international news media representative.

(2) Institutional PIOs shall assist with the announcement of an escape or other incident within an institution as needed. Every effort shall be made to notify the family of an inmate involved in the emergency prior to the release of information to the media. Names of involved staff shall not be released to the media until the designated next of kin or family is notified.

(3) Individual staff members, contractors, or volunteers shall not respond to media inquiries unless they have received prior approval from the Division of Public Affairs.

(4) The Division of Public Affairs shall be informed of all correspondence sent to or received from a news media representative.

Section 6. Release of Information.

(1) The following information about an inmate, parolee, probationer, or other releasee may be provided to the news media:

- (a) Name;
- (b) Age;
- (c) Sex;
- (d) Physical description;
- (e) Photograph;
- (f) County where crime was committed;
- (g) Crime;
- (h) Sentence;
- (i) Disciplinary information including incident and penalty;
- (j) Institutional work assignments;
- (k) Prior DOC incarceration; and
- (l) Release eligibility.

(2) Information regarding an inmate's personal identifiers, health, [mental health, medical, or] juvenile criminal history, or substance use disorder treatment shall not be released except in compliance with KRS 610.015, 610.320, 610.340 and 635.120.

Section 7. Procedures During Emergency Conditions.

Admittance of a media representative to a correctional institution may be denied or limited during an emergency situation, including an escape, disturbance, fire, or natural disaster. However, with approval of the Deputy Commissioner of Adult Institutions and the Commissioner, the news media may be granted access to the institution once it is determined that access will not jeopardize the security or safety of any person.

(1) Media staging area. A pre-designated area shall be established for the media to use as a staging area during an emergency condition. This area shall be as close to the emergency scene as possible without inhibiting the resolution of the situation. News media representatives shall be directed to the staging area upon arrival.

(2) Press briefings. A briefing location for the media shall be established near the staging area. The news media shall be advised of developments by ~~[frequent news briefings held in the designated briefing location or]~~ press releases. A final briefing shall be held or press release provided as soon as possible after the emergency situation is resolved.

(3) Media pools. With approval of the Deputy Commissioner of Adult Institutions and the Commissioner, ~~a media pool may be formed to enter a correctional institution, if it is determined that doing so no longer jeopardizes the security or safety of any person.~~ Efforts shall be made to allow the media to use their equipment while serving as a pool reporter. The media pool shall be chosen from the media representatives assembled at the staging area with the selections made by ~~the media representatives present in conjunction with~~ DOC designated staff.

(4) Media pool agreement. Media selected for the media pool shall agree to ensure that all news material generated by the media pool will be made available to all media without right of first publication or broadcast.

Section 8. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "Corrections Release Form", 2024; and

(b) "Corrections Media Release Form", 2024.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections Web site in the regulation filing area at <https://corrections.ky.gov/about/pages/lrcfilings.aspx>.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: August 5, 2024

FILED WITH LRC: September 13, 2024 at 11:35 a.m.

CONTACT PERSON: Nathan Goens, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8216, fax (502) 564-6686, email [Justice.RegContact@ky.gov](mailto: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 procedures concerning news media for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035, 197.020, and 439.470 authorize the Justice and Public Safety Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or any of its divisions.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation governs the operations of the department concerning new media. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation establishes the procedures that govern the operations of the Department of Corrections and its institutions concerning news media. It provides direction and information to department employees, inmates, and news media concerning the operations of the department.

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

(a) How the amendment will change this existing administrative regulation: 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 affects the Department of Corrections, approximately 3,900 employees, 23,995 inmates, community offenders on probation and parole, and news media.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Staff, offenders, and news media will have to change their actions to comply with operational procedures.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that current costs will increase.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational procedures will assist in the effective and orderly management of the department, its correctional institutions, and offices.

(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.

**VOLUME 51, NUMBER 4– October 1, 2024**

- (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: Department of Corrections budgeted funds for the biennium.
- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: 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 administrative regulation does not establish any fees.
- (9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

**FISCAL IMPACT STATEMENT**

- (1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 197.110, 439.470
- (2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections, its correctional institutions, and offices
  - (a) Estimate the following for the first year:  
Expenditures: The administrative regulation impacts how the department, its correctional institutions, and offices operate but is not expected to increase expenditures.  
Revenues: The administrative regulation does not generate revenue.  
Cost Savings: Cost savings are not anticipated.
  - (b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.
- (3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities have not been identified.
  - (a) Estimate the following for the first year:  
Expenditures:  
Revenues:  
Cost Savings:
  - (b) How will expenditures, revenues, or cost savings differ in subsequent years?
- (4) Identify additional regulated entities not listed in questions (2) or (3): News media entities that wish to interview inmates or participate in department news media events will have to comply with the requirements in the administrative regulation including providing signed releases.
  - (a) Estimate the following for the first year:  
Expenditures: News media representatives will need to expend an unknown amount of time to obtain required releases for interviews and event participation. An amount for expenditures is unknown.  
Revenues: The administrative regulation does not generate revenue.  
Cost Savings: Cost savings are not anticipated.
  - (b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.
- (5) Provide a narrative to explain the:
  - (a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department, its correctional institutions, and offices operate but is not expected to have a fiscal impact. The administrative regulation replaces in part an administrative regulation that is being repealed.
  - (b) Methodology and resources used to determine the fiscal impact: The administrative regulation replaces in part an administrative regulation that is being repealed. The policy and procedure incorporated by reference in the administrative regulation being repealed was reviewed. A fiscal impact was not identified.
- (6) Explain:
  - (a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

- (b) The methodology and resources used to reach this conclusion: The administrative regulation being repealed is being replaced in part by this new administrative regulation.

**JUSTICE AND PUBLIC SAFETY CABINET  
Department of Corrections  
(Amended After Comments)**

**501 KAR 6:430. Corrections policies and procedures: communication, mail, and visiting.**

RELATES TO: KRS Chapters 196, 197  
 STATUTORY AUTHORITY: KRS 196.035, 197.020, 197.110  
 NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. This administrative regulation establishes policies and procedures concerning communication, mail, and visiting for the Department of Corrections.

**Section 1. Incorporation by Reference.**

(1) "Department of Corrections Policies and Procedures, Chapter 16", **September 13[May 15]**, 2024, are incorporated by reference. Department of Corrections Policies and Procedures Chapter 16 includes:

16.1	Inmate Visits (9/13/24[5/15/24])
16.2	Inmate Correspondence (9/13/24[5/15/24])
16.3	Inmate Access to Telephones (10/12/12)
16.4	Inmate Packages (8/12/16)
16.5	Video Visitation (5/15/24)
16.6	Inmate Tablets (5/15/24)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections Web site in the policies and procedures area at <https://corrections.ky.gov/About/cpp/Pages/default.aspx> or the regulation filing area at <https://corrections.ky.gov/about/pages/lrcfilings.aspx>.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: September 12, 2024

FILED WITH LRC: September 13, 2024 at 11:35 a.m.

CONTACT PERSON: Nathan Goens, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8216, fax (502) 564-6686, email [Justice.RegContact@ky.gov](mailto: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 policies and procedures concerning inmate communication, mail, and visiting for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS



VOLUME 51, NUMBER 4– October 1, 2024

197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation governs the operations of the department concerning communication, mail, and visiting. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation and material incorporated by reference establish the policies and procedures that govern the operations of the Department of Corrections and its institutions concerning communication, mail, and visiting. It provides direction and information to department employees and inmates concerning the operations of the department.

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

(a) How the amendment will change this existing administrative regulation: 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 affects the Department of Corrections, approximately 3,900 employees, 23,995 inmates, and visitors.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Staff, visitors, and inmates will have to change their actions to comply with operational procedures.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that current costs will increase.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational procedures will assist in the effective and orderly management of the department and its correctional institutions.

(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: Department of Corrections budgeted funds for the biennium

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: 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 administrative regulation does not establish any fees.

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

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 197.110

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections and its correctional institutions

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities have not been identified.

(a) Estimate the following for the first year:

Expenditures:

Revenues:

Cost Savings:

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(4) Identify additional regulated entities not listed in questions (2) or (3): Inmates and inmate families

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department and its institutions operate but is not expected to have a fiscal impact. The administrative regulation replaces in part an administrative regulation that is being repealed.

(b) Methodology and resources used to determine the fiscal impact: The policies and procedures incorporated by reference were reviewed and a fiscal impact was not identified. It replaces in part an administrative regulation that is being repealed.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation being repealed is being replaced by new administrative regulations.

JUSTICE AND PUBLIC SAFETY CABINET  
Department of Corrections  
(Amended After Comments)

501 KAR 6:460. Corrections policies and procedures:  
inmate work programs.

RELATES TO: KRS Chapters 196, 197, 197.065, 197.070, 197.110, 197.120, 197.150

STATUTORY AUTHORITY: KRS 196.035, 197.020, 197.047, 197.110, 439.590, 439.640

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, character of the labor, and length of time during which the prisoners shall be employed daily. KRS 197.047(2) requires the department to promulgate an

**VOLUME 51, NUMBER 4– October 1, 2024**

administrative regulation governing prisoners working on governmental services program-related projects. KRS 197.047(5) requires the department to promulgate an administrative regulation setting forth the amount of compensation a prisoner shall earn for any work-related project. KRS 197.110 requires the department to promulgate administrative regulations it deems necessary and proper for classification of prisoners, conditions of inmate work assignments, and inmate pay for work. This administrative regulation establishes policies and procedures concerning inmate work programs for the Department of Corrections.

**Section 1. Incorporation by Reference.**

(1) "Department of Corrections Policies and Procedures, Chapter 19", ~~September 13~~**May 15**, 2024, are incorporated by reference. Department of Corrections Policies and Procedures Chapter 19 includes:

19.1	Governmental Services Program (9/13/24 <del>10/12/24</del> )
19.2	Sentence Credit for Work (2/26/16)
19.3	Inmate Wage/Time Credit Program (5/15/24)
19.4	Work Release for State Inmates in Jails (4/12/18)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections Web site in the policies and procedures area at <https://corrections.ky.gov/About/cpp/Pages/default.aspx> or the regulation filing area at <https://corrections.ky.gov/about/pages/lrcfilings.aspx>.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: September 12, 2024

FILED WITH LRC: September 13, 2024 at 11:35 a.m.

CONTACT PERSON: Nathan Goens, 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 policies and procedures concerning inmate work programs for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, character of the labor, and length of time during which the prisoners shall be employed daily. KRS 197.047(2) requires the department to promulgate an administrative regulation governing prisoners working on governmental services program-related projects. KRS 197.047(5) requires the department to promulgate an administrative regulation setting forth the amount of compensation a prisoner shall earn for any work-related project. KRS 197.110 requires the department to promulgate administrative regulations it deems necessary and proper for classification of prisoners, conditions of inmate work assignments, and inmate pay for work.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation governs the operations of the department concerning inmate work programs. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

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

regulation and material incorporated by reference establish the policies and procedures that govern the operations of the Department of Corrections and its institutions concerning inmate work programs. It provides direction and information to department employees and inmates concerning the operations of the department.

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

(a) How the amendment will change this existing administrative regulation: 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 affects the Department of Corrections, approximately 3,900 employees, 23,995 inmates, jailers, and jail employees.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Staff and inmates will have to change their actions to comply with operational procedures. Jailers and jail employees will have to comply for state inmates housed in a jail.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that current costs will increase.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational procedures will assist in the effective and orderly management of the department, its correctional institutions, and jails housing state inmates.

(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: Department of Corrections budgeted funds for the biennium. County budgeted funds for jail operating expenses with payments from the department.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: 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: CPP 19.4 addresses that a jail may charge a fee that complies with the amounts set in KRS 532.100(8)(c) for inmates participating in the work release program.

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

**FISCAL IMPACT STATEMENT**

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 197.047, 197.110, 439.590, 439.640

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections, its correctional institutions, and jails

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures. The inmate pay through CPP 19.3 will cost approximately \$246,269.

Revenues: The payments from other agencies for the GSP program reimburse the DOC for the costs to provide the inmate workers and supervising staff.

VOLUME 51, NUMBER 4– October 1, 2024

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The inmate pay through CPP 19.3 is expected to continue to be approximately \$246,269. The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities have not been identified.

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the jail operates in part but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(4) Identify additional regulated entities not listed in questions (2) or (3): Inmates

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures. The inmate pay through CPP 19.3 will cost approximately \$246,269.

Revenues: The payments from other agencies for the GSP program reimburse the DOC for the costs to provide the inmate workers and supervising staff.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The inmate pay through CPP 19.3 is expected to continue to be approximately \$246,269. The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department and its institutions operate but is not expected to have a fiscal impact. The administrative regulation replaces in part an administrative regulation that is being repealed.

(b) Methodology and resources used to determine the fiscal impact: The policies and procedures incorporated by reference were reviewed and a fiscal impact was not identified. It replaces in part an administrative regulation that is being repealed.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation being repealed is being replaced by new administrative regulations.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amended After Comments)

501 KAR 6:470. Corrections policies and procedures: inmate education and training.

RELATES TO: KRS Chapters 196, 197, 197.045, 439.268

STATUTORY AUTHORITY: KRS 196.035, 197.020, 197.110, 439.640

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the

department deems necessary and proper for carrying out the intent of KRS Chapter 197. KRS 439.268 authorizes the department to promulgate administrative regulations for the awarding of probation program credits. This administrative regulation establishes policies and procedures concerning inmate education and training for the Department of Corrections.

Section 1. Incorporation by Reference.

(1) "Department of Corrections Policies and Procedures, Chapter 20", September 12 (May 15), 2024, are incorporated by reference. Department of Corrections Policies and Procedures Chapter 20 includes:

Table with 2 columns: ID, Title. Row 1: 20.1 Educational Courses and Educational Sentence Credits (5/15/24). Row 2: 20.2 Apprenticeship Courses (5/12/20). Row 3: 20.3 Special Education (9/12/2024)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections Web site in the policies and procedures area at https://corrections.ky.gov/About/cpp/Pages/default.aspx or the regulation filing area at https://corrections.ky.gov/about/pages/lrcfilings.aspx.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: August 5, 2024

FILED WITH LRC: September 13, 2024 at 11:35 a.m.

CONTACT PERSON: Nathan Goens, 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 policies and procedures concerning inmate education and training for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. KRS 439.268 authorizes the department to promulgate administrative regulations for the awarding of probation program credits.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation governs the operations of the department concerning inmate education and training. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation and material incorporated by reference establish the policies and procedures that govern the operations of the Department of Corrections and its institutions concerning inmate education and training. It provides direction and information to department employees and offenders concerning the operations of the department.

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

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

**VOLUME 51, NUMBER 4– October 1, 2024**

(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 affects the Department of Corrections, approximately 3,900 employees, 23,995 inmates, community offenders on probation and parole, jailers, and jail employees.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Staff and inmates will have to change their actions to comply with operational procedures. Jailers and jail employees will have to comply for state inmates housed in a jail.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that current costs will increase.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational procedures will assist in the effective and orderly management of the department, its correctional institutions, jails housing state inmates, and offenders on supervision.

(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: Department of Corrections budgeted funds for the biennium. County budgeted funds for jail operating expenses with payments from the department.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: 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 administrative regulation establishes a \$15 fee through CPP 20.1 for individuals requesting a live work project.

(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 IMPACT STATEMENT**

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 197.110, 439.640

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections, its correctional institutions, offenders on probation and parole, and jails

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: An amount for the live work project fees is not known. The fees support the live work projects and do not cover the entire cost of the item made.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities have not been identified.

(a) Estimate the following for the first year:

Expenditures:

Revenues:

Cost Savings:

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(4) Identify additional regulated entities not listed in questions (2) or (3): Inmates

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: An amount for the live work project fees is not known. The fees support the live work projects and do not cover the entire cost of the item made.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department and its institutions operate but is not expected to have a fiscal impact. The administrative regulation replaces in part an administrative regulation that is being repealed.

(b) Methodology and resources used to determine the fiscal impact: The policies and procedures incorporated by reference were reviewed and a fiscal impact was not identified. It replaces in part an administrative regulation that is being repealed.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation being repealed is being replaced by new administrative regulations.

**JUSTICE AND PUBLIC SAFETY CABINET  
Department of Corrections  
(Amended After Comments)**

**501 KAR 6:530. Corrections policies and procedures:  
programs and sentence credits.**

RELATES TO: KRS Chapters 196, 197, 197.400 - ~~197~~.440, Chapter 439

STATUTORY AUTHORITY: KRS 196.035, 196.111, 197.020, 197.110, 439.3101, 439.640

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 196.111 requires the Department of Corrections to promulgate administrative regulations for an evidence-based practices review process. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. KRS 439.3101 requires the department to promulgate administrative regulations that require the supervision and treatment of supervised individuals in accordance with evidence-based practices. KRS 439.640 requires the department to promulgate administrative regulations to implement the provisions of the vocational training program for inmates in the last ninety days of confinement. This administrative regulation establishes policies and procedures concerning programs and sentence credits for the Department of Corrections.

Section 1. Incorporation by Reference.

(1) "Department of Corrections Policies and Procedures, Chapter 30", **September 13** ~~(May 15)~~, 2024, are incorporated by reference. Department of Corrections Policies and Procedures Chapter 30 includes:

VOLUME 51, NUMBER 4– October 1, 2024

30.1	Program Approval Process, Evaluation, and Measurement (5/15/24)
30.2	Program Credit (5/15/24)
30.3	Risk and Needs Assessment and Reentry Programming Training and Quality Assurance (5/15/24)
30.4	Probation Program Credit (5/15/24)
30.5	Sex Offender Treatment Program (5/15/24)
30.6	Division of Addiction Services Substance Abuse Program (5/15/24)
30.7	DOC Approved Substance Abuse Program Parole Compliance Credits and Probation Program Credits (5/15/24)
30.8	Pretrial Substance Abuse Program (PSAP) <del>9/13/24(5/15/24)</del>
30.9	Supporting Others in Active Recovery (SOAR) Program (5/15/24)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections Web site in the policies and procedures area at <https://corrections.ky.gov/About/cpp/Pages/default.aspx> or the regulation filing area at <https://corrections.ky.gov/about/pages/lrcfilings.aspx>.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: September 12, 2024

FILED WITH LRC: September 13, 2024 at 11:35 a.m.

CONTACT PERSON: Nathan Goens, 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 policies and procedures concerning programs and sentence credits for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 196.111 requires the Department of Corrections to promulgate administrative regulations for an evidence-based practices review process. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. KRS 439.3101 requires the department to promulgate administrative regulations that require the supervision and treatment of supervised individuals in accordance with evidence-based practices. KRS 439.640 requires the department to promulgate administrative regulations to implement the provisions of the vocational training program for inmates in the last ninety days of confinement.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation governs the operations of the department concerning programs and sentence credits. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation and material incorporated by reference establish the policies and procedures that govern the operations of the Department of Corrections and its institutions concerning programs and sentence credits. It provides direction and information to department employees and inmates concerning the operations of the department.

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

(a) How the amendment will change this existing administrative regulation: 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 affects the Department of Corrections, approximately 3,900 employees, 23,995 inmates, volunteers, others who enter its correctional institutions, offenders on home incarceration, jailers, and jail employees.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Staff and offenders will have to change their actions to comply with operational procedures. Jailers and jail employees will have to comply for state inmates housed in a jail.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that current costs will increase.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational procedures will assist in the effective and orderly management of the department, its correctional institutions, probation and parole offices, and jails housing state inmates.

(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: Department of Corrections budgeted funds for the biennium. County budgeted funds for jail operating expenses with payments from the department.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: 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: An offender in the community Sex Offender Treatment Program may be charged a fee for assessment and treatment pursuant to KRS 532.045(5) as stated in CPP 30.5. The fee may be adjusted based on ability to pay.

(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 IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 196.111, 197.020, 197.110, 439.3101, 439.640

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections, its correctional institutions, probation and parole offices, reentry service centers, and jails

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts):

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the jails operate but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(4) Identify additional regulated entities not listed in questions (2) or (3): Reentry service centers and inmates

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the reentry service centers operate but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department and its institutions operate but is not expected to have a fiscal impact. The administrative regulation replaces in part an administrative regulation that is being repealed.

(b) Methodology and resources used to determine the fiscal impact: The policies and procedures incorporated by reference were reviewed and a fiscal impact was not identified. It replaces in part an administrative regulation that is being repealed.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation being repealed is being replaced by new administrative regulations.

**CABINET FOR HEALTH AND FAMILY SERVICES**  
**Department for Public Health**  
**Division of Public Health Protection and Safety**  
**(Amended After Comments)**

**902 KAR 45:001. Definitions for hemp-derived cannabinoid products.**

RELATES TO: KRS Chapter 13B, 217.015, 217.025, 217.035, 217.037, 217.039, 260.850, 438.305(4), 2023 Ky Acts ch. 78, 7 C.F.R. 990.1

STATUTORY AUTHORITY: KRS 217.125, 217.135

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217.125(1) authorizes the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations for the efficient administration and enforcement of the Kentucky Food, Drug and Cosmetic Act, KRS 217.005 through 217.215. KRS 217.135 authorizes the secretary to establish food standards by administrative regulation including a reasonable definition, standard of identity, and designation of optional ingredients that shall be named on the label. This administrative regulation establishes the definitions applicable to hemp-derived cannabinoid products.

Section 1. Definitions.

(1) "Adult-use cannabinoid" means a product with intoxicating properties that changes the function of the nervous system and results in alterations of perception, cognition, or behavior.

(2) "Approved source" means:

(a) A Kentucky hemp grower or handler licensed by the Kentucky Department of Agriculture, or an out-of-state hemp grower or handler who is duly authorized to produce hemp under the laws of the applicable jurisdiction;

(b) A hemp product manufacturer or processor permitted by the Kentucky Department for Public Health or

(c) A manufacturer or processor permitted by another state regulatory authority for hemp-derived cannabinoid products if that state has been approved by the department as having equivalent state standards for processing, laboratory testing, and labeling requirements.

(3) "Cabinet" is defined by KRS 217.015(3).

(4) "Cannabidiol" or "CBD" is defined by KRS 217.039(1)(a).

(5) "Cannabinoid" means a compound found in the hemp plant *Cannabis sativa* L from a United States Department of Agriculture sanctioned domestic hemp production program and does not include cannabinoids derived from any other substance.

(6) "Cannabinoid product class" means a group of cannabinoid products that:

(a) Have all ingredients in common; and

(b) Are produced by or for the same company.

(7) "Cartoon" means any drawing or other depiction of an object, person, animal, creature or any similar caricature that satisfies any of the following criteria:

(a) The use of comically exaggerated features;

(b) The attribution of human characteristics to animals, plants or other objects, or the similar use of anthropomorphic technique; or

(c) The attribution of unnatural or extra-human abilities, such as imperviousness to pain or injury, X-ray vision, tunneling at very high speeds or transformation.

(8) "Child-resistant" means packaging that is:

(a) Designed or constructed to be significantly difficult for children under five (5) years of age to open and not difficult for adults to use properly; and

(b) Resealable to maintain this effectiveness for children through multiple openings for any product intended for more than a single use or containing multiple servings.

(9) "Cosmetic" is defined by KRS 217.015(7).

(10) "Direct supervision" means the continuous, on-site observation of an employee with the supervisor physically present.

(11) "Food service establishment" is defined by KRS 217.015(21).

(12) "Hemp" is defined by KRS 260.850(5).

(13) "Hemp-derived cannabinoid" means an ingestible, inhalable, or cosmetic product that is processed or derived from hemp.

(14) "Home-based processor" is defined by KRS 217.015(56).

(15) "Hydrogenation" means the chemical reaction between molecular hydrogen (H<sub>2</sub>) and another compound or element.

(16) "Imminent health hazard" is defined by KRS 217.015(24).

(17) "Infused" means adding a cannabinoid ingredient to an ingestible cannabinoid product.

(18) "Non-intoxicating cannabinoid" means a product with non-psychoactive properties that does not change the function of the nervous system and does not result in alteration of perception, cognition, or behavior.

(19) "Person" is defined by KRS 217.015(32).

(20) "Proof of age" is defined by KRS 438.305(4).

(21) "Revocation" means the permit to operate is cancelled by the department.

(22) "Serious adverse event" means a medical occurrence associated with the use of a cannabinoid product that results in one (1) or more of the following:

(a) Death;

(b) A life-threatening event;

(c) Inpatient hospitalization, or prolongation of an existing hospitalization;

## VOLUME 51, NUMBER 4– October 1, 2024

(d) A persistent or significant incapacity, or substantial disruption in the ability to conduct normal life functions; or

(e) A congenital anomaly or birth defect.

(23) "Tentatively identified compounds" or "TIC" means compounds detected in a sample that are not among the target analytes.

**(24) "Total THC" is defined by 7 C.F.R. 990.1.**

STEVEN J. STACK, MD, MBA, Commissioner

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: September 9, 2024

FILED WITH LRC: September 10, 2024 at 2:00 p.m.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles or Julie Brooks

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the terms used for hemp-derived cannabinoid product sampling and testing requirements, cannabinoid processing and manufacturing, and retail sales including sells at food service establishments. The amended after comments version of this administrative regulation adds a definition for total THC for clarification.

(b) The necessity of this administrative regulation: Many hemp-derived cannabinoid products sold in Kentucky continue to be unregulated. This administrative regulation is necessary to ensure a consistent understanding of the terms related to cannabinoid processing, manufacturing, sampling and testing, and retail sales.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 217.125(1) authorizes the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations for the efficient administration and enforcement of the Kentucky Food, Drug and Cosmetic Act, KRS 217.005 through 217.215.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures a consistent understanding of the terms used in the processing, manufacturing, sampling, testing, and retail sales of hemp-derived cannabinoid products.

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

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are currently thirty-eight (38) manufacturers of cannabinoid products registered with the department. The department is unclear of the number of retail establishments that sell cannabinoid products. The department does not permit the testing facilities and has no method to determine the number of facilities in the commonwealth.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Cannabinoid processor and manufacturers, testing laboratories, and retail establishments will need to be aware of the defined terms.

(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 new administrative regulation will not add to the cost for the regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): All entities will have a consistent understanding of the terms related to cannabinoid products.

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

(a) Initially: The current budget for the food manufacturing permitting and inspection program is \$1,080,900. The increase in required permitting and inspection processes to implement this administrative regulation will cost the department an additional \$1,551,397 in the first year.

(b) On a continuing basis: The department will continue to need an additional \$1,551,397, at a minimum, in subsequent years.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funding to implement and enforce this administrative regulation will be from a mix of fees paid to the department and state general fund dollars.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees or funding is not needed 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 contain fees.

(9) TIERING: Is tiering applied? Tiering is not applied. The terms defined in this administrative regulation are applicable to all regulated entities.

### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 217.125 and 217.155.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Department for Public Health, Division of Public Health Protection and Safety is the promulgating agency.

(a) Estimate the following for the first year:

Expenditures: Expenditures to the department to implement this administrative regulation will be approximately \$1,551,397 per year.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: This administrative regulation will not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures for the Department for Public Health may be impacted by changes in salary, fringe benefits and travel cost for state and local health department employees. These changes cannot be determined at this time.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): There are no affected local entities.

(a) Estimate the following for the first year:

Expenditures:

Revenues:

Cost Savings:

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(4) Identify additional regulated entities not listed in questions (2) or (3): Additional regulated entities are processors and manufacturers of hemp-derived cannabinoid products, testing facilities, and retail establishments including food service establishments.

(a) Estimate the following for the first year:

Expenditures: This administrative regulation does not impact the expenditures of the regulated entities.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: This administrative regulation does not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no difference in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This administrative regulation does not have a significant fiscal impact.

(b) Methodology and resources used to determine the fiscal impact: This administrative regulation is a definitions only regulation.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This administrative regulation will not have an overall negative or adverse major economic impact.

(b) The methodology and resources used to reach this conclusion: Not applicable.

**CABINET FOR HEALTH AND FAMILY SERVICES  
Department for Public Health  
Division of Public Health Protection and Safety  
(Amended After Comments)**

**902 KAR 45:012. Hemp-derived cannabinoid product retail and food service establishment requirements.**

RELATES TO: KRS Chapter 13B, 217.015, 217.025, 217.035, 217.037, 217.039, 217.992, 2023 Ky Acts ch. 78

STATUTORY AUTHORITY: KRS 217.125, 217.127, 217.135, 217.155

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217.125(1) authorizes the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations for the efficient administration and enforcement of the Kentucky Food, Drug and Cosmetic Act, KRS 217.005 through 217.215. KRS 217.125(2) requires the secretary to provide by administrative regulation a schedule of fees for permits to operate and for inspection activities carried out by the cabinet pursuant to KRS 217.025 through 217.390. KRS 217.135 authorizes the secretary to establish food standards by administrative regulation including a reasonable definition, standard of identity, and designation of optional ingredients that shall be named on the label. KRS 217.155 allows the cabinet or its duly authorized agent free access at reasonable times for the purpose of inspection any factory, warehouse, or establishment where foods, drugs, devices, or cosmetics are manufactured or held for sale. This administrative regulation establishes the requirements for retail sale of hemp-derived cannabinoid products, including the permit fee, and methods for use of hemp-derived cannabinoid as an additive to food products. Retail establishments registered with the department prior to December 31, 2024~~[the effective date of this administrative regulation]~~ shall be exempted from the permit fee requirement until the annual renewal date. In accordance with 2023 Ky. Act ch 78, in order to limit the ability of minor children accessing adult-use hemp-derived cannabinoid use products, this administrative regulation prohibits the sale of adult-use products within 1,000 feet of an elementary, middle, or high school. Retail establishments registered with the department prior to December 31, 2024 online at <https://redcap.chfs.ky.gov/surveys/?s=C8AHC9AYMP74REEM>~~[the effective date of this administrative regulation]~~ shall be exempted from this location requirement.

**Section 1. Retail Establishment and Food Service Establishment Registration.**

(1)

(a) Only approved cannabinoid products or class of products in accordance with 902 KAR 45:021 may be sold in retail and food service establishments. All other cannabinoid products or class of products shall be prohibited.

(b) ~~All~~**[Adult-use]** cannabinoid products or class of products shall be registered in accordance with 902 KAR 45:021, Section 1(4).

(c) A retailer ~~or distributor~~ shall ensure that all cannabinoid products sold are properly registered with the department.

(d) A retailer may register a product in lieu of the processor or manufacturer.

(2) Retail establishments and food service establishments offering adult-use cannabinoid products shall be permitted by the cabinet in accordance with this administrative regulation.

(3) The permit shall be:

(a) ~~Completed~~ **[Completed]** ~~online~~ **[online]** at <https://redcap.chfs.ky.gov/surveys/?s=C8AHC9AYMP74REEM>;

~~[(b)]~~ Nontransferable in regard to person or address;

~~[(b)]~~~~[(c)]~~ Renewed annually; and

~~[(c)]~~~~[(d)]~~ Include a \$2,000 annual permit fee.

(4) All retail establishments registered with the department prior to December 31, 2024~~[April 27, 2024]~~, shall have the fee required by subsection (3)(d) of this section waived until the date of the next annual renewal.

(5) A retailer shall ensure all locations are permitted by the cabinet.

(6) Retail establishments and food service establishments, ~~not permitted by the cabinet~~, offering adult-use cannabinoid products at a temporary event or festival shall:

(a) Register with the cabinet at <https://redcap.chfs.ky.gov/surveys/?s=C8AHC9AYMP74REEM>; and

(b) Include a \$250 temporary event registration fee.

(7) Retail establishments offering adult-use cannabinoid products shall not be located within 1,000 feet of an elementary, middle, or high school. Retail establishments registered with the department prior to December 31, 2024~~[April 27, 2024]~~, shall be exempted from the location requirements.

(8) ~~An in-state~~**[A]** business that distributes, sells, or serves adult-use hemp-derived cannabinoid products shall not employ any person who is under twenty-one (21) years of age, unless the person employed is at least eighteen (18) years of age and under the direct supervision of a person twenty-one (21) years of age or older.

**Section 2. Retail Sale of Cannabinoid Products.**

(1) All cannabinoid products sold in a retail establishment shall:

(a) Be from an approved source;

(b) Be packaged and labeled in accordance with 902 KAR 45:021, Section 3; and

(c) Have a valid certificate of analysis available upon request.

(2) Cannabinoid retailers shall maintain records of wholesale cannabinoid product purchase, including the name and address of the cannabinoid processor or manufacturer, and the wholesaler or distributor.

(3) The following hemp-derived products shall not be marketed, sold, or distributed ~~direct to the consumer in a retail setting~~**[to any person in the commonwealth]**:

(a) Whole hemp buds;

(b) Ground hemp floral material;

(c) Ground hemp leaf material; and

(d) Any hemp product with a ~~total~~ **[delta-9]**-THC concentration in excess of zero and three-tenths (0.3) percent.

(4) All adult-use cannabinoid products shall:

(a) Be secured in the retail setting to prevent theft or other access to persons under the age of twenty-one (21); and

(b) Not be sold, gifted, or otherwise transferred to any person under the age of twenty-one (21).

(5)

(a) Any person who sells adult-use cannabinoid products at retail shall require proof of age of the buyer to verify the buyer is age twenty-one (21) years or older; and

(b) May deliver or ship adult-use cannabinoid products to consumers over twenty-one (21) years of age in packages clearly marked "Adult-use only".

(6) All persons located in another state or country who deliver, ship, or cause to be delivered or shipped cannabinoid products directly to any Kentucky consumer shall ~~be registered in accordance with 902 KAR 45:021~~**[hold a valid hemp cannabinoid wholesaler or distributor permit issued by the Commonwealth]**.

**Section 3. Ingestible Cannabinoid Products at Food Service Establishments.**

(1) Only registered, pre-packaged adult-use ingestible cannabinoid products may be offered as ready-to-consume or for direct consumption at food service establishments.



VOLUME 51, NUMBER 4– October 1, 2024

(2) Adult-use cannabinoids shall not be added to an ingestible food product at a food service establishment.

(3) Non-intoxicating cannabinoids may be added to an ingestible product prior to retail sale at a food service establishment.

(4) The non-intoxicating cannabinoid shall be obtained from an approved source.

(5) The food service establishment shall obtain a valid certificate of analysis from the approved source and provide a copy upon inspection.

(6) A food service establishment offering non-intoxicating cannabinoid products in a finished food product shall provide to consumers upon request:

(a) The common name of the product; and

(b) The manufacturer or distributor of the product.

(7) A food service establishment shall notify the cabinet within twenty-four (24) hours of becoming aware or within twenty-four (24) hours) of when the food service establishment should have been aware of any serious adverse event to a hemp-derived cannabinoid product sold by the establishment.

Section 4. Inspection and Enforcement.

(1)

(a) Retail establishments offering adult-use cannabinoid products shall be inspected by the cabinet or its duly authorized agent; and

(b) Retail establishments offering only non-intoxicating cannabinoid products may be inspected by the cabinet or its duly authorized agent upon complaint, receipt of a report of a serious adverse event, or at the discretion of the cabinet.

(2) The location of the permitted establishment, all general business records, including employee records, and vehicles utilized to transport products are subject to reasonable inspection.

(3) All cannabinoid establishments, whether permitted or not, shall cooperate with the cabinet or its duly authorized agent during any inspections, complaint investigation, requests for information or data, in order to verify compliance with this administrative regulation.

(4)

**(a) Products not in compliance with this administrative regulation shall be seized [and destroyed] by the cabinet or its duly authorized agent.**

**(b) The permit holder shall be given notice that they have ten (10) days to file an appeal pursuant to subsection (12) of this section.**

**(c) If no request for an appeal is filed, seized products shall be destroyed.**

(5) The permit holder shall take immediate steps to correct conditions that have caused an imminent health hazard.

(6)

(a) The permit holder shall notify the cabinet within twenty-four (24) hours of the knowledge of an imminent health hazard that cannot be controlled by immediate corrective action or if product, product packaging, cosmetic, or cosmetic packaging has become contaminated because of an imminent health hazard.

(b) Notification to the cabinet shall be made by:

1. Email to food.safety@ky.gov; or

2. Phone to (502) 564-7181.

(7) If the cabinet has evidence that a permit holder has failed to act to correct an imminent health hazard:

(a) The permit shall be suspended immediately; and

(b) The permit holder may request an administrative hearing in accordance with KRS Chapter 13B.

(8) A permit holder shall notify the cabinet within **twenty-four (24) hours [one (1) business day]** of becoming aware of any serious adverse event to a cannabinoid product sold or transferred by the permit holder.

(9) In all other instances of violation of this administrative regulation, the cabinet shall serve the permit holder with a written notice specifying the violation and afford the holder an opportunity to correct.

(10) If a permit holder has failed to comply with the written notice within the timeframe granted, the cabinet shall issue a notice of intent to suspend the permit.

(11)

(a) The notice in subsection **(9)[(11)]** of this section shall include notification that the permit shall be suspended at the end of ten (10) days following service of the notice, unless a written request for an administrative hearing is filed with the cabinet by the permit holder within the ten (10) day period; and

(b) The administrative hearing shall be conducted in accordance with KRS 13B.080.

(12) For a permitted establishment that has had a suspended permit two (2) or more times within a five (5) year period, the cabinet shall initiate permit revocation proceedings. Prior to this action, the cabinet shall notify the permit holder in writing, stating the reasons for which the permit revocation is being sought and advising that the permit shall be permanently revoked at the end of ten (10) days following service of the notice, unless a request for an administrative hearing is filed with the cabinet pursuant to KRS Chapter 13B by the permit holder within the ten (10) day period.

(13) Any person who knowingly violates any provision of this administrative regulation may be fined, found guilty **of[or]** a criminal offense, or both pursuant to KRS 217.992.

(14) State and local law enforcement officers shall have concurrent jurisdiction to enforce violations of this section.

STEVEN J. STACK, MD, MBA, Commissioner

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: September 9, 2024

FILED WITH LRC: September 10, 2024 at 2:00 p.m.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles or Julie Brooks

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for retail sale of hemp-derived cannabinoid products, and methods for use of hemp-derived cannabinoid as an additive to food products. The amended after comments version clarifies that all retailers registered with the department prior to December 31, 2024, will be exempted from the permit fee for one year and exempted from the location requirements, adds that retailers permitted by the department will be exempted from the special event permit fee, revises the enforcement procedures to allow due process proceedings, if requested, to be requested before seized products are destroyed, and makes other changes for compliance with KRS chapter 13A.

(b) The necessity of this administrative regulation: This new administrative regulation is necessary because many hemp-derived cannabinoid products sold in Kentucky remain unregulated by both the state and the federal Food and Drug Administration. Some products containing hemp-derived cannabinoids have concentrations that produce a psychoactive effect and are unsafe if consumed in large quantities. This administrative regulation is necessary to ensure that all hemp-derived cannabinoid products produced and sold in the state are safe for human consumption, and are not targeted for sale to persons under the age of twenty-one (21).

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 217.125(1) authorizes the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations for the efficient administration and enforcement of the Kentucky Food, Drug and Cosmetic Act, KRS 217.005 through 217.215. KRS 217.125(2) requires the secretary to provide by administrative regulation a schedule of fees for permits to operate and for inspection activities carried out by the cabinet pursuant to KRS 217.025 through 217.390. KRS 217.135 authorizes the secretary to establish food standards by administrative regulation including a reasonable definition, standard of identity, and designation of optional ingredients that shall be named on the label. KRS 217.155 allows the cabinet or its duly authorized agent free access at reasonable times for the purpose of inspection any factory, warehouse, or establishment where foods, drugs, devices, or cosmetics are manufactured or held for sale.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This new administrative regulation will ensure proper oversight of the sale of hemp-derived cannabinoids and will help to ensure these products are safe for human consumption.

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

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The department is unsure of the total number of retail establishments offering hemp-derived cannabinoids for sale at this time.

(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: Retail establishments and food service establishments will need to be aware of the registration requirements, will need to ensure the products are properly labeled and registered with the department, will need to obtain the required paperwork, and will need to take the necessary precautions to limit the sale of adult use products to individuals under the age of twenty-one (21).

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Retail establishments that offer adult-use cannabinoid products will pay a \$2,000 permit fee. The retail establishment has the option of registering the product for the processor or manufacturer and may have a cost associated with that process.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Retail establishments and food service establishments will be able to ensure the products offered to consumers are safe for human consumption.

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

(a) Initially: The current budget for the food manufacturing permitting and inspection program is \$1,080,900. The increase in required permitting and inspection processes to implement this administrative regulation will cost the department an additional \$1,551,397 in the first year.

(b) On a continuing basis: The department will continue to need an additional \$1,551,397, at a minimum, in subsequent years. An increase in permitted facilities requiring inspection will result in increased costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general fund dollars and revenue received from permitting and product registration are the sources of funding for this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees and funding is necessary to implement the registration, permitting and inspection requirements of this new administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This new administrative regulation does establish a new fee for retail establishments that offer adult-use cannabinoid products for sale. This increase is necessary to help offset the costs associated with the registration, permitting, and inspection processes.

(9) TIERING: Is tiering applied? Tiering is applied. Only retail establishments that offer adult-use cannabinoid products are required to register with the department. However, all products sold are to be in compliance with this administrative regulation.

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 217.125, 217.127, 217.135, and 217.155.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Department for Public Health, Division of Public Health Protection and Safety is the promulgating agency. The department has coordinated with the Department of Alcoholic Beverage Control in the Public Protection Cabinet for retail inspection activities.

(a) Estimate the following for the first year:

Expenditures: Expenditures for the department to implement this administrative regulation will be approximately \$1,551,397 per year.

Revenues: The amount of revenue cannot be determined. While retail establishments are required to register with the department, they are not assessed a fee at this time and less than 100 stores are registered.

Cost Savings: This administrative regulation does not generate cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures in subsequent years will be dependent on changes in the salary, fringe, and benefit cost. Changes in revenue cost in subsequent years will be dependent on the number of permits issued and the number of products registered.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Local law enforcement entities may be affected by this administrative regulation.

(a) Estimate the following for the first year:

Expenditures: The department is not able to calculate the expenditures for affected local entities at this time.

Revenues: This administrative regulation will not generate revenue for affected local entities.

Cost Savings: This administrative regulation does not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The department is not able to determine changes in expenditures, revenues or cost savings for affected local entities.

(4) Identify additional regulated entities not listed in questions (2) or (3): Additional regulated entities include retail establishments and food service establishments that offer cannabinoid products for sale.

(a) Estimate the following for the first year:

Expenditures: The expenditure for retail establishments that sell adult-use cannabinoid products will be \$2,000 per year to obtain a permit from the department. Food service establishments will pay the permit fee according to 902 KAR 45:110.

Revenues: The total revenue for retail establishments and food service establishments cannot be determined.

Cost Savings: This administrative regulation does not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The expenditures will not change in subsequent years without an amendment to this administrative regulation.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This administrative regulation may generate 1.4 million in revenue. Additional revenue will be generated by the product registration fee, but that total cannot be determined at this time. The cost to the department to administer this administrative regulation is \$1,551,397.

(b) Methodology and resources used to determine the fiscal impact: The total range for the potential revenue was calculated by multiplying the approximate number of retail locations that sell adult-use products by the suggested permit fee of \$2,000. If the approximate number of retail locations that sell adult use products is 700 the multiplying that by the \$2,000 permit fee equals \$1,400,000. The total expenditure was calculated based on the need for thirteen (13) additional environmental management staff to oversee the permitting and inspection activities. The thirteen (13) additional staff include a branch manager, administrative support staff, two (2) supervisors, two (2) processing/manufacturing inspectors, five (5) retail inspectors, and two (2) enforcement staff. (b) Methodology and resources used to determine the fiscal impact: The total range for the potential revenue was calculated by multiplying the current number of permitted facilities

times the lowest and highest permit fee amounts, which is 38x1,000 and 38x3,000 respectively. The total expenditure was calculated based on the need for thirteen (13) additional environmental management staff to oversee the permitting and inspection activities. The thirteen (13) additional staff include a branch manager, administrative support staff, two (2) supervisors, two (2) processing/manufacturing inspectors, five (5) retail inspectors, and two (2) enforcement staff. The breakdown of expenditures is as follows: -- Administrative Clerk: Program Coordinator (Grade 14); Annual Salary + 5% Probationary increase: \$59,213.70; Fringe Benefits - FICA - Retirement - Hlth/Life Ins: \$53,711.55; Total Annual Salary and Fringe Benefits: \$112,925.25 x 1 Employee = Total Amount: \$112,926.25 --- Retail Inspectors: Program Evaluator (Grade 14); Annual Salary + 5% Probationary increase: \$59,213.70; Fringe Benefits - FICA - Retirement - Hlth/Life Ins: \$53,711.55; Total Annual Salary and Fringe Benefits: \$112,925.25 x 5 Employees = Total Amount: \$564,626.27 ---- Processor/manufacturing Inspectors, Enforcement staff, and Supervisors: Program Administrator (Grade 15); Annual Salary + 5% Probationary increase: \$65,135.20; Fringe Benefits - FICA - Retirement - Hlth/Life Ins: \$58,082.80; Total Annual Salary and Fringe Benefits: \$123,218.00 x 6 Employees = Total Amount: \$739,307.99 ---- Manager: Branch Manager (Grade 16); Annual Salary + 5% Probationary increase: \$71,646.12; Fringe Benefits - FICA - Retirement - Hlth/Life Ins: \$62,889.17; Total Annual Salary and Fringe Benefits: \$134,535.29 x 1 Employee = Total Amount: \$134,535.29 ---- TOTAL AMOUNT = \$1,551,396.79

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) The expenditures for the department will exceed \$1,000,000, resulting in an overall negative or adverse major economic impact. The overall economic impact for the regulated entities cannot be determined. While these entities will have expenditures associated with the permit and product registration, these will be offset by the revenue received in product sells.

(b) The methodology and resources used to reach this conclusion: Legislation has delegated new authority to the Kentucky Department for Public Health (KDPH) to regulate recreational adult-use products, such as delta-8 THC, for the safety of Kentuckians. These products, which may only be sold to adults aged 21 years or older, are increasingly complex, diverse, and evolving. An estimated 1,000-1,500 retailers and 40 manufacturers of recreational adult-use drugs are believed to be operating in Kentucky. Manufacturers of hemp THC products use complex chemistry conversion methods to process distillates, which increases the technical training required for inspection. Due to the intricacies involved, the successful oversight and regulation of these products in Kentucky will require additional staffing and the use of a hybrid approach that blends the traditional roles of the Department of Alcoholic Beverage Control, such as the enforcement of laws and age verification, with the expertise of the Food and Drug Administration (FDA). In order to adequately oversee the manufacture and retail sale of these products, the department would propose establishing a new branch with specialized staff. An estimated additional thirteen (13) staff will be needed to carry out the following activities: Regulatory Oversight: Establish and enforce standards for product manufacturing, packaging, and labeling for human consumption; Establish and enforce distribution controls to consumers to prohibit and prevent sales of adult-use products to individuals under 21 years of age; Prohibit the manufacture and sale of unallowable products; Protect consumers from harmful exposure to chemicals, contaminants, and adulterants that would have an adverse impact on human health; Evaluate the use of chemicals when added to products, such as food ingredients and substances that come into contact with food through food processing, manufacturing, packaging, storage, or other handling to ensure these uses are safe; Monitor products for contaminants and take action when the level of a contaminant causes a product to be unsafe. Licensing and Inspections: Administer licensure and registration for processors, manufacturers, distributors, and retailers and conduct regular inspections to ensure compliance with regulatory requirements. Surveillance and Monitoring: Collect and analyze data on adverse events and product quality to guide decision-making and interventions.

Collaboration and Partnerships: Collaborate with federal/state agencies, professional organizations, academic institutions, and industry stakeholders to exchange information, share best practices, and coordinate efforts to address common challenges.

**CABINET FOR HEALTH AND FAMILY SERVICES  
Department for Public Health  
Division of Public Health Protection and Safety  
(Amended After Comments)**

**902 KAR 45:021. Hemp-derived cannabinoid products registration, processing, manufacturing, storage and distribution requirements.**

RELATES TO: KRS Chapter 13B, 217.015, 217.025, 217.035, 217.037, 217.039, 217.992, 2023 Ky Acts ch. 78

STATUTORY AUTHORITY: KRS 217.125, 217.127, 217.135, 217.155

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217.125(1) authorizes the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations for the efficient administration and enforcement of the Kentucky Food, Drug and Cosmetic Act, KRS 217.005 through 217.215. KRS 217.125(12) requires the secretary to provide by administrative regulation a schedule of fees for permits to operate and for inspection activities carried out by the cabinet pursuant to KRS 217.025 through 217.390. KRS 217.135 authorizes the secretary to establish food standards by administrative regulation including a reasonable definition, standard of identity, and designation of optional ingredients that shall be named on the label. KRS 217.155 allows the cabinet or its duly authorized agent free access at reasonable times for the purpose of inspecting any factory, warehouse, or establishment where foods, drugs, devices, or cosmetics are manufactured or held for sale. This administrative regulation establishes the product registration, the processing and manufacturing procedures for hemp-derived cannabinoid products, including the permit fee, and the labeling and packaging requirements for products containing hemp-derived cannabinoids. Establishments permitted with the department prior to **December 31, 2024** ~~(the effective date of this administrative regulation)~~ shall be exempted from the permit fee requirement until the annual renewal date.

Section 1. Permit and Product Registration.

(1) In-state permit.

(a) A person located in Kentucky seeking to process, manufacture, store, or distribute hemp-derived cannabinoid products shall be permitted by the cabinet.

(b) The permit shall be:

1. Nontransferable in regard to person or address;
2. Posted in a conspicuous place in the facility;
3. Renewed annually; and
4. Include the fee paid in accordance with:
  - a. For a hemp processing permit, the fee is \$3,000.
  - b. For a hemp manufacturing permit, the fee is \$1,000.
  - c. For a hemp cannabinoid wholesale warehouse and distributor permit, the fee is \$1,000.
  - d. For a hemp cosmetic permit, the fee is \$200.
5. Include the product registration fee required by subsection (4) of this section.

(2) The permit fee established pursuant to subsection (1)(b)4. of this section shall be waived for all facilities permitted as of **December 31, 2024** ~~April 27, 2024~~, and such facilities shall pay the permit fee at next annual renewal date.

(3)

(a) All out-of-state processors and manufacturers of hemp-derived cannabinoid products available for distribution in Kentucky shall **complete the business registration as required by** ~~submit an annual registration to~~ the department.

(b) The registration for an out-of-state processor or manufacturer shall:

1. Be renewed annually by December 31 each year; and
2. Include:

VOLUME 51, NUMBER 4– October 1, 2024

a. A copy of the current, valid permit to process or manufacture hemp-derived cannabinoids issued from the state regulatory authority;

b. A copy of the state regulation pertaining to the production of hemp-derived cannabinoid products; ~~and~~

c. **The fee required by subparagraph (1)(b)4.c. of this section; and**

d. The product registration fee required by subsection (5) of this section.

(4) Cannabinoids requiring registration:

(a) Adult-use cannabinoids shall include:

Cannabinoid	CAS Number
Delta-10-tetrahydrocannabinol (Delta-10-THC)	95543-62-7
Delta-9-tetrahydrocannabinol (THC) with three tenths of one percent (0.3%) or less Total THC	1972-08-3
Delta-8-tetrahydrocannabinol (Delta-8-THC)	5957-75-5
Delta-9-tetrahydrocannabinolic acid A (THCA-A) with three tenths of one percent (0.3%) or less Total THC	23978-85-0
Delta-9-tetrahydrocannabivarin (THCV)	31262-37-0
Delta-9-tetrahydrocannabivarinic acid (THCVA)	39986-26-0
Delta-6-tetrahydrocannabinol (Delta 6)	95720-02-8
Hexahydrocannabinol (HHC)(-)	6692-85-9
Tetrahydrocannabiphorol (THCp)	54763-99-4
Tetrahydrocannabinol methyl ether (THCM)	36403-68-6

(b) Non-intoxicating cannabinoids shall include:

Cannabinoid	CAS Number
Cannabidiol (CBD)	13956-29-1
Cannabidiolic acid (CBDA)	1244-58-2
Cannabidivarin (CBDV)	24274-48-4
Cannabidivarinic acid (CBDVA)	31992-13-5
Cannabichromene (CBC)	20675-51-8
Cannabichromenic acid (CBCA)	185505-15-1
Cannabigerolic acid (CBGA)	25555-57-1
Cannabigerol (CBG)	25654-31-3
Cannabinol (CBN)	521-35-7
Cannabitriol (CBT)	11003-36-4

(c) All other cannabinoids are prohibited for sale in Kentucky unless pre-approved by the cabinet.

(5) Product registration fee.

(a) A product registration fee of \$200 shall be paid for each cannabinoid product or cannabinoid product class sold in Kentucky.

(b) The fee shall be paid to the cabinet by check or money order made payable to the Kentucky State Treasurer.

(6) A new product registration shall be required for changes:

(a) In the chemical composition or formula of the cannabinoid product;

(b) To the serving size or directions for use.

(7) All in-state processors and manufacturers permitted by the cabinet, and all out-of-state processors and manufacturers registering with the cabinet shall submit:

(a) The name and address of the applicant;

(b) The name and address of the brand or company whose name shall appear on the label, if other than the applicant's;

(c) The name of the product;

(d) The name and address of the origin of the adult-use cannabinoid product with which the final product was manufactured;

(e) A complete copy of the front and back of the label that will appear on the product; and

(f) A certificate of analysis from an accredited third-party laboratory for the lot for each product.

(8) A new ~~product~~~~in-state processor or manufacturer permit, or out-of-state~~ registration shall be required for any changes to the requirements of subsection (7) of this section.

Section 2. Processing, Manufacture, Storage, or Distribution of Hemp-derived Cannabinoid Products.

(1) All processors and manufacturers shall meet:

(a) The applicable requirements of 902 KAR 45:160 Section 2(1)(u); and

(b) The requirements of 902 KAR 45:160, Sections 4, 5, 6, 7, 8, 9, 10, 11, and 14.

(2) Cannabinoid products shall not be manufactured, marketed, sold, or distributed by a home-based processor.

(3) The following hemp-derived products shall not be manufactured **with the intent for retail sale:**

(a) Hemp cigarettes;

(b) Hemp cigars;

(c) Chew, dip, or other smokeless material consisting of hemp leaf material or hemp floral material; ~~and~~

(d) Hemp leaf material or floral material teas; **and**

**(e) Hemp bud or floral material.**

(4) A business that processes, manufactures, warehouses, distributes, sells, or serves adult-use hemp-derived cannabinoid products shall not employ any person who is under twenty-one (21) years of age, unless the person employed is at least eighteen (18) years of age and under the direct supervision of a person twenty-one (21) years of age or older.

(5) Non-intoxicating cannabinoid products shall:

(a) Have at least a fifteen (15) non-intoxicating cannabinoid to one (1) adult-use cannabinoid ratio; and

(b) Contain two and five-tenths (2.5) milligrams or less of adult-use cannabinoid per serving.

**(6) Products not meeting the requirements of subsection (5) of this section shall be considered adult-use products.**

**(7)** The serving size of an ingestible cannabinoid product shall be:

(a) As a whole unit where one (1) unit equals one (1) serving;

(b) Equal the maximum amount recommended, as appropriate, on the label for consumption per occasion in whole units; and

(c) Based on the amount typically consumed.

~~(8)(7)~~ A hemp-derived cannabinoid processing or manufacturing facility shall not treat or otherwise adulterate a cannabinoid product with:

(a) Any non-cannabinoid additive that increases toxicity or addictive potential, excluding caffeine;

(b) Alcohol;

(c) Nicotine; or

(d) Other chemicals that may increase carcinogenicity or cardiac effects.

~~(9)(8)~~ All products shall be homogenized to ensure uniform distribution of cannabinoids throughout the product.

~~(10)(9)~~ Only permitted hemp-derived cannabinoid processing facilities shall perform cannabinoid extraction, conversion, catalyzation, distillation, hydrogenation, or other refinement processes.

~~(11)(10)~~ A hemp-derived cannabinoid processor or manufacturer shall only use the following solvents: water, glycerin, vegetable oils, animal fats, butane, propane, carbon dioxide, ethanol, isopropanol, acetone, heptane, ethyl acetate, and pentane. The use of any other solvent is expressly prohibited unless pre-approved by the cabinet.

~~(12)(11)~~ A hemp-derived cannabinoid processor using hydrocarbon-based solvents shall use only such solvents of ninety-nine (99) percent or better purity. Nonhydrocarbon-based solvents shall be food grade.

~~(13)(12)~~

(a) A current copy of safety data sheets and a receipt of purchase for all solvents used or to be used in an extraction process shall be kept on file;

VOLUME 51, NUMBER 4– October 1, 2024

(b) The processor shall retain in its facility a certificate of analysis (COA) from the original manufacturer with purity and impurity limits and results for all solvents used; and

(c) Certificates shall be retained for two (2) years.

~~(14)~~~~(13)~~

(a) Solvents shall be collected and stored in food-grade containers to maintain purity; and

(b) Solvent containers shall be replaced or safely purged, cleaned, and sanitized periodically.

~~(15)~~~~(14)~~ Extraction processes shall take place in an environment properly ventilated to control all sources of ignition where a flammable atmosphere is, or could be, present.

~~(16)~~~~(15)~~ Cannabinoid processing facilities shall not use pressurized canned flammable fuel, such as butane intended for use in outdoor activities, handheld torch devices, and refillable cigarette lighters.

~~(17)~~~~(16)~~ Cannabinoid processing facilities using carbon dioxide shall have equipment and facilities approved by local fire code officials, if applicable.

~~(18)~~~~(17)~~ Processes using flammable gas or flammable liquid shall have leak or gas detection measures, or both.

~~(19)~~~~(18)~~ A permittee shall not use dimethylsulfoxide (DMSO) in the manufacture of hemp-derived cannabinoid products, and possession upon the permitted premises is prohibited.

~~(20)~~~~(19)~~

(a) A hemp-derived cannabinoid manufacturer may use terpenes or other hemp essential oil but shall not use non-cannabinoid derived inactive ingredients not listed in the federal Food and Drug Administration inactive ingredient database at <https://www.accessdata.fda.gov/scripts/cder/iig/index.cfm> in the manufacture of inhalable hemp-derived cannabinoid product and distillate intended for use through a vaporizer delivery device or pressurized metered dose inhaler; and

(b) Any non-cannabinoid derived inactive ingredients used shall be less than or equal to the concentration listed in the database.

~~(21)~~~~(20)~~ The following substances shall be prohibited in hemp-derived cannabinoid extraction intended for inhalation:

(a) Acetates;

(b) Medium-chain triglycerides (MCT);

(c) Polyethylene glycol (PEG);

(d) Propylene glycol (PG or PPG);

(e) Diketones:

1. 2,3-butanedione (Diacetyl);

2. 2,3-pentanedione (acetylpropionyl); and

3. 3-hydroxybutanone (acetoin);

(f) Myclobutanil;

(g) Artificial food coloring; and

(h) Benzoic acid.

~~(22)~~~~(21)~~ Hazard analysis and risk-based preventive controls.

(a) Processing facilities shall conduct a hazard analysis in accordance with 902 KAR 45:160 Section 2(1)(u) to identify and evaluate, based on experience, illness data, scientific report, and other information known, or reasonably foreseeable hazards associated with each type of cannabinoid product produced by extraction, conversion, catalyzation, or distillation, hydrogenation, or other refinement processes, and shall include:

1. Processing reagents or catalysis;

2. Processing by-products or compounds; and

3. Tentatively identified compounds.

(b) The hazard analysis shall include an evaluation of the hazards identified to assess the severity of illness or injury from the hazard and the probability that the hazard will occur in the absence of preventive controls.

(c) A processing facility shall identify and implement preventive controls to provide assurances that any hazards requiring a preventive control shall be significantly minimized or prevented, and the hemp-derived cannabinoid product not adulterated.

(d) The cabinet may initiate an investigation of a processing facility as a result of a by-product or compound with no toxicity study or a TICs report from a testing facility and may require a processing or manufacturing facility to submit samples for additional testing, including testing for analytes that are not required by this

administrative regulation, at the processing or manufacturing facility's expense.

Section 3. Record Keeping.

(1) A master formulation record shall be prepared and maintained for each unique hemp-derived cannabinoid product.

(2) The master formulation record shall include at least the following information:

(a) Name of the cannabinoid product;

(b) Ingredient identities and amounts;

(c) Specifications on the delivery device (if applicable);

(d) Complete instructions for preparing the cannabinoid product, including equipment, supplies, and description of the manufacturing steps;

(e) Process controls and procedures; and

(f) Any other information needed to describe the production and ensure its repeatability.

(3) A batch or process lot manufacturing record shall be created for each production batch of cannabinoid product.

(4) The batch manufacturing record shall include at the least the following information:

(a) Name of the cannabinoid product;

(b) Master formulation record reference for the cannabinoid product;

(c) Date and time of preparation of the cannabinoid product;

(d) Production batch number;

(e) Signature or initials of individuals involved in each manufacturing step;

(f) Name, vendor, or manufacturer, production batch number, and expiration date of each ingredient;

(g) Weight or measurement of each ingredient;

(h) Documentation of process controls;

(i) Any deviations from the master formulation record, and any problems or errors experienced during the manufacture, and corrective actions; and

(j) Total quantity of the cannabinoid product manufactured.

Section 4. Product Packaging and Labeling.

(1) Each cannabinoid product manufactured, marketed, sold, or distributed in the commonwealth shall be packaged and labeled in accordance with KRS 217.037, HB 544, 2023 Ky. Acts ch. 78, and this administrative regulation.

(2) Each container of adult-use cannabinoid product, **excluding cosmetics**, shall:

(a) Have a tamper-evident seal; and

(b) Be in child-resistant packaging.

(3) Each container of non-intoxicating cannabinoid product or cosmetic shall have a tamper-evident seal.

(4) Cannabinoid product packaging shall not include:

(a) Any cartoon images;

(b) Likeness to images, characters, or phrases that are popularly used to advertise to children;

(c) Likeness to or imitation of any commercially available candy, snack, baked good, or beverage packaging or labeling;

(d) The terms "candy" or "candies", or any variation in the spelling of these words; or

(e) The logo of the department or cabinet, or any seal, flag, crest, coat of arms, or other insignia that could reasonably mislead any person to believe the product has been endorsed, manufactured, or used by any state, county, or municipality or any agency thereof, excluding the use of seals associated with state or federal programs used in accordance with state or federal law and regulations.

(5) The total amount of hemp-derived cannabinoid per serving and the total amount per container shall accurately reflect testing results and shall not contain less than eighty (80) percent or more than 120% of the concentration of total cannabinoid content as listed on the product label:

(a) For hemp-derived cannabinoid ingestible and inhalable products, potency shall be labeled as milligrams per serving for total tetrahydrocannabinol and the primary cannabinoid marketed, as applicable; and milligrams per package for total tetrahydrocannabinol and the primary cannabinoids marketed; and

## VOLUME 51, NUMBER 4– October 1, 2024

(b) Other hemp-derived cannabinoids labeled milligrams per gram (mg/g) per serving, excluding cosmetics, and milligrams per package, if listed on the label.

(6) Adult-use hemp-derived cannabinoid products shall include the following warning label statements:

(a) "Warning: Contains THC."

(b) "This product is intended for use by adults 21 years and older. Keep out of reach of children."

(c) "There may be health risks associated with the consumption of this product."

(d) "There may be additional health risks associated with the consumption of this product for those who are pregnant, nursing, or plan to become pregnant."

(e) "The intoxicating effects of this product may be delayed by two or more hours."

(f) "May cause drowsiness or impairment. Do not drive a motor vehicle or operate machinery while using this product."

(g) "Use of this product may result in a positive drug screen."

(7) A quick response or QR code may be used as a link to the warning statements required by subsection (6) of this section. The QR code shall be labeled as "Warning Statements" directly above or below the code and shall be large enough to be smart-phone readable.

### Section 5. Inspection and Enforcement.

(1) The cabinet or its duly authorized agent shall conduct an onsite inspection of all permitted cannabinoid processing and manufacturing establishments, storage warehouses and distribution centers.

(2) The location of the permitted establishment, all general business records, including employee records, and vehicles utilized to transport products are subject to reasonable inspection.

(3) All cannabinoid establishments, whether permitted or not, shall cooperate with the cabinet or its duly authorized agent during any inspections, complaint investigation, and requests for information or data, in order to verify compliance with this administrative regulation.

(4)

(a) All products not in compliance with this administrative regulation may be seized ~~and destroyed~~ by the cabinet or its duly authorized agent.

**(b) The permit holder shall be given notice that they have ten (10) days to file an appeal pursuant to subsection (12) of this section.**

**(c) If no request for an appeal is filed, seized products shall be destroyed.**

(5) The permit holder shall take immediate steps to correct conditions that have caused an imminent health hazard.

(6)

(a) The permit holder shall notify the cabinet within twenty-four (24) hours of the knowledge of an imminent health hazard that cannot be controlled by immediate corrective action or if product, product packaging, cosmetic, or cosmetic packaging has become contaminated because of an imminent health hazard.

(b) Notification to the cabinet shall be made by:

1. Email to [food.safety@ky.gov](mailto:food.safety@ky.gov); or

2. Phone to (502)564-7181.

(7) If the cabinet has evidence that a permit holder has failed to act to correct an imminent health hazard, the following enforcement provisions shall be initiated:

(a) Suspend the permit without an administrative hearing; or

(b) Suspend that portion of the operation affected by the imminent health hazard without an administrative hearing.

(8) If a permit suspension is due to an imminent health hazard, the permit holder may submit a request for an administrative hearing to the cabinet in accordance with KRS Chapter 13B.

(9) A permit holder shall notify the cabinet within twenty-four (24) hours of becoming aware of any serious adverse event to a hemp-derived cannabinoid product sold or transferred by the permit holder.

(10) In all other instances of violation of this administrative regulation, the cabinet shall serve the permit holder with a written notice specifying the violation and afford the holder an opportunity to correct.

(11) If a permit holder has failed to comply with the written notice within the timeframe granted, the cabinet shall issue a notice of intent to suspend the permit.

(12)

(a) The notice in subsection (11) of this section shall include notification that the permit shall be suspended at the end of ten (10) days following service of the notice, unless a written request for an administrative hearing is filed with the cabinet by the permit holder within the ten (10) day period; and

(b) The administrative hearing shall be conducted in accordance with KRS 13B.080.

(13) For a permitted facility that has had a suspended permit two (2) or more times within a five (5) year period, the cabinet shall initiate permit revocation proceedings. Prior to this action, the cabinet shall notify the permit holder in writing, stating the reasons for which the permit revocation is being sought and advising that the permit shall be permanently revoked at the end of ten (10) days following service of the notice, unless a request for an administrative hearing is filed with the cabinet pursuant to KRS Chapter 13B by the permit holder within the ten (10) day period.

(14) Any person who violates any provision of this administrative regulation may be fined, found guilty ~~of~~ a criminal offense, or both pursuant to KRS 217.992.

(15) State and local law enforcement officers shall have concurrent jurisdiction to enforce violations of this section.

STEVEN J. STACK, MD, MBA, Commissioner  
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: September 9, 2024

FILED WITH LRC: September 10, 2024 at 2:00 p.m.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email [CHFSregs@ky.gov](mailto:CHFSregs@ky.gov).

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles or Julie Brooks

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the registration, processing, and manufacturing procedures for hemp-derived cannabinoid products, and the labeling and packaging requirements for products containing hemp-derived cannabinoids. The amended after comments version of this administrative regulation clarifies the timeline and registration process for processors, manufacturers, and distributors, clarifies the materials that can be manufactured or produced, amends the enforcement actions to allow for due process when products are seized, and makes other changes necessary for KRS chapter 13A compliance.

(b) The necessity of this administrative regulation: Many hemp-derived cannabinoid products sold in Kentucky remain unregulated. This administrative regulation is necessary to ensure that all hemp-derived cannabinoid products produced, manufactured and sold in the state are safe for human consumption.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 217.125(1) authorizes the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations for the efficient administration and enforcement of the Kentucky Food, Drug and Cosmetic Act, KRS 217.005 through 217.215. KRS 217.125(2) requires the secretary to provide by administrative regulation a schedule of fees for permits to operate and for inspection activities carried out by the cabinet pursuant to KRS 217.025 through 217.390. KRS 217.135 authorizes the secretary to establish food standards by administrative regulation including a reasonable definition, standard of identity, and designation of optional ingredients that shall be named on the label. KRS 217.155 allows the cabinet or its duly authorized agent free access at reasonable times for the purpose of inspection any factory, warehouse, or establishment where foods, drugs, devices, or cosmetics are manufactured or held for sale. This administrative regulation establishes the product registration, the processing and manufacturing procedures for hemp-derived cannabinoid products, including the permit fee, and the labeling and packaging requirements for products containing hemp-derived cannabinoids. Establishments

## VOLUME 51, NUMBER 4– October 1, 2024

permitted with the department prior to the effective date of this administrative regulation shall be exempted from the permit fee requirement until the annual renewal date.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures all hemp-derived cannabinoid products manufactured, processed, distributed, or sold are safe for human consumption, and are labeled in a manner that allows the end user to understand the effects of the products.

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

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are currently thirty-eight (38) manufacturers of cannabidiol (CBD) products registered with the department.

(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 requirements of this administrative regulation are not new requirements for processors and manufacturers. Processors and manufacturers will need to make sure their products comply with the requirements of this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The permit will cost processors \$3,000 plus \$200 per registered product or product class. The permit for manufacturers is \$1,000 plus \$200 per registered product or product class. The permit for warehouses is \$1,000. The permit for cosmetic manufacturers is \$200. Out-of-state processors and manufacturer will pay \$200 per to register products or product class shipped into the commonwealth.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Producers and manufacturers will be able to offer products that are safe for human consumption.

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

(a) Initially: The current budget for the food manufacturing permitting and inspection program is \$1,080,900. The increase in required permitting and inspection processes to implement this emergency administrative regulation will cost the department an additional \$1,551,397 in the first year.

(b) On a continuing basis: The department will continue to need an additional \$1,551,397, at a minimum, in subsequent years. An increase in permitted facilities will result in increased costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general fund dollars and revenue received from permitting and product registration are the sources of funding for this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Processors and manufacturers currently pay between a \$125 and \$1,000 fee depending on the size of the facility and level of risk of the products produced. The fees established in this administrative regulation are necessary to offset the cost associated with implementing 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 establish permitting and project registration fees. The proposed fee structure is an increase from the current assessed fee. The current fee structure references the fee structure for food

manufacturing and processors and manufacturers may pay between a \$125 and \$1,000 fee depending on the size of the facility. It is not appropriate to regulate cannabinoid products as food products. Products that contain cannabinoids should be regulated under their own classification. This includes the permit and product registration fee structure.

(9) TIERING: Is tiering applied? Tiering is applied. The fee for all processors and manufacturers currently permitted by the department July 1, 2025, will be waived until the date of the next annual renewal. All new applications for a permit filed after July 1, 2025, will be assessed the fee upon initial filing.

### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 217.125, 217.127, 217.135, and 217.155.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Department for Public Health, Division of Public Health Protection and Safety is the promulgating agency.

(a) Estimate the following for the first year:

Expenditures: Expenditures for the department to implement this administrative regulation will be approximately \$1,551,397 per year.

Revenues: Revenues for the permitting of processors and manufacturers in this administrative regulation can range between \$38,000 to \$114,000. The revenue for product registration cannot be determined at this time.

Cost Savings: This administrative regulation does not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures for the Department for Public Health may be impacted by changes in salary, fringe benefits, and travel cost for state and local health department employees. These changes cannot be determined at this time. Expenditures for regulated entities will not change without an amendment to this administrative regulation.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Local law enforcement entities may be affected by this administrative regulation.

(a) Estimate the following for the first year:

Expenditures: The department is not able to calculate the expenditures for affected local entities at this time.

Revenues: This administrative regulation will not generate revenue for affected local entities.

Cost Savings: This administrative regulation does not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The department is not able to determine changes in expenditures, revenues or cost savings for affected local entities.

(4) Identify additional regulated entities not listed in questions (2) or (3): This administrative regulation will impact all cannabinoid processors, manufacturers, storage warehouses, and distributors. Currently there are thirty-eight (38) entities permitted by the department.

(a) Estimate the following for the first year:

Expenditures: Expenditures will range from \$200 for cosmetic manufacturers to \$3,000 for processors and manufacturers who produce adult-use cannabinoid products.

Revenues: Revenues for the affected entities will be dependent on product sales.

Cost Savings: This administrative regulation does not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures will not change in subsequent years without an amendment to this administrative regulation. Revenues can change depending on product sales.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This administrative regulation may generate between \$38,000 and \$114,000 in revenue. Additional revenue will be generated by the product registration fee, but that total cannot be determined at this time. The cost to the department to administer this administrative regulation is \$1,551,397.

(b) Methodology and resources used to determine the fiscal impact: The total range for the potential revenue was calculated by multiplying the current number of permitted facilities times the lowest and highest permit fee amounts, which is 38X1,000 and 38X3,000 respectively. The total expenditure was calculated based on the need for thirteen (13) additional environmental management staff to oversee the permitting and inspection activities. The thirteen (13) additional staff include a branch manager, administrative support staff, two (2) supervisors, two (2) processing/manufacturing inspectors, five (5) retail inspectors, and two (2) enforcement staff. -- Administrative Clerk: Program Coordinator (Grade 14); Annual Salary + 5% Probationary increase: \$59,213.70; Fringe Benefits - FICA - Retirement - Hlth/Life Ins: \$53,711.55; Total Annual Salary and Fringe Benefits: \$112,925.25 x 1 Employee = Total Amount: \$112,926.25 ---- Retail Inspectors: Program Evaluator (Grade 14); Annual Salary + 5% Probationary increase: \$59,213.70; Fringe Benefits - FICA - Retirement - Hlth/Life Ins: \$53,711.55; Total Annual Salary and Fringe Benefits: \$112,925.25 x 5 Employees = Total Amount: \$564,626.27 -- -- Processor/manufacturing Inspectors, Enforcement staff, and Supervisors: Program Administrator (Grade 15); Annual Salary + 5% Probationary increase: \$65,135.20; Fringe Benefits - FICA - Retirement - Hlth/Life Ins: \$58,082.80; Total Annual Salary and Fringe Benefits: \$123,218.00 x 6 Employees = Total Amount: \$739,307.99 -- -- Manager: Branch Manager (Grade 16); Annual Salary + 5% Probationary increase: \$71,646.12; Fringe Benefits - FICA - Retirement - Hlth/Life Ins: \$62,889.17; Total Annual Salary and Fringe Benefits: \$134,535.29 x 1 Employee = Total Amount: \$134,535.29 --- - TOTAL AMOUNT = \$1,551,396.79

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) The expenditures for the department will exceed \$1,000,000, resulting in an overall negative or adverse major economic impact. The overall economic impact for the regulated entities cannot be determined. While these entities will have expenditures associated with the permit and product registration, these will be offset by the revenue received in product sells.

(b) The methodology and resources used to reach this conclusion: Legislation has delegated new authority to the Kentucky Department for Public Health (KDPH) to regulate recreational adult-use products, such as delta-8 THC, for the safety of Kentuckians. These products, which may only be sold to adults aged 21 years or older, are increasingly complex, diverse, and evolving. An estimated 1,000-1,500 retailers and 40 manufacturers of recreational adult-use drugs are believed to be operating in Kentucky. Manufacturers of hemp THC products use complex chemistry conversion methods to process distillates, which increases the technical training required for inspection. Due to the intricacies involved, the successful oversight and regulation of these products in Kentucky will require additional staffing and the use of a hybrid approach that blends the traditional roles of the Department of Alcoholic Beverage Control, such as the enforcement of laws and age verification, with the expertise of the Food and Drug Administration (FDA). In order to adequately oversee the manufacture and retail sale of these products, the department would propose establishing a new branch with specialized staff. An estimated additional thirteen (13) staff will be needed to carryout the following activities: Regulatory Oversight: Establish and enforce standards for product manufacturing, packaging, and labeling for human consumption; Establish and enforce distribution controls to consumers to prohibit and prevent sales of adult-use products to individuals under 21 years of age; Prohibit the manufacture and sale of unallowable products; Protect consumers from harmful exposure to chemicals, contaminants, and adulterants that would have an adverse impact on human health; Evaluate the use of chemicals when added to products, such as food ingredients and substances that come into contact with food through food processing, manufacturing, packaging, storage, or other handling to ensure these uses are safe; Monitor products for contaminants and take action when the level of a contaminant causes a product to be unsafe. Licensing and Inspections: Administer licensure and registration for processors, manufacturers, distributors, and retailers and conduct regular inspections to ensure compliance with regulatory requirements.

Surveillance and Monitoring: Collect and analyze data on adverse events and product quality to guide decision-making and interventions. Collaboration and Partnerships: Collaborate with federal/state agencies, professional organizations, academic institutions, and industry stakeholders to exchange information, share best practices, and coordinate efforts to address common challenges.

**CABINET FOR HEALTH AND FAMILY SERVICES  
Department for Public Health  
Division of Public Health Protection and Safety  
(Amended After Comments)**

**902 KAR 45:031. Hemp-derived cannabinoid product sampling and testing requirements.**

RELATES TO: KRS Chapter 13B, 217.015, 217.025, 217.035, 217.037, 217.039, 260.850, 438.305(4), 2023 Ky Acts ch. 78

STATUTORY AUTHORITY: KRS 217.125, 217.155

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217.125(1) authorizes the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations for the efficient administration and enforcement of the Kentucky Food, Drug and Cosmetic Act, KRS 217.005 through 217.215. KRS 217.155 allows the cabinet or its duly authorized agent free access at reasonable times for the purpose of inspection any factory, warehouse, or establishment where foods, drugs, devices, or cosmetics are manufactured or held for sale. This administrative regulation establishes the hemp-derived cannabinoid product sampling and testing requirements.

**Section 1. Product Sampling and Testing Requirements.**

(1) Sampling and testing for all cannabinoid products shall be:

- (a) Done for each batch or process lot; and
- (b) Conducted with representative samples to ensure:
  - 1. All batches or process lots are adequately assessed for contaminants; and
  - 2. The cannabinoid profile is consistent throughout.

(2) Testing shall only be performed on the final product equivalent to what will be consumed.

(3) Samples shall be collected using appropriate aseptic techniques.

(4) A cannabinoid processing or manufacturing facility shall assign each batch or process lot a unique batch or lot number that shall be:

(a) Documented and maintained in the processing and manufacturing facility for at least two (2) years and available to the department upon request;

(b) Provided to the individual responsible for taking samples; and

(c) Included on the product package or label.

(5) Sample size, handling, storage, and disposal.

(a) Cannabinoid products samples shall consist of enough material from the batch or process lot to ensure that the required attributes in the products are homogenous and consistent with the testing facility's accredited sampling policies and procedures.

(b) A cannabinoid processing or manufacturing permittee shall prepare sampling policies and procedures that contain the information necessary for collecting and transporting samples from cannabinoid products in a manner that does not endanger the integrity of the sample for any analysis required by this administrative regulation.

(6) Reserve samples.

(a) Processors and manufacturers shall collect and hold reserve samples of each batch or process lot of packaged and labeled product.

(b) The reserve samples shall:

- 1. Be held using the same container-closure system that the packaged and labeled product is distributed, or if distributing to be packaged and labeled, using a container-closure system that provides the same characteristics to protect against contamination or deterioration;
- 2. Be identified with the batch or process number;



## VOLUME 51, NUMBER 4– October 1, 2024

3. Be retained for the shelf-life date, as applicable, or for two (2) years from the date of distribution of the last batch or process lot of the product associated with the reserve sample; and

4. Consist of at least twice the quantity necessary for all tests or examinations to determine if the product meets specifications.

(7) Laboratory requirements.

(a) Testing facilities used by the cannabinoid processing or manufacturing facility shall be an independent third-party, fully accredited to the standard established by International Organization for Standardization (ISO) 17025 by an International Laboratory Accreditation Cooperation recognized accreditation body.

(b) The testing facility shall:

1. Maintain ISO 17025 accreditation; and

2. Comply with all required analytes standards for the relevant test methods of:

a. Cannabinoids;

b. Microbial impurities;

c. Mycotoxins;

d. Residual pesticides;

e. Heavy metals; and

f. Residual solvents, if applicable.

(c) Cannabinoid processing or manufacturing facilities shall maintain on file proof of a valid certificate of accreditation for the laboratory completing product testing that:

1. Is issued by an accreditation organization; and

2. Attests to the laboratory's competence to perform testing, including all the required analytes for the relevant test methods required.

(8) Testing requirements.

(a) A processing or manufacturing facility shall test every batch or process lot of cannabinoid product for sale or distribution prior to sell or transfer.

(b) Test shall be performed using cannabinoid quantification technique with a high enough specificity and sensitivity to differentiate between cannabinoids and isomers of cannabinoids.

(c) Cannabinoid products shall be tested for:

1. Cannabinoids, which shall include all cannabinoids specified in 902 KAR 45:021, Section 1(3)(a);

2. Microbial impurities;

3. Mycotoxins;

4. Residual pesticides;

5. Heavy metals; and

6. Residual solvents, if applicable.

(d) Infused cannabinoid products may not require additional testing for microbial impurities, mycotoxins, residual pesticides, heavy metals, or residual solvents, as applicable, if the cannabinoid distillate used to make an infused product was:

1. Tested for microbial impurities, mycotoxins, residual pesticides, heavy metals, or residual solvents in compliance with this administrative regulation; and

2. Test results indicate the batch or process lot was within established limits.

(e) An infused cannabinoid product shall be tested if the addition of ingredients or processing practice create a reasonable or foreseeable microbial impurity, mycotoxin, residual pesticide, heavy metals, or residual solvents hazard.

(f) All vaporizer delivery device or pressurized metered dose inhaler cartridge batches or process lots shall be tested for Acetates.

(g) In accordance with KRS 217.039, all applicable certificates of analysis shall accompany the final product.

### Section 2. Standards for Cannabinoid Testing.

(1) A testing facility shall establish a limit of quantitation of one (1) milligram per gram (mg/g) or lower for all adult-use cannabinoids analyzed and reported.

(2) A testing facility shall report the result of the cannabinoid testing on the certificate of analysis, that includes at minimum:

(a) Total tetrahydrocannabinol concentration, calculated in accordance with subsection (3) of this section and reported in percentages;

(b) Tetrahydrocannabinol-A concentration;

(c) Milligrams per serving for total tetrahydrocannabinol and the primary cannabinoid marketed, excluding cosmetics, as applicable;

(d) Milligrams per package for total tetrahydrocannabinol and the primary cannabinoid marketed, excluding cosmetics, as applicable; and

(e) The results of all other hemp-derived cannabinoids analyzed on the COA both as a percentage and milligrams per gram (mg/g).

(3) The following calculation shall be used for calculating total tetrahydrocannabinol concentration expressed in weight: Total cannabinoid concentration (mg/g) = (cannabinoid acid form concentration (mg/g) x 0.877) + cannabinoid concentration (mg/g) **on a dry weight basis.**

(4) For cannabinoid infused products, excluding cosmetics, potency shall be reported as milligrams of total tetrahydrocannabinol and the primary cannabinoid marketed, excluding cosmetics per gram.

(5) Cannabinoid products shall not contain a delta-9 tetrahydrocannabinol concentration of more than three-tenths of one percent (0.3) on a dry weigh basis.

(6) The serving size from a vaporizer delivery device or pressurized metered dose inhaler shall not exceed one (1) inhalation lasting two (2) seconds per serving.

### Section 3. Standards for Microbial Impurities.

(1) Cannabinoid products shall be tested by a testing facility for the presence of microbial impurities.

(2) The sample of inhalable cannabinoid products shall be deemed to have passed the microbial impurities testing if the following conditions are met:

(a) Total Escherichia coli is not detected above 100 colony forming units/gram;

(b) Shiga toxin-producing Escherichia coli is not detected in one (1) gram;

(c) Salmonella spp. is not detected in one (1) gram;

(d) Pathogenic Aspergillus species A. fumigatus, A. flavus, A. niger, and A. terreus are not detected in one (1) gram; **and**

**[(e)] [Listeria Spp. is not detected in one (1) gram; and]**

**[(f)]** A total combined yeast and mold do not exceed 100,000 colony forming units per gram.

(3) The sample of ingestible or cosmetic cannabinoid products shall be deemed to have passed the microbial impurities testing if the following conditions are met:

(a) Total Escherichia coli is not detected above 100 colony forming units/gram;

(b) Shiga toxin-producing Escherichia coli is not detected in one (1) gram;

(c) Salmonella spp. is not detected in one (1) gram; **and**

**(d) [Listeria Spp. is not detected in one (1) gram; and]**

**[(e)]** A total combined yeast and mold do not exceed 100,000 colony forming units per gram.

(4) If the sample fails microbial impurities testing, the batch or process lot from which the sample was collected shall not be released for retail sale.

(5) If a sample from a batch or process lot of a cannabinoid product fails microbiological contaminant testing, the batch may be further processed if the processing method effectively sterilizes the batch.

(6) A batch or process lot that is sterilized in accordance with subsection (5) of this section shall be sampled and tested in accordance with this administrative regulation, if not otherwise required for that product, for microbiological contaminants, and residual solvents.

(7) A batch or process lot that fails microbiological contaminant testing after undergoing a sterilization process in accordance with subsection (5) of this section shall be destroyed in a manner that renders the batch or process lot denatured and unusable.

### Section 4. Standards for Mycotoxin Testing.

(1) Cannabinoid products shall be tested by a testing facility for the following mycotoxins: aflatoxin B1, B2, G1, and G2 ochratoxin A.

(2) A batch or process lot shall be deemed to have passed mycotoxin testing if the following conditions are met:

(a) Total of aflatoxin B1, B2, G1, and G2 does not exceed twenty (20) microgram per kilogram (µg/kg) of substance; and

**VOLUME 51, NUMBER 4– October 1, 2024**

(b) Ochratoxin A does not exceed twenty (20) µg/kg of substance.

(3) A batch or process lot that fails mycotoxin testing in accordance with this subsection shall be destroyed in a manner that renders the batch or process lot denatured and unusable.

**Section 5. Standards for Testing Residual Pesticides.**

(1) Cannabinoid products shall be tested by a testing facility for the following residual pesticides and shall not exceed the maximum allowable concentration for each:

Residual pesticide	Chemical Abstract Service (CAS) assigned number	Maximum allowable concentration stated in parts per million (ppm)
Abamectin	71751-41-2	0.5 ppm
Acephate	30560-19-1	0.4 ppm
Acequinocyl	57960-19-7	2.0 ppm
Acetamiprid	135410-20-7	0.2 ppm
Aldicarb	116-06-3	0.4 ppm
Azoxystrobin	131860-33-8	0.2 ppm
Bifenazate	149877-41-8	0.2 ppm
Bifenthrin	82657-04-3	0.2 ppm
Boscalid	188425-85-6	0.4 ppm
Carbaryl	63-25-2	0.2 ppm
Carbofuran	1563-66-2	0.2 ppm
Chlorantraniliprole	500008-45-7	0.2 ppm
Chlorfenapyr	122453-73-0	1.0 ppm
Chlormequat chloride	7003-89-6	0.2 ppm
Chlorpyrifos	2921-88-2	0.2 ppm
Clofentezine	74115-24-5	0.2 ppm
Cyfluthrin	68359-37-5	1.0 ppm
Cypermethrin	52315-07-8	1.0 ppm
Daminozide	1596-84-5	1.0 ppm
DDVP (Dichlorvos)	62-73-7	0.1 ppm
Diazinon	333-41-5	0.2 ppm
Dimethoate	60-51-5	0.2 ppm
Ethoprophos	13194-48-4	0.2 ppm
Etofenprox	80844-07-1	0.4 ppm
Etoxazole	153233-91-1	0.2 ppm
Fenoxycarb	72490-01-8	0.2 ppm
Fenpyroximate	134098-61-6	0.4 ppm
Fipronil	120068-37-3	0.4 ppm
Flonicamid	158062-67-0	1.0 ppm
Fludioxonil	131341-86-1	0.4 ppm
Hexythiazox	78587-05-0	1.0 ppm
Imazalil	35554-44-0	0.2 ppm
Imidacloprid	138261-41-3	0.4 ppm

Kresoxim-methy	143390-89-0	0.4 ppm
Malathion	121-75-5	0.2 ppm
Metalaxyl	57837-19-1	0.2 ppm
Methiocarb	2032-65-7	0.2 ppm
Methomyl	16752-77-5	0.4 ppm
Methyl parathion	298-00-0	0.2 ppm
Myclobutanil,	88671-89-0	0.2 ppm (prohibited at any concentration for inhalation)
Naled	300-76-5	0.5 ppm
Oxamyl	23135-22-0	1.0 ppm
Paclobutrazol	76738-62-0	0.4 ppm
Permethrins (measured as the cumulative residue of cis- and trans-isomers)	52645-531 (54774-45-7 and 51877-74-8)	0.2 ppm
Phosmet	732-11-6	0.2 ppm
Piperonyl_butoxide	51-03-6	2.0 ppm
Prallethrin	23031-36-9	0.2 ppm
Propiconazole	60207-90-1	0.4 ppm
Propoxur	114-26-1	0.2 ppm
Pyrethrins (measured as the cumulative residue of pyrethrin 1, cinerin 1 and jasmolin 1)	8003-34-7(121-21-1,25402-06-6 and 4466-14-2)	1.0 ppm
Pyridaben	96489-71-3	0.2 ppm
Spinosad	168316-95-8	0.2 ppm
Spiromesifen	283594-90-1	0.2 ppm
Spirotetramat	203313-25-1	0.2 ppm
Spiroxamine	118134-30-8	0.4 ppm
Tebuconazole	107534-96-3	0.4 ppm
Thiacloprid	111988-49-9	0.2 ppm
Thiamethoxam	153719-23-4	0.2 ppm
Trifloxystrobin	141517-21-7	0.2 ppm

(2) A batch or process lot that fails residual pesticide testing in accordance with this section shall be destroyed in a manner that renders the batch or process lot denatured and unusable.

**Section 6. Standards for Testing for Heavy Metals.**

(1) Cannabinoid products shall be tested by a testing facility for the following metals and shall not exceed the maximum allowable concentration for each:

(a) Arsenic, maximum allowable concentration: one and five-tenths (1.5) ppm;

(b) Cadmium, maximum allowable concentration: zero and four-tenths (0.4) ppm;

(c) Lead, maximum allowable concentration: one (1) ppm; and

(d) Mercury, maximum allowable concentration: one and two-tenths (1.2) ppm.

(2) Cannabinoid distillate intended for inhalable products shall be tested by a testing facility for the following metals and shall not exceed the maximum allowable concentration for each:

**VOLUME 51, NUMBER 4– October 1, 2024**

- (a) Arsenic, maximum allowable concentration: zero and two-tenths (0.2) ppm;
  - (b) Cadmium, maximum allowable concentration: zero and two-tenths (0.2) ppm;
  - (c) Lead, maximum allowable concentration: zero and five-tenths (0.5) ppm; and
  - (d) Mercury, maximum allowable concentration: zero and one-tenths (0.1) ppm.
- (3) A batch or process lot that fails heavy metals testing in accordance with this section shall be destroyed in a manner that renders the batch or process lot denatured and unusable.

**Section 7. Standards for Testing Residual Solvents.**

(1) Cannabinoid products shall be tested by a testing facility for residual solvents, as appropriate, and shall not exceed the maximum allowable concentration for each solvent used according to the table below:

Solvent	CAS assigned number	Maximum allowable concentration stated in parts per million (ppm)
Acetone	67-64-1	1,000 ppm
Benzene	71-43-2	2 ppm
Butanes, (measured as the cumulative residue of n-butane and iso-butane),	106-97-8 and 75-28-5	1,000 ppm
Ethanol	64-17-5	5,000 ppm
Ethyl Acetate	141-78-6	1,000 ppm
Heptane	142-82-5	1,000 ppm
Hexanes (measured as the cumulative residue of n-hexane, 2-methylpentane, 3-methylpentane, 2,2-dimethylbutane, and 2,3-dimethylbutane)	110-54-3, 107-83-5 and 79-29-8	60 ppm
Methanol	67-56-1	600 ppm
Pentanes (measured as the cumulative residue of n-pentane, iso-pentane, and neo-pentane)	109-66-0, 78-78-4 and 463-82-1	1,000 ppm
2-Propanol (IPA)	67-63-0	1,000 ppm
Propane	74-98-6	1,000 ppm
Toluene*	108-88-3	180 ppm
Total Xylenes* (measured as the cumulative residue of 1,2-dimethylbenzene, 1,3-dimethylbenzene, and 1,4-dimethylbenzene, and the non-xylene, ethylbenzene),	1330-20-7 (95-47-6, 108-38-3 and 106-42-3 and 100-41-4)	430 ppm

\*Note: These solvents are not approved for use. Due to their possible presence in the solvents approved for use, limits have been listed here accordingly.

- (2) A processing or manufacturing facility shall be exempt from testing for solvents if the facility:
- (a) Did not use any solvent listed in subsection (1) of this section;
  - (b) Used a mechanical extraction process to separate cannabinoids; or
  - (c) Used only water, animal fat, or vegetable oil as a solvent to separate the cannabinoids.
- (3) If a sample from a batch or process lot fails solvent testing, the batch or process lot may be remediated using procedures that

- would reduce the concentration of solvents to less than the action level.
- (4) A batch or process lot that is remediated in accordance with subsection (3) of this section shall be:
    - (a) Sampled and tested in accordance with this administrative regulation; and
    - (b) Tested for solvents if not otherwise required for that product under this administrative regulation.
  - (5) A batch or process lot that fails solvent testing that is not remediated or that if remediated fails testing shall be destroyed in a manner that renders the batch or process lot denatured and unusable.

**Section 8. Standards for Water Activity.**

- (1) Plant material, such as flower, shake, and plant trim, used to process and manufacture hemp-derived cannabinoid products shall have a water activity (Aw) rate of less than 0.65.
- (2) If the plant material sample fails testing for water activity, the batch from which the sample was taken may:
- (a) Be used to make a cannabinoid distillate; or
  - (b) Continue to dry or cure.
- (3) Plant material that undergoes additional drying or curing as described in subsection (2)(b) of this section shall be re-sampled and tested in accordance with this section.

**Section 9. Failed Testing and Remediation.**

- (1) A sample that fails any initial testing may be reanalyzed by the testing facility.
- (2) If the reanalyzed sample passes, the processing or manufacturing facility shall resample the batch or process lot using another accredited testing facility to confirm the result in order for the batch or process lot to pass testing.
- (3) A batch or process lot shall fail testing if the testing facility detects the presence of a contaminant in a sample above any limit of detection (LOD) established in this administrative regulation:
- (a) During an initial test where no reanalysis is requested; or
  - (b) Upon reanalysis as described in this subsection.
- (4) If a sample fails a test or a reanalysis, the batch or process lot:
- (a) May be remediated or sterilized in accordance with this administrative regulation; or
  - (b) If it cannot be remediated or sterilized in accordance with this administrative regulation, it shall be destroyed in a manner that renders the batch or process lot denatured and unusable.
- (5) A hemp-derived cannabinoid product batch or process lot shall only be remediated twice. If the batch or process lot fails after a second remediation attempt and the second retesting, the entire batch or process lot shall be destroyed in a manner approved by the cabinet.
- (6) A hemp-derived cannabinoid product from a batch or process lot that failed testing shall not be combined with another batch or process lot. Mixed products shall be considered adulterated, regardless of the LOD or defect level of the final product.

**Section 10. Certificate of Analysis.**

- (1) The testing facility shall:
- (a) Generate a certificate of analysis (COA) for each representative sample that the testing facility analyzes; and
  - (b) Ensure the COA contains the results of all required analyses performed for the representative sample.
- (2) The COA shall contain, at minimum:
- (a) The testing facility's name, premises address, and license number, processor's or manufacturer's name, and premises address;
  - (b) Batch or lot number of the batch or process lot from which the sample was obtained. For products that are already packaged at the time of sampling, the labeled batch or lot number on the packaged hemp-derived cannabinoid products shall match the batch or lot number on the COA;
  - (c) Sample identifying information, including matrix type and unique sample identifiers;

(d) Sample history, including the date collected, the date received by the testing facility, and the date of all sample analyses and corresponding testing results;

(e) The analytical methods, analytical instrumentation used, and corresponding LOD and limits of quantitation (LOQ);

(f) Analytes detected during the analyses of the sample that are unknown, unidentified, or injurious to human health if consumed, if any; and

(g) A chromatograph of the cannabinoid test results.

(3) The testing facility shall report test results for each representative sample on the COA as an overall "pass" or "fail" for the entire batch:

(a) When reporting qualitative results for each analyte, the testing facility shall indicate "pass" or "fail";

(b) When reporting quantitative results for each analyte, the testing facility shall use the appropriate units of measurement as required in accordance with this administrative regulation;

(c) When reporting results for each test method, the testing facility shall indicate "pass" or "fail";

(d) When reporting results for any analytes that were detected below the analytical method LOQ, indicate "<LOQ", notwithstanding cannabinoid results;

(e) When reporting results for any analytes that were not detected or detected below the LOD, indicate "ND"; and

(f) Indicate "NT" for any test that the testing facility did not perform.

(4)

(a) In accordance with 2023 Ky. Acts ch. 78, a cannabinoid manufacturer or processor that ships adult-use products out of state for use or sale outside the Commonwealth of Kentucky:

1. Shall abide by the testing and labeling requirements of this administrative regulation if the receiving state or jurisdiction does not have testing and labeling requirements; or

2. May defer to the receiving state's testing requirements if that state has equivalent testing requirements.

3. Products intended for out-of-state sale shall be stored separately from in-state products and shall have signage indicating the products are for out-of-state sale.

(b) Batch number of the batch from which the sample was obtained shall be on the COA for all products shipped out of state.

STEVEN J. STACK, MD, MBA, Commissioner

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: September 9, 2024

FILED WITH LRC: September 10, 2024 at 2:00 p.m.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles or Julie Brooks

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the registration, processing, and manufacturing procedures for hemp-derived cannabinoid products, and the labeling and packaging requirements for products containing hemp-derived cannabinoids. The amended after comments version of this administrative regulation clarifies the timeline and registration process for processors, manufacturers, and distributors, clarifies the materials that can be manufactured or produced, amends the enforcement actions to allow for due process when products are seized, and makes other changes necessary for KRS chapter 13A compliance.

(b) The necessity of this administrative regulation: Many hemp-derived cannabinoid products sold in Kentucky remain unregulated. This administrative regulation is necessary to ensure that all hemp-derived cannabinoid products produced, manufactured and sold in the state are safe for human consumption.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 217.125(1) authorizes the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations for the efficient administration and enforcement of the Kentucky Food, Drug and Cosmetic Act, KRS

217.005 through 217.215. KRS 217.125(2) requires the secretary to provide by administrative regulation a schedule of fees for permits to operate and for inspection activities carried out by the cabinet pursuant to KRS 217.025 through 217.390. KRS 217.135 authorizes the secretary to establish food standards by administrative regulation including a reasonable definition, standard of identity, and designation of optional ingredients that shall be named on the label. KRS 217.155 allows the cabinet or its duly authorized agent free access at reasonable times for the purpose of inspection any factory, warehouse, or establishment where foods, drugs, devices, or cosmetics are manufactured or held for sale. This administrative regulation establishes the product registration, the processing and manufacturing procedures for hemp-derived cannabinoid products, including the permit fee, and the labeling and packaging requirements for products containing hemp-derived cannabinoids. Establishments permitted with the department prior to the effective date of this administrative regulation shall be exempted from the permit fee requirement until the annual renewal date.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures all hemp-derived cannabinoid products manufactured, processed, distributed, or sold are safe for human consumption, and are labeled in a manner that allows the end user to understand the effects of the products.

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

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are currently thirty-eight (38) manufacturers of cannabidiol (CBD) products registered with the department.

(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 requirements of this administrative regulation are not new requirements for processors and manufacturers. Processors and manufacturers will need to make sure their products comply with the requirements of this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The permit will cost processors \$3,000 plus \$200 per registered product or product class. The permit for manufacturers is \$1,000 plus \$200 per registered product or product class. The permit for warehouses is \$1,000. The permit for cosmetic manufacturers is \$200. Out-of-state processors and manufacturer will pay \$200 per to register products or product class shipped into the commonwealth.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Producers and manufacturers will be able to offer products that are safe for human consumption.

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

(a) Initially: The current budget for the food manufacturing permitting and inspection program is \$1,080,900. The increase in required permitting and inspection processes to implement this emergency administrative regulation will cost the department an additional \$1,551,397 in the first year.

(b) On a continuing basis: The department will continue to need an additional \$1,551,397, at a minimum, in subsequent years. An increase in permitted facilities will result in increased costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general fund dollars and revenue received from permitting and

## VOLUME 51, NUMBER 4– October 1, 2024

product registration are the sources of funding for this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Processors and manufacturers currently pay between a \$125 and \$1,000 fee depending on the size of the facility and level of risk of the products produced. The fees established in this administrative regulation are necessary to offset the cost associated with implementing 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 establish permitting and project registration fees. The proposed fee structure is an increase from the current assessed fee. The current fee structure references the fee structure for food manufacturing and processors and manufacturers may pay between a \$125 and \$1,000 fee depending on the size of the facility. It is not appropriate to regulate cannabinoid products as food products. Products that contain cannabinoids should be regulated under their own classification. This includes the permit and product registration fee structure.

(9) TIERING: Is tiering applied? Tiering is applied. The fee for all processors and manufacturers currently permitted by the department July 1, 2025, will be waived until the date of the next annual renewal. All new applications for a permit filed after July 1, 2025, will be assessed the fee upon initial filing.

### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 217.125, 217.127, 217.135, and 217.155.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Department for Public Health, Division of Public Health Protection and Safety is the promulgating agency.

(a) Estimate the following for the first year:

Expenditures: Expenditures for the department to implement this administrative regulation will be approximately \$1,551,397 per year.

Revenues: Revenues for the permitting of processors and manufacturers in this administrative regulation can range between \$38,000 to \$114,000. The revenue for product registration cannot be determined at this time.

Cost Savings: This administrative regulation does not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures for the Department for Public Health may be impacted by changes in salary, fringe benefits, and travel cost for state and local health department employees. These changes cannot be determined at this time. Expenditures for regulated entities will not change without an amendment to this administrative regulation.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Local law enforcement entities may be affected by this administrative regulation.

(a) Estimate the following for the first year:

Expenditures: The department is not able to calculate the expenditures for affected local entities at this time.

Revenues: This administrative regulation will not generate revenue for affected local entities.

Cost Savings: This administrative regulation does not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The department is not able to determine changes in expenditures, revenues or cost savings for affected local entities.

(4) Identify additional regulated entities not listed in questions (2) or (3): This administrative regulation will impact all cannabinoid processors, manufacturers, storage warehouses, and distributors. Currently there are thirty-eight (38) entities permitted by the department.

(a) Estimate the following for the first year:

Expenditures: Expenditures will range from \$200 for cosmetic manufacturers to \$3,000 for processors and manufacturers who produce adult-use cannabinoid products.

Revenues: Revenues for the affected entities will be dependent on product sales.

Cost Savings: This administrative regulation does not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures will not change in subsequent years without an amendment to this administrative regulation. Revenues can change depending on product sales.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This administrative regulation may generate between \$38,000 and \$114,000 in revenue. Additional revenue will be generated by the product registration fee, but that total cannot be determined at this time. The cost to the department to administer this administrative regulation is \$1,551,397.

(b) Methodology and resources used to determine the fiscal impact: The total range for the potential revenue was calculated by multiplying the current number of permitted facilities times the lowest and highest permit fee amounts, which is 38X1,000 and 38X3,000 respectively. The total expenditure was calculated based on the need for thirteen (13) additional environmental management staff to oversee the permitting and inspection activities. The thirteen (13) additional staff include a branch manager, administrative support staff, two (2) supervisors, two (2) processing/manufacturing inspectors, five (5) retail inspectors, and two (2) enforcement staff. -- Administrative Clerk: Program Coordinator (Grade 14); Annual Salary + 5% Probationary increase: \$59,213.70; Fringe Benefits - FICA - Retirement - Hlth/Life Ins: \$53,711.55; Total Annual Salary and Fringe Benefits: \$112,925.25 x 1 Employee = Total Amount: \$112,926.25 ---- Retail Inspectors: Program Evaluator (Grade 14); Annual Salary + 5% Probationary increase: \$59,213.70; Fringe Benefits - FICA - Retirement - Hlth/Life Ins: \$53,711.55; Total Annual Salary and Fringe Benefits: \$112,925.25 x 5 Employees = Total Amount: \$564,626.27 -- -- Processor/manufacturing Inspectors, Enforcement staff, and Supervisors: Program Administrator (Grade 15); Annual Salary + 5% Probationary increase: \$65,135.20; Fringe Benefits - FICA - Retirement - Hlth/Life Ins: \$58,082.80; Total Annual Salary and Fringe Benefits: \$123,218.00 x 6 Employees = Total Amount: \$739,307.99 -- -- Manager: Branch Manager (Grade 16); Annual Salary + 5% Probationary increase: \$71,646.12; Fringe Benefits - FICA - Retirement - Hlth/Life Ins: \$62,889.17; Total Annual Salary and Fringe Benefits: \$134,535.29 x 1 Employee = Total Amount: \$134,535.29 --- - TOTAL AMOUNT = \$1,551,396.79

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) The expenditures for the department will exceed \$1,000,000, resulting in an overall negative or adverse major economic impact. The overall economic impact for the regulated entities cannot be determined. While these entities will have expenditures associated with the permit and product registration, these will be offset by the revenue received in product sells.

(b) The methodology and resources used to reach this conclusion: Legislation has delegated new authority to the Kentucky Department for Public Health (KDPH) to regulate recreational adult-use products, such as delta-8 THC, for the safety of Kentuckians. These products, which may only be sold to adults aged 21 years or older, are increasingly complex, diverse, and evolving. An estimated 1,000-1,500 retailers and 40 manufacturers of recreational adult-use drugs are believed to be operating in Kentucky. Manufacturers of hemp THC products use complex chemistry conversion methods to process distillates, which increases the technical training required for inspection. Due to the intricacies involved, the successful oversight and regulation of these products in Kentucky will require additional staffing and the use of a hybrid approach that blends the traditional roles of the Department of Alcoholic Beverage Control, such as the enforcement of laws and age verification, with the expertise of the Food and Drug Administration (FDA). In order to adequately oversee the manufacture and retail sale of these products, the department would propose establishing a new branch with specialized staff. An estimated additional thirteen (13) staff will be needed to carryout the following activities: Regulatory Oversight: Establish and enforce

standards for product manufacturing, packaging, and labeling for human consumption; Establish and enforce distribution controls to consumers to prohibit and prevent sales of adult-use products to individuals under 21 years of age; Prohibit the manufacture and sale of unallowable products; Protect consumers from harmful exposure to chemicals, contaminants, and adulterants that would have an adverse impact on human health; Evaluate the use of chemicals when added to products, such as food ingredients and substances that come into contact with food through food processing, manufacturing, packaging, storage, or other handling to ensure these uses are safe; Monitor products for contaminants and take action when the level of a contaminant causes a product to be unsafe. Licensing and Inspections: Administer licensure and registration for processors, manufacturers, distributors, and retailers and conduct regular inspections to ensure compliance with regulatory requirements. Surveillance and Monitoring: Collect and analyze data on adverse events and product quality to guide decision-making and interventions. Collaboration and Partnerships: Collaborate with federal/state agencies, professional organizations, academic institutions, and industry stakeholders to exchange information, share best practices, and coordinate efforts to address common challenges.

**CABINET FOR HEALTH AND FAMILY SERVICES**  
**Office of the Secretary**  
**(Amended After Comments)**

**915 KAR 1:010. Initial and renewal applications for cannabis business licenses.**

RELATES TO: KRS Chapter 13B, Chapter 218B, 523.100  
STATUTORY AUTHORITY: KRS 218B.140

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218B.140 requires the Cabinet for Health and Family Services to promulgate administrative regulations establishing initial application and renewal procedures for cannabis business licenses. This administrative regulation establishes those procedures.

**Section 1. Types of Applications for Cannabis Business Licenses.**

(1) The cabinet shall accept the following types of applications for cannabis business licenses:

- (a) Initial application; and
- (b) Renewal application.

(2) By submitting an initial or renewal application to the cabinet, an applicant consents to any investigation of the applicant's ability to meet the requirements of KRS Chapter 218B and 915 KAR Chapter 1.

(3) An application for an initial license or renewal license is not complete and shall be rejected by the cabinet unless:

(a) The payment of the applicable fee provided in Section 2 or Section 4 is submitted with the application; and

(b) All required information for each section of the application, including attachments and any supplemental information requested by the cabinet, is submitted to the cabinet within the allowable time period.

(4) An application submitted under this administrative regulation shall contain the following statement acknowledged by the applicant: "A false statement made in this application is punishable under the applicable provisions of KRS 523.100."

**Section 2. Initial License Application Fees.** An applicant for an initial cannabis business license shall pay the applicable application fee by credit card or automated clearing house (ACH) transfer at the time of application submission to the cabinet. The initial application fee is nonrefundable except as indicated below in Section 3(6) of this administrative regulation. The initial license application fees shall be:

- (1) Tier I cultivator: \$3,000;
- (2) Tier II cultivator: \$10,000;
- (3) Tier III cultivator: \$20,000;
- (4) Tier IV cultivator: \$30,000;
- (5) Processor: \$5,000;

(6) Producer: \$5,000 plus the applicable cultivator tier application fee;

(7) Dispensary: \$5,000; and

(8) Safety Compliance Facility: \$3,000.

**Section 3. Initial Applications for Cannabis Business Licenses.**

(1) An initial license is valid for one (1) year from the date of issuance shown on the license. The cabinet shall publish notice of initial license application availability on the Web site for the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>, including the time frame during which initial license applications shall be accepted. This notice shall also state the category and number of cannabis business licenses available for issuance at the close of the application period.

(2) An applicant shall only use the initial license application form prescribed by the cabinet and made available through the Web site for the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>.

(3) An applicant shall submit an initial license application to the cabinet in the manner prescribed by the application instructions.

(4) An applicant shall apply for a separate license for each location where it intends to operate a cannabis business. During an initial license application availability period, an applicant shall only apply for a license in one (1) cannabis business license type (cultivator, processor, producer, dispensary, or safety compliance facility) being offered at that time. An applicant may submit multiple applications for a license within one (1) cannabis business license type so long as the following criteria is met:

(a) Each application contains a separate and distinct physical address where the applicant proposes to conduct cannabis business activities;

(b) Each application contains documentation of sufficient capital in accordance with subsection (5)(q) of this section and the applicant shall not use the same capital for more than one (1) application;

(c) For the four (4) cannabis cultivator tiers, an applicant shall only submit one (1) application per cultivation tier; and

(d) For dispensaries, an applicant shall only submit one (1) application per medicinal cannabis region as identified in 915 KAR 1:020, Section 3 and shown on the map published on the Web site of the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>.

(5) The applicant shall submit the following in the initial license application:

(a) The legal name, business type, any trade or doing business as (DBA) name, mailing address, federal tax identification number, Web site (if any), email address, and phone number of the proposed cannabis business and confirmation that the entity is registered with the Kentucky Secretary of State in good standing and authorized to do business in Kentucky;

(b) The type of cannabis business license requested;

(c) Business entity formation documents such as articles of incorporation, articles of organization, or bylaws;

(d) Proposed location of cannabis business activities, including the physical address of the proposed cannabis business and the global positioning system (GPS) coordinates for any proposed cannabis business activities as well as:

1. Documentation such as a contingent agreement for property sale or lease or an existing deed or lease that shows the applicant has the authority to use the proposed location as a cannabis business for, at a minimum, the term of the license; and

2. A site plan for the proposed cannabis business.

(e) The name, address, date of birth, and curricula vitae or resume of each principal officer and board member of the proposed cannabis business as well as any additional information required by the cabinet;

(f) Disclosure of any individual or business entity with an ownership interest of at least ten (10) percent equity or similar interest in the proposed cannabis business and each identified individual or entity's ownership percentage as well as any additional information required by the cabinet;

(g) Disclosure of any parent company or parent individual that has an ownership interest in the proposed cannabis business and

## VOLUME 51, NUMBER 4– October 1, 2024

each identified individual or entity's ownership percentage as well as any additional information required by the cabinet;

(h) A document showing the ownership organizational structure of the proposed cannabis business;

(i) The name and address of any individual or entity providing financial support to the proposed cannabis business that are not involved in the day-to-day operations beyond providing financial resources as well as any additional information required by the cabinet;

(j) The name and address of any physician or advanced practice registered nurse that has an ownership or investment interest in or compensation agreement with the proposed cannabis business as well as any additional information required by the cabinet;

(k) Disclosure of whether any principal officer or board member of the applicant has been convicted of a felony criminal offense, and if so, a description of each felony offense;

(l) Disclosure of any instances in which a business or not-for-profit entity that any of the applicant's board members managed or served on the board of was convicted, fined, censured, or had a registration or license suspended or revoked in any administrative or judicial proceeding;

(m) If applicable, documentation that the applicant is capable of successfully establishing and operating a cannabis business in the Commonwealth, including:

1. Demonstrated experience establishing and operating a for-profit or nonprofit organization or other business within Kentucky or any other jurisdiction, and the nature of the business conducted by the organization;

2. Any history relating to receipt of a similar license or other authorization in other jurisdictions, including provisional licenses, suspensions, revocations, or disciplinary actions to include civil monetary fines or warnings; and

3. Any history of response to suspensions, revocations, disciplinary actions, civil monetary fines, or warnings imposed relating to any similar license or other authorization in another jurisdiction, and the plans of correction or other responses made to those actions.

(n) A description of the duties, responsibilities, and roles of each principal officer, board member, employee, and any other individual or entity with a financial interest in the proposed cannabis business who are not involved in the day-to-day operations of the business;

(o) A timeline showing the steps and estimated amount of time the applicant shall take to begin cannabis business activities in the Commonwealth;

(p) Financial plan for the proposed cannabis business, including budget and cash flow planning and debt management;

(q) Documentation of sufficient capital available to the applicant, either on deposit or through extension of credit from one (1) or more financial institutions, in the following amounts as applicable:

1. Tier I cultivator: \$50,000;
2. Tier II cultivator: \$200,000;
3. Tier III cultivator: \$500,000;
4. Tier IV cultivator: \$1,000,000;
5. Processor: \$150,000;
6. Producer: \$150,000 plus the applicable cultivator tier amount;
7. Dispensary: \$150,000; or
8. Safety compliance facility: \$150,000

(r) A summary of the intended plan of operation that describes, at a minimum, how the applicant's proposed cannabis business operations shall address:

1. Security;
2. Employee qualifications, supervision, and training;
3. Transportation of medicinal cannabis;
4. Storage and labeling of medicinal cannabis;
5. Inventory management;
6. Recordkeeping;
7. Preventing unlawful diversion of medicinal cannabis; and
8. Workforce development and job creation.

(s) The name, mailing address, business title, phone number, and email address of the primary contact for the application as well as the name, address, and email address of any entity or individual who assisted the applicant with preparing the application;

(t) Documentation of any management service agreement in place for the proposed cannabis business;

(u) A notarized signature page signed by the applicant; and

(v) An attestation that:

1. The site of the proposed cannabis business is not within 1,000 feet of an existing elementary or secondary school or a daycare center. For the purpose of this administrative regulation, 1,000 feet shall be measured in a straight line from the nearest property line of an existing elementary school, secondary school, or daycare center to the nearest property line of the applicant's proposed place of business;

2. The applicant can continuously maintain sufficient capital for operations of its proposed cannabis business for, at a minimum, the term of the initial license;

3. The applicant can continuously maintain effective security, surveillance, and accounting control measures to prevent diversion, abuse, and other illegal conduct regarding medicinal cannabis;

4. The applicant shall comply with KRS Chapter 218B and 915 KAR Chapter 1;

5. The applicant consents to the cabinet verifying information provided in the application with any relevant governmental agency or third party;

6. If issued a license, the applicant shall pay the applicable license fee within fifteen (15) calendar days of notification in a manner prescribed by the cabinet.

7. If issued a license, the applicant shall conduct a criminal background check into the criminal history of each person seeking to be a principal officer, board member, agent, volunteer, or employee of the cannabis business before that person begins work and shall not employ, take on as a volunteer, or have as a board member, principal officer, or agent any person who was convicted of a disqualifying felony offense or is younger than twenty-one (21) years of age;

8. The applicant consents to reasonable inspections, examinations, searches, and seizures as contemplated by KRS Chapter 218B and 915 KAR Chapter 1;

9. The applicant shall obtain and maintain workers' compensation insurance for all employees in the Commonwealth and shall pay all required employer contributions to the Kentucky Office of Unemployment Insurance;

10. The applicant shall obtain and maintain commercial general liability insurance for \$1,000,000 per occurrence and \$2,000,000 per aggregate and commercial automobile insurance for any vehicle used to transport medicinal cannabis or medicinal cannabis products;

11. The applicant shall complete all trainings required by the cabinet for the proposed cannabis business's principals, agents, employees, and volunteers;

12. The applicant shall establish any standard operating procedures required by KRS Chapter 218B and 915 KAR Chapter 1 prior to the first date of cannabis business activities in the Commonwealth, including those specific to its cannabis business category. The standard operating procedures that apply to cannabis businesses include:

- a. Security;
- b. Recordkeeping;
- c. Employee qualifications, supervision, and training;
- d. Quality assurance;
- e. Adverse event reporting and recall;
- f. Waste disposal and sanitation;
- g. Transportation of medicinal cannabis;
- h. Inventory management, including storage and labeling of medicinal cannabis;
- i. Cash management and anti-fraud procedures; and
- j. Preventing unlawful diversion of medicinal cannabis.

13. For an applicant seeking a safety compliance facility license, one (1) or more of its prospective principal officers or board members shall not be a principal officer or board member of a cultivator, processor, producer, or dispensary applying to operate in the Commonwealth;

14. For an applicant seeking a cultivator, processor, producer, or dispensary license, one (1) or more of its prospective principal officers or board members shall not be a principal officer or board

## VOLUME 51, NUMBER 4– October 1, 2024

member of a safety compliance facility applying to operate in the Commonwealth;

15. The applicant consents to sharing medicinal cannabis sales data with law enforcement;

16. The applicant shall use the Commonwealth's designated electronic monitoring system and seed to sale tracking system required by KRS 218B.140 in the manner prescribed by the cabinet;

17. The applicant has disclosed all individuals and entities with an ownership interest of at least ten (10) percent equity or similar interest in the proposed cannabis business as well as any parent companies and parent company individuals with an ownership interest in its proposed cannabis business; and

18. The applicant swears and affirms that all information and documentation provided with the initial license application is true and correct.

(6) An initial license application received after the submission time frame stated in the published notice of initial license application availability shall be rejected by the cabinet without further consideration along with the return of the initial application fee.

(7) The cabinet shall acknowledge receipt of an initial application for a cannabis business license within fifteen (15) calendar days of submission by the applicant. The cabinet shall review each application to determine whether the application is complete. The cabinet shall provide written notice to an applicant when it has determined the application is complete. If the cabinet determines an application is not complete, the cabinet shall provide written notice to the applicant of the identified deficiencies in the application. The applicant shall have ten (10) calendar days from the date of the deficiency notification to cure the identified deficiencies and provide any missing information or documentation to the cabinet in the manner prescribed by the cabinet. If the applicant fails to cure any deficiency within ten (10) calendar days from the date of the deficiency notification, the cabinet shall reject the application as incomplete.

(8) The cabinet shall provide notification to applicants as to whether an application for a license has been approved or denied within forty-five (45) calendar days of receiving an application and determining its complete. Any application denials shall be done in accordance with KRS 218B.090(2) and (4), including providing written notice to the applicant that he or she may file a written request for an administrative hearing on the application within thirty (30) calendar days after the mailing date of the notice. Any hearing resulting from the applicant's written request shall be conducted in accordance with KRS Chapter 13B.

Section 4. License Renewal Fees. An applicant for renewal of a cannabis business license shall pay the applicable annual renewal fee by credit card or ACH transfer at the time of application submission to the cabinet. The annual renewal fee is refundable if the renewal application is denied. The annual renewal fees are:

(1) Tier I cultivator: \$12,000;

(2) Tier II cultivator: \$25,000;

(3) Tier III cultivator: \$50,000;

(4) Tier IV cultivator: \$100,000;

(5) Processor: ~~\$25,000~~[\$15,000];

(6) Producer: ~~\$25,000~~[\$15,000] plus the applicable cultivator tier annual renewal fee;

(7) Dispensary: ~~\$30,000~~[\$15,000]; and

(8) Safety compliance facility: \$12,000.

Section 5. Renewal Applications for Cannabis Business Licenses.

(1) A renewal license is valid for one (1) year from the date of issuance shown on the license. The requirements that a licensed cannabis business shall meet to receive an initial license are continuing requirements to maintain the license. A cannabis business shall continuously comply with the licensing requirements of KRS Chapter 218B and 915 KAR Chapter 1 during the initial licensure period and any subsequent renewal period.

(2) The cabinet shall notify each licensee at least ninety (90) calendar days prior to the date the license expires to allow the licensee to begin the renewal process if the licensee so chooses.

(3) A licensee shall only use the license renewal application form prescribed by the cabinet and made available through the Web site

of the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>.

(4) A license renewal application shall be submitted to the cabinet at least sixty (60) calendar days prior to the expiration of the license. The cabinet shall reject a license renewal application if it is not submitted at least sixty (60) calendar days prior to the expiration of the license and shall return the annual renewal fee to the licensee along with written notice of the rejection.

(5) A licensee shall submit a license renewal application to the cabinet in the manner prescribed by the application instructions.

(6) A licensee shall include the following information with a license renewal application:

(a) Information regarding any charge, or any initiated, pending, or concluded investigation or proceeding, during the period of the initial license or prior renewal period, by any governmental or administrative agency, including an investigation or proceeding involving theft, loss, or possible diversion of medicinal cannabis by the licensee or from the licensee's facility;

(b) Information regarding the licensee's ability to continue with licensed activities, including any staffing issues, delays, medicinal cannabis shortages, medicinal cannabis product recalls, location issues, and financial issues that occurred since the license was issued;

(c) The licensee's history of compliance with KRS Chapter 218B and 915 KAR Chapter 1, including a summary of any noncompliance and corrective action taken during the current and any previous licensing period or a statement indicating that the licensee has not violated KRS Chapter 218B or 915 KAR Chapter 1 as of the date the renewal application is submitted; and

(d) Any additional information required by the cabinet.

(7) The cabinet shall acknowledge receipt of a renewal license application within fifteen (15) calendar days of submission by the applicant. The cabinet shall review each application to determine whether the application is complete. If the cabinet determines an application is not complete, the cabinet shall provide written notice to the applicant of the identified deficiencies in the application. The applicant shall have ten (10) calendar days from the date of the deficiency notification to cure the identified deficiencies and provide any missing information or documentation to the cabinet in the manner prescribed by the cabinet. If the applicant fails to cure any deficiency within ten (10) calendar days from the date of the deficiency notification, the cabinet shall reject the application as incomplete.

(8) If the cabinet determines that a license renewal application is lacking sufficient information upon which to make a renewal determination, the cabinet shall notify the licensee in writing of the factors that require additional information and documentation. The licensee shall have ten (10) calendar days from the date of the notice to provide the requested information and documentation to the cabinet. A licensee's failure to provide the requested information to the cabinet by the deadline shall be grounds for denial of the license renewal application.

(9) The cabinet may conduct an onsite inspection of the licensee's facilities and records to assist with determining continuing compliance with KRS Chapter 218B and 915 KAR Chapter 1.

(10) An existing cannabis business license is immediately invalid upon expiration if the licensee has not filed a license renewal application and paid the required renewal fee in accordance with Section 4 of this administrative regulation. If a licensee properly submits a timely renewal application with applicable renewal fee, the cabinet may extend its existing license from the date the existing license expires until the cabinet can complete its renewal application review and issue a determination.

Section 6. Minimum Performance Standards for License Renewal.

(1) Pursuant to KRS 218B.080(5)(b), the renewal of a cannabis business license shall be contingent upon successful achievement of minimal performance standards established by the cabinet. The minimum performance standards for licensees participating in the Kentucky Medical Cannabis Program are:



## VOLUME 51, NUMBER 4– October 1, 2024

(a) The licensee has, and is likely to continue to maintain, effective controls against diversion of medicinal cannabis at its facility;

(b) The licensee has not made false or misleading statements in:

1. A renewal application or any other application submitted to the cabinet;

2. Any document or written communication submitted to the cabinet; or

3. Any verbal communication to the cabinet.

(c) The licensee has a documented history of compliance with the licensee requirements in KRS Chapter 218B and 915 KAR Chapter 1;

(d) The licensee has effectively addressed any identified compliance issues through corrective action;

(e) The licensee has shown it has the ability to continue to comply with all state and local laws and administrative regulations applicable to the activities in which it may engage under the license, if renewed;

(f) The licensee has a documented history of successfully addressing and mitigating any quality or safety issues with its medicinal cannabis or medicinal cannabis products;

(g) The licensee timely completes all reporting required by KRS Chapter 218B and 915 KAR Chapter 1; and

(h) The licensee participates in surveys distributed by the cabinet and provides full, complete, and timely responses.

(2) The cabinet shall deny a renewal application for a cannabis business license if it determines the licensee has failed to:

(a) Meet one (1) or more of the minimum performance standards established in this section; or

(b) Any additional basis provided in KRS 218B.090.

(3) The cabinet shall provide written notification to a licensee as to whether its renewal application has been approved or denied within forty-five (45) calendar days of receiving an application and determining its complete. Any renewal application denials shall be done in accordance with KRS 218B.090(4), including providing written notice to the applicant that he or she may file a written request for an administrative hearing on the application within thirty (30) calendar days after the mailing date of the notice. Any hearing resulting from the applicant's written request shall be conducted in accordance with KRS Chapter 13B.

Section 7. Duty to Report. During the application process, an applicant for an initial cannabis business license or renewal license shall, upon discovery of any change in facts or circumstances reflected in the initial application or renewal application submitted to the cabinet, notify the cabinet in writing of the change or any newly discovered fact or circumstance that would have been included in the application if known at the time the application was submitted. The notification required under this section shall be sent via electronic mail to [kymedcanreporting@ky.gov](mailto:kymedcanreporting@ky.gov) within twenty-four (24) hours of discovery. Failure to timely notify the cabinet of a change or newly discovered facts or circumstances may result in denial of the application.

SAM FLYNN, Executive Director

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: August 28, 2024

FILED WITH LRC: September 9, 2024 at 11:20 a.m.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email [CHFSregs@ky.gov](mailto:CHFSregs@ky.gov).

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Oran S. McFarlan, III and Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes initial application and renewal procedures for cannabis business licenses. In response to comments received by the cabinet, the Amended After Comments version of the administrative regulation amends license renewal fees for processor, producer, and

dispensary to match the initial license fees established in 915 KAR 1:020E, Section 2(2).

(b) The necessity of this administrative regulation: This administrative regulation is necessary to carry out the requirements of KRS Chapter 218B, specifically KRS 218B.140(1)(c)(3).

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 218B.140 requires the Cabinet for Health and Family Services to promulgate administrative regulations establishing initial application and renewal procedures for cannabis business licenses. This administrative regulation establishes those procedures.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides the procedures for initial and renewal applications for cannabis business licenses.

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

(a) How the amendment will change this existing administrative regulation: Not applicable. This is a new administrative regulation.

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

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

(d) How the amendment will assist in the effective administration of the statutes: Not applicable. 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 affects cannabis businesses that desire to apply for and subsequently renew licenses to conduct cannabis business activities in the commonwealth.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Cannabis businesses that desire to operate in Kentucky must follow the initial and renewal application procedures and requirements identified in this administrative regulation in order to be eligible to receive an initial license or renew an existing license.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The initial license application fees vary by cannabis business category and range from \$3,000 to \$35,000 for each submitted initial application. The annual renewal license fees also vary by cannabis business category and range from \$12,000 to \$125,000 for each submitted renewal application.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The cannabis businesses that receive a license from the Cabinet for Health and Family Services are authorized to conduct cannabis business activities in the commonwealth for the term of the license (i.e., one (1) year from the date of license issuance).

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

(a) Initially: The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140.

(b) On a continuing basis: The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general funds provided by the commonwealth.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: It is anticipated that an

**VOLUME 51, NUMBER 4– October 1, 2024**

increase in funding will be necessary to implement this regulation as additional staff and resources are necessary to administer the cannabis business license application process.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: Yes, this administrative regulation establishes initial license application fees and annual renewal license fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All cannabis businesses will be treated equally.

**FISCAL IMPACT STATEMENT**

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 218B.015, 218B.080, 218B.085, 218B.090, 218B.095, 218B.100, 218B.140, 523.100, Chapter 13B.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: This administrative regulation is promulgated by the Kentucky Medical Cannabis Program within the Cabinet for Health and Family Services.

(a) Estimate the following for the first year:

Expenditures: The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398.

Revenues: The commonwealth will receive initial license application fees paid by proposed cannabis businesses during the first year. The initial license application fees vary by cannabis business category and range from \$3,000 to \$35,000 for each submitted initial application. At this time, it is not known how many proposed cannabis businesses will apply for licenses and pay the attendant fees.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. The commonwealth will receive annual renewal license fees from licensed cannabis businesses that desire to continue operating in the commonwealth following the expiration of their existing license. The commonwealth may also receive additional initial license application fees if the Cabinet for Health and Family Services determines additional licenses should be issued in a given year based on criteria provided in 915 KAR Chapter 1. The annual renewal license fees vary by cannabis business category and range from \$12,000 to \$125,000 for each submitted renewal application.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): If its application is approved, a proposed cannabis will locate within a city or county in the commonwealth.

(a) Estimate the following for the first year:

Expenditures: Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130

Revenues: Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances and fees established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances and fees established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

(4) Identify additional regulated entities not listed in questions (2) or (3): Proposed cannabis businesses.

(a) Estimate the following for the first year:

Expenditures: A proposed cannabis business is required to pay the applicable initial license application fee at the time of initial application submission.

Revenues: Once operational, approved applicants will generate revenue through cannabis business activities. At this time, it is

unknown how much revenue will be generated by those cannabis businesses.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Cannabis businesses are required to pay the applicable annual renewal license fee at the time of renewal application submission. This renewal license fee is refundable if the renewal application is denied.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140. It is anticipated that an increase in funding will be necessary to administer all of the administrative regulations contained in 915 KAR Chapter 1 related to cannabis businesses.

(b) Methodology and resources used to determine the fiscal impact: As part of its Biennial Budget Request, the Cabinet for Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system and seed to sale tracking system required by KRS 218B.140.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) . The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140. The Kentucky Medical Cannabis Program will have a major economic impact on the Cabinet for Health and Family Services, and it is anticipated that an increase in funding will be necessary to administer all of the administrative regulations contained in 915 KAR Chapter 1 related to cannabis businesses.

(b) The methodology and resources used to reach this conclusion: As part of its Biennial Budget Request, the Cabinet for Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system required by KRS 218B.140.

**CABINET FOR HEALTH AND FAMILY SERVICES  
Office of the Secretary  
(Amended After Comments)**

**915 KAR 1:020. Cannabis business licenses.**

RELATES TO: KRS Chapter 13B, Chapter 218B, 304.39-110, 523.100

STATUTORY AUTHORITY: KRS 218B.140

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218B.140 requires the Cabinet for Health and Family Services to promulgate administrative regulations establishing procedures for the issuance, renewal, suspension, and revocation of cannabis business licenses. This administrative regulation establishes those procedures.

Section 1. General Requirements for Cannabis Business Licenses.

(1) The cabinet shall issue a license, by name and address, to a cannabis business only for the specific location identified by the cannabis business during the application and issuance process. A license is only valid for the person or entity named in the license and only for the activity and location specified in the license.

(2) A licensed cannabis business shall conspicuously display its license within the premises of the cannabis business in a manner that is visible to visitors upon initial entry into its facility.

## VOLUME 51, NUMBER 4– October 1, 2024

(3) A license shall not be issued to a cannabis business for operation within a personal residence or any other location where the cabinet or its authorized agents or law enforcement have limited access.

(4) A license shall not be issued to a cannabis business for a site or facility located on lands owned by the United States of America or the Commonwealth of Kentucky.

(5) A license is valid for one (1) year from the date of issuance as shown on the license.

### Section 2. License Fees for Cannabis Businesses.

(1) A cannabis business shall pay the applicable license fee by credit card or automated clearing house (ACH) transfer to the cabinet within fifteen (15) calendar days of receipt of the invoice from the cabinet. The cabinet shall not issue a license to a cannabis business that fails to timely pay the applicable license fee.

(2) The initial nonrefundable license fees shall be:

(a) Tier I cultivator: \$12,000;

(b) Tier II cultivator: \$25,000;

(c) Tier III cultivator: \$50,000;

(d) Tier IV cultivator: \$100,000;

(e) Processor: \$25,000;

(f) Producer: \$25,000 plus the applicable cultivator tier initial license fee;

(g) Dispensary: \$30,000; and

(h) Safety compliance facility: \$12,000.

(3) The annual renewal license fees, which are refundable if the renewal application is denied, shall be:

(a) Tier I cultivator: \$12,000;

(b) Tier II cultivator: \$25,000;

(c) Tier III cultivator: \$50,000;

(d) Tier IV cultivator: \$100,000;

(e) Processor: ~~\$25,000~~~~[\$15,000]~~;

(f) Producer: ~~\$25,000~~~~[\$15,000]~~ plus the applicable cultivator tier renewal license fee;

(g) Dispensary: ~~\$30,000~~~~[\$15,000]~~; and

(h) Safety compliance facility: \$12,000.

### Section 3. Initial Licensure of Cannabis Businesses and Use of Lottery.

(1) The cabinet shall publish notice of the number and category of cannabis business licenses available for distribution at the close of an initial license application period and provide the time frame during which initial license applications shall be accepted by the cabinet. This notice shall be published on the Web site of the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>.

(2) In order to promote patient access to medicinal cannabis across the Commonwealth, the cabinet shall issue dispensary licenses within designated regions. The cabinet shall publish a map clearly identifying the medicinal cannabis regions on the Web site of the Kentucky Medical Cannabis Program. The eleven (11) medicinal cannabis regions in the Commonwealth are:

(a) Region 1 (Bluegrass): The geographical region comprised of the counties of Anderson, Bourbon, Boyle, Clark, Fayette, Franklin, Garrard, Harrison, Jessamine, Madison, Mercer, Scott, and Woodford;

(b) Region 2 (Kentuckiana): The geographical region comprised of the counties of Bullitt, Henry, Jefferson, Oldham, Shelby, Spencer, and Trimble;

(c) Region 3 (Northeast): The geographical region comprised of the counties of Bath, Boyd, Carter, Elliott, Fleming, Greenup, Lewis, Mason, Menifee, Montgomery, Morgan, Nicholas, Robertson, and Rowan;

(d) Region 4 (South Central): The geographical region comprised of the counties of Allen, Barren, Butler, Edmonson, Logan, Metcalfe, Monroe, Simpson, and Warren;

(e) Region 5 (Cumberland): The geographical region comprised of the counties of Bell, Casey, Clinton, Cumberland, Harlan, Knox, Laurel, Lincoln, McCreary, Pulaski, Rockcastle, Russell, Wayne, and Whitley;

(f) Region 6 (Mountain): The geographical region comprised of the counties of Breathitt, Clay, Estill, Floyd, Jackson, Johnson, Knott, Lawrence, Lee, Leslie, Letcher, Magoffin, Martin, Owsley, Pery, Pike, Powell, and Wolfe;

(g) Region 7 (Pennyriple): The geographical region comprised of the counties of Caldwell, Christian, Hopkins, Lyon, Muhlenberg, Todd, and Trigg;

(h) Region 8 (West Kentucky): The geographical region comprised of the counties of Ballard, Calloway, Carlisle, Crittenden, Fulton, Graves, Hickman, Livingston, McCracken, and Marshall;

(i) Region 9 (Lincoln Trail): The geographical region comprised of the counties of Adair, Breckinridge, Grayson, Green, Hardin, Hart, Larue, Marion, Meade, Nelson, Taylor, and Washington;

(j) Region 10 (Northern Kentucky): The geographical region comprised of the counties of Boone, Bracken, Campbell, Carroll, Gallatin, Grant, Kenton, Owen, and Pendleton; and

(k) Region 11 (Green River): The geographical region comprised of the counties of Daviess, Hancock, Henderson, McLean, Ohio, Union, and Webster.

(3) The cabinet shall issue at least four (4) dispensary licenses per medicinal cannabis region. For regions containing an urban-county government or a consolidated local government, the cabinet shall issue at least six (6) dispensary licenses, two (2) of which shall be issued to eligible cannabis businesses that physically locate their dispensary in the counties with an urban-county government or a consolidated local government. For all counties without an urban-county government or a consolidated local government, there shall be no more than one (1) dispensary per county.

(4) A dispensary licensee shall not change its retail location to another location within the same region without prior cabinet approval. A dispensary licensee shall not change its retail location to outside of the region where it was initially licensed.

(5) The licenses for cultivators, processors, producers, and safety compliance facilities are not subject to regional restrictions within the Commonwealth, and those licensees shall operate at the physical address identified on their respective licenses.

(6) Applicants for initial cannabis business licenses who comply with all application requirements contained in KRS Chapter 218B and 915 KAR 1:010, and whose applications are deemed complete by the cabinet, shall be eligible to receive the license requested. If the number of eligible applications does not exceed the maximum number of licenses available within a cannabis business category following the close of an initial license application period, the cabinet shall provide written notice to the eligible applicants that a license shall be issued to them upon timely payment of the applicable license fee. When an eligible applicant timely pays the applicable license fee, the cabinet shall issue a copy of the license to the applicant that contains the cannabis business's name, license number, physical location, issue date, and expiration date.

(7) If the number of eligible applications exceeds the maximum number of licenses available within a cannabis business category following the close of an initial license application period, the cabinet shall conduct a lottery to issue the licenses for that cannabis business category. The cabinet shall notify the eligible applicants of their entry into the lottery and publicly announce the date, time, and manner of randomly selecting eligible applicants for the requested license. A lottery to select the licensees in each cannabis business category, as needed, shall be held in a manner that can be observed by the public.

(8) The cabinet may consult or contract with a third-party lottery operator or other public agencies with relevant expertise in conducting lotteries. The entity selected to conduct the lottery shall conduct an independent lottery for each cannabis business category where the number of eligible applicants exceeds the number of available licenses. The cabinet shall assign a number to each eligible applicant in each license lottery and maintain the confidentiality of the list(s) containing the eligible applicants and their assigned numbers until after the random drawings have occurred.

(9) The cabinet shall provide written notice to the eligible applicants selected through the lottery process that a license shall be issued to them upon timely payment of the applicable license fee. When an eligible applicant timely pays the applicable license fee, the cabinet shall issue a copy of the license to the applicant that contains the cannabis business's name, license number, physical location, issue date, and expiration date.

**(10) Prior to license issuance, if an eligible applicant selected through the lottery process needs to change their**

VOLUME 51, NUMBER 4– October 1, 2024

location for cannabis business activities due to a local government prohibiting all cannabis business operations within its territory as authorized by KRS 218B.130 or other circumstances, a provisional license may be issued to the eligible applicant upon timely payment of the applicable license fee.

(a) If a provisional license is issued, the provisional licensee shall have a maximum of 120 calendar days from issuance to request a change of location to an allowable county or city under KRS Chapter 218B and this administrative regulation. If the new location is approved by the program, a new license shall be issued that contains the cannabis business's name, license number, physical location, issue date, and an expiration date which shall be one (1) year from the date of provisional license issuance.

(b) If the provisional licensee fails to request a location change within 120 calendar days from issuance or the request is denied, the cabinet shall revoke their provisional license and the license fee shall not be refunded.

(c) Provisional licenses shall not be sold or transferred to another individual or entity and shall not authorize a provisional licensee to begin any cannabis business activities.

(11) The cabinet shall provide written notice to eligible applicants that were not selected through the lottery process informing them of the same.

(12)(44) If at the conclusion of the lottery selection process an eligible applicant declines the license or fails to pay its license fee within the required timeframe, the cabinet may conduct supplemental license lotteries as needed until all available cannabis business licenses have been issued and initial license fees paid. For any supplemental lottery for a license within a cannabis business category, eligible applicants who were not previously issued a license through the lottery process for that cannabis business category shall be entered into the supplemental lottery [~~if their selection would comply with any applicable geographic restrictions contained in this administrative regulation~~].

Section 4. Requirements for Licensees Prior to First Day of Cannabis Business Activities.

(1) Prior to its first day of cannabis business activities in the Commonwealth, a licensee shall provide written confirmation to the cabinet that:

(a) The licensee has complied and will continue to comply with all applicable requirements of KRS Chapter 218B, including KRS 218B.095 and 915 KAR Chapter 1, and shall make available all records and documentation verifying such compliance upon the request of the cabinet;

(b) The licensee has submitted its complete physical address and the global positioning system (GPS) coordinates for any cannabis business activities to the cabinet and confirmed its business is not located within 1,000 feet of an existing elementary or secondary school or a daycare center. For the purpose of this administrative regulation, 1,000 feet shall be measured in a straight line from the nearest property line of an existing elementary school, secondary school, or daycare center to the nearest property line of the licensee's place of business. The cabinet shall have an opportunity to inspect the location prior to the first day of cannabis business activities at that location in order to identify any deficiencies for correction;

(c) The licensee has conducted and shall continue to conduct criminal background checks of each person seeking to be a principal officer, board member, agent, volunteer, or employee of the cannabis business before that person begins work and shall not employ, take on as a volunteer, or have as a board member, principal officer, or agent any person who was convicted of a disqualifying felony offense or is younger than twenty-one (21) years of age. The licensee shall maintain records of these background checks and provide same to the cabinet during subsequent inspections or upon request;

(d) The licensee has obtained and shall maintain workers compensation insurance for all employees in the Commonwealth and shall pay all required employer contributions to the Kentucky Office of Unemployment Insurance;

(e) The licensee has obtained and shall maintain, at a minimum, commercial general liability insurance for \$1,000,000 per occurrence and \$2,000,000 per aggregate and commercial automobile insurance as required by Kentucky law, specifically KRS 304.39-110, for any vehicle used to transport medicinal cannabis or medicinal cannabis products;

(f) The licensee has established written standard operating procedures required by KRS Chapter 218B and 915 KAR Chapter 1, including those specific to its cannabis business category, and shall provide written or electronic copies of the procedures to the cabinet during inspections or upon request. The standard operating procedures that apply to cannabis businesses include:

1. Security;
2. Recordkeeping;
3. Employee qualifications, supervision, and training;
4. Quality assurance;
5. Adverse event reporting and recall;
6. Waste disposal and sanitation;
7. Transportation of medicinal cannabis;
8. Inventory management, including storage and labeling of medicinal cannabis;
9. Cash management and anti-fraud procedures;
10. **Odor mitigation and control;**
11. Preventing unlawful diversion of medicinal cannabis; and
12. ~~14.~~ Incident reporting procedures to notify the cabinet;

(g) The licensee continues to maintain sufficient capital for operations of its cannabis business for, at a minimum, the term of the license;

(h) The licensee has implemented appropriate security measures to deter and prevent theft of medicinal cannabis and unauthorized entrance into areas containing medicinal cannabis;

(i) The licensee has and shall continue to display its license at all times in a conspicuous location within the premises of the cannabis business in a manner that is visible to visitors upon initial entry into its facility;

(j) The licensee's principals, agents, employees, and volunteers have completed all trainings required by the cabinet to be completed prior to its first day of cannabis business activities in the Commonwealth;

(k) The licensee understands how to properly use the Commonwealth's designated electronic monitoring system and seed to sale tracking system for medicinal cannabis and shall use those systems as required throughout the entirety of its licensure period;

(l) The licensee has implemented appropriate odor mitigation procedures or technics to ensure the capture of any potential fugitive odors emitted by the facility;

(m) The licensee consents to reasonable inspections, examinations, searches, and seizures; and

(n)(m) The licensee swears and affirms that all information and documentation provided to the cabinet is true and correct and that any false statement made to the cabinet by the licensee is punishable under the applicable provisions of KRS 523.100.

(2) A licensee shall also provide the cabinet with thirty (30) calendar days advance notice of its intended first day of cannabis business activities in the Commonwealth and allow the cabinet an opportunity to inspect the licensee's site and facility prior to the first day of cannabis business activities. The licensee shall promptly correct any deficiencies identified by the cabinet during this inspection and shall not commence operations until deficiencies are corrected and approved by the cabinet. If the licensee fails to provide the notice required under this section or fails to correct identified deficiencies, the cabinet may take one (1) or more of the actions described in Section 12 of this administrative regulation.

(3) Once a cultivator or producer has received approval from the cabinet to commence operations, the cultivator or producer shall:

(a) Bring a start-up inventory of medicinal cannabis seeds, seedlings, tissue cultures, clones, and plants into its facility;

(b) Submit a written request to the cabinet via electronic mail to [kymedcanreporting@ky.gov](mailto:kymedcanreporting@ky.gov) requesting that the cabinet open a window in the state's designated seed to sale tracking system for the cultivator or producer to enter its start-up inventory of medicinal cannabis seeds, seedlings, tissue cultures, clones, and plants into the system. This written request shall include the number and strain

## VOLUME 51, NUMBER 4– October 1, 2024

of all medicinal cannabis seeds, seedlings, tissue cultures, clones, and plants brought into the facility;

(c) Have fourteen (14) calendar days from receipt of the cabinet's approval of the cultivator or producer's written request in which to enter its start-up inventory into the state's designated seed to sale tracking system. A cultivator or producer shall enter its start-up inventory into the state's designated seed to sale tracking system as follows:

1. Seeds shall be entered into the system as a package;

2. Seedlings, tissue cultures, clones, [and plants] shall be entered into the system as a batch; and

(d) Notify the cabinet in writing via electronic mail to [kymedcanreporting@ky.gov](mailto:kymedcanreporting@ky.gov) when all its start-up inventory has been fully and accurately entered into the state's designated seed to sale tracking system and confirm the number and strain of medicinal cannabis seeds, seedlings, tissue cultures, clones, and plants brought into the facility.

(4) Following acquisition of its start-up inventory, a cultivator or producer may submit a written request to the cabinet via electronic mail to [kymedcanreporting@ky.gov](mailto:kymedcanreporting@ky.gov) requesting that the cabinet open a window in the state's designated seed to sale tracking system for the cultivator or producer to enter new medicinal cannabis seeds, seedlings, tissue cultures, clones, or plants into the system. This written request shall:

(a) State the proposed date to bring new inventory into the facility; and

(b) Provide the number and strain of all new medicinal cannabis seeds, seedlings, tissue cultures, clones, and plants that the cultivator or producer requests to bring into the facility.

(5) Upon receipt of the cabinet's approval of a written request made pursuant to subsection (4) of this section, the cultivator or producer shall have seven (7) calendar days to enter its new inventory into the state's designated seed to sale tracking system. A cultivator or producer shall enter its new inventory into the state's designated seed to sale tracking system as described in subsection (3)(c) of this section. A cultivator or producer shall notify the cabinet in writing via electronic mail to [kymedcanreporting@ky.gov](mailto:kymedcanreporting@ky.gov) when all new inventory has been fully and accurately entered into the state's designated seed to sale tracking system and confirm the number and strain of medicinal cannabis seeds, seedlings, tissue cultures, clones, and plants brought into the facility.

### Section 5. Requirements for Licensees During Licensure Period.

(1) A licensee shall only hold licenses in one (1) cannabis business category at any given time, except as provided in Section 10(4) of this administrative regulation. A licensee may hold multiple licenses in the same cannabis business category as long as each license contains a separate and distinct physical address where the cannabis business conducts licensed cannabis activities and the licensee is otherwise in compliance with the requirements of KRS Chapter 218B and 915 KAR Chapter 1, including any geographic restrictions contained in this administrative regulation.

(2) Duty to report.

(a) During the licensure period, a licensee shall notify the cabinet in writing of any change in facts or circumstances reflected in the initial license application, supplemental written confirmations, or any license renewal application submitted to the cabinet, or any newly discovered fact or circumstance which would have been included in the application or information provided to the cabinet if known at the time the information was submitted. This duty to report includes:

1. Notifying the cabinet of any physical change, alteration, or modification to a licensed facility that materially or substantially alters the facility or its usage, including an increase or decrease in the total square footage of the facility;

2. Significant electrical modifications that require inspection by local authorities; and

3. Sealing off, creation of, or relocation of a common entryway, doorway, passage, or other means of ingress or egress when the common entryway, doorway, or passage alters or changes limited access areas.

(b) During the licensure period, a licensee shall notify the cabinet following knowledge or discovery of the following events:

1. Inventory discrepancies;

2. Diversion, theft, or loss of any medicinal cannabis or medicinal cannabis product;

3. Unauthorized destruction of medicinal cannabis;

4. Any criminal proceeding involving the licensee's owners, principal officers, board members, employees, volunteers, financial backers, or agents arising out of actions taken on the licensee's premises or while using licensee property;

5. Security alarm activation or other event that requires response by law enforcement or security personnel;

6. Any loss, unauthorized dissemination, or unauthorized alteration of records related to medicinal cannabis, cardholders, employees, volunteers, or agents;

7. Accidents involving transport vehicles that occur while the licensee is transporting or delivering medicinal cannabis;

8. Any act involving cultivating, processing, producing, testing, transporting, or dispensing medicinal cannabis by any person that may create a health or safety risk to cardholders or the general public;

9. A dispensary declines the sale of medicinal cannabis to a cardholder; and

10. A dispensary desires to prohibit a cardholder from entering its premises.

(c) The notifications required under this subsection shall be:

1. Provided on a form prescribed by the cabinet and available on the Web site of the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>, that includes time and date of the event, individuals involved, and a detailed description of the event; and

2. Sent via electronic mail to [kymedcanreporting@ky.gov](mailto:kymedcanreporting@ky.gov) or through the cannabis business licensing portal within twenty-four (24) hours of discovery or knowledge of the event.

(d) If the licensee fails to provide the notice required under this section, the cabinet may take one (1) or more of the actions described in Section 12 of this administrative regulation.

(e) In the event a local government prohibits all cannabis business operations within its territory in accordance with KRS 218B.130, a licensee located within the affected territory shall notify the cabinet in writing via electronic mail to [kymedcanreporting@ky.gov](mailto:kymedcanreporting@ky.gov) within twenty-four (24) hours of notification or discovery of this prohibition, including all information known regarding the prohibition, and may make a written request to the cabinet to change its cannabis business location in accordance with Section 9 of this administrative regulation.

(3) Inspection and investigation.

(a) The cabinet may conduct announced or unannounced inspections or investigations to determine the licensee's compliance with KRS Chapter 218B and 915 KAR Chapter 1. These investigations and inspections may occur during regular working hours and at other reasonable times in order to inspect the licensee's place of business, question privately any such principal officer, board member, agent, employee, or employee's representative, and investigate such facts, conditions, practices, or other matters deemed appropriate to determine whether the licensee is operating in compliance with KRS Chapter 218B and 915 KAR Chapter 1. If a licensee refuses such entry onto its premises, the cabinet may apply to the circuit court in the county in which the licensee is located for an order to enforce the right of entry.

(b) Following completion of an inspection or investigation, the cabinet shall have the authority to confiscate, possess, transport, and destroy any medicinal cannabis that has been deemed noncompliant with the standards established by KRS Chapter 218B and 915 KAR Chapter 1.

(c) The cabinet's authorized representatives shall also have the authority to:

1. Administer oaths;

2. Examine witnesses under oath;

3. Take depositions;

4. Certify to official acts;

5. Review records and accounts;

6. Take photographs;

7. Secure any other evidence deemed necessary to evaluate compliance with KRS Chapter 218B and 915 KAR Chapter 1; and

## VOLUME 51, NUMBER 4– October 1, 2024

8. Issue subpoenas to compel the attendance of witnesses and parties and the production of books, accounts, correspondence, memoranda, and other records considered necessary and relevant to the matter under investigation by the cabinet.

(d) When a witness or party fails to comply with a subpoena issued by the cabinet, the circuit court in the county in which the witness or party is located may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena or order issued from such court or a refusal to testify therein, and may adjudge such person guilty of contempt of court and punish him or her as provided by law in other contempt cases. In any proceeding brought under this paragraph, a circuit court may modify or set aside the subpoena.

(e) An investigation or inspection may include:

1. Inspection of a licensee's site, facility, vehicles, equipment, books, records, papers, documents, data, and other physical or electronic information;

2. Interviews of licensee's principal officers, board members, agents, employees, volunteers, or employee representatives;

3. Interviews of licensee's former principal officers, board members, agents, employees, volunteers, or employee representatives; and

4. Inspection of equipment, instruments, tools, machinery, and vehicles that are used to grow, process, package, transport, and test medicinal cannabis.

(f) The cabinet and its authorized agents shall have free access to review and, if necessary, make copies of books, records, papers, documents, data, or other physical or electronic information that relates to the business of the licensee, including financial data, sales data, shipping data, pricing data, and employee data.

(g) Failure of a licensee to provide the cabinet and its authorized agents immediate access to any part of a licensee's site or facility, requested material, physical or electronic information, or individual as part of an inspection or investigation may result in the imposition of a civil monetary fine, suspension, or revocation of its license, or an immediate cessation of operations pursuant to a cease-and-desist order issued by the cabinet if continued operations would present a risk to the health, safety, or welfare of cardholders or the public.

(h) The cabinet and its authorized agents shall have access to any area within a licensee's site or facility, including any area being used to store medicinal cannabis, and are authorized to collect samples and test samples for testing.

(4) Training.

(a) Every principal, agent, employee, and volunteer of a licensee who has direct contact with cardholders, or physically handles cannabis seeds, seedlings, tissue cultures, clones, mature cannabis plants, medicinal cannabis, or medicinal cannabis products, shall complete applicable training required by the cabinet, which may include trainings for cultivating, processing, testing, and retail sale of medicinal cannabis and usage of the Commonwealth's designated electronic monitoring system and seed to sale tracking system required by KRS 218B.140. The cabinet shall provide written notice to licensees of the availability of any required training and the frequency to complete the training.

(b) The cabinet shall publish a Guide to Worker Safety and Health in the Kentucky Medical Cannabis Industry on the Web site of the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>. Licensees shall maintain a physical copy of the Guide to Worker Safety and Health in the Kentucky Medical Cannabis Industry in their facility in a manner that is readily accessible to its employees or agents and ensure that employees receive annual training on the contents of the guide.

(c) A licensee shall train its principals, agents, employees, and volunteers on its established standard operating procedures within thirty (30) days of starting employment and once every calendar year thereafter.

(d) A licensee shall retain any training participation records of its principals, agents, employees, and volunteers and make them available for inspection by the cabinet upon request for a period of five (5) years.

(5) Insurance requirements.

(a) A licensee shall obtain and maintain commercial general liability insurance for, at a minimum, \$1,000,000 per occurrence and \$2,000,000 per aggregate.

(b) A licensee shall obtain and maintain commercial automobile insurance as required by Kentucky law, specifically KRS 304.39-110, for any vehicle used to transport medicinal cannabis or medicinal cannabis products.

(c) A licensee shall obtain and maintain workers' compensation insurance coverage for employees in the Commonwealth and shall pay all required employer contributions to the Kentucky Office of Unemployment Insurance.

(d) The insurance requirements contained in this section shall begin prior to the licensee's first day of cannabis business activities in the Commonwealth and continue for as long as the licensee is operating under a license issued by the cabinet.

(6) Reports.

(a) The cabinet may require ongoing reporting of operational and financial information from the licensee in a form and manner prescribed by the cabinet.

(b) The cabinet shall require any reports necessary to carry out its responsibilities under KRS Chapter 218B and 915 KAR Chapter 1.

Section 6. Failure to be Operational.

(1) If a licensee has not met the timeline estimates provided in its initial license application to begin cannabis business activities in the Commonwealth, the licensee shall notify the cabinet via electronic mail to [kymedcanreporting@ky.gov](mailto:kymedcanreporting@ky.gov) within two (2) calendar days of determining a need to adjust its timeline. In its written notice to the cabinet, the licensee shall identify any operational deficiencies and provide an explanation for failing to adhere to its timeline estimates.

(2) Within seven (7) calendar days of providing the written notice required under this section, the licensee shall submit a corrective action plan to the cabinet that sets forth the licensee's updated timeline and a date certain for correcting the identified operational deficiencies.

(3) If the licensee fails to comply with its corrective action plan, the cabinet may impose penalties or sanctions as outlined in Section 12 of this administrative regulation.

Section 7. Closure of a licensed Cannabis Business Location.

(1) A licensee shall notify the cabinet via electronic mail to [kymedcanreporting@ky.gov](mailto:kymedcanreporting@ky.gov) immediately, but in no event fewer than thirty (30) calendar days prior to the projected date of closure, upon making a determination that it intends to close a cannabis business location.

(2) A licensee shall not accept or purchase seeds, seedlings, tissue cultures, clones, medicinal cannabis plants, medicinal cannabis, medicinal cannabis products, medicinal cannabis accessories, equipment, or medicinal devices or instruments for the closing location as of the date of closure notice submitted to the cabinet.

(3) The notice shall be accompanied by the licensee's written plan for closing its cannabis business location that includes:

(a) The projected date of closure;

(b) How the licensee intends to notify, prior to the projected date for closure, any person or entity to which the licensee provides medicinal cannabis or medicinal cannabis services from the closing location;

(c) How the licensee intends to dispose of seeds, seedlings, tissue cultures, clones, medicinal cannabis plants, medicinal cannabis, medicinal cannabis products, or other plant matter projected to still be at the closing location at the time of the projected closure; and

(d) How the licensee intends to dispose of equipment, devices, instruments, or medicinal cannabis accessories at the closing location.

(4) A licensee shall not remove or destroy any seeds, seedlings, tissue cultures, clones, medicinal cannabis plants, medicinal cannabis, other plant matter, medicinal cannabis products, equipment, medicinal cannabis accessories, or medicinal devices or instruments until the cabinet has approved its plan for closing the

## VOLUME 51, NUMBER 4– October 1, 2024

location and shall comply with all applicable requirements regarding disposal of medicinal cannabis contained in 915 KAR Chapter 1.

(5) The cabinet may enter and inspect the cannabis business location and facilities following receipt of the licensee's closure plan to determine whether to approve the closure plan. If the cabinet denies the closure plan, it shall notify the licensee in writing and require the licensee to submit a revised closure plan within seven (7) calendar days of the date of the denial notice. The cabinet shall review and consider the revised closing plan and issue a determination within seven (7) calendar days of receipt.

(6) If the cabinet approves the licensee's closure plan, the licensee shall surrender its license for the closing location to the cabinet on or before the date for closure provided in the plan.

### Section 8. Request for Approval of a Change in Cannabis Business Ownership.

(1) If there is an impending change in ownership of a licensee from the ownership listed in the initial license application, the licensee shall submit a written request for approval of a change in ownership to the cabinet via electronic mail to [kymedcanreporting@ky.gov](mailto:kymedcanreporting@ky.gov). The cabinet shall consider the requirements for ownership of a cannabis business contained in KRS Chapter 218B and 915 KAR Chapter 1 as well as any other factors that the cabinet deems relevant in making its determination on the request. The cabinet shall review the request and notify the licensee in writing whether the request is approved or denied.

(2) For each new individual or entity that is part of the proposed change in ownership, the licensee shall include in its request the information required of owners in the initial license application. The licensee shall also provide the cabinet with the names of all outgoing individuals or entities previously listed as owners.

(3) If the cabinet determines that a request for approval of a change in ownership is lacking sufficient information upon which to make a determination, the cabinet shall notify the licensee in writing of the areas that require additional information and documentation. The licensee shall have fifteen (15) calendar days from the mailing date of the notice to provide the requested information and documentation to the cabinet. A licensee's failure to provide the required information and documentation to the cabinet by the deadline shall be grounds for the denial of the requested change in ownership.

### Section 9. Request for Approval of a Change in Cannabis Business Location.

(1) A licensee desiring to change the location of a site or facility shall submit a written request for approval of a change in location to the cabinet via electronic mail to [kymedcanreporting@ky.gov](mailto:kymedcanreporting@ky.gov). A change in location of a site or facility shall not occur unless the cabinet approves the change in writing. The cabinet shall consider the location requirements for a cannabis business contained in KRS Chapter 218B and 915 KAR Chapter 1 in making its determination on the request, and any other factors that the cabinet deems relevant. The cabinet shall review the request and notify the licensee in writing whether the request is approved or denied.

(2) A written request for approval of a change in location shall include the reason(s) for requesting the change and other information about the proposed new location, including:

(a) The proposed new physical address of the cannabis business and the GPS coordinates for any proposed cultivation, processing, producing, testing, or dispensing activities;

(b) Evidence that the licensee has the authority to use the proposed site as a cannabis business;

(c) Confirmation that the proposed location is not within 1,000 feet of an existing elementary or secondary school or a daycare center at the time the request is made; and

(d) A site plan for the cannabis business.

(3) If the cabinet in its discretion approves the request, the cabinet shall issue an amended license to the licensee reflecting the new physical address of the cannabis business. The expiration date of the amended license shall be the same as the expiration date of the previous license.

(4) Within ninety (90) calendar days of the issuance by the cabinet of an amended license under this section, the licensee shall change the location of its operation to the new location designated

in the new license. Simultaneously, the licensee shall cease to operate at the former location and surrender its existing license to the cabinet. The following conditions shall apply:

(a) At no time may a licensee operate or exercise any of the privileges granted under the license in both locations;

(b) The cabinet may extend the ninety (90) day deadline for relocation for up to an additional ninety (90) calendar days;

(c) The licensee shall notify the cabinet via electronic mail to [kymedcanreporting@ky.gov](mailto:kymedcanreporting@ky.gov) at least fifteen (15) calendar days prior to beginning cannabis business activities at the new location; and

(d) The cabinet may conduct an inspection to determine the appropriateness of the new location, and upon notification from the cabinet, the licensee shall immediately correct any deficiencies identified by the cabinet during this inspection and shall not commence operations at the new location until the deficiencies have been corrected and approved by the cabinet.

(5) For dispensary licenses, the cabinet shall not approve a change of location that is outside the boundaries of the medicinal cannabis region for which the license was issued or that otherwise is not in compliance with the location restrictions contained in Section 3(3) of this administrative regulation.

### Section 10. Request to Sell Cannabis Business License.

(1) A licensee desiring to sell its cannabis business license shall submit a written request for approval of the sale to the cabinet via electronic mail to [kymedcanreporting@ky.gov](mailto:kymedcanreporting@ky.gov). The sale of a cannabis business license shall not occur unless the cabinet approves the sale in writing. The cabinet shall review the request and notify the licensee in writing whether the proposed sale is approved or denied. The cabinet shall consider the initial license application requirements for a cannabis business contained in KRS Chapter 218B and 915 KAR 1:010, and any other factors that the cabinet deems relevant in making its determination on the request.

(2) A written request to approve a license sale shall include the sale price, the reason(s) for requesting the sale, and information about the proposed purchaser, including:

(a) All information and documentation required to be submitted by a cannabis business as part of the initial license application process in order to show the proposed purchaser would be eligible for entry into a license lottery conducted according to this administrative regulation;

(b) Signed attestations from the proposed purchaser that are required as part of the initial license application process;

(c) A transition plan for transferring the license from the licensee to the proposed purchaser; and

(d) A notarized affidavit from the proposed purchaser swearing and affirming that all information and documentation provided to the cabinet along with the request is true and correct, and an acknowledgement that any false statement made to the cabinet as part of the proposed sale process is punishable under the applicable provisions of KRS 523.100.

(3) The cabinet shall approve a licensee's sale of a license if the proposed purchaser and any new location or facilities meet the requirements of KRS Chapter 218B and 915 KAR Chapter 1.

(4) The cabinet shall deny a licensee's sale of a license to any proposed purchaser who currently holds a license in a different cannabis business category than the one offered for sale (such as the proposed purchaser seeks to purchase a dispensary license while currently licensed as a tier I cultivator), except that a cultivator may sell its license to another licensed cultivator in the same or different cultivator tier (such as the proposed purchaser may purchase a tier II cultivator license while currently licensed as a tier I cultivator). Cultivators may hold licenses in more than one (1) cultivator tier at any given time as long as each license contains a separate and distinct physical address where cultivator conducts licensed cannabis activities and the licensee is otherwise in compliance with the requirements of KRS Chapter 218B and 915 KAR Chapter 1.

### Section 11. Issuance of Additional Cannabis Business Licenses.

(1) Beginning January 1, 2025, the cabinet shall, on a quarterly basis, review the need for issuance of new licenses in each cannabis business category.

## VOLUME 51, NUMBER 4– October 1, 2024

(2) In making its determination whether to issue new licenses, the cabinet may consider:

- (a) The population of the Commonwealth;
- (b) The number of active cardholders;
- (c) Changes to the list of qualifying medical conditions for medicinal cannabis;
- (d) Market supply and demand;
- (e) Geographic distribution of dispensaries and other cannabis businesses;
- (f) Workforce development opportunities; and
- (g) Any other factors that the cabinet deems relevant to its analysis.

(3) If the cabinet determines there exists a need for additional cannabis business licenses in the Commonwealth, the cabinet shall issue a notice documenting the basis for this determination, including a list of the factors it considered to arrive at that determination.

(4) The cabinet shall publish on the Web site of the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>, the notice required by this section as well as a notice of initial license application availability. This notice shall provide the timeframe during which initial license applications shall be accepted by the cabinet and the category and number of cannabis business licenses available for distribution at the close of the application period. Applicants for new cannabis business licenses shall adhere to the requirements of 915 KAR 1:010 regarding initial license applications and follow the initial license application instructions. The process for issuing new licenses shall comply with the requirements of this administrative regulation.

### Section 12. Penalties and Sanctions.

(1) In addition to any other penalty imposed by law for violations of KRS Chapter 218B and 915 KAR Chapter 1, the cabinet may take one (1) or more of the following actions:

(a) Suspend or revoke a license if any of the following occur:

1. The licensee or any of its agents commit multiple violations or a serious violation of the requirements of KRS Chapter 218B and 915 KAR Chapter 1;

2. The licensee or any of its agents fail to maintain effective control against diversion of medicinal cannabis from its facility or under its control;

3. The licensee or any of its agents violate a provision of other state or local laws regarding the operation of its cannabis business;

4. The licensee or any of its agents engage in conduct, or an event occurs, that would have disqualified the cannabis business from being issued a license or having its license renewed; or

5. The licensee submitted false or misleading information on any application submitted to the cabinet.

(b) Impose a civil fine of not more than \$10,000 for each violation and an additional fine of not more than \$1,000 for each day of the continuing violation. In determining the amount of each fine, the cabinet shall take the following into consideration:

1. The seriousness of the violation;

2. The potential harm resulting from the violation to cardholders or the general public;

3. The willfulness of the violation;

4. Previous violations, if any, by the licensee being assessed;

5. The economic benefit to the licensee being assessed for failing to comply with the requirements of KRS Chapter 218B, 915 KAR Chapter 1, or an order issued by the cabinet; and

6. The economic deterrent to the licensee.

(c) Issue a cease-and-desist order to immediately stop or restrict the operations of a licensee to protect the public's health, safety, and welfare. The following applies to issuing a cease-and-desist order:

1. An order may include a requirement that a licensee cease or restrict some or all of its operations. In addition, the order may prohibit the use of some or all of the medicinal cannabis grown, processed, or to be sold by the licensee;

2. An order may be issued by an authorized agent of the cabinet immediately upon the completion of an inspection or investigation if the agent observes or suspects an operational failure or determines that the conditions will likely create a diversion of medicinal

cannabis, contamination of medicinal cannabis, or a risk to cardholders or the general public;

3. An order may be issued by an authorized agent of the cabinet in circumstances where a licensee fails to provide timely notice of closure of a cannabis business location in accordance with Section 7 of this administrative regulation and the cabinet suspects the imminent closure of the cannabis business shall likely create a diversion of medicinal cannabis or a risk to cardholders or the general public;

4. An order may include:

a. An immediate evacuation of the site and facility, and the sealing of the entrances to the facility;

b. A quarantine of some or all of the medicinal cannabis found at the facility; and

c. The suspension of the sale or shipment of some or all of the medicinal cannabis found at the facility.

(d) Issue a written warning if the cabinet determines that either:

1. The public interest shall be adequately served under the circumstances by the issuance of the warning; or

2. The violation does not threaten the safety or health of cardholders or the general public, and the licensee shall take immediate action to remedy the violation.

(e) Require a licensee develop and adhere to a corrective action plan approved by the cabinet. The cabinet shall monitor compliance with the corrective action plan. Failure to comply with the corrective action plan may result in the cabinet taking additional action under the applicable provisions of this section as it deems appropriate.

(2) A person who aids, abets, counsels, induces, procures, or causes another person to violate KRS Chapter 218B or 915 KAR Chapter 1, or an order issued by cabinet, shall be subject to the civil penalties provided for under this section.

(3) Before the cabinet may revoke or suspend a license, the cabinet shall provide the licensee with written notice specifying the nature of the alleged violation(s) and allow the licensee an opportunity to appear and be heard pursuant to KRS Chapter 13B. Any resulting hearing shall be conducted in compliance with the requirements of KRS Chapter 13B.

(4) The cabinet shall provide a licensee with written notice of imposition of a civil fine, order of restitution, cease-and-desist order, written warning, or corrective action plan via certified mail to the address on the license. The licensee may, within thirty (30) calendar days after the date of the mailing of the cabinet's notice, file a written request for an administrative hearing regarding the action taken. The hearing shall be conducted in compliance with the requirements of KRS Chapter 13B.

### Section 13. Technical Advisories.

(1) The cabinet may issue technical advisories by memorandum to assist licensees in complying with the KRS Chapter 218B and 915 KAR Chapter 1.

(2) Technical advisories shall not have the force of law or regulation, but shall provide guidance on the cabinet's interpretation of, and how a licensee may maintain compliance with, KRS Chapter 218B and 915 KAR Chapter 1.

(3) Notice of the availability of a technical advisory shall be published on the Web site of the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>.

### Section 14. Minimal Performance Standards for Biennial Accreditation.

(1) As part of the license renewal process, licensees shall meet the minimum performance standards established in 915 KAR 1:010, Section 6 in order to be approved for a renewal license.

(2) If a licensee successfully meets the minimum performance standards established in 915 KAR 1:010, Section 6 over a two (2) year period, the cabinet shall recognize the licensee as an accredited cannabis business in the Commonwealth.

(3) The recognition provided under this section shall expire two (2) years after the date of issuance, and shall be renewed if the licensee continues to:

(a) Operate in the Commonwealth as of the expiration date; and

(b) Meet the minimum performance standards established in 915 KAR 1:010, Section 6.



## VOLUME 51, NUMBER 4– October 1, 2024

SAM FLYNN, Executive Director  
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: August 28, 2024

FILED WITH LRC: September 9, 2024 at 11:20 a.m.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Oran S. McFarlan, III and Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes procedures for the issuance, renewal, suspension, and revocation of cannabis business licenses. In response to comments received by the cabinet, the Amended After Comments version of the administrative regulation amends certain renewal license fees to match initial license fees, adds provisional licensing for eligible applicants selected through the lottery process, clarifies eligibility for any supplemental lottery, requires licensees to address odor mitigation and control, adds tissue cultures and clones where applicable, and allows licensees to submit required reports through the cannabis business licensing portal.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to carry out the requirements of KRS Chapter 218B, specifically KRS 218B.140.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 218B.140 requires the Cabinet for Health and Family Services to promulgate administrative regulations establishing procedures for the issuance, renewal, suspension, and revocation of cannabis business licenses. This administrative regulation establishes those procedures.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides the procedures for the issuance, renewal, suspension, and revocation of cannabis business licenses.

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

(a) How the amendment will change this existing administrative regulation: Not applicable. This is a new administrative regulation.

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

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

(d) How the amendment will assist in the effective administration of the statutes: Not applicable. 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 affects cannabis businesses that have applied for and subsequently receive licenses to conduct cannabis business activities in the commonwealth.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The requirements to receive a cannabis business license and remain in good standing throughout the licensure period are provided in this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The initial license fees vary by cannabis business category and range from \$12,000 to \$125,000 for each licensed location. The annual renewal license fees also vary by cannabis business category and range from \$12,000 to \$125,000 for each licensed location.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The cannabis businesses that receive a license from the Cabinet for Health and Family Services

are authorized to conduct cannabis business activities in the commonwealth for the term of the license, which is one (1) year from the date of license issuance.

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

(a) Initially: The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140.

(b) On a continuing basis: The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general funds provided by the commonwealth.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: It is anticipated that an increase in funding will be necessary to implement this regulation as additional staff and resources are necessary to administer and enforce licensure of cannabis businesses.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: Yes, this administrative regulation establishes initial license fees and annual renewal license fees for cannabis businesses to operate in Kentucky.

(9) TIERING: Is tiering applied? Tiering is not applied. Cannabis businesses will be treated equally.

### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 218B.015, 218B.080, 218B.085, 218B.090, 218B.095, 218B.100, 218B.105, 218B.110, 218B.115, 218B.120, 218B.125, 218B.140, 304.39-110, 523.100, KRS Chapter 13B.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: This administrative regulation is promulgated by the Kentucky Medical Cannabis Program within the Cabinet for Health and Family Services.

(a) Estimate the following for the first year:

Expenditures: The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398.

Revenues: The commonwealth will receive initial license fees paid by proposed cannabis businesses during the first year. The initial license fees vary by cannabis business category and range from \$12,000 to \$125,000 for each licensed location.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. The commonwealth will receive annual renewal license fees from licensed cannabis businesses that desire to continue operating in the commonwealth following the expiration of their existing license. The annual renewal license fees vary by cannabis business category and range from \$12,000 to \$125,000 for each submitted renewal application. The annual renewal license fees are refundable if the renewal application is denied. The commonwealth may also receive additional initial license fees if the Cabinet for Health and Family Services determines additional licenses should be issued in a given year based on criteria provided in 915 KAR Chapter 1.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): If its application is approved, a

**VOLUME 51, NUMBER 4– October 1, 2024**

proposed cannabis business will locate within a city or county in the commonwealth.

(a) Estimate the following for the first year:

Expenditures: Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130

Revenues: Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances and fees established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances and fees established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

(4) Identify additional regulated entities not listed in questions (2) or (3): Licensed cannabis businesses.

(a) Estimate the following for the first year:

Expenditures: The initial license fees vary by cannabis business category and range from \$12,000 to \$125,000 for each licensed location.

Revenues: Once operational, licensees will generate revenue through cannabis business activities. At this time, it is unknown how much revenue will be generated by those licensed cannabis businesses.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Cannabis businesses are required to pay the applicable annual renewal license fee at the time of renewal application submission. The annual renewal license fees vary by cannabis business category and range from \$12,000 to \$125,000 for each submitted renewal application. This renewal license fee is refundable if the renewal application is denied.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140. It is anticipated that an increase in funding will be necessary to administer all of the administrative regulations contained in 915 KAR Chapter 1 related to cannabis businesses.

(b) Methodology and resources used to determine the fiscal impact: As part of its Biennial Budget Request, the Cabinet for Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system and seed to sale tracking system required by KRS 218B.140.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) . The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140. The Kentucky Medical Cannabis Program will have a major economic impact on the Cabinet for Health and Family Services, and it is anticipated that an increase in funding will be necessary to administer all of the administrative regulations contained in 915 KAR Chapter 1 related to cannabis businesses.

(b) The methodology and resources used to reach this conclusion: As part of its Biennial Budget Request, the Cabinet for Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system required by KRS 218B.140.

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*.

**PERSONNEL CABINET**  
**Office of the Secretary**  
**(Amendment)**

**101 KAR 2:210. 2025[2024] Plan Year Handbook for the Public Employee Health Insurance Program.**

RELATES TO: KRS 18A.030, 18A.225, 18A.2254  
STATUTORY AUTHORITY: KRS 18A.030(2)(b), 18A.2254(1)(a)  
NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.2254(1)(a)1 requires the secretary of the Personnel Cabinet to promulgate an administrative regulation to incorporate by reference the plan year handbook distributed by the Department of Employee Insurance to public employees covered under the self-insured plan and establishes the minimum requirements for the information included in the handbook. This administrative regulation incorporates by reference the plan year Benefits Selection Guide, which is the handbook distributed by the department to public employees for the 2025[2024] Plan Year as required by KRS 18A.2254(1)(a)1.

Section 1. The Department of Employee Insurance shall distribute or make available to the public employees covered under the self-insured plan the 2025[2024] Plan Year Kentucky Employees' Health Plan Benefits Selection Guide, which shall include the premiums, employee contributions, employer contributions, and a summary of benefits, copays, coinsurance, and deductibles for each plan provided to the public employees covered under the self-insured plan.

Section 2. Incorporation by Reference.

(1) "2025[2024] Plan Year Kentucky Employees' Health Plan Benefits Selection Guide", 2025[2024] edition, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Personnel Cabinet, 501 High Street, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. The material incorporated by reference is also available on the Personnel Cabinet's Web site on the Kentucky Employees' Health Plan page under KEHP Documents at <https://personnel.ky.gov/Pages/Kentucky-Employees'-Health-Plan.aspx>.

MARY ELIZABETH BAILEY, Secretary

APPROVED BY AGENCY: September 12, 2024

FILED WITH LRC: September 13, 2024 at 8:25 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 21, 2024, at 10:00 a.m. at 501 High Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until 11:59 p.m. on November 30, 2024. 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: Will Adams, Staff Attorney, Office of Legal Services, Personnel Cabinet, 501 High Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 782-4370, fax (502) 564-5278, email Will.Adams@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Will Adams

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation incorporates by reference the 2025 plan year handbook containing information about the self-insured health insurance plans offered through the Public Employee Health Insurance Program. The handbook, commonly referred to as the Benefits Selection Guide, is distributed to plan holders participating in the self-insured program. The Benefits Selection Guide contains the premiums, employee contributions, employer contributions, and a summary of benefits, co-pays, coinsurance, and deductibles for each plan available to public employees through the self-insured program in 2025.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with the statutory mandate of KRS 18A.2254. More specifically, KRS 18A.2254(1)(a) requires the Personnel Cabinet to promulgate an administrative regulation that incorporates by reference the 2025 plan year handbook that will be distributed to the public employees covered by the Public Employee Health Insurance Program. The handbook must be filed with the Legislative Research Commission on or before September 15 each year.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation complies with KRS 18A.2254(1), the statute that establishes the self-insured plan and mandates the promulgation of the administrative regulation.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation aids in the effectuation of the statute, KRS 18A.2254, by incorporating by reference the 2025 plan year handbook for the Public Employee Health Insurance Program in an administrative regulation. Further, this administrative regulation is the method by which the Personnel Cabinet will comply with KRS 18A.2254.

(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 an amendment. The existing administrative regulation incorporates by reference the 2024 plan year handbook, which constitutes a compilation of the premium rates and contributions, benefit options, eligibility rules, and enrollment information for participants of the Public Employee Health Insurance Program for plan year 2024. The amendment adds and incorporates by reference the 2025 plan year handbook, which contains the premiums, employee contributions, employer contributions, and a summary of benefits, co-pays, coinsurance, and deductibles for each plan available to public employees for plan year 2025.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to give notice regarding the premiums, employee contributions, employer contributions, benefits, co-pays, coinsurance, and deductibles for each plan available to public employees under the Public Employee Health Insurance Program for plan year 2025. This amendment is also necessary to comply with the statutory mandate in KRS 18A.2254 to annually update the regulation incorporating the plan year handbook.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of KRS 18A.2254, the statute authorizing the self-insured plan under the Public Employee Health Insurance Program. KRS 18A.2254 mandates that the plan year handbook be incorporated by reference in an administrative regulation on or before September 15 each year. This amendment incorporates the 2025 plan year handbook by reference in accordance with KRS 18A.2254.

(d) How the amendment will assist in the effective administration of the statutes: This amendment conforms to the requirements of KRS 18A.2254, the statute authorizing the self-insured plan under the

Public Employee Health Insurance Program. KRS 18A.2254 mandates that the plan year handbook be incorporated by reference in an administrative regulation on or before September 15 each year. This amendment incorporates the 2025 plan year handbook by reference in accordance with KRS 18A.2254.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects employees of state and select county and local government entities, including employees of the local school boards and districts.: This administrative regulation also affects certain retirees as specified by KRS 18A.225. More specifically, and as defined by KRS 18A.225(1)(a), this administrative regulation affects approximately 190,154 employees and retirees eligible to participate in the Public Employee Health Insurance Program. In total, this administrative regulation affects approximately 304,649 members in the self-insured plan and those waiving coverage, including employees, retirees, and qualifying dependents.

(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: Affected entities will not be required to take any additional action to comply with this administrative regulation that incorporates the 2025 plan year handbook. The 2025 Benefits Selection Guide will provide information to the public employees covered under the Public Employee Health Insurance Program about the premiums, employee contributions, employer contributions, and a summary of benefits, co-pays, coinsurance, and deductibles for the 2025 plan year.

(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 provides employer and employee premium contribution information for health plans available under the Public Employee Health Insurance Program for plan year 2025. There is no direct cost impact to employers participating in the Public Employee Health Insurance Program as a result of incorporating the 2025 plan year handbook into the administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): For plan year 2025, participating employers (entities) and participating employees and retirees and their beneficiaries and dependents covered under the Public Employee Health Insurance Program will have access to comprehensive health insurance benefits under all plans offered through the self-insured program. For plan year 2025, employee and employer contributions to health coverage premiums remain unchanged across all plans, as compared to 2024 premiums.

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

(a) Initially: Costs of implementing this administrative regulation initially are believed to be minimal.

(b) On a continuing basis: Costs of implementing this administrative regulation on a continuing basis are believed to be minimal.

(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 of this administrative regulation will be the Public Employee Health Insurance Trust Fund.

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

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

(9) TIERING: Is tiering applied? No, tiering is not applied because this administrative regulation applies equally to all participants in the Public Employee Health Insurance Program.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 18A.030(2)(b), 18A.2254(1)(a).

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Personnel Cabinet is the promulgating agency. All state agencies and employees participating in the Public Employee Health Insurance Program are affected by the provisions of the incorporated plan year handbook.

(a) Estimate the following for the first year:

Expenditures: This administrative regulation itself is not anticipated to trigger direct expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: This administrative regulation itself will not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures, revenues, and cost savings specific to annual promulgation of this regulation are not anticipated to change in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): All county and local government employees and entities, including local school boards and districts and their employees, that participate in the Public Employee Health Insurance Program are affected by the provisions of the incorporated plan year handbook.

(a) Estimate the following for the first year:

Expenditures: This administrative regulation itself is not anticipated to trigger direct expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: This administrative regulation itself will not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures, revenues, and cost savings specific to annual promulgation of this regulation are not anticipated to change in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3): The plan year handbook incorporated in this administrative regulation also affects retirees under the age of 65 who are eligible to participate in the Program by virtue of their participation in one of the state-administered retirement systems.

(a) Estimate the following for the first year:

Expenditures: This administrative regulation itself is not anticipated to trigger direct expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: This administrative regulation itself will not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures, revenues, and cost savings specific to annual promulgation of this regulation are not anticipated to change in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This administrative regulation does not have a significant fiscal impact.

(b) Methodology and resources used to determine the fiscal impact: The provisions of this administrative regulation were reviewed, and a significant fiscal impact was not identified.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated. This administrative regulation only serves to incorporate the Public Employee Health Insurance Program handbook. It does not, by itself, impose requirements or fees on Program participants.

(b) The methodology and resources used to reach this conclusion: The provisions of this administrative regulation were reviewed, and a significant fiscal impact was not identified.

## VOLUME 51, NUMBER 4– October 1, 2024

### BOARDS AND COMMISSIONS Board of Optometric Examiners (Amendment)

#### 201 KAR 5:005. Fines and fees~~[Fees, fines, and forms]~~.

RELATES TO: KRS 218A.205(3)(h), (8), 320.220, 320.250, 320.270, 320.310

STATUTORY AUTHORITY: KRS 218A.205(3)(h), (8), 320.240(4), (7), 320.270(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 320.240(4) requires the board to promulgate administrative regulations for the reasonable regulation of the profession of optometry and the practice thereof by licensed optometrists. KRS 320.220 requires all persons who practice optometry in this state to be licensed by the Kentucky Board of Optometric Examiners. KRS 320.250 establishes criteria for an applicant to apply for a license. KRS 320.270 authorizes the board to admit to practice in Kentucky persons licensed to practice optometry in other states. KRS 218A.205(3)(h) and (8) require fingerprint-supported criminal record checks and queries to the National Practitioner Data Bank on applicants. This administrative regulation establishes fees, including fees relating to licensure and fines those who fail to comply with continuing education requirements.

Section 1. Initial Application Fee. A non-refundable initial application and license fee shall be \$500 per year, as established in 201 KAR 5:010.

Section 2. Application for License by Endorsement Fee. A non-refundable application and license by endorsement fee shall be \$700 per year, as established in 201 KAR 5:010.

Section 3. Initial License Fee. A non-refundable initial license fee shall be pro-rated from \$250 for the remainder of months left in the license year.

Section 4. Renewal License Fee. A non-refundable renewal license fee shall be \$300~~[\$250]~~ per year, as established in 201 KAR 5:090.

Section 5. Late Renewal License Fee. A non-refundable late renewal license fee shall be \$100, in addition to the renewal license Fee outlined in Section 4 of this administrative regulation.

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

Section 7. Reinstatement Fee. A reinstatement fee shall be \$300~~[\$250]~~ for each year, or any portion of a year that the license was not renewed.

Section 8. Reinstatement Administrative Processing Fee. A reinstatement administrative processing fee shall be \$300, in addition to the reinstatement fee outlined in Section 7 of this administrative regulation.

Section 9. Name Change Fee. A non-refundable fee to process a name change shall be twenty-five (25) dollars.

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

Section 11. Continuing Education Non-compliance Fine. A fine of \$500 shall be assessed against any licensee who fails to comply with the Continuing Education requirements for Kentucky Optometrists as outlined in KRS 320.280 and 201 KAR 5:030. The initial assessment of this fine against a licensee shall not result in disciplinary action and shall not be reported to the National Practitioners Databank (NPDB). However, any subsequent violations of this provision may be reported to the NPDB at the discretion of the board. In these instances, the action will be appealable pursuant to KRS 320.331 and KRS Chapter 13B.

Section 12. License Verification List. A fee for a licensee verification list shall be \$100.

Section 13. Individual License Verification. A fee for an individual licensee written verification shall be twenty-five (25) dollars.

JOE ELLIS, OD, President

APPROVED BY AGENCY: August 20, 2024

FILED WITH LRC: August 30, 2024 at 10:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 21, 2024, at 2:00 p.m. EST, at 2365 Harrodsburg Road, Suite A240, Lexington, Kentucky 40504. 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 November 30, 2024. 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: Christi LeMay, Executive Director, 2365 Harrodsburg Road, Lexington Kentucky 40504, (859) 246-2744, christi.lemay@ky.gov.

#### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Christi LeMay

(1) Provide a brief summary of:

(a) What this administrative regulation does: This amendment will increase renewal fees to offset administrative costs for updated software.

(b) The necessity of this administrative regulation: Our current database is housed on Microsoft Access that is no longer supported and must be replaced. We have budgeted and been allotted the necessary funds, however, our revenue stream does not meet our needs without an increase in renewal fees.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS authorizes the Board to set fees.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Kentucky statute requires that we issue and administer the licensing process. We require an updated database to fulfill our duties.

(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 increase renewal fees to offset administrative costs for updated software.

(b) The necessity of the amendment to this administrative regulation: Our current database is housed on Microsoft Access that is no longer supported and must be replaced. We have budgeted and been allotted the necessary funds, however, our revenue stream does not meet our needs without an increase in renewal fees.

(c) How the amendment conforms to the content of the authorizing statutes: KRS authorizes the Board to set fees.

(d) How the amendment will assist in the effective administration of the statutes: Kentucky statute requires that we issue and administer the licensing process. We require an updated database to fulfill our duties.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment will affect all currently licensed optometrists 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: The potential applicant will need to sit for and pass the OBOE written examination that is done online.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment will give applicants a choice, not require them to take the OBOE written exam and does not incur a cost more than the accepted NBEO Part 1 exam.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This amendment will give applicants an additional path to secure a Kentucky optometrist license by \$50 annually. The last increase in our fee occurred more than 8 years ago. This is only the second fee increase of \$50 each time since licensing of optometrists began in the state of KY.

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

- (a) Initially: \$0
- (b) On a continuing basis: \$0

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: N/A

(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 an increase of renewal fees with the implementation of this amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This amendment increases the fee to renew a Kentucky optometrist license.

(9) TIERING: Is tiering applied? There is no tiering, only a flat fee.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. 201 KAR 5:005; 201 KAR 5:090; KRS 320.280

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Optometric Examiners

(a) Estimate the following for the first year:

- Expenditures: \$0
- Revenues: \$45,000
- Cost Savings: \$0

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The same increased revenues of \$45,000 will be realized each year.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): This will not impact any local entities.

(a) Estimate the following for the first year:

- Expenditures: \$0
- Revenues: \$0
- Cost Savings: \$0

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(4) Identify additional regulated entities not listed in questions (2) or (3): None

(a) Estimate the following for the first year:

- Expenditures: \$0
- Revenues: \$0
- Cost Savings: \$0

(b) How will expenditures, revenues, or cost savings differ in subsequent years? : N/A

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This regulation will result in a fee increase of \$50 annually to renew an optometrist license in Kentucky.

(b) Methodology and resources used to determine the fiscal impact: The Board used a flat fee increase to offset the administrative shortfall we are experiencing.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This regulation will not have an overall negative or adverse major economic impact.

(b) The methodology and resources used to reach this conclusion:

**BOARDS AND COMMISSIONS**  
**Board of Optometric Examiners**  
**(Amendment)**

**201 KAR 5:010. Application for licensure; endorsement.**

RELATES TO: KRS 218A.205(3)(g), 320.220, 320.250, 320.270  
STATUTORY AUTHORITY: KRS 218A.205(3)(g), 320.240(7), 320.270(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 320.220 requires all persons who practice optometry in this state to be licensed by the Kentucky Board of Optometric Examiners. KRS 320.250 establishes criteria for an applicant to apply for a license. KRS 320.270 grants the board the discretion to admit to practice in Kentucky persons licensed to practice optometry in other states. KRS 218A.205(3)(g) requires fingerprint-supported criminal record checks and queries to the National Practitioner Data Bank on applicants. This administrative regulation prescribes the procedures to be followed in making application to the board for a license.

Section 1.

(1) A person wishing to apply for a license to practice optometry shall submit to the board, within fifteen (15) days of board review, the following items:

- (a) A completed Application for License to Practice Optometry;
- (b) Birth certificate;
- (c) A certified copy of college transcripts received directly from the registrar's office;
- (d) A certified copy of optometry school [~~transcripts~~]received directly from the registrar's office;
- (e) National board "NBEO" or Canadian OBEO written examination in lieu of Part 1 NBEO results;
- (f) Therapeutic Management of Ocular Disease, "TMOD" results;
- (g) Two (2) letters of recommendation, one (1) of which shall be from a licensed optometrist;
- (h) Proof of successful completion of State Law Exam results;
- (i) A [~~passport-sized,~~]recent photograph of head and shoulders, front view;

(j) ~~Payment[A money order or cashier's check payable to the Kentucky State Treasurer]~~ in the amount of \$500 representing the non-refundable application fee; and

(k) ~~Payment[A money order or cashier's check]~~ in the amount of twenty-five (25) dollars [~~made payable to the Kentucky State Treasurer]~~ for the purpose of submitting a query on the applicant to the National Practitioner Data Bank of the United States Department of Health and Human Services.

(2)

(a) Prior to approval for examination, the board shall review[receive] and consider:

- 1. A national and state, fingerprint-supported criminal record check conducted by the:
    - a. Federal Bureau of Investigation; or
    - b. Kentucky State Police; and
  - 2. A query for any relevant data from the National Practitioner Data Bank of the U.S. Department of Health and Human Services.
- (b) Both of the items required to be furnished by this subsection shall be less than sixty (60) days old when reviewed by the board.

Section 2.

(1) A person wishing to apply for a license to practice optometry by endorsement shall submit to the board, within fifteen (15) days of board review, the following items:

- (a) A completed Application for License by Endorsement to Practice Optometry;
- (b) Verification that the applicant has been licensed in optometry and in active practice the past five (5) years;
- (c) Information regarding any resolved, pending, or unresolved board action or malpractice suit in any state or territory;
- (d) A certified copy of college transcripts received directly from the registrar's office;
- (e) A certified copy of optometry school transcripts received directly from the registrar's office;

## VOLUME 51, NUMBER 4– October 1, 2024

(f) A certificate of good standing from the board where the applicant is currently licensed and from all state boards where the applicant has held a license in the past;

(g) A copy of the credential that proves the applicant is therapeutically licensed;

(h) Two (2) letters of recommendation, one (1) of which shall be from a licensed optometrist;

(i) Proof of successful completion of Kentucky State Law Exam;

(j) A ~~passport-sized,~~ recent photograph of head and shoulders, front view;

(k) ~~Payment [A certified check or money order made payable to the Kentucky State Treasurer]~~ in the amount of \$700 representing the non-refundable application fee;

(l) A notarized statement explaining why the applicant wishes to be admitted to practice in Kentucky; and

(m) ~~Payment [A money order or cashier's check]~~ in the amount of twenty-five (25) dollars ~~[made payable to the Kentucky State Treasurer]~~ for the purpose of submitting a query on the applicant to the National Practitioner Data Bank of the United States Department of Health and Human Services to retrieve any relevant data on the applicant.

(2)

(a) Prior to approval for licensure, the board shall receive and consider:

1. A national and state, fingerprint-supported criminal record check conducted by the:

a. Federal Bureau of Investigation; or

b. Kentucky State Police; and

2. A query for any relevant data from the National Practitioner Data Bank of the U.S. Department of Health and Human Services.

(b) Both of the items required to be furnished by this subsection shall be less than sixty (60) days old when reviewed by the board.

### Section 3.

(1) A person whose license has been revoked pursuant to KRS 320.280(3) may apply for reinstatement of his or her license.

(2) Except as provided in subsection (3) of this section, a person applying for reinstatement shall submit to the board:

(a) Evidence of completion of the continuing education requirements established in 201 KAR 5:030; and

(b) Payment of the annual renewal fee established in 201 KAR 5:090, Section 2.

(3) To apply for reinstatement, an optometrist whose license has been revoked pursuant to KRS 320.280(3) shall submit to the board:

(a) Evidence of completion of the annual continuing education requirement for each year, or any portion of a year, that the license was not renewed ~~[up]~~ to a maximum of sixty (60) hours; and

(b) Payment of the renewal fee established in 201 KAR 5:090, Section 2 [of \$200] for each year, or any portion of a year, that the license was not renewed.

### Section 4. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Application for License to Practice Optometry", June 2024 [August 2012]; and

(b) "Application for License by Endorsement to Practice Optometry", June 2024 [August 2012].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Optometric Examiners, 2365 Harrodsburg Road, Suite A240, Lexington, Kentucky 40504-3333 [2624 Research Park Drive, Suite 305, Lexington, Kentucky 40514], phone (859) 246-2744, Monday through Friday, 9:00 a.m. to 4:30 p.m. [8:30 a.m. to 5 p.m.].

JOE ELLIS, OD, President

APPROVED BY AGENCY: August 15, 2024

FILED WITH LRC: August 30, 2024 at 10:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 21, 2024, at 2:00 p.m. EST, at 2365 Harrodsburg Road, Suite A240, Lexington, Kentucky 40504. 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 November 30, 2024. 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: Christi LeMay, Executive Director, 2365 Harrodsburg Road, Lexington Kentucky 40504, (859) 246-2744, email [christi.lemay@ky.gov](mailto:christi.lemay@ky.gov).

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Christi LeMay

(1) Provide a brief summary of:

(a) What this administrative regulation does: This amendment will allow an additional path to secure a Kentucky license.

(b) The necessity of this administrative regulation: Post pandemic, there were a number of optometry school students that could not pass the National boards as required in current Kentucky regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS authorizes the Board to determine license requirements.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This amendment adds an additional path to Kentucky licensure.

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

(a) How the amendment will change this existing administrative regulation: This will allow an additional path to secure a Kentucky license.

(b) The necessity of the amendment to this administrative regulation: Post pandemic, there were a number of optometry school students that could not pass the National boards as required in current Kentucky regulation.

(c) How the amendment conforms to the content of the authorizing statutes: KRS authorizes the Board to determine license requirements.

(d) How the amendment will assist in the effective administration of the statutes: This amendment adds an additional path to Kentucky licensure.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment will affect potential applicants for a Kentucky optometrist license.

(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 potential applicant will need to sit for and pass the OBOE written examination that is done online.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment will give applicants a choice, not require them to take the OBOE written exam and does not incur a cost more than the accepted NBEO Part 1 exam.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This amendment will give applicants an additional path to secure a Kentucky optometrist license.

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

(a) Initially: \$0

(b) On a continuing basis: \$0

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: N/A

(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 necessary.



VOLUME 51, NUMBER 4– October 1, 2024

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

(9) TIERING: Is tiering applied? There are no fees associated with this amendment, therefore there is no tiering.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 218A.205(3)(g), 320.240(7), 320.270(4)

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Optometric Examiners

(a) Estimate the following for the first year:

Expenditures: \$0

Revenues: \$0

Cost Savings: \$0

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): This will not impact any local entities.

(a) Estimate the following for the first year:

Expenditures: \$0

Revenues: \$0

Cost Savings: \$0

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There are no fees so nothing will change.

(4) Identify additional regulated entities not listed in questions (2)

or (3): None

(a) Estimate the following for the first year:

Expenditures: \$0

Revenues: \$0

Cost Savings: \$0

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There are no fees associated so there will be no difference.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: There is no fiscal impact resulting from this regulation.

(b) Methodology and resources used to determine the fiscal impact: N/A

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) : N/A

(b) The methodology and resources used to reach this conclusion: N/A

BOARDS AND COMMISSIONS
Board of Optometric Examiners
(Amendment)

201 KAR 5:090. Annual renewal fee.

RELATES TO: KRS 320.280

STATUTORY AUTHORITY: KRS 320.240(4), 320.280(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 320.280(1) requires the Kentucky Board of Optometric Examiners to promulgate an administrative regulation to establish the payment of the fee required for an optometrist to annually secure a renewal certificate. This administrative regulation establishes the amount of the annual renewal fee.

Section 1. The annual renewal fee for an optometrist shall be \$300[\$250].

JOE ELLIS, OD, President

APPROVED BY AGENCY: August 20, 2024

FILED WITH LRC: August 30, 2024 at 10:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 21, 2024, at 2:00 p.m. EST, at 2365 Harrodsburg Road, Suite A240, Lexington, Kentucky 40504. 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 November 30, 2024. 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: Christi LeMay, Executive Director, 2365 Harrodsburg Road, Lexington Kentucky 40504, (859) 246-2744, christi.lemay@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Christi LeMay

(1) Provide a brief summary of:

(a) What this administrative regulation does: This amendment will increase renewal fees to offset administrative costs for updated software.

(b) The necessity of this administrative regulation: Our current database is housed on Microsoft Access that is no longer supported and must be replaced. We have budgeted and been allotted the necessary funds, however, our revenue stream does not meet our needs without an increase in renewal fees.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS authorizes the Board to set fees.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Kentucky statute requires that we issue and administer the licensing process. We require an updated database to fulfill our duties.

(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 increase renewal fees to offset administrative costs for updated software.

(b) The necessity of the amendment to this administrative regulation: Our current database is housed on Microsoft Access that is no longer supported and must be replaced. We have budgeted and been allotted the necessary funds, however, our revenue stream does not meet our needs without an increase in renewal fees.

(c) How the amendment conforms to the content of the authorizing statutes: KRS authorizes the Board to set fees.

(d) How the amendment will assist in the effective administration of the statutes: Kentucky statute requires that we issue and administer the licensing process. We require an updated database to fulfill our duties.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment will affect all currently licensed optometrists 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: The potential applicant will need to sit for and pass the OBOE written examination that is done online.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment will give applicants a choice, not require them to take the OBOE written exam and does not incur a cost more than the accepted NBEO Part 1 exam.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This amendment will give applicants an additional path to secure a Kentucky optometrist license by \$50 annually. The last increase in our fee occurred more than 8 years ago. This is only the second fee increase of \$50 each time since licensing of optometrists began in the state of KY.

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

(a) Initially: \$0



## VOLUME 51, NUMBER 4– October 1, 2024

- (b) On a continuing basis: \$0
- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: N/A
- (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 an increase of renewal fees with the implementation of this amendment.
- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This amendment increases the fee to renew a Kentucky optometrist license.
- (9) TIERING: Is tiering applied? There is no tiering, only a flat fee.

### FISCAL IMPACT STATEMENT

- (1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. 201 KAR 5:005; 201 KAR 5:090; KRS 320.280
- (2) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Optometric Examiners
- (a) Estimate the following for the first year:  
Expenditures: \$0  
Revenues: \$45,000  
Cost Savings: \$0
- (b) How will expenditures, revenues, or cost savings differ in subsequent years? The same increased revenues of \$45,000 will be realized each year.
- (3) Identify affected local entities (for example: cities, counties, fire departments, school districts): This will not impact any local entities.
- (a) Estimate the following for the first year:  
Expenditures: \$0  
Revenues: \$0  
Cost Savings: \$0
- (b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A
- (4) Identify additional regulated entities not listed in questions (2) or (3): None
- (a) Estimate the following for the first year:  
Expenditures: \$0  
Revenues: \$0  
Cost Savings: \$0
- (b) How will expenditures, revenues, or cost savings differ in subsequent years? : N/A
- (5) Provide a narrative to explain the:
- (a) Fiscal impact of this administrative regulation: This regulation will result in a fee increase of \$50 annually to renew an optometrist license in Kentucky.
- (b) Methodology and resources used to determine the fiscal impact: The Board used a flat fee increase to offset the administrative shortfall we are experiencing.
- (6) Explain:
- (a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This regulation will not have an overall negative or adverse major economic impact.
- (b) The methodology and resources used to reach this conclusion:

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

#### 201 KAR 15:030. Fees.

RELATES TO: KRS 316.125(2), 316.130(2), (4), (5), 316.132, 316.140(2)

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

NECESSITY, FUNCTION, AND CONFORMITY: KRS 316.125(2)(a) and (b) require the board to issue an appropriate establishment license to an applicant who meets the statutory requirements. KRS 316.130(2), (4), and (5) establish the renewal and continuing education requirements for licensure. KRS 316.132 establishes the requirements for continuing education courses, board approval of continuing education courses, and certification for

attendance thereof. KRS 316.140(2) establishes the requirements for a person holding an embalmer's or funeral director's license issued in another state or federal district to obtain a courtesy card. KRS 316.210(1) authorizes the board to promulgate administrative regulations to carry out and enforce the provisions of KRS Chapter 316, and 316.210(6) requires the board to promulgate administrative regulations to establish fees authorized by KRS Chapter 316. This administrative regulation establishes the fees authorized by KRS Chapter 316.

#### Section 1.

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

#### Section 2. Individual License Fees.

- (1) The embalmer's license renewal fee shall be \$100.
- (2) The funeral director's license renewal fee shall be \$100.
- (3) The late fee for an embalmer's license renewal or a funeral director's license renewal shall be \$100 per year.

Section 3. The fee for an annual courtesy card shall be \$100 dollars.

#### Section 4. Apprenticeship Fees.

- (1) The registration fee for an embalmer apprenticeship shall be \$100.
- (2) The registration fee for a funeral directors apprenticeship shall be \$100.
- (3) The reinstatement fee for an apprenticeship shall be fifty (50) dollars [~~(\$50)-~~per license type].
- (4) The registration fee for Level II funeral director registration shall be fifty (50) dollars.
- (5) The registration fee for Level II embalmer registration shall be fifty (50) dollars.
- (6) The licensure exam fee shall be \$100 per license examination.

#### Section 5. Surface Transportation Fees.

- (1) The surface transportation license fee shall be \$150.
- (2) The surface transportation renewal fee shall be \$150.
- (3) The surface transportation course and examination fee shall be seventy-five (75) dollars.

#### Section 6. Inspection Fees for Establishment.

- (1) A routine or requested inspection shall be \$100.
- (2) A re-inspection within a period of three (3) months following a routine inspection, due to a deficiency found by the Inspector of the Board of Embalmers and Funeral Directors of the Commonwealth of Kentucky on a routine inspection shall be \$200.
- (3) If an establishment fails three (3) consecutive inspections within a period of six (6) months, any subsequent inspections required to determine if the failures have been cured shall be \$300 for each subsequent inspection.

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

#### Section 8. Processing and NSF.

- (1) A processing fee of twenty-five (25) dollars shall apply to all document actions not covered by other fees established by KRS Chapter 316 or this administrative regulation, including national exam score requests, out-of-state verifications, official name change requests, paper submissions of any documents or applications that are available to submit electronically, processing or reprinting of any document due to a transfer or missed deadline or meeting, and revisions to wall licensure or wallet card.
- (2) A fee of sixty (60) dollars shall be assessed for any payment made to the Board pursuant to KRS Chapter 316 or these administrative regulations, where the check, draft, money order, or

## VOLUME 51, NUMBER 4– October 1, 2024

other financial instrument is returned by the payor's bank or financial institution for insufficient funds, or cannot otherwise be deposited into the board's account.

Section 9. All fees assessed under this administrative regulation shall be nonrefundable.

### Section 10. Incorporation by Reference.

(1) The following material is incorporated by reference.

- (a) "Individual Renewal Application", 6/2024;
- (b) "Continuing Education Approval Application", 6/2024;
- (c) "Application for Licensure", 6/2024;
- (d) "Medical Exemption", 6/2024;
- (e) "Seventy & Inactive", 6/2024;
- (f) "Establishment Renewal Application", 6/2024;
- (g) "Individual Information Update", 6/2024.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Embalmers and Funeral Directors, 9114 Leesgate Rd, Ste 4, Louisville, Kentucky 40222, Monday through Friday 8:00 a.m. to 4:30 p.m. Materials incorporated by reference can also be found on the Kentucky Board of Embalmers and Funeral Directors Web site at: <https://kbefd.ky.gov/Pages/forms.aspx>.

KANETHA DORSEY, Executive Director  
JONATHAN RIDEOUT, Chairman

APPROVED BY AGENCY: May 14, 2024

FILED WITH LRC: August 15, 2024 at 12:05 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 21, 2024 at 9:00 a.m., at 9114 Leesgate Rd, Ste 4, Louisville, Kentucky 40222. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of this hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until October 31, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Kanetha Dorsey, Executive Director of Kentucky Board of Embalmers and Funeral Directors, 9114 Leesgate Road, Suite 4, Louisville, Kentucky 40222, phone 502-426-4589, fax 502-426-4117, email [Kanetha.dorsey@ky.gov](mailto:Kanetha.dorsey@ky.gov).

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kanetha Dorsey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation outlines all fees receivable by the Board of Embalmers and Funeral Directors for services or programs administered by the board.

(b) The necessity of this administrative regulation: This regulation informs license holders, courtesy card holders, potential license and courtesy card holders, apprentices, surface transporters, and continuing education providers of fees required for each service or license provided by thisb.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation describes all fees as required by HB 220 and supports programs the board is authorized to oversee via KRS 316.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets the fees for each program or service this board has been given the authority over according to KRS 316.

(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: Section 2(3) Clarifies the wording for the fee for renewing an inactive license to match KRS 316.131(1)(a). Section 4 (3) provides the reinstatement processing fee for apprentices wishing to reinstate their apprenticeship according to 201 KAR 15:050 Section 4(5).

Section 4(6) Updates the wording for examination fees to bring wording in line with the 201 KAR 15:040. Section 8(1) updates the regulation to include additional documents and requested services provided by the agency not previously requested or needed.

(b) The necessity of the amendment to this administrative regulation: Section 2(3) The wording in the statute and the wording in the current regulation do not appear to have the same meaning. This amendment would clarify the wording to make the regulation more closely match the statute. Section 4 (3) 201 KAR 15 Section 4(5) informs the reader that a reinstatement processing fee is required, however, there is no reinstatement processing fee in the regulation. This amendment creates the reinstatement processing fee per the regulation. Section 4(6) 201 KAR 15:040 requires the applicant to pass each examination to obtain their license, this amendment updates wording to more closely match 201 KAR 15:040. Section 8(1) The office prints applicant and meeting specific documents and handbooks, as part of the initial fee for licensure and apprentice registration, all documents are personalized to the applicant or requester, and most are dated. This regulation updates the processing fee to include such documents.

(c) How the amendment conforms to the content of the authorizing statutes: Section 2(3) supports KRS 316.131 and seeks to clarify the wording for the fee for renewing an inactive license to match KRS 316.131(1)(a). Section 4 (3) conforms to KRS 316.030 by providing for the completion of an apprenticeship by providing the fee for reinstatement as allowed by its supporting regulation. (201 KAR 15:050 Section 4(5). Section 4(6) sets the fee for licensure by examination by KRS 316.030 and KRS 316.140. Section 8(1) updates the regulation to include additional documents and requested services provided by the agency not previously requested or needed which support the needs of license holders, apprentices, courtesy card holders and transporters according to KRS 316.030, KRS 316.125, KRS 316.140, and KRS 316.165.

(d) How the amendment will assist in the effective administration of the statutes: This amendment seeks to clarify fees for examinations and renewal of inactive licenses. This brings all the fees related to funeral services under one regulation for ease of access for end users.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are currently 510 funeral related establishments in Kentucky. 3000 License holders (funeral director and/or embalmer). 250 Apprentices. 150 Surface Transport License Holders. 150 Courtesy Card holders. 450 CEU programs per 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: Fees paid for application, licensure, examination would be submitted electronically or by check or money order mailed to the office.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Apprentice reinstatement fee \$50 per type. License Examination \$100 per license per examination. Establishment Late Fee \$500 per year. Individual Late Fee \$100 per type per year. Processing fee \$25.

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

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

(a) Initially: No additional cost

(b) On a continuing basis: No additional cost

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation,

VOLUME 51, NUMBER 4– October 1, 2024

if new, or by the change if it is an amendment: These fees are necessary to implement the regulation and continue to pay for supplies and tools to provide for oversight

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does establish the fee for reinstating an apprenticeship previous placed on hold by an approved request. This regulation increases fees for those requesting reprints for documents previously created

(9) TIERING: Is tiering applied? Tiering is not applied to this regulation.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 316.030(4)(g), 201 KAR 15:030, KRS 316.030(5)(f), KRS 316.125(2)(a), 201 KAR 15:040 Section 1(1), 201 KAR 15:040 Section 3(3), 201 KAR 15:040 Section 4(1), 201 KAR 15:050 Section 4(5), 201 KAR 15:110 Section 5(5)(b), 201 KAR 15:110 Section 5(5)(c), 201 KAR 15:110 Section 5(5)(d), 201 KAR 15:110 Section 5(5)(e), 201 KAR 15:125 Section 1(2)(b), 201 KAR 15:125 Section 2(1).

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: KY

(a) Estimate the following for the first year:

Expenditures: None anticipated

Revenues: (By Fee Type) FD Apprentice: 100 requests, \$100 fee, Revenues \$10,000. E Apprentice: 75 requests, \$100 fee, Revenues \$7,500. Apprentice Reinstatements: 25 requests, \$50 fee/per type, Revenues \$1,250-2,500. Establishments: 510 requests, \$500 fee, Revenues \$255,000. New Establishments: 10 requests, \$500 fee, Revenues \$5,000. Funeral Director Only Renewals: 1,180 requests, \$100 fee, Revenues \$75,000. Embalmer Only Renewals: 20 requests, \$100 fee, Revenues \$20,000. Funeral Director and Embalmer Renewals: 2,020 requests, \$200 fee/per, Revenues \$404,000. Examinations: 200 requests, \$100 fee, Revenues \$20,000. Courtesy Card: 130 requests, \$100 fee, Revenues \$13,000. Continuing Education: 450 requests, \$150 fee, Revenues \$60,500 (conferences are capped at \$600). Processing Fees: 100 requests, \$25 fee, Revenues \$2,500.

Cost Savings: None anticipated

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Revenues may have nominal differences as rates of apprentices and license holders have been largely the same over the last few years

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts):

(a) Estimate the following for the first year:

Expenditures: None known; although there are establishments in most counties and cities in the Commonwealth, this agency does not contract, provide or receive services from other entities

Revenues: None known; although there are establishments in most counties and cities in the Commonwealth, this agency does not contract, provide or receive services from other entities

Cost Savings: None known; although there are establishments in most counties and cities in the Commonwealth, this agency does not contract, provide or receive services from other entities

(b) How will expenditures, revenues, or cost savings differ in subsequent years? None anticipated; although there are establishments in most counties and cities in the Commonwealth, this agency does not contract, provide or receive services from other entities

(4) Identify additional regulated entities not listed in questions (2) or (3):

(a) Estimate the following for the first year:

Expenditures: None anticipated; although there are establishments in most counties and cities in the Commonwealth, this agency does not contract, provide or receive services from other entities

Revenues: None anticipated; although there are establishments in most counties and cities in the Commonwealth, this agency does not contract, provide or receive services from other entities

Cost Savings: None anticipated; although there are establishments in most counties and cities in the Commonwealth, this agency does not contract, provide or receive services from other entities

(b) How will expenditures, revenues, or cost savings differ in subsequent years? None known or anticipated due to fees or changes in the regulation.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This administrative regulation will increase revenues by \$5000-\$10000 due to fees that were not being collected prior because they were not included in this regulation.

(b) Methodology and resources used to determine the fiscal impact: See chart for requests, fees, and revenue, the updated fees are for services that have been rarely requested in previous years.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This administrative regulation will not have an overall negative impact on entities as none were identified in question (2) – (4) and no new fees are being introduced.

(b) The methodology and resources used to reach this conclusion: The administrative regulation and table above were used to reach the conclusion that this administrative regulation will not have an overall negative impact on entities listed in questions (2) – (4).

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

201 KAR 15:050. Apprenticeship and supervision requirements.

RELATES TO: KRS 316.030

STATUTORY AUTHORITY: KRS 316.030, 316.210(1)

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

Section 1. Apprenticeship Application.

(1) Prior to beginning an apprenticeship, an applicant shall:

(a) File an Apprenticeship Application Form with the board that includes the sworn statement required by KRS 316.030(7)(c);

(b) Pay the registration fee established in KRS 316.030(7)(b);

(c) Submit a current photograph;

(d) Submit a copy of the applicant's high school transcript or diploma, or high school equivalency diploma;

(e) Submit an official copy of any college transcripts;

(f) Submit an official copy of National Board scores, if available;

(g) Submit an official copy of a current (less than ninety (90) days prior to the application) national criminal justice information system (CJIS) report obtained from an agency approved by the Kentucky Board of Embalmers and Funeral Directors [the Federal Bureau of Investigation (FBI)]; and

(h) Appear before the board with the supervisor at the time and place identified by the board.

(2) The apprenticeship shall begin the day the applicant and supervisor meet with the board.

Section 2. Supervisor Responsibilities.

(1) An apprenticeship shall be served under the board-approved supervisor identified on the Apprenticeship Registration Form as the supervisor of record.

(2) Apprenticeships for both embalming and for funeral directing may be served concurrently under:

(a) A single individual acting as the supervisor of record who holds both a funeral director's license and an embalmer's license; or

(b) Two (2) individual licensees acting as the supervisor of record who together hold both a funeral director's license and an embalmer's license.

(3) Licensed embalmers and licensed funeral directors who seek approval from the board as a supervisor of record shall:

(a) Embalm or direct funerals at, and be employed by, the establishment where the apprentice is registered or at another funeral establishment if approved by the board;

(b) Appear before the board for approval with the apprentice; and

(c) Be responsible for ensuring that the apprentice complies with KRS Chapter 316 and 201 KAR Chapter 15.

(4) The board may withdraw approval of a supervisor based upon:

(a) Evidence of the inability to supervise an apprentice properly; or

(b) A violation of KRS Chapter 316 or 201 KAR Chapter 15.

(5) Apprentices may receive supervision by licensees other than the supervisor of record.

(a) Registered embalmer apprentices may be supervised by other licensed embalmers designated by the supervisor of record.

(b) Registered apprentice funeral directors may be supervised by other licensed funeral directors designated by the supervisor of record.

(c) Supervisors of record that designate other licensees to provide supervision for an apprentice shall remain responsible for the actions of the apprentice and for the quality of the designated supervision.

(d) The apprentice shall prepare an Apprentice Travel Form and maintain it with the apprentice calendar.

(6) The supervisor shall instruct an apprentice and ensure that an apprentice receives experience in all aspects of funeral directing or embalming, as applicable to the individual's apprenticeship.

(a) The instruction shall include:

1. The laws relating to the profession, including KRS Chapter 316 and 201 KAR Chapter 15; and

2. The theory and application of funeral directing or embalming.

(b) The training and work assignments for apprentice embalmers shall cover the following service items:

1. Initial call details;
2. Removals;
3. Embalming;
4. Restorative art treatment;
5. Posing body and features;
6. Bathing and cosmetizing of bodies;
7. Dressing and casketing of bodies;
8. Recordkeeping;
9. Purchasing of necessary supplies;
10. Preparation of autopsied bodies;
11. Care and maintenance of equipment and embalming room;

and

12. Professional responsibility.

(c) The training and work assignments for apprentice funeral directors shall cover the following service items:

1. Initial call details;
2. Removals;
3. Counseling of families on the types of services and merchandise available;
4. Arrangements of funeral services and merchandise;
5. Preparing death certificates and documents;
6. Preparing applications for certain death benefits, such as Social Security, Veterans Administration, insurance companies, and lodges;
7. Preparing newspaper notices;
8. Conducting visitations or memorial services;

9. Directing funerals and graveside services;

10. Follow-up service to the family after the funeral service has been completed;

11. Recordkeeping;

12. Purchasing of necessary supplies;

13. Caring for equipment and premises; and

14. Professional responsibility.

Section 3. Supervision of Apprentices.

(1) Supervision of embalmer apprentices.

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

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

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

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

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

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

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

(2) Supervision of funeral director apprentices.

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

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

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

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

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

VOLUME 51, NUMBER 4– October 1, 2024

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

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

(3) Removals.

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

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

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

(d) An individual who obtains or holds a permit from this board to transport dead human bodies shall not use transport removals performed under that permit to accumulate the number of removals required to complete an apprenticeship. All apprenticeship removals shall be performed within the requirements of the apprenticeship and supervision. Hours accumulated performing removals under a Transport Permit shall not count toward an apprentice's average weekly work hours requirement.

(4) Calendar.

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

(b) The calendar shall identify:

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

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

3. Activities completed within the work schedule.

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

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

Section 4. Terminating and Reestablishing an Apprenticeship.

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

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

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

(b) Appear before the board with the supervisor at the time and place identified by the board. ~~Identify the name, street address, and license number of the funeral director or embalmer under which the apprentice is continuing the apprenticeship; and~~

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

(3)

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

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

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

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

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

5. [(e)] Any qualifying exigency arising out of the fact that the apprentice or their ~~employee's~~ spouse, son, daughter, or parent is a military member on covered active duty; ~~shall immediately notify the board of.~~

6. Active, full-time enrollment in an accredited mortuary school.  
(b) The apprentice shall, within five (5) business days, inform the board of:

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

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

(4) An apprenticeship shall end ten (10) days after the administration of the 1st exam opportunity for a level I apprentice or ten (10) days after the 2nd examination opportunity for a level II apprentice ~~not end later than the administration of the second examination~~ for which the apprentice is eligible.

(5) ~~[At any time an apprenticeship ceases, or]~~ An apprenticeship which becomes inactive under these administrative regulations, or is completed without testing ~~[an apprentice]~~ shall not lose credit for the time served in the apprenticeship. An apprentice whose apprenticeship has ceased or become inactive may be reinstated to apprenticeship by notice to the board including the name of the apprentice's supervisor upon his or her return to active apprenticeship, the establishment at which the apprentice is employed, and payment of a processing fee as established in 201 KAR 15:030. The reinstated apprentice shall be responsible for compliance with all other apprenticeship requirements from the date of reinstatement forward.

Section 5. Sworn Statements.

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

(2) The Apprenticeship Sworn Statement shall include:

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

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

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

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

(4) With subsequent sworn statements, an apprentice shall file a report written by the applicant on an article or a book related to embalming or funeral directing read by the applicant during the six

VOLUME 51, NUMBER 4– October 1, 2024

(6) month period. It shall contain a reference that includes the author, title, month and year of publication, and page numbers.

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

(6) ~~Except for the initial book report,~~ an apprentice in mortuary school shall be exempt from the book report requirements of subsections ~~[(3)](4)~~ through (5) of this section if the apprentice submits the number of hours he or she is enrolled on the Apprenticeship Sworn Statements.

(7)

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

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

- 1. The activities of the apprentice;
2. Signing the sworn statement; and

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

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

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

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

Section 6. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "Apprenticeship Application", 6/2024[7/2022];
(b) "Change of Apprentice Supervisor", 6/2024[9/2019];
(c) "Apprenticeship Sworn Statement", 6/2024[9/2019];
(d) "Level II Apprentice Application", 6/2024:[9/2019; and]
(e) "Apprentice Travel Form", 6/2024; and[2017]
(f) "Apprenticeship Change/Reinstatement", 6/2024.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Embalmers and Funeral Directors, 9114 Leesgate Rd, Ste 4, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m. Materials incorporated by reference can also be found on the Kentucky Board of Embalmers and Funeral Directors Web site at: https://kbefd.ky.gov/Pages/forms.aspx.

KANETHA DORSEY, Executive Director
JONATHAN RIDEOUT, Chairman

APPROVED BY AGENCY: May 14, 2024
FILED WITH LRC: August 15, 2024 at 12:05 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 24, 2024 at 9:00 a.m., at 9114 Leesgate Rd, Ste 4, Louisville, Kentucky 40222. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of this hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until October 31, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Kanetha Dorsey, Executive Director of Kentucky Board of Embalmers and Funeral Directors, 9114 Leesgate Road, Suite 4, Louisville, Kentucky 40222, phone 502-426-4589, fax 502-426-4117, email Kanetha.dorsey@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kanetha Dorsey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation describes the use, prohibitions, and responsibilities of apprentice funeral directors, apprentice embalmers, and their supervisor(s)

(b) The necessity of this administrative regulation: This administrative regulation sets out the types of apprenticeship, how to register, and the expectations of both the supervisors and apprentices during the apprenticeship.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 316.030 authorizes individuals to become licensed after completion of an apprenticeship. This regulation supports the statute by outlining the process of becoming and completing the apprenticeship. It provides roles, responsibilities and expectations of the funeral director and embalmer apprentice according to KRS 316.030

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides the procedure for successful completion of the apprenticeship program and prepare the individual for licensure via examination.

(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: Section 1(g) changes the strict FBI check policy, which has been hard for applicants to obtain in some areas of the Commonwealth. The requirement for a criminal background check is still expected however, the board will be able to accept reports from other entities. Section 3 (4) outlines how long the calendar shall be maintained and what should be included in the calendar, a point of confusion for apprentices. Section 3(6) and Section 4(2) clarify how changes should be communicated to the Board. Section 4 (3) provides the addition of the apprentice to be included in a reason for placing an apprenticeship on hold due to military orders. Section 4 (4) and (5) clarifies wording explaining the end of an apprenticeship and placing an apprenticeship on hold. Section 5 Clarifies the procedures for sworn statements and book reports which are due to the Board.

(b) The necessity of the amendment to this administrative regulation: Section 1(g)-Acquiring and FBI background check has taken some applicants months and several fingerprint sets before receiving a completed national criminal background report. The requirement for a national criminal background report is still expected however, the board will be able to accept reports from other entities. Section 3 (4)-This amendment clarifies how long the calendar should be maintained and what should be included in the calendar. Section 3(6) and Section 4(2)-currently notices of changes are sent via a format that is out of date with eh current practice of the Board. This amendment brings the notice up-to-date with the needs of the office for records management and the requirements of the Board. Section 4 (3)-This amendment adds the apprentice as a person who could place their apprenticeship on hold due to military orders. Section 4 (4) and (5)-These amendments inform the apprentice and supervisor of the end date of the apprenticeship. Section 5-Apprentices in mortuary school were able to complete their apprenticeship and never have to complete a book report. This amendment requires an apprentice to complete at least one book report on the statutes and regulations with their first sworn statement.

(c) How the amendment conforms to the content of the authorizing statutes: Each amendment seeks to clarify it's respective portion of the regulation. This is an attempt to ensure an apprentice is able to complete their apprenticeship and pass the necessary examination per KRS 316.030.

(d) How the amendment will assist in the effective administration of the statutes: Each amendment will assist by providing clear expectations of the apprentice and supervisor throughout their journey to licensure.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are currently 510 funeral service establishments in Kentucky. 250 Apprentices. 250+ Licensed supervisors.

(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:

**VOLUME 51, NUMBER 4– October 1, 2024**

(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 will not have to wait months in some cases to start their apprenticeship due to wait times and issues with fingerprints; more options will be available to applicants to obtain their national criminal justice information system report. Apprentices who change funeral homes or supervisors will utilize a specific form to inform the board of changes which provides guidance to the apprentice and their supervisor and decreases duplication. They must also appear before the board to be registered before the Board and placed in the minutes of the meeting. All apprentices will be required to review the statutes and regulations and complete at least one book report during their apprenticeship. Apprentices will know exactly when their apprenticeship ends and how to place it on hold according to the regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional fees are established in these amendments

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Apprentices working beyond the end of their apprenticeship will decrease. Supervisors and apprentices will know how to calculate the completion of their apprenticeship. Establishments will be able to hire apprentices and put them to work faster.

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

(a) Initially: No initial cost

(b) On a continuing basis: No additional cost on an ongoing basis

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

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not increase fees for apprentices or establishments This regulation requires a processing fee in the case of a transfer or reinstatement of an apprenticeship.

(9) TIERING: Is tiering applied? Tiering is not applied to this administrative regulation.

**FISCAL IMPACT STATEMENT**

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 316.010 KRS 316.030

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Embalmers & Funeral Directors

(a) Estimate the following for the first year:

Expenditures: Paper. Approximately 2 packs of paper \$15.00

Revenues: \$17,500

Cost Savings: None anticipated

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures are expected to be about the same.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Cities, counties, and fire departments are affected by this industry

(a) Estimate the following for the first year:

Expenditures: None anticipated, although these entities are affected by the industry, there is no contractual or financial connection with the agency or regulation

Revenues: None anticipated, although these entities are affected by the industry, there is no contractual or financial connection with the agency or regulation

Cost Savings: None anticipated, although these entities are affected by the industry, there is no contractual or financial connection with the agency or regulation

(b) How will expenditures, revenues, or cost savings differ in subsequent years? No change is anticipated.

(4) Identify additional regulated entities not listed in questions (2) or (3): None are known or anticipated.

(a) Estimate the following for the first year:

Expenditures: None anticipated, although these entities are affected by the industry, there is no contractual or financial connection with the agency or regulation

Revenues: None anticipated, although these entities are affected by the industry, there is no contractual or financial connection with the agency or regulation

Cost Savings: None anticipated, although these entities are affected by the industry, there is no contractual or financial connection with the agency or regulation

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This regulation has no change in fees and only seeks to update the wording to make the regulation clearer. The impact will be the same in that individuals who wish to become licensed as a funeral director or embalmer through apprenticeship will pay the fee as outlined in 201 KAR 15:030, this provides jobs and a service to the community.

(b) Methodology and resources used to determine the fiscal impact: The budget request report was used to determine fiscal impact as well as the necessity and function statement from the regulation.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This regulation will not have an overall negative or adverse major economic impact due to the low fees requested.

(b) The methodology and resources used to reach this conclusion: The budget request report and regulation were used to reach this conclusion.

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

**201 KAR 15:110. Funeral establishment criteria.**

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

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

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

**Section 1. General Requirements.**

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

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

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

(b) Registered apprentices;

(c) Members of the family of the deceased;

(d) Authorized representatives of the deceased; or

(e) Any other individual otherwise allowed by law.

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

VOLUME 51, NUMBER 4– October 1, 2024

(a) Board approved embalming reports that include:

1. The name of each body embalmed;
2. The date of death;
3. The date and time that the embalming took place;
4. The name and signature of the embalmer; and
5. The embalmer's license number;

(b) Proper documentation of the authorization to embalm; and

(c) Accurate and current copies of:

1. The casket price list;
2. The outer burial container price list;
3. The general price list; and
4. The statement required by the Federal Trade Commission in 16 C.F.R. 453.2(b)(2) through (5), as maintained in the general practice of the establishment.

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

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

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

(7) An establishment shall display a sign that:

- (a) Identifies the name of the establishment; and
- (b) Is in a location visible from an adjacent public road.

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

(9) The owner or manager of a Kentucky licensed funeral establishment may contract with a Kentucky licensed embalmer employed by another Kentucky licensed funeral establishment to provide embalming services at the Kentucky licensed funeral establishment and pay the contracted Kentucky licensed embalmer for services rendered.

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

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

(2) The applicable equipment necessary for conducting and arranging funeral services, including:

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

Section 3. Embalming Service Establishment.

(1) An establishment that provides embalming services shall:

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

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

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

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

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

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

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

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

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

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

Section 5. Inspections.

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

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

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

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

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

(4) The following forms shall be available for inspection or copying by the inspector:

(a) A current general price list of charges for services to the public;

(b) A current price list of caskets as charged to the public;

(c) A current price list of outer burial containers as charged to the public; and

(d) All apprentice calendars and apprentice travel forms.

(5)

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

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

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

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



## VOLUME 51, NUMBER 4– October 1, 2024

(e) If an establishment fails three (3) consecutive inspections within a period of six (6) months, any subsequent inspections required to determine if the failures have been cured shall require payment, as established in 201 KAR 15:030, for each subsequent inspection. In an instance of three (3) consecutive failures of inspections within six (6) months, the board may also, in its sole discretion, direct that the establishment in question cease operations for an appropriate period of time to permit the establishment to become compliant, and may assess a fine based upon the violations and failure to correct same.

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

### Section 6. Establishment Manager.

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

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

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

### Section 7. Transferability.

(1) Establishment licenses shall not be transferable.

(2) If a sale or lease occurs:

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

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

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

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

(4)

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

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

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

### Section 8. Opening of an Establishment.

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

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

(a) A completed Establishment Application;

(b) The fee required by 201 KAR 15:030;

(c) A picture of the establishment and signage;

(d) A picture of the establishment manager;

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

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

(g) If a partnership, the partnership agreement;

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

(i) If the property is not owned by the applicant, a commercial lease, certificate of occupancy, or other legal document that

demonstrates that the applicant has possession and control of the premises sufficient to be responsible for the property being configured to meet the requirements of these regulations.

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

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

(a) An Establishment Renewal Application;

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

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

### Section 9. ~~[Advertising and]~~Signage.

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

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

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

### Section 10. Advertising.

(1) A funeral establishment may engage in activity to advertise and promote its business.

(2) Promotional activity shall be available to the public and not intended to solicit the purchase of a funeral.

(3) A funeral establishment may sponsor and participate in community activities. Personal information provided by individuals attending community activities, educational activities, participating in raffles or other activities, shall not be used to contact them following the activity. A funeral establishment may respond to a question but shall not initiate contact regarding the purchase of a funeral. Any document or registration that has personal information included shall contain the following information: "The information provided shall not be used by XYZ FH to contact me regarding the purchase of a funeral. If you are contacted about the purchase of a funeral following an event sponsored by or in part by a funeral establishment, please contact the Kentucky State Board of Embalmers and Funeral Directors; 502-426-4589."

(4) Meal and learn sessions shall not be considered solicitation so long as the sponsoring license holder does not collect information from attendees (information not to be collected includes names, addresses, telephone numbers, or any other form of contact for direct communication). The attendees may reach out after the event to the sponsoring license holder, but the sponsoring license holder shall not contact attendees directly after the event.

### Section 11. Closure of an Establishment.

(1) If an establishment is to be closed, for any reason, the establishment licensee shall notify the board that the establishment is to be closed, and whether the closure is permanent or for a specified period of time using the appropriate form and shall return the establishment license to the board office in the case of permanent closure within ten (10) days of closure.

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

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

### Section 12. ~~[Section 11.]~~ Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Establishment Application", ~~6/2024~~9/2019;

(b) "Information and Name Change Application", ~~6/2024~~9/2019; ~~and~~

(c) "Establishment Renewal Application", ~~6/2024~~[2017];

(d) "Notice of Manager/Owner Death", ~~6/2024~~; and

(e) "Establishment Closure Form", ~~6/2024~~.

## VOLUME 51, NUMBER 4– October 1, 2024

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

KANETHA DORSEY, Executive Director  
JONATHAN RIDEOUT, Chairman

APPROVED BY AGENCY: May 14, 2024

FILED WITH LRC: August 15, 2024 at 12:05 p.m.

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on, October 24, 2024 at 9:00 a.m. Eastern, at 9114 Leesgate Rd, Ste 4, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend 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 October 31, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

**CONTACT PERSON:** Kanetha Dorsey, Executive Director, 9114 Leesgate Rd, Ste 4, Louisville, Kentucky 40222, phone 502-426-4589, fax 502-426-4117, email kanetha.dorsey@ky.gov.

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kanetha Dorsey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets out the types and requirements of establishments available for licensure and roles and responsibilities of the manager and staff within.

(b) The necessity of this administrative regulation: KRS 316.125 outlines the application and requirements for licensed funeral service establishments. This administrative regulation sets and supports the roles of each type of establishment and the management of said establishment according to the KRS.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation provides the type and use of place of work for the funeral director, embalmer, apprentice, and surface transporter. This regulation sets the standard for the place of embalming, viewing, and potential storing of dead human bodies.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation supports the statutes by being the place of employment for license holders, apprentices, and surface transporters as provided by the applicable statutes as each is restricted to working within a licensed funeral establishment. A member, stockholder, or officer of every funeral establishment business must be a funeral director and/or license holder. License diplomas are required to be displayed within the establishment. Establishment licenses are required and must be renewed every year in July.

(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: Section 1(9) - This amendment allows an owner or manager to hire an at-need embalmer to support the needs and operation of the establishment. There is a need for embalmers at many funeral homes across the Commonwealth, however this is a strict, and necessary, prohibition on "trade embalming," this amendment allows for establishments to hire a Kentucky-licensed embalmer for temporary assistance to work at the establishment. Three of the major funeral director associations in the State polled their membership and each voting overwhelming to allow for this set-up as long as it was within the funeral home. Section 9. - Separates Advertising from Signage in the title. Section 10 - addition. The second amendment pertains to advertising and solicitation, previously advertising did not allow for support of community events or sponsoring lunch and learns; the amendment now allows for solicitation but seeks to keep the contact from being predatory. Section

11. (1) - The final amendment to this regulation provides information about how to close a funeral home.

(b) The necessity of the amendment to this administrative regulation: Section 1(9) - The licensure base has communicated that establishments need to have access to more embalmers; at the same time some establishments are not able to afford full-time salaries and benefits. Three of the associations in Kentucky have polled their membership and approved this amendment. This wording comes from the largest association. Section 9. and Section 10. The establishment owners have been requesting a way to meet potential new clients and have communicated that not being able to support various community teams and events are unfair and keeping them from contacting portions of their community. Advertising was separated from signage to add clarity. Section 11. The final amendment is necessary to provide guidance on the steps to close a funeral home and provide a timeframe to complete those steps.

(c) How the amendment conforms to the content of the authorizing statutes: Section 1(9) This administrative amendment requires establishments to hire a Kentucky-licensed embalmer to provide the embalming services within the Kentucky-licensed establishment per KRS316.030(2). Section 9-10. This administrative amendment supports an establishments ability to advertise, sponsor, and educate the community while providing standards and expectations in reference to KRS 316.150(1(d)). This administrative amendment provides a procedure for closing a funeral establishment which will no longer operate according to KRS 316.125.

(d) How the amendment will assist in the effective administration of the statutes: Each amendment provides a procedure and boundaries to operate within to support their applicable statutes.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are currently 510 funeral service establishments in Kentucky. 3000 License holders (funeral director and/or embalmer) 250 Apprentices 150 Surface Transport License Holders

(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: Section 1(9) does not require the owner or manager to provide any information directly to the office. Embalmer Reports are required to be maintained by the establishment and must be signed by the embalmer; the inspector will review embalming reports during inspections. Section 9-10-will require the establishments to place a notice on all advertising to inform the reader of their right to contact the Board office their they have been contacted following an activity. Section 11- requires the manager or owner to complete a form of any closure and return their establishment license in the event of closure.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): None of these amendments require a fee; hiring an embalmer or hosting a team or event will cost the establishment, however, that will be considered on their own terms.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Establishments will have access to more embalmers. Establishments will be able to make contact with more citizens and potentially have more future clients and educate the public on needs and considerations of death care. Decrease in confusion and potential legal issues regarding establishment closures.

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

(a) Initially: No additional cost

(b) On a continuing basis: No additional cost-there have already been legal costs when an establishment hosted lunch and learns; those costs may dramatically decrease or may shift to complaints against funeral homes that do not comply with the regulation.

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

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

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

(9) TIERING: Is tiering applied? No

#### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 316.010, KRS 316.030, KRS 316.125, KRS 316.130, KRS 316.150, KRS 316.165, KRS 316.260, 16 C.F.R. 453.2

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Embalmers and Funeral Directors.

(a) Estimate the following for the first year:

Expenditures: No additional expenditures are expected

Revenues: \$200 per year

Cost Savings: None anticipated

(b) How will expenditures, revenues, or cost savings differ in subsequent years? No anticipated changes in subsequent years that would affect expenditures, revenues, or cost savings.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Cities, counties, and fire departments are generally affected by this profession

(a) Estimate the following for the first year:

Expenditures: None anticipated

Revenues: None anticipated, although local entities may benefit from the change to this regulation which allows funeral establishments to support their local community in various ways, which may indirectly increase revenues for entities within that community.

Cost Savings: None anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? As more funeral establishments become able to do so, they should be able to support the communities which may increase revenues for the local communities.

(4) Identify additional regulated entities not listed in questions (2) or (3): None are known or anticipated

(a) Estimate the following for the first year:

Expenditures: None are known or anticipated

Revenues: None are known or anticipated

Cost Savings: None are known or anticipated

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This regulation provides for changes requested by the licensure base to allow establishments to support and educate the larger community. It also seeks to clarify processes such as closure and notification of the death of a manager or owner. This regulation change seeks to help establishments make contact with more potential clients without allowing for predatory practices.

(b) Methodology and resources used to determine the fiscal impact: The budget request report was used to determine fiscal impact as well as the necessity and function statement from the regulation and survey information reported by both the Funeral Directors Association of Kentucky and the Kentucky Association of Morticians.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This administrative regulation has low negative or adverse economic impact as the fee associated with the changes in this regulation are low.

(b) The methodology and resources used to reach this conclusion: The budget request report, association surveys, and profession specific historic data were used to reach this conclusion.

## BOARDS AND COMMISSIONS

### Board of Embalmers and Funeral Directors (Amendment)

#### 201 KAR 15:120. Requirements for applicants holding a license in another state.

RELATES TO: KRS 316.140(1)

STATUTORY AUTHORITY: KRS 316.140, 316.210(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 316.140(1) authorizes the Board of Embalmers and Funeral Directors to issue a license to an applicant that is licensed in another state and who has met the same or similar requirements for a license as the standards set out in KRS 316.030. This administrative regulation establishes the criteria for determining whether applicants who are licensed in another state qualify for a Kentucky embalmer's or a Kentucky funeral director's license.

#### Section 1.

(1) The board shall accept an applicant licensed in another state as eligible to apply for an embalmer's or funeral director's license who has:

(a) A diploma from a school of mortuary science that is accredited by the American Board of Funeral Service Education or its predecessor; and

(b) Either:

1. Thirty (30) semester or forty-five (45) quarter hours of college credit from an accredited college or university as shown on an official transcript; or

2. Engaged in the fulltime practice of embalming or funeral directing under licensure for ten (10) of the twelve (12) years immediately preceding the date of the application as demonstrated by the submission of W-2 forms or an affidavit from two (2) licensed embalmers or funeral directors in his state of original licensure which verify that he has been so engaged in practice full time.

(2) An applicant from another state shall:

(a) Submit a copy of his or her current license verification from the state in which he is licensed;

(b) Pass the current Kentucky jurisprudence examination [or] and examinations for a funeral director license or embalmer license or both, as applicable;

(c) Submit a recently[-]completed (within the preceding ninety (90) days) national criminal justice information system (CJIS) report obtained by the applicant from [the Federal Bureau of Investigation (FBI)] an agency approved by the Kentucky Board of Embalmers and Funeral Directors;

(d) Inform the board of any disciplinary actions in states where he or she held a license; and

(e) Pay the examination fee and the fees required by 201 KAR 15:030.

#### Section 2. Incorporation by Reference.

(1) "Application for Licensure", 6/2024, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Embalmers and Funeral Directors, 9114 Leesgate Rd, Ste 4, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m. Materials incorporated by reference can also be found on the Kentucky Board of Embalmers and Funeral Directors Web site at: <https://kbfed.ky.gov/Pages/forms.aspx>.

KANETHA DORSEY, Executive Director

JONATHAN RIDEOUT, Chairman

APPROVED BY AGENCY: May 14, 2024

FILED WITH LRC: August 15, 2024 at 12:05 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 24, 2024 at 9:00 a.m., at 9114 Leesgate Rd, Ste 4, Louisville, Kentucky 40222. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of this hearing will not be made unless a written request for a transcript

## VOLUME 51, NUMBER 4– October 1, 2024

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 October 31, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Kanetha Dorsey, Executive Director of Kentucky Board of Embalmers and Funeral Directors, 9114 Leesgate Road, Suite 4, Louisville, Kentucky 40222, phone 502-426-4589, fax 502-426-4117, email Kanetha.dorsey@ky.gov.

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kanetha Dorsey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation describes the procedure to obtain a funeral director and/or embalmer license when already licensed by another state who has met the same or similar requirements for licensure as Kentucky.

(b) The necessity of this administrative regulation: This administrative regulation sets out the steps to become licensed by the Commonwealth of Kentucky after licensure by another state.

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

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides the procedure for obtaining funeral director and/or embalmer licensure by an applicant who is licensed in another state per KRS 3316.140 and KRS 316.210.

(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 strict FBI check policy, which has been hard for applicants to obtain in some areas. The requirement for a criminal background check is still expected however, the board will be able to accept reports from other entities.

(b) The necessity of the amendment to this administrative regulation: The FBI report requirement has postponed several applicants since it's inception and the various changes to the process for obtaining an FBI report have created a hardship for establishments. This amendment seeks to aid applicants in obtaining an appropriate national criminal background report by accepting the report from entities other than directly from the FBI.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment seeks to allow the applicant from another State to apply and send their application with a national criminal justice information system report obtained by an entity other directly from the FBI.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will allow for more timely processing of applications due to obtaining the national criminal background check faster.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are currently 510 funeral service establishments in Kentucky. Reciprocal Applicants 10-20/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: Applicants will not have to wait months in some cases to sit for their examination due to wait times and issues with fingerprints; more options will be available to applicants to obtain their national criminal justice information system report.

(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 specifically increase fees, and should not affect other entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicants will be able to sit for examinations sooner due to decreased wait for criminal background check from FBI no longer being an issues.

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

(a) Initially: No initial cost

(b) On a continuing basis: No additional cost on an ongoing basis

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Additional fees are not necessary to implement the amendment

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

(9) TIERING: Is tiering applied? No

### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 316.010, KRS 316.030, KRS 316.140

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Embalmers and Funeral Directors

(a) Estimate the following for the first year:

Expenditures: None anticipated.

Revenues: None anticipated.

Cost Savings: None anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): None known to be affected by this regulation.

(a) Estimate the following for the first year:

Expenditures: None anticipated.

Revenues: None anticipated.

Cost Savings: None anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? No change is anticipated for subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3): None are known or anticipated

(a) Estimate the following for the first year:

Expenditures: No changes to this item are anticipated.

Revenues: No changes to this item are anticipated.

Cost Savings: No changes to this item are anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? No changes are known or anticipated.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This regulation has no change in fees and does make it less strenuous to complete the background process.

(b) Methodology and resources used to determine the fiscal impact: The budget request report and profession history were used to determine the fiscal impact.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This regulation will not have an overall negative or adverse major economic impact. This regulation makes no changes to the fee structure and make ease the financial burden of application.

(b) The methodology and resources used to reach this conclusion: The budget request report and regulation were used to reach this conclusion.

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

**201 KAR 15:125. Surface transportation permit.**

RELATES TO: KRS 316.165

STATUTORY AUTHORITY: KRS 316.165, 316.210

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

Section 1. Application.

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

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

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

(b) The fee established in 201 KAR 15:030;

(c) Evidence of recent (within the previous twelve (12) months) training and compliance with the standards of the Occupational Safety and Health Administration for universal precautions and blood-borne pathogens, 29 [Code of Federal Regulations- (C.F.R.)] 1910.1030;

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

(e) An official copy of a criminal justice information system (CJIS) report obtained ~~[from the Federal Bureau of Investigation]~~from an agency approved by the Kentucky Board of Embalmers and Funeral Directors no more than ninety (90) days prior to the application; and

(f) Evidence of possession and control or ownership of an appropriate vehicle and necessary supplies for surface transportation of dead human bodies by providing proof of insurance with not less than thirty (30) days before the expiration date;

(g) Proof of an active driver's license.

(3)

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

(b) Necessary supplies shall include:

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

Section 2. Examination.

(1) An applicant seeking a surface transportation permit shall be required to pass an examination on Kentucky laws and transport procedures. The examination fee established in 201 KAR 15:030 shall be paid at the time of application.

(2) The examination shall be administered at the conclusion of the course.

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

Section 3. Scope of Permit.

(1) Permit holders shall only engage in surface transportation of dead human bodies requested by an authorized person from the establishment by which the permit holder is employed. Surface transportation shall be limited to obtaining the dead human bodies

from the location from which the transportation services were requested and transporting the dead human bodies to the establishment by which the permit holder is employed.

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

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

(4) Permit holders may only be employed by one (1) establishment and its registered affiliate establishments at one (1) time.

(5) Permit holders must register to assist affiliated establishments and pay the applicable fee for each establishment.

~~(6)~~(5) Permit holders shall not be required to use a casket for transportation of dead human bodies, but shall be required to use a container as may be required by OSHA guidelines.

~~(7)~~(6) An individual who obtains or holds a permit from this board to transport dead human bodies shall not use transport removals performed under that permit to accumulate the number of removals required to complete an apprenticeship. All apprenticeship removals shall be performed within the requirements of the apprenticeship and under supervision, to the extent set forth in these administrative regulations. Hours accumulated in performing removals under a Transport Permit shall not be counted toward the apprentice's weekly work hours requirement.

Section 4. Permit Issuance and Renewal.

(1) The Surface Transportation Permit issued or renewed under this administrative regulation shall expire July 31 following the date of issuance unless sooner revoked, surrendered, or canceled, [be effective for a period of one (1) year from its date of issuance.]

(2) An individual seeking renewal of the Surface Transportation Permit shall submit to the board:

(a) A completed Surface Transportation and Removal Permit Application with the Renewal box checked and shall include on the form any new or changed information;

(b) A renewal fee as established in 201 KAR 15:030; ~~and]~~

(c) Evidence of possession and [that the permit holder has in his or her possession or] control or ownership of an appropriate [acceptable] vehicle and the necessary [requisite equipment and] supplies for [to perform] surface transportation of dead human bodies by providing proof of insurance with not less than thirty (30) days before the expiration date;

(d) Evidence of recent (within the previous twelve (12) months) training and compliance with the standards of the Occupational Safety and Health Administration for universal precautions and blood-borne pathogens, 29 C.F.R. 1910.1030;

(e) Two (2) passport-sized photographs of the applicant as requested; and

(f) Proof of an active driver's license.

Section 5. Incorporation by Reference.

(1) "Surface Transportation & Removal Permit Application", ~~6/2024~~3/2022, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Embalmers and Funeral [Home-]Directors, 9114 Leesgate Rd., Ste [Suite] 4, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m. Materials incorporated by reference can also be found on the Kentucky Board of Embalmers and Funeral Directors Web site at <https://kbfed.ky.gov/Pages/forms.aspx>.

KANETHA DORSEY, Executive Director  
 JONATHAN RIDEOUT, Chairman

APPROVED BY AGENCY: May 14, 2024

FILED WITH LRC: August 15, 2024 at 12:05 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on, October 24, 2024, at 9:00 am Eastern, at 9114 Leesgate Rd, Ste 4, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of

## VOLUME 51, NUMBER 4– October 1, 2024

their intent to attend. If no notification of intent to attend 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 October 31, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Kanetha Dorsey, Executive Director, 9114 Leesgate Rd, Ste 4, Louisville, Kentucky 40222, phone 502-426-4589, fax 502-426-4117, email kanetha.dorsey@ky.gov.

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kanetha Dorsey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation describes role, and responsibility of the permit holder for removal and ground transportation of dead human bodies by an establishment.

(b) The necessity of this administrative regulation: This administrative regulation sets out the steps to obtain or renew the permit to remove and transport dead human bodies for Kentucky-licensed establishments.

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

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides the procedure for obtaining a removal and surface transportation permit per KRS 316.165.

(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: Section 1 (c) clarifies the timeline for bloodborne pathogens training. Section 1(e) The amendment changes the strict FBI check policy, which has been hard for applicants to obtain in some areas of the Commonwealth. The requirement for a criminal background check is still expected however, the board will be able to accept reports from other entities. Section 1 (f) clarifies the timeline for proof of insurance expiration date. Section 1 (g) is added to require proof of an active driver's license of the permit holder. Section 3 (4-5) Allows a permit holder to aid establishments owned by the same business. Section 4 (1) Changes the date of expiration to July 31 to be in line with license expiration.

(b) The necessity of the amendment to this administrative regulation: Section 1 (c), 1(f) set the expectation that the permit holder will maintain up-to-date bloodborne pathogens training and insurance on the removal vehicle. The FBI report requirement has postponed several applicants since its inception and the various changes to the process for obtaining an FBI report have created a hardship for establishments. This amendment seeks to aid applicants in obtaining an appropriate national criminal background report by accepting the report from entities other than directly from the FBI. Section 1 (g) is added to ensure that the permit holder prove they are legally able to drive in the Commonwealth of Kentucky. Section 3 (4-5) Establishment owners have communicated that they do not have enough staff to employ one transporter for each establishment when more than one establishment is owned. This is an attempt to alleviate the hardship. Section 4 (1) changes the expiration date to the same date as the funeral director, embalmer and establishment licenses per request of licensed supervisors of the permit holders. The difference has been a cause of confusion and expired permits.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment seeks to allow the applicant to hold a permit to remove and transport dead human bodies safely and legally according to KRS 316.165.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will allow for more timely processing of applications due to obtaining the national criminal background check faster. This amendment will decrease the employment hardship communicated by establishment owners while ensuring the permit holders are safe and legally able to drive the removal vehicles.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are currently 510 funeral service establishments in Kentucky. There are 200-300/permit holders.

(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 will now have to provide their proof of valid vehicle driver's license, up-to-date bloodborne pathogens training, and up-to-date vehicle insurance with initial and renewal applications. Applicants will be able to use national criminal background checks from entities other than the FBI.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Unknown-no new fees are established, the external costs may decrease as options for the national criminal background check increase.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicants will be able to attend the permit course sooner due to a decrease in wait times for the FBI background checks.

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

(a) Initially: No initial cost

(b) On a continuing basis: No additional cost on an ongoing basis

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Additional fees are not necessary to implement the amendment.

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

(9) TIERING: Is tiering applied? No

### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 316.010, KRS 316.030, KRS 316.165

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Embalmers and Funeral Directors is the promulgating agency.

(a) Estimate the following for the first year:

Expenditures: This administrative regulation does not change any fees; however, staff time will be expended for phone calls to follow up regarding the need for the driver's license to be included in the application packet. Without the cost for staff time, expenditures are estimated to be the same as with previous years, only requiring the purchase of ribbon at \$125 for the program (2500 cards were purchased in 2022 to support a project to provide cards to all license holders who wanted one, only a few hundred license-holders requested cards so there are enough cards leftover to cover the need to provide surface transporters with cards.

Revenues: Revenues from application and classes is estimated to be 150 new surface transporters per year and about 50-75 transporters who renew totaling revenues of \$33750-\$41250

Cost Savings: No savings are estimated at this time, the application process has not changed to make the procedure more efficient or decrease supplies.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? A nominal change in expenditures, revenues, and savings is expected. Allowing transporters to serve more than one establishment may allow establishments to hire less transporters, which would use less cards and ink and may decrease usage of ribbon and card blanks.

VOLUME 51, NUMBER 4– October 1, 2024

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): All cities, counties, and fire departments are affected work with individuals permitted by this regulation

(a) Estimate the following for the first year:

Expenditures: None are estimated resulting from or to affected local entities

Revenues: None are estimated resulting from or to affected local entities

Cost Savings: None are estimated resulting from or to affected local entities

(b) How will expenditures, revenues, or cost savings differ in subsequent years? No change is anticipated

(4) Identify additional regulated entities not listed in questions (2) or (3): Hospitals

(a) Estimate the following for the first year:

Expenditures: None are estimated resulting from or two affected local entities

Revenues: None are estimated resulting from or two affected local entities

Cost Savings: None are estimated resulting from or two affected local entities

(b) How will expenditures, revenues, or cost savings differ in subsequent years? No change is anticipated

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This administrative regulation provides for individuals to work part-time to receive dead human remains and transport them by ground, vehicular transportation to the funeral home. A fee is required for the application and the class for all initial applicants. The renewal fee is the same as the application fee. This adds about \$41250 to the budget and assists funeral home owners by allowing them to employ a person part-time to transport decedents while employing license holders to provide services inside the funeral home.

(b) Methodology and resources used to determine the fiscal impact: The budget request information as well as necessity, function, and conformity from the regulation and discussion with owners used to provide financial information for the fiscal impact.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This administrative regulation will not have an impact in the amount of \$500,00 or more and will not have negative or adverse major economic impact.

(b) The methodology and resources used to reach this conclusion: The program results area of the budget request program was used to reach this conclusion.

BOARDS AND COMMISSIONS
Board of Veterinary Examiners
(Amendment)

201 KAR 16:520. Approved veterinary medical programs for veterinarians[colleges]; approved veterinary technology programs for veterinary technicians.

RELATES TO: KRS 321.193, 321.441

STATUTORY AUTHORITY: KRS 321.190, 321.193(4)[321.193(3), (6)], 321.235(1)(a)-(c), (2)(b)1.a., 3.b.[321.235(3)], 321.240(5), 321.441(1)(a), (d)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.193(4)[321.193(3)] requires a veterinarian applicant to have received a degree from an approved veterinary medical program[a veterinary college approved by the Kentucky Board of Veterinary Examiners]. KRS 321.441(1)(a) requires a veterinary technician applicant to be a graduate of an approved veterinary technology program[accredited program of veterinary technology or its equivalent as approved by the board]. KRS 321.235(1)(a)-(c), (2)(b)1.a., and 3.b.[KRS 321.235(3) and 321.240(5)] authorize the board to promulgate administrative regulations to implement and enforce KRS Chapter 321. This administrative regulation establishes the approved veterinary medical programs and approved veterinary technology programs that are

authorized[veterinary colleges and veterinary technician programs approved] by the board.

Section 1. Definitions.

(1) "Approved foreign equivalency program" is defined by KRS 321.181(10).

(2) "Approved veterinary medical program" is defined by KRS 321.181(13).

(3) "Approved veterinary technology program" is defined by KRS 321.181(14).

Section 2. Licensure of Veterinarians who Graduated from an Approved Veterinary Medical Program[Colleges].

(1) The board approves a[A] veterinary medical program as an approved veterinary medical program if the program holds[college shall be approved if it held] full accreditation, limited accreditation, or approval by the American Veterinary Medical Association (AVMA) Council on Education (COE).

(2) As one (1) part of the requirements for a veterinarian license to be granted, the applicant shall hold an advanced veterinary medical degree from an approved veterinary medical program which held full accreditation, limited accreditation, or approval by the AVMA COE on the date when the applicant received their[a] degree from the program[veterinary college].

Section 3.[Section 2.] Licensure of Veterinarians who Graduated from a Program that is Not an Approved Veterinary Medical Program[non-approved Schools].

(1) If an applicant for a veterinarian license does not possess a degree from an approved veterinary medical program[a veterinary college within the scope established in Section 1 of this administrative regulation], the applicant shall be eligible to qualify for licensure and board approval after successfully completing and receiving certification from an approved foreign equivalency program for veterinarians.

(2) The board approves each of the following programs as an approved foreign equivalency program for veterinarians[one of the following programs]:

[a] [(4)] The Educational Commission for Foreign Veterinary Graduates (ECFVG) of the American Veterinary Medical Association (AVMA); or

[b] [(2)] The Program for the Assessment of Veterinary Education Equivalence (PAVE) of the American Association of Veterinary State Boards (AAVSB).

Section 4.[Section 3.] Licensure of Veterinary Technicians who Graduated from an Approved Veterinary Technology Program[Technician Programs].

(1) The board approves a[A] veterinary technician program, or veterinary technologist program, or veterinary nurse program, as an[shall be] approved veterinary technology program if the program holds[if it held] full accreditation, limited accreditation, or approval by the American Veterinary Medical Association (AVMA) Committee on Veterinary Technician Education and Activities (CVTEA).

(2) As one (1) part of the requirements for a veterinary technician license to be granted, the applicant shall hold a veterinary technology degree from an approved veterinary technology program which held full accreditation, limited accreditation, or approval by the AVMA CVTEA on the date when the applicant received their[a] degree from the program[institution].

Section 5.[Section 4.] Licensure of Veterinary Technicians who Graduated from a Program that is Not an Approved Veterinary Technology Program[Non-approved Schools or Programs].

(1) If an applicant for a veterinary technician license does not hold[possess] a degree from an approved[a] veterinary technology[technician] program[- within the scope established in Section 3 of this administrative regulation], the applicant[candidate] shall be eligible to qualify for licensure and board approval by successfully completing and receiving certification from an approved foreign equivalency program for veterinary technicians.[.]

(2) The board approves as an approved foreign equivalency program for veterinary technicians the Program for the Assessment of Veterinary Education Equivalence (PAVE) or its equivalent

VOLUME 51, NUMBER 4– October 1, 2024

program of the American Association of Veterinary State Boards (AAVSB) for veterinary technicians.

~~[(1)]~~

~~[(a)] [Following graduation, submitting an official copy of final transcripts from the college of study, and any other requested documentation, showing successful completion of the program for the board's review and determination of approval; or]~~

~~[(b)] [Successfully completing the program and receiving certification from the Program for the Assessment of Veterinary Education Equivalence (PAVE) or its equivalent program of the American Association of Veterinary State Boards (AAVSB) for veterinary technicians; and]~~

~~[(2)] [Successfully completing all other application requirements for licensure.]~~

MICHELLE M. SHANE, Executive Director  
For JOHN C. PARK, DVM, Board Chair

APPROVED BY AGENCY: September 12, 2024

FILED WITH LRC: September 12, 2024 at 1:40 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 22, 2024, at 1:00 p.m. EST, at the offices of the Kentucky Board of Veterinary Examiners, 4047 Iron Works Pkwy, Suite 104, Lexington, Kentucky 40511. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing 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 November 30, 2024. 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: Michelle M. Shane, Executive Director, Kentucky Board of Veterinary Examiners, 4047 Iron Works Parkway, Suite 104, Lexington, Kentucky 40511, phone 502-564-5433, fax 502-753-1458, email Michelle.Shane@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michelle Shane

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the educational criteria for individuals who wish to become licensed as either a veterinarian or a veterinary technician in the Commonwealth of Kentucky.

(b) The necessity of this administrative regulation: This administrative regulation establishes the educational criteria for individuals who wish to become licensed as either a veterinarian or a veterinary technician in the Commonwealth of Kentucky. Individuals cannot become licensed without meeting the educational criteria.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 321.235(1)(a) mandates that the board shall set and evaluate the qualifications of applicants for licensure. KRS 321.190, 321.193, and 321.441 requires that the practices of veterinary medicine and veterinary technology be performed only by qualified and licensed individuals.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation makes clear the educational standards an applicant must meet in order to qualify for licensure as a veterinarian or veterinary technician in Kentucky.

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

(a) How the amendment will change this existing administrative regulation: This amendment updates the administrative regulation to conform with the modernized Kentucky Veterinary Medicine Practice Act, including adding statutory definitions, updating the regulatory language to incorporate the use of defined terms, and removes an optional alternate pathway to licensure for licensed veterinary technicians due to newly established title protections.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to conform with the modernized Kentucky Veterinary Medicine Practice Act, passed in June 2023.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 321.235(1)(a) mandates that the board shall set and evaluate the qualifications of applicants for licensure. KRS 321.190, 321.193, and 321.441 requires that the practices of veterinary medicine and veterinary technology be performed only by qualified and licensed individuals.

(d) How the amendment will assist in the effective administration of the statutes: By incorporating new statutory language, this amendment provides clarity to constituents by utilizing standard definitions and providing clear requirements for licensure.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Future applicants to the board for veterinarian licenses and veterinary technician licenses. The board receives about 275 applications annually for these credentials.

(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: Veterinarian applicants will be required to be a graduate of an approved veterinary medical program or an approved foreign equivalency program to qualify for licensure as a veterinarian in Kentucky. Veterinary technician applicants will be required to be a graduate of an approved veterinary technology program or an approved foreign equivalency program to qualify for licensure as a veterinary technician in Kentucky.

(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 any additional costs to the applicant associated with the changes in the regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Benefits include a uniform standard for applicants so that individuals interested in applying will know prior to application if they are eligible for licensure. Further, enforcement of this standard will ensure title protections for qualified veterinarians and veterinary technicians, protecting the public in the process by ensuring competency and ability to provide veterinary services.

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

(a) Initially: There will be no increase in costs because a program already exists to license veterinarians and veterinary technicians. The KBVE expects costs for all board operations to be approximately \$759,700 annually in the near term.

(b) On a continuing basis: The KBVE expects costs for all board operations to be approximately \$900,000 annually in future bienniums as new programming is brought online, per the mandates in the modernized Kentucky Veterinary Medicine Practice Act, KRS Chapter 321.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: KBVE does not receive any general funds. All funds for the agency come from licensing fees, service fees, and administrative fines.

(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 to run the licensing program for veterinarians and veterinary technicians.

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

(9) TIERING: Is tiering applied? Tiering is not applied, with the exception of military applicants. Pursuant to public law Public Law No 117-333, the board provides reduced or waived fees for active-duty military. Discharged and retired military servicemembers are also provided reduced or waived fees associated with licensure as a veterinary technician. For all other applicants, the fees are the same.



VOLUME 51, NUMBER 4– October 1, 2024

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 321.190, 321.193(4), 321.235(1)(a)-(c), (2)(b)1.a., (2)(b)3.b., 321.240(5), 321.441(1)(a) and (1)(d).

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The promulgating agency is the Kentucky Board of Veterinary Examiners. There are no other affected state units, parts, or divisions.

(a) Estimate the following for the first year:

Expenditures: This is not a new program, and there will not be additional expenditures as a result of this filing. The KBVE expects costs for all board operations to be approximately \$759,700 annually in the near term.

Revenues: There is no revenue generated by this filing.

Cost Savings: There will be no cost savings; this amendment simply codifies the requirements, making them easily accessible for regulated entities.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Staff time and database management will be required for record keeping. Costs will be minimal.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): KBVE does not anticipate that any local entities will be impacted.

(a) Estimate the following for the first year:

Expenditures: N/A

Revenues: N/A

Cost Savings: N/A

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(4) Identify additional regulated entities not listed in questions (2) or (3): KBVE does not anticipate that any other regulated entities will be impacted.

(a) Estimate the following for the first year:

Expenditures: N/A

Revenues: N/A

Cost Savings: N/A

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This administrative regulation does not set fees and will not bring in revenue. Local entities will not be impacted by this regulation. This filing only impacts candidates for licensure as a veterinarian or veterinary technician in Kentucky. This amendment simply updates the administrative regulation to conform with the modernized Kentucky Veterinary Medicine Practice Act.

(b) Methodology and resources used to determine the fiscal impact: This is not a new program. The program is run as a part of the agency's established budget by existing staff and with existing infrastructure.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This amendment shall not have a "major economic impact", as defined in KRS 13A.010(13).

(b) The methodology and resources used to reach this conclusion: This amendment will not have a negative impact, as no fees are established or collected as a part of this administrative regulation.

BOARDS AND COMMISSIONS
Board of Veterinary Examiners
(Amendment)

201 KAR 16:530. Examination requirements for veterinarians and veterinary technicians.

RELATES TO: KRS 321.193, 321.441

STATUTORY AUTHORITY: KRS 321.190, 321.193(5)[KRS 321.193(4)], 321.235(1)(a)-(c), (2)(b)1.a., (2)(b)3.b.[321.235(3), 321.240(5)], 321.441(1)(b), (d)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.193(5)[321.193(4)] requires the Kentucky Board of Veterinary Examiners to establish required examinations and passing scores for veterinarian applicants. KRS 321.441(1)(b) requires the board to establish required examinations and passing scores for veterinary technician applicants. KRS 321.235(1)(a)-(c), (2)(b)1.a., and (2)(b)3.b.[321.235(3) and 321.240(5)] authorize the board to promulgate administrative regulations to implement and enforce KRS Chapter 321. This administrative regulation establishes examination requirements and passing scores for veterinarians and veterinary technicians for applicants to qualify for licensure by the board.

Section 1. National Exam Qualifications for Veterinarians.

(1) The board shall require a passing score on a board-approved national veterinary medical examination as one (1) requirement[required] for licensure by the board as a veterinarian.

(2) The required qualifying national veterinary medical examination for veterinarian licensure shall be determined by the date of the completed examination, and shall be approved by the board as listed in this subsection.

(a) Applicants for licensure who tested during or after May 2000 shall be required to successfully complete and achieve a passing score on[the successful completion of] the North American Veterinary Licensing Examination (NAVLE) as administered by[-]

[(2)] [Candidates shall apply to the board for verification of eligibility to take the NAVLE.]

[(3)] [Candidates seeking to take the NAVLE shall apply directly to] the International Council for Veterinary Assessment (ICVA), its designee, or current administrator of the NAVLE for admission to the examination. A passing score shall be established by the ICVA or current examination administrator at the time of testing.

(b) New applicants for licensure who tested between 1954 and April 2000 shall have successfully completed and achieved a passing score on the National Board Examination (NBE). A passing score on the NBE shall be seventy-five (75); or

(c) Applicants for licensure who tested prior to 1954 shall have successfully completed and achieved a passing score on a state level competency exam, if one was available.

(3) Exam Qualification and Registration.

(a) Applicants for licensure shall apply to the board for verification of eligibility to take or retake the NAVLE through the spring 2024 testing window. For all future testing windows, the ICVA shall conduct examination eligibility review.

(b) Candidates seeking to take the NAVLE shall apply directly to the ICVA, its designee, or current administrator of the NAVLE for admission to the examination.

(c) Candidates seeking to take or retake the NAVLE may:

1. Sit for the examination up to twelve (12) months in advance of the applicant's anticipated graduation date from an approved veterinary medical program if the veterinary student is in good academic standing with the approved veterinary medical program; and

2. Candidates seeking to retest after five (5) attempts may make a request to the board to sit for the examination additional times beyond five (5) attempts.

a. A candidate request to retest after five (5) attempts shall include a detailed remediation plan, including the process by which the applicant proposes to improve their performance on the NAVLE, the time proposed to be spent on remediation, and with whom the applicant proposes to study or obtain further instruction, and any other information requested by the board.

b. Upon approval of the remediation plan by the board, the board shall petition ICVA or current examination administrator for the candidate to have the opportunity to sit for the exam again.

(4) Applicants for veterinarian licensure to the board shall request and pay all necessary fees[a-fee] directly to the ICVA, its designee, the American Association of Veterinary State Boards (AAVSB), or current official records custodian, to have examination[test] scores sent directly to the board. Unofficial copies of scores from applicants or other sources shall not be accepted.

(5) Candidates for the NAVLE who designate Kentucky as their chosen state for a score report, and who do not receive a passing

VOLUME 51, NUMBER 4– October 1, 2024

score shall apply to the board to retake the NAVLE[~~NAVLE~~] on the Application for Special Permit[~~Retake of the NAVLE~~] form or online equivalent form through the spring 2024 testing window. For all future testing windows, the ICVA shall conduct examination eligibility review.

~~[(6) [In addition to achieving a passing score on the NAVLE, applicants for licensure shall be required to achieve a score of eighty (80) percent or higher on the Commonwealth of Kentucky State Board Examination, which shall cover the specific requirements of KRS Chapter 321 and 201 KAR Chapter 16.]~~

~~[(7) [The board shall recognize passing scores on the National Board Examination (NBE) and the Clinical Competency Test (CCT) in lieu of a NAVLE test score if the applicant for licensure completed both examinations prior to May, 2000.]~~

~~[(8) [Graduates of veterinary schools or programs not approved by the American Veterinary Medical Association (AVMA) shall also submit proof of successful completion of one (1) of the following programs:]~~

~~[(a) [The Educational Commission for Foreign Veterinary Graduates (ECFVG) program offered by the AVMA; or]~~

~~[(b) [The Program for the Assessment of Veterinary Education Equivalence (PAVE) program offered by the American Association of Veterinary State Boards (AAVSB).]~~

Section 2. State Jurisprudence Exam Requirements for Veterinarians.

(1) The board shall require a passing score on a board-approved state jurisprudence examination as one (1) requirement for licensure by the board as a veterinarian.

(2) Candidates seeking a veterinarian license shall pay a state examination fee pursuant to 201 KAR 16:510.

(3) Candidates shall complete the Kentucky Board of Veterinary Examiners Jurisprudence Examination for Veterinarians, which shall cover the specific requirements of KRS Chapter 321 and 201 KAR Chapter 16, in either paper or electronic format.

(4) Applicants for a veterinarian license shall be required to achieve a score of eighty (80) percent or higher on the Kentucky Board of Veterinary Examiners Jurisprudence Examination for Veterinarians.

Section 3. National Exam Qualifications for Veterinary Technicians.

(1)

(a) Except as provided by paragraph (b) of this subsection, the examination required for licensure by the board as a veterinary technician shall be the successful completion of the Veterinary Technician National Exam (VTNE). A passing score for the VTNE shall be established by the AAVSB or current examination administrator at the time of testing.

(b) If the applicant for licensure as a veterinary technician graduated from an approved veterinary technology program prior to 1990, and successfully completed and passed one (1) of the following examinations[tests] prior to 1990, the board shall, as qualification for board approved licensure, accept official score report results showing a passing score on:

1. The [board shall also accept official results showing a passing score from the-]Animal Technician National Exam (ATNE) if taken during the years 1986 – 1989; or

2. A[The board shall also accept official results showing a passing score from a] jurisdictional level competency exam if taken prior to 1986.

(2) Candidates seeking to take the VTNE shall apply directly to the AAVSB, its designee, or current administrator of the VTNE for verification of eligibility and admission to the examination.

(3) Candidates seeking to take the VTNE may:

(a) Apply to sit for the exam up to two (2) months in advance of graduation from an approved veterinary technology program provided the student is in good academic standing with the program, and a resident of Kentucky; and

(b) Candidates seeking to retake after five (5) attempts may make a request to the board to sit for the examination additional times beyond five (5) attempts.

(c) A candidate request to retake after five (5) attempts shall include a detailed remediation plan, including the process by which the applicant proposes to improve their performance on the VTNE, the time proposed to be spent on remediation, and with whom the applicant proposes to study or obtain further instruction, and any other information requested by the board.

(d) Upon approval of the remediation plan by the board, the board shall petition AAVSB or current examination administrator for the candidate to have the opportunity to sit for the exam again.

(4) Applicants for veterinary technician licensure to the board shall request and pay any required fees[a fee] directly to the AAVSB, the current exam service provider[PSI Services], one of their designees, or to the current official records custodian to have examination[tests] scores sent directly to the board. Copies of scores from applicants or other sources shall not be accepted.

Section 4.[Section 3.] Incorporation by Reference.

(1) "Application for Special Permit", 08/2024["Application for Retake of the NAVLE", 3/2020], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subjected to applicable copyright law, at the Kentucky Board of Veterinary Examiners, 4047 Iron Works Parkway, Suite 104, Lexington, Kentucky 40511[407 Corporate Drive, Frankfort, Kentucky 40604], Monday through Friday, 8:30[8:00] a.m. to 4:30 p.m. This material may also be obtained at [kbve.ky.gov](http://kbve.ky.gov)[[www.kybve.com](http://www.kybve.com)].

MICHELLE M. SHANE, Executive Director

For JOHN C. PARK, DVM, Board Chair

APPROVED BY AGENCY: September 12, 2024

FILED WITH LRC: September 12, 2024 at 1:40 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 22, 2024, at 1:00 p.m. EST, at the offices of the Kentucky Board of Veterinary Examiners, 4047 Iron Works Pkwy, Suite 104, Lexington, Kentucky 40511. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing 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 November 30, 2024. 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: Michelle M. Shane, Executive Director, Kentucky Board of Veterinary Examiners, 4047 Iron Works Parkway, Suite 104, Lexington, Kentucky 40511, phone 502-564-5433, fax 502-753-1458, email [Michelle.Shane@ky.gov](mailto:Michelle.Shane@ky.gov).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michelle M. Shane

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes the examination requirements for persons seeking a veterinary license or veterinary technician license.

(b) The necessity of this administrative regulation: This regulation is necessary to establish the examinations and passing scores that the KBVE board approves as a requirement for licensure.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 321.193(5) requires an applicant for a veterinary license to achieve a passing score on a board approved national exam for veterinarians. KRS 321.441(1)(b) and (d) requires an applicant for a veterinary technician license to achieve a passing score on a board approved national exam for veterinary technicians. KRS 321.235(1)(a)-(c) requires the board to evaluate candidates qualifications for licensure, promulgate administrative regulations, and establish fees to carry out its functions. KRS 321.235 (2)(b)1.a. requires the board to ensure the competence of licensees. KRS 321.235(2)(b)3.b. requires the board to administer a licensing program for board credentials, and KRS 321.190 requires licensure for veterinarians and veterinary technicians.

VOLUME 51, NUMBER 4– October 1, 2024

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in effective administration by clearly defining which examinations have been approved by the KBVE.

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

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation reorganizes the requirements so they are grouped better for clarity and provides additional details to clarify ambiguities. The amendment moves the responsibility for the examination screening process from the board staff to the national exam provider, reducing administrative burden for the KBVE. A limit on the number of times a candidate may test is established, as well as procedures for how to petition the board for additional attempts. Additionally, the amendment removes the materials incorporated by reference, "Application for the Retake of the NAVLE" form, and incorporates new material "Application for Special Permit".

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to conform with the modernized Kentucky Veterinary Medicine Practice Act, passed in June 2023, and to include more detail to provide clarity to constituents on clear requirements for licensure and examinations.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 321.193(5) requires an applicant for a veterinary license to achieve a passing score on a board approved national exam for veterinarians. KRS 321.441(1)(b) and (d) requires an applicant for a veterinary technician license to achieve a passing score on a board approved national exam for veterinary technicians. KRS 321.235(1)(a)-(c) requires the board to evaluate candidates qualifications for licensure, promulgate administrative regulations, and establish fees to carry out its functions. KRS 321.235 (2)(b)1.a. requires the board to ensure the competence of licensees. KRS 321.235(2)(b)3.b. requires the board to administer a licensing program for board credentials, and KRS 321.190 requires licensure for veterinarians and veterinary technicians.

(d) How the amendment will assist in the effective administration of the statutes: By incorporating new statutory language and adding provisions, this amendment provides clarity to constituents by utilizing standard definitions and providing clear requirements for licensure.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Future applicants to the board for veterinarian licenses and veterinary technician licenses. The board receives about 275 applications annually for these credentials.

(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: Veterinarian applicants will be required to achieve a passing score on a board approved national competency exam to qualify for licensure as a veterinarian in Kentucky. Veterinary technician applicants will be required to achieve a passing score on a board approved national competency exam to qualify for licensure as a veterinary technician in Kentucky.

(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 any additional costs to the applicant associated with the changes in the regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Benefits include a uniform standard for applicants so that individuals interested in applying will know prior to application if they are eligible for licensure. Further, enforcement of this standard will ensure title protections for qualified veterinarians and veterinary technicians, protecting the public in the process by ensuring competency and ability to provide veterinary services.

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

(a) Initially: There will be no increase in costs because a program already exists to license veterinarians and veterinary technicians. The KBVE expects costs for all board operations to be approximately \$759,700 annually in the near term.

(b) On a continuing basis: The KBVE expects costs for all board operations to be approximately \$900,000 annually in future bienniums as new programming is brought online, per the mandates in the modernized Kentucky Veterinary Medicine Practice Act, KRS Chapter 321.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: KBVE does not receive any general funds. All funds for the agency come from licensing fees, service fees, and administrative fines.

(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 to run the licensing program for veterinarians and veterinary technicians.

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

(9) TIERING: Is tiering applied? Tiering is not applied, with the exception of military applicants. Pursuant to public law Public Law No 117-333, the board provides reduced or waived fees for active-duty military. Discharged and retired military servicemembers are also provided reduced or waived fees associated with licensure as a veterinary technician. For all other applicants, the fees are the same.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 321.190, 321.193(5), 321.235(1)(a)-(c), (2)(b)1.a., (2)(b)3.b., 321.441(1)(b) and (d).

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The promulgating agency is the Kentucky Board of Veterinary Examiners. There are no other affected state units, parts, or divisions.

(a) Estimate the following for the first year:

Expenditures: This is not a new program, and there will not be additional expenditures as a result of this filing. The KBVE expects costs for all board operations to be approximately \$759,700 annually in the near term.

Revenues: There is no revenue generated by this filing.

Cost Savings: There will not be any cost savings; this amendment simply codifies the requirements, making them easily accessible for regulated entities.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Staff time and database management will be required for record keeping. Costs will be minimal.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): KBVE does not anticipate that any local entities will be impacted.

(a) Estimate the following for the first year:

Expenditures: N/A

Revenues: N/A

Cost Savings: N/A

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(4) Identify additional regulated entities not listed in questions (2) or (3): KBVE does not anticipate that any other regulated entities will be impacted.

(a) Estimate the following for the first year:

Expenditures: N/A

Revenues: N/A

Cost Savings: N/A

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This administrative regulation does not set fees and will not bring in revenue. Local entities will not be impacted by this regulation. This filing only impacts candidates for licensure as a veterinarian or veterinary technician in the commonwealth. This amendment simply updates the administrative regulation to conform with the modernized Kentucky Veterinary Medicine Practice Act.

(b) Methodology and resources used to determine the fiscal impact: This is not a new program. The program is run as a part of the agency's established budget by existing staff and with existing infrastructure.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This amendment shall not have a "major economic impact", as defined in KRS 13A.010(13).

(b) The methodology and resources used to reach this conclusion: This amendment will not have a negative impact, as no fees are established or collected as a part of this administrative regulation.

**BOARDS AND COMMISSIONS**  
**Board of Veterinary Examiners**  
**(Amendment)**

**201 KAR 16:562. Duties and responsibilities of an animal euthanasia specialist.**

RELATES TO: KRS 257.160, 321.181, 321.207, 321.235, 321.351

STATUTORY AUTHORITY: KRS 321.207, 321.235, 321.240

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.207(3) requires the Kentucky Board of Veterinary Examiners to issue a certificate to a person who meets the qualifications of an animal euthanasia specialist and is approved by the board for a certificate. KRS 321.235(3) and 321.240(5) authorize the board to promulgate administrative regulations to implement KRS Chapter 321. This administrative regulation establishes the duties and responsibilities of an animal euthanasia specialist.

Section 1. Duties of a Certified Animal Euthanasia Specialist. The duties of a board-certified animal euthanasia specialist shall include the following:

- (1) Preparing animals for euthanasia;
- (2) Carefully and accurately recording dosages, administration, and drug waste;
- (3) Ordering supplies and drugs in accordance with the employing certified animal control agency's operating procedures;
- (4) Maintaining the security of all controlled substances and board-approved drugs in accordance with 201 KAR 16:550, 16:552, and other applicable federal, state, and local laws;
- (5) Reporting to the board any infraction of KRS Chapter 321 or 201 KAR Chapter 16;
- (6) Humanely euthanizing animals;
- (7) Disposing of the carcasses in a manner consistent with local, state, and federal laws, including KRS 257.160, and shall be carried out according to the standard operating procedures of the board-certified animal control agency;
- (8) Maintaining active certification with the board;
- (9) Reporting to the board any change of address, phone, or email within thirty (30) days; and
- (10) Providing a written response to a grievance or inquiry from the board within twenty (20) days of receipt.

Section 2. Animals Approved for Euthanasia by Board-certified Animal Euthanasia Specialists. Animal euthanasia shall be conducted within the restrictions outlined in this section, or the practice shall be considered the practice of veterinary medicine and subject to a penalty for practicing without a license.

(1) Euthanasia shall only be conducted upon animals owned by the certified animal control agency, except in cases of emergency as defined by KRS 321.181(10).

(a) Temporary transfer of ownership or a temporary contract shall not be used for the purpose of circumventing this subsection; and

(b) Wildlife shall be redirected to a board-licensed veterinarian, Certified Wildlife Rehabilitator authorized to operate pursuant to 301 KAR 2:075, or to a Nuisance Wildlife Control Operator authorized to operate pursuant to 301 KAR 3:120.

(2) Euthanasia shall only be conducted upon the premises of the certified animal control agency, except in cases of emergency as defined by KRS 321.181(10).

(3) All euthanized animals shall be disposed of in accordance with the certified animal control agency's standard operating procedures for carcass disposal in accordance with Section 1(7) of this administrative regulation, and shall not be returned to a prior owner.

Section 3. Approved Drugs for Animal Euthanasia, and Anesthesia or Sedation of Animals Prior to Euthanasia by Certified Animal Euthanasia Specialists.

(1) The drugs approved by the board for euthanasia are:

(a) Sodium pentobarbital; and

(b) Sodium pentobarbital mix which has been approved by the U.S. Food and Drug Administration for animal euthanasia [with lidocaine].

(2) The drugs approved by the board for animal anesthesia or sedation prior to euthanasia are, or any combination thereof:

(a) Acepromazine;

(b) Dexmedetomidine;

(c) Ketamine (thirty (30) day supply or less); and

(d) Xylazine.

(3) Expired drugs shall not be used.

(4) Expired drugs shall be disposed of in accordance with 201 KAR 16:552, Section 7.

Section 4. Approved Methods of Euthanasia.

(1) A certified animal euthanasia specialist shall perform euthanasia by means of lethal injection on an animal by use of board-approved euthanasia drugs and drugs used to anesthetize or sedate an animal prior to euthanasia in accordance with subsection (2) of this section.

(2) When using a lethal solution to perform euthanasia on an animal, a certified animal euthanasia specialist shall use the appropriate solution in accordance with the following methods and in the following order of preference, ensuring both humane euthanasia of the animal and the safety of the individuals handling the animal:

(a) Intravenous injection by hypodermic needle;

(b) Intracardial injection by hypodermic needle, but only on an anesthetized or unconscious animal;

(c) Intraperitoneal injection by hypodermic needle [~~but only on an anesthetized or unconscious animal~~]; or

(d) Solution or powder added to food.

Section 5. Except as provided for performing the duties set forth in this administrative regulation, an animal euthanasia specialist shall be prohibited from practicing veterinary medicine.

Section 6. Disciplinary Action. A certified animal euthanasia specialist shall be subject to disciplinary action pursuant to KRS 321.235 and 321.351 for a violation of state statutes or administrative regulations.

MICHELLE M. SHANE, Executive Director

For JOHN C. PARK, DVM, Board Chair

APPROVED BY AGENCY: September 12, 2024

FILED WITH LRC: September 12, 2024 at 1:40 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 22, 2024, at 1:00 pm EST, at the offices of the Kentucky Board of Veterinary Examiners, 4047 Iron Works Pkwy, Suite 104, Lexington, Kentucky 40511. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing 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 November 30, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

## VOLUME 51, NUMBER 4– October 1, 2024

CONTACT PERSON: Michelle M. Shane, Executive Director, Kentucky Board of Veterinary Examiners, 4047 Iron Works Parkway, Suite 104, Lexington, Kentucky 40511, phone 502-564-5433, fax 502-753-1458, email Michelle.Shane@ky.gov.

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michelle M. Shane

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the application, renewal, and reinstatement requirements for certification as an animal euthanasia specialist, as well as details on the required training needed to qualify for certification, and background check requirements.

(b) The necessity of this administrative regulation: As mandated by KRS 321.207, this administrative regulation is necessary to establish the application, renewal, reinstatement, and training requirements for certification as an animal euthanasia specialist.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 321.207 specifically requires the board to promulgate administrative regulations related to the application and training requirements for board-certification as an animal euthanasia specialist.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in effective administration by clearly detailing requirements for application, renewal, and reinstatement of the board-issued animal euthanasia specialist certificate, as well as the training course required for eligibility of certification.

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

(a) How the amendment will change this existing administrative regulation: Makes one change to the drugs approved by the board for euthanasia, and changes one of the methods of euthanasia approved by the board.

(b) The necessity of the amendment to this administrative regulation: The Kentucky Board of Veterinary Examiners has determined this amendment is necessary in response to FDA approved drugs available on the market for euthanasia, for the safety of those performing euthanasia, and to ensure humane euthanasia of animals.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 321.207 specifically requires the board to promulgate administrative regulations related to board-certified animal control agencies and the animal euthanasia specialists they employ and the drugs and methods used for euthanasia.

(d) How the amendment will assist in the effective administration of the statutes: This amendment shall ensure transparent standards to ensure compliance related to certification requirements.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 50 board-certified animal control agencies and 259 animal euthanasia specialists, and future 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: There are no additional requirements in this amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is a minimal application fee for processing, as established in 201 KAR 16:514.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Administrative ease of clear communications of the approved requirements.

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

(a) Initially: There will be no increase in costs because a program already exists certify animal euthanasia specialists. The KBVE expects costs for all board operations to be approximately \$759,700 annually in the near term.

(b) On a continuing basis: The KBVE expects costs for all board operations to be approximately \$900,000 annually in future bienniums as new programming is brought online, per the mandates in the modernized Kentucky Veterinary Medicine Practice Act, KRS Chapter 321.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: KBVE does not receive any general funds. All funds for the agency come from licensing fees, service fees, and administrative fines.

(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 to run the licensing program for animal euthanasia specialists.

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

(9) TIERING: Is tiering applied? Tiering is not applied. All requirements and fees for animal euthanasia specialists are the same.

### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 321.207, 321.235, 321.240

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The promulgating agency is the Kentucky Board of Veterinary Examiners. There are no other affected state units, parts, or divisions.

(a) Estimate the following for the first year:

Expenditures: This is not a new program, and there will not be additional expenditures as a result of this filing. The KBVE expects costs for all board operations to be approximately \$759,700 annually in the near term.

Revenues: There is no revenue generated by this filing.

Cost Savings: There will not be any cost savings; this amendment simply codifies the requirements, making them easily accessible for regulated entities.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Staff time and database management will be required for record keeping. Costs will be minimal.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Counties with KBVE-certified animal control agencies shall be required to comply with the restrictions on drug purchases and methods of euthanasia

(a) Estimate the following for the first year:

Expenditures: There will not be additional expenditures as a result of this filing. The KBVE expects costs for all board operations to be approximately \$759,700 annually in the near term.

Revenues: There is no revenue generated by this filing.

Cost Savings: There will be no cost savings; this new administrative regulation simply codifies the requirements, making them easily accessible for regulated entities.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Staff time and database management will be required for record keeping. Costs will be minimal.

(4) Identify additional regulated entities not listed in questions (2) or (3): KBVE does not anticipate that any other regulated entities will be impacted.

(a) Estimate the following for the first year:

Expenditures: N/A

Revenues: N/A

Cost Savings: N/A

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This administrative regulation does not set fees and will not bring in revenue. Local entities will not be impacted by this regulation. This filing only impacts candidates for certification as an animal euthanasia specialist in the commonwealth. This amendment simply updates the administrative regulation to conform with the modernized Kentucky

Veterinary Medicine Practice Act, and updates the restrictions on drugs available for purchase and methods of animal euthanasia.

(b) Methodology and resources used to determine the fiscal impact: This is not a new program. The program is run as a part of the agency's established budget by existing staff and with existing infrastructure.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This amendment shall not have a "major economic impact", as defined in KRS 13A.010(13).

(b) The methodology and resources used to reach this conclusion: This amendment will not have a negative impact, as no fees are established or collected as a part of this administrative regulation.

**BOARDS AND COMMISSIONS**  
**Board of Veterinary Examiners**  
**(Amendment)**

**201 KAR 16:590. Continuing education requirements, veterinarians and veterinary technicians.**

RELATES TO: KRS 321.190, 321.211, 321.221, 321.235, 321.441, 321.442

STATUTORY AUTHORITY: KRS 321.211(7), 321.235(1)(a)-(c), (2)(b)1.a., 3.b.[321.235(3), 321.240(5)], 321.441(8)[321.441(3)], 321.442(7)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.235(2)(b)1.a., 321.211(7), ~~and~~ 321.441(8)[321.441(3)], and 321.442(7) authorize the Kentucky Board of Veterinary Examiners to require a person applying for renewal or reinstatement of a veterinarian or veterinary technician license to show evidence of completion of continuing education to ensure the continued competence of licensees. KRS 321.235(1)(a)-(c), (2)(b)1.a., and 3.b.[321.235(3) and 321.240(5)] authorize the board to promulgate administrative regulations to implement and enforce KRS Chapter 321. This administrative regulation establishes the requirements for continuing education hours relating to licensure renewal for veterinarians[the practice of veterinary medicine] and veterinary technicians.

Section 1. Definitions.

(1) "Approved program of continuing education" is defined by KRS 321.181(11).

(2) "Approved provider of continuing education" is defined by KRS 321.181(12).

(3) "Continuing education" is defined by KRS 321.181(25).

Section 2. Continuing education (CE) is designed to ensure the continued competence of a board credential holder. CE is a part of personal life-long learning in the credential holder's area of expertise, responsibility, and domains of practice, ensuring a commitment to furthering the person's professional knowledge, as well as learning new skills and techniques in their area of practice, in order to best serve and protect the public and animals of the Commonwealth.

Section 3. Continuing Education Requirements for Veterinarian and Veterinary Technician License Renewal and Reinstatement.

(1) A veterinarian shall complete biennially thirty (30) hours of continuing education to be eligible for renewal of their[his or her] license.[]

(a) At least twenty (20) of the thirty (30) hours shall be directly related to the practice of veterinary medicine.

(b) For the renewal period and reinstatements beginning after September 30, 2024, at least two (2) of the thirty (30) required renewal hours shall be in:

1. Pharmacy or controlled substances;
2. Antimicrobials; or
3. State or federal laws and regulations related to the practice of veterinary medicine.

(c) No more than ten (10) of the thirty (30) hours shall pertain to practice management or other administrative, wellbeing, and professional topics that are not directly related to the practice of veterinary medicine.

(2) A veterinary technician shall annually complete six (6) hours of continuing education in the area of the practice of veterinary medicine or veterinary technology to be eligible for renewal of their[his or her] license.

(a) For the renewal period and reinstatements beginning after September 30, 2024, at least one (1) of the six (6) hours shall be in:

1. Pharmacy or controlled substances;
2. Antimicrobials; or
3. State or federal laws and regulations related to the practice of veterinary medicine or the practice of veterinary technology.

(b) No more than three (3) of the six (6) hours shall pertain to practice management or other administrative, wellbeing, and professional topics that are not directly related to the practice of veterinary medicine or the practice of veterinary technology.

(3) In addition to attendance at a conference, lecture, or seminar, a veterinarian or veterinary technician may complete the hours of continuing education required for renewal or reinstatement by the completion of audio or video recordings or electronic, computer, or interactive material prepared or approved by any of the organizations established in subsections (1) and (2)[Section 2(4) and (2)] of this section[administrative regulation. There shall not be a limit to the number of online hours a licensee may apply to his or her renewal.]

(a) A veterinarian shall earn at least fifteen (15) of the required thirty (30) CE hours and a veterinary technician shall earn at least three (3) of the required six (6) CE hours in a live, realtime format either in-person or online.

(b) A veterinarian shall earn no more than fifteen (15) of the required thirty (30) CE hours and a veterinary technician shall earn no more than three (3) of the required six (6) CE hours in an online format that is pre-recorded.

(4) All CE earned shall be new, continuing education. A veterinarian or veterinary technician may not apply CE earned in the immediate prior renewal period or earned and applied for licensure reinstatement toward renewal of their license in the current renewal cycle.

(5)

(a) Continuing education shall be earned from October 1 of each renewal period until September 30 at the end of the period, or until November 30 at the end of the grace period with the addition of a late fee in accordance with 201 KAR 16:510 for veterinarians and 201 KAR 16:512 for veterinary technicians.

(b) A licensee may apply continuing education hours to only one (1) renewal cycle. Continuing education hours earned for a given course shall not be applied to the total required hours again in any subsequent[the following] renewal cycle.

(c) A credential holder who receives a board discipline that requires continuing education as a part of any reprimand, settlement agreement, or final order, shall earn the required CE in addition to the CE required for licensure renewal.

(6)[(5)] A veterinarian applying for renewal after completing their[his or her] initial term of licensure after graduating from a veterinary college may complete a reduced number of hours of continuing education to be eligible for renewal as established in this subsection. This subsection shall not apply to applicants for licensure by endorsement under KRS 321.221 who graduated prior to the renewal biennium during which they were initially licensed.

(a) A veterinarian completing their[his or her] initial term of licensure who graduated from a veterinary college during the first year of the renewal[preceding] biennium shall complete fifteen (15) hours of continuing education to be eligible for renewal.

(b) Continuing education requirements shall be waived for a veterinarian completing their[his or her] initial term of licensure who graduated during the second year of the renewal[preceding] biennium.

(7)[(6)] For a veterinary technician, continuing education requirements shall be waived for a new licensee completing their[his or her] initial term of licensure who also graduated within twelve (12) [12]-months of initial licensure.[This paragraph shall not apply to

VOLUME 51, NUMBER 4– October 1, 2024

applicants for licensure by endorsement who graduated prior to the renewal cycle during which they were initially licensed.]

~~(8)~~[(7)]

(a) A veterinarian or veterinary technician may submit a written request to the board for approval of a fellowship, internship, or residency in lieu of the continuing education courses[hours] required for license renewal, subject to board review for the number of hours to be awarded.

(b) The number of continuing education hours granted shall be determined by the board.

(c) The request shall:

1. Include a letter of verification from an authorized representative of the organization providing the fellowship, internship, or residency opportunity;

2. Be printed on the organization's letterhead;[~~and~~]

3. Provide a brief description of the position itself, a summary of assigned tasks, and the anticipated or completed beginning and ending dates of the position; and

4. Be signed by an authorized representative of the organization who is knowledgeable about the position being verified.

(9) Failure to earn the minimum required amount of CE by the renewal deadline or grace period deadline shall be cause for the board to move a license to an expired status.

(10)[(8)] Continuing education hours shall be required as follows for reinstatement applications:

(a) For veterinarians, thirty (30) hours earned in a twenty-four[twenty-four] (24) month period immediately prior to the date of application, or as required by the board to complete the application after filing; and

(b) For veterinary technicians, six (6) hours earned in a twelve (12) month period immediately prior to the date of application, or as required by the board to complete the application after filing.

(11) During a statewide state of emergency declared by the Governor of Kentucky, a national emergency declared by the President of the United States, pandemic, or epidemic, the board may change the in-person requirement for CE or waive CE for a temporary period of time. After taking such an action, the board shall send notice to all licensees and post the change and duration of change on the board's website.

Section 4.[Section 2.] Approved Programs of Continuing Education[Courses].

(1) The board hereby approves the following continuing education courses:

(a) All scientific programs of the American Veterinary Medical Association (AVMA), its constituent organizations[,], and its recognized specialty groups as listed on the AVMA Web site, and Council on Education (COE) or Committee on Veterinary Technician Education and Activities (CVTEA) accredited veterinary medical institutions whose meetings impart educational material directly relating to veterinary medicine or veterinary technology;

(b) Programs approved by the Registry of Approved Continuing Education (RACE) of the American Association of Veterinary State Boards (AAVSB);

(c) Accreditation modules offered by the United States Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS), which shall be counted for one (1) hour per module;[~~and~~]

(d) Attendance at a board meeting, which shall be counted for the time the attendee is present and during which the board is in session or the duration of the meeting in half-hour increments up to three (3) hours, per meeting. There shall be a maximum of six (6) hours allowable for veterinarians and three (3) hours per LVTs per renewal cycle; and

(e) All programs approved by the board pursuant to subsection ~~(4)~~[(2)] of this section.

(2) Licensees may use a maximum of six (6) USDA APHIS Modules for licensees certified in Category II and a maximum of three (3) USDA APHIS Modules for licensees certified in Category I in any single renewal period.

(3) Licensees shall earn new CE each renewal cycle, and shall not use CE previously applied to any past renewal or to

reinstatement, if reinstatement occurred during the current renewal cycle.

(4) Board approved CE requirements.

(a) ~~The~~[By a majority vote, the] board may approve programs that are deemed to impart knowledge directly relating to the practice of veterinary medicine, including the utilization and application of new techniques, scientific and clinical advances, and the achievement of research to assure expansive and comprehensive care to the public.

(b) To request approval, a completed Request for Continuing Education Approval form, including all required attachments, and the submission of fees as prescribed in 201 KAR 16:516, shall be submitted to the board.

(c) A continuing education program that satisfies board requirements for an approved program of continuing education shall be:

1.

a. Offered, provided, or sponsored by an organization that is an approved provider of continuing education; or

b. An approved program of continuing education;

2.

a. Have a clearly stated purpose and defined content area;  
b. Be offered to the public or general licensee population, and not offered internally only to employees of a single organization;

c. Be consistent with the overall goals of continuing education as defined in Sections 2 and 3 of this administrative regulation;

d. Have a presenter who is a professional qualified in the defined content area; and

e. Clearly state the program's duration. Actual contact time shall be a minimum of one (1) continuing education contact hour as defined in KRS 321.181(26), and shall not include breaks or meals;

3. If approved, the course provider shall maintain for a minimum of four (4) years records of CEs presented, and shall include the name and license number of each attendee.

Section 5.[Section 3.] Continuing Education Documentation Requirements.

(1) A licensee shall:

(a) Secure official documentation from the course provider of completed attendance at a course, detailing the:

1. Hours[hours] earned;

2. Name of the course;

3. Provider of the course;

4. Method of delivery, and if an online course, live, interactive, or non-interactive;

5. Date of the course; and

6. Licensee's name.

(b) Submit on the Renewal Application for Veterinarians form or Renewal Application for Veterinary Technicians form as found in 201 KAR16:570[201 KAR 16:700] or online equivalent forms, as appropriate, and include the name, dates, and identifying information for each course they[he or she] attended;[~~and~~]

(c) If audited by the board or upon request by the board, supply copies of official documentation from the course provider which includes all the information required in paragraph (a) of this subsection; and

(d) Retain copies of continuing education documentation for a period of four (4) years from the date of licensure renewal.

(2) The board may require an applicant or licensee to submit copies of documentation in accordance with subsection (1) of this section documenting their[of his or her] attendance at continuing education courses.

Section 6. Audits.

(1) The board shall audit documentation supporting the completion of the appropriate number of continuing education hours for:

(a) Any veterinarian or veterinary technician who was disciplined by the board in the renewal cycle or where an order of the board further specifies a CE audit of that veterinarian or veterinary technician; and

(b) At least one (1) member of the board.

## VOLUME 51, NUMBER 4– October 1, 2024

(2) The board may audit any licensee for documentation supporting the completion of the appropriate number of continuing education hours for:

(a) A minimum of ten (10) percent of all veterinarians and veterinary technicians; and

(b) Any licensee who does not renew their license by September 30 of each renewal cycle; or

(c) Any licensee against whom a grievance has been filed pursuant to 201 KAR 16:610.

Section 7.~~[Section 4.]~~ Continuing Education Requirement Waivers.

(1) Medical disability, illness, or other extenuating circumstances. The board may, in individual cases involving medical disability,~~[-or] illness, or other extenuating circumstances clearly warranting relief, grant a waiver~~~~[waivers]~~ of the continuing education requirements or an extension~~[extensions]~~ of time within which to fulfill the same or make the required reports.

(a) A written request for an extension or waiver of continuing education requirements for medical disability,~~[-or] illness, or other extenuating circumstances clearly warranting relief~~~~[-reasons waiver or extension of time]~~ shall be submitted by the licensee. The board may require a signed document from a physician or other health care provider to verify the licensee's claimed disability or illness, ~~or verification from an official for other extenuating circumstances.~~

(b) A waiver of the minimum continuing education requirements or an extension of time within which to fulfill the requirements shall not be granted by the board for a period of time exceeding one (1) renewal cycle~~[calendar year]~~.

(c) If the medical disability,[-or] illness, or other extenuating circumstances clearly warranting relief upon which a waiver or extension has been granted persists beyond the period of the waiver or extension, the licensee shall have the option to apply for another extension.

(2) Military duty. The board shall grant a waiver to a licensee who is unable to meet the continuing education requirements of this administrative regulation because of obligations arising from military duty.

~~(a) [A licensee engaged in active military duty and deployed outside the United States for more than eight (8) months shall not be required to complete the continuing education requirement for licensure periods during which that status exists.]~~

~~[(b)]~~ A licensee who is called to active duty in the armed forces shall not be required to complete the continuing education requirement for licensure periods during which that status exists.

~~[(c)]~~ The licensee requesting an extension or waiver pursuant to this subsection shall submit with ~~their~~~~[his or her]~~ renewal or reinstatement paperwork, the appropriate military assignment form, deployment orders, or a statement from the licensee's unit commander confirming the call-up or deployment.

Section 8.~~[Section 5.]~~ Incorporation by Reference.

(1) "Request for Continuing Education Approval", 9/2024~~[2/2020]~~, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subjected to applicable copyright law, at the Kentucky Board of Veterinary Examiners, 4047 Iron Works Parkway, Suite 104, Lexington, Kentucky 40511~~[107 Corporate Drive, Frankfort, Kentucky 40601]~~, Monday through Friday, 8:30 a.m.~~[8:00 a.m.]~~ to 4:30 p.m. This material may also be obtained at kbve.ky.gov~~[www.kybve.com]~~.

MICHELLE M. SHANE, Executive Director  
For JOHN C. PARK, DVM, Board Chair

APPROVED BY AGENCY: September 12, 2024

FILED WITH LRC: September 12, 2024 at 1:40 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 22, 2024, at 1:00 p.m. EST, at the offices of the Kentucky Board of Veterinary Examiners, 4047 Iron Works Pkwy, Suite 104, Lexington, Kentucky 40511. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing

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 November 30, 2024. 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: Michelle M. Shane, Executive Director, Kentucky Board of Veterinary Examiners, 4047 Iron Works Parkway, Suite 104, Lexington, Kentucky 40511, phone 502-564-5433, fax 502-753-1458, email Michelle.Shane@ky.gov.

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michelle M. Shane

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes the continuing education requirements for persons seeking a veterinary license or veterinary technician license renewal or reinstatement.

(b) The necessity of this administrative regulation: This regulation is necessary to establish the board approved continuing education courses as a requirement for licensure.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 321.211 and 321.441 each require the board to approve continuing education for veterinary and veterinary technician licenses. KRS 321.235(1)(a)-(c), (2)(b)1.a., and (2)(b)3.b. authorize the board to promulgate administrative regulations to implement and enforce KRS Chapter 321.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in effective administration by clearly expressing what continuing education requirements are created by the KBVE board.

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

(a) How the amendment will change this existing administrative regulation: This amendment adds new statutory definitions; defines the necessity for continuing education; adds new required CE hours in 1. Pharmacy or controlled substances, 2. Antimicrobials, or 3. State or federal laws and regulations related to the practice of veterinary medicine; requires a portion of online CE to be in a live format; clarifies that insufficient CE shall be cause for denial; establishes parameters for veterinarian operation in a statewide state of emergency; establishes limited hours of CE for attendance at a board meeting; establishes limitations on number of allowable USDA APHIS Modules available for CE; establishes that CE can only be accounted for once; outlines requirements for board approved CE; clarifies the requirements for proof of CE completion; establishes parameters for board audits during a renewal period; and clarifies requirements for board waivers of required CE.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to conform with the modernized Kentucky Veterinary Medicine Practice Act, passed in June 2023, and to provide clarity for licensees regarding the rules for CE.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 321.235(2)(b)1.a., 321.211(7), 321.441(8), and 321.442(7) authorize the Kentucky Board of Veterinary Examiners to require a person applying for renewal or reinstatement of a veterinarian or veterinary technician license to show evidence of completion of continuing education to ensure the continued competence of licensees. KRS 321.235(1)(a)-(c), (2)(b)1.a., and (2)(b)3.b. authorize the board to promulgate administrative regulations to implement and enforce KRS Chapter 321.

(d) How the amendment will assist in the effective administration of the statutes: By incorporating new statutory language, this amendment provides clarity to constituents by utilizing standard definitions and providing clear requirements for licensure. This amendment also provides clarity on the requirements of the board.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this



administrative regulation: Veterinarian and veterinary technician licensee applicants to the board for renewal of their license. The board receives about 2,500 applications biennially for veterinarians and about 550 applications annually for veterinary technicians.

(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: Veterinarian and veterinary technicians applicants must ensure they obtain board approved CE to renew their license.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Entities will need to obtain CE, either for free or through purchase, to ensure they continue their education to remain educated about current standards of practice and best practices used in veterinary medicine.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Benefits include a uniform standard for CE required for licensees to earn so that individuals interested in renewing their license will understand the requirements prior to application.

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

(a) Initially: There will be no increase in costs because a program already exists to license veterinarians and veterinary technicians. The KBVE expects costs for all board operations to be approximately \$759,700 annually in the near term.

(b) On a continuing basis: The KBVE expects costs for all board operations to be approximately \$900,000 annually in future bienniums as new programming is brought online, per the mandates in the modernized Kentucky Veterinary Medicine Practice Act, KRS Chapter 321.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: KBVE does not receive any general funds. All funds for the agency come from licensing fees, service fees, and administrative fines.

(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 to administer the CE requirements for licensed veterinarians and veterinary technicians.

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

(9) TIERING: Is tiering applied? Tiering is not applied because CE requirements are the same for all veterinarians, and the same for all veterinary technicians.

#### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 321.211(7), 321.235(1)(a)-(c), (2)(b)1.a., (2)(b)3.b., 321.441(8), 321.442(7)

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The promulgating agency is the Kentucky Board of Veterinary Examiners. There are no other affected state units, parts, or divisions.

(a) Estimate the following for the first year:

Expenditures: This is not a new program, and there will not be additional expenditures as a result of this filing. The KBVE expects costs for all board operations to be approximately \$759,700 annually in the near term.

Revenues: There is no revenue generated by this filing.

Cost Savings: There will not be any cost savings; this amendment simply codifies the requirements, making them easily accessible for regulated entities.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Staff time and database management will be required for record keeping. Costs will be minimal.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): KBVE does not anticipate that any local entities will be impacted.

(a) Estimate the following for the first year:

Expenditures: N/A

Revenues: N/A

Cost Savings: N/A

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(4) Identify additional regulated entities not listed in questions (2) or (3): KBVE does not anticipate that any other regulated entities will be impacted.

(a) Estimate the following for the first year:

Expenditures: N/A

Revenues: N/A

Cost Savings: N/A

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This administrative regulation does not set fees and will not bring in revenue. Local entities will not be impacted by this regulation. This filing only impacts veterinarian or veterinary technician candidates for licensure renewal in the commonwealth. This amendment simply updates the administrative regulation to conform with the modernized Kentucky Veterinary Medicine Practice Act and provide clarity on board requirements.

(b) Methodology and resources used to determine the fiscal impact: This is not a new program. The program is run as a part of the agency's established budget by existing staff and with existing infrastructure.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This amendment shall not have a "major economic impact", as defined in KRS 13A.010(13).

(b) The methodology and resources used to reach this conclusion: This amendment will not have a negative impact, as no fees are established or collected as a part of this administrative regulation.

#### BOARDS AND COMMISSIONS

##### Board of Medical Imaging and Radiation Therapy (Amendment)

**201 KAR 46:035. Practice standards, scopes of practice, and ethical standards.**

RELATES TO: 311B.080

STATUTORY AUTHORITY: KRS 311B.050(2), 311B.080

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.050(2) requires the Kentucky Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to administer and enforce KRS Chapter 311B. KRS 311B.080 requires the board to recognize and enforce national practice standards, scopes of practice, and ethical standards. This administrative regulation establishes uniform standards for the licensure of individuals who perform medical imaging and radiation therapy for diagnostic and therapeutic purposes while under the supervision of a licensed practitioner of the healing arts.

Section 1. Applicability. A licensee shall only perform medical imaging or radiation therapy for diagnostic medical imaging or therapeutic purposes while under the direct or indirect supervision as specified by a licensee's practice standards, by a licensee's scope of practice, or in the ACR-AAPM Technical Standard for the Management of the Use of Radiation in Fluoroscopic Procedures as listed in Section 3 of this administrative regulation.

Section 2. If a licensee's practice standards, a licensee's scope of practice, or the ACR-AAPM Technical Standard for the Management of the Use of Radiation in Fluoroscopic Procedures fails to specify who may provide direct or indirect supervision, a

## VOLUME 51, NUMBER 4– October 1, 2024

licensee shall only perform medical imaging or radiation therapy for diagnostic medical imaging or therapeutic purposes while under the direct or indirect supervision of a licensed practitioner of the healing arts.

Section 3. Practice Standards. A licensee shall perform according to practice standards of the discipline for which the licensee holds a credential, as established by the American Society of Radiologic Technologists (ASRT), the American College of Radiology (ACR), the American Association of Physicists in Medicine (AAPM), and the Society of Nuclear Medicine and Molecular Imaging (SNMMI) and incorporated by reference. These standards include the:

(1) The ASRT Practice Standards for Medical Imaging and Radiation Therapy – Radiography;

(2) Nuclear Medicine Technologist Scope of Practice and Performance Standards;

~~(3) [Positron Emission Tomography (PET) Technologist Scope of Practice and Performance Standards];~~

~~(3) [(4)] Scope of Practice for the Nuclear Medicine Advanced Associate;~~

~~(4) [(5)] The ASRT Practice Standards for Medical Imaging and Radiation Therapy – Radiation Therapy;~~

~~(5) [(6)] The ASRT Practice Standards for Medical Imaging and Radiation Therapy – Bone Densitometry;~~

~~(6) [(7)] The ASRT Practice Standards for Medical Imaging and Radiation Therapy – Cardiac-Interventional and Vascular-Interventional Technology;~~

~~(7) [(8)] The ASRT Practice Standards for Medical Imaging and Radiation Therapy – Computed Tomography;~~

~~(8) [(9)] The ASRT Practice Standards for Medical Imaging and Radiation Therapy – Limited X-ray Machine Operator;~~

~~(9) [(10)] The ASRT Practice Standards for Medical Imaging and Radiation Therapy – Mammography;~~

~~(10) [(11)] The ASRT Practice Standards for Medical Imaging and Radiation Therapy – Radiologist Assistant;~~

~~(11) [(12)] ACR ASRT Joint-Policy Statement-Radiologist Assistant: Roles and Responsibilities;~~

~~(12) [(13)] ACR-AAPM Technical Standard for Management of the Use of Radiation in Fluoroscopic Procedures;~~

~~(13) [(14)] The American Registry of Radiologic Technologists' Code of Ethics; and~~

~~(14) [(15)] The Nuclear Medicine Technology Certification Board's Code of Ethics.~~

### Section 4. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "The ASRT Practice Standards for Medical Imaging and Radiation Therapy – Radiography", revised June 30[23], 2024[2019];

(b) "Nuclear Medicine Technologist Scope of Practice and Performance Standards", June 9, 2022[2017];

~~(c) ["Positron Emission Tomography (PET) Technologist Scope of Practice and Performance Standards", revised January 26, 2013;]~~

~~(c) [(d)] "Scope of Practice for the Nuclear Medicine Advanced Associate", created 2009;~~

~~(d) [(e)] "The ASRT Practice Standards for Medical Imaging and Radiation Therapy – Radiation Therapy", revised June 30[23], 2024[2019];~~

~~(e) [(f)] "The ASRT Practice Standards for Medical Imaging and Radiation Therapy – Bone Densitometry", revised June 30[23], 2024[2019];~~

~~(f) [(g)] "The ASRT Practice Standards for Medical Imaging and Radiation Therapy – Cardiac- Interventional and Vascular-Interventional Technology[", revised June 30[23], 2024[2019];~~

~~(g) [(h)] "The ASRT Practice Standards for Medical Imaging and Radiation Therapy – Computed Tomography", revised June 30[23], 2024[2019];~~

~~(h) [(i)] "The ASRT Practice Standards for Medical Imaging and Radiation Therapy – Limited X-ray Machine Operator[", revised June 30[23], 2024[2019];~~

~~(i) [(j)] "The ASRT Practice Standards for Medical Imaging and Radiation Therapy – Mammography", revised June 30[23], 2024[2019];~~

~~(j) [(k)] "The ASRT Practice Standards for Medical Imaging and Radiation Therapy – Radiologist Assistant[", revised June 30[23], 2024[2019];~~

~~(k) [(l)] "ACR ASRT Joint Policy Statement-Radiologist Assistant: Roles and Responsibilities", May 2003;~~

~~(l) [(m)] "ACR-AAPM Technical Standard for Management of the Use of Radiation in Fluoroscopic Procedures", revised 2023[2018] (Resolution 44);~~

~~(m) [(n)] "The American Registry of Radiologic Technologists' Code of Ethics", (September 1, 2023[2019]); and~~

~~(n) [(o)] "The Nuclear Medicine Technology Certification Board's Code of Ethics", (November 15, 2017).~~

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

(a) American Society of Radiologic Technologists, 15000 Central Ave. SE Albuquerque, NM 87123-3909, <https://www.asrt.org/main/standards-regulations/practice-standards/practice-standards>;

(b) Society for Nuclear Medicine and Molecular Imaging, 1850 Samuel Morse Drive Reston, Virginia 20190, <http://www.snmmi.org>;

(c) The American Registry of Radiologic Technologists' Code of Ethics, 125 Northland Drive, Saint Paul, Minnesota 55120, <https://www.arrt.org/docs/default-source/Governing-Documents/code-of-ethics.pdf?sfvrsn=10>;

(d) The Nuclear Medicine Technology Certification Board, 3558 Habersham at Northlake, Building I, Tucker, Georgia 30084, <https://www.nmtcb.org/policies/ethics.php>; or

(e) The Board of Medical Imaging and Radiation Therapy, 2365 Harrodsburg Road, Suite A220, Lexington, Kentucky 40504, Monday through Friday, 8:00 a.m. to 4:30 p.m.

KERI LEAMY, Board Chair

APPROVED BY AGENCY: August 13, 2024

FILED WITH LRC: September 5, 2024 at 10:45 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 21, 2024 at 10:00 a.m. at 2365 Harrodsburg Rd, Suite A220, Lexington Kentucky 40504. 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 November 30, 2024. 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: Elizabeth Morgan, Executive Director, 2365 Harrodsburg Rd, Suite A220, Lexington Kentucky 40504, phone 502-782-5687, fax 502-782-6495, email [elizabeth.morgan@ky.gov](mailto:elizabeth.morgan@ky.gov).

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Elizabeth Morgan

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the practice standards, scopes of practice, and ethical standards for individuals licensed by the board.

(b) The necessity of this administrative regulation: The necessity of this regulation is to establish the practice standards, scopes of practice, and ethical standards of licensees who perform medical imaging or radiation therapy for diagnostic medical imaging or therapeutic purposes. KRS 311B.080 requires the board to recognize and enforce national practice standards, scopes of practice, and ethical standards

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute giving the board the ability to promulgate regulations to carry out and enforce the provisions KRS 311B.080

which requires the board to recognize and enforce national practice standards, scopes of practice, and ethical standards. 311B.050(2) requires the Kentucky Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to administer and enforce KRS Chapter 311B.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the practice standards, scopes of practice, and ethical standards of licensees who perform medical imaging or radiation therapy for diagnostic medical imaging or therapeutic purposes. It assists licensees in knowing the expectations of their scope of practice.

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

(a) How the amendment will change this existing administrative regulation: The amendment updates the Code of Ethics for the American Registry of Radiologic Technologists and the Nuclear Medicine Technology Certification Board and updates various standards of practices to the most recent versions.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to ensure the licensees are held to the most up-to-date standards of practice and code of ethics in the industry.

(c) How the amendment conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability and requires it to promulgate regulations regarding the establishment of the standards of practice.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist with the board employing the same standards of practice and code of ethics that is required of every licensee in Kentucky that is required of the national credentialing agency.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 300 state health care organizations and approximately 8,000 licensees.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Licensees will be required to comply with the standards of practice and code of ethics that he or she is already required to comply with in accordance with their national certification. Required continuing education and notices for the Board related to their adoption will place licensees on notice of new standards.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Licensees will have most up-to-date standards of practice and code of ethics for compliance, with the intent of such to provide increased protection of the public in the form of quality healthcare.

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

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

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

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by licensees and applicants.

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

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

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

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 311B.050, 311B.080

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Medical Imaging and Radiation Therapy.

(a) Estimate the following for the first year:

Expenditures: n/a

Revenues: n/a

Cost Savings: n/a

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There is no cost associated with administering this regulation.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Local entities should not be affected.

(a) Estimate the following for the first year:

Expenditures: n/a

Revenues: n/a

Cost Savings: n/a

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There is no cost associated with administering this regulation.

(4) Identify additional regulated entities not listed in questions (2) or (3): None.

(a) Estimate the following for the first year:

Expenditures: n/a

Revenues: n/a

Cost Savings: n/a

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There is no cost associated with administering this regulation.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: There is no cost associated with administering this regulation.

(b) Methodology and resources used to determine the fiscal impact: There is no cost associated with administering this regulation.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) There is no cost associated with administering this regulation.

(b) The methodology and resources used to reach this conclusion: There is no cost associated with administering this regulation.

**BOARDS AND COMMISSIONS**

**Board of Medical Imaging and Radiation Therapy  
(Amendment)**

**201 KAR 46:040. Medical imaging technologist, advanced imaging professional, radiographer, nuclear medicine technologist, and radiation therapist licenses.**

RELATES TO: KRS 311B.020, 311B.050, 311B.100(2), 311B.110, 311B.120, 311B.180, 311B.190

STATUTORY AUTHORITY: KRS 311B.050, 311B.080, 311B.100(2), 311B.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.050 requires the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to establish the procedures for the issuance and renewal of a license. KRS 311B.100(2) and KRS 311B.110(6) require the board to promulgate administrative regulations to establish the qualifications for an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, and a nuclear medicine technologist. This administrative regulation establishes requirements for licensure, renewal, and reinstatement.

Section 1. Eligibility for an Advanced Imaging Professional, a Medical Imaging Technologist, a Radiographer, a Radiation Therapist, and a Nuclear Medicine Technologist License. A person shall not be eligible for a license pursuant to this administrative

## VOLUME 51, NUMBER 4– October 1, 2024

regulation for diagnostic imaging or therapeutic purposes unless the person has:

- (1) Satisfactorily passed the national examination administered by the American Registry of Radiologic Technologists or the Nuclear Medicine Technology Certification Board examination;
- (2) Satisfactorily completed an accredited educational program; and
- (3) Maintained current active status of certification and registration with ARRT or NMTCB.

Section 2. Application for Initial License. An applicant shall submit:

- (1) A completed and signed application KBMIRT Form 1;
- (2) A nonrefundable initial application and license fee as established by 201 KAR 46:020, Section 1, unless the fee is waived in accordance with KRS 311B.140;
- (3) The results of a criminal background check completed within the past six (6) months in state of residence and employment and any other state of residence and employment within the past five (5) years;
- (4) A copy of a government-issued photo ID;
- (5) Documentation of active registration or certification with the ARRT or NMTCB; and
- (6) Verification of graduation from an accredited educational program.

Section 3. Applicant from an Unaccredited Educational Program.

(1) If an applicant qualifies for licensure under KRS 311B.100(3), the applicant shall submit and satisfy the requirements of Section 2(1)(a) through (e) of this administrative regulation and shall submit proof:

- (a) Of an active valid license or certificate from another jurisdiction's regulatory board to practice as an advanced imaging professional, medical imaging technologist, radiographer, radiation therapist, or nuclear medicine technologist and is in good standing;
- (b) Of certification or licensure by a national organization recognized by the board;
- (c) That the applicant has not been disciplined as an advanced imaging professional, medical imaging technologist, radiographer, radiation therapist, or nuclear medicine technologist by any jurisdiction or national organization that has issued a license or certificate to the applicant;
- (d) Of a minimum of five (5) years of work experience as a certified or licensed advanced imaging professional, medical imaging technologist, radiographer, radiation therapist, or nuclear medicine technologist; and
- (e) That the applicant maintained continuing education requirements during the applicant's period of licensure or certification, which includes copies of any continuing education certificates received for attending from the sponsor.

(2) If an applicant qualifies for licensure under KRS 12.245, 12.354, or 12.357, the applicant shall submit and satisfy the requirements of Section 2(1)(a) through (e) of this administrative regulation, subsection (1)(a) through (c) of this Section, and shall submit form DD-214 or other proof of active or prior military service for the applicant or spouse of the applicant.

Section 4. The issued license shall identify the licensee as an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, or a nuclear medicine technologist. The medical imaging technologist license shall also identify any ARRT or NMTCB disciplines awarded to the licensee.

Section 5. The license shall expire annually on the last day of the licensee's birth month. If a license is first issued to an individual less than six (6) months before the individual's birth month, the license issued to the individual shall not expire on that date, but instead it shall expire at the last day of the individual's birth month in the following calendar year.

Section 6. Renewal of License. To renew a license, the licensee shall submit:

- (1) KBMIRT Form 2;

(2) Verification of current active status with the ARRT or NMTCB; and

(3) The renewal license fee as established by 201 KAR 46:020, Section 2, unless the fee is waived in accordance with KRS 311B.140.

Section 7. Reinstatement of Lapsed License.

(1) A licensee who has allowed the license to lapse up to twelve (12) months shall be eligible to be reinstated upon:

- (a) Submission of KBMIRT Form 2;
- (b) Verification of current active status with the ARRT or NMTCB;
- (c) Submission of documentation of twenty-four (24) hours of approved continuing education biennially; and
- (d) The payment of reinstatement and renewal fees as established by 201 KAR 46:020, Sections 2 and 7, unless the fees are waived in accordance with KRS 311B.140.

(2) A licensee whose license has lapsed for more than twelve (12) months shall submit:

- (a) Verification of current active status with the ARRT or NMTCB;
- (b) KBMIRT Form 1;
- (c) Continuing education KBMIRT Form 8, as incorporated by reference in 201 KAR 46:060, that documents twenty-four (24) hours of approved continuing education;
- (d) The payment of nonrefundable initial application and license fee and reinstatement fee as established by 201 KAR 46:020, Sections 1 and 7, unless the fees are waived in accordance with KRS 311B.140;
- (e) The results of a criminal background check completed within the past six (6) months in state of residence and employment and any other state of residence and employment within the past five (5) years; and
- (f) A copy of a government-issued photo ID.

Section 8. Reinstatement of Revoked License. An applicant seeking reinstatement after a license revocation shall follow the same process as a new applicant as required under KRS 311B.100, 311B.110, and this administrative regulation.

Section 9. Lapsed Credential. A licensee shall not allow a credential to lapse while the license is active. If a licensee's credential is suspended, revoked, or otherwise discontinued by a national organization, the licensee shall notify the board immediately. A licensee seeking reinstatement following a lapse in credential shall submit:

- (1) Verification of current active status with the ARRT or NMTCB; and
- (2) Payment of reinstatement fee as established by 201 KAR 46:020, Section 7.

Section 10. Temporary License. The board may, upon completion of Form KBMIRT 3, as incorporated by reference in 201 KAR 46:045, and payment of the fee established in 201 KAR 46:020, Section 3, issue a temporary license to an applicant who has successfully completed an approved course of study in radiography, nuclear medicine technology, radiation therapy, or an advanced imaging profession and meets the other requirements of 201 KAR 46:045 other than having taken the required examination. A temporary license shall be effective for up to one (1) year only and shall not be renewable. Upon certification, a temporary license may be converted to a permanent license as described in 201 KAR 46:045, Section 2. A temporary license shall expire upon issuance of a permanent license.

Section 11. Continuing Education Audit Process.

(1) The board shall select a sample of licensees to audit for continuing education compliance.

(2) The board shall send each licensee selected for audit a notification of audit.

(3) Each licensee shall maintain his or her personal files such as certificates or records of credit from approved continuing education programs from the current biennium and immediate prior biennium.

## VOLUME 51, NUMBER 4– October 1, 2024

(4) A licensee selected for audit shall provide the board with a copy of his or her certificate or records of completion.

(5) Failure to comply with an audit may result in nonrenewal, suspension, or revocation of license.

Section 12. Contrast Procedures. Only individuals holding a license pursuant to this administrative regulation shall perform diagnostic imaging or radiation therapy procedures regulated by KRS Chapter 311B at facilities where contrast studies are performed.

Section 13. CT Training for Nuclear Medicine Technologists and Radiation Therapists. Individuals who are licensed in the primary discipline of nuclear medicine or radiation therapy, are certified by the ARRT or NMTCB, and are seeking post-primary certification in computed tomography (CT) may work under the direct supervision of a licensed and certified CT technologist to gain clinical competency. An individual who wishes to complete clinical training in CT shall submit a Provisional License Application, as incorporated by reference in 201 KAR 46:050, which shall expire twenty-four (24) months from the date of issuance.

Section 14. PET Training for Radiographers and Radiation Therapists. Individuals who are licensed in the primary discipline of radiography or radiation therapy, are certified by the ARRT, and are seeking post-primary certification in positron emission tomography (PET) may work under the direct supervision of a licensed and certified PET technologist with the permission of an authorized user to gain clinical competency. An individual who wishes to complete clinical training in PET shall submit a Provisional License Application, as incorporated by reference in 201 KAR 46:050, which shall expire twenty-four (24) months from the date of issuance.

Section 15. Applications for licensure shall be filed with the Board of Medical Imaging and Radiation Therapy, 2365 Harrodsburg Road, Suite A220, Lexington, Kentucky 40504.

### Section 16. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) KBMIRT Form 1, "License Application-Medical Imaging or Radiation Therapy", August 2024~~[October 2023]~~; and

(b) KBMIRT Form 2, "License Renewal Application-Medical Imaging or Radiation Therapy", August 2024~~[October 2023]~~.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Medical Imaging and Radiation Therapy, 2365 Harrodsburg Road, Suite A220, Lexington, Kentucky 40504, Monday through Friday, 8:00 a.m. to 4:30 p.m.

KERI LEAMY, Board Chair

APPROVED BY AGENCY: August 13, 2024

FILED WITH LRC: September 5, 2024 at 10:45 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 21, 2024 at 10:00 am at 2365 Harrodsburg Rd, Suite A220, Lexington Kentucky 40504. 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 November 30, 2024. 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: Elizabeth Morgan, Executive Director, 2365 Harrodsburg Rd, Suite A220, Lexington Kentucky 40504, phone 502-782-5687, fax 502-782-6495, email elizabeth.morgan@ky.gov.

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Elizabeth Morgan

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements for eligibility for licensure, and the initial and renewal application process.

(b) The necessity of this administrative regulation: The necessity of this regulation is to establish the standards and process for application and renewal of license issued by the board.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute giving the board the ability to promulgate regulations to carry out and enforce the provisions of KRS 311B.050(3), which authorizes the board to issue and renew the licenses of duly qualified applicants, following procedures established by the board through the promulgation of administrative regulations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the procedures for the board to issue and renew the licenses of duly qualified applicants.

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

(a) How the amendment will change this existing administrative regulation: The amendment allows the Board to update the applications associated with initial license, renewal, and reinstatement to collect additional information, including questions about whether unlicensed practice occurred prior to application being approved and whether an ethics violation has occurred with the national certifying body.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to update the applications to include additional information on the applications.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the authorizing statute giving the board the ability to promulgate regulations to carry out and enforce the provisions of KRS 311B.050(3), which authorizes the board to issue and renew the licenses of duly qualified applicants, following procedures established by the board through the promulgation of administrative regulations.

(d) How the amendment will assist in the effective administration of the statutes: The amendments will update the renewal, initial and reinstatement license applications to establish whether the applicant is in compliance with ethical standards of the national certifying body as required in KRS 311B.080.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 300 state health care organizations and approximately 8,000 licensees.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Individuals who seek to be licensed or have an issued license to be renewed must submit an application setting forth the individual's qualifications.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Qualified individuals will be able to be licensed and maintain previously issued licenses.

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

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

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

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by licensees and applicants.

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

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

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

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 311B.050, KRS 311B.080, KRS 311B.100, KRS 311B.110

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Medical Imaging and Radiation Therapy.

(a) Estimate the following for the first year:

Expenditures: n/a

Revenues: n/a

Cost Savings: n/a

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There is no cost associated with administering this regulation.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Local entities should not be affected.

(a) Estimate the following for the first year:

Expenditures: n/a

Revenues: n/a

Cost Savings: n/a

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There is no cost associated with administering this regulation.

(4) Identify additional regulated entities not listed in questions (2) or (3): None.

(a) Estimate the following for the first year:

Expenditures: n/a

Revenues: n/a

Cost Savings: n/a

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There is no cost associated with administering this regulation.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: There is no cost associated with administering this regulation.

(b) Methodology and resources used to determine the fiscal impact: There is no cost associated with administering this regulation.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) There is no cost associated with administering this regulation.

(b) The methodology and resources used to reach this conclusion: There is no cost associated with administering this regulation.

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

**201 KAR 46:060. Continuing education requirements.**

RELATES TO: KRS 311B.050, 311B.110

STATUTORY AUTHORITY: KRS 311B.050(2), (4), 311B.110(6)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.050(2) requires the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to administer and enforce KRS Chapter 311B. KRS 311B.050(4) and 311B.110(6) require the board to determine and enforce continuing education requirements and establish guidelines for the approval of continuing education. KRS 311B.110(3) authorizes the board to require that all licensees obtain continuing education for ongoing knowledge of current practices in radiation safety and clinical procedures prior to licensure renewal. This administrative regulation delineates the requirements for continuing education and prescribes methods and standards for the approval of continuing education courses.

Section 1. Mandatory Continuing Education Units.

(1) Medical imaging technologists, advanced imaging professionals, radiographers, nuclear medicine technologists, and radiation therapists shall obtain a minimum of twenty-four (24) continuing education units per biennium.

(2) Limited X-Ray machine operators shall obtain a minimum of twelve (12) continuing education units per biennium.

(3) A continuing education unit shall be earned by participating in fifty (50) contact minutes in an approved continuing education program.

Section 2. Methods of Acquiring Continuing Education.

(1) Continuing education units applicable to the renewal of a license shall be directly relevant to the professional growth and development of the medical imaging technologist, radiation therapist, advanced imaging professional, radiographer, nuclear medicine technologist, or limited x-ray machine operator.

(2) Continuing education units may be earned by completing any of the following educational activities:

(a) Academic courses relevant to the radiologic sciences or patient care and is offered by a post-secondary educational institution accredited by a mechanism recognized by the American Registry of Radiologic Technologists (ARRT) or the Nuclear Medicine Technologist Certification Board (NMTCB). Relevant courses in the biologic sciences, physical sciences, medical imaging, interventional procedures, radiation therapy, health and medical sciences, social sciences, verbal communication (oral and written), mathematics, computer use related to medical imaging or radiation therapy, management, cultural competency and ethics related to medical professionals, or post-secondary adult education methodology shall be considered for acceptance. Some subject areas that shall not be applicable include formal education clinical hours or credits, independent study, courses in archeology, astronomy, fine arts, geology, geography, history, music, philosophy, and religion;

(b) Continuing education units approved by a professional organization recognized by the board or designated as a Recognized Continuing Education Evaluation Mechanism (RCEEM); or

(c) Continuing education units offered by other individuals, organizations, or institutions that have been approved by the board.

(3) Academic course credit equivalency for continuing education units shall be based on one (1) academic quarter credit hour is equal to twelve (12) continuing education units or one (1) academic semester credit hour is equal to sixteen (16) continuing education units.

Section 3. Procedure for Preapproval of Continuing Education Programs.

(1) A continuing education program may be approved by two (2) mechanisms:

(a) By applying and receiving approval from a RCEEM; or

(b) By applying and receiving approval from the board.

(2) For board approval of continuing education programs, a person, agency, or company, "CE Sponsor", shall:

(a) Submit KBMIRT Form 9, Continuing Education Program Approval Request Form at least twenty (20) business days in advance of the date of the offering;

(b) Submit the continuing education approval fee as established by 201 KAR 46:020, Section 12;

(c) Provide program participants with documentation of participation such as a certificate of completion;

(d) Participate in the audit of approved continuing education programs including presentation evaluations, attendance, and continuing education participation documentation, as requested by the board; and

(e) Comply with policies set forth by the board, the ARRT, and NMTCB regarding continuing education programs.

(3) A continuing education activity shall be approved if the board determines that the activity is appropriate. The criteria as established in paragraphs (a) through (d) of this subsection shall be used by the board to determine the preapproval of a continuing education program.

(a) The activity shall enhance knowledge and skills associated with professional performance.

(b) It shall pertain to services provided to patients, the public, or medical profession by an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, a nuclear medicine technologist, or a limited x-ray machine operator.

(c) The presenter shall submit a curriculum vitae, an abstract, the objectives, and an outline of the presentation.

(d) The objectives shall be obtainable for the time frame, outline, and scope of the presentation.

Section 4. Responsibilities and Reporting Requirements of Licensee. A licensee shall be responsible for obtaining required continuing education units and submit documents only if requested by the board. Each licensee shall maintain all documentation verifying successful completion of continuing education units for the current and prior biennium. Documentation shall include:

(1) Official transcripts for completed academic courses; or

(2) ~~[A copy of the program showing an individual as a presenter of an approved continuing education program; or]~~

~~[(3)]~~ Completion certificates or cards for continuing education programs.

Section 5. Audit Procedures.

(1) The board shall audit a random selection of twenty-five (25) percent of limited x-ray machine operator licensees and ten (10) percent of all other licensees per year and notify the randomly-selected licensees.

(2) Each licensee selected for audit shall furnish documentation of completed continuing education units on KBMIRT Form 8, Licensee Continuing Education Documentation Form, for the identified time frame, and provide the board with a copy of the certificates or records of completion.

(3) Failure to comply with an audit may result in non-renewal, suspension or revocation of license.

Section 6. Temporary Licensees. Continuing education requirements shall not apply to the holders of a temporary license.

Section 7. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) KBMIRT Form 9, "Continuing Education Program Approval Request Form", October 2023; and

(b) KBMIRT Form 8, "Licensee Continuing Education Documentation Form", October 2023.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Medical Imaging and Radiation Therapy, 2365 Harrodsburg Road, Suite A220, Lexington, Kentucky, 40504, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the board's Web site at <https://kbmirt.ky.gov>.

KERI LEAMY, Board Chair

APPROVED BY AGENCY: August 13, 2024

FILED WITH LRC: September 5, 2024 at 10:45 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 21, 2024 at 10:00 a.m. at 2365 Harrodsburg Rd, Suite A220, Lexington Kentucky 40504. 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 November 30, 2024. 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: Elizabeth Morgan, Executive Director, 2365 Harrodsburg Rd, Suite A220, Lexington Kentucky 40504, phone 502-782-5687, fax 502-782-6495, email [elizabeth.morgan@ky.gov](mailto:elizabeth.morgan@ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Elizabeth Morgan

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes guidelines for the approval of continuing education, delineates the requirements for continuing education, and prescribes methods and standards for the approval of continuing education courses.

(b) The necessity of this administrative regulation: The Board of Medical Imaging and Radiation Therapy is authorized by KRS 311B.010 to 311B.190 to regulate licensees other than licensed practitioners of the healing arts, including but not limited to: the classification and licensure of medical imaging technologists, radiation therapists, radiologist assistants and limited x-ray machine operators; examinations; standards of education, experience, and continuing education; curricula standards for institutions teaching persons to perform medical imaging and radiation therapy procedures; issuance, renewal, and revocation of licenses; the establishment of a reasonable schedule of fees and charges to be paid by individuals for examinations, licenses and renewal licenses; and to set other standards as may be appropriate for the protection of health and safety.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute giving the board the ability to promulgate regulations to carry out and enforce the provisions of KRS 311B.050(4) and KRS 311B.110(6) require the Board to determine and enforce continuing education requirements and establish guidelines for the approval of continuing education. KRS 311B.110(3) requires that all licensees obtain continuing education for ongoing knowledge of current practices in radiation safety and clinical procedures prior to licensure renewals.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes guidelines for the approval of continuing education, delineates the requirements for continuing education, and prescribes methods and standards for the approval of continuing education courses.

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

(a) How the amendment will change this existing administrative regulation: The amendment eliminates continuing education credit for the preparation and presentation of a continuing education program which is in line with the national certifying body.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to eliminate the option of continuing education credit for the preparation and presentation of a continuing education program which is in line with the national certifying body.

(c) How the amendment conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations regarding continuing education.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will ensure clear understanding of requirements for continuing education by bringing the items credit in line with national certifying body.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 300 state health care organizations and approximately 8,000 licensees.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No action is required. The amendment merely clarifies the continuing education requirements by eliminating credit for preparation and presentation of a continuing education program which is in line with the national certifying body.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicants and licensees benefit by having the continuing education requirements clarified.

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

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

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

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by licensees and applicants.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied because the continuing education requirements apply equally to licensees.

#### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 311B.050, 311B.110

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Medical Imaging and Radiation Therapy.

(a) Estimate the following for the first year:

Expenditures: n/a

Revenues: n/a

Cost Savings: n/a

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There is no cost associated with administering this regulation.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Local entities should not be affected.

(a) Estimate the following for the first year:

Expenditures: n/a

Revenues: n/a

Cost Savings: n/a

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There is no cost associated with administering this regulation.

(4) Identify additional regulated entities not listed in questions (2) or (3): None.

(a) Estimate the following for the first year:

Expenditures: n/a

Revenues: n/a

Cost Savings: n/a

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There is no cost associated with administering this regulation.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: There is no cost associated with administering this regulation.

(b) Methodology and resources used to determine the fiscal impact: There is no cost associated with administering this regulation.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) There is no cost associated with administering this regulation.

(b) The methodology and resources used to reach this conclusion: There is no cost associated with administering this regulation.

### BOARDS AND COMMISSIONS Board of Medical Imaging and Radiation Therapy (Amendment)

#### 201 KAR 46:100. Medical Imaging and Radiation Therapy Scholarship and Continuing Education Fund.

RELATES TO: KRS 311B.050, 311B.130

STATUTORY AUTHORITY: KRS 311B.050, 311B.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.050 requires the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to administer and enforce KRS Chapter 311B and designate funds for scholarships, program development, or continued education. KRS 311B.130 appropriates that moneys collected shall be used for the payment of operational expenses incurred in fulfilling the board's duties as described in KRS Chapter 311B and administrative regulation. This administrative regulation implements the Kentucky Medical Imaging and Radiation Therapy Scholarship and Continuing Education Fund and establishes the requirements relating to the program.

#### Section 1. Application:

(1) To be eligible for the scholarship, an applicant shall submit:

(a) A completed and signed application, KBMIRT Form 10;

(b) A current resume or curriculum vitae;

(c) Three (3) letters of recommendation;

(d) Official transcripts from highest level of education achieved; and

(e) A written statement describing applicant's professional goals, not to exceed 250 words.

(2) In addition to items listed in subsection 1(1)(a) through (e) of this Section, an individual seeking scholarship for a non-degree program, such as structured education or limited x-ray machine operator program, shall also submit a document describing the financial obligations required of the program.

(3) Applications shall be accepted from January 1 through April 1 annually.

#### Section 2. Criteria for Awards.

(1) The board shall consider the following criteria in evaluating an application:

(a) Resident of Kentucky or employed in Kentucky;

(b) Potential for academic success as determined by the high school, vocational school, college, or university grade point average for whichever institution the applicant most recently attended;

(c) Previous healthcare experience, either paid or volunteer, for each year in which service is validated; and

(d) Written statement of professional goals.

(2) The applicant shall be considered ineligible for award if the application is:

(a) Postmarked after April 1;

(b) Deemed incomplete; or

(c) Submitted for a medical imaging modality not recognized by the board.

#### Section 3. Procedure for Disbursement of Awards.

(1) The board shall be notified by the board's fiscal officer as to the current fund balance prior to making an award. The amount of award shall be determined by the board and shall not exceed \$1500 annually per recipient.

(2) The board may prioritize awards to those recipients who:

(a) Received an award in the previous year; and

(b) Remain eligible to receive award pursuant to Section 4 of this administrative regulation in the current year.

(3) If funds remain available after the awards are made pursuant to paragraph (2)(a) of this subsection, the board may make an award to other eligible applicants.

(4) Disbursement of funds shall be made directly to the recipient.



## VOLUME 51, NUMBER 4– October 1, 2024

~~(5)~~~~(3)~~ Each educational institution in which a student receiving a medical imaging, radiation therapy, or limited x-ray machine operator scholarship award is enrolled shall certify to the board no later than thirty (30) days from the beginning of each semester on KBMIRT Form 11, that the recipient:

(a) Has enrolled; and  
(b) Is in good standing in the medical imaging, radiation therapy, or limited x-ray machine operator program.

~~(6)~~~~(4)~~ For a recipient receiving award for continued education, the recipient shall provide:

(a) A confirmation of enrollment into structured education course; and  
(b) An approval letter from clinical site.

### Section 4. Continuing Eligibility Criteria.

(1) Except as established in subsection (3) of this section, a recipient of the award shall be eligible to continue to receive an award if the recipient:

(a) Maintains successful academic progression through the program; and

(b) Submits to the board a completed KBMIRT Form 10 on or before April 1.

(2) The educational institution shall certify to the board no later than thirty (30) days from the beginning of each semester on KBMIRT Form 11 confirmation that the recipient is enrolled and in good standing in the medical imaging or radiation therapy program.

(3) An award recipient in a limited x-ray machine operator program or for continued education shall not be eligible for consecutive awards from the scholarship while enrolled in that program.

Section 5.~~[Section 4.]~~ Disbursement Contract and Promissory Note. Prior to disbursement of ~~[initial]~~ funds, the recipient shall sign a notarized KBMIRT Form 12 and KBMIRT Form 13.

### Section 6.~~[Section 5.]~~ Repayment and Deferral.

(1) A recipient shall immediately become liable to the board to pay the sum of all scholarships received and the accrued interest on the scholarships if the recipient fails to complete the:

(a) Medical imaging, radiation therapy, or limited x-ray machine operator program in which the individual is enrolled within the time specified by the program;

(b) Structured education course or clinical requirements required to qualify for the post-primary certification within the time specified by the ARRT or NMTCB; or

(c) Required employment as specified in the contract, KBMIRT Form 12.

(2) Written notification of demand for repayment shall be sent by the board to the scholarship recipient's last known address and shall be effective upon mailing.

(a) The board may agree to accept repayment in installments in accordance with a schedule established by the board.

(b) Payments shall first be applied to interest and then to principal on the earliest unpaid contracts.

(3) Repayment may be deferred in the case of instances such as disability, major illness, accident, or if an active duty member of the Armed Forces of the United States that prevents a recipient from completing a program or being employed as a medical imaging technologist, radiation therapist, or limited x-ray machine operator in Kentucky. Request for deferment requires completion of KBMIRT Form 14 and a physician's statement, or form DD-214, or other proof of active military status.

(4) A student enrolled in a program may defer repayment if the student fails to achieve successful academic progression. Request for deferral requires completion of KBMIRT Form 14 and a certified official transcript.

### Section 7.~~[Section 6.]~~ Verification.

(1) Verification of employment as a medical imaging technologist, radiation therapist, or limited x-ray machine operator in Kentucky pursuant to the contract, KBMIRT Form 12 shall be submitted to the board when the recipient's employment commitment begins and when it is completed. A termination of

employment prior to completion shall be reported to the board within thirty (30) days by the employer and the recipient.

(2) A recipient shall notify the board of a change of name or address or enrollment status in school immediately and within thirty (30) days of change.

### Section 8.~~[Section 7.]~~ Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) KBMIRT Form 10, "Scholarship Application - Medical Imaging and Radiation Therapy Scholarship and Continuing Education Fund", ~~August 2024~~~~[October 2023]~~;

(b) KBMIRT Form 11, "Scholarship Application - Verification of Student Status", October 2023;

(c) KBMIRT Form 12, "Medical Imaging and Radiation Therapy Scholarship and Continuing Education Fund Contract", ~~August 2024~~~~[March 2020]~~;

(d) KBMIRT Form 13, "Medical Imaging and Radiation Therapy Scholarship and Continuing Education Fund Promissory Note", March 2020; and

(e) KBMIRT Form 14, "Medical Imaging and Radiation Therapy Scholarship and Continuing Education Fund Request for Deferral", August 2020.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Medical Imaging and Radiation Therapy, 2365 Harrodsburg Road, Suite A220, Lexington, Kentucky 40504, Monday through Friday, 8:00 a.m. to 4:30 p.m.

KERI LEAMY, Board Chair

APPROVED BY AGENCY: August 13, 2024

FILED WITH LRC: September 5, 2024 at 10:45 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 21, 2024 at 10:00 a.m. at 2365 Harrodsburg Rd, Suite A220, Lexington Kentucky 40504. 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 November 30, 2024. 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: Elizabeth Morgan, Executive Director, 2365 Harrodsburg Rd, Suite A220, Lexington Kentucky 40504, phone 502-782-5687, fax 502-782-6495, email elizabeth.morgan@ky.gov.

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Elizabeth Morgan

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation implements the Kentucky Medical Imaging and Radiation Therapy and Continuing Education Fund and establishes the requirements relating to the program in accordance with KRS 311B.050.

(b) The necessity of this administrative regulation: The Board of Medical Imaging and Radiation Therapy is authorized by KRS 311B.010 to 311B.190 to regulate licensees other than licensed practitioners of the healing arts, including but not limited to: the classification and licensure of medical imaging technologists, radiation therapists, radiologist assistants and limited x-ray machine operators; examinations; standards of education, experience, and continuing education; curricula standards for institutions teaching persons to perform medical imaging and radiation therapy procedures; issuance, renewal, and revocation of licenses; the establishment of a reasonable scheduled of fees and charges to be paid by individuals for examinations, licenses and renewal licenses; and to set other standards as may be appropriate for the protection of health and safety. This administrative regulation establishes procedures for the Medical Imaging and Radiation Therapy Scholarship and Continuing Education Fund to promote medical imaging and radiation therapy

entry-level education as well as the continued education of licensees; also promotes employment in the Commonwealth of Kentucky.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations regarding licensure and establishing scholarship and continued education funds.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation implements the Kentucky Medical Imaging and Radiation Therapy and Continuing Education Fund and establishes the requirements relating to the program in accordance with KRS 311B.050.

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

(a) How the amendment will change this existing administrative regulation: The amendment provides the opportunity for scholarship recipients to apply for the renewal of their scholarship award, providing additional funding and by eliminating some barriers to re-award of the scholarship in the interest of a reduction in paperwork.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to provide additional funding to scholarship recipients for subsequent years if they reapply.

(c) How the amendment conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations regarding scholarship funds and continued education.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will ensure clear understanding of requirements for the scholarship fund, and reapplication for scholarship funds in subsequent years.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 300 state health care organizations and approximately 8,000 licensees.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No action is required. The amendment merely clarifies the scholarship fund recipients may apply for additional funds.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicants and licensees benefit by having the continuing education requirements clarified.

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

(a) Initially: The Board will evaluate balance of restricted fund to determine what amount to earmark for scholarship fund.

(b) On a continuing basis: The Board will evaluate balance of restricted fund to determine what amount to earmark for scholarship fund.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Board's operations are funded by fees paid by licensees and applicants; the Board will evaluate restricted fund balance prior to designating funds to scholarship fund.

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

(9) TIERING: Is tiering applied? Tiering is not applied to this administrative regulation because the regulation applies similarly to similarly situated licensees and applicants.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 311B.050, 311B.130

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Medical Imaging and Radiation Therapy.

(a) Estimate the following for the first year:

Expenditures: n/a

Revenues: n/a

Cost Savings: n/a

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There is no cost associated with administering this regulation.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Local entities should not be affected.

(a) Estimate the following for the first year:

Expenditures: n/a

Revenues: n/a

Cost Savings: n/a

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There is no cost associated with administering this regulation.

(4) Identify additional regulated entities not listed in questions (2) or (3): None.

(a) Estimate the following for the first year:

Expenditures: n/a

Revenues: n/a

Cost Savings: n/a

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There is no cost associated with administering this regulation.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: There is no cost associated with administering this regulation.

(b) Methodology and resources used to determine the fiscal impact: There is no cost associated with administering this regulation.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) There is no cost associated with administering this regulation.

(b) The methodology and resources used to reach this conclusion: There is no cost associated with administering this regulation.

**KENTUCKY BOARD OF EMERGENCY MEDICAL SERVICES  
(Amendment)**

**202 KAR 7:201. Emergency medical responders.**

RELATES TO: KRS 12.355, 311A.010, 311A.025, 311A.030, 311A.050-311A.090, 311A.095, 311A.100, 311A.120, 311A.140, 311A.145, 311A.160, 10 U.S.C. 121, 12304

STATUTORY AUTHORITY: KRS 311A.020, 311A.025, 311A.160

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311A.020 requires the board to promulgate administrative regulations relating to emergency medical responders. KRS 311A.025 and 311A.160 require the board to establish standards relating to emergency medical responders. This administrative regulation establishes the standards relating to emergency medical responders.

Section 1. Emergency Medical Responder Student Eligibility. An individual shall be eligible to enroll as a student in an Emergency Medical Responder training program if the applicant:

(1) Is not currently subject to disciplinary action pursuant to KRS Chapter 311A that would prevent certification; and

(2) Meets all additional requirements established by the EMS Training and Educational Institution (TEI).

## VOLUME 51, NUMBER 4– October 1, 2024

Section 2. Certification Requirements. Individuals desiring initial certification as an Emergency Medical Responder shall:

(1) Successfully complete a board approved training program that conforms to the United States Department of Transportation, National Highway Traffic Safety Administration, National Emergency Medical Services Education Standards-Emergency Medical Responder Instructional Guidelines, except that the education curriculum shall not be satisfied by the completion of refresher or transition courses alone;

(2) Meet all educational standards established in 202 KAR 7:601;

(3) Obtain certification as a NREMT-Emergency Medical Responder;

(4) Submit a completed EMR Initial Certification Application in KEMSIS;

(5) Pay the fee required for certification pursuant to 202 KAR 7:030;

(6) Undergo a background check pursuant to KRS 311A.050 and 311A.100, which shall be:

(a) National in scope for an applicant not currently certified at any level in Kentucky;

(b) Statewide in scope for an applicant with current certification in Kentucky;

(c) Less than six (6) months old when the applicant submits to the board all requirements for certification;

(d) Provided by a vendor that has been contracted through the board; and

(e) Submitted to the board by the company that conducts the background check; and

(7) Be a citizen of the United States, a permanent resident of the United States, or otherwise lawfully present in the United States, as evidenced by submission to the board of:

(a) A Social Security card;

(b) Birth certificate;

(c) A United States Citizenship and Immigration Services (U.S.C.I.S.) Permanent Resident Card (form I-551/Green Card); or

(d) Other legal authorization to live and work in the United States.

Section 3. Renewal of Certification and Continuing Education Requirements.

(1) An Emergency Medical Responder shall be eligible for certification renewal if:

(a) The applicant submits a completed EMR Certification Renewal Application in KEMSIS;

(b) The applicant maintains written evidence of:

1. HIV/AIDS training required by KRS 311A.120;

2. Pediatric Abusive Head Trauma training required by KRS 311A.120; and

3. Awareness of Sexual Violence Training required by KRS 311A.120;

(c) The applicant pays the fee pursuant to 202 KAR 7:030; and

(d) The applicant maintains evidence of:

1. Current certification by the NREMT as an Emergency Medical Responder, except that if this option is used, the board may request, though a continuing education audit, proof of continuing education to verify compliance with the requirements of this section; or

2. Successful completion of the NREMT Emergency Medical Responder National Component of the Continued Competency Program for Continuing Education, which shall be validated by entities authorized to conduct continuing education pursuant to 202 KAR 7:601.

(2) An application for certification renewal shall be denied if:

(a) Prior to the certification expiration date, the applicant has not met the applicable requirements of this section; or

(b) The applicant has been subjected to disciplinary action that prevents certification renewal at the time of application.

(3) A certified Emergency Medical Responder, in good standing, who is a member of a National Guard or military reserve unit called to active duty by presidential order pursuant to 10 U.S.C. §§ 121 and 12304, shall be renewed according to KRS 12.355 upon submission of the Military Extension Application.

(4) The board office may audit an Emergency Medical Responder's continuing education and continuing education records. The Emergency Medical Responder shall submit the documentation requested within ten (10) business days of receipt of the board's request.

(5) The Emergency Medical Responder shall maintain documentation of all continuing education for three (3) years from the date of completion.

(6) If documentation of continuing education hours consistent with this administrative regulation are not received using the board-approved submission process within ten (10) business days of receipt of the board's request, the Emergency Medical Responder certification for the individual shall be summarily revoked and the individual shall reapply for certification through Reinstatement, if eligible.

(7) The ten (10) business days for submission shall not apply to investigations pursuant to KRS Chapter 311A.

Section 4. Reinstatement of Certification.

(1) An Emergency Medical Responder whose certification has lapsed may reinstate his or her certificate by submitting to the board:

(a) A completed EMR Reinstatement Certification Application in KEMSIS;

(b) Evidence of previous certification as an Emergency Medical Responder in the Commonwealth of Kentucky;

(c) Proof of current training in:

1. Pediatric Abusive Head Trauma as required by KRS 311A.120;

2. Awareness of Sexual Violence Training required by KRS 311A.120; and

3. HIV/AIDS training required by KRS 311A.120; and

(d) Evidence of successful completion of the NREMT Emergency Medical Responder National Component of the Continued Competency Program for Continuing Education within twelve (12) months preceding his or her application for reinstatement of Emergency Medical Responder.

(2) The applicant shall pay the fee required for reinstatement pursuant to 202 KAR 7:030.

(3) The applicant shall undergo a national background check provided by a vendor that has been contracted through the board. The applicant shall not directly submit a background check to meet the requirements of this section. The background check shall be submitted to the board by the company that conducts the background check.

(4) Background checks that are older than six (6) months shall not be considered current, and the applicant shall undergo another national background check prior to approval of reinstatement of certification.

(5) The applicant for reinstatement of certification shall bear the burden of proof of previous certification in Kentucky if the previous certification is in issue or dispute.

(6) An applicant who is ineligible for certification pursuant to KRS 311A.050 through 311A.090 shall be ineligible for reinstatement.

Section 5. Emergency Medical Responder Reciprocity.

(1) An individual who is certified in ~~another~~~~[a contiguous] state as an Emergency Medical Responder~~~~[to the Commonwealth of Kentucky]~~ or by the NREMT as a NREMT-Emergency Medical Responder or any member of the United States Armed Forces, or veteran who has transitioned within the past six (6) years from the United States Armed Forces, and has been registered by the National Registry as a NREMT-Emergency Medical Responder or EMT shall be eligible for reciprocity for Kentucky certification as an Emergency Medical Responder if the applicant submits:

(a) A completed EMR Reciprocity Certification Application in KEMSIS;

(b) Proof of the applicant's current unrestricted certification as a NREMT-Emergency Medical Responder or current Emergency Medical Responder certification in ~~another~~~~[a contiguous] state~~~~[to the Commonwealth of Kentucky]~~, or proof of completing a board-approved United States Armed Forces medical training course which included NREMT-Emergency Medical Technician certification; and

## VOLUME 51, NUMBER 4– October 1, 2024

(c) Proof of current training in:

1. HIV/AIDS training required by KRS 311A.120;
2. Pediatric Abusive Head Trauma as required by KRS 311A.120; and
3. Awareness of Sexual Violence Training required by KRS 311A.120.

(2) An applicant shall pay the fee required for reciprocity pursuant to 202 KAR 7:030.

(3) An applicant for Emergency Medical Responder reciprocity shall undergo a national background check provided by a vendor that has been contracted through the board.

(a) An applicant shall not directly submit a background check to meet the requirements of this section. The background check shall be submitted to the board by the company that conducts the background check.

(b) Background checks that are older than six (6) months shall not be considered current, and the applicant shall undergo another national background check prior to approval of certification through reciprocity.

(4) An applicant shall not have been convicted of offenses described in KRS 311A.050.

(5) An applicant shall not have been subjected to discipline that would prevent reciprocity at the time of application.

(6) An Emergency Medical Responder certified pursuant to this administrative regulation shall not perform any procedures or skill on which the Emergency Medical Responder has not been trained. An Emergency Medical Responder who performs a skill for which the Emergency Medical Responder does not have documented training shall have exceeded the scope of practice and shall be in violation of KRS 311A.050.

(7) An Emergency Medical Responder certified pursuant to this section shall complete the Kentucky supplemental Emergency Medical Responder curricula for the procedures listed in 202 KAR 7:701 prior to beginning work for a licensed agency in Kentucky.

(a) Kentucky supplemental Emergency Medical Responder curricula consistent with 202 KAR 7:701 shall be provided during employee orientation, or by entities authorized to conduct continuing education pursuant to 202 KAR 7:601.

(b) Verification of competency on the supplemental curricula procedures in 202 KAR 7:701 shall be maintained by the Emergency Medical Responder for a minimum of three (3) years. Failure to submit the EMR Supplemental Curriculum Training Verification Report upon request shall result in revocation of the Emergency Medical Responder certification.

(c) If an Emergency Medical Responder certified pursuant to this section fails to supply verification of competency as required by subsection (7) of this section, the Emergency Medical Responder shall be ineligible to apply for and receive Emergency Medical Responder reciprocity certification until the applicant has submitted the EMR Supplemental Curriculum Training Verification Report as required by 202 KAR 7:701, and shall reapply for Reciprocity through the process listed in this section.

**Section 6. Scope of Practice.** An Emergency Medical Responder shall provide emergency medical services consistent with the skills and procedures in the National EMS Scope of Practice Model and 202 KAR 7:701.

**Section 7. Expiration of Certification.**

(1) Certification periods and expiration dates shall be pursuant to KRS 311A.095.

(2) If an Emergency Medical Responder's certification lapses or expires, the Emergency Medical Responder shall cease provision of emergency medical services.

(3) An Emergency Medical Responder who has allowed his or her certification to lapse or expire shall reinstate certification pursuant to Section 4 of this administrative regulation.

**Section 8. Surrender of Certification.**

(1) An Emergency Medical Responder surrendering certification shall:

(a) Submit a completed Voluntary Surrender of EMR Certification Application in KEMSIS; and

(b) Pay the fee pursuant to 202 KAR 7:030.

(2) The applicant shall notify the board's licensed service director with whom the applicant is affiliated immediately upon surrendering his or her certification.

**Section 9. Reporting Requirements.**

(1) An Emergency Medical Responder shall maintain current demographic information in KEMSIS including:

(a) Legal name;

1. Any changes to an Emergency Medical Responder's legal name shall be submitted using the Name Change Application in KEMSIS; and

2. One (1) of the following documents as verification of name change:

a. Social Security card;

b. Driver's license; or

c. Passport;

(b) Mailing address;

(c) Email address; and

(d) Phone number.

(2) An Emergency Medical Responder who does not comply with this section shall be subject to disciplinary action pursuant to KRS Chapter 311A.

**Section 10. Exemptions from Emergency Medical Responder Administrative Regulations.** Certification requirements for an Emergency Medical Responder shall not apply to:

(1) United States military personnel or state National Guard or employees of the United States government while providing services on a United States government-owned or operated facility, or while engaged in the performance of their official duties under federal law, or while providing assistance in a mass casualty or disaster type situation; or

(2) An Emergency Medical Responder certified in another state or territory of the United States who:

(a) Comes into Kentucky to transport a patient from another state into Kentucky; or

(b) Is transporting a patient through the state of Kentucky to an out-of-Kentucky location.

**Section 11. Public Notice of Negative Action.** The board office shall cause to be published on the board website the name of an Emergency Medical Responder who:

(1) Is fined;

(2) Is placed on probationary status;

(3) Is placed on restricted status;

(4) Is suspended; or

(5) Has had his or her certification revoked.

**Section 12. Incorporation by Reference.**

(1) The following material is incorporated by reference:

(a) "National Emergency Medical Services Education Standards-Emergency Medical Responder Instructional Guidelines", The United States Department of Transportation, National Highway Traffic Safety Administration, DOT HS 811 077B, January 2009;

(b) "EMR Initial Certification Application" in KEMSIS, July 2019;

(c) "EMR Certification Renewal Application" in KEMSIS, July 2019;

(d) "EMR Reciprocity Certification Application" in KEMSIS, July 2019;

(e) "EMR Reinstatement Certification Application" in KEMSIS, July 2019;

(f) "National EMS Scope of Practice Model", National Highway Traffic Safety Administration, DOT HS 810 657, February 2007;

(g) "National EMS Scope of Practice Model", National Highway Traffic Safety Administration, DOT HS 812 666, February 2019;

(h) "EMR Supplemental Curriculum Training Verification Report", July 2019;

(i) "Voluntary Surrender of EMR Certification Application" in KEMSIS, July 2019;

(j) "National Registry of Emergency Medical Technicians National Continued Competency Program EMR", October 2016;

(k) "Name Change Application" in KEMSIS, July 2019;

## VOLUME 51, NUMBER 4– October 1, 2024

(l) "Military Extension Application" in KEMSIS, July 2019; and  
(m) "United States Citizenship and Immigration Services (U.S.C.I.S.) Permanent Resident Card (form I-551/Green Card)", July 2019.

(2) This material may be inspected, obtained, or copied, subject to applicable copyright law, at the Office of the Kentucky Board of Emergency Medical Services, 500 Mero Street, 5th Floor 5SE32, Frankfort, Kentucky 40601, by appointment, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material is also available on the board's Web site at: kyems.com.

JOHN R. HOLDER, Chair

APPROVED BY AGENCY: August 8, 2024

FILED WITH LRC: September 3, 2024 at 3 p.m.

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on November 27, 2024, at 1:00 p.m. ET at the Kentucky Board of Emergency Medical Services, 500 Mero Street, 5th Floor 5SE32, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 2024. 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:** John K. Wood, counsel for the Kentucky Board of Emergency Medical Services, 163 East Main Street, Suite 200, Lexington, Kentucky 40507, phone (859) 225-4714, email [administrativeregulations@wgmfirm.com](mailto:administrativeregulations@wgmfirm.com).

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John K. Wood

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 311A.020 requires the board to promulgate administrative regulations relating to first responders. KRS 311A.025 and KRS 311A.160 require the board to establish standards relating to emergency medical responders. This administrative regulation establishes standards relating to emergency medical responders.

(b) The necessity of this administrative regulation: KRS 311A.020 requires the board to promulgate administrative regulations relating to first responders. KRS 311A.025 and KRS 311A.160 require the board to establish standards relating to emergency medical responders. This administrative regulation establishes standards relating to emergency medical responders.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 311A.020, KRS 311A.025 and KRS 311A.160 by establishing standards relating to emergency medical responders.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 311A.020 requires the board to promulgate administrative regulations relating to first responders. KRS 311A.025 and KRS 311A.160 require the board to establish standards relating to emergency medical responders. This administrative regulation assists in the effective administration of the foregoing statutes by establishing the standards relating to emergency medical responders.

(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 brings this administrative regulation into conformity with House Bill 57's amendment to KRS 311A.142(2) by making EMRs certified and in good standing in any other state eligible for a reciprocal Kentucky EMR certification. Prior to House Bill 57

becoming law, only EMS personnel in states contiguous to Kentucky were eligible for reciprocity.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to bring this regulation into conformity with the recent amendment to KRS 311A.142(2) and to mitigate the staffing shortages that EMS agencies across the Commonwealth are facing.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 311A.020, KRS 311A.025 and KRS 311A.160 by establishing standards relating to emergency medical responders.

(d) How the amendment will assist in the effective administration of the statutes: KRS 311A.020 requires the board to promulgate administrative regulations relating to first responders. KRS 311A.025 and KRS 311A.160 require the board to establish standards relating to emergency medical responders. This amendment will assist in the effective administration of the foregoing statutes by establishing the standards relating to emergency medical responders.

(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 the Kentucky Board of Emergency Medical Services, emergency medical services providers, individuals seeking Emergency Medical Responder reciprocity, and local governments.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This amendment does not establish any new requirements. Emergency Medical Responders certified in any other state may seek a reciprocal Kentucky certification by meeting the existing requirements set forth in Section 5 of this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to any entity identified in question (3), other than administrative costs that may be incurred in recruiting and maintaining personnel.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Emergency Medical Responders certified in states not contiguous to Kentucky will benefit from this amendment by now being eligible for a reciprocal Kentucky certification. EMS agencies and local governments will benefit from the expanded pool of individuals eligible for a reciprocal Kentucky Emergency Medical Responder certification.

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

(a) Initially: Other than administrative costs, there will be no costs to the Board in implementing this administrative regulation.

(b) On a continuing basis: Other than administrative costs, there will be no costs to the Board in implementing this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Kentucky Board of Emergency Medical Services is a state agency that receives its annual budget from the state government.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied to this administrative regulation because the amendment applies to all Emergency Medical Responders.

### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 311A.020 requires the board to promulgate

**VOLUME 51, NUMBER 4– October 1, 2024**

administrative regulations relating to first responders. KRS 311A.025 and KRS 311A.160 require the board to establish standards relating to emergency medical responders.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Emergency Medical Services.

(a) Estimate the following for the first year:

Expenditures: None.

Revenues: None.

Cost Savings: None.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? This amendment should not affect the Board's expenditures, revenues, or costs.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): All cities and counties.

(a) Estimate the following for the first year:

Expenditures: There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining personnel.

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining required personnel.

(4) Identify additional regulated entities not listed in questions (2) or (3): All EMS services.

(a) Estimate the following for the first year:

Expenditures: There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining personnel.

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining personnel.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining personnel.

(b) Methodology and resources used to determine the fiscal impact: No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining personnel.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This administrative regulation will not have an overall negative or adverse major economic impact to the affected entities.

(b) The methodology and resources used to reach this conclusion: No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining required personnel.

**KENTUCKY BOARD OF EMERGENCY MEDICAL SERVICES  
(Amendment)**

**202 KAR 7:301. Emergency medical technician.**

RELATES TO: KRS 12.355, 311A.010, 311A.025, 311A.050-311A.090, 311A.095, 311A.100, 311A.120, 311A.130, 311A.140, 311A.145, 311A.165, 10 U.S.C. 121, 12304

STATUTORY AUTHORITY: KRS 311A.020, 311A.025, 311A.030, 311A.140, 311A.165

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311A.025 requires the board to promulgate administrative regulations relating to Emergency Medical Technicians. This administrative regulation establishes requirements for Emergency Medical Technicians.

Section 1. Emergency Medical Technician Student Eligibility. An individual shall be eligible to enroll as a student in an Emergency Medical Technician education and training program if the applicant:

(1) Is not currently subject to disciplinary action pursuant to KRS Chapter 311A that would prevent certification; and

(2) Meets all additional requirements established by the EMS Training and Educational Institution (EMS-TEI).

Section 2. Certification Requirements. Individuals desiring initial certification as an Emergency Medical Technician shall:

(1) Successfully complete a board approved education and training program that conforms to the curriculum of the United States Department of Transportation, National Highway Traffic Safety Administration National Emergency Medical Services Education Standards-Emergency Medical Technician Instructional Guidelines, except that the educational curriculum shall not be satisfied by the completion of refresher or transition courses alone;

(2) Meet all educational standards established by 202 KAR 7:601;

(3) Obtain certification as a NREMT-Emergency Medical Technician;

(4) Submit a completed EMT Initial Certification Application in KEMSIS;

(5) Pay the fee required for certification pursuant to 202 KAR 7:030;

(6) Undergo a background check pursuant to KRS 311A.050 and 311A.100, which shall be:

(a) National in scope for an applicant not currently certified at any level in Kentucky;

(b) Statewide in scope for an applicant with current certification in Kentucky;

(c) Less than six (6) months old when the applicant submits to the board all requirements for certification;

(d) Provided by a vendor that has been contracted through the board; and

(e) Submitted to the board by the company that conducts the background check; and

(7) Be a citizen of the United States, a permanent resident of the United States, or otherwise lawfully present in the United States, as evidenced by submission to the board of:

(a) A Social Security card;

(b) Birth certificate;

(c) A United States Citizenship and Immigration Services (U.S.C.I.S.) Permanent Resident Card (form I-551/Green Card); or

(d) Other legal authorization to live and work in the United States.

Section 3. Renewal of Certification and Continuing Education Requirements.

(1) An Emergency Medical Technician shall be eligible for certification renewal if:

(a) The applicant submits a completed EMT Certification Renewal Application in KEMSIS;

(b) The applicant maintains written evidence of:

1. HIV/AIDS training required by KRS 311A.120;

2. Pediatric Abusive Head Trauma required by KRS 311A.120; and

3. Awareness of Sexual Violence Training required by KRS 311A.120;

(c) The applicant pays the fee required for renewal pursuant to 202 KAR 7:030; and

(d) The applicant maintains evidence of:

1. Current certification by the NREMT as an Emergency Medical Technician, except that if this option is used, the board may request, through a continuing education audit, proof of continuing education to verify compliance with the requirements of this section; or

2. Successful completion of the NREMT Emergency Medical Technician National Component of the Continued Competency Program for Continuing Education, which shall be validated by entities authorized to conduct continuing education pursuant to 202 KAR 7:601.

(2) An application for certification renewal shall be denied if:

## VOLUME 51, NUMBER 4– October 1, 2024

(a) Prior to the certification expiration date, the applicant has not met the applicable requirements of this section; or

(b) The applicant has been subjected to disciplinary action that prevents certification renewal at the time of application.

(3) A certified Emergency Medical Technician, in good standing, who is a member of a National Guard or a military reserve unit called to active duty by presidential order pursuant to 10 U.S.C. §§ 121 and 12304, shall be renewed according to KRS 12.355 upon submission of the Military Extension Application.

(4) The board office may audit an Emergency Medical Technician's continuing education and continuing education records. The Emergency Medical Technician shall submit the documentation requested within ten (10) business days of receipt of the board's request.

(5) If documentation of continuing education hours consistent with this administrative regulation are not received using the board-approved submission process within ten (10) business days of receipt of the board's request, the Emergency Medical Technician certification for the individual shall be summarily revoked and the individual shall reapply for certification through reinstatement if eligible.

(6) The ten (10) business days for submission shall not apply to investigations pursuant to KRS Chapter 311A.

(7) The Emergency Medical Technician shall maintain documentation of all continuing education for three (3) years from the date of completion.

### Section 4. Reinstatement of Certification.

(1) An Emergency Medical Technician whose certification has lapsed may reinstate his or her certificate by submitting to the board:

(a) A completed EMT Reinstatement Certification Application in KEMSIS;

(b) Evidence of previous certification as an Emergency Medical Technician in the Commonwealth of Kentucky;

(c) Proof of current training in:

1. Pediatric Abusive Head Trauma as required by KRS 311A.120;

2. Awareness of Sexual Violence Training required by KRS 311A.120; and

3. HIV/AIDS training required by KRS 311A.120; and

(d) Payment of the fee pursuant to 202 KAR 7:030.

(2) The applicant for reinstatement of certification shall undergo a national background check provided by a vendor that has been contracted through the board.

(a) An applicant shall not directly submit a background check to meet the requirements of this section. The background check shall be submitted to the board by the company that conducts the background check.

(b) Background checks that are older than six (6) months shall not be considered current, and the applicant shall undergo another national background check prior to approval of reinstatement of certification.

(3) An applicant for reinstatement of certification shall submit to the board evidence of successful completion of the NREMT Emergency Medical Technician National Component of the Continued Competency Program for Continuing Education within twelve (12) months preceding his or her application for reinstatement of the Emergency Medical Technician.

(4) The applicant for reinstatement of certification shall bear the burden of proof of previous certification in Kentucky if the previous certification is in issue or dispute.

(5) An applicant who is ineligible for certification pursuant to KRS 311A.050 through 311A.090 shall be ineligible for reinstatement.

### Section 5. Emergency Medical Technician Reciprocity.

(1) An individual who is certified in ~~another[a contiguous] state [to the Commonwealth of Kentucky]~~ or by the NREMT as an Emergency Medical Technician or any member of the United States Armed Forces, or veteran who has transitioned within the past six (6) years from the United States Armed Forces, and has been registered by the National Registry as a NREMT-Emergency Medical Technician shall be eligible for reciprocity for Kentucky

certification as an Emergency Medical Technician if the applicant submits:

(a) A completed EMT Reciprocity Certification Application in KEMSIS;

(b) Proof of the applicant's current unrestricted certification as a NREMT-Emergency Medical Technician or current Emergency Medical Technician certification in ~~another[a contiguous] state [to the Commonwealth of Kentucky]~~, or proof of completing a board-approved United States Armed Forces medical training course which included NREMT-Emergency Medical Technician certification; and

(c) Proof of current training in:

1. HIV/AIDS training required by KRS 311A.120;

2. Pediatric Abusive Head Trauma as required by KRS 311A.120; and

3. Awareness of Sexual Violence Training required by KRS 311A.120.

(2) An applicant shall pay the fee required for certification through reciprocity pursuant to 202 KAR 7:030.

(3) An applicant for Emergency Medical Technician reciprocity shall undergo a national background check provided by a vendor that has been contracted through the board.

(a) An applicant shall not directly submit a background check to meet the requirements of this section. The background check shall be submitted to the board by the company that conducts the background check.

(b) Background checks that are older than six (6) months shall not be considered current, and the applicant shall undergo another national background check prior to approval of certification through reciprocity.

(4) An applicant shall not have been convicted of offenses described in KRS 311A.050.

(5) An applicant shall not have been subjected to discipline that would prevent reciprocity at the time of application.

(6) An Emergency Medical Technician certified pursuant to this administrative regulation shall not perform any procedures or skill on which the Emergency Medical Technician has not been trained. An Emergency Medical Technician who performs a skill for which the Emergency Medical Technician does not have documented training shall have exceeded the scope of practice and shall be in violation of KRS 311A.050.

(7) An Emergency Medical Technician certified pursuant to this section shall complete the Kentucky supplemental Emergency Medical Technician curricula for the procedures listed in 202 KAR 7:701 prior to beginning work for a licensed agency in Kentucky.

(a) Kentucky supplemental Emergency Medical Technician curricula consistent with 202 KAR 7:701 shall be provided during employee orientation, or by entities authorized to conduct continuing education pursuant to 202 KAR 7:601.

(b) Verification of competency on the supplemental curricula procedures in 202 KAR 7:701 shall be maintained by the Emergency Medical Technician for a minimum of three (3) years. Failure to submit the EMT Supplemental Curriculum Training Verification Report upon request shall result in revocation of the Emergency Medical Technician certification.

(c) If an Emergency Medical Technician certified pursuant to this section fails to supply verification of competency as required by subsection (7) of this section, the Emergency Medical Technician shall be ineligible to apply for and receive Emergency Medical Technician reciprocity certification until the applicant has submitted the EMT Supplemental Curriculum Training Verification Report as required by 202 KAR 7:701, and shall reapply for reciprocity through the process listed in this section.

Section 6. Scope of Practice. An Emergency Medical Technician shall provide emergency medical services consistent with the skills and procedures in the National EMS Scope of Practice Model and 202 KAR 7:701.

### Section 7. Expiration of Certification.

(1) Certification periods and expiration dates shall be pursuant to KRS 311A.095.

## VOLUME 51, NUMBER 4– October 1, 2024

(2) If an Emergency Medical Technician's certification lapses or expires, the Emergency Medical Technician shall cease provision of emergency medical services.

(3) An Emergency Medical Technician who has allowed his or her certification to lapse or expire shall be required to reinstate certification pursuant to Section 4 of this administrative regulation.

### Section 8. Downgrading Certification.

(1) An Emergency Medical Technician currently certified as an Emergency Medical Technician by the board shall be eligible for certification downgrade if:

(a) The certification is in good standing with no pending disciplinary action;

(b) The applicant submits a completed EMT Certification Downgrade Application in KEMSIS; and

(c) The applicant pays the fee pursuant to 202 KAR 7:030.

(2) An Emergency Medical Technician shall only be eligible to downgrade his or her certification to an Emergency Medical Responder certification.

(3) Certification periods and expiration dates shall be pursuant to KRS 311A.095.

(4) An applicant shall undergo a background check pursuant to KRS 311A.050 and 311A.100. The background check shall be:

(a) Statewide in scope for an applicant with current certification in Kentucky;

(b) Less than six (6) months old when the applicant submits to the board all requirements for certification; and

(c) Provided by a vendor that has been contracted through the board.

(5) Downgrade shall be denied if the applicant has not met the requirements of this section or has been subject to disciplinary action that prevents certification at the time of application.

(6) The applicant shall be responsible for meeting the renewal requirements of the downgraded certification level issued prior to expiration of that certification.

(7) To reinstate the certification or license that was previously held, the applicant shall meet the regulatory requirements for that level of certification or licensure.

(8) The applicant shall notify the board's licensed service director with whom the applicant is affiliated immediately upon downgrading his or her certification.

(9) Once the applicant has downgraded his or her certification or license, the applicant shall no longer be permitted to provide emergency medical services at the previous certification or license level held.

(10) An applicant applying for downgrade who does not comply with this section shall be subject to disciplinary action pursuant to KRS Chapter 311A.

(11) All endorsements, certifications, or licenses held at the previous certification or license level shall be void at the completion of the downgrade.

### Section 9. Surrender of Certification.

(1) An Emergency Medical Technician surrendering certification shall:

(a) Submit a completed EMT Certification Surrender Application in KEMSIS; and

(b) Pay the fee pursuant to 202 KAR 7:030.

(2) The applicant shall notify the board's licensed service director with whom the applicant is affiliated immediately upon surrendering his or her certification.

### Section 10. Reporting Requirements.

(1) An Emergency Medical Technician shall maintain current demographic information in KEMSIS including:

(a) Legal name;

1. Any changes to an Emergency Medical Technician's legal name shall be submitted using the Name Change Application in KEMSIS; and

2. One (1) of the following documents as verification of name change:

a. Social Security card;

b. Driver's license; or

c. Passport;

(b) Mailing address;

(c) Email address; and

(d) Phone number.

(2) An Emergency Medical Technician who does not comply with this section shall be subject to disciplinary action pursuant to KRS Chapter 311A.

Section 11. Exemptions from Emergency Medical Technician Administrative Regulations. Certification requirements for an Emergency Medical Technician shall not apply to:

(1) United States military personnel or state National Guard or employees of the United States government while providing services on a United States government owned or operated facility, or while engaged in the performance of their official duties under federal law, or while providing assistance in a mass casualty or disaster type situation; or

(2) An Emergency Medical Technician certified in another state or territory of the United States who:

(a) Comes into Kentucky to transport a patient from another state into Kentucky; or

(b) Is transporting a patient through the state of Kentucky to an out-of-Kentucky location.

Section 12. Public Notice of Negative Action. The board office shall cause to be published on the board Web site the name of an Emergency Medical Technician who:

(1) Is fined;

(2) Is placed on probationary status;

(3) Is placed on restricted status;

(4) Is suspended; or

(5) Has had his or her certification revoked.

### Section 13. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "National Emergency Medical Services Education Standards-Emergency Medical Technician Instructional Guidelines", The United States Department of Transportation, National Highway Traffic Safety Administration, DOT HS 811 077C, January 2009;

(b) "EMT Initial Certification Application" in KEMSIS, July 2019;

(c) "EMT Certification Renewal Application" in KEMSIS, July 2019;

(d) "EMT Reciprocity Certification Application" in KEMSIS July 2019;

(e) "EMT Reinstatement Certification Application" in KEMSIS, July 2019;

(f) "National EMS Scope of Practice Model", National Highway Traffic Safety Administration, DOT HS 810 657, February 2007;

(g) "National EMS Scope of Practice Model", National Highway Traffic Safety Administration, DOT HS 812 666, February 2019;

(h) "EMT Supplemental Curriculum Training Verification Report", July 2019;

(i) "EMT Certification Downgrade Application" in KEMSIS, July 2019;

(j) "EMT Certification Surrender Application" in KEMSIS, July 2019;

(k) "National Registry of Emergency Medical Technicians National Continued Competency Program EMT", October 2016;

(l) "Name Change Application" in KEMSIS, July 2019;

(m) "Military Extension Application" in KEMSIS, July 2019; and

(n) "United States Citizenship and Immigration Services (U.S.C.I.S.) Permanent Resident Card (form I-551/Green Card)", July 2019.

(2) This material may be inspected, obtained, or copied, subject to applicable copyright law, at the Office of the Kentucky Board of Emergency Medical Services, 500 Mero Street, 5th Floor 5SE32, Frankfort, Kentucky 40601, by appointment, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material is also available on the board's Web site at: kyems.com.

JOHN R. HOLDER, Chair

APPROVED BY AGENCY: August 8, 2024



FILED WITH LRC: September 3, 2024 at 3 p.m.

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on November 27, 2024, at 1:00 p.m. ET at the Kentucky Board of Emergency Medical Services, 500 Mero Street, 5th Floor 5SE32, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 2024. 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:** John K. Wood, counsel for the Kentucky Board of Emergency Medical Services, 163 East Main Street, Suite 200, Lexington, Kentucky 40507, phone (859) 225-4714, email [administrativeregulations@wgmfirm.com](mailto:administrativeregulations@wgmfirm.com).

#### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John K. Wood

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 311A.025 requires the board to promulgate administrative regulations relating to Emergency Medical Technicians. This administrative regulation establishes requirements for Emergency Medical Technicians.

(b) The necessity of this administrative regulation: KRS 311A.025 requires the board to promulgate administrative regulations relating to Emergency Medical Technicians. This administrative regulation is necessary to establish requirements for Emergency Medical Technicians.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 311A.025 by establishing requirements for Emergency Medical Technicians.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 311A.025 requires the board to promulgate administrative regulations relating to Emergency Medical Technicians. This administrative regulation assists in the effective administration of KRS 311A.025 by establishing requirements for Emergency Medical Technicians.

(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 brings this administrative regulation into conformity with House Bill 57's amendment to KRS 311A.142(2) by making EMTs certified and in good standing in any other state eligible for a reciprocal Kentucky certification. Prior to House Bill 57 becoming law, only EMS personnel in states contiguous to Kentucky were eligible for reciprocity.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to bring this administrative regulation into conformity with House Bill 57's amendment to KRS 311A.142(2) and to mitigate the staffing shortages that EMS agencies across the Commonwealth are facing.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 311A.025 by establishing requirements for Emergency Medical Technicians. This amendment also conforms to the recent amendment to KRS 311A.142(2) permitting reciprocity to EMS personnel licensed or certified and in good standing with another state.

(d) How the amendment will assist in the effective administration of the statutes: KRS 311A.025 requires the board to promulgate administrative regulations relating to Emergency Medical Technicians. This administrative regulation assists in the effective administration of KRS 311A.025 by establishing requirements for Emergency Medical Technicians.

(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 the Kentucky Board of Emergency Medical Services, emergency medical services providers, individuals seeking Emergency Medical Technician reciprocity, and local governments.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This amendment does not establish any new requirements. Emergency Medical Technicians certified in any other state may seek a reciprocal Kentucky certification by meeting the existing requirements set forth in Section 5 of this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to any entity identified in question (3), other than administrative costs that may be incurred in recruiting and maintaining personnel.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Emergency Medical Technicians certified in states not contiguous to Kentucky will benefit from this amendment by now being eligible for a reciprocal Kentucky certification. EMS agencies and local governments will benefit from the expanded pool of individuals eligible for a reciprocal Kentucky Emergency Medical Technician certification.

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

(a) Initially: Other than administrative costs, there will be no costs to the Board in implementing this administrative regulation.

(b) On a continuing basis: Other than administrative costs, there will be no costs to the Board in implementing this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Kentucky Board of Emergency Medical Services is a state agency that receives its annual budget from the state government.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied to this administrative regulation because the amendment applies to all Emergency Medical Technicians.

#### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 311A.025 requires the board to promulgate administrative regulations relating to Emergency Medical Technicians. This administrative regulation establishes requirements for Emergency Medical Technicians.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Emergency Medical Services.

(a) Estimate the following for the first year:

Expenditures: None.

Revenues: None.

Cost Savings: None.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? This amendment should not affect the Board's expenditures, revenues, or costs.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): All cities and counties.

(a) Estimate the following for the first year:

Expenditures: There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining personnel.

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining required personnel.

(4) Identify additional regulated entities not listed in questions (2) or (3): All EMS services.

(a) Estimate the following for the first year:

Expenditures: There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining personnel.

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining personnel.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining personnel.

(b) Methodology and resources used to determine the fiscal impact: No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining personnel.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This administrative regulation will not have an overall negative or adverse major economic impact to the affected entities.

(b) The methodology and resources used to reach this conclusion: No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining required personnel.

**KENTUCKY BOARD OF EMERGENCY MEDICAL SERVICES  
(Amendment)**

**202 KAR 7:330. Advanced emergency medical technician.**

RELATES TO: KRS 12.355, 38.030, Chapter 39, 39A.050, 311A.010, 311A.020, 311A.025, 311A.050-311A.090, 311A.095, 311A.100, 311A.120, 311A.140, 311A.145, 311A.150, 311A.195, 10 U.S.C. 121, 12304

STATUTORY AUTHORITY: KRS 311A.020, 311A.025, 311A.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311A.025(2) requires the board to promulgate administrative regulations relating to the standards for training, education, examination, certification, practice, and recertification of the Advanced Emergency Medical Technician (AEMT). This administrative regulation establishes requirements for Advanced Emergency Medical Technician.

Section 1. Advanced Emergency Medical Technician Student Eligibility. An individual shall be eligible to enroll as a student in an Advanced Emergency Medical Technician education and training program if the applicant:

(1) Is currently certified at a minimum of an Emergency Medical Technician by the board or the NREMT;

(2) Is not currently subject to disciplinary action pursuant to KRS Chapter 311A that would prevent certification; and

(3) Meets all additional requirements established by the EMS Training and Educational Institution (EMS-TEI).

Section 2. Certification Requirements.

(1) Individuals desiring initial certification as an Advanced Emergency Medical Technician shall:

(a) Successfully complete a board approved education and training program that conforms to the curriculum of the United States Department of Transportation, National Highway Traffic Safety Administration National Emergency Medical Services Education Standards-Advanced Emergency Medical Technician Instructional Guidelines, except that the educational curriculum shall not be satisfied by the completion of refresher or transition courses alone;

(b) Meet all educational standards established in 202 KAR 7:601;

(c) Obtain certification as a NREMT-Advanced Emergency Medical Technician;

(d) Be a citizen of the United States, a permanent resident of the United States, or otherwise lawfully present in the United States, as evidenced by submission to the board of:

1. A Social Security card;

2. Birth certificate;

3. A United States Citizenship and Immigration Services (U.S.C.I.S.) Permanent Resident Card (form I-551/Green Card); or

4. Other legal authorization to live and work in the United States.

(e) Submit a completed AEMT Initial Certification Application in KEMSIS; and

(f) Pay the fee pursuant to 202 KAR 7:030 for certification as an Advanced Emergency Medical Technician.

(2) An applicant shall undergo a background check pursuant to KRS 311A.050 and 311A.100. The background check shall be:

(a) National in scope for an applicant not currently certified at any level in Kentucky;

(b) Statewide in scope for an applicant with current certification in Kentucky;

(c) Less than six (6) months old when the applicant submits to the board all requirements for certification; and

(d) Provided by a vendor that has been contracted through the board.

(3) An applicant shall not directly submit a background check. The background check shall be submitted to the board by the company that conducts the background check.

Section 3. Renewal of Certification and Continuing Education Requirements.

(1) An Advanced Emergency Medical Technician shall be eligible for certification renewal if:

(a) The applicant submits a completed AEMT Certification Renewal Application in KEMSIS;

(b) The applicant maintains written evidence of:

1. HIV/AIDS training required by KRS 311A.120;

2. Pediatric Abusive Head Trauma as required by KRS 311A.120; and

3. Awareness of Sexual Violence Training required by KRS 311A.120;

(c) The applicant pays the fee required for renewal pursuant to 202 KAR 7:030; and

(2) The applicant maintains evidence of:

(a) Current certification by the National Registry of Emergency Medical Technicians as an Advanced Emergency Medical Technician, except that if this option is used, the board may request, through a continuing education audit, proof of continuing education to verify compliance with the continuing education requirements of this section; or

(b) Successful completion of the NREMT Advanced Emergency Medical Technician National Component of the Continued Competency Program, for Continuing Education which shall be validated by entities authorized to conduct continuing education pursuant to 202 KAR 7:601.

(3) An application for certification renewal shall be denied if:

(a) Prior to the certification expiration date, the applicant has not met the applicable requirements of this section;

(b) The applicant has been subjected to disciplinary action that prevents certification renewal at the time of application; or

(c) The applicant is delinquent on fines or fees owed to the board pursuant to KRS 311A.055, 311A.060, or 202 KAR 7:030.

## VOLUME 51, NUMBER 4– October 1, 2024

(4) A certified Advanced Emergency Medical Technician, in good standing, who is a member of a branch of the United States National Guard or a military reserve unit called to active duty by presidential order pursuant to 10 U.S.C. §§ 121 and 12304, shall be renewed in accordance with KRS 12.355 upon submission of the Military Extension Application.

(5) The board office may audit an Advanced Emergency Medical Technician's continuing education and continuing education records.

(6) The Advanced Emergency Medical Technician shall submit the documentation requested within ten (10) business days of receipt of the board's request. If documentation of continuing education hours consistent with this administrative regulation are not received using the board-approved submission process within ten (10) business days of receipt of the board's request, the Advanced Emergency Medical Technician certification for the individual shall be summarily revoked and the individual shall reapply for certification through Reinstatement if eligible.

(7) The ten (10) business days for submission shall not apply to investigations pursuant to KRS Chapter 311A.

(8) The Advanced Emergency Medical Technician shall maintain documentation of all continuing education for three (3) years from the date of completion.

### Section 4. Reinstatement of Certification.

(1) An Advanced Emergency Medical Technician whose Kentucky certification has lapsed shall be eligible for reinstatement of certification if the applicant submits:

(a) A completed AEMT Reinstatement Certification Application in KEMSIS; and

(b) Evidence of:

1. Previous certification as an Advanced Emergency Medical Technician in the Commonwealth of Kentucky;

2. Proof of current training in:

a. Pediatric Abusive Head Trauma as required by KRS 311A.120;

b. Awareness of Sexual Violence Training required by KRS 311A.120; and

c. HIV/AIDS training required by KRS 311A.120.

(2) The applicant shall pay the fee pursuant to 202 KAR 7:030.

(3) The applicant for reinstatement of certification shall undergo a national background check provided by a vendor that has been contracted through the board.

(a) An applicant shall not directly submit a background check to meet the requirements of this section. The background check shall be submitted to the board by the company that conducts the background check.

(b) Background checks that are older than six (6) months shall not be considered current, and the applicant shall undergo another national background check prior to approval of reinstatement of certification.

(4) The applicant for reinstatement of certification shall bear the burden of proof of previous certification in Kentucky if the previous certification is in issue or dispute.

(5) An applicant for reinstatement of an Advanced Emergency Medical Technician certification shall submit to the board evidence of successful completion of the NREMT Advanced Emergency Medical Technician National Component of the Continued Competency Program for Continuing Education within the twelve (12) months preceding application for reinstatement of the Advanced Emergency Medical Technician.

(6) An applicant who is ineligible for certification pursuant to KRS 311A.050 through 311A.090 shall be ineligible for reinstatement.

### Section 5. Advanced Emergency Medical Technician Reciprocity.

(1) An individual who is certified in ~~another[a-contiguous] state[ to the Commonwealth of Kentucky]~~ or by the NREMT as an Advanced Emergency Medical Technician or any member of the United States Armed Forces, or veteran who has transitioned within the past six (6) years from the United States Armed Forces, and has been registered by the National Registry as an Advanced Emergency Medical Technician or EMT and has successfully completed a board-approved United States Armed Forces medical training course shall be eligible for reciprocity for certification as an

Advanced Emergency Medical Technician in Kentucky if the applicant submits:

(a) A completed AEMT Reciprocity Certification Application in KEMSIS;

(b) Proof of the applicant's current unrestricted NREMT certification as an Advanced Emergency Medical Technician or current Advanced Emergency Medical Technician certification in ~~another[a-contiguous] state[ to the Commonwealth of Kentucky]~~ or proof of completing a board-approved United States Armed Forces medical training course which included NREMT-Emergency Medical Technician certification; and

(c) Proof of current training in:

1. HIV/AIDS training required by KRS 311A.120;

2. Pediatric Abusive Head Trauma training required by KRS 311A.120; and

3. Awareness of Sexual Violence Training required by KRS 311A.120.

(2) An applicant shall pay the fee required for certification through reciprocity pursuant to 202 KAR 7:030.

(3) An applicant for Advanced Emergency Medical Technician reciprocity shall undergo a national background check provided by a vendor that has been contracted through the board. An applicant shall not directly submit a background check. The background check shall be submitted to the board by the company that conducts the background check. Background checks that are older than six (6) months shall not be considered current, and the applicant shall undergo another national background check prior to approval of certification through reciprocity.

(4) An applicant shall not have been convicted of offenses described in KRS 311A.050.

(5) An applicant shall not have been subjected to discipline that would prevent reciprocity at the time of application.

(6) An Advanced Emergency Medical Technician certified pursuant to Section 2 of this administrative regulation shall not perform any procedures or skill on which the Advanced Emergency Medical Technician has not been trained. An Advanced Emergency Medical Technician who performs a skill for which the Advanced Emergency Medical Technician does not have documented training shall have exceeded the scope of practice and shall be in violation of KRS 311A.050.

(7) An Advanced Emergency Medical Technician certified pursuant to this section shall complete the Kentucky supplemental Advanced Emergency Medical Technician curricula for the procedures listed in 202 KAR 7:701 prior to beginning work for a licensed agency in Kentucky.

(8) Kentucky supplemental Advanced Emergency Medical Technician curricula consistent with 202 KAR 7:701 shall be provided during employee orientation, or by entities authorized to conduct continuing education pursuant to 202 KAR 7:601.

(9) Verification of competency on the supplemental curricula procedures in 202 KAR 7:701 shall be maintained by the Advanced Emergency Medical Technician for a minimum of three (3) years. Failure to submit the AEMT Supplemental Curriculum Training Verification Report shall result in revocation of Advanced Emergency Medical Technician certification.

(10) If an Advanced Emergency Medical Technician certified pursuant to this section fails to supply verification of competency as required by subsection (7) of this section the Advanced Emergency Medical Technician shall be ineligible to apply for and receive Advanced Emergency Medical Technician reciprocity certification until the applicant has submitted the AEMT Supplemental Curriculum Training Verification Report as required pursuant to 202 KAR 7:701, and shall reapply for Reciprocity through the process set forth in this section.

Section 6. Scope of Practice. An Advanced Emergency Medical Technician shall provide emergency medical services consistent with the skills and procedures in the National EMS Scope of Practice Model and 202 KAR 7:701.

### Section 7. Expiration of Certification.

(1) Certification periods and expiration dates shall be pursuant to KRS 311A.095.

## VOLUME 51, NUMBER 4– October 1, 2024

(2) If an Advanced Emergency Medical Technician's certification lapses or expires, the Advanced Emergency Medical Technician shall cease provision of emergency medical services.

(3) An Advanced Emergency Medical Technician who has allowed his or her certification to lapse or expire shall be required to reinstate certification pursuant to Section 4 of this administrative regulation.

### Section 8. Downgrading Certification.

(1) An Advanced Emergency Medical Technician currently certified as an Advanced Emergency Medical Technician by the board shall be eligible for certification downgrade if:

(a) The certification is in good standing with no pending disciplinary action;

(b) The applicant submits a completed AEMT Certification Downgrade Application in KEMSIS; and

(c) The applicant pays the fee established in 202 KAR 7:030.

(2) An Advanced Emergency Medical Technician is only eligible to downgrade his or her certification to an Emergency Medical Technician or Emergency Medical Responder certification.

(3) Certification periods and expiration dates shall be pursuant to KRS 311A.095.

(4) An applicant shall undergo a background check pursuant to KRS 311A.050 and 311A.100. The background check shall be:

(a) Statewide in scope for an applicant with current certification in Kentucky;

(b) Less than six (6) months old when the applicant submits to the board all requirements for certification; and

(c) Provided by a vendor that has been contracted through the board.

(5) Downgrade shall be denied if the applicant has not met the requirements of this section or has been subject to disciplinary action that prevents certification at the time of application.

(6) The applicant shall be responsible for meeting the renewal requirements of the downgraded certification level issued prior to expiration of that certification.

(7) To reinstate the certification or license that was previously held, the applicant shall meet the regulatory requirements for that level of certification or licensure.

(8) The applicant shall notify the board's licensed service director with whom the applicant is affiliated immediately upon downgrading his or her certification.

(9) Once the applicant has downgraded his or her certification or license, the applicant is no longer permitted to provide emergency medical services at the previous certification or license level held.

(10) An applicant applying for downgrade who does not comply with this section shall be subject to disciplinary action pursuant to KRS Chapter 311A.

(11) All endorsements, certifications, or licenses held at the previous certification or license level shall be void at the completion of the downgrade.

### Section 9. Surrender of Certification.

(1) An Advanced Emergency Medical Technician surrendering certification shall:

(a) Submit a completed AEMT Certification Surrender Application in KEMSIS; and

(b) Pay the fee established in 202 KAR 7:030.

(2) The applicant shall notify the board's licensed service director with whom the applicant is affiliated immediately upon surrendering his or her certification.

### Section 10. Reporting Requirements.

(1) An Advanced Emergency Medical Technician shall maintain current demographic information in KEMSIS including:

(a) Legal name;

1. Any changes to an AMET's legal name shall be submitted using the Name Change Application in KEMSIS; and

2. One (1) of the following documents as verification of name change:

a. Social Security card;

b. Driver's license; or

c. Passport;

(b) Mailing address;

(c) Email address; and

(d) Phone number.

(2) An Advanced Emergency Medical Technician who does not comply with this section shall be subject to disciplinary action pursuant to KRS Chapter 311A.

Section 11. Exemptions from Advanced Emergency Medical Technician Administrative Regulations. Certification requirements for an Advanced Emergency Medical Technician shall not apply to:

(1) United States military members, state National Guard personnel, or employees of the United States government if the individual provides emergency medical services:

(a) On land owned by the United States government;

(b) In facilities owned by the United States government;

(c) In the performance of official duties under federal law; or

(d) As part of assistance for a mass casualty or disaster incident pursuant to federal law or official state assistance request; or

(2) An Advanced Emergency Medical Technician certified in another state or territory of the United States who:

(a) Enters Kentucky with a patient being transported to a medical facility or other final destination in Kentucky; or

(b) Travels through Kentucky during the course of a patient transport from an out-of-state location to a destination outside of Kentucky.

Section 12. Public Notice of Negative Action. The board office shall cause to be published on the board Web site the name of an Advanced Emergency Medical Technician who:

(1) Is fined;

(2) Is placed on probationary status;

(3) Is placed on restricted status;

(4) Is suspended; or

(5) Has had his or her certification revoked.

### Section 13. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "National Emergency Medical Services Education Standards-Advanced Emergency Medical Technician Instructional Guidelines", The United States Department of Transportation, National Highway Traffic Safety Administration, DOT HS 811 077D, January 2009;

(b) "AEMT Initial Certification Application" in KEMSIS, July 2019;

(c) "AEMT Certification Renewal Application" in KEMSIS, July 2019;

(d) "AEMT Reciprocity Certification Application" in KEMSIS, July 2019;

(e) "AEMT Reinstatement Certification Application" in KEMSIS, July 2019;

(f) "AEMT Supplemental Curriculum Training Verification Report", July 2019;

(g) "National EMS Scope of Practice Model", National Highway Traffic Safety Administration, DOT HS 810 657, February 2007;

(h) "National EMS Scope of Practice Model", National Highway Traffic Safety Administration, DOT HS 812 666, February 2019;

(i) "AEMT Certification Downgrade Application" in KEMSIS, July 2019;

(j) "AEMT Certification Surrender Application" in KEMSIS, July 2019;

(k) "National Registry of Emergency Medical Technicians National Continued Competency Program AEMT", October 2016;

(l) "Name Change Application" in KEMSIS, July 2019;

(m) "Military Extension Application" in KEMSIS, July 2019; and

(n) "United States Citizenship and Immigration Services (U.S.C.I.S.) Permanent Resident Card (form I-551/Green Card)", July 2019.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Kentucky Board of Emergency Medical Services, 500 Mero Street, 5th Floor 5SE32, Frankfort, Kentucky 40601, by appointment, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material is also available on the board's Web site at: [kyems.com](http://kyems.com).

## VOLUME 51, NUMBER 4– October 1, 2024

JOHN R. HOLDER, Chair

APPROVED BY AGENCY: August 8, 2024

FILED WITH LRC: September 3, 2024 at 3 p.m.

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on November 27, 2024, at 1:00 p.m. ET at the Kentucky Board of Emergency Medical Services, 500 Mero Street, 5th Floor 5SE32, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 2024. 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:** John K. Wood, counsel for the Kentucky Board of Emergency Medical Services, 163 East Main Street, Suite 200, Lexington, Kentucky 40507, phone (859) 225-4714, email [administrativeregulations@wgmfirm.com](mailto:administrativeregulations@wgmfirm.com).

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John K. Wood

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 311A.025(2) requires the Kentucky Board of Emergency Medical Services to promulgate administrative regulations relating to the standards for training, education, examination, certification, practice, and recertification of the advanced emergency medical technician (AEMT). This administrative regulation establishes requirements for Advanced Emergency Medical Technicians.

(b) The necessity of this administrative regulation: KRS 311A.025(2) requires the Kentucky Board of Emergency Medical Services to promulgate administrative regulations relating to the standards for training, education, examination, certification, practice, and recertification of the advanced emergency medical technician (AEMT). This administrative regulation is necessary to establish requirements for Advanced Emergency Medical Technicians.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 311A.025 by establishing the requirements for Advanced Emergency Medical Technicians.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 311A.025(2) requires the Kentucky Board of Emergency Medical Services to promulgate administrative regulations relating to the standards for training, education, examination, certification, practice, and recertification of the advanced emergency medical technician (AEMT). This administrative regulation assists in the effective administration of KRS 311A.025(2) by establishing requirements for Advanced Emergency Medical Technicians.

(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 brings this administrative regulation into conformity with House Bill 57's amendment to KRS 311A.142(2) by making AEMTs certified and in good standing in any other state eligible for a reciprocal Kentucky certification. Prior to House Bill 57 becoming law, only EMS personnel in states contiguous to Kentucky were eligible for reciprocity.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to bring this administrative regulation into conformity with House Bill 57's amendment to KRS 311A.142(2) and to mitigate the staffing shortages that EMS agencies across the Commonwealth are facing.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 311A.025 by establishing requirements for Advanced Emergency

Medical Technicians. This amendment also conforms to the recent amendment to KRS 311A.142(2) permitting reciprocity to EMS personnel licensed or certified and in good standing with another state.

(d) How the amendment will assist in the effective administration of the statutes: KRS 311A.025(2) requires the Kentucky Board of Emergency Medical Services to promulgate administrative regulations relating to the standards for training, education, examination, certification, practice, and recertification of the advanced emergency medical technician (AEMT). This amendment will assist in the effective administration of KRS 311A.025(2) by establishing requirements for Advanced Emergency Medical Technician.

(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 the Kentucky Board of Emergency Medical Services, emergency medical services providers, individuals seeking Advanced Emergency Medical Technician reciprocity, and local governments.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This amendment does not establish any new requirements. Advanced Emergency Medical Technicians certified in any other state may seek a reciprocal Kentucky certification by meeting the existing requirements set forth in Section 5 of this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to any entity identified in question (3), other than administrative costs that may be incurred in recruiting and maintaining personnel.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Advanced Emergency Medical Technicians certified in states not contiguous to Kentucky will benefit from this amendment by now being eligible for a reciprocal Kentucky certification. EMS agencies and local governments will benefit from the expanded pool of individuals eligible for a reciprocal Kentucky Advanced Emergency Medical Technician certification.

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

(a) Initially: Other than administrative costs, there will be no costs to the Board in implementing this administrative regulation.

(b) On a continuing basis: Other than administrative costs, there will be no costs to the Board in implementing this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Kentucky Board of Emergency Medical Services is a state agency that receives its annual budget from the state government.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied to this administrative regulation because the amendment applies to all Advanced Emergency Medical Technicians.

### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 311A.025(2) requires the Kentucky Board of Emergency Medical Services to promulgate administrative regulations relating to the standards for training, education, examination, certification, practice, and recertification of the advanced emergency medical technician (AEMT). This administrative regulation establishes requirements for Advanced Emergency Medical Technicians.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Emergency Medical Services.

(a) Estimate the following for the first year:  
Expenditures: None.  
Revenues: None.  
Cost Savings: None.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? This amendment should not affect the Board's expenditures, revenues, or costs.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): All cities and counties.

(a) Estimate the following for the first year:

Expenditures: There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining personnel.

Revenues: None  
Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining required personnel.

(4) Identify additional regulated entities not listed in questions (2) or (3): All EMS services.

(a) Estimate the following for the first year:

Expenditures: There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining personnel.

Revenues: None  
Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining personnel.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining personnel.

(b) Methodology and resources used to determine the fiscal impact: No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining personnel.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This administrative regulation will not have an overall negative or adverse major economic impact to the affected entities.

(b) The methodology and resources used to reach this conclusion: No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining required personnel.

**KENTUCKY BOARD OF EMERGENCY MEDICAL SERVICES  
(Amendment)**

**202 KAR 7:401. Paramedics.**

RELATES TO: KRS 12.355, 72.020, 311A.025, 311A.030, 311A.050-311A.100, 311A.120, 311A.135, 311A.142, 311A.170, [311A.185,]311A.190, 446.400

STATUTORY AUTHORITY: KRS 311A.020, 311A.025, 311A.030, 311A.120, 311A.125, 311A.135, 311A.170

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311A.025 requires the board to promulgate administrative regulations relating to requirements and procedures for licensure, relicensure, and reciprocity for paramedics. This administrative regulation establishes those requirements and procedures.

Section 1. Paramedic Student Eligibility. Individuals shall be eligible to enroll as a student in a paramedic education and training program if the applicant:

(1) Holds current unrestricted certification as an Emergency Medical Technician or Advanced Emergency Medical Technician in Kentucky or holds current unrestricted certification with the National Registry of Emergency Medical Technicians (NREMT) as an Emergency Medical Technician or Advanced Emergency Medical Technician;

(2) Is not currently subject to disciplinary action pursuant to KRS Chapter 311A that would prevent licensure; and

(3) Meets all additional requirements established by the EMS Training and Educational Institute (EMS-TEI).

Section 2. Licensure Requirements.

[(4)] Individuals desiring initial licensure as a paramedic shall:

[(1)] [(a)] Successfully complete a board approved education and training program that conforms to the curriculum of the United States Department of Transportation, National Highway Traffic Safety Administration, National Emergency Medical Services Education Standards- Paramedic Instructional Guidelines;

[(2)] [(b)] Successfully complete all EMS-Training and Educational Institute (EMS-TEI) requirements for the education or training program which:

[(a)] [(4-)] Meet or exceed the National Emergency Medical Services Educational Standards- Paramedic Instructional Guidelines, which shall not be satisfied by the completion of refresher or transition courses alone; and

[(b)] [(2-)] Meet all educational standards established in 202 KAR 7:601;

[(c)] [~~Present evidence of completion of education and training regarding determination of death and preservation of evidence as required by KRS 311A.185;~~]

[(3)] [(b)] Obtain certification as a paramedic by the National Registry of Emergency Medical Technicians;

[(4)] [(e)] Submit a completed Paramedic Initial Licensure Application in the Kentucky Emergency Medical Services Information System (KEMSIS);

[(5)] [(f)] Pay the fee pursuant to 202 KAR 7:030;

[(6)] [(g)] Undergo a background check pursuant to KRS 311A.050 and 311A.100:

[(a)] [(4-)] The background check shall be:

1. [(a-)] National in scope for an applicant not currently certified at any level in Kentucky;

2. [(b-)] Statewide in scope for an applicant with current certification in Kentucky;

3. [(c-)] Less than six (6) months old when the applicant submits to the board all requirements for licensure; and

4. [(d-)] Provided by a vendor that has been contracted through the board; and

[(b)] [(2-)] An applicant shall not directly submit a background check to meet the requirements of this section. The background check shall be submitted to the board by the company that conducts the background check; and

[(7)] [(h)] Be a citizen of the United States, a permanent resident of the United States, or otherwise lawfully present in the United States, as evidenced by submission to the board of:

[(a)] [(4-)] A Social Security card;

[(b)] [(2-)] Birth certificate;

[(c)] [(3-)] A United States Citizenship and Immigration Services (US.C.I.S.) Permanent Resident Card (form I-551/Green Card); or

[(d)] [(4-)] Other legal authorization to live and work in the United States.

[(2)]

[(a)] [~~A paramedic licensed pursuant to this section shall complete training regarding determination of death and preservation of evidence as required by KRS 311A.185 prior to beginning work for a licensed agency in Kentucky.~~]

[(b)] [~~Training in determination of death and preservation of evidence as required by KRS 311A.185 shall be provided during employee orientation, or by entities authorized to conduct continuing education pursuant to 202 KAR 7:601.~~]

VOLUME 51, NUMBER 4– October 1, 2024

Section 3. Renewal of Licensure and Continuing Education Requirements.

(1) A paramedic shall be eligible for license renewal if:

(a) The applicant submits a completed Paramedic License Renewal Application in KEMSIS;

(b) The applicant maintains written evidence of:

1. HIV/AIDS training required by KRS 311A.120;

2. Pediatric Abusive Head Trauma as required by KRS 311A.120; and

3. Awareness of Sexual Violence Training required by KRS 311A.120;

(c) The applicant pays the fee pursuant to 202 KAR 7:030; and

(d) The applicant maintains evidence of:

1. Current certification by the NREMT as a paramedic, and if this option is used the board may request, through a continuing education audit, proof of continuing education to verify compliance with the continuing education requirements of this section; or

2. NREMT Paramedic National Component of the Continued Competency Program Paramedic for Continuing Education.

(2) All continuing education shall be validated by entities authorized to conduct continuing education pursuant to 202 KAR 7:601.

(3) An application for renewal of licensure shall be denied if:

(a) Prior to the licensure expiration date, the paramedic applicant has not met the applicable requirements of this administrative regulation; or

(b) The applicant has been subjected to disciplinary action that prevents relicensure at the time of application.

(4) A licensed paramedic, in good standing, who is a member of a National Guard or a military reserve unit called to active duty by presidential order pursuant to 10 U.S.C. 121 and 12304 shall be renewed in accordance with KRS 12.355 upon submission of the Military Extension Application.

(5) The board office may audit a paramedic's continuing education and continuing education records. The paramedic shall submit the documentation requested within ten (10) business days of receipt of the board's request.

(6) If documentation of continuing education hours consistent with this administrative regulation are not received using the board-approved submission process within ten (10) business days of receipt of the board's request, the paramedic license for the individual shall be summarily revoked and the individual shall reapply for licensure through reinstatement if eligible.

(7) The ten (10) business days for submission shall not apply to investigations pursuant to KRS Chapter 311A.

(8) The paramedic shall maintain documentation of all continuing education for three (3) years from the date of completion.

Section 4. Reinstatement of License.

(1) A paramedic whose Kentucky license has lapsed may reinstate their license if the applicant submits:

(a) A completed Paramedic Reinstatement License Application in KEMSIS;

(b) Evidence of previous licensure as a paramedic in the Commonwealth of Kentucky;

(c) Evidence of current training in:

1. Pediatric Abusive Head Trauma as required by KRS 311A.120;

2. Awareness of Sexual Violence Training required by KRS 311A.120; and

~~[3.] [Training regarding determination of death and preservation of evidence as required by KRS 311A.185; and]~~

~~3.~~[4.] HIV/AIDS training required by KRS 311A.120; and

(d) Payment of the fee pursuant to 202 KAR 7:030.

(2)

(a) The applicant for reinstatement of license shall undergo a national background check provided by a vendor that has been contracted through the board.

(b) An applicant shall not directly submit a background check to meet the requirements of this section. The background check shall be submitted to the board by the company that conducts the background check.

(c) Background checks that are older than six (6) months shall not be considered current, and the applicant shall undergo another national background check prior to approval of reinstatement of license.

(3) The applicant for reinstatement of licensure shall bear the burden of proof of previous licensure in Kentucky if the previous paramedic license is in issue or dispute.

(4) An applicant shall provide evidence of successful completion of the NREMT-Paramedic national component of the continued competency program for continuing education within the twelve (12) months preceding application for reinstatement of the paramedic license.

(5) An applicant ineligible for licensure pursuant to KRS 311A.050 through 311A.090 shall be ineligible for reinstatement.

Section 5. Paramedic Reciprocity.

~~(1) An~~[Pursuant to KRS 311A.142, an] individual who is certified or licensed in ~~another~~[a contiguous] state ~~[to the Commonwealth of Kentucky]~~ or by the NREMT as a paramedic or any member of the United States Armed Forces, or veteran who has transitioned within the past six (6) years from the United States Armed Forces, and has been registered by the National Registry as a paramedic or has obtained National Registry as a paramedic by successfully completing a board-approved United States Armed Forces medical training course that meets the National Emergency Medical Services Education Standards for Paramedic, shall be eligible for reciprocity for Kentucky licensure as a paramedic if the applicant submits:

(a) A completed Paramedic Reciprocity Licensure Application in KEMSIS;

(b) Proof of the applicant's current unrestricted certification as a NREMT-Paramedic, or current paramedic license in ~~another~~[a contiguous] state~~[to the Commonwealth of Kentucky]~~, or proof of completing a board-approved United States Armed Forces medical training course which included NREMT-Emergency Medical Technician certification and completion of a board-approved bridge course; and

(c) Completion of current training in:

1. HIV/AIDS training required by KRS 311A.120;

2. Pediatric Abusive Head Trauma training required by KRS 311A.120; and

3. Awareness of Sexual Violence Training required by KRS 311A.120;~~and]~~

~~[4.] [Training regarding determination of death and preservation of evidence as required by KRS 311A.185.]~~

(2) An applicant shall pay the fee required for licensure through reciprocity pursuant to 202 KAR 7:030.

(3) An applicant for paramedic reciprocity shall undergo a national background check provided by a vendor that has been contracted through the board. An applicant shall not directly submit a background check. The background check shall be submitted to the board by the company that conducts the background check. Background checks that are older than six (6) months shall not be considered current, and the applicant shall undergo another national background check prior to approval of licensure through reciprocity.

(4) An applicant shall not have been convicted of offenses described in KRS 311A.050.

(5) An applicant shall not have been subjected to discipline that would prevent reciprocity at the time of application.

(6) A paramedic licensed pursuant to this section shall not perform any procedures or skill on which the paramedic has not been trained. A paramedic who performs a skill for which the paramedic does not have documented training shall have exceeded the scope of practice and shall be in violation of KRS 311A.050.

~~[(7)] [A paramedic licensed pursuant to this section shall complete training regarding determination of death and preservation of evidence as required by KRS 311A.185 prior to beginning work for a licensed agency in Kentucky.]~~

~~[(a)] [Training in determination of death and preservation of evidence as required by KRS 311A.185 shall be provided during employee orientation, or by entities authorized to conduct continuing education pursuant to 202 KAR 7:604.]~~

~~[(b)] [Kentucky supplemental paramedic curricula consistent with 202 KAR 7:701 shall be provided during employee orientation,~~

## VOLUME 51, NUMBER 4– October 1, 2024

or by entities authorized to conduct continuing education pursuant to 202 KAR 7:601.]

~~[(c)] [Verification of competency on the supplemental curricula procedures in 202 KAR 7:701 shall be maintained by the paramedic for a minimum of three (3) years. Failure to submit the Paramedic Supplemental Curriculum Training Verification Report upon request shall result in revocation of the paramedic license.]~~

~~[(8)] [If a paramedic licensed pursuant to this section fails to supply verification of competency as required by subsection (7) of this section, the paramedic shall be ineligible to apply for and receive paramedic reciprocity license until the applicant has submitted the Paramedic Supplemental Curriculum Training Verification Report as required by 202 KAR 7:701 and shall reapply for reciprocity through the process listed in this section.]~~

Section 6. Scope of Practice. A paramedic shall provide emergency medical services consistent with the skills and procedures in the National EMS Scope of Practice Model and 202 KAR 7:701.

### Section 7. Expiration of Licensure.

(1) Licensure periods and expiration dates shall be pursuant to KRS 311A.095.

(2) If a paramedic license lapses or expires, the paramedic shall cease provision of emergency medical services.

(3) A paramedic who has allowed his or her license to lapse or expire shall be required to reinstate his or her licensure pursuant to Section 4 of this administrative regulation.

### Section 8. Downgrading Licensure.

(1) A paramedic currently licensed as a paramedic by the board shall be eligible for licensure downgrade if:

(a) The license is in good standing with no pending disciplinary action;

(b) The applicant submits a completed Paramedic License Downgrade Application in KEMSIS; and

(c) The applicant pays the fee pursuant to 202 KAR 7:030;

(2) A paramedic shall only be eligible to downgrade his or her license to an Advanced Emergency Medical Technician, Emergency Medical Technician, or Emergency Medical Responder certification.

(3) Certification periods and expiration dates shall be pursuant to KRS 311A.095.

(4) The applicant shall undergo a background check pursuant to KRS 311A.050 and 311A.100. The background check shall be:

(a) Statewide in scope for an applicant with current certification in Kentucky;

(b) Less than six (6) months old when the applicant submits to the board all requirements for certification; and

(c) Provided by a vendor that has been contracted through the board.

(5) Downgrade shall be denied if the applicant has not met the requirements of this section or has been subject to disciplinary action that prevents certification at the time of application.

(6) The applicant shall be responsible for meeting the renewal requirements of the downgraded certification level issued prior to expiration of that certification.

(7) To reinstate the certification or license that was previously held, the applicant shall meet the regulatory requirements for that level of certification or licensure.

(8) The applicant shall notify the board's licensed service director with whom the applicant is affiliated immediately upon downgrading his or her license.

(9) Once the applicant has downgraded his or her certification or license, the applicant shall not provide emergency medical services at the previous certification or license level held.

(10) An applicant applying for downgrade that does not comply with this section shall be subject to disciplinary action pursuant to KRS Chapter 311A.

(11) All endorsements, certifications, or licenses held at the previous certification or license level shall be void at the completion of the downgrade.

### Section 9. Surrender of License.

(1) A paramedic surrendering licensure shall:

(a) Submit a completed Paramedic License Surrender Application in KEMSIS; and

(b) Pay the fee pursuant to 202 KAR 7:030.

(2) The applicant shall notify the board's licensed service director with whom the applicant is affiliated immediately upon surrendering his or her license.

### Section 10. Reporting Requirements.

(1) A paramedic shall maintain current demographic information in KEMSIS including:

(a) Legal name;

1. Any changes to the paramedic's legal name shall be submitted using the Name Change application in KEMSIS; and

2. One (1) of the following documents as verification of name change:

a. Social Security card;

b. Driver's license; or

c. Passport;

(b) Mailing address;

(c) Email address; and

(d) Phone number.

(2) A paramedic that does not comply with this section shall be subject to disciplinary action pursuant to KRS Chapter 311A.

### ~~[Section 11.] [Determination of Death Protocol.]~~

~~[(1)] [The paramedic shall determine and document that the following signs of death are present:]~~

~~[(a)] [Unresponsiveness;]~~

~~[(b)] [Apnea;]~~

~~[(c)] [Absence of a palpable pulse at the carotid site;]~~

~~[(d)] [Bilaterally fixed and dilated pupils; and]~~

~~[(e)] [Except in a case of trauma, asystole determined in two (2) leads on an electrocardiograph.]~~

~~[(2)] [The paramedic shall determine that one (1) of the following factors or conditions exist:]~~

~~[(a)] [Lividity of any degree;]~~

~~[(b)] [Rigor mortis of any degree;]~~

~~[(c)] [Presence of venous pooling in the body;]~~

~~[(d)] [Damage or destruction of the body which is incompatible with life;]~~

~~[(e)] [A copy of the Kentucky Emergency Medical Services Do Not Resuscitate (DNR) Order or identification bracelet or other means of identification evidencing a patient's desire not to be resuscitated in accordance with KRS 311A.170; or]~~

~~[(f)] [A properly executed Kentucky Medical Orders for Scope of Treatment (MOST) form.]~~

~~[(3)] [If a paramedic has determined and documented that the conditions of subsections (1) and (2) of this section exist, the paramedic may, subject to the provisions of this administrative regulation, declare the patient dead.]~~

~~[(4)] [The paramedic may contact medical control or other licensed physician, if authorized in writing by the medical director, for advice and assistance in making a determination required by this administrative regulation.]~~

~~[(5)] [If a paramedic determines a patient to be dead, the paramedic shall remain on the scene unless the paramedic's personal safety is jeopardized, until the arrival of the coroner, deputy coroner, or law enforcement officer from that jurisdiction.]~~

~~Section 11.] [Section 12.] Discontinuance of Resuscitative Efforts.~~

~~[(1)] [A paramedic may discontinue resuscitation if:]~~

~~[(a)] [The patient has suffered cardiac arrest prior to arrival at the hospital;]~~

~~[(b)] [The paramedic has performed the resuscitative efforts required in the resuscitation protocol of the ambulance service medical director;]~~

~~[(c)] [The resuscitative efforts were unsuccessful; and]~~

~~[(d)] [The patient meets the criteria established in Section 11(1) of this administrative regulation.]~~

~~[(2)] [A paramedic may also discontinue resuscitation:]~~

~~[(a)] [If the safety of the paramedic is at risk; or]~~

~~[(b)] [At mass casualty incidents.]~~



VOLUME 51, NUMBER 4– October 1, 2024

~~[(3)] [A paramedic may discontinue resuscitation initiated by someone other than a paramedic if:]~~

~~[(a)] [The patient has suffered cardiac arrest;]~~

~~[(b)] [The resuscitative efforts required in the resuscitation protocol of the ambulance service medical director have been performed and documented;]~~

~~[(c)] [The resuscitative efforts were unsuccessful; and]~~

~~[(d)] [The patient meets the criteria established in Section 11(1) of this administrative regulation.]~~

~~[(4)] [If a paramedic discontinues resuscitation on a patient prior to transport of the patient to a medical facility, the paramedic shall make the notifications required by KRS 72.020 and at least one (1) member of the ambulance crew shall remain on the scene until the arrival of a coroner, deputy coroner, or law enforcement officer.]~~

~~[(5)] [If a paramedic discontinues resuscitation on a patient during transport to a medical facility, the paramedic shall make the notifications required by KRS 72.020 to the officials of the county in which the paramedic discontinued resuscitation. Upon making the notification, the paramedic shall determine from the coroner whether to remain at that location, to return the deceased to a facility within the primary service area of the ambulance provider, or to continue on to the medical facility with the deceased.]~~

~~[(6)] A paramedic shall discontinue resuscitation efforts if presented with a properly executed Kentucky Emergency Medical Services Do Not Resuscitate (DNR) Order, or properly executed Kentucky Medical Orders for Scope of Treatment (MOST) form.~~

~~[Section 13:] [Training of Paramedics in Determination of Death and Preservation of Evidence.]~~

~~[(1)] [The training program shall not be less than one (1) hour in length and, at a minimum, shall include:]~~

~~[(a)] [Information on and a copy of KRS 311A.170;]~~

~~[(b)] [Information on and a copy of this administrative regulation;]~~

~~[(c)] [Information on and a copy of KRS 72.020;]~~

~~[(d)] [Information on and a copy of KRS 446.400;]~~

~~[(e)] [Information on the duties of and role of the coroner and state medical examiner; and]~~

~~[(f)] [Information on preservation of evidence at the scene of a death.]~~

~~[(2)] [The training shall be:]~~

~~[(a)] [Provided as part of a paramedic training course conducted by an approved EMS-TEI via:]~~

~~[1.] [Classroom instruction;]~~

~~[2.] [Video conferencing or other distance learning media; or]~~

~~[3.] [Video presentation or computer based learning; and]~~

~~[(b)] [Conducted under the supervision of a medical director.]~~

~~[(3)] [The medical director of the ambulance service or EMS provider conducting the training shall request the coroner of the county in which the training is provided to attend and participate in the training.]~~

~~[(4)] [The EMS-TEI or the medical director providing the training shall maintain the following records:]~~

~~[(a)] [A copy of the course outline used in the training to verify that the training has been conducted in accordance with the requirements of this administrative regulation;]~~

~~[(b)] [A sign-in sheet with the printed and signed names and certification or license numbers and state of license of all paramedics who successfully completed the training, including the signature of the educator supervising the education program; and]~~

~~[(c)] [Curriculum vitae for each member of the course faculty.]~~

~~[(5)] [A certificate or letter of certification shall be provided to each participant in the program at the conclusion of the training.]~~

~~[(6)] [The board office shall maintain an approved curriculum, Prehospital Determination of Death, that may be used by entities providing training specified by this administrative regulation.]~~

~~Section 12.] [Section 14:] Critical Care Endorsement.~~

~~(1) A paramedic licensed by the board may be granted a critical care endorsement upon completion of the Application for Paramedic Critical Care Endorsement, payment of the fee pursuant to 202 KAR 7:030, and completion of a board-approved training program that minimally meets the objectives of the University of Maryland Baltimore Campus CCEMTP Program.~~

(2) The critical care endorsement shall be valid if the paramedic maintains current licensure as a paramedic by the board.

(3) A paramedic with a critical care endorsement may perform the skills and procedures included in the paramedic's education and training subject to authorization by the medical director through established protocols.

(4) Notwithstanding subsections (1) through (3) of this section, on and after January 1, 2026, critical care endorsements shall not be valid. Paramedics wishing to provide critical care on and after January 1, 2026, shall obtain an advanced practice paramedic license and certification as a critical care paramedic in accordance with 202 KAR 7:410.

~~Section 13.] [Section 15:] Exemptions from Paramedic Administrative Regulations. The Kentucky licensure requirements for a paramedic shall not apply to:~~

(1) United States military members, National Guard personnel, or employees of the United States government if the individual provides emergency medical services:

(a) On land owned by the United States government;

(b) In facilities owned by the United States government;

(c) In the performance of official duties under federal law; or

(d) As part of assistance for a mass casualty or disaster incident pursuant to federal law or official state assistance request; or

(2) A paramedic licensed in another state or territory of the United States who:

(a) Enters Kentucky with a patient being transported to a medical facility or other final destination in Kentucky; or

(b) Travels through Kentucky during the course of a patient transport from an out-of-state location to a destination outside of Kentucky.

~~Section 14.] [Section 16:] Public Notice of Negative Action. The board office shall cause to be published on the board website the name of a paramedic that:~~

(1) Is fined;

(2) Is placed on probationary status;

(3) Is placed on restricted status;

(4) Is suspended; or

(5) Has had his or her certification revoked.

~~Section 15.] [Section 17:] The paramedic shall document all items required by Sections 11 and 12 of this administrative regulation on the Patient Care Report required by KRS 311A.190.~~

~~Section 16.] [Section 18:] Incorporation by Reference.~~

(1) The following material is incorporated by reference:

(a) "National Emergency Medical Services Education Standards-Paramedic Instructional Guidelines", The United States Department of Transportation, National Highway Traffic Safety Administration, DOT HS 811 077E, January 2009;

(b) "Paramedic Initial Licensure Application" in KEMSIS, April 2021;

(c) "Paramedic License Renewal Application" in KEMSIS, April 2021;

(d) "Paramedic Reciprocity Licensure Application" in KEMSIS, April 2021;

(e) [Kentucky Board of Emergency Medical Services, Prehospital Determination of Death Training Curriculum (05-02);]

~~[(f)] "Paramedic Reinstatement License Application" in KEMSIS, April 2021;~~

~~[(g)] [(g)] "Kentucky Emergency Medical Services Do Not Resuscitate (DNR) Order", April 2021;~~

~~[(h)] [(h)] "National EMS Scope of Practice Model", National Highway Traffic Safety Administration, DOT HS 810 657, February 2007;~~

~~[(i)] [(i)] "National EMS Scope of Practice Model", National Highway Traffic Safety Administration, DOT HS 812 666, February 2019;~~

~~[(j)] [(j)] "Kentucky Medical Orders for Scope of Treatment (MOST) Form", April 2021;~~

~~[(k)] [(k)] "Application for Paramedic Critical Care Endorsement" in KEMSIS, April 2021;~~

VOLUME 51, NUMBER 4– October 1, 2024

- (k)[(h)] "Paramedic License Downgrade Application" in KEMSIS, April 2021;
- (l)[(m)] "Paramedic License Surrender Application", in KEMSIS April 2021;
- (m)[(n)] "National Registry of Emergency Medical Technicians National Continued Competency Program Paramedic", October 2016;
- (n)[(o)] "National Registry of Emergency Medical Technicians Advanced Level Examination Coordinator Manual", November 1, 2016;
- (o)[(p)] "Name Change Application" in KEMSIS, April 2021;
- (p)[(q)] "Military Extension Application" in KEMSIS, April 2021; and
- (q)[(r)] "United States Citizenship and Immigration Services (U.S.C.IS) Permanent Resident Card (form I-551/Green Card)", April 2021.

(2) This material may be inspected, obtained, or copied, subject to applicable copyright law, at the Office of the Kentucky Board of Emergency Medical Services, 500 Mero Street, 5th Floor 5SE32, Frankfort, Kentucky 40601, by appointment, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material is also available on the board's Web site at kyems.com.

JOHN R. HOLDER, Chair

APPROVED BY AGENCY: August 8, 2024

FILED WITH LRC: September 3, 2024 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 27, 2024, at 1:00 p.m. ET at the Kentucky Board of Emergency Medical Services, 500 Mero Street, 5th Floor 5SE32, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 2024. 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: John K. Wood, counsel for the Kentucky Board of Emergency Medical Services, 163 East Main Street, Suite 200, Lexington, Kentucky 40507, phone (859) 225-4714, email administrativeregulations@wgmfirm.com.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John K. Wood

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 311A.025 requires the board to promulgate administrative regulations relating to requirements and procedures for licensure, relicensure and reciprocity for paramedics. This administrative regulation establishes those requirements and procedures.

(b) The necessity of this administrative regulation: KRS 311A.025 requires the board to promulgate administrative regulations relating to requirements and procedures for licensure, relicensure and reciprocity for paramedics. This administrative regulation is necessary to establish those requirements and procedures.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 311A.025 by establishing the requirements and procedures for licensure, relicensure, and reciprocity for paramedics.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 311A.025 requires the board to promulgate administrative regulations relating to requirements and procedures for licensure, relicensure and reciprocity for paramedics. This administrative regulation assists in the effective

administration of KRS 311A.025 by establishing those requirements and procedures.

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

(a) How the amendment will change this existing administrative regulation: This amendment brings this administrative regulation into conformity with House Bill 57's amendment to KRS 311A.142(2) by making paramedics licensed and in good standing in any other state eligible for a reciprocal Kentucky paramedic license. Prior to House Bill 57 becoming law, only EMS personnel in states contiguous to Kentucky were eligible for reciprocity. Consistent with House Bill 57's repeal of KRS 311A.185, the requirements regarding resuscitation procedures and determination of death and preservation of evidence have been stricken in this amendment. Additionally, this amendment contains a sunset provision for paramedic critical care endorsements. Under this amendment, critical care endorsements will not be valid after December 31, 2025. On and after January 1, 2026, paramedics wishing to provide critical care will be required to obtain an advanced practice paramedic license and certification as a critical care paramedic in accordance with 202 KAR 7:410.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to bring this administrative regulation into conformity with House Bill 57's amendment to KRS 311A.142(2) and repeal of KRS 311A.185, and to mitigate the staffing shortages that EMS agencies across the Commonwealth are facing. This amendment is also necessary to establish a transition period for paramedics with critical care endorsements to become licensed as advanced practice paramedics and certified as critical care paramedics in accordance with 202 KAR 7:410.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of KRS 311A.025 by establishing the requirements and procedures for licensure, relicensure, and reciprocity for paramedics. This amendment also conforms to the recent amendment to KRS 311A.142(2) permitting reciprocity to EMS personnel in good standing in any other state and the recent repeal of KRS 311A.185.

(d) How the amendment will assist in the effective administration of the statutes: KRS 311A.025 requires the board to promulgate administrative regulations relating to requirements and procedures for licensure, relicensure and reciprocity for paramedics. This amendment will assist in the effective administration of KRS 311A.025 by establishing those requirements and procedures.

(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 the Kentucky Board of Emergency Medical Services, emergency medical services providers, paramedics, individuals seeking a reciprocal paramedic license, and local governments.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This amendment does not establish any new requirements. Paramedics licensed in any other state may seek a reciprocal Kentucky license by meeting the existing requirements set forth in Section 5 of this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to any entity identified in question (3), other than administrative costs that may be incurred in recruiting and maintaining personnel.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Paramedics licensed in states not contiguous to Kentucky will benefit from this amendment by now being eligible for a reciprocal Kentucky paramedic license. EMS agencies and local governments will benefit from the expanded pool of individuals eligible for a reciprocal Kentucky paramedic license.

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

(a) Initially: Other than administrative costs, there will be no costs to the Board in implementing this administrative regulation.

(b) On a continuing basis: Other than administrative costs, there will be no costs to the Board in implementing this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Kentucky Board of Emergency Medical Services is a state agency that receives its annual budget from the state government.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied to this administrative regulation because the amendment applies to all paramedics.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 311A.025 requires the board to promulgate administrative regulations relating to requirements and procedures for licensure, relicensure and reciprocity for paramedics.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Emergency Medical Services.

(a) Estimate the following for the first year:

Expenditures: None.

Revenues: None.

Cost Savings: None.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? This amendment should not affect the Board's expenditures, revenues, or costs.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): All cities and counties.

(a) Estimate the following for the first year:

Expenditures: There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining personnel.

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining required personnel.

(4) Identify additional regulated entities not listed in questions (2) or (3): All EMS services.

(a) Estimate the following for the first year:

Expenditures: There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining personnel.

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining personnel.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining personnel.

(b) Methodology and resources used to determine the fiscal impact: No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining personnel.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This

administrative regulation will not have an overall negative or adverse major economic impact to the affected entities.

(b) The methodology and resources used to reach this conclusion: No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining required personnel.

KENTUCKY BOARD OF EMERGENCY MEDICAL SERVICES (Amendment)

202 KAR 7:545. License classifications.

RELATES TO: KRS 311A.030, 311A.190, 216B.020  
 STATUTORY AUTHORITY: KRS 311A.020, 311A.025, 311A.030, 311A.190

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311A.020 requires the Board of Emergency Medical Services to exercise all administrative functions in the regulation of the emergency medical services system, ambulance services and medical first response agencies, except those functions regulated by the Board of Medical Licensure or the Cabinet for Health and Family Services. KRS 311A.030 requires the board to promulgate administrative regulations establishing the license classifications of ambulance services, mobile integrated healthcare programs, and medical first response providers, ~~[to establish requirements for various classes of ambulance and emergency medical service agencies.]~~ This administrative regulation establishes the classes of ambulance services, mobile integrated healthcare programs, and medical first response providers, ~~[requirements for each class of ambulance service and medical first response agencies.]~~

Section 1. Definitions.

(1) "911 scene response" means a response:

(a) Resulting from a 911 call or other call to a dispatch center for assistance;

(b) Where an ambulance provider is dispatched to, responds to, provides an assessment to, provides care to, or transports a person reporting a medical condition or injury; and

(c) Where transportation of the patient will terminate in an emergency room or other location for immediate assessment or treatment.

(d) "911 scene response" shall not include response to a call where a patient is receiving in-patient care at a hospital.

(2) "Agency" means an individual or private or public organization, except the United States government, seeking or holding a license from the board to provide emergency medical services under KRS Chapter 311A and 202 KAR Chapter 7.

(3) "ALS first response" means 911 scene response to provide ALS emergency care or treatment to an ill or injured person by emergency medical services personnel.

(4) "BLS first response" means 911 scene response to provide BLS emergency care or treatment to an ill or injured person by emergency medical services personnel.

(5) "Medical first response" means 911 scene response to provide ALS or BLS emergency care or treatment to an ill or injured person by emergency medical services personnel before the arrival of an ambulance.

(6) "Mobile integrated healthcare" or "MIH" is defined by KRS 311A.010(18).

(7) "Nonemergency" means scheduled and non-scheduled medically necessary ambulance transportation that is not a 911 scene response.

Section 2. License Classifications.

(1) ~~License~~~~In accordance with KRS 311A.030(4), license~~ classifications for ambulance providers, mobile integrated healthcare programs, and medical first response agencies shall include:

(a) ~~[A-]Class I ground ambulance providers, which shall be classified as:~~~~[agency operating at the Advanced Life Support (ALS), Basic Life Support (BLS), or Adult Critical Care Transport level to provide emergency and nonemergency care and transportation.]~~

VOLUME 51, NUMBER 4– October 1, 2024

1. Class I A – (911 Services) – A ground ambulance provider operating at the ALS or BLS level, or both, and which shall provide 911 scene response and may provide emergency, nonemergency, or interfacility care and transportation; or

2. Class I B – (CON-Exempt City and County Services) – A ground ambulance provider operating pursuant to KRS 216B.020(8) at the ALS or BLS level, or both.

(b) [A-]Class II ground ambulance providers, which shall be classified as:[agency operating at the BLS level only to provide nonemergency care and transportation.]

1. Class II A – (Non-911 Services) – A ground ambulance provider operating at the ALS or BLS level, or both, to provide interfacility care and nonemergency care and transportation; or

2. Class II B – (CON-Exempt Hospital Services) – A ground ambulance provider operating pursuant to KRS 216B.020(7) at the ALS or BLS level, or both.

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

1. Class III A – (Adult Critical Care Services) – A ground ambulance provider operating at the ALS level as an adult critical care agency providing critical care interfacility transport services to patients ages twelve (12) and above;

2. Class III B – (Pediatric Specialty Care Services) – A ground ambulance provider operating at the ALS level as a pediatric specialty care agency providing critical care interfacility and specialty care transport services to patients under the age of twenty-one (21); or

3. Class III C – (Neonatal Specialty Care Services) – A ground ambulance provider operating at the ALS level as a neonatal specialty care agency providing critical care interfacility and specialty care transport services to patients less than twenty-nine (29) days of age.[A Class III Adult Critical Care agency providing critical care transport services to patients ages twelve (12) and above;]

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

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

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

(e) Class V – (Mobile Integrated Health Care Programs) – A mobile integrated health care program operating at the ALS and BLS level.

(f) [A-]Class VI – (Medical First Response Agencies) – An agency providing medical first response without patient transport at the BLS or ALS level.

1. Each ALS first response agency shall be licensed separately as a Class VI ALS agency.

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

3.[2.] A licensed Class I agency[nonlicensed BLS First Response Agency] may execute a memorandum of understanding[mutual aid agreement] with multiple nonlicensed BLS first response agencies[First Response Agencies] that serve the same geographic service area.

4.[3.] A memorandum of understanding[mutual aid agreement] shall automatically renew at the conclusion of a calendar year.

5.[4.] A nonlicensed BLS first response agency[First Response Agency] or a Class I [ALS]agency may terminate a memorandum of

understanding[mutual aid agreement] thirty (30) days after written notice is provided to the other party.

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

- a. Medical direction;
- b. BLS protocols consistent with the current scope of practice;
- c. Response protocol;
- d. Geographic service areas to be served;
- e. Circumstances causing dispatch of the nonlicensed BLS first response agency;
- f. Training;
- g. Quality assurance processes; and
- h. Liability insurance.[insurance] if applicable.

7.[6.] A nonlicensed BLS first response[First Response] agency shall not provide BLS care outside of its[the] geographic service area unless responding through an executed mutual aid agreement.[of the Class I ALS agency.]

8.[7.] A nonlicensed BLS first response[First Response] agency unable to secure a written memorandum of understanding[mutual aid agreement] with a Class I [ALS]agency within its geographic service area[.] may operate within the jurisdiction as a nonlicensed BLS first response[First Response] agency if:

a. The[the] agency has written correspondence from at least one (1) Class I [911]agency within its geographic service area denying the nonlicensed BLS first response agency's request to enter into a memorandum of understanding[mutual aid agreement]; and

b. The agency maintains:  
(i) The correspondence denying the memorandum of understanding request on file at the agency;[mutual aid request shall be maintained on file at the agency.]

- (ii) Board-approved medical direction;
- (iii) Board-approved BLS first response agency protocols; and
- (iv) Written policies addressing each of the issues listed in subsections (1)(f)(6)(c) through (h) of this section.

9.[8.] A license to provide BLS care shall not be issued solely through the execution of a memorandum of understanding[mutual aid agreement] between a Class I agency and a nonlicensed BLS first response[First Response] agency.[:]

(g)[(f)] [A-]Class VII – (Air Ambulance Services) – A rotor or fixed wing air ambulance service providing ALS and BLS 911 scene response or emergency, interfacility, or nonemergency care and air transportation.[:]

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

(h) [A-]Class VIII – (Event Medicine Providers) – An agency utilizing emergency medical services personnel to provide ALS or BLS care[providing BLS or ALS pre-hospital care above the first-aid level] at special events, sports events, concerts, or other large social gatherings.

1. A Class VIII agency shall be licensed separately as a Class VIII ALS or BLS agency.[A Class VIII agency shall not transport patients beyond the grounds of an event and shall be bound by the geographic service area of its Certificate of Need.]

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

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

4. Upon request, a Class VIII agency shall make available to any Class I agency within its geographic service area its protocols, treatment capabilities, and updated contact information.

(i) Class IX – (State Special Response Agencies) – An agency providing emergency and nonemergency care as part of a state-sponsored specialty team, such as Kentucky Urban Search and Rescue or other state special response agency, and that provides services and conducts trainings throughout the Commonwealth.

1. A Class IX agency shall be licensed separately as a Class IX ALS or BLS agency.

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

3. If transport of a patient is required, a Class IX agency shall have provisions for transport by a Class I agency licensed for the geographic service area or a Class I agency providing mutual aid.

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

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

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

(5) An agency shall request a final inspection for licensure from the board, in writing, within one (1) year after submitting a completed initial license application to the board.~~[180 days after applying for a license from the board]~~

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

(7) Notwithstanding subsections (5) and (6) of this section, if prior to the deadline to request a final inspection, an agency notifies the KBEMS office, in writing, that it needs additional time, the agency shall request a final inspection for licensure no later than 180 days after the original deadline. No additional extensions of time shall be available.

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

Section 3.~~[Section 2.]~~ Public Notice of Negative Action. The board office shall publish on the KBEMS Web site or similar publication of the board, the name of any licensed agency that is fined, placed on probationary status, placed on restricted status, suspended, or had a license revoked.

JOHN R. HOLDER, Chair

APPROVED BY AGENCY: August 8, 2024

FILED WITH LRC: September 3, 2024 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 27, 2024, at 1:00 p.m. ET at the Kentucky Board of Emergency Medical Services, 500 Mero Street, 5th Floor 5SE32, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 2024. 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: John K. Wood, counsel for the Kentucky Board of Emergency Medical Services, 163 East Main Street, Suite 200, Lexington, Kentucky 40507, phone (859) 225-4714, email [administrativeregulations@wgmfirm.com](mailto:administrativeregulations@wgmfirm.com).

#### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John K. Wood

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 311A.030 requires the board to promulgate administrative regulations establishing the license classifications of ambulance services, mobile integrated healthcare programs, and medical first response providers. This administrative regulation establishes the classes of ambulance

services, mobile integrated healthcare programs, and medical first response providers.

(b) The necessity of this administrative regulation: House Bill 57 (2024 Regular Session) amended KRS 311A.030 to permit the Board to classify ambulance services, mobile integrated healthcare programs, and medical first response providers. This administrative regulation is necessary to update the classifications of agencies, as authorized by HB 57.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 311A.030 by establishing the license classifications of ambulance services, mobile integrated healthcare programs, and medical first response providers.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 311A.030 requires the board to promulgate administrative regulations establishing the license classifications of ambulance services, mobile integrated healthcare programs, and medical first response providers. This administrative regulation will assist in the effective administration of KRS 311A.030 by classifying EMS agencies.

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

(a) How the amendment will change this existing administrative regulation: This amendment establishes new classes of EMS agencies and modifies existing classes. Specifically, this amendment: Separates Class I agencies into two classes: Class I A and Class I B. Class I A services will be required to provide 911 scene response, which is defined in this amendment, and will be permitted to provide other emergency, nonemergency, or interfacility care and transportation. Class I B services will be the Certificate of Need-exempt city and county services operating pursuant to KRS 216B.020(8). Separates Class II services into two classes: Class II A and Class II B. Class II A services will be permitted to provide interfacility and nonemergency care at the ALS or BLS level, or both. Class II B services will be the Certificate of Need-exempt hospital services operating pursuant to KRS 216B.020(7). Clarifies that the three types of Class III agencies must operate at the ALS level and may provide interfacility care and transportation. Establishes a class of license for mobile integrate health care programs. Clarifies that Class VI medical first response agencies may operate without a license if they have a memorandum of understanding with the Class I agency that services their geographic service area. If such agencies cannot secure a memorandum of understanding, they must maintain board-approved medical direction and protocols. Clarifies that Class VII air ambulance services may provide both ALS and BLS 911 scene response and emergency, interfacility, or nonemergency care and air transportation. Clarifies that Class VIII event medicine providers are those agencies that utilize EMS personnel to provide ALS or BLS care at special events, sports events, concerts, or other large social gatherings. Class VIII event medicine providers must make their protocol, treatment capabilities, and contact information available to any Class I agency in their geographic service area. Creates a new class of license, Class IX, for state special response agencies. Those agencies may provide emergency and nonemergency care as part of a state-sponsored specialty team, such as Kentucky Urban Search and Rescue. Class IX agencies must be licensed at either the ALS or BLS level and may not transport patients independently to a hospital. Clarifies the requirement to timely apply for a license after obtaining a Certificate of Need. Agencies will be required to submit an initial license application to the Board within 90 days after being issued a CON. Changes the requirement to request a final inspection after obtaining a Certificate of Need. Agencies will be required to request a final inspection within one (1) year after submitting a completed initial license application. Under the current version of this administrative regulation, agencies must request a final inspection within 180 days after applying for a license from the Board. Grants agencies an automatic 180-day extension to the deadline to request a final inspection upon written request. No additional extensions of time are available.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update the license classifications of ambulance services, mobile integrated healthcare programs, and medical first response providers. Before House Bill 57

VOLUME 51, NUMBER 4– October 1, 2024

(2024 Regular Session) became law, the classifications of EMS agencies were established by KRS 311A.030.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of KRS 311A.030 by establishing the license classifications of ambulance services, mobile integrated healthcare programs, and medical first response providers.

(d) How the amendment will assist in the effective administration of the statutes: Before House Bill 57 (2024 Regular Session) became law, the classifications of EMS agencies were established by KRS 311A.030. The current version of this administrative regulation mirrors those previous statutory classifications. House Bill 57 amended KRS 311A.030 to grant the Board the authority to classify ambulance services, mobile integrated healthcare programs, and medical first response providers. This amendment will assist in the effective administration of KRS 311A.030 by updating the license classifications of ambulance services, mobile integrated healthcare programs, and medical first response providers.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect all ambulance services, mobile integrated healthcare programs, and medical first response 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: Ambulance service, mobile integrated healthcare program, or medical first response provider will be required to operate within the scope of their defined license classification. Agencies currently licensed as a Class I, for example, will be reclassified as a Class I A or Class I B agency.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to any entity identified in question (3), other than the costs of operating within the scope of the agency's license classification.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Ambulance service, mobile integrated healthcare program, or medical first response providers will benefit from the clarifications to each type of EMS agency license class provided in this amendment.

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

(a) Initially: Other than administrative costs, there will be no costs to the Board in implementing this administrative regulation.

(b) On a continuing basis: Other than administrative costs, there will be no costs to the Board in implementing this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Kentucky Board of Emergency Medical Services is a state agency that receives its annual budget from the state government.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied to this administrative regulation because the amendment applies to all ambulance services, mobile integrated healthcare programs, and medical first response providers.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 311A.030 requires the board to promulgate administrative regulations establishing the license classifications of

ambulance services, mobile integrated healthcare programs, and medical first response providers.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Emergency Medical Services.

(a) Estimate the following for the first year:

Expenditures: None.

Revenues: None.

Cost Savings: None.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? This amendment should not affect the Board's expenditures, revenues, or costs.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): All cities and counties.

(a) Estimate the following for the first year:

Expenditures: There will be no costs to affected entities, other than the costs of operating within the entity's license classification.

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no costs to affected entities, other than the costs of operating within the entity's license classification.

(4) Identify additional regulated entities not listed in questions (2) or (3): All ambulance services, mobile integrated healthcare programs, and medical first response providers.

(a) Estimate the following for the first year:

Expenditures: There will be no costs to affected entities, other than the costs of operating within the entity's license classification.

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no costs to affected entities, other than the costs of operating within the entity's license classification.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: No fiscal impact is anticipated as a result of this administrative regulation, other than the costs of operating within the entity's license classification.

(b) Methodology and resources used to determine the fiscal impact: No fiscal impact is anticipated as a result of this administrative regulation, other than the costs of operating within the entity's license classification.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This administrative regulation will not have an overall negative or adverse major economic impact to the affected entities.

(b) The methodology and resources used to reach this conclusion: No fiscal impact is anticipated as a result of this administrative regulation, other than the costs of operating within the entity's license classification.

KENTUCKY BOARD OF EMERGENCY MEDICAL SERVICES (Amendment)

202 KAR 7:560. Ground vehicle staff.

RELATES TO: KRS 189.910-189.950, 311A.030, 311A.190 STATUTORY AUTHORITY: KRS 311A.020, 311A.025, 311A.030, 311A.190

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311A.020 requires the Board of Emergency Medical Services to exercise all administrative functions in the regulation of the emergency medical services system and the licensing of ambulance services and medical first response agencies, except those regulated by the Board of Emergency Medical Services or the Cabinet for Health and Family Services. KRS 311A.030 requires the board to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers and medical first response agencies. This administrative regulation establishes the minimum staffing requirements for ground vehicles.

VOLUME 51, NUMBER 4– October 1, 2024

Section 1. Staffing Requirements.

(1) Each Class I agency BLS ambulance shall at minimum, be staffed by:

(a) A driver certified as an emergency medical responder (EMR); and

(b) An attendant certified as an emergency medical technician (EMT).

(2) Each Class I agency ALS ambulance shall at minimum be staffed by:

(a) A driver certified as an emergency medical responder (EMR); and

(b) An attendant certified as an Advanced EMT or licensed as a paramedic.

1. Each Class I ALS agency ~~[providing primary 911 emergency ambulance service]~~ shall ensure that it has at least one (1) ~~[there is a]~~ paramedic on-duty at all times.

2. To ensure compliance, each agency shall maintain its work schedules from the previous twelve (12) months until reviewed by board staff during its annual inspection.

(3) Each Class I agency operating an ALS ambulance providing a BLS level of care shall at minimum be staffed by:

(a) A driver certified as an emergency medical responder (EMR); and

(b) An attendant certified as an emergency medical technician (EMT).

(4) Each Class II agency shall at minimum be staffed by:

(a) A driver certified as an emergency medical responder (EMR); and

(b) An attendant certified as an emergency medical technician (EMT).

(5) A Class III Adult Critical Care ambulance agency shall at minimum be staffed by:

(a) A driver certified as an emergency medical responder (EMR);

(b) An attendant licensed as a paramedic; and

(c) One (1) licensed:

1. Registered nurse;
2. Advanced practice registered nurse;
3. Respiratory therapist;
4. Physician assistant;
5. Physician; or
6. Additional paramedic.

(6)

(a) Each Class III Pediatric Specialty Care Ambulance Agency shall at minimum be staffed by:

1. A driver certified as an emergency medical responder (EMR);
2. A primary attendant licensed as a registered nurse; and
3. One (1) additional attendant licensed as a:

- a. Registered nurse;
- b. Advanced practice registered nurse;
- c. Respiratory therapist;
- d. Physician assistant;
- e. Physician; or
- f. Paramedic.

(b) Any attendant hired after January 1, 2020 shall acquire and maintain within one (1) year of hire, a specialty certification in Pediatric Critical Care or Neonatal Critical Care acquired through successful completion of a validated examination administered by an independent entity not associated with a specific course or program of education.

(7)

(a) Each Class III Neonatal Specialty Care Ambulance Agency shall at minimum be staffed by:

1. A driver certified as an emergency medical responder (EMR);
2. A primary attendant licensed as a registered nurse; and
3. One (1) additional attendant licensed as:
  - a. An advanced practice registered nurse;
  - b. A respiratory therapist;
  - c. A physician assistant;
  - d. A physician;
  - e. A registered nurse; or
  - f. Paramedic.

(b) Any attendant hired after January 1, 2020 shall acquire and maintain within one (1) year of hire, a specialty certification in Pediatric Critical Care or Neonatal Critical Care acquired through successful completion of a validated examination administered by an independent entity not associated with a specific course or program of education.

(8) Each Class IV agency operating a BLS ambulance shall at minimum be staffed by:

(a) A driver certified as an emergency medical responder (EMR); and

(b) An attendant certified as an emergency medical technician (EMT).

(9) Each Class IV service operating an ALS ambulance shall at minimum be staffed by:

(a) A driver certified as an emergency medical technician (EMT); and

(b) An attendant certified as an Advanced EMT or licensed as a paramedic.

(c) Each Class IV ALS agency shall have at least one (1) licensed paramedic on duty at all times. To ensure compliance, each agency shall maintain its work schedules from the previous twelve (12) months until reviewed by board staff during its annual inspection.

(10) Each Class VI BLS medical first response agency shall at minimum be staffed by a certified:

(a) Emergency medical responder (EMR); or

(b) Emergency medical technician (EMT).

(11) Each Class VI ALS medical first response agency shall at minimum be ~~[minimally]~~ staffed by:

(a) A certified Advanced EMT; or

(b) A licensed paramedic.

(12) Each Class VIII BLS agency shall be minimally staffed by a certified:

(a) Emergency medical responder (EMR); or

(b) Emergency medical technician (EMT).

(13) Each Class VIII ALS agency shall be minimally staffed by:

(a) A certified Advanced EMT; or

(b) A licensed paramedic.

~~[(14)] [Each Class I ALS, Class III ACC, Class IV ALS, and Class VI ALS agency shall have a licensed paramedic on duty at all times.]~~

~~[(14)] [(45)]~~ At all times, the attendant shall monitor the patient and remain with the patient in the patient compartment.

~~[(15)] [(46)]~~ This administrative regulation shall not prevent an agency from utilizing staff other than those required by this administrative regulation in:

(a) Disasters;

(b) Mass casualty incidents; or

(c) Extraordinary scene conditions that would impair the safety of the patient or personnel operating at the scene.

~~[(16)] [(47)]~~ Alternative staff shall not operate a licensed vehicle unless the:

(a) Agency administrator so directs; and

(b) Vehicle is out of service and not subject to an emergency response.

Section 2. Temporary Waiver of Paramedic Staffing Requirement.

(1) Notwithstanding Section 1(2)(b)1. of this administrative regulation or 202 KAR 7:550, Section 10(5), if the board grants a temporary waiver to a Class I ALS agency pursuant to this section, the agency shall ensure that it has at least one (1) AEMT or one (1) paramedic on duty at all times.

(2) A Class I ALS agency may request a temporary waiver by submitting to the office of the board a sworn and notarized affidavit from the agency's chief operations or service director. In the affidavit, the chief operations or service director shall:

(a) Explain why the agency is unable to have at least one (1) paramedic on duty at all times;

(b) Explain the steps the agency has taken to have at least one (1) paramedic on duty at all times;

(c) Identify the number of paramedics the agency has on staff;

(d) Identify the compensation the agency pays paramedics;

## VOLUME 51, NUMBER 4– October 1, 2024

(e) Identify the additional steps the agency will take to hire paramedics;

(f) Identify the number of ambulances the agency has staffed each day; and

(g) Certify that the chief local elected official of the agency's geographic service area has been notified, in writing, that the agency is requesting a temporary waiver pursuant to this section.

(3) The chief operations or service director shall attach to the affidavit any documentation supporting the statements made in the affidavit.

(4) In addition to the affidavit and any supporting documentation submitted pursuant to subsections (2) and (3) of this section, the board may consider any other relevant information in determining whether to grant a temporary waiver.

(5) The board shall grant a request for a temporary waiver if it determines that the agency has made a good faith effort to have at least one (1) paramedic on duty at all times but has been unable to do so.

(6) If the board has probable cause to believe that the agency has not made a good faith effort to have at least one (1) paramedic on duty at all times, the board shall refer the matter for a hearing in accordance with KRS Chapter 13B to determine whether a temporary waiver should be granted to the agency.

(7) An agency granted a temporary waiver pursuant to this section shall submit a report to the office of the board on January 1, April 1, July 1, and October 1 of each year. Each report shall include:

(a) The additional steps the agency has taken to hire paramedics since the last report deadline or, if no report deadline has passed, since the temporary waiver was granted;

(b) The number of paramedics on staff;

(c) The number of days that the agency was without at least one (1) paramedic on duty at all times since the last report deadline or, if no report deadline has passed, since the temporary waiver was granted;

(d) The number of paramedic employment applications received by the agency since the last report deadline or, if no report deadline has passed, since the temporary waiver was granted; and

(e) For each paramedic who applied for employment with the agency since the last report deadline or, if no report deadline has passed, since the temporary waiver was granted, but was not hired by the agency, the reasons why the paramedic was not hired.

(8) An agency granted a temporary waiver in the month preceding a report deadline is not required to submit the next month's report. (For example, if the temporary waiver is granted in March 2025, the agency is not required to submit the April 1, 2025 report.)

(9) All temporary waivers granted pursuant to this section shall expire on December 31, 2026.

(10) Notwithstanding subsection (9) of this section, if an agency fails to submit a report required by subsection (7) of this section, the agency's temporary waiver shall expire seven (7) days after the report deadline if the report still has not been received by the office of the board by that date.

(11) The board shall publish on its Web site all agencies that have been granted a temporary waiver pursuant to this section.

### Section 3. Motor Vehicle Operator Requirements.

(1) Each person operating a vehicle shall:

(a) Be at least eighteen (18) years of age;

(b) Hold a valid driver's license in any state or territory of the United States; and

(c) Complete at least four (4) hours of driver training and education every two (2) years.

(2) The driver training and education shall consist of a:

(a) Review of driving a vehicle under emergency conditions;

(b) Review of KRS 189.910 through 189.950 regarding operation of emergency vehicles;

(c) Demonstration by the student of forward and back-up driving maneuvers in a controlled situation, such as in an obstacle course designed specifically for this purpose; and

(d) Review of defensive driving techniques and procedures with hands-on experience or exposure by visual aids or planned demonstrations.

Section 4.[Section 3.] Public Notice of Negative Action. The board office shall cause to be published, on the KBEMS Web site or similar publication of the board, or otherwise disseminate, the name of any licensed agency that is fined, placed on probationary status, placed on restricted status, suspended, or had a license revoked.

JOHN R. HOLDER, Chair

APPROVED BY AGENCY: August 8, 2024

FILED WITH LRC: September 3, 2024 at 3 p.m.

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on November 27, 2024, at 1:00 p.m. ET at the Kentucky Board of Emergency Medical Services, 500 Mero Street, 5th Floor 5SE32, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 2024. 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:** John K. Wood, counsel for the Kentucky Board of Emergency Medical Services, 163 East Main Street, Suite 200, Lexington, Kentucky 40507, phone (859) 225-4714, email [administrativeregulations@wgmfirm.com](mailto:administrativeregulations@wgmfirm.com).

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John K. Wood

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the minimum staffing requirements for EMS ground vehicles.

(b) The necessity of this administrative regulation: KRS 311A.030 requires the Board to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers and medical first response agencies. This administrative regulation establishes the minimum staffing requirements for EMS ground vehicles.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 311A.030 by establishing the minimum staffing requirements for ground vehicles.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 311A.030 requires the Board to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers and medical first response agencies. This administrative regulation assists in the effective administration of KRS 311A.030 by establishing the minimum staffing requirements for ground vehicles.

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

(a) How the amendment will change this existing administrative regulation: Class I ALS services are required to have at least one (1) paramedic on duty at all times. Under this amendment, Class I ALS agencies can request a temporary waiver of the one-paramedic-on-duty requirement from the Board. Agencies issued a temporary waiver will be required to have either an AEMT or a paramedic on duty at all times. The Board will issue a temporary waiver to any Class I ALS agency that demonstrates that it has attempted to meet minimum paramedic staffing requirement in good faith, but has been unable to do so. If the Board has probable cause to believe that an agency requesting a waiver has not made a good faith effort to meet the staffing requirement, the Board will refer the matter for a hearing in accordance with KRS Chapter 13B to determine whether the agency should be granted a temporary waiver. All temporary waivers issued under this amendment will expire on December 31, 2026. Thereafter, all Class I ALS agencies will again be required to have a paramedic



## VOLUME 51, NUMBER 4– October 1, 2024

on duty at all times. Agencies issued a temporary waiver will be required to submit quarterly reports to the Board providing a status update of the agency's efforts to hire paramedics. If an agency fails to submit a required report, the agency's temporary waiver will expire seven (7) days after the report deadline if the report still has not been received by the Board by that date.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to prevent certain Class I ALS agencies from downgrading to Class I BLS services.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 311A.030 requires the Board to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers and medical first response agencies. This administrative regulation establishes the minimum staffing requirements for ground vehicles.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of KRS 311A.030 by establishing the minimum staffing requirements for ground vehicles.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All Class I ALS services, cities and counties, and the public will be affected by this administrative regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Any Class I ALS that cannot meet the requirement to have at least one (1) paramedic on duty at all times may apply for a temporary waiver of that requirement under this amendment. The agency's chief operations or service director will have to submit an affidavit providing information regarding the agency's paramedic staffing and its efforts to hire paramedics. The agency is required to notify the chief local elected official of the agency's geographic service area that the agency is applying for a temporary waiver pursuant to this amendment. Agencies issued a temporary waiver will be required have either an AEMT or a paramedic on duty at all times. Agencies granted a temporary waiver must submit quarterly reports to the Board providing an update on their efforts to hire paramedics. Class I ALS agencies granted a temporary waiver pursuant to this amendment should be prepared for the expiration of the waivers on December 31, 2026.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to any entity identified in question (3), other than administrative costs that may be incurred in recruiting and maintaining required personnel and in submitting required reports.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Patients served by Class I ALS agencies that cannot meet the requirement to have at least one (1) paramedic on duty at all times will benefit from this amendment by retaining access to some ALS services. Without this amendment, certain agencies would be required to downgrade to a BLS license, under which the agency could not provide ALS services. Class I ALS agencies struggling to meet the paramedic staffing requirement will benefit from this amendment by not having to downgrade their license and thereby avoid the need to obtain a new Certificate of Need once the agency is able to hire a sufficient number of paramedics.

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

(a) Initially: Other than administrative costs, there will be no costs to the Board in implementing this administrative regulation.

(b) On a continuing basis: Other than administrative costs, there will be no costs to the Board in implementing this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Kentucky Board of Emergency Medical Services is a state agency that receives its annual budget from the state government.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation,

if new, or by the change if it is an amendment: No increase in fees or funding will be necessary.

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

(9) TIERING: Is tiering applied? Tiering is not applied to this administrative regulation because the amendment establishes minimum staffing requirements for all EMS services.

### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 311A.030.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Emergency Medical Services.

(a) Estimate the following for the first year:

Expenditures: None.

Revenues: None.

Cost Savings: None.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? This amendment should not affect the Board's expenditures, revenues, or costs.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): All cities and counties with Class I ALS ambulance services that cannot meet the current minimum staffing requirements will be affected by this amendment.

(a) Estimate the following for the first year:

Expenditures: There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining required personnel and in submitting required reports.

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining required personnel and in submitting required reports.

(4) Identify additional regulated entities not listed in questions (2) or (3): All Class I ALS services.

(a) Estimate the following for the first year:

Expenditures: There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining required personnel and in submitting required reports.

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining required personnel and in submitting required reports.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining required personnel and in submitting required reports.

(b) Methodology and resources used to determine the fiscal impact: No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining required personnel and in submitting required reports.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This administrative regulation will not have an overall negative or adverse major economic impact to the affected entities.

(b) The methodology and resources used to reach this conclusion: No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining required personnel and in submitting required reports.

VOLUME 51, NUMBER 4– October 1, 2024

**TOURISM, ARTS AND HERITAGE CABINET**  
**Department of Fish and Wildlife Resources**  
**(Amendment)**

**301 KAR 3:005. Public use of newly acquired or newly managed lands.**

RELATES TO: KRS 150.010, 150.170, 150.175, 150.390  
STATUTORY AUTHORITY: KRS 150.025(1), 150.620  
NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) requires[~~authorizes~~] the Kentucky Department of Fish and Wildlife Resources[~~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 administrative regulations apply to a limited area. KRS 150.620 requires[~~authorizes~~] the department to promulgate administrative regulations for the maintenance and operation of the lands it has acquired for public recreation. This administrative regulation establishes the requirements for the department to close seasons on newly acquired or managed properties or to establish requirements that are different from statewide season requirements or methods of take until the department can subsequently amend administrative regulations [~~within the first year a property is acquired or managed~~]. This administrative regulation also establishes the authority to restrict hunting, fishing, and trapping or methods of take in areas for reasons of public safety.

Section 1.

(1) Upon acquiring [~~or managing~~] new public land, the department shall[~~may~~] close the area to all hunting, fishing, or trapping or for certain [~~game~~] species for up to the first three (3) years of ownership [~~if during the first year of ownership or management if an imminent risk is present regarding~~]:

(a) Inadvertent trespassing on adjacent private land by hunters, anglers, or trappers due to a lack of adequate boundary marking is likely; or [~~Human safety;~~]

(b) The activity would have a[A] negative impact to wildlife populations. [~~or~~]

[~~(c) Inadvertent trespassing on adjacent private land by hunters due to a lack of adequate boundary marking.~~]

(2) The department shall close areas to all hunting, fishing, or trapping or consumption of certain species if:

(a) The department determines the area is unsafe for hunting, fishing or trapping due to:

1. Hazards that exist on the area which pose a substantial risk of harm to members of the public engaged in said activity;

2. The area being adjacent to or near residential dwellings or commercial development; or

3. Construction activities;

(b) The area is deemed unsuitable for hunting, fishing, or trapping due to:

1. The department establishing the area for use as office space, equipment storage, parking, habitat preservation, a shooting range, boat ramp access, or exclusively for educational purposes, or

2. Ongoing management, habitat improvement or research by the department which would conflict with said activity; or

(c) Species found within the area are deemed unsafe or unsuitable for consumption based upon suspected or confirmed environmental hazards or disease.

(3) An area shall be closed for hunting and trapping if said area is established by the department exclusively for public fishing access.

(4) If there are[~~is~~] any restrictions[~~deviation from statewide hunting or trapping seasons during the first year of ownership or management,~~] as established pursuant to [~~in~~] subsection (1), (2), or (3) of this section, the department shall inform the public by:

(a) Conspicuously posting the requirements on signage at major access points on the area; and

(b) Posting the area requirements on the department's Web site at fw.ky.gov.

Section 2.

(1) Upon acquiring or managing new public land, the department may establish temporary device[~~during the first year of ownership or~~

~~management on the area, weapons] restrictions for [deer] hunting that differ from statewide requirements, for up to three (3) years, if an imminent risk is present regarding:~~

(a) Human safety; or

(b) A negative impact on the area's [~~deer~~] population of a species.

(2) Upon acquiring or managing new public land, the department may establish temporary gear, size limits, or harvest limits that differ from statewide fishing requirements, for up to three (3) years, if an imminent risk is present regarding a negative impact on the area's population of aquatic species.

(3) If there is any deviation from statewide device requirements regarding methods of take, as established in subsections[~~subsection~~] (1) and (2) of this section, the department shall inform the public as established in Section 1(4)[~~Section 1(2)~~] of this administrative regulation.

[~~Section 3.] [A hunter or trapper shall comply with the area requirements on newly acquired or managed lands as established in Sections 1 and 2 of this administrative regulation.]~~

RICH STORM, Commissioner

APPROVED BY AGENCY: September 12, 2024

FILED WITH LRC: September 13, 2024 at 11:00 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 29, 2024, at 9:30 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 November 30, 2024. 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, Frankfort, Kentucky 40601, Phone: (502) 564-3400, fax: (502) 564-0506, email: fwpubliccomments@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jenny Gilbert

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes authority for the department to place restrictions for hunting, fishing, trapping and access for newly acquired or managed lands or other lands for safety or wildlife management concerns.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the requirements for the department to close seasons on newly acquired or managed properties or to establish requirements that are different from statewide season requirements or methods of take until the department can subsequently amend administrative regulations. This administrative regulation is also necessary to establish the authority to restrict hunting, fishing, and trapping or methods of take in areas for reasons of public safety.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025(1) requires the Kentucky Department of Fish and Wildlife Resources to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits and methods of take, and to make administrative regulations apply to a limited area, regulate any method of take and restrict the places where taking is permitted. KRS 150.620 requires the department to promulgate administrative regulations for the maintenance and operation of the lands it has acquired for public recreation.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes when, how and duration of restrictions to normal

VOLUME 51, NUMBER 4– October 1, 2024

hunting, fishing and trapping activities on newly acquired or managed lands or on lands to address public safety concerns.

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

(a) How the amendment will change this existing administrative regulation: The amendments will change time allowed for temporary restrictions on newly acquired or managed lands, increasing the duration from one year to three years. It also establishes the closure of areas to hunting, fishing or trapping when said properties are incompatible for those activities or deemed unsafe.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to expand the time available to promulgate permanent regulations, prepare properties for public use and perform wildlife or habitat management activities for newly acquired or managed lands. The amendment is also necessary to establish public safety protections for temporary or long-term safety concerns.

(c) How the amendment conforms to the content of the authorizing statutes: See 1(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See 1(d) above.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Any individual, business, organization or government entity utilizing KDFWR owned or managed lands.

(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 necessary except to follow the restrictions applicable to each property.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Benefits for users will include higher quality public lands, hazard avoidance and better infrastructure.

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

(a) Initially: No added cost.

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

(6) What is the source of the funding to be used for the 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: There will be no increase in fees or funding.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: n/a

(9) TIERING: Is tiering applied? There is no tiering applied.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025, KRS 150.620

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Department of Fish and Wildlife Resources

(a) Estimate the following for the first year:

Expenditures: n/a

Revenues: n/a

Cost Savings: n/a

(b) How will expenditures, revenues, or cost savings differ in subsequent years? n/a

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): There will be no fiscal impact to local entities with this amendment.

(a) Estimate the following for the first year:

Expenditures: n/a

Revenues: n/a

Cost Savings: n/a

(b) How will expenditures, revenues, or cost savings differ in subsequent years? n/a

(4) Identify additional regulated entities not listed in questions (2) or (3): None

(a) Estimate the following for the first year:

Expenditures: n/a

Revenues: n/a

Cost Savings: n/a

(b) How will expenditures, revenues, or cost savings differ in subsequent years? n/a

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: There will be no fiscal impact.

(b) Methodology and resources used to determine the fiscal impact: n/a

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate)

(b) The methodology and resources used to reach this conclusion: n/a

ENERGY AND ENVIRONMENT CABINET
Department Of Environmental Protection
Division Of Waste Management
(Amendment)

401 KAR 47:110. Registered permit-by-rule.

RELATES TO: KRS 224.01-010, 224.10-100, 224.10-105, 224.40-100, 224.40-110, 224.40-120, 224.40-305, 24.40-310, 224.40-315, 224.40-320, 224.40-325, 224.40-330, 224.40-340, 224.40-605, 224.40-650, 224.43-010, 224.43-020, 224.43-070, 224.43-310, 224.43-315, 224.43-330, 224.43-340, 224.43-345, 224.43-350, 224.70-100, 224.70-110, 224.99-010, 224.99-020

STATUTORY AUTHORITY: KRS 224.10-100(19)(c) and (24), 224.40-100, 224.40-305

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(19)(c) and (24), and 224.40-305 authorize the cabinet to promulgate administrative regulations for the management, processing, and disposal of wastes. KRS 224.40-305 requires that persons engaging in the management, processing, and disposal of waste obtain a permit. This administrative regulation establishes requirements for registered permits-by-rule and the standards for the certification program.

Section 1. Issuance of Registered Permit-by-rule.

(1) Before accepting waste, the owner or operator of a solid waste site or facility established [specified] in 401 KAR 47:080, Section 2(6) shall notify the cabinet by submitting a registration. [For solid waste sites or facilities other than medical waste transfer stations,] The registration shall become effective thirty (30) calendar [five (5) business] days after the cabinet receives it unless the cabinet approves or denies the registration within that time. A registration shall be denied if the registration is incomplete or the registration fails to demonstrate compliance with the requirements established in 401 KAR Chapters 47 and 48. [For medical waste transfer stations, the registration shall become effective thirty (30) days after the cabinet receives it unless the cabinet denies the registration within that time.] The cabinet shall hold a public hearing in accordance with 401 KAR 47:140, Section 10, prior to accepting or denying the registration upon the request of any individual. The owner or operator of a registered permit-by-rule facility shall comply with the environmental performance standards in 401 KAR 30:031 in order for the registered permit-by-rule to remain effective.

(2) The registration for a registered permit-by-rule facility shall be submitted to the cabinet on one (1) of the following registration forms:

(a) DEP 7059; Solid Waste Transfer Station, Convenience Center, and Recycling Center;

(b) DEP 7059-A; Solid Waste Composting Facility;

(c) DEP 7059-E; Class I Solid Waste Landfarm;

VOLUME 51, NUMBER 4– October 1, 2024

(d) DEP 7059-H; Less-than-one-acre Construction/Demolition Debris (CDD) Landfill; or

(e) DEP 7059-J; Solid Waste Incinerator.

~~(3) [A registration that is determined to be administratively incomplete may be denied within five (5) business days after receiving the registration. Thereafter,] If the cabinet determines that a registration that is not approved or denied pursuant to subsection 1 of this section fails to include all of the information required, the cabinet shall notify the operator that the registration is deficient. The owner or operator shall submit the requested information within thirty (30) calendar days of the date of the notice of deficiency. The cabinet shall review the registration [cabinet's review shall be conducted] in accordance with the requirements of 401 KAR 47:025.~~

(4) Prior to submission of the registration, the owner or operator shall prepare a groundwater protection plan in accordance with 401 KAR 5:037.

(5) The owner or operator shall publish a notice two (2) weeks prior to submission of the registration in a daily or weekly newspaper of general circulation where the proposed facility is located. Public notices shall be of a size to include not less than two (2) column widths for advertising and shall be in a display format. The public notice shall contain ~~the following~~:

- (a) Name and address of the owner or operator;
- (b) The type of facility;
- (c) A brief description of the business to be conducted; and
- (d) Name and address of the facility.

Section 2. Operating Requirements for Registered Permit-by-rule Facilities.

(1) The owner or operator of a facility operating under a registered permit-by-rule, except as established~~provided~~ in Section 3 of this administrative regulation, shall not:

(a) Store, treat, or dispose of solid waste not specified in the registration; or

(b) Exceed the design capacities specified in the registration.

(2) The owner or operator of a facility operating under a registered permit-by-rule shall comply with the environmental performance standards in 401 KAR 30:031.

(3) The owner or operator of a registered permit-by-rule facility shall keep records as established~~provided~~ in this section.

(a) The owner or operator of a less-than-one (1) acre or expanded less-than-two (2) acre construction or ~~demolition debris landfill or solid waste incinerator shall report quarterly pursuant to KRS 224.43-330. In addition, the owner or operator shall submit DEP 7046, Annual Waste Quantity Report, to the cabinet annually and upon closure of the facility.~~

(b) The owner or operator of a composting facility shall report quarterly pursuant to KRS 224.43-330. In addition, the owner or operator shall submit DEP 7108, Annual Report for a Solid Waste Composting Facility, to the cabinet annually and upon closure of the facility.

(c) The owner or operator of a landfarming facility shall report quarterly pursuant to KRS 224.43-330. In addition, the owner or operator shall submit DEP 7064, Annual Report for a Class I Solid Waste Landfarm, to the cabinet annually and upon closure of the facility.

(d) The owner or operator of a registered permit-by-rule convenience center, transfer station or commercial recycling center shall document records on DEP 7046, Annual Waste Quantity Report. Records shall be kept on site and available for inspection for at least three (3) years.

(4) The owner or operator of a solid waste incinerator shall conduct the Toxicity Characteristic Leaching Procedure (TCLP) test established~~described~~ in 401 KAR 31:030, Section 5, before the initial disposal of any ash and ~~if~~whenever the characteristics of the waste accepted by the incinerator significantly change. The owner or operator shall keep a record of the current TCLP laboratory analysis report required by this section available for inspection by the cabinet for at least three (3) years. The owner or operator of a solid waste incinerator shall report the volume of ash generated to the cabinet annually and upon closure of the facility. The report shall be submitted no later than January 31 for the preceding calendar year.

Section 3. Changes to a Registered Permit-by-rule.

(1) A revised registration shall be submitted as established in paragraphs (a) through (c) of this subsection~~follows~~:

(a) Solid wastes not previously identified in the registration may be stored, treated, or disposed at a facility operating under a registered permit-by-rule if the owner or operator submits a revised registration to the cabinet prior to that change.

(b) The owner or operator of a facility operating under a registered permit-by-rule shall submit a revised registration to the cabinet prior to increasing the design capacity of processes used at a facility.

(c) The owner or operator of a facility operating under a registered permit-by-rule shall submit a revised registration to the cabinet prior to changing the processes for the storage, treatment, or disposal of solid waste, using additional processes, or changing the owner or operator.

(2) The revised registration shall become effective thirty (30) calendar~~five (5) business~~ days after the cabinet receives it, unless the cabinet approves or denies the registration within that time. The cabinet shall review the registration in accordance with Section 1 of this administrative regulation.

Section 4. Revocation of a Registered Permit by Rule. The cabinet may revoke a registered permit-by-rule for the following causes:

(1) Noncompliance by the owner or operator with a condition of the registration;

(2) The owner, operator, or key personnel fail~~owners, operator's, or key personnel's failure during the registration process~~ to disclose all information required by the cabinet during the registration process;

(3) The owner, operator, or key personnel misrepresent~~owner's, operator's, or key personnel's misrepresentation of~~ any information required by the cabinet at any time;

(4) The cabinet determines~~cabinet's determination~~ that the operation endangers human health, safety, or the environment;

(5) The owner, operator, or key personnel violate~~owner's, operator's or key personnel's violation of~~ any requirement of KRS Chapter 224 or 401 KAR Chapters 30 through 49~~the administrative regulations promulgated pursuant thereto~~; or

(6) A change to the registered-permit-by-rule that was made without complying with Section 3 of this administrative regulation.

Section 5. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) DEP 7059; "Solid Waste Transfer Station, Convenience Center, and Recycling Center", November 2016;

(b) DEP 7059-A; "Solid Waste Composting Facility", November 2016;

(c) DEP 7059-E; "Class I Solid Waste Landfarm", November 2016;

(d) DEP 7059-H; "Less-than-one-acre Construction/Demolition Debris", July 2024~~November 2016~~;

(e) DEP 7059-J; "Solid Waste Incinerator", November 2016;

(f) DEP 7064; "Annual Report for a Class I Solid Waste Landfarm", November 2016;

(g) DEP 7108; "Annual Report for a Solid Waste Composting Facility", November 2016; and

(h) DEP 7046; "Annual Waste Quantity Report", November 2016.

(2) This material may be inspected, copied, or obtained at the Division of Waste Management, 300 Sower Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m., or at any of the division's field offices Monday through Friday, 8 a.m. to 4:30 p.m.; 2642 Russellville~~Russelville~~ Road, Bowling Green, Kentucky 42101; 2751 Campbellsville Road, Columbia, Kentucky 42728; 8020 Veterans Memorial Drive, Suite 110, Florence, Kentucky 41042; 1332 State Highway 15, Hazard, Kentucky 41701; 875 South Main Street, London, Kentucky 40741; 9116 Leesgate Road, Louisville, Kentucky 40222-4925; Madisonville State Office Building, 625 Hospital Drive, Madisonville, Kentucky 42431; 525

## VOLUME 51, NUMBER 4– October 1, 2024

Hecks Plaza Drive, Morehead, Kentucky 40351; 130 Eagle Nest Drive, Paducah, Kentucky 42003.

(3) This material is also available at the division Web site at [eec.ky.gov/environmental-protection/waste](http://eec.ky.gov/environmental-protection/waste).

JOHN LYONS, Deputy Secretary  
For REBECCA GOODMAN, Secretary

APPROVED BY AGENCY: September 13, 2024

FILED WITH LRC: September 13, 2024 at 11:45 a.m.

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on November 21, 2024, at 10:00 a.m. Eastern Standard Time. The public hearing can be accessed at the following website address: <https://us05web.zoom.us/j/81334701532?pwd=eWJhA2kT9l6PWurOirAnFpuYads2k.1> using access code M00m5c. Please note that registration is required to participate in this hearing. You must either email your name and mailing address to [Tyler.Shields@ky.gov](mailto:Tyler.Shields@ky.gov) or mail this information to Tyler Shields, Department for Environmental Protection, Division of Waste Management, 300 Sower Boulevard, Frankfort, Kentucky 40601. Please put "401 KAR 47:110" as the subject line, and state in the body of the message if you plan to speak during the hearing. Individuals interested in being heard at this hearing shall register to speak by November 14, 2024. If no one registers to speak by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 2024. Send written notification of intent to be heard at the public hearing, or written comments on the proposed administrative regulation, to the contact person. The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing, may be made to the contact person at least five (5) workdays prior to the hearing.

**CONTACT PERSON:** Tyler Shields, Environmental Control Supervisor, Department for Environmental Protection, Division of Waste Management, 300 Sower Boulevard, Frankfort, Kentucky 40601, phone (502) 782-5325, fax (502) 564-4245, email [Tyler.Shields@ky.gov](mailto:Tyler.Shields@ky.gov) (Subject line: "401 KAR 47:110").

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Tyler Shields

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements for registered permits-by-rule and the standards for the certification program.

(b) The necessity of this administrative regulation: KRS 224.10-100(19)(c) and (24), and 224.40-305 authorize the Cabinet to promulgate administrative regulations for the management, processing, and disposal of wastes. KRS 224.40-305 requires that persons engaging in the management, processing, and disposal of waste obtain a permit. This administrative regulation establishes requirements for registered permits-by-rule and the standards for the certification program.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-100(19)(c) and (24), and 224.40-305 authorize the Cabinet to promulgate administrative regulations for the management, processing, and disposal of wastes. KRS 224.40-305 requires that persons engaging in the management, processing, and disposal of waste obtain a permit.

(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 requirements for registered permits-by-rule and the standards for the certification program.

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

(a) How the amendment will change this existing administrative regulation: The amendments will change multiple sections of the

existing administrative regulation. Sections of this administrative regulation are amended to revise the registration review period from five (5) business days to thirty (30) calendar days unless the Cabinet approves or denies the registration within that time. The exception for medical waste transfer station in Section 1(1) is being removed as those facilities currently adhere to a thirty (30) day review period. Section 2 of the administrative regulation is amended to include expanded less than two (2) acre construction or demolition and debris landfills to conform with KRS 224.40-120 and 224.43-330. Sections 5 and 6 of this administrative regulation are amended to update the edition of a form incorporated by reference to correct the address of the Bowling Green Regional Office, respectively. The administrative regulation is amended throughout in accordance with KRS Chapter 13A.

(b) The necessity of the amendment to this administrative regulation: The current review period established in the administrative regulation does not allow adequate review time for staff to address deficiencies, thus requiring staff to deny an entire registration instead of working with the registrant to revise deficient documentation. The amendment to include language referencing expanded less than two (2) acre construction or demolition debris landfills is necessary to comply with KRS 224.40-120 and KRS 224.43-330.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 224.10-100(19)(c) and (24), and 224.40-305 authorize the Cabinet to promulgate administrative regulations for the management, processing, and disposal of wastes. KRS 224.40-305 requires that persons engaging in the management, processing, and disposal of waste obtain a permit. (d) How the amendment will assist in the effective administration of statutes: The amendments to the administrative regulation will allow the division to implement and enforce requirements of registered permit-by-rules and the standards for the certification program.

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: : This administrative regulation will affect existing and new owners or operators of: recycling centers (101), convenience centers (50), solid waste transfer stations (133), solid waste composting facilities (28), solid waste incinerator facilities (0), class one (1) solid waste landfills (2), less than one (1) acre construction or demolition debris landfills (82) or expanded less than two (2) acre construction or demolition debris landfills (0), and medical waste transfer stations (11). Additionally, the administrative regulation will affect any local government or municipality who have a specified facility within their jurisdiction. Landowners where the specified facility is located or is proposed to be located will also be affected by this administrative regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The entities identified will have to comply with the established requirements and standards when submitting or modifying registration for a registered permit-by-rule and comply with operating requirements in accordance 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): This administrative regulation does not establish fees for a registered permit-by-rule, however indirect fees are established in 401 KAR 47:090 for registration, modification, and annual permit renewal of a registered permit-by-rule.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance with this administrative regulation, registrants will be certified to own and operate a registered permit-by-rule facility established in this administrative regulation. (5) Provide an estimate of how much it will cost to implement this administrative regulation:

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

## VOLUME 51, NUMBER 4– October 1, 2024

(a) Initially: The agency will not incur any initial costs for the implementation of this administrative regulation as this certification program is already established within the Solid Waste Branch of the Division of Waste Management.

(b) On a continuing basis: The agency will not incur any additional costs for the implementation of this administrative regulation as this certification program is already established within the Solid Waste Branch of the Division of Waste Management.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This administrative regulation utilizes the General Fund (0100) to pay the Division of Waste Management personnel template (AP0175/AP0179).

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary to implement this administrative regulation. This administrative regulation has established indirect fees for registration, modification, and annual permit renewal of a registered permit-by-rule which are established in 401 KAR 47:090.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: While this administrative regulation package does not establish new fees, this administrative regulation has established indirect fees for registration, modification, and annual permit renewal of a registered permit-by-rule which are established in 401 KAR 47:090.

(9) TIERING: Is tiering applied? No, this administrative regulation establishes requirements for registered permits-by-rule and the standards for the certification program.

### FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 40 CFR Part 257 describes the criteria for classification of solid waste disposal facilities and practices excluding municipal solid waste landfill units, under authority of 42 U.S.C. 6907(a)(3), 6912(a)(1) and (d); 33 U.S.C. 1345(d) and (e).

(2) State compliance standards. : KRS 224.40-100(19)(c) and (24), and KRS 224.40-305.

(3) Minimum or uniform standards contained in the federal mandate. : 40 CFR Part 257 Subpart A describes classifications of solid waste disposal facilities and practices, while 40 CFR Part 257 Subpart B sets disposal standards for the receipt of very small quantity generator waste at non-municipal non-hazardous waste disposal units. Pursuant to this administrative regulation amendment package, 40 CFR 248.2 defines construction and demolition (C&D) landfills, subject to the requirements in part 257, subparts A and B. Only C&D landfills that meet the requirements of 40 CFR Part 257, subpart B may receive very small generator waste (defined in 40 CFR 260.1).

(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 is broader in scope as it establishes requirements for registered permits-by-rule and the standards for the certification program, while the federal regulations reference general disposal requirements.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation is broader in scope as it establishes requirements for registered permits-by-rule and the standards for the certification program, while the federal regulations reference general disposal requirements. Solid waste disposal, including nonhazardous industrial waste, is overseen by the states.

### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. : KRS 224.40-100(19)(c) and (24), 224.40-305 and 40 CFR Part 257, Subpart A and B.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Energy and Environment Cabinet, Department for Environmental Protection, Division of Waste Management.

(a) Estimate the following for the first year:

Expenditures: The Cabinet estimates current program expenditures to total \$623,095.

Revenues: The Cabinet estimates the revenue generated from annual permit renewal fees, pursuant to 401 KAR 47:090, to total \$359,250. An additional source of revenue is generated from registration and modification fees for a registered permit-by-rule, established in 401 KAR 47:090. The registration and modification fees for registered permit-by-rule facilities include a \$2,500 fee for transfer stations or convenience centers, \$4,500 for less than one-acre construction or demolition debris landfills, \$3,000 for compost facilities, \$4,000 for Class I landfarm facilities, and \$20,000 for solid waste incinerators.

Cost Savings: By extending application review periods the Cabinet will have additional time to work with regulated entities to address deficiencies to avoid denial of the registration or modification, resulting in potential cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? : The Cabinet does not anticipate the expenditures, revenues, or cost savings to differ in subsequent years. It should be noted that registration and modification fee submissions fluctuate pursuant to new applicants and requests for modification which could potentially impact revenues generated by this program.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Local entities that will be affected by this administrative regulation include any local municipality that owns or operates a registered permit-by-rule facility established in this administrative regulation.

(a) Estimate the following for the first year:

Expenditures: Pursuant to 401 KAR 47:090, publicly owned facilities are not required to pay the indirect fees associated with this administrative regulation. Expenditures for local entities would include construction or modification costs relating to their registered permit-by-rule facility.

Revenues: The Cabinet cannot estimate the revenues generated by the local entities.

Cost Savings: Pursuant to 401 KAR 47:090, publicly owned facilities are not required to pay the indirect fees associated with this administrative regulation.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The Cabinet does not anticipate the expenditures, revenues, or cost savings to differ in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3): Entities affected by the amendments in this administrative regulation package include owners or operators of a registered permit-by-rule facility established in this administrative regulation.

(a) Estimate the following for the first year:

Expenditures: Owners or operators of facilities operating under a registered permit-by-rule will be subject to a registration, modification, and annual permit renewal fees as established in 401 KAR 47:090. Pursuant to KRS 224.40-120 an owner or operator of a less than one-acre construction or demolition debris landfill registered permit-by-rule is required to post a \$10,000 bond as financial assurance. Pursuant to KRS 224.40-120, an owner or operator of a less than one-acre construction or demolition debris landfill requesting an expansion in capacity to a less than two-acre construction or demolition debris landfill is required to post an additional \$10,000 bond for the additional acre.

Revenues: The Cabinet cannot estimate the revenues generated by the regulated entities.

Cost Savings: Pursuant to the amendments of this administrative regulation, by extending application review periods the Cabinet will have additional time to work with regulated entities to address deficiencies to avoid denial of the registration or modification, resulting in potential cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The Cabinet does not anticipate the expenditures, revenues, or cost savings to differ in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This administrative regulation has indirect fees for the registration, modification, and annual permit renewal for facilities operating under a registered permit-by-rule, as established in 401 KAR 47:090.

## VOLUME 51, NUMBER 4– October 1, 2024

Pursuant to 401 KAR 47:090, public-owned facilities are not subject to the established fees.

(b) Methodology and resources used to determine the fiscal impact: The fees associated with the fiscal impact of this administrative regulation are established in 401 KAR 47:090.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) : This proposed administrative regulation will not have a major economic impact as the indirect fees established in 401 KAR 47:090 are not being amended.

(b) The methodology and resources used to reach this conclusion:

While this administrative regulation does not include fees, indirect fees are established in 401 KAR 47:090, registration or modification fees for registered permit-by rule facilities include a \$2,500 fee for transfer stations or convenience centers, \$4,500 for less than one-acre construction or demolition debris landfills, \$3,000 for compost facilities, \$4,000 for Class I landfarm facilities, and \$20,000 for solid waste incinerators. Additionally, these facilities are required to submit an annual permit renewal fee, pursuant to 401 KAR 47:090. The annual permit renewal fee for each facility specified in this administrative regulation are as follows: \$2,500 fee for transfer stations or convenience centers; \$500 for less than one-acre construction or demolition debris landfills receiving 1,000 or less tons of waste per year, \$1,500 for less than one-acre construction or demolition debris landfills receiving more than 1,000 and less than \$5,000 tons of waste per year, and \$3,000 for less than one-acre construction or demolition debris landfills receiving 5,000 or more tons of waste per year; \$3,000 for compost facilities; \$4,000 for Class I landfarm facilities; and \$1,000 for solid waste incinerators. Pursuant to 401 KAR 47:090, public-owned facilities are not subject to the established fees.

### ENERGY AND ENVIRONMENT CABINET Department Of Environmental Protection Division Of Waste Management (Amendment)

#### 401 KAR 48:320. Operating requirements for less than one (1) acre or expanded less than two (2) acre construction or [A]demolition debris landfills.

RELATES TO: KRS 224.01-010, 224.10-100, 224.10-105, 224.40-100, 224.40-110, 224.40-120, 224.40-305, 224.40-310, 224.40-315, 224.40-320, 224.40-325, 224.40-330, 224.40-340, 224.40-605, 224.40-650, 224.43-010, 224.43-020, 224.43-070, 224.43-310, 224.43-315, 224.43-330, 224.43-340, 224.43-345, 224.43-350, 224.70-100, 224.70-110, 224.99-010, 224.99-020

STATUTORY AUTHORITY: KRS 224.10-100(19)(c) and[ ] (24), 224.40-100, 224.40-120, 224.40-305, 224.40-330, 224.40-605

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(19)(c) and[ ] (24), 224.40-120, 224.40-305, 224.40-330, and 224.40-605 authorize the cabinet to promulgate administrative regulations for the management, processing, and disposal of wastes. KRS 224.40-305 requires that persons engaging in the management, processing, and disposal of waste obtain a permit. This administrative regulation establishes the technical requirements for less than one (1) acre or expanded less than two (2) acre construction or [A]demolition debris landfills.

Section 1. Applicability. This administration regulation shall apply[applies] to owners and operators of less than one (1) acre or expanded less than two (2) acre construction or [A]demolition debris landfills. The owner or operator of a less than one (1) acre or expanded less than two (2) acre construction or [A]demolition debris landfill shall operate the facility in accordance with the requirements of this administrative regulation.

Section 2. Requirement to Obtain a Registered Permit-by-rule. The owner or operator of a less than one (1) acre or expanded less than two (2) acre construction or [A]demolition debris landfill shall not begin construction or accept waste until the registered permit-by-rule for the facility has become effective as established[specified] in 401 KAR 47:110.

Section 3. Construction Requirements. The owner or operator of a less than one (1) acre or expanded less than two (2) acre construction or [A]demolition debris landfill located inside a wellhead protection area, as defined by[in] 401 KAR 5:002, Section 1, shall construct and maintain a liner and leachate collection system.

(1) The liner shall:

(a) Be constructed of soil:

1. With a minimum thickness of twelve (12) inches; and
2. That includes a low permeability soil component with a minimum of twelve (12) contiguous inches of  $1 \times 10^{-7}$  centimeters per second maximum permeable material, or its equivalent; and

(b) Cover the bottom and sidewalls of the facility, with the bottom liner sloped toward a leachate collection system that complies with subsection (3) of this section.

(2) A professional engineer, licensed in Kentucky pursuant to KRS 322.040, shall supervise[oversee] the design and installation of the liner, including moisture and density tests, and shall certify that the liner meets the compaction requirements. The certification shall be submitted to the cabinet within ten (10) days of completion of the liner.

(3) The leachate collection system shall:

(a) Have a minimum of a twelve (12) inch layer of gravel, or a layer of equivalent performance, and a toe-drain; and

(b) Be discharged into a collection tank with a minimum capacity of 1000 gallons.

(4) A professional engineer licensed in Kentucky, pursuant to KRS 322.040, shall supervise[oversee] the design and installation of the leachate collection system, and shall certify that the collection tank meets the capacity requirement. The certification shall be submitted to the cabinet within ten (10) days of completion of the liner.

Section 4. Operating Requirements.

(1) The owner or operator of a less than one (1) acre or expanded less than two (2) acre construction or [A]demolition debris landfill shall comply with the following operating requirements]:

(a) The environmental performance standards of 401 KAR 30:031;

(b) The siting requirements of 401 KAR 48:050, Sections 1 through[-, 2-, and] 3;

(c) The liner and a leachate collection system as established[specified] in Section 3 of this administrative regulation, if the landfill is to be located in a wellhead protection area;

(d) The groundwater protection plan requirements of 401 KAR 5:037;

(e) The requirements of KRS 224.40-120;

(f) The operator certification requirements established pursuant to KRS 224.40-605; and

(g) The annual report requirement of 401 KAR 47:110, Section 2(3).

(2) The owner or operator of a less than one (1) acre or expanded less than two (2) acre construction or [A]demolition debris landfill shall:

(a) Dispose only of construction or [A]demolition waste or construction material as defined by[in] 401 KAR 48:005, Section 1(18);

(b) Not dispose of electrical fixtures containing hazardous liquids, such as fluorescent light ballasts or transformers;

(c) Properly dispose of any non-construction or [A]demolition debris landfill waste at a properly permitted disposal facility;

(d) During operation clearly delineate the horizontal boundary with slats, stakes, or other types of easily identifiable permanent markers to show that the constructed boundary is within the permitted boundary;

(e) Install silt fencing, hay bales, or other appropriate best management practices to prevent sediment from leaving any area disturbed by construction, including stockpiled soil and borrow pit areas. The sediment controls shall be kept in good operating order;

(f) Only accept waste from sources listed in the registration and approved by the cabinet. Wastes may be added by submitting a revised registration pursuant to 401 KAR 47:110, Section 3(3);

(g) Place the waste in layers, two (2) feet thick or smaller, and compact each layer thereafter;

## VOLUME 51, NUMBER 4– October 1, 2024

(h) Cover each ten (10) foot lift with a minimum of six (6) inches compacted soil;

(i) Maintain a buffer zone of 750 yards from any other less than one (1) acre or expanded less than two (2) acre construction or [A]demolition debris landfill permitted boundary;

(j) Remove landfill debris, mud and waste from off-site roadways; ~~and~~

(k) Limit the [The] maximum capacity of a less than one (1) acre construction ~~or~~ [and] demolition debris landfill [shall] not to exceed 40,000 cubic yards of waste; ~~and~~ .]

(l) Limit the maximum capacity of a less than one (1) acre construction or demolition debris landfill that has been expanded to a less than two (2) acre construction or demolition debris landfill not to exceed a total combined volume of 110,000 cubic yards of waste.

(3) Interim cover period. The owner or operator:

(a) Shall place interim soil cover in a manner to eliminate protruding waste over an area that will not receive at least twelve (12) cubic yards of waste within ninety (90) calendar days of the last waste placement;

(b) Shall not have more than one (1) acre of exposed waste at any given time;

(c) Shall not remove the interim cover until the day of waste placement;

(d) Shall place, compact, and grade the interim cover to promote positive drainage; and

(e) Shall apply temporary erosion controls at the time of placing interim cover.

Section 5. Closure Requirements. The owner or operator of a less than one (1) acre or expanded less than two (2) acre construction or [A]demolition debris landfill shall close the facility as established in the section [follows:]

(1) The landfill shall be covered with a soil cap, two (2) feet thick, and the entire disturbed area shall be vegetated within thirty (30) days of ceasing to accept waste. The cabinet may approve an alternative cover of equivalent performance proposed by the owner or operator.

(a) The vegetation shall consist of:

1. A minimum of two (2) legumes;

2. One (1) annual grass; and

3. One (1) perennial grass, in sufficient poundage to provide at least ninety (90) percent ground coverage for the disturbed area.

(b) The grass seed shall be covered with at least one and one-half (1.5) tons of straw mulch or an alternative that delivers equivalent performance per acre.

(c) The straw mulch or its alternative shall be stabilized with netting on slopes that exceed fifteen (15) percent.

(d) The final cap shall have a slope of between five (5) percent and twenty-five (25) percent upon completion of the final grading.

(2) The owner or operator of a less than one (1) acre or expanded less than two (2) acre construction or [A]demolition debris landfill shall record a notice, with the property deed, on which the less than one (1) acre or expanded less than two (2) acre construction or [A]demolition debris landfill is located. The notice shall notify, in perpetuity, any potential purchaser of the property of the landfill's location and dates of operation, the nature of the waste disposed, and impose a restriction against any disturbance of the cap. The notice shall be recorded in accordance with KRS Chapter 382 and proof of recording shall be submitted to the cabinet prior to the cabinet's approval of closure.

(3) The owner or operator of a less than one (1) acre or expanded less than two (2) acre construction or [A]demolition debris landfill shall, upon completion of closure of the facility, contact the cabinet for a closure inspection and release of the bond, described in 401 KAR 48:310.

(4) Closure shall be completed no later than thirty (30) days after final [last] receipt of waste.

Section 6. Corrective Action Requirements. If the cabinet determines that a threat to human health, safety, or the environment exists, the owner or operator of a less than one (1) acre or expanded less than two (2) acre construction or [A]demolition debris landfill shall conduct corrective action in accordance with 401 KAR 48:300,

Section 8. The owner or operator shall certify to the cabinet that corrective action has been completed in accordance with this section. The cabinet shall determine that corrective action has been completed before releasing the bond.

JOHN LYONS, Deputy Secretary

For REBECCA GOODMAN, Secretary

APPROVED BY AGENCY: September 13, 2024

FILED WITH LRC: September 13, 2024 at 11:45 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 21, 2024, at 10:00 a.m. Eastern Standard Time. The public hearing can be accessed at the following website address: <https://us05web.zoom.us/j/81334701532?pwd=eWJhA2kPT9l6PWurOirAnFpuYads2k.1> using access code M00m5c. Please note that registration is required to participate in this hearing. You must either email your name and mailing address to [Tyler.Shields@ky.gov](mailto:Tyler.Shields@ky.gov) or mail this information to Tyler Shields, Department for Environmental Protection, Division of Waste Management, 300 Sower Boulevard, Frankfort, Kentucky 40601. Please put "401 KAR 48:320" as the subject line, and state in the body of the message if you plan to speak during the hearing. Individuals interested in being heard at this hearing shall register to speak by November 14, 2024. If no one registers to speak by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 2024. Send written notification of intent to be heard at the public hearing, or written comments on the proposed administrative regulation, to the contact person. The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing, may be made to the contact person at least five (5) workdays prior to the hearing.

CONTACT PERSON: Tyler Shields, Environmental Control Supervisor, Department for Environmental Protection, Division of Waste Management, 300 Sower Boulevard, Frankfort, Kentucky 40601, phone (502) 782-5325, fax (502) 564-4245, email [Tyler.Shields@ky.gov](mailto:Tyler.Shields@ky.gov) (Subject line: "401 KAR 48:320").

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Tyler Shields

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the technical requirements for less than one (1) acre construction or demolition debris landfills and expanded less than two (2) acre construction or demolition debris landfills.

(b) The necessity of this administrative regulation: KRS 224.10-100(19)(c) and (24), 224.40-120, 224.40-305, 224.40-330 and 224.40-605 authorize the Cabinet to promulgate administrative regulations for the management, processing and disposal of wastes. KRS 224.40-120 establishes requirements for allowing off-site disposal of construction or demolition waste at sites initially no larger than one acre and requirements for increase of size of site to no more than two acres. KRS 224.40-305 requires that persons engaging in the management, processing, and disposal of waste obtain a permit. KRS 224.40-330 establishes disclosure of background information and effects on permit, exemptions, and the Cabinet's authority to establish other grounds. KRS 224.40-650 establishes the forfeiture to solid waste disposal site restoration fund. This administrative regulation establishes the technical requirements for less than one (1) acre construction or demolition debris landfills and expanded less than two (2) acre construction or demolition debris landfills.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-100(19)(c) and (24), and 224.40-305 authorize the Cabinet to promulgate administrative regulations for the management, processing, and disposal of wastes. KRS 224.40-120 establishes requirements for allowing off-site disposal of construction or demolition waste at sites initially no larger than one



acre and requirements for increase of size of site to no more than two acres. KRS 224.40-305 requires that persons engaging in the management, processing, and disposal of waste obtain a permit.

(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 technical requirements for less than one (1) acre construction or demolition debris landfills or expanded less than two (2) acre construction or demolition debris landfills.

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

(a) How the amendment will change this existing administrative regulation: The amendments will change multiple sections of the existing administrative regulation. The title of the administrative regulation is amended to include expanded less than two (2) acre construction or demolition debris landfills in accordance with KRS 224.40-120. All sections of the administrative regulation are being amended to include language referencing expanded less than two (2) acre construction or demolition debris landfills. Section 4 of this administrative regulation is being amended to include a maximum volume capacity of waste for a less than one-acre construction or demolition debris landfill that has been expanded to a less than two-acre construction or demolition debris landfill. Additionally, Section 4 of this administrative regulation is being amended to include interim cover requirements for less than one-acre construction or demolition debris landfills or expanded less than two-acre construction or demolition debris landfills. Section 5(4) of this administrative regulation is being amended to clarify closure procedures for the final receipt of waste. The administrative regulation was amended throughout in accordance with KRS Chapter 13A.

(b) The necessity of the amendment to this administrative regulation: Amendments to this administrative regulation are necessary to comply with amendments to KRS 224.40-120 during the 2024 Regular Session, which added requirements for less than one-acre construction or demolition debris landfills that apply for an increase of size of site to no more than two (2) acres. Additionally, amendments for the requirement of interim cover were necessary to assist in compliance with 401 KAR 30:031.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 224.10-100(19)(c) and (24), and 224.40-305 authorize the Cabinet to promulgate administrative regulations for the management, processing, and disposal of wastes. KRS 224.40-120 establishes requirements for allowing off-site disposal of construction or demolition waste at sites initially no larger than one acre and requirements for increase of size of site to no more than two acres. KRS 224.40-305 requires that persons engaging in the management, processing, and disposal of waste obtain a permit.

(d) How the amendment will assist in the effective administration of the statutes: The amendments to the administrative regulation will allow the division to implement and enforce requirements for allowing off-site disposal of construction or demolition waste at sites initially no larger than one acre and requirements for increase of size of site to no more than two acres.

(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 existing and new owners or operators of a less than one-acre construction or demolition debris landfill, as well as any existing owners or operators that expand to a less than two-acre construction or demolition debris landfill. Currently the Cabinet oversees eighty-two (82) less than one-acre construction or demolition debris landfills. The interim cover requirements will only apply to new owners or operators of less than one-acre construction or demolition debris landfills, as well as any existing owners or operators of less than one-acre construction or demolition debris landfills that submit a modification to their register permit-by-rule to expand to a less than two-acre construction or demolition debris landfill. Additionally, the administrative regulation will affect any local government or municipality that have a less than one-acre construction or demolition debris landfill or an expanded less than two-acre construction or demolition debris landfill within their jurisdiction. Landowners where the specified facility is located or is proposed to be located will also be affected by this administrative regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The entities identified will have to comply with the technical requirements for a less than one-acre construction or demolition debris landfill or an expanded less than two-acre construction or demolition debris landfill as established in this administrative regulation. The interim cover requirements will only apply to new owners or operators of less than one-acre construction or demolition debris landfills, as well as any existing owners or operators of less than one-acre construction or demolition debris landfills that submit a modification to their register permit-by-rule to expand to a less than two-acre construction or demolition debris landfill.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The Cabinet estimates the amended interim cover requirements within this administrative regulation equates to roughly \$1,800/acre for every six (6) inches of depth or \$3,600/acre for every twelve (12) inches of depth. Pursuant to 401 KAR 47:090, applicants registering for a less than one-acre construction or demolition debris landfill are required to submit a registration fee of \$4,500, as well as an annual permit renewal fee of \$300, \$500, or \$1,000, dependent on the facilities tonnage of waste received annually. Pursuant to KRS 224.40-120, applicants registering for a less than one-acre construction or demolition debris landfill are required to post a \$10,000 as financial assurance. Additionally, any existing less than one-acre construction or demolition debris landfill that submits a modification to their registered permit-by-rule will be required to pay a \$4,500 modification fee, pursuant to 401 KAR 47:090. An entity requesting an expansion in capacity to a less than two-acre construction or demolition debris landfill is required post an additional \$10,000 bond pursuant to KRS 224.40-120.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Pursuant to KRS 224.40-120 and this administrative regulation, less than one-acre construction or demolition debris landfill entities will be able to request an expansion to a less than two-acre construction or demolition debris landfill, doubling their capacity for disposal. As a result of compliance with this administrative regulation, registrants are certified to own and operate a less than one-acre construction or demolition debris landfill or an expanded less than two-acre construction or demolition debris landfill.

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

(a) Initially: The agency will not incur any initial costs for the implementation of this administrative regulation as this program is already established within the Solid Waste Branch of the Division of Waste Management.

(b) On a continuing basis: The agency will not incur any additional costs for the implementation of this administrative regulation as this program is already established within the Solid Waste Branch of the Division of Waste Management.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This administrative regulation utilizes the General Fund (0100) to pay the Division of Waste Management personnel template (AP0175/AP0179).

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: While this administrative regulation package does not establish new fees, this administrative regulation has existing indirect fees for registration, modification, and annual permit renewal of a less than one-acre construction or demolition debris landfills registered permit-by-rule as established in 401 KAR 47:090. Pursuant to KRS 224.40-120, the owner or operator of a less than one-acre construction or demolition debris landfill is required to post a \$10,000 bond. Pursuant to KRS 224.40-120, the owner or operator of a less than one-acre construction

## VOLUME 51, NUMBER 4– October 1, 2024

or demolition debris landfill requesting an expansion to a less than two-acre construction or demolition debris landfill is required post an additional \$10,000 bond.

(9) TIERING: Is tiering applied? No. This administrative regulation establishes the technical requirements for less than one-acre construction or demolition debris landfills or expanded less than two-acre construction or demolition debris landfills.

### FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 40 CFR Part 257 describes the criteria for classification of solid waste disposal facilities and practices excluding municipal solid waste landfill units, under authority of 42 U.S.C. 6907(a)(3), 6912(a)(1) and (d); 33 U.S.C. 1345(d) and (e).

(2) State compliance standards. KRS 224.40-100(19)(c), (24), 224.40-100, 224.40-120, 224.40-305, 224.40-330, and 224.40-605.

(3) Minimum or uniform standards contained in the federal mandate. 40 CFR Part 257 Subpart A describes classifications of solid waste disposal facilities and practices, while 40 CFR Part 257 Subpart B sets disposal standards for the receipt of very small quantity generator waste at non-municipal non-hazardous waste disposal units. Pursuant to this administrative regulation amendment package, 40 CFR 248.2 defines construction and demolition (C&D) landfills, subject to the requirements in part 257, subparts A and B. Only construction and demolition landfills that meet the requirements of 40 CFR Part 257, subpart B may receive very small generator waste (defined in 40 CFR 260.1).

(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 is broader in scope as it establishes the technical requirements for less than one-acre construction or demolition debris landfills and expanded less than two-acre construction or demolition debris landfills. Solid waste disposal, including nonhazardous industrial waste, is overseen by the states.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation is broader in scope as it establishes the technical requirements for less than one-acre construction or demolition debris landfills and expanded less than two-acre construction or demolition debris landfills. Solid waste disposal, including nonhazardous industrial waste, is overseen by the states.

### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 224.40-100(19)(c) and (24), 224.40-100, 224.40-120, 224.40-305, 224.40-330, and 224.40-605 and 40 CFR Part 257, Subparts A and B.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Energy and Environment Cabinet, Department for Environmental Protection, Division of Waste Management is the promulgating agency.

(a) Estimate the following for the first year:

Expenditures: The Cabinet estimates current program expenditures to total \$623,095.

Revenues: The Cabinet estimates the revenue generated from annual permit renewal fees for existing less than one-acre construction or demolition debris landfills, pursuant to 401 KAR 47:090, to total \$47,750. An additional source of revenue is generated from registration and modification fees for a registered permit-by-rule, established in 401 KAR 47:090. The registration or modification fees for less than one-acre construction or demolition debris landfills is \$4,500.

Cost Savings: The Cabinet does not anticipate any cost savings for the program.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The Cabinet does not anticipate the expenditures, revenues, or cost savings to differ in subsequent years. It should be noted that registration and modification fee submissions fluctuate pursuant to new applicants and requests for modification which could potentially impact revenues generated by this program.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Local entities that will be affected by this administrative regulation include any local municipality that owns or operates a less than one-acre construction or demolition debris landfill or an expanded less than two-acre construction or demolition debris landfill.

(a) Estimate the following for the first year:

Expenditures: The Cabinet estimates the amended interim cover requirements within this administrative regulation equates to roughly \$1,800/acre for every six (6) inches of depth or \$3,600/acre for every twelve (12) inches of depth. Pursuant to KRS 224.40-120 an owner or operator of a less than one-acre construction or demolition debris landfill registered permit-by-rule are required to submit an additional \$10,000 bond for the additional acre. Additionally, should the local entities apply for an expansion to a less than two-acre construction or demolition debris landfill, entities will be required to post an additional \$10,000 bond pursuant to KRS 224.40-120.

Revenues: Revenues for local entities cannot be estimated by the Cabinet.

Cost Savings: Pursuant to 401 KAR 47:090, publicly owned facilities are not required to pay indirect registration and modification fees associated with this administrative regulation.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The Cabinet does not anticipate the expenditures, revenues, or cost savings to differ in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3): Regulated entities affected by the amendments in this administrative regulation package include any owner or operator of a less than one-acre construction or demolition debris landfill or an expanded less two-acre construction or demolition debris landfill.

(a) Estimate the following for the first year:

Expenditures: Owners or operators of a less than one-acre construction or demolition debris landfill registered permit-by-rule are subject to a registration fee of \$4,500 and an annual permit renewal fee dependent on the tonnage of waste received annually, pursuant to 401 KAR 47:090. Owners or operators of a less than one-acre construction or demolition debris landfill registered permit-by-rule requesting a modification to their registered permit-by-rule are subject to a modification fee of \$4,500, pursuant to 401 KAR 47:090. Pursuant to KRS 224.40-120 an owner or operator of a less than one-acre construction or demolition debris landfill registered permit-by-rule is required to post a \$10,000 bond as financial assurance. Pursuant to KRS 224.40-120, an owner or operator of a less than one-acre construction or demolition debris landfill requesting an expansion in capacity to a less than two-acre construction or demolition debris landfill is required to post an additional \$10,000 bond for the additional acre. The Cabinet estimates the amended interim cover requirements within this administrative regulation equates to roughly \$1,800/acre for every six (6) inches of depth or \$3,600/acre for every twelve (12) inches of depth.

Revenues: The Cabinet cannot estimate the revenues generated by the regulated entities.

Cost Savings: Pursuant to the amendments of this administrative regulation package regulated entities will potentially avoid disposal fees at a local municipal landfill as the regulated entity will double their disposal capacity should the request to expand be approved by the Cabinet.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Pursuant to 401 KAR 47:090, owners or operators of a less than one-acre construction or demolition debris landfill are required to submit an annual permit renewal fee of \$500 for less than one-acre construction or demolition debris landfills receiving 1,000 or less tons of waste per year, \$1,500 for less than one-acre construction or demolition debris landfills receiving more than 1,000 and less than \$5,000 tons of waste per year, and \$3,000 for less than one-acre construction or demolition debris landfills receiving 5,000 or more tons of waste per year. Pursuant to 401 KAR 47:090, if an owner or operator of a less than one-acre construction or demolition debris landfill request a modification to the registered permit-by rule, the entity is required to submit a \$4,500 fee.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: Pursuant to KRS 224.40-120 an owner or operator of a less than one-acre construction

or demolition debris landfill is required to post a \$10,000 as financial assurance. Pursuant to KRS 224.40-120, an owner or operator of a less than one-acre construction or demolition debris landfill requesting an expansion in capacity to a less than two-acre construction or demolition debris landfill is required to post an additional \$10,000 bond for the additional acre. The Cabinet estimates the amended interim cover requirements within this administrative regulation equates to roughly \$1,800/acre for every six (6) inches of depth or \$3,600/acre for every twelve (12) inches of depth.

(b) Methodology and resources used to determine the fiscal impact: The indirect fees associated with the fiscal impact of this administrative regulation are established in 401 KAR 47:090 and KRS 224.40-120.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This proposed administrative regulation will not have a major economic impact as the indirect fees established in 401 KAR 47:090 and KRS 224.40-120 are not being amended.

(b) The methodology and resources used to reach this conclusion: While this administrative regulation does not include fees, indirect fees are established in 401 KAR 47:090, registration or modification fees for less than one-acre construction or demolition debris landfills require a \$4,500 fee. Additionally, these facilities are required to submit an annual permit renewal fee of \$500 for less than one-acre construction or demolition debris landfills receiving 1,000 or less tons of waste per year, \$1,500 for less than one-acre construction or demolition debris landfills receiving more than 1,000 and less than \$5,000 tons of waste per year, and \$3,000 for less than one-acre construction or demolition debris landfills receiving 5,000 or more tons of waste per year, pursuant to 401 KAR 47:090. Pursuant to 401 KAR 47:090, public-owned facilities are not subject to the established fees. Pursuant to KRS 224.40-120 an owner or operator of a less than one-acre construction or demolition debris landfill registered permit-by-rule is required to post a \$10,000 bond as financial assurance. Pursuant to KRS 224.40-120, an owner or operator of a less than one-acre construction or demolition debris landfill requesting an expansion in capacity to a less than two-acre construction or demolition debris landfill is required to post an additional \$10,000 bond for the additional acre.

**JUSTICE AND PUBLIC SAFETY CABINET  
(Amendment)**

**500 KAR 1:010. Definitions for 500 KAR Chapter 1.**

RELATES TO: KRS 61.315, 83A.087, 87A.088, 183.881, 446.010

STATUTORY AUTHORITY: KRS 61.315(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.315(2) authorizes payment to the surviving spouse and surviving children or parents of a police officer who dies in the line of duty. KRS 61.315(4) authorizes the Justice and Public Safety Cabinet to promulgate administrative regulations establishing criteria and procedures for death benefits for police officers as defined in KRS 61.315(1)(a) who die in the line of duty. KRS 61.315(4) authorizes the Justice and Public Safety Cabinet to promulgate administrative regulations applicable to the administration of payments, including defining when one has died in the line of duty. This administrative regulation establishes[provides] the definitions [of certain terms] used in 500 KAR Chapter 1[which pertain to criteria and procedures applicable to the administration of benefits paid on death of police officers who have died in the line of duty, as required by KRS 61.315(4) to be promulgated by the Justice Cabinet].

Section 1. Definitions. The following definitions shall apply in this chapter:

(1) "Act in the line of duty" means an activity or an action performed by a police officer, related to public safety, and that the police officer is obligated or authorized by statute, rule, regulation, condition or policy of employment or service, official mutual-aid agreement, or other law to perform, including any social, ceremonial,

athletic functions, any official training programs of the public agency to which the police officer is assigned or for which the police officer is compensated, under the auspices of the public safety agency, organization, or unit he or she serves, and the public safety agency, organization, or unit legally recognizes that activity or action to have been so obligated or authorized at the time performed. This definition shall include authorized commuting.

(2) "Authorized commuting" means travel, not being a frolic or detour, by a police officer to and from an official training program authorized or required by the police officer's public safety agency, organization, or unit.

(3) "Cabinet" means the Justice and Public Safety Cabinet.

(4) "Child" means any natural, adopted, or posthumous child or child born out of wedlock of the deceased police officer who, at the time of the officer's death, is living or later is born alive.

(5) "Claim administrator" means the individual at the cabinet assigned by the secretary to review and process line of duty death benefits claims.

(6) "Claimant" means an individual who has filed a claim for death benefits pursuant to KRS 61.315 on his own behalf or on whose behalf a claim has been filed.

(7) "Death" means the death of the police officer as a result of an act in the line of duty, including a death that is a direct result of a traumatic injury, wound, condition of the body, disease, or medical treatment received as a direct result from an act in the line of duty. This definition shall not include a death resulting from:

(a) A nonwork-related disease or condition or a routine work-related disease or condition common to the officer's occupation;

(b) Intentional misconduct of the police officer;

(c) The police officer's intention to bring about his death;

(d) The police officer's willfulness or wanton disregard that brings about his death; or

(e) Voluntary intoxication of the police officer which is a contributing factor of the death.

(8) "Determination" means the approval or denial of a claim.

(9) "Direct result" or "direct and proximate cause" means something that is a substantial factor in bringing a condition about.

(10) "Eligible survivor" means a spouse, child, or parent:

(a) Described in KRS 61.315(2) as being entitled to a benefit for the death of a police officer in the line of duty; and

(b) Who meets the requirements for payment described in KRS 61.315(2).

(11) "Heart attack" means:

(a) A myocardial infarction; or

(b) A cardiac event including cessation, interruption, arrest, or other similar disturbance of heart function that is:

1. Acute; and

2. Directly and proximately caused by a pathology, or pathological condition of the heart or of the coronary arteries.

(12) "Nonroutine strenuous physical activity" means an act in the line of duty that:

(a) Is not of a clerical, administrative, or nonmanual nature;

(b) Is not performed as a matter of routine; and

(c) Entails an unusually high level of physical exertion.

(13) "Nonroutine stressful physical activity" means an act in the line of duty that:

(a) Is not of a clerical, administrative, or nonmanual nature;

(b) Is not performed as a matter of routine;

(c) Entails non-negligible physical exertion; and

(d) Occurs under circumstances that objectively and reasonably:

1. Pose or simulate, in a realistic fashion, situations that pose significant dangers, threats, or hazards not faced by similarly-situated members of the public in the ordinary course; and

2. Provoke an unusually high level of alarm, fear, or anxiety.

(14) "Office of the Secretary" means the office of the secretary of the cabinet at 125 Holmes St, Frankfort, Kentucky 40601.

(15) "Officer" or "police officer" is defined by KRS 61.315(1)(a).

(16) "Parent" means a natural or adoptive parent of the police officer living at the time of the police officer's death.

(17) "Posthumous child" means a biological child of the officer, and the officer is:

(a) Alive at the time of the child's conception; and

(b) Deceased at or before the time of the child's birth.

VOLUME 51, NUMBER 4– October 1, 2024

(18) "Secretary" means the secretary of the cabinet.

(19) "Spouse" means the lawfully wedded husband or wife of the deceased police officer living at the time of the officer's death and includes a spouse living apart from the officer at the time of the officer's death for any reason or a spouse involved in divorce proceedings if a final divorce decree has not been entered at the time of the police officer's death.

(20) "Stroke" means a cerebrovascular incident.

(21) "Substantial factor" means a factor that substantially brings about an event, if:

(a) The factor alone was sufficient to have caused the event; or

(b) No other factor or combination of factors contributed to the event to so great a degree as the factor in question.["Secretary" means the Secretary of the Justice Cabinet.]

[(2)] ["Cabinet" means the Justice Cabinet.]

[(3)] ["Police officer" means every paid police officer, sheriff or deputy sheriff, or any auxiliary police officer appointed pursuant to KRS 95.445, or any citation or safety officer appointed pursuant to KRS Chapter 83A, elected to office or employed by any Kentucky county or city, or by the state, or by an airport board created pursuant to KRS Chapter 183, or any member of the Kentucky National Guard on state active duty pursuant to KRS 38.030.]

[(4)] ["Claimant" means spouse, child or parent who files a claim for death benefits pursuant to KRS 61.315 with the Justice Cabinet.]

[(5)] ["Spouse" means the lawfully wedded husband or wife of the deceased police officer living at the time of the officer's death, and includes a spouse living apart from the officer at the time of the officer's death for any reason or a spouse involved in divorce proceedings if a final divorce decree has not been entered.]

[(6)] ["Children" means any natural, adopted or posthumous child or child born out of wedlock of the deceased police officer who, at the time of the officer's death is living or later is born alive.]

[(7)] ["Parent" means a natural or adoptive parent of the police officer living at the time of the police officer's death.]

[(8)] ["Death as a direct result of an act" means that the antecedent act, omission to act or event inflicted upon the police officer was the substantial factor in the result of the police officer's death.]

[(9)] ["Death" means the immediate death of the police officer from an act in the line of duty that resulted in his death, as well as a traumatic injury, wound, condition of the body or disease resulting therefrom or medical attention therefor that directly causes the death of the officer.]

[(10)] ["Act in the line of duty" means an act or omission to act by the police officer or event involving the police officer or external force upon the police officer while the officer is engaged in any action or duty which the officer is obligated or authorized by rule, administrative regulation, condition of employment or service, or law to perform for the public agency or office the police officer serves. Specifically, an act is not in the line of duty if the death was caused by:]

[(a)] [A nonwork-related disease or condition or a routine work-related disease or condition common to the officer's occupation;]

[(b)] [Intentional misconduct of the police officer;]

[(c)] [The police officer's intention to bring about his death;]

[(d)] [The police officer's willfulness or wanton disregard that brings about his death;]

[(e)] [Voluntary intoxication of the police officer which is a contributing factor of the death; or]

[(f)] [If the actions or omissions of the beneficiary was a substantial factor in the death of the police officer, recovery being precluded as to that beneficiary only.]

[(14)] ["Office of the Secretary" as used herein means the person designated by the secretary of the cabinet to receive, process and make eligibility determinations on claims for benefits to be paid on death of a police officer pursuant to KRS 61.315. The address of the Office of the Secretary for filing claims is: Assistant General Counsel, Justice and Public Safety Cabinet, Office of Legal Services, Department of Criminal Justice Training, Funderburk Building, 521 Lancaster Avenue, Richmond, Kentucky 40475-3102.]

KEITH JACKSON, Secretary

APPROVED BY AGENCY: September 9, 2024

FILED WITH LRC: September 13, 2024 at 11:35 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held Tuesday, November 26, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until November 30, 2024. 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, Staff 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: The regulation establishes the definitions used in 500 KAR Chapter 1.

(b) The necessity of this administrative regulation: KRS 61.315(4) authorizes the Justice and Public Safety Cabinet to promulgate administrative regulations establishing criteria and procedures for death benefits for police officers as defined in KRS 61.315(1)(a) who die in the line of duty.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is necessary to provide an understanding of the requirements related to filing a claim for line of duty death benefits for those seeking benefits. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation establishes the definitions that govern line of duty death benefits for police officers. It provides direction and information to Justice and Public Safety Cabinet employees tasked with processing benefit claims and members of the public filing benefit claims.

(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 of this administrative regulation defines new terms and amends the definitions of existing terms related to the filing and processing of claims for line of duty death benefits.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to provide clearer guidance to Justice and Public Safety Cabinet employees tasked with processing line of duty death benefit claims and members of the public filing line of duty death benefit claims.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 61.315(4) authorizes the Justice and Public Safety Cabinet to promulgate administrative regulations establishing criteria and procedures for death benefits for police officers as defined in KRS 61.315(1)(a) who die in the line of duty. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How the amendment will assist in the effective administration of the statutes: This amendment provides clearer guidance to Justice and Public Safety Cabinet employees tasked with processing line of duty death benefit claims and members of the public filing line of duty death benefit claims.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect the Justice and Public Safety Cabinet employees responsible for processing line of

duty death benefit claims as well as those members of the public seeking line of duty death benefits.

(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: Justice and Public Safety Cabinet employees and members of the public will have to become familiar with the terms and their definitions when filing and processing line of duty death benefit claims.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no pecuniary cost associated with complying with the administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance with the administrative regulation, Justice and Public Safety Cabinet employees and the members of the public seeking line of duty death benefits will better understand how to file and process line of duty death benefit claims.

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

(a) Initially: There will not be an initial cost to implement this regulation as it only provides definitions for the chapter in which the regulation is found.

(b) On a continuing basis: There will not be a continuing cost to implement this regulation as it only provides definitions for the chapter in which the regulation is found.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: While this regulation does not require funding, administrative costs associated with the Chapter in which this regulation is located are funded through Agency funds and line of duty death benefits are paid to claimants from the general fund budget reserve trust 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: The administrative regulation does not establish any fees.

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

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

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 61.315, 83A.087, 87A.088, 183.881, 446.010.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Justice and Public Safety Cabinet.

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the Justice and Public Safety Cabinet and its employees operate but is not expected to increase expenditures.

Revenues: The administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): No affected local entities have been identified.

(a) Estimate the following for the first year:

Expenditures: No affected local entities have been identified.

Revenues: No affected local entities have been identified.

Cost Savings: No affected local entities have been identified.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Because no affected local entities have been identified, there will be no expenditures, revenues, or cost savings in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3): Members of the public who wish to file a claim for line of duty death benefits will be affected by this administrative regulation.

(a) Estimate the following for the first year:

Expenditures: Members of the public seeking line of duty death benefits will need to expend an unknown amount of time to become familiar with the claim benefit definitions prior to filing a claim. An amount for expenditures is unknown.

Revenues: The administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the Justice and Public Safety Cabinet and its employees operate but is not expected to have a fiscal impact.

(b) Methodology and resources used to determine the fiscal impact: The administrative regulation amends an existing administrative regulation. The administrative regulation was reviewed, and a fiscal impact was not identified.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation amends an existing administrative regulation. The administrative regulation was reviewed, and an overall negative or adverse major economic impact was not identified.

JUSTICE AND PUBLIC SAFETY CABINET  
(Amendment)

500 KAR 1:030. Request for hearing.

RELATES TO: KRS 61.315

STATUTORY AUTHORITY: KRS 61.315(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.315(2) authorizes payment to the surviving spouse and surviving children or parents of a police officer who dies in the line of duty. KRS 61.315(4) authorizes the Justice and Public Safety Cabinet to promulgate administrative regulations establishing criteria and procedures for death benefits for police officers who die in the line of duty. This administrative regulation provides the procedures for [applicable to] a claimant [who desires] to request a hearing for denial of [concerning claimant's eligibility for] benefits for the [paid-on] death of a police officer [who has died] in the line of duty pursuant to KRS 61.315(4).

Section 1. Administrative Review.

(1) A claimant may, within thirty (30) days after notification of ineligibility by the claim administrator [office of the secretary], request a hearing before the secretary to review the claimant's request for death benefits. The[A] request for a hearing shall be:

(a) In writing;

(b) Received by office of the secretary within thirty (30) days of the date of the notice of ineligibility; and

(c) Set forth the exceptions taken to the notice of ineligibility. [Filed in writing with the office of the secretary within thirty (30) days of the date of the notice of ineligibility and shall set forth the exceptions taken to the initial determination of ineligibility.]

(2) The hearing shall be held within ninety (90)[sixty (60)] days of receipt of the request for a hearing and shall be conducted by the secretary or the secretary's designated hearing officer. If a hearing officer conducts the hearing, the hearing officer shall submit findings of fact, conclusions of law, and a recommended decision to the secretary. The hearing shall be held at a time and place designated

## VOLUME 51, NUMBER 4– October 1, 2024

by the secretary or the designated hearing officer with written notice [being] sent to the claimant and the cabinet's representative, if any.

(3) The hearing shall provide the claimant and the cabinet's representative, if any, with an opportunity to be heard publicly, to be represented by counsel, and to put on proof by sworn witnesses, certified records, affidavits, exhibits, or other evidence as the hearing officer or secretary may determine to be required or useful in evaluating the claim. The claimant shall have the opportunity to cross-examine or rebut adverse testimony or evidence. The hearing shall be recorded and the original of the complete transcript shall be made a part of the claims record at claimant's cost, if requested by the claimant to be transcribed.

(4) Failure of the claimant or claimant's representative to appear at the hearing shall be deemed an abandonment of the claimant's request for a review of the decision adverse to the claimant's request for benefits unless within ten (10) days of the hearing good cause is shown to the secretary or the hearing officer for the claimant's failure to appear by means of affidavit filed with the secretary.

(5) The secretary or secretary's designated hearing officer [designated] may, whenever necessary, administer oaths, examine witnesses, or continue the hearing to facilitate the receipt of evidence.

(6) The claimant shall bear the burden of proof by substantial, reliable, and probative evidence.

(7) ~~A[No]~~ payment shall not be made of any portion of a death benefit ~~[shall be made]~~ until all determinations, hearings, and reviews ~~that[which]~~ may affect that payment have been completed.

(8) In conducting the hearing, the secretary or secretary's designated hearing officer shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedures, but he or she shall [must] conduct the hearing in [such] a manner [as] to best ascertain the rights of the claimant. The secretary or secretary's designated hearing officer may additionally schedule a prehearing conference upon its own motion or motion of a[the] party to consider such matters that will aid in the simplification of the hearing or avoidance of costly or unnecessary proof or manner for presenting proof.

(9) Within sixty (60) days following the hearing, the secretary shall issue a written opinion, containing findings of facts and conclusions of law to support the decision. A copy of the decision shall be provided to all parties at their last known address. The decision of the secretary shall be the final decision of the cabinet.

(10) Upon a favorable decision to claimant, which has become final, payment shall be made to the claimant as soon thereafter as practicable, with the ~~Justice~~ cabinet presenting the claim to the State Treasurer within five (5) working days.

KEITH JACKSON, Secretary

APPROVED BY AGENCY: September 9, 2024

FILED WITH LRC: September 13, 2024 at 11:35 a.m.

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held Tuesday, November 26, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until November 30, 2024. 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, Staff 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: The administrative regulation provides the procedures for a claimant to request a hearing for denial of benefits for the death of a police officer in the line of duty pursuant to KRS 61.315(4).

(b) The necessity of this administrative regulation: KRS 61.315(4) authorizes the Justice and Public Safety Cabinet to promulgate administrative regulations establishing criteria and procedures for death benefits for police officers as defined in KRS 61.315(1)(a) who die in the line of duty.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is necessary to provide an understanding of the requirements related to requesting a hearing following the denial of a claim for benefits for the death of a police officer in the line of duty pursuant to KRS 61.315(4). This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation establishes the procedures that govern a claimant's request for a hearing following the denial of benefits for the death of a police officer in the line of duty pursuant to KRS 61.315(4). It provides direction and information to Justice and Public Safety Cabinet employees tasked with processing benefit claims and members of the public filing benefit claims.

(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 of this administrative regulation updates terminology used and changes the timeframe in which hearings must be held related to denials of claims for line of duty death benefits.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to provide clearer guidance to Justice and Public Safety Cabinet employees tasked with processing line of duty death benefit claims and members of the public seeking line of duty death benefit claims.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 61.315(4) authorizes the Justice and Public Safety Cabinet to promulgate administrative regulations establishing criteria and procedures for death benefits for police officers as defined in KRS 61.315(1)(a) who die in the line of duty. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How the amendment will assist in the effective administration of the statutes: This amendment provides clearer guidance to Justice and Public Safety Cabinet employees tasked with processing line of duty death benefit claims and members of the public filing line of duty death benefit claims.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect the Justice and Public Safety Cabinet employees responsible for processing line of duty death benefit claims as well as those members of the public seeking line of duty death benefits.

(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: Justice and Public Safety Cabinet employees and members of the public will have to become familiar with the procedures required for requesting hearings following the denial of a claim for line of duty death benefits.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no pecuniary cost associated with complying with the administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance with the administrative regulation, members of the public seeking line of duty death benefits will better understand how to request a hearing following the denial of a line of duty death benefit claim, and Justice

and Public Safety Cabinet employees will better understand how to process such a request.

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

(a) Initially: Because this is an ongoing program authorized by an existing statute, there will be no new administrative costs associated with this administrative regulation. However, the administrative body dedicates 15% of one attorney and one paralegal's job duties to administering the line of duty death benefit program, which costs approximately \$18,324.00 per year.

(b) On a continuing basis: The administrative body dedicates 15% of one attorney and one paralegal's job duties to administering the line of duty death benefit program, which costs approximately \$18,324.00 per year.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The administrative body uses agency funds to administer the line of duty death benefit program.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The administrative regulation does not establish any fees.

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

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

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 61.315, 83A.087, 87A.088, 183.881, 446.010.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Justice and Public Safety Cabinet.

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the Justice and Public Safety Cabinet and its employees operate but is not expected to increase expenditures.

Revenues: The administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): No affected local entities have been identified.

(a) Estimate the following for the first year:

Expenditures: No affected local entities have been identified.

Revenues: No affected local entities have been identified.

Cost Savings: No affected local entities have been identified.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? No affected local entities have been identified.

(4) Identify additional regulated entities not listed in questions (2) or (3): Members of the public who request a hearing following the denial of a claim for line of duty death benefits will be affected by this administrative regulation.

(a) Estimate the following for the first year:

Expenditures: Members of the public seeking line of duty death benefits will need to expend an unknown amount of time to become familiar with how to file a request for a hearing following the denial of claim for line of duty death benefits prior to requesting such a hearing. An amount for expenditures is unknown.

Revenues: The administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the Justice and Public Safety Cabinet and its employees operate but is not expected to have a fiscal impact.

(b) Methodology and resources used to determine the fiscal impact: The administrative regulation amends an existing administrative regulation. The administrative regulation was reviewed, and a fiscal impact was not identified.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation amends an existing administrative regulation. The administrative regulation was reviewed, and an overall negative or adverse major economic impact was not identified.

#### TRANSPORTATION CABINET Department of Highways Division of Traffic Operations (Amendment)

#### 603 KAR 5:050. Uniform traffic control devices.

RELATES TO: KRS 189.337, 23 C.F.R. 655.601-655.603  
STATUTORY AUTHORITY: KRS 189.337(2), 23 C.F.R. 655.601-655.603

NECESSITY, FUNCTION, AND CONFORMITY: KRS 189.337(2) requires the Transportation Cabinet, Department of Highways, to promulgate and adopt a manual of standards and specifications for a uniform system of traffic control devices. The Federal Highway Administration in 23 C.F.R. 655.603 recognizes the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD) as the national standard for all traffic control devices installed on any street, highway, bicycle trail, or private road open to public travel. This administrative regulation establishes that the MUTCD shall be the uniform system of traffic control devices in Kentucky.

Section 1. Definition. "Private road open to public travel" means a private toll road or road, including any adjacent sidewalk that generally runs parallel to the road, within a shopping center, airport, sports arena, or other similar business or recreation facility that:

(1) Is privately owned, but on which the public is allowed to travel without access restrictions; and

(2) Does not include a road within private gated property, except for a gated toll road, in which access is restricted at all times, a parking area, driving aisle within a parking area, or a private grade crossing.

Section 2. Traffic Control Devices. The MUTCD published by the Federal Highway Administration shall be the standard for all traffic control devices installed on any street, highway, bicycle trail, or private road open to public travel in Kentucky.

Section 3. Incorporation by Reference.

(1) "Manual on Uniform Traffic Control Devices for Streets and Highways 11th edition", Federal Highway Administration, December~~[,]~~2023~~[2009]~~, [~~revised May, 2012,~~]is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Transportation Cabinet, Department of Highways, Division of Traffic Operations, 200 Mero Street, Third Floor, in Frankfort, Kentucky 40622, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be obtained at the cabinet's Web site at [www.transportation.ky.gov](http://www.transportation.ky.gov).

JIM GRAY, Secretary  
JAMES E. BALLINGER, State Highway Engineer  
APPROVED BY AGENCY: September 13, 2024

VOLUME 51, NUMBER 4– October 1, 2024

FILED WITH LRC: September 13, 2024 at 11:45 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 21, 2024, at 10:30 a.m. EST, at the Transportation Cabinet, Transportation Cabinet Building, 200 Mero Street, Frankfort, Kentucky 40622. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing, of their intent to attend. If you have a disability for which the Transportation Cabinet needs to provide accommodations, please notify us of your requirement five working days prior to the hearing. This request does not have to be in writing. 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 November 30, 2024. 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: Jon Johnson, Staff Attorney Manager/Assistant General Counsel, Transportation Cabinet, Office of Legal Services, 200 Mero Street, Frankfort, Kentucky 40622, phone (502) 782-8180, fax (502) 564-5238, email Jon.Johnson@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jon Johnson

(1) Provide a brief summary of:

(a) What this administrative regulation does: This amendment incorporates the most recent MUTCD standards.

(b) The necessity of this administrative regulation: This amendment is needed to comply with most recent MUTCD standards.

(c) How this administrative regulation conforms to the content of the authorizing statutes: Adopting the most recent MUTCD standards will fulfill statutory requirements regarding safety.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This amendment will update the most recent MUTCD standards which will assist in effective administration of the relevant statutes.

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

(a) How the amendment will change this existing administrative regulation: This amendment will update the regulation to include most recent MUTCD standards.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to adopt most recent standards.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment fulfills the intent of keeping the law consistent with updated national standards.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will adopt the most recent MUTCD standards. As such this will allow uniformity with other jurisdictions and will in turn honor the purpose of the relevant statutes.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Transportation Cabinet will be positively affected by removing an obsolete administrative regulation from its books. (4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: (a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: N/A (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: N/A (c) As a result of compliance, what benefits will accrue to the entities: N/A

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: N/A

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): N/A

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): N/A

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

(a) Initially: There are no costs.

(b) On a continuing basis: There are no costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: N/A

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no new costs. The amendment also does not increase existing fees.

(9) TIERING: Is tiering applied? Not applicable to substitution of more recent MUTCD standards.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 189.337.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions:

(a) Estimate the following for the first year:

Expenditures: no expenditures.

Revenues: no revenue.

Cost Savings: no cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no change.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts):

(a) Estimate the following for the first year:

Expenditures: no expenditures.

Revenues: no revenue.

Cost Savings: no cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be change.

(4) Identify additional regulated entities not listed in questions (2) or (3):

(a) Estimate the following for the first year:

Expenditures: N/A.

Revenues: N/A.

Cost Savings: N/A.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: There will be zero fiscal impact of this amendment.

(b) Methodology and resources used to determine the fiscal impact: The adoption of most recent MUTCD standards has no fiscal impact. This question is therefore not applicable.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) : The adoption of most recent MUTCD standards has no fiscal impact. This question is therefore not applicable. There will be no perceived economic impact.

(b) The methodology and resources used to reach this conclusion: The adoption of the most recent MUTCD standards does not require methodology or resources to adopt. The amendment simply adopts most recent manual.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 23 C.F.R. 655.601-655.603.

(2) State compliance standards. KRS 189.337(2).



(3) Minimum or uniform standards contained in the federal mandate. Amendment adopts December 2023 MUTCD standards.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This amendment adopts the most recent MUTCD Manual. There are no stricter requirements or additional responsibilities.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A.

**TRANSPORTATION CABINET  
Department of Highways  
Division of Traffic Operations  
(Amendment)**

**603 KAR 5:066. Weight (mass) limits for trucks.**

RELATES TO: KRS 189.222(11)(40), 23 C.F.R. 658

STATUTORY AUTHORITY: KRS 174.080, 189.222, 23 C.F.R. 658

NECESSITY, FUNCTION, AND CONFORMITY: KRS 189.222(11)(40) authorizes the Secretary of Transportation to establish reasonable weight (mass) limits for trucks using the state maintained highway system. This administrative regulation prescribes the maximum weight (mass) limits for each classification of roads in accordance with state and federal laws. These weights may only be exceeded if an overweight permit has been issued for the operation of a motor vehicle by the Transportation Cabinet.

**Section 1. Highway Classifications and Truck Types.**

(1) Trucking highways. All state maintained roads are assigned a classification [in 603 KAR 5:304]. Unless the motor vehicle being operated has been issued an oversized permit by the Transportation Cabinet, the maximum allowable gross weight (mass) for each classification shall be as follows:

(a) Class "AAA" shall have a maximum allowable gross weight (mass) of 80,000 pounds (36,287.36 kilograms).

(b) Class "AA" shall have a maximum allowable gross weight (mass) of 62,000 pounds (28,122.70 kilograms).

(c) Class "A" shall have a maximum allowable gross weight (mass) of 44,000 pounds (20,090.05 kilograms).

(2) Truck types. For the purpose of posting bridges at the site and for listing bridge weight (mass) restrictions in this administrative regulation, the following truck types shall be used:

(a) Type 1. This shall be a single unit truck consisting of two (2) single axles.

(b) Type 2. This shall be a single unit truck consisting of one (1) steering axle and two (2) axles in tandem arrangement.

(c) Type 3. This shall be a truck consisting of one (1) steering axle and three (3) axles in tridem arrangement.

(d) Type 4. This shall be a tractor-semitrailer combination truck consisting of five (5) or more axles.

(3) Trucks with an axle combination not covered in subsection (2) of this section may be restricted by weight (mass) based on their axle spacing and weight (mass) distribution per axle in accordance with state and federal law. Information on those restrictions shall be available from the Division of Motor Carriers, Overweight and Oversized Permit Section.

**Section 2. "AAA" Highways Except Interstates.** The maximum weight (mass) limits for trucks using Class "AAA" highways, except the Interstate System, shall be as follows:

(1) Gross weight (mass), including load, shall not exceed 80,000 pounds (36,287.36 kilograms);

(2) Tire weight (force). The weight (force) transmitted to the pavement shall not exceed the product of 700 pounds (317.51 kilograms) times the aggregate width in inches (meters) established from the manufacturer's stamped tire measurement for all tires;

(3) On Class "AAA" highways if a structure or bridge has a posted load limit of less than 80,000 pounds (36,287.36 kilograms), the posted limit shall not be exceeded.

**Section 3. Interstate Highways.** The maximum weight (mass) limits for trucks using Class "AAA" highways which are a part of the Interstate System shall be as established in this section:

(1) Gross weight (mass), including load, shall not exceed 80,000 pounds (36,287.36 kilograms).

(2) Gross axle weight (mass) for a single axle shall not exceed 20,000 pounds (9071.84 kilograms) (with axles less than forty-two (42) inches (1.07 meters) apart to be considered as a single axle).

(3) Gross weight (mass) shall not exceed 34,000 pounds (15,422.13 kilograms) on two (2) axles in tandem arrangement which are spaced forty-two (42) inches (1.07 meters) or more apart and ninety-six (96) inches (2.44 meters) or less apart.

(4) Gross weight (mass) shall not exceed 34,000 pounds (15,422.13 kilograms) on three (3) axles in tridem arrangement if the distance between the centers of one (1) and three (3) is ninety-six (96) inches (2.44 meters) or less.

(5) Gross weight (mass) shall not exceed 48,000 pounds (21,772.42 kilograms) on three (3) axles in tridem arrangement if the distance between the centers of axles one (1) and three (3) is more than ninety-six (96) inches (2.44 meters) but less than 120 inches (3.05 meters), and the distance between any two (2) adjacent axles of the tridem is forty-two (42) inches (1.07 meters) or more, and the gross weight (mass) of the vehicle is less than or equal to 73,280 pounds (33,239.22 kilograms).

(6) The maximum gross weight (mass) allowed on two (2) consecutive sets of tandem axles shall be 34,000 pounds (15,422.13 kilograms) each, if the distance between the first and last axles of the consecutive sets of axles is thirty-six (36) feet (10.98 meters) or more.

(7) The maximum gross weight (mass) allowed on a vehicle with any other axle configuration shall be established by the bridge weight formula:  $W = 500 (LN/N - 1 + 12N + 36)$  Where W equals gross weight, L equals distance in feet between the extreme axles of the group of consecutive axles under consideration and N equals the number of axles in the group. The load on any single axle in any arrangement shall not exceed 20,000 pounds (9071.84 kilograms) and the gross weight (mass) shall not exceed 80,000 pounds (36,287.36 kilograms). Any axle which is not included in one (1) of the combinations set forth in this subsection shall be steerable.

(8) Tire weight (force). The weight (force) transmitted to the pavement shall not exceed the product of 700 pounds (317.51 kilograms) times the aggregate width in inches (meters) established from the manufacturer's stamped tire measurement of all tires.

(9) On Class "AAA" highways which are part of the interstate system if a structure or bridge has a posted load limit of less than 80,000 pounds (36,287.36 kilograms), the posted limit shall not be exceeded.

(10) Tolerances shall not be allowed on gross weight (mass), axle weight (mass), or combinations of axle weights (mass) on vehicles operating over a Class "AAA" highway which is a part of the Interstate System.

**Section 4. "AA" Highways.** The maximum weight (mass) for trucks using Class "AA" highways shall be as established in this section:

(1) Gross weight (mass), including load, shall not exceed 62,000 pounds (28,122.7 kilograms).

(2) Gross axle weight (mass) for a single axle shall not exceed 20,000 pounds (9071.84 kilograms) (with axles less than forty-two (42) inches (1.07 meters) apart to be considered as a single axle).

(3) Gross weight (mass) shall not exceed 34,000 pounds (15,422.13 kilograms) on two (2) axles in tandem arrangement which are spaced forty-two (42) inches (1.07 meters) or more apart and ninety-six (96) inches (2.44 meters) or less apart.

(4) Gross weight (mass) shall not exceed 34,000 pounds (15,422.13 kilograms) on three (3) axles in tridem arrangement if the distance between the centers of axles one (1) and three (3) is ninety-six (96) inches (2.44 meters) or less.

(5) Gross weight (mass) shall not exceed 48,000 pounds (21,772.42 kilograms) on three (3) axles in tridem arrangement if the distance between axles one (1) and three (3) is more than ninety-six (96) inches (2.44 meters) but less than 120 inches (3.05 meters) apart and the distance between any two (2) adjacent axles of the tridem is forty-two (42) inches (1.07 meters) or more.

VOLUME 51, NUMBER 4– October 1, 2024

(6) Tire weight (force). The weight (force) transmitted to the pavement shall not exceed 700 pounds (317.51 kilograms) times the aggregate width in inches (meters) established from the manufacturer's stamped tire measurement of all tires.

(7) On Class "AA" highways if a structure or bridge has a posted load limit of less than 62,000 pounds (28,122.7 kilograms), the posted limit shall not be exceeded.

(8) The maximum gross weight (mass) allowed on a vehicle with any other axle configuration shall be established by the bridge weight formula:  $W = 500 (LN/N-1 + 12N + 36)$  Where W equals gross weight, L equals distance in feet between the extreme axles of the group of consecutive axles under consideration and N equals the number of axles in the group. The load on any single axle in any arrangement shall not exceed 20,000 pounds (9071.84 kilograms) and the gross weight (mass) shall not exceed 62,000 pounds (28,122.7 kilograms). Any axle which is not included in one (1) of the combinations set forth in this subsection shall be steerable.

Section 5. "A" Highways. The maximum weight (mass) limit for trucks using Class "A" highways shall be as established in this section:

(1) Gross weight (mass), including load, shall not exceed 44,000 pounds (20,090.05 kilograms).

(2) Gross axle weight (mass) for a single axle shall not exceed 20,000 pounds (9071.84 kilograms) (with axles less than forty-two (42) inches (1.07 meters) apart to be considered as a single axle).

(3) Gross weight shall not exceed 34,000 pounds (15,422.13 kilograms) on two (2) axles in tandem arrangement which are spaced forty-two (42) inches (1.07 meters) or more apart and ninety-six (96) inches (2.44 meters) or less apart.

(4) Tire weight (force). The weight (force) transmitted to the pavement shall not exceed the product of 700 pounds (317.51 kilograms) times the aggregate width in inches (meters) established from the manufacturer's stamped tire measurement of all tires.

(5) On Class "A" highways if a structure or bridge has a posted load limit of less than 44,000 pounds (20,090.05 kilograms), the posted limit shall not be exceeded.

(6) The maximum gross weight (mass) allowed on a vehicle with any other axle configuration shall be established by the bridge weight formula:

$W = 500 (LN/N-1 + 12N + 36)$  Where W equals gross weight, L equals distance in feet between the extreme axles of the group of consecutive axles under consideration and N equals the number of axles in the group. The load on any single axle in any arrangement shall not exceed 20,000 pounds (9071.84 kilograms) and the gross weight (mass) shall not exceed 44,000 pounds (20,090.05 kilograms). Any axle which is not included in one (1) of the combinations set forth in this subsection shall be steerable.
---

Section 6. Tolerance. There shall not be a tolerance allowed on gross weight (mass), however, a tolerance of not more than five (5) percent shall be allowed on axle weight (mass) on all state-maintained highways which are not a part of the interstate system.

Section 7. (1) As long as a highway remains a part of the state-maintained system, as established in 603 KAR 3:030, the classification of that highway [~~in 603 KAR 5:301~~] shall constitute a designation by the Secretary of Transportation as contemplated by KRS 189.280.

(2) City ordinances which impose less stringent limits than this administrative regulation shall not apply to the state-maintained highways, including bridges, unless specific relinquishment of this responsibility to a city is made by the Secretary of Transportation.

JIM GRAY, Secretary  
JAMES E. BALLINGER, State Highway Engineer

APPROVED BY AGENCY: September 13, 2024  
FILED WITH LRC: September 13, 2024 at 11:45 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 21, 2024, at 10:00 a.m. EST, at the Transportation Cabinet, Transportation Cabinet Building, 200 Mero Street, Frankfort, Kentucky

40622. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing, of their intent to attend. If you have a disability for which the Transportation Cabinet needs to provide accommodations, please notify us of your requirement five working days prior to the hearing. This request does not have to be in writing. 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 November 30, 2024. 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: Jon Johnson, Staff Attorney Manager / Assistant General Counsel, Transportation Cabinet, Office of Legal Services, 200 Mero Street, Frankfort, Kentucky 40622, Telephone: (502) 782-8180, Fax: (502) 564-5238, Email: Jon.Johnson@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jon Johnson

(1) Provide a brief summary of:

(a) What this administrative regulation does: Corrects statutory reference from KRS 189.222(10) to KRS 189.222(11). Amendment also deletes reference to 603 KAR 5:301 which has been repealed.

(b) The necessity of this administrative regulation: Corrects statutory reference from KRS 189.222(10) to KRS 189.222(11). Amendment also deletes reference to 603 KAR 5:301 which has been repealed.

(c) How this administrative regulation conforms to the content of the authorizing statutes: Corrects statutory reference from KRS 189.222(10) to KRS 189.222(11). Amendment also deletes reference to 603 KAR 5:301 which has been repealed.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Corrects statutory reference from KRS 189.222(10) to KRS 189.222(11). Amendment also deletes reference to 603 KAR 5:301 which has been repealed.

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

(a) How the amendment will change this existing administrative regulation: Corrects statutory reference from KRS 189.222(10) to KRS 189.222(11). Amendment also deletes reference to 603 KAR 5:301 which has been repealed.

(b) The necessity of the amendment to this administrative regulation: Corrects statutory reference from KRS 189.222(10) to KRS 189.222(11). Amendment also deletes reference to 603 KAR 5:301, which has been repealed.

(c) How the amendment conforms to the content of the authorizing statutes: Corrects statutory reference from KRS 189.222(10) to KRS 189.222(11). Amendment also deletes reference to 603 KAR 5:301, which has been repealed.

(d) How the amendment will assist in the effective administration of the statutes: Corrects statutory reference from KRS 189.222(10) to KRS 189.222(11). Amendment also deletes reference to 603 KAR 5:301, which has been repealed.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Kentucky Transportation Cabinet.

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

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

(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.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The amendment will correct statutory reference.

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

(a) Initially: No costs to implement.

(b) On a continuing basis: No costs on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: N/A.

(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: N/A.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: N/A. There are no fee increases.

(9) TIERING: Is tiering applied? No tiering is required under any law nor is it necessary for proper application of the law.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 189.222.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions:

(a) Estimate the following for the first year:

Expenditures: No expenditures.

Revenues: No revenue.

Cost Savings: No cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? No changes to expenditures, revenues, or costs.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts):

(a) Estimate the following for the first year:

Expenditures: N/A.

Revenues: N/A.

Cost Savings: N/A.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A.

(4) Identify additional regulated entities not listed in questions (2) or (3): N/A.

(a) Estimate the following for the first year:

Expenditures: N/A.

Revenues: N/A.

Cost Savings: N/A.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? No changes to expenditures, revenues, or costs.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: N/A.

(b) Methodology and resources used to determine the fiscal impact: N/A.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) N/A.

(b) The methodology and resources used to reach this conclusion: N/A.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 23 C.F.R. 658.

(2) State compliance standards. KRS 189.222.

(3) Minimum or uniform standards contained in the federal mandate. Amendment conforms to federal requirements.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? : N/A.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. : N/A.

TRANSPORTATION CABINET  
Department of Highways  
Division of Planning  
(Amendment)

603 KAR 5:350. Off-highway vehicles, safety, and routes.

RELATES TO: KRS 12.020, 148.0222, 174.020, 189.281, 189.390, 189.515, 189.520, 304.39-110, 16 C.F.R. sec. 1420.3

STATUTORY AUTHORITY: KRS 189.281

NECESSITY, FUNCTION, AND CONFORMITY: KRS 189.281 requires the cabinet to promulgate administrative regulations relating to the local government pilot program for off-highway vehicles (OHV). This administrative regulation establishes the criteria for OHV ordinances, petitions, and the rescinding thereof, OHV enforcement requirements, and OHV safety plan requirements and establishes the OHV safety requirements and the safety equipment verification protocol. This administrative regulation shall expire on July 1, ~~2027~~[2024], pursuant to KRS 189.281.

Section 1. Definitions.

(1) "Agreement" means the written document executed by the designees of the local government and the cabinet, detailing the terms and conditions of OHV use on designated state owned or maintained highways.

(2) "Business district" is defined by KRS 189.390(1)(a).

(3) "Cabinet" means the Transportation Cabinet.

(4) "Local government" is defined by KRS 189.281(1)(a)1-2.

(5) "Off-highway vehicle" or "OHV" is defined by KRS 189.281(1)(b).

(6) "Regional authority" is defined by KRS 189.281(1)(c).

(7) "State highway" is defined by KRS 189.390(1)(c).

Section 2. Local Government Pilot Program Ordinance Related to OHVs.

(1) As established in KRS 189.281(2)(c)~~(a)~~, a local government may petition the Transportation Cabinet to authorize and regulate the use and operation of OHVs on state highways or sections of state highways located within the local government's jurisdictional boundaries. Before the local government may file a petition, the local government shall first adopt an OHV ordinance. Procedures for adopting an OHV ordinance are stated in KRS 189.281(2)(b)1-3~~(4)(2)(3)~~. All statutory requirements regarding proposed OHV ordinance shall be met.

(2) Pursuant to KRS 189.281(3), a fully controlled access highway shall not be designated or otherwise adopted in any OHV ordinance.

Section 3. Local Government Petition for OHV use on State Highways.

(1) A local government seeking to include state highways as part of the local government's proposed OHV ordinance pursuant to KRS 189.281(2)(c) and Section 2 of this administrative regulation shall submit a petition as required by KRS 189.281(2)(c)~~1-6~~].

(2) A completed petition shall be submitted to the Transportation Cabinet District Office where the local government is geographically located.

(3) The District Office, Chief District Engineer shall review the petition along with supporting documentation required by KRS 189.281(2)(c). If the petition is found deficient, the local Chief District Engineer shall return the petition to the local government with a written explanation of the petition defects. The local government shall correct the petition defects and re-submit the petition to the district office. If the petition defects are not corrected, the petition shall not be deemed as being filed. If the petition is completed properly with required documentation, the Chief District Engineer, shall verify and forward the completed petition to the State Highway Engineer for review.

(4) Within ninety (90) days of a properly filed and completed petition from a local government, the Transportation Cabinet, through the State Highway Engineer's Office shall notify the local government as to whether the petition has been approved or if the petition is deficient. The ninety (90) day period shall not begin to run,

## VOLUME 51, NUMBER 4– October 1, 2024

until the properly completed petition is filed. Deficient petitions shall not be deemed as being filed until corrected and re-submitted.

(5) If the petition is approved, the local government, through its designee shall enter into an agreement with representatives of the Transportation Cabinet detailing the terms and conditions of the proposed route use. The agreement effective date is the date fully executed.

(6) Once the agreement is executed the proposed locations shall be forwarded to the Central Office, Division of Planning for placement on the OHV Route Network.

(7) Agreements shall be eligible to be renewed at the request of the local government on an annual basis.

(8) If the petition is denied, the Transportation Cabinet shall provide the Petitioner with the cause of the denial.

(9) In addition to the fully executed agreement, the local government shall establish an enforcement plan to ensure that all OHVs operating on roadways under this section meet all requirements outlined in KRS 189.281, which shall:

(a) List the local enforcement agencies involved;

(b) Detail the inspection process;

(c) Adopt a safety plan for OHV use;

(d) Be responsible for monthly inspection of state and local OHV signage; and

(e) Develop a recording and reporting mechanism to report ongoing crashes, collisions, injuries, and other events that relate to safety or failures regarding the operation of OHV vehicles on routes designated.

Section 4. Agreements or Approved Petitions may be Rescinded.

(1) Approved petitions and agreements may be rescinded for the following reasons:

(a) The petition contains fraudulent or misleading information that would have resulted in the petition being denied;

(b) Noncompliance with any requirements set forth in KRS 189.281, this administrative regulation, or the agreement itself; or

(c) Crash history, unforeseen circumstances, public safety, or any other reason deemed necessary to protect the public or the interests of the cabinet.

(2) If the approved petition is rescinded prior to entry of the agreement, or if an executed agreement is in place, the cabinet shall provide written explanation as to why the approved petition or existing agreement is now rescinded.

Section 5. Minimum Vehicle Requirements.

(1) All petitions submitted to the cabinet for approval shall adopt and enforce the definition of an OHV.

(2) All petitions to the cabinet for approval shall include an enforcement plan to ensure that OHVs operating on proposed roadways and trails conform with the vehicle standards established in KRS 189.281(1)(b), and this administrative regulation, and that required insurance coverage is verified.

Section 6. Route Requirements and Standards. As established in KRS 189.281(3), a fully controlled access highway shall not be designated for OHV use. Any petition to the cabinet naming a fully controlled access highway shall be denied.

Section 7. Incorporation by Reference.

(1) "TC 59-112, OHV Safety Plan", September 2024~~[July 2022]~~, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law at the Department of Highways, 6th Floor, Transportation Cabinet Office Building, 200 Mero Street, Frankfort, Kentucky 40622, Monday through Friday, 8:00 a.m. to 4:30 p.m. EST. This material may also be obtained at the cabinet's Web site at [www.transportation.ky.gov](http://www.transportation.ky.gov).

JIM GRAY, Secretary

JAMES E. BALLINGER, State Highway Engineer

APPROVED BY AGENCY: September 13, 2024

FILED WITH LRC: September 13, 2024 at 11:45 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November

21, 2024, at 11:00 a.m. EST, at the Transportation Cabinet, Transportation Cabinet Building, 200 Mero Street, Frankfort, Kentucky 40622. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing, of their intent to attend. If you have a disability for which the Transportation Cabinet needs to provide accommodations, please notify us of your requirement five working days prior to the hearing. This request does not have to be in writing. 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 November 30, 2024. 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: Jon Johnson, Staff Attorney Manager / Assistant General Counsel, Transportation Cabinet, Office of Legal Services, 200 Mero Street, Frankfort, Kentucky 40622, phone (502) 782-8180, fax (502) 564-5238, email [Jon.Johnson@ky.gov](mailto:Jon.Johnson@ky.gov).

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jon Johnson

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation relating to the local government pilot program for off-highway vehicles (OHV) establishes the criteria for OHV ordinances, petitions, and the rescinding thereof, OHV enforcement requirements, and OHV safety plan requirements and establishes the OHV safety requirements and the safety equipment verification protocol. This pilot program and administrative regulation shall expire on July 1, 2027, pursuant to KRS 189.281.

(b) The necessity of this administrative regulation: This administrative regulation is required by KRS 189.281 to establish standards for OHV ordinances, enforcement, safety and safety verification protocol.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statute by providing guidelines for local governments to pass OHV ordinances, and to petition the Cabinet to use portions of state owned and maintained roads for OHV use. This regulation establishes criteria for OHV safety plan, OHV enforcement requirements, and OHV safety protocol and verification.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will establish the regulatory requirements of KRS 189.281 in relation to approved OHV routes.

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

(a) How the amendment will change this existing administrative regulation: This administrative regulation is an amendment to an existing administrative regulation. This amendment will extend the date of the pilot program.

(b) The necessity of the amendment to this administrative regulation: This administrative regulation is an amendment to an existing administrative regulation. This amendment will extend the date of the pilot program.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation is an amendment to an existing administrative regulation. This amendment will extend the date of the pilot program.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation is an amendment to an existing administrative regulation. This amendment will extend the date of the pilot program.

(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: Local governments, which means a city, county, charter county

VOLUME 51, NUMBER 4– October 1, 2024

government, urban-county government, consolidated local government, or unified local government that is located within the boundaries of a regional authority, or the Kentucky Mountain Regional Authority established under KRS 148.0222, acting on behalf of a local government that part of the authority. Owners and operators of OHV vehicles, passengers; Kentucky State Police and KSP sub-grantees; other local law enforcement, emergency services, Kentucky Transportation Cabinet.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This administrative regulation establishes requirements for local governments to pass ordinances for OHV use along with general procedures for safety plans, and safety equipment verification. This regulation allows the local government to petition the Cabinet to allow use of state owned or maintained roads. All law enforcement and emergency services will be available to assist in enforcement and safety in relation to OHV use or operation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Costs may occur to the local governments that get involved with the pilot program. These costs will only occur if the local government chooses to participate in this pilot program. Other costs associated with signage and enforcement have not yet been determined.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Compliance with this administrative regulation will allow safe operation of OHV vehicles at designated areas throughout the Commonwealth of Kentucky.

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

(a) Initially: Costs cannot be determined at this time.

(b) On a continuing basis: Costs cannot be determined at this time.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There are known costs associated with KRS 189.281(10). These will be paid with district traffic 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: Unknown at this time.

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

(9) TIERING: Is tiering applied? Explain why or why not. No tiering is required under any law nor is it necessary for proper application of the law.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 189.281.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky State Police and KSP sub-grantees; Kentucky Transportation Cabinet, and local governments as defined by this regulation.

(a) Estimate the following for the first year:

Expenditures: This is unknown at this time.

Revenues: This is unknown at this time.

Cost Savings: This is unknown at this time.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? This is unknown at this time.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Local governments, which means a city, county, charter county government, urban-county government, consolidated local government, or unified local government that is located within the boundaries of a regional authority, or the Kentucky Mountain Regional Authority established under KRS 148.0222, acting on behalf of a local government. Kentucky State Police and KSP sub-

grantees; other local law enforcement, emergency services, Kentucky Transportation Cabinet.

(a) Estimate the following for the first year:

Expenditures: This is unknown at this time.

Revenues: This is unknown at this time.

Cost Savings: This is unknown at this time.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? This is unknown at this time.

(4) Identify additional regulated entities not listed in questions (2) or (3): N/A

(a) Estimate the following for the first year:

Expenditures: N/A

Revenues: N/A

Cost Savings: N/A

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: Fiscal impact is unknown at this time.

(b) Methodology and resources used to determine the fiscal impact: Since this is a pilot program, we have no data, economic or otherwise, to measure economic impact at this time.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) : It is unknown whether this administrative regulation will have a major economic impact at this time.

(b) The methodology and resources used to reach this conclusion: Since this is a pilot program, we have no data, economic or otherwise, to measure economic impact at this time.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. There are no federal statutes or regulations that constitute a federal mandate.

(2) State compliance standards. KRS 189.281.

(3) Minimum or uniform standards contained in the federal mandate. The only federal standard, though not a mandate relates to safety features of the OHV vehicles pursuant to 49 C.F.R. sec. 571.209.

(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 establishes requirements that are consistent with those relating to OHV safety features or devices established in 49 C.F.R. sec. 571.209.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. No stricter standard, or additional or different responsibilities or requirements are imposed.

EDUCATION AND LABOR CABINET  
Division of Workplace Development  
Office of Unemployment Insurance  
(Amendment)

787 KAR 1:360. Overpayment waivers.

RELATES TO: KRS 341.413, 2022 Ky. Acts ch. 199, Part 1D.7.(6)

STATUTORY AUTHORITY: KRS 341.115(1)

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. This administrative regulation establishes definitions and procedures for waiving overpayments pursuant to KRS Chapters 341, 341.413, and 2022 Ky. Acts ch. 199, Part 1D.7.(6). For unemployment insurance claims filed between January 27, 2020 and ~~September 6, 2021~~~~December 31, 2020~~, KRS 341.413 authorizes the secretary to waive overpayments of unemployment insurance benefits if the secretary[, upon an alleged overpayment recipient's waiver request,] finds the overpayment was

## VOLUME 51, NUMBER 4– October 1, 2024

made without fault on the part of the recipient and recovery would be contrary to equity and good conscience. [~~Notwithstanding KRS 341.413, 2022 Ky. Acts ch. 199, Part 1D.7.(6) authorizes the secretary to waive an overpayment of benefits for unemployment insurance claims filed between January 27, 2020 and September 6, 2021. This administrative regulation establishes definitions and procedures for waiving overpayments pursuant to KRS Chapter 341, 341.413, and 2022 Ky. Acts ch. 199, Part 1D.7.(6).~~]

### Section 1. Definitions.

(1) "Benefits" means "benefits" as defined by KRS 341.020(4).

(2) "Financial hardship" means:

(a) An individual or that individual's immediate family has experienced at least a fifty (50) percent reduction in gross earned income or loss of employment; or

(b) That, as a result of the recovery of the overpayment of the benefit, the individual is unable to meet daily living expenses, including expenses for food, clothing, rent, utilities, insurance, job or job search-related transportation expenses, and medical expenses.

(3) "Office" means the Office of Unemployment Insurance within the Kentucky Education and Labor Cabinet.

(4) "Office error" means:

(a) Errors in computing the benefit rate;

(b) Incorrect weekly payment due to a failure to consider a deductible amount that was properly reported by a claimant;

(c) Payment beyond the expiration of the benefit year;

(d) Payment in excess of the maximum benefit amount;

(e) Payment under an incorrect program;

(f) Retroactive notice of nonmonetary determinations, except that a determination that the claimant has committed fraud is not considered "office error";

(g) Monetary redeterminations;

(h) Payment during a period of disqualification;

(i) Payment to a wrong claimant; or

(j) Erroneous payments resulting from human error in the data entry process.

(5) "Secretary" means the Secretary of the Kentucky Education and Labor Cabinet.

~~Section 2. [Waiver Request. An individual shall make a written request for waiver of a determined overpayment within thirty (30) days of the date of the notification that the individual has been overpaid unemployment insurance benefits.]~~

~~[Section 3.] Waivers. [Upon receipt of an alleged overpayment recipient's request for an overpayment waiver,] The secretary shall issue a waiver of the alleged overpayment if the secretary determines that:~~

(1) The overpayment was made pursuant to Section 4 of this administrative regulation without fault on the part of the recipient; and

(2) Recovery would be contrary to equity and good conscience as established in Section 5 of this administrative regulation.

~~Section 3. [Section 4.] No-fault Determination. For purposes of Section 2[3](1) of this administrative regulation, the secretary shall make a determination that the [alleged] overpayment was made without fault on the part of the recipient if the overpayment of benefits resulted from:~~

(1) "Office error" as defined by Section 1 of this administrative regulation; or

(2) Auto-payment of benefits.

~~Section 4. [Section 5.] Equity and Good Conscience Determination. For purposes of Section 2[3](2) of this administrative regulation, the secretary shall make a finding that a recovery of an [alleged] overpayment is contrary to equity and good conscience if an individual demonstrates that:~~

(1) Recovery would cause financial hardship to the person from whom it is sought;

(2) The alleged overpayment recipient can show, regardless of the individual's financial circumstances, that due to the notice that the payment would be made or because of the incorrect payment, the individual has relinquished a valuable right or changed positions for

the worse. This may be shown if the recipient has made substantial necessary purchases related to daily living expenses, expended substantial necessary funds on daily living expenses, or failed to seek other benefits in reliance upon the receipt of benefits; or

(3) Recovery could be unconscionable, unjust, or unfair under the circumstances.

ANTHONY HUDGINS, Acting Executive Director

APPROVED BY AGENCY: September 12, 2024

FILED WITH LRC: September 12, 2024 at 2:15 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 25, 2024, at 10:00 a.m., at Mayo Underwood Building, 500 Mero St., 3rd 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 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 November 30, 2024. 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: Charles Wheatley, 500 Mero St., 3rd Floor, Frankfort, Kentucky, 502-782-0555, email Charles.Wheatley@ky.gov.

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Charles Wheatley

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides the criteria for waiving overpayments of unemployment insurance claims.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to carry out KRS 341.413 and RS 2024 SB 140.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 341.115(1) authorizes the secretary promulgate administrative regulation necessary or suitable for the proper administration of KRS Chapter 341

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides definitions and procedures for waiving overpayments of unemployment insurance claims pursuant to KRS Chapter 341, KRS 341.413, and RS 2024 SB 140.

(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 portions of the existing regulation in effect prior to the enactment of RS 2024 SB 140 by expanding the overpayment waiver eligibility dates and simplifying the process to obtain the waiver.

(b) The necessity of the amendment to this administrative regulation: The amendment is needed to conform to the expanded claim filing timeframe stated in RS 2024 SB 140 (i.e., January 27, 2020 – September 6, 2021).

(c) How the amendment conforms to the content of the authorizing statutes: The amendment provides the procedures for waiving overpayments of unemployment insurance claims filed between January 27, 2020 and September 6, 2021.

(d) How the amendment will assist in the effective administration of the statutes: The amendment provides the secretary and Office of Unemployment Insurance staff with the necessary definitions and procedures for waiving overpayments of unemployment insurance claims filed between January 27, 2020 and September 6, 2021.

(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 unemployment insurance benefit recipients in the Commonwealth.

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

VOLUME 51, NUMBER 4– October 1, 2024

(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: Prior to the enactment of RS 2024 SB 140, unemployment insurance overpayment recipients were required to take action within 30 days of notification of the overpayment from the secretary. The law no longer requires recipients to take action.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no additional cost to the unemployment insurance benefit recipients to comply with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This administrative regulation allows the Labor Cabinet Secretary to waive overpayments of unemployment insurance benefits, thus reducing affirmative actions previously required by overpayment recipients.

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

(a) Initially: The amendment creates no new costs to implement.

(b) On a continuing basis: This amendment creates no new costs on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current federal funding will be used for the ongoing implementation and enforcement of this administrative regulation amendment.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees or funding will not be necessary to implement this administrative regulation amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: Tiering is not applied. All unemployment insurance benefit overpayment recipients are treated equally.

(9) TIERING: Is tiering applied? Tiering is not applied. All unemployment insurance benefit overpayment recipients are treated equally.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 341.413 and RS 2024 SB 140

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: This administrative regulation impacts Office of Unemployment Insurance (OUI) within the Kentucky Education and Labor Cabinet.

(a) Estimate the following for the first year:

Expenditures: This administrative regulation amendment will create no new expenditures for the first year.

Revenues: This administrative regulation amendment will create no new revenues.

Cost Savings: This administrative regulation amendment will create no cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The OUI anticipates no new expenditures, revenues, or cost savings in subsequent years as a result of this administrative regulation amendment.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts):

(a) Estimate the following for the first year:

Expenditures: None

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The OUI anticipates no new expenditures, revenues, or cost savings in subsequent years as a result of this administrative regulation amendment.

(4) Identify additional regulated entities not listed in questions (2) or (3): No additional regulated entities are affected by this administrative regulation amendment.

(a) Estimate the following for the first year:

Expenditures: None

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The OUI anticipates no new expenditures, revenues, or cost savings in subsequent years as a result of this administrative regulation amendment.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This administrative regulation amendment has no fiscal impact on the OUI. The amendment lessens the burden on claimants who receive an overpayment waiver. Unemployment insurance claimants no longer are required to take proactive steps to obtain the overpayment waiver.

(b) Methodology and resources used to determine the fiscal impact: Because there is no fiscal impact related to this administrative regulation amendment, no methodology or resources were necessary to determine fiscal impact.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) The administrative regulation amendment does not create an overall negative or adverse major impact on OUI.

(b) The methodology and resources used to reach this conclusion: Because there is no fiscal impact related to this administrative regulation amendment, no methodology or resources were necessary to determine fiscal impact.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. No federal mandate constituted the administrative regulation amendment.

(2) State compliance standards. RS 2024 SB 140 created the standard for this administrative regulation amendment.

(3) Minimum or uniform standards contained in the federal mandate. No federal mandate is involved with this administrative regulation amendment.

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

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. No federal mandate is involved with this administrative regulation amendment.

PUBLIC PROTECTION CABINET  
Department of Financial Institutions  
Division of Non-Depository Institutions  
(Amendment)

808 KAR 9:010. Deferred deposit database compliance.

RELATES TO: KRS 286.9-010(7)(f), 286.9-075, 286.9-100(1), (7), (9), (10), (18), (19), 286.9-140.

STATUTORY AUTHORITY: KRS 286.9-090(1), 286.9-100, 286.9-140(1).

NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.9-100(9) prohibits licensees from having more than two (2) deferred deposit transactions from any one (1) customer at any one (1) time and limits the total proceeds received by a customer from all deferred deposit transactions to \$500. KRS 286.9-140(1) requires the commissioner to implement a common database with real-time access through an internet connection accessible to the department and licensees to verify whether any deferred deposit transactions are outstanding for a particular person and authorizes the commissioner to adopt rules to administer and enforce KRS 286.9-140. This administrative regulation establishes requirements for licensee use of the database established pursuant to KRS 286.9-140.

Section 1. Closed Deferred Deposit Service Transactions. The Commissioner deems the following occurrences as closed deferred deposit service transactions pursuant to Definitions. The following shall be additional definitions of "closed" or "close" under KRS 286.9-010(7)(f)(e):

## VOLUME 51, NUMBER 4– October 1, 2024

(1) The customer's payment instrument was unpaid and the licensee has sold the underlying debt to a non-affiliated third party without recourse;

(2) The underlying debt represented by the customer's payment instrument has been discharged in bankruptcy;

(3) The database provider has designated the deferred deposit transaction concerning the customer's payment instrument as closed pursuant to KRS 286.9-140(7); or

(4) The licensee has reported to the database provider that the deferred deposit transaction concerning the customer's payment instrument is closed following being held open pursuant to KRS 286.9-140(7).

### Section 2. Deferred Deposit Database Requirements.

(1) A licensee shall institute procedures and maintain an accounting system designed to:

(a) Prevent the licensee from entering into transactions with a customer in violation of KRS 286.9-100(9), including procedures for:

1. Maintaining a record of all current transactions with the licensee; and

2. Checking the record of current transactions with the database prior to issuance of a new transaction; and

(b) Generate reports that will readily permit examination and verification of compliance with KRS 286.9-100(9), KRS 286.9-140, and this section by department examiners.

(2) For each deferred deposit transaction, a licensee shall submit:

(a) The customer's date of birth;

(b) The check number of the payment instrument, if applicable;

(c) The database verification fee of \$2.25, which may be charged to the customer[, if any];

(d) The service fee charged to the customer; and

(e) The date the payment instrument was deposited or otherwise presented for payment.

(3) A licensee shall indicate in the database whether the customer entered into the deferred deposit transaction in person, electronically, or via telephone.

(4) A licensee shall not cause a closed deferred deposit transaction to be reopened in the database unless:

(a) The deferred deposit transaction was closed by reason of clerical error by the licensee;

(b) The licensee caused the deferred deposit transaction to be reopened on or before the close of business on the business day after the transaction was closed; and

(c) Reopening the transaction would not cause the customer to exceed the transaction limits set forth in KRS 286.9-100(9).

~~(5)~~(4) A licensee shall not accept, collect, or seek payment on a deferred deposit transaction that is designated as closed in the database.

~~(6)~~(5) A licensee that has reported to the database provider that a deferred deposit transaction is open beyond the maturity date pursuant to KRS 286.9-140(7) shall immediately notify the database provider when the transaction becomes closed.

~~(7)~~(6) A new licensee or an existing licensee applying for an additional location shall establish an account with the database provider for each location prior to the time of application.

MARNI R. GIBSON, Commissioner

RAY PERRY, Secretary

APPROVED BY AGENCY: August 20, 2024

FILED WITH LRC: August 20, 2024 at 1:00 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 25, 2024, at 9:00 a.m., at 500 Mero 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 November 30, 2024. Send written notification of intent to be heard at the public hearing or

written comments on the proposed administrative regulation to the contact persons.

CONTACT PERSON: Gary Stephens, Assistant General Counsel, 500 Mero Street, 2SW19, Frankfort, Kentucky 40601, phone 502-782-9046, fax 502-573-8787, email gary.stephens@ky.gov or Marni Gibson, 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.

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Gary Stephens

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets forth the definitions and requirements for licensee operation of the deferred deposit database established in KRS 286.9-140.

(b) The necessity of this administrative regulation: KRS 286.9-140(1) requires the commissioner to implement a common database with real-time access to verify outstanding deferred deposit transactions.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation establishes and sets forth the requirements for the licensee operation of the deferred deposit database.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes the database and licensee requirements for compliance with statute.

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

(a) How the amendment will change this existing administrative regulation: KRS 286.9-140(2) was amended from a set amount of one dollar (\$1) to require the commissioner to charge a fee of up to three dollars (\$3) per transaction. This amendment sets the fee per transaction to \$2.25.

(b) The necessity of the amendment to this administrative regulation: This regulation sets forth the fee amount as the amended statute provided only a ceiling but no specific dollar amount.

(c) How the amendment conforms to the content of the authorizing statutes: The statute requires the commissioner to charge a fee for each transaction; however, the amount was not set.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will establish the fee as required by statute.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The amendment would affect licensed deferred deposit entities and consumers that enter into deferred deposit agreements. From May 2023 through May 2024, there have been 1,131,119 deferred deposit transactions in Kentucky. There are 231 licensed deferred deposit entities.

(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 be required to amend their customer documents to reflect the new fee and ensure it is properly disclosed.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The cost of editing the template documents will be minimal.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The entities will not accrue benefits as they do not retain the fee.

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

(a) Initially: \$0

(b) On a continuing basis: \$0

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: N/A



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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: Yes. This administrative regulation increases the transaction fee from \$1 to \$2.25.

(9) TIERING: Is tiering applied? No. The set amount for each transaction is the same regardless of the dollar amount of the deferred deposit transaction.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 286.9-140

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Department of Financial Institutions, Non-Depository Division

(a) Estimate the following for the first year:

Expenditures: None

Revenues: Estimated to be \$1.2 million (depends on number of transactions, which varies each year)

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? No difference in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): None

(a) Estimate the following for the first year:

Expenditures: N/A

Revenues: N/A

Cost Savings: N/A

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(4) Identify additional regulated entities not listed in questions (2) or (3): The fee is a pass-through to the consumer, so it will not impact other regulated entities.

(a) Estimate the following for the first year:

Expenditures: N/A

Revenues: N/A

Cost Savings: N/A

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The costs will not impact the licensees, but the fee will pass to the consumer and will only be incurred when entering into a contract for a deferred deposit transaction.

(b) Methodology and resources used to determine the fiscal impact: The fiscal impact was determined by reviewing the requirements to comply with the amended regulation.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) The regulation will not have an overall negative or adverse major economic impact to the entities identified in the aforementioned questions.

(b) The methodology and resources used to reach this conclusion: The expected costs were reviewed.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. None

(2) State compliance standards. None

(3) Minimum or uniform standards contained in the federal mandate. n/a

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? n/a

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. n/a

CABINET FOR HEALTH AND FAMILY SERVICES  
Department for Public Health  
Division of Epidemiology and Health Planning  
(Amendment)

902 KAR 2:020. Reportable disease surveillance.

RELATES TO: KRS 214.645, 214.625(5)(c)5, 214.990(1), 215.520, 216B.015, 258.065, 258.990, 311.282, 311.571, 315.010, 321.181(4), 333.020, 333.130

STATUTORY AUTHORITY: KRS 194A.050, 211.090(3), 211.180(1)(a), 214.010

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.180(1)(a) authorizes the cabinet to implement a statewide program for the detection, prevention, and control of communicable diseases, chronic and degenerative diseases, dental diseases and abnormalities, occupational diseases and health hazards peculiar to industry, home accidents and health hazards, animal diseases that are transmissible to humans[man], and other diseases and health hazards that can be controlled. KRS 214.010 requires every physician and[,] advanced practice registered nurse[,] and every head of family to notify the local health department of the existence of diseases and conditions designated by administrative regulation of the cabinet. This administrative regulation establishes notification standards and specifies the diseases requiring immediate, urgent, priority, routine, or general notification, in order to facilitate rapid public health action to control diseases and to permit an accurate assessment of the health status of the commonwealth.

Section 1. Definitions.

(1) "Acid fast bacilli" or "AFB" means the mycobacteria that, if stained, retains color even after having been washed in an acid solution and can be detected under a microscope in a stained smear.

(2) "Health facility" is defined by KRS 216B.015(13).

(3) "Health professional" means a professional licensed under KRS Chapters 311 through 314.

(4) "Healthcare-associated infection" or "HAI" means an infection acquired by a person while receiving treatment for a separate condition in a health care setting.

(5) "Kentucky public health advisory" means a notification to health professionals, health facilities, and laboratories subject to this administrative regulation identifying a new health threat that warrants reporting through the procedures of this administrative regulation.

(6) [~~"Laboratory-confirmed influenza" means influenza diagnosed through testing performed using:~~]

[(a)] [~~Reverse transcriptase polymerase chain reaction (RT-PCR);~~]

[(b)] [~~Nucleic acid detection; or~~]

[(c)] [~~Viral culture.~~]

[(7)] "Medical laboratory" is defined by KRS 333.020(3).

[(7)] [(8)] "National Healthcare Safety Network" or "NHSN" means the nation's most widely used healthcare-associated infection (HAI) tracking system as provided to medical facilities by the Centers for Disease Control and Prevention (CDC).

[(8)] [(9)] "National reference laboratory" means a laboratory located outside of Kentucky that is contracted by a Kentucky health professional, laboratory, or health facility to provide laboratory testing.

[(9)] [(10)] "Novel influenza A virus" means an influenza virus that causes human infection but is different from the seasonal human influenza A virus subtypes and includes viruses predominately of avian and swine origin.

[(10)] [(11)] "Nucleic acid amplification test" or "NAAT" means the laboratory test used to target and amplify a single deoxyribonucleic acid (DNA) or ribonucleic acid (RNA) sequence, usually for detecting a microorganism.

[(11)] [(12)] "Outbreak" means:

(a) Two (2) or more cases, including HAIs, that are epidemiologically linked or connected by person, place, or time; or

(b) A single case of an HAI or other disease or condition not commonly diagnosed.

VOLUME 51, NUMBER 4– October 1, 2024

~~(12)~~~~(43)~~ "Pharmacist" is defined by KRS 315.010(17).

~~(13)~~~~(44)~~ "Post-exposure prophylaxis" or "PEP" means taking an antiretroviral medicine after being potentially exposed to HIV to prevent becoming infected.

~~(14)~~~~(45)~~ "Pre-exposure prophylaxis" or "PrEP" means daily medicine intended to reduce the chance of getting HIV.

~~(15)~~~~(46)~~ "Select agent" means a biological agent or toxin that could pose a severe threat to public health, plant health, animal product, or plant product as determined by the National Select Agent Registry (NSAR) at [www.selectagents.gov](http://www.selectagents.gov).

~~(16)~~~~(47)~~ "Veterinarian" is defined by KRS 321.181(4).

Section 2. Notification Standards.

(1) Health professionals and health facilities.

(a) A health professional or a health facility shall give notification if:

1. The health professional or a health facility makes a probable diagnosis of a disease specified in Section 3, 6, 7, 8, 9, 12, 16, 17, 18, or 19 of this administrative regulation; and

2. The diagnosis is supported by:

a.

(i) Clinical or laboratory criteria; and

(ii) Case classifications published by the Centers for Disease Control and Prevention at <https://ndc.services.cdc.gov/>; or

b. A health professional's medical opinion that the disease is present.

(b) A single report by a health facility of a condition diagnosed by a test result from the health facility's laboratory shall constitute notification on behalf of the health facility and its laboratory.

(c) A health facility may designate an individual to report on behalf of the health facility's laboratory, pharmacy, and the health facility's other clinical entities.

(d) Notification shall be given to the Kentucky Department for Public Health or the local health department serving the county in which the patient resides, with the exception of conditions specified in Sections 16 and 17 of this administrative regulation which shall be reported directly to the Kentucky Department of Public Health.

~~(e) [If the local health department cannot be reached, notification shall be given to the Kentucky Department for Public Health.]~~

~~(f)~~ The reporting health professional or health facility shall submit:

1. Information required in Section 5(6) of this administrative regulation; and

2. Clinical, epidemiologic, and laboratory information pertinent to the disease including sources of specimens submitted for laboratory testing.

(2) Medical Laboratories.

(a) Any[A] laboratory test result that indicates infection with an agent associated with one (1) or more of the diseases or conditions specified in Section 3, 6, 7, 8, 9, 12, 16, 17, 18, or 19 of this administrative regulation shall be reported by the medical laboratory to the Kentucky Department for Public Health or the local health department serving the county in which the patient resides.

~~(b) [If the local health department cannot be reached, notification shall be given to the Kentucky Department for Public Health.]~~

~~(c)~~ The reporting laboratory shall submit the information required in Section 5(6) of this administrative regulation.

(3) National Reference Laboratories.

(a) A test result performed by a national reference laboratory that indicates infection with an agent associated with one (1) or more of the diseases or conditions specified in Section 3, 6, 7, 8, 9, 12, 16, 17, 18, or 19 of this administrative regulation shall be reported by the director of a medical laboratory, a health facility, or the health professional that referred the test to the national reference laboratory to the Kentucky Department for Public Health or the local health department serving the county in which the patient resides.

~~(b) [If the local health department cannot be reached, notification shall be given to the Kentucky Department for Public Health.]~~

~~(c)~~ The report shall include the information required by Section 5(6) of this administrative regulation.

Section 3. Submission of Specimens and Isolates to the Kentucky Department for Public Health Division of Laboratory Services.

(1) A medical laboratory and a national reference laboratory in receipt of diagnostic specimens originating from the Commonwealth of Kentucky shall send direct specimens or pure clinical isolates for diseases established in subsection (5) of this section to the Division of Laboratory Services for primary or confirmatory testing and related studies.

(2) A medical laboratory or national reference laboratory using non-culture techniques to identify bacterial agents of diarrheal disease, such as enzyme immunoassays (EIAs) or molecular assays, shall attempt isolation of the etiologic agent identified. Pure clinical isolates shall be submitted to the Division of Laboratory Services.

(3) If the culture attempts do not produce a clinical isolate, the direct specimen, submitted in the appropriate preservative, shall be sent to the Division of Laboratory Services. A submitting laboratory shall provide the name of the etiologic agent detected by the non-culture technique at the time of specimen submission.

(4) A medical laboratory performing this test shall continue to follow the state's requirement for the submission of appropriate materials to the state public health laboratory.

(5) A medical or national reference laboratory shall submit pure isolates for the following organisms or, if not available, the direct specimen from the following diseases to the Division of Laboratory Services:

(a) Acute flaccid myelitis;

(b) Botulism, with prior approval from the Division of Epidemiology for testing;

(c) Brucella;

(d) Campylobacter;

(e)~~(b)~~ [Brucellosis;]

(e) [Campylobacteriosis;]

(e) Candida auris;

(f)~~(e)~~ Carbapenem-resistant Acinetobacter;

(g)~~(f)~~ Carbapenem-resistant

Enterobacterales[Enterobacteriaceae];

(h)~~(g)~~ Carbapenem-resistant Pseudomonas;

(i) Cronobacter ssp. isolated from a sterile specimen site in a patient less than twelve (12) months of age;

(j)~~(h)~~ [Cholera and diseases caused by other Vibrio species;]

(j) Diphtheria;

(j) [Escherichia coli O157:H7;]

(k) Hemolytic Uremic Syndrome (HUS) – Post Diarrheal;

(l) Listeria monocytogenes[Listeriosis];

(m) Measles;

(n) Mycobacterium tuberculosis (TB);

(o) Neisseria meningitidis, isolated from a sterile specimen site[Meningococcal infections];

(p)~~(o)~~ Rabies, animal;

(q)~~(p)~~ Rubella;

(r) Salmonella;

(s)~~(q)~~ Salmonella typhi (Typhoid fever)[Salmonellosis];

(t)~~(r)~~ Shiga toxin-producing Escherichia[E.] coli (STEC) or verotoxin-producing E.coli (VTEC) including E. coli O1457:H7;

(u)~~(s)~~ Shigellosis;

(t) [Tuberculosis (TB);]

(v)~~(u)~~ Tularemia;

(w)~~(v)~~ Typhoid fever;

(x)~~(w)~~ Vancomycin-intermediate Staphylococcus aureus;

(y)~~(x)~~ Vancomycin-resistant Staphylococcus aureus;

(z) Vibrio species, including those that cause cholera and other disease;~~[and]~~

(aa)~~(y)~~ Zika, with prior approval from the Division of Epidemiology for testing; and

(bb) Clinical samples and isolates necessary for assisting with a public health investigation upon request of the Division of Epidemiology.

(6) All direct specimens or clinical isolates from enteric disease shall be submitted within seventy-two (72) hours from collection.

## VOLUME 51, NUMBER 4– October 1, 2024

Section 4. Laboratory Testing and Submission of Specimens to the Division of Laboratory Services for the Identification of M. tuberculosis.

(1) For the identification of M. tuberculosis, a medical laboratory or national reference laboratory shall perform AFB smear and culture, regardless of rapid molecular testing results (NAAT).

(2) Rapid molecular testing shall be performed for the identification of M. tuberculosis on:

(a) Any diagnostic specimen with an AFB smear positive result; or

(b) Any specimen that originates from an individual with clinical or epidemiological evidence suggesting active tuberculosis.

(3) If rapid molecular testing cannot be performed by the medical laboratory or national reference laboratory, the diagnostic specimen shall be sent to the Division of Laboratory Services.

(4) A medical laboratory or national reference laboratory that has a diagnostic specimen test positive for M. tuberculosis by rapid molecular testing shall send the remainder of that specimen to the Division of Laboratory Services.

(5) Any diagnostic specimen found to be positive for M. tuberculosis by rapid molecular testing or culture testing shall be reported in accordance with Section 7 of this administrative regulation.

### Section 5. Reporting Classifications and Methods.

(1) Immediate reporting.

(a) A report required by Section 12(1) and (2) of this administrative regulation to be made immediately shall be:

1. Made by telephone to the local health department serving the county in which the patient resides; and

2. Followed up by electronic or fax submission to the local health department serving the county in which the patient resides within one (1) business day.

(b) Upon receipt of a report for a disease requiring immediate reporting, the local health department shall:

1. Notify the Kentucky Department for Public Health by telephone; and

2. Assist the department in carrying out a public health response.

(c) Weekend, evening, or holiday immediate notification. If local health department personnel cannot be contacted directly, notification shall be made by telephone using an emergency number provided by the local health department or the Kentucky Department for Public Health.

(d) For the protection of patient confidentiality, a report using the emergency number shall include:

1. The name of the condition being reported; and

2. A telephone number that can be used by the department to contact the reporting health professional or health facility.

(2) Urgent reporting.

(a) A report made within twenty-four (24) hours as required by Section 6 of this administrative regulation shall be:

1. Submitted electronically, by fax, or by telephone to the local health department serving the county in which the patient resides; and

2. If submitted by telephone, followed up by electronic or fax submission to the local health department serving the county in which the patient resides within one (1) business day.

(b) Upon receipt of a report for a disease requiring urgent reporting, the local health department shall:

1. Notify the Kentucky Department for Public Health; and

2. Assist the department in carrying out a public health response.

(c) Weekend, evening, or holiday urgent notification. If local health department personnel cannot be contacted directly, notification shall be made by telephone using an emergency number provided by the local health department or the Kentucky Department for Public Health.

(d) For the protection of patient confidentiality, notification using the emergency number shall include:

1. The name of the condition being reported; and

2. A telephone number that can be used by the department to contact the reporting health professional or health facility.

(3) Priority reporting.

(a) A report made within one (1) business day as required by Section 7, 11, 12(3), 17(4), or 18 of this administrative regulation shall be:

1. Submitted electronically, by fax, or by telephone to the local health department serving the county in which the patient resides; and

2. If submitted by telephone, followed up by electronic or fax submission of a report to the local health department serving the county in which the patient resides within one (1) business day.

(b) Upon receipt of a report for a disease requiring priority reporting, a local health department shall:

1. Investigate the report and carry out public health protection measures; and

2. Notify the Kentucky Department for Public Health of the case by electronic or fax submission within one (1) business day.

(c) The reporting health department may seek assistance in carrying out public health measures from the Kentucky Department for Public Health.

(4) Routine reporting.

(a) A report made within five (5) business days, as required by Section 8, 9, 10, 13(1), 16(1), 17(7), or 20(1) of this administrative regulation, shall be made electronically, by fax, or by mail to the Kentucky Department for Public Health or the local health department serving the county in which the patient resides, except for the conditions specified in Sections 16 and 17 of this administrative regulation which shall be reported directly to the Kentucky Department for Public Health.

(b) Upon receipt of a report of a disease or condition requiring routine reporting, the Kentucky Department for Public Health or the[a] local health department shall:

1. Make a record of the report;

2. Answer inquiries or render assistance regarding the report if requested by the reporting entity; and

3. Forward the report to the Kentucky Department for Public Health by electronic or fax submission of a report, or in writing within five (5) business days.

(5) General reporting. A report made within three (3) months, as required by Section 19 of this administrative regulation, shall be made electronically, by fax, or by mail.

(6) Reporting requirements.

(a) A report submitted by fax or by mail shall be made using one (1) of the following reporting forms:

1. EPID 200, Kentucky Reportable Disease Form;

2. EPID 250, Kentucky Reportable MDRO Form, to be used for priority reporting;

3. EPID 394, Kentucky Reportable Disease Form, Hepatitis Infection in Pregnant Women or Child (HBV – aged two years or less & HCV – aged three years or less)~~(aged five (5)-years or less)~~;

4. EPID 399, Perinatal Hepatitis B Prevention Form for Exposed Infants and/or Hepatitis B Positive Pregnant Mothers;

5. Adult HIV Confidential Case Report Form; or

6. Pediatric HIV Confidential Case Report Form.

(b) Case reports may be made electronically through the Kentucky Health Information Exchange. Electronic case reports shall include the information required by paragraph (c) of this subsection.

(c) Information to be reported. Except as provided in subsections (1)(d) and (2)(d) of this section, a report required by this administrative regulation shall include:

1. Patient name;

2. Date of birth;

3. Gender;

4. Pregnancy status;

5. Race;

6.~~5.~~ Ethnicity;

7.~~6.~~ Patient address;

8.~~7.~~ County of residence;

9.~~8.~~ Patient telephone number;

10.~~9.~~ Name of the reporting medical provider or facility;

11.~~10.~~ Address of the reporting medical provider or facility; and

12.~~11.~~ Telephone number of the reporting medical provider or facility.

VOLUME 51, NUMBER 4– October 1, 2024

(d) A reporting health professional shall submit the information listed in this subsection and Section 2(1)(f) of this administrative regulation.

Section 6. Notifiable Infectious Conditions Requiring Urgent Notification.

(1) Notification of the following pathogens or conditions[diseases] shall be considered urgent and shall be made within twenty-four (24) hours:

- (a) Anthrax;
- (b) Botulism;
- (c) Brucellosis (multiple cases, temporally or spatially clustered);
- (d) Cronobacter ssp. invasive disease in an infant less than twelve (12) months of age;

- (e) Diphtheria;
- (f)[(e)] Hepatitis A, acute;
- (g)[(f)] Measles;
- (h) Melioidosis;
- (i)[(g)] Meningococcal infections;
- (j)[(h)] Middle East Respiratory Syndrome-associated Coronavirus (MERS-CoV) disease;
- (k)[(i)] [~~Multi-system Inflammatory Syndrome in Children (MIS-C);~~]

- (l)[(j)] Novel influenza A virus infections;
- (m)[(k)] Orthopox virus infection, including:
  - 1. Mpox[Monkeypox];
  - 2. Smallpox; and
  - 3. Vaccinia;
- (n)[(l)] Plague;
- (o)[(m)] Poliomyelitis;
- (p)[(n)] Rabies, animal;
- (q)[(o)] Rabies, human;
- (r)[(p)] Rubella;
- (s)[(q)] Severe Acute Respiratory Syndrome-associated Coronavirus (SARS-CoV) disease;

(t)[(r)] [~~Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2) (the virus that causes COVID-19) in accordance with subsection (2) of this section;~~]

- (u)[(s)] Tularemia;
- (v) Viral hemorrhagic fevers due to:
  - 1. Crimean-Congo Hemorrhagic Fever virus;
  - 2. Ebola virus;
  - 3. Lassa virus;
  - 4. Lujo virus;
  - 5. Marburg virus; or
  - 6. New world arenaviruses including:
    - a. Guanarito virus;
    - b. Junin virus;
    - c. Machupo virus; and
    - d. Sabia virus; and
- (w) Yellow fever.

(2) [~~To track the spread of Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2), the virus that causes COVID-19, the following reporting is required:~~]

(a) [~~Laboratory reports of:~~]  
[1.] [~~Positive and negative test results for SARS-CoV-2 viral detection using Nucleic Acid Amplification Test (NAAT), including polymerase chain reaction (PCR);~~]

[2.] [~~Positive test results for SARS-CoV-2 viral detection using antigen immunoassays; and~~]

[3.] [~~SARS-CoV-2 molecular sequencing.~~]

(b) [~~Health professional case report when:~~]  
[1.] [~~A COVID-19 diagnosis of a patient for whom a laboratory report is not independently submitted;~~]

[2.] [~~A COVID-19 diagnosis of a patient is admitted to an inpatient medical facility; or~~]

[3.] [~~There is a COVID-19 associated mortality.~~]  
[(3)]

(a) A laboratory shall report positive test results for Orthopox viral detection using Nucleic Acid Amplification Test (NAAT), including polymerase chain reaction (PCR).

(b) A laboratory may report negative and equivocal test results for Mpox[monkeypox] viral detection using NAAT, including PCR.

Section 7. Notifiable Infectious Conditions and Notifiable Non-Infectious Conditions Requiring Priority Notification. Notification of the following diseases or conditions shall be considered priority and shall be made within one (1) business day:

(1) Arboviral diseases, neuroinvasive and non-neuroinvasive, including:

(a) California serogroup virus diseases, including diseases caused by:

- 1. California encephalitis virus;
- 2. Jamestown Canyon virus;
- 3. Keystone virus;
- 4. La Crosse virus;
- 5. Snowshoe hare virus; and
- 6. Trivittatus viruses;
- (b) Chikungunya virus disease;
- (c) Eastern equine encephalitis virus disease;
- (d) Powassan virus disease;
- (e) St. Louis encephalitis virus disease;
- (f) Venezuelan equine encephalitis disease;
- (g) West Nile virus disease;
- (h) Western equine encephalitis virus disease; and
- (i) Zika virus disease, non-congenital or congenital[~~or infection or the birth of a child to a mother who was Zika-positive or Zika-inconclusive during any stage of pregnancy or during the periconceptional period;~~]

(2) Brucellosis (cases not temporally or spatially clustered);

(3) Campylobacteriosis;

(4) Carbon monoxide poisoning;

(5) Cholera;

(6) COVID-19 associated mortality in a patient who is:

(a) Less than eighteen (18) years of age; or

(b) Pregnant or postpartum (within three (3) months of delivery);

(7) Cryptosporidiosis;

(8)[(7)] Cyclosporiasis;

(9)[(8)] Dengue virus infections;

(10)[(9)] Escherichia coli O157:H7;

(11)[(10)] Foodborne disease outbreak;

(12) Free-living amoeba infections, including:

(a) Acanthamoeba disease;

(b) Acanthamoeba keratitis;

(c) Balamuthia mandrillaris; and

(d) Naegleria fowleri causing primary amebic meningoencephalitis (PAM);

(13)[(14)] Giardiasis;

(14)[(12)] Haemophilus influenzae invasive disease;

(15)[(13)] Hansen's disease (leprosy);

(16)[(14)] Hantavirus infection, non-Hantavirus pulmonary syndrome;

(17)[(15)] Hantavirus pulmonary syndrome (HPS);

(18)[(16)] Hemolytic uremic syndrome (HUS), post-diarrheal;

(19)[(17)] Hepatitis B, acute;

(20)[(18)] Hepatitis B infection in a pregnant woman;

(21)[(19)] Hepatitis B infection in an infant or a child aged five (5) years or less;

(22)[(20)] Newborns born to Hepatitis B positive mothers at the time of delivery;

(23)[(24)] Influenza-associated mortality in a patient who is:

(a) Less than eighteen (18) years of age; or

(b) Pregnant or postpartum (within three (3) months of delivery);

(24)[(22)] Legionellosis, including Pontiac Fever and extrapulmonary disease;

(25)[(23)] Leptospirosis;

(26)[(24)] Listeriosis;

(27)[(25)] Mumps;

(28)[(26)] Norovirus outbreak;

(29)[(27)] Pertussis;

(30)[(28)] Pesticide-related illness, acute;

(31)[(29)] Psittacosis;

(32)[(30)] Q fever;

(33) Respiratory Syncytial Virus (RSV)-associated mortality in a patient who is less than eighteen (18) years of age;

(34)[(34)] Rubella, congenital syndrome;

(35)[(32)] Salmonellosis;

VOLUME 51, NUMBER 4– October 1, 2024

- ~~(36)~~~~(33)~~ Shiga toxin-producing E. coli (STEC);
- ~~(37)~~~~(34)~~ Shigellosis;
- ~~(38)~~~~(35)~~ Streptococcal toxic-shock syndrome;
- ~~(39)~~~~(36)~~ Streptococcus pneumoniae, invasive disease (i.e., invasive pneumococcal disease);
- ~~(40)~~~~(37)~~ Tetanus;
- ~~(41)~~~~(38)~~ Toxic-shock syndrome (other than Streptococcal);
- ~~(42)~~~~(39)~~ Tuberculosis;
- ~~(43)~~~~(40)~~ Typhoid fever;
- ~~(44)~~~~(41)~~ Varicella;
- ~~(45)~~~~(42)~~ Vibriosis; and
- ~~(46)~~~~(43)~~ Waterborne disease outbreak.

Section 8. Notifiable Infectious Conditions and Notifiable Non-Infectious Conditions Requiring Routine Notification. Notification of the following diseases shall be considered routine and shall be made within five (5) business days:

- (1) Acute Flaccid Myelitis;
- (2) Alpha-gal syndrome;
- (3) Anaplasmosis;
- ~~(4)~~~~(3)~~ Babesiosis;
- ~~(5)~~~~(4)~~ Coccidioidomycosis;
- ~~(6)~~~~(5)~~ Creutzfeldt-Jakob disease;
- ~~(7)~~~~(6)~~ Ehrlichiosis;
- ~~(8)~~~~(7)~~ Hepatitis C, acute;
- ~~(9)~~~~(8)~~ Hepatitis C infection in a pregnant woman;
- ~~(10)~~~~(9)~~ Hepatitis C infection in an infant or a child aged five (5) years or less;
- ~~(11)~~~~(10)~~ Newborns born to Hepatitis C positive mothers at the time of delivery;
- ~~(12)~~~~(11)~~ Histoplasmosis;
- ~~(12)~~ Laboratory-confirmed influenza;
- (13) Lead poisoning;
- (14) Lyme Disease;
- (15) Malaria;
- (16) Multi-system Inflammatory Syndrome in Children (MIS-C);
- ~~(17)~~ Spotted Fever Rickettsiosis (Rocky Mountain Spotted Fever);
- ~~(18)~~~~(17)~~ Toxoplasmosis; and
- ~~(19)~~~~(18)~~ Trichinellosis (Trichinosis).

Section 9. Notifiable Infectious Conditions Requiring Routine Notification by Electronic Laboratory Reporting.

(1) Notification of the following shall be considered routine and shall be electronically reported to the Kentucky Department for Public Health through the Kentucky Health Information Exchange within five (5) business days:

- (a) Hepatitis B laboratory test results, which shall:
  - 1. Be reported as positive or negative; and
  - 2. Include the serum bilirubin levels or serum alanine aminotransferase taken within ten (10) days of the test of a patient who has tested positive;
- (b) Hepatitis C laboratory test results, which shall:
  - 1. Be reported as positive or negative; and
  - 2. Include the serum bilirubin levels or serum alanine aminotransferase taken within ten (10) days of the test of a patient who has tested positive; or
- (c) Laboratory-confirmed influenza, detected by:
  - 1. Reverse transcriptase polymerase chain reaction (RT PCR);
  - 2. Nucleic acid detection; or
  - 3. Viral culture;
- (d) Laboratory-confirmed Respiratory Syncytial Virus (RSV), detected by Nucleic Acid Amplification Test (NAAT), including polymerase chain reaction (PCR);
- (e) Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2), detected by:
  - 1. Nucleic Acid Amplification Test (NAAT), including polymerase chain reaction (PCR); or
  - 2. SARS-CoV-2 molecular sequencing; or
- (f) Varicella laboratory test results reported as positive for:
  - 1. Isolation of varicella virus from a clinical specimen;
  - 2. Varicella antigen detected by direct fluorescent antibody test;

or

3. Varicella-specific nucleic acid detected by polymerase chain reaction (PCR).

(2) Reports made pursuant to this section shall include a diagnosis.

Section 10. Multi-Drug Resistant Organisms and Other Organisms Requiring Routine Notification by Electronic Laboratory Reporting.

(1) Notification of the following diseases shall be considered routine and shall be electronically reported to the Kentucky Department for Public Health through the Kentucky Health Information Exchange within five (5) business days:

(a) Clostridioides (formerly Clostridium) difficile (C. difficile) identified from a positive laboratory test result for C. difficile toxin A or B (includes molecular assays (PCR) or toxin assays) or a toxin-producing organism detected by culture or other laboratory means performed on a stool sample;

(b) Enterobacterales~~[Enterobacteriaceae]~~ species resistant to ceftazidime, ceftriaxone, or cefotaxime;

(c) Methicillin-resistant Staphylococcus aureus (MRSA), which includes S. aureus cultured from any specimen that tests oxacillin-resistant, ceftaxime-resistant, or methicillin-resistant by standard susceptibility testing methods, or by a laboratory test that is FDA-approved for MRSA detection from isolated colonies. These methods may also include a positive result by any FDA-approved test for MRSA detection; and

(d) Vancomycin-resistant Enterococcus species (VRE), only those identified to the species level, that are resistant to Vancomycin by standard susceptibility testing methods or by results from any FDA-approved test for VRE detection from specific specimen sources.

(2) The report of an organism under this section shall include the:

- (a) Date of specimen collection;
- (b) Source of specimen;
- (c) Susceptibility pattern; and
- (d) Name of the ordering health professional.

(3) Upon a test result performed by a medical laboratory that indicates infection with an agent associated with one (1) or more of the diseases or conditions or a multi-drug resistant organism specified in this section, the director of the medical laboratory shall electronically report the result to the Kentucky Department for Public Health through the Kentucky Health Information Exchange within five (5) days.

(4) The report shall include a diagnosis.

Section 11. Multi-drug Resistant Organisms and Other Organisms Requiring Priority Reporting by EPID 250 and by Electronic Laboratory Reporting to the Kentucky Department for Public Health through the Kentucky Health Information Exchange within One (1) Business Day. Notification of the following diseases shall be considered priority:

(1) Candida auris ~~— [Laboratory Criteria for Diagnosis shall include:]~~

~~[(a)] [Confirmatory laboratory evidence for] Detection of Candida auris from any body site using either culture or a culture independent diagnostic test (for example, Polymerase Chain Reaction (PCR)); [ or]~~

~~[(b)] [Presumptive laboratory evidence for detection of Candida haemulonii from any body site using a yeast identification method that is not able to detect Candida auris, and either the isolate or specimen is not available for further testing, or the isolate or specimen has not yet undergone further testing;]~~

(2) Carbapenem-resistant – Acinetobacter – Any Acinetobacter species testing resistant to imipenem, meropenem, or doripenem, with minimum inhibitory concentration (MIC) value greater than or equal to eight (8) µg/mL by standard susceptibility testing methods, or by identification of a carbapenemase using a recognized test;

(3) Enterobacterales~~[Enterobacteriaceae]~~ (CRE) – Any Enterobacterales~~[Enterobacteriaceae]~~ species testing resistant to imipenem, meropenem, or doripenem, with MIC value greater than or equal to four (4) µg/mL, or ertapenem with MIC value greater than

or equal to two (2) µg/mL, by standard susceptibility testing methods, or by identification of a carbapenemase using a recognized test, including identification of a carbapenemase during screening when a specific organisms is not isolated;

(4) Carbapenem-resistant – Pseudomonas – Any Pseudomonas species testing resistant to imipenem, meropenem, or doripenem, with MIC value greater than or equal to eight (8) µg/mL by standard susceptibility testing methods, or by identification of a carbapenemase using a recognized test, including identification of a carbapenemase during screening when a specific organism is not isolated;

(5) Vancomycin-intermediate Staphylococcus aureus (VISA), which includes S. aureus cultured from any specimen having a MIC of four (4) to eight (8) µg/mL for vancomycin per standard laboratory methods; and

(6) Vancomycin-resistant Staphylococcus aureus (VRSA), which includes S. aureus cultured from any specimen having a MIC of greater than or equal to sixteen (16) µg/mL for vancomycin per standard laboratory methods.

Section 12. Newly Recognized Infectious Agents, HAI Outbreaks, Emerging Pathogens, and Pathogens of Public Health Importance.

(1) The following shall be reported immediately by telephone to the Kentucky Department for Public Health:

(a) A suspected incidence of bioterrorism caused by a biological agent;

(b) Submission of a specimen to the Kentucky Division of Laboratory Services for select agent identification or select agent confirmation testing; or

(c) An outbreak of a disease or condition that resulted in multiple hospitalizations or death.

(2) An unexpected pattern of cases, suspected cases, or deaths that could indicate the following shall be reported immediately by telephone to the local health department in the county where the health professional is practicing or where the facility is located:

(a) A newly-recognized infectious agent;

(b) An outbreak;

(c) An emerging pathogen that may pose a danger to the health of the public;

(d) An epidemic; or

(e) A noninfectious chemical, biological, or radiological agent.

(3) A report of the following shall be considered priority and shall be reported to the local health department in the county where the health professional is practicing or where the facility is located within one (1) business day:

(a) Suspected Staphylococcal or other foodborne intoxication;

or

(b) Salmonellosis or other foodborne or waterborne infection.

(4) The local health department shall:

(a) Investigate the outbreak or occurrence;

(b) Carry out public health protection measures to address the disease or condition involved; and

(c) Make medical and environmental recommendations to prevent future similar outbreaks or occurrences.

(5) The local health department may seek assistance from the Kentucky Department for Public Health.

Section 13. Laboratory Surveillance for Antimicrobial Resistance.

~~[(1)] [Medical or national reference laboratory results for the following shall be considered routine:]~~

~~[(a)] [Influenza virus isolates;]~~

~~[(b)] [PCR positive test results for influenza virus; and]~~

~~[(c)] [DNA molecular assays for influenza virus.]~~

~~[(2)] [The report shall include specific laboratory information pertinent to the result.]~~

~~[(3)] Upon request by the Kentucky Department for Public Health, a health facility laboratory or a medical laboratory shall report the number of clinical isolates and information regarding the antimicrobial resistance patterns of the clinical isolates at intervals no less frequently than three (3) months for:~~

~~[(1)][(a)] Acinetobacter baumannii complex;~~

~~[(2)][(b)] Enterobacter cloacae complex;~~

~~[(3)][(e)] Enterococcus species;~~

~~[(4)][(d)] Escherichia coli;~~

~~[(5)][(e)] Klebsiella oxytoca;~~

~~[(6)][(f)] Klebsiella pneumoniae;~~

~~[(7)][(g)] Pseudomonas aeruginosa;~~

~~[(8)][(h)] Staphylococcus aureus; or~~

~~[(9)][(i)] An organism specified in a request that includes a justification of its public health importance.~~

~~[(4)] [A facility that reports antimicrobial resistance (AR) data to the National Healthcare Safety Network (NHSN) AUR (Antimicrobial Use & Resistance) module shall meet this reporting requirement through NHSN reporting.]~~

Section 14. Healthcare-Associated Infection and Antimicrobial Use and Resistance Surveillance.

(1) A health facility in Kentucky that participates in Centers for Medicare and Medicaid Services (CMS) reporting programs shall confer rights to [authorize the CDC to allow] the Kentucky Department for Public Health to access health care-associated infection data and antimicrobial use and resistance data reported to NHSN.

(2) The Kentucky Department for Public Health shall preserve patient confidentiality and shall not disclose to the public any patient-level data obtained from any health care facility.

(3) The Kentucky Department for Public Health may issue reports to the public regarding healthcare-associated infections in aggregate data form that:

(a) May identify individual health care facilities; and

(b) Shall comply with methodology developed by the CDC and CMS for national reporting of health care-associated infections.

(4) The Kentucky Department for Public Health may evaluate healthcare-associated infection data for accuracy and completeness.

Section 15. Antimicrobial Use Reporting.

(1) A short-term acute-care, including critical access, hospital in Kentucky that participates in the CMS reporting programs shall report data on facility-wide inpatient antimicrobial use to the Kentucky Department for Public Health, Healthcare-Associated Infection/Antibiotic Resistance (HAI/AR) Prevention Program, on a quarterly basis. ~~[-Critical access hospitals shall be exempt.]~~

(2) Reporting deadlines shall be two (2) months following the end of a quarter, e.g. for January to March (Quarter 1) the deadline would be May 31 ~~[consistent with the CMS reporting program submission deadlines of data to the NHSN].~~

(3) The HAI/AR Prevention Program shall provide the specifications for data submission.

(4) Hospitals shall include aggregated antimicrobial use and patient day data for all inpatient units (facility-wide inpatient) included in the NHSN Laboratory-identified (LabID) MRSA Bacteremia reporting.

(5)

(a) The antimicrobial use numerator shall be days of therapy (DOTs) as defined by the NHSN Antimicrobial Use and Resistance (AUR) Module, available at <https://www.cdc.gov/nhsn/pdfs/pscmanual/1pscaurcurrent.pdf>.

(b) Refer to section 1. Antimicrobial Use (AU) Option, subsection Requirements (pages 3-8).

(6) Total DOTs shall be submitted for each of the following antimicrobials:

(a) Azithromycin;

(b) Cefepime;

(c) Ceftazidime;

(d) Ceftriaxone;

(e) Ciprofloxacin;

(f) Clindamycin;

(g) Daptomycin;

(h) Ertapenem;

(i) Imipenem;

(j) Levofloxacin;

(k) Linezolid;

(l) Meropenem;

VOLUME 51, NUMBER 4– October 1, 2024

- (m) ~~[Moxifloxacin;]~~
- ~~[(n)] Piperacillin-tazobactam;~~
- ~~[(n)] and~~
- ~~[(o)] Vancomycin; and~~
- ~~[(o)] An antimicrobial provided in the specifications for reporting that includes a justification of its public health importance.~~
- (7) Total DOTs for the listed drugs shall include only administrations via the intravenous and digestive tract routes.
- (8)
- (a) The denominator for antimicrobial use reporting shall be patient days as defined by the NHSN LabID Module available at [https://www.cdc.gov/nhsn/pdfs/pscmanual/12pscmdro\\_cdadcurrent.pdf](https://www.cdc.gov/nhsn/pdfs/pscmanual/12pscmdro_cdadcurrent.pdf).
- (b) Refer to Appendix 2.
- (9) A hospital that reports antimicrobial use data to the NHSN AUR Module shall meet this reporting requirement for a given year through NHSN reporting if the facility reports AUR data for the complete calendar year.

Section 16. Human Immunodeficiency Virus (HIV) and Acquired Immunodeficiency Syndrome (AIDS) Surveillance.

(1) All cases diagnosed in Kentucky~~[case reports]~~ shall be submitted to the HIV/AIDS Surveillance Program of the Kentucky Department for Public Health, Division of Epidemiology and Health Planning, or its designee, within five (5) business days of diagnosis on one (1) of the following forms:

(a) Adult HIV Confidential Case Report Form, available at <https://www.cdc.gov/hiv/pdf/guidelines/cdc-hiv-adult-case-report-form-2023.pdf>; or

(b) Pediatric HIV Confidential Case Report Form, available at <https://www.cdc.gov/hiv/pdf/guidelines/cdc-hiv-pediatric-case-report-form-2023.pdf>.

(2) Health professionals and medical laboratories shall report:

(a) A positive test result for HIV, including tests with negative or indeterminate results that are part of a diagnostic testing algorithm whose overall interpretation is positive;~~[-, and]~~

(b) All results from an initial false positive test with confirmed negative results;

~~[(c)] Results from:~~

1. Any HIV antibody test;
2. Any HIV antigen test;
3. Any HIV Ribonucleic acid (RNA) or Deoxyribonucleic acid (DNA) test;
4. CD4+ assay including absolute CD4+ cell counts and CD4+%;
5. HIV genetic sequencing; or
6. HIV culture; or

~~[(d)]~~~~[(b)]~~ A diagnosis of AIDS that meets the definition of AIDS established within the CDC guidelines.

(3) A negative HIV test, if available, shall be submitted with the report required by subsection (2) (a) or (b) of this section.

(4) Any request for data related to HIV infection or AIDS shall be made to the Department for Public Health, Division of Epidemiology and Health Planning.

(5) A case report for a person with an HIV infection without a diagnosis of AIDS, or HIV infection with a diagnosis of AIDS shall include the information required by Section 5(6)(c) of this administrative regulation, and:

- ~~[(a)] [The patient's full name;]~~
- ~~[(b)] [The patient's complete address;]~~
- ~~[(c)] [Date of birth using the format MMDDYYYY;]~~
- ~~[(d)] [Gender;]~~
- ~~[(e)] [Race;]~~
- ~~[(f)] [Ethnicity;]~~
- ~~[(g)] Risk factors as identified by CDC;~~
- ~~[(b)]~~~~[(h)] [County of residence;]~~
- ~~[(f)] [Name of provider and facility submitting report including contact information;]~~
- ~~[(j)] Specimens collected;~~
- ~~[(c)]~~~~[(k)] Date and type of HIV test performed using the format MMDDYYYY;~~
- ~~[(d)]~~~~[(l)] Results of CD4+ cell counts and CD4+%;~~
- ~~[(e)]~~~~[(m)] Results of viral load testing;~~

~~[(f)]~~~~[(n)] Results of RNA, DNA, HIV culture, HIV antigen, and HIV antibody, if performed;~~

~~[(g)]~~~~[(o)] Results of TB testing, if available;~~

~~[(h)]~~~~[(p)] Any documented HIV negative test, if available;~~

~~[(i)]~~~~[(q)] History of PrEP or PEP treatment, if available;~~

~~[(j)]~~~~[(r)] Antiretroviral treatment, if available;~~

~~[(k)]~~~~[(s)] HIV status of the person's partner, spouse, or children, as applicable;~~

~~[(l)]~~~~[(t)] [Current pregnancy status for females;]~~

~~[(u)] Opportunistic infections diagnosed; and~~

~~[(m)]~~~~[(v)] Date of onset of illness.~~

(6) A report of pregnancy and delivery for a female diagnosed with HIV disease shall include:

(a) All HIV diagnostic testing and results associated with the determination of HIV status of the infant, including tests with negative or indeterminate results that are part of a diagnostic testing algorithm and if final result is negative; and

(b) Any HIV treatment prescribed to an infant.

(7) A report of AIDS shall be made whether or not the patient has been previously reported as having an HIV infection.

(8) If the patient has not been previously reported as having an HIV infection, the AIDS report shall also serve as the report of HIV.

Section 17. Sexually Transmitted Disease (STD).

(1) Notification of a probable diagnosis of an STD as specified in subsection (4) or (7) of this section shall be made.

(2) The report shall provide:

(a) Pregnancy status; and

(b) Clinical, epidemiologic, laboratory, and treatment information pertinent to the disease.

(3) Upon a laboratory test result that indicates infection with an agent associated with one (1) or more of the diseases or conditions specified in subsection (4) or (7) of this section, a medical laboratory shall report to the Kentucky Department for Public Health information required by Section 5(6)(c) of this administrative regulation.

(4) Sexually Transmitted Diseases Requiring Priority Notification. A report of the following shall be considered priority and shall be made within one (1) business day:

(a) Each pregnant female who has tested positive for syphilis regardless of stage; or

(b) Syphilis - primary, secondary, or early latent.

(5) Upon receipt of a report for a disease or condition specified in subsection (4) of this section, a local health department shall:

(a) Investigate the report;

(b) Carry out public health protection measures to address the disease or condition; and

(c) Forward the report to the Kentucky Department for Public Health within one (1) business day.

(6) The local health department may seek assistance from the Kentucky Department for Public Health.

(7) Sexually Transmitted Diseases Requiring Routine Notification. A report of the following shall be considered routine and shall be made within five (5) business days:

(a) Chancroid;

(b) Chlamydia trachomatis infection;

(c) Gonorrhea;

(d) Granuloma inguinale;

(e) Lymphogranuloma venereum; or

(f) Syphilis, other than primary, secondary, early latent, or congenital.

(8) Upon receipt of a report for a disease or condition specified in subsection (7) of this section, a local health department shall:

(a) Make a record of the report using Form EPID 200, Kentucky Reportable Disease Form;

(b) Forward the report to the Kentucky Department for Public Health within five (5) business days; and

(c) Render assistance if requested by the reporting entity or the Kentucky Department for Public Health.

Section 18. Tuberculosis.

(1) A pharmacist shall give notice if two (2) or more of the following medications used for the initial treatment of active

## VOLUME 51, NUMBER 4– October 1, 2024

tuberculosis are dispensed to an inpatient in a health facility or to an ambulatory patient in a health facility or a pharmacy:

- (a) Ethambutol;
- (b) Isoniazid;
- (c) Pyrazinamide; and
- (d) Rifampin or rifabutin.

(2)

(a) A report of tuberculosis shall be considered priority and shall be reported to the local health department serving the county in which the patient resides.

(b) If the local health department cannot be reached, notification shall be given to the Kentucky Department for Public Health.

(3) The report shall include:

- (a) Information required in Section 5(6)(c) of this administrative regulation; and
- (b) Names of the medications dispensed.

Section 19. Asbestosis, ~~[Coal Worker's-]~~Pneumoconiosis, and Silicosis.

(1) A health professional shall report a diagnosis of the following to the Kentucky Department for Public Health within three (3) months of diagnosis:

- (a) Asbestosis;
- (b) Pneumoconiosis, including coal worker's pneumoconiosis; or
- (c) Silicosis.

(2) A report required under this section shall include the information required in Section 5(6)(c) of this administrative regulation.

Section 20. Reporting of Communicable Diseases in Animals.

(1) A diagnosis in an animal of a condition known to be communicable to humans, except for rabies, shall require routine notification.

(2) A veterinarian shall report the diagnosis within five (5) business days to the local health department serving the county in which the animal is located.

(3) If a laboratory test indicates infection of an animal with an agent associated with a condition known to be communicable to humans, the director of a medical laboratory shall report the result to the local health department serving the county in which the animal is located within five (5) business days.

(4) The local health department receiving the report shall:

- (a) Investigate the report;
- (b) Carry out public health protection measures for the control of communicable diseases; and
- (c) Forward the report to the Kentucky Department for Public Health within five (5) business days.

(5) The local health department may seek assistance from the Kentucky Department for Public Health.

Section 21. Kentucky Public Health Advisory.

(1) If the secretary of the Cabinet for Health and Family Services or the commissioner of the Department for Public Health determines that a disease not presently listed in this administrative regulation requires reporting, the secretary or commissioner shall issue a Kentucky public health advisory.

(2) The Kentucky public health advisory shall include:

- (a) Date and time the advisory is issued;
- (b) A unique number to identify the advisory;
- (c) Names for the disease or condition;
- (d) A description of the disease or condition;
- (e) Recommendations for health professionals, health facilities, and laboratories; and
- (f) Notification requirements including:
  1. The notification time interval; and
  2. Methods for notification.

(3) The duty to report by health professionals, health facilities, and laboratories pursuant to a Kentucky public health advisory shall begin upon receipt of the advisory and shall remain in effect until the advisory is rescinded by order of the secretary or the commissioner.

Section 22. Penalty. If the cabinet has cause to believe that a physician willfully neglects or refuses to notify the cabinet in accordance with this administrative regulation, pursuant to KRS

214.990(1) the cabinet shall make a referral to the appropriate professional licensing board.

Section 23. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "EPID 200, Kentucky Reportable Disease Form", 7/2024~~[4/2020]~~;

(b) "EPID 250, Kentucky Reportable MDRO Form", 7/2024~~[10/2020]~~;

(c) "EPID 394, Kentucky Reportable Disease Form, Hepatitis Infection in Pregnant Women or Child (HBV – aged two years or less & HCV – aged three years or less), 7/2024; and~~[(aged five (5) years or less)", 9/2020]~~;

(d) "EPID 399, Perinatal Hepatitis B Prevention Form for Exposed Infants and Hepatitis B Positive Pregnant Mothers", 7/2024~~[6/2020]~~;

~~[(e)] ["Adult HIV Confidential Case Report Form", 11/2019]; and~~

~~[(f)] ["Pediatric HIV Confidential Case Report Form", 11/2019].~~

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. and available online at <https://chfs.ky.gov/agencies/dph/dehp/idb/Pages/default.aspx>.

STEVEN J. STACK, MD, MBA, Commissioner

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: August 29, 2024

FILED WITH LRC: September 9, 2024 at 11:20 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 25, 2024, 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 November 18, 2024, 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 November 30, 2024. 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](mailto:CHFSregs@ky.gov).

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Julie Brooks or Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes notification standards and specifies the diseases requiring immediate, urgent, priority, routine, or general notification.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to facilitate rapid public health action to control diseases and to permit an accurate assessment of the health status of the commonwealth.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 211.180(1)(a) authorizes the cabinet to implement a statewide program for the detection, prevention, and control of communicable diseases, chronic and degenerative diseases, dental diseases and abnormalities, occupational diseases and health hazards peculiar to industry, home accidents and health hazards, animal diseases that are transmissible to humans, and other diseases and health hazards that can be controlled. KRS 214.010 requires every physician and advanced practice registered nurse to



notify the local health department of the existence of diseases and conditions designated by administrative regulation of the cabinet.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures physicians and advanced practice registered nurse are aware of the diagnosed conditions that require notification to the local health department of jurisdiction and the Department for Public Health.

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

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation removes Severe Acute Respiratory Syndrome Coronavirus (SARS CoV2)(the virus that causes COVID-19) from the list of urgent reportable conditions, adds free-living amoeba infections to the list of priority reportable conditions, revises the reporting requirements for influenza-associated mortality, and updates the material incorporated by reference.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to relieve the burden of reporting COVID-19 cases from health care providers, and to provide clarification for reporting influenza-associated mortality.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 211.180(1)(a) authorizes the cabinet to implement a statewide program for the detection, prevention, and control of communicable diseases, chronic and degenerative diseases, dental diseases and abnormalities, occupational diseases and health hazards peculiar to industry, home accidents and health hazards, animal diseases that are transmissible to humans, and other diseases and health hazards that can be controlled. KRS 214.010 requires every physician and advanced practice registered nurse to notify the local health department of the existence of diseases and conditions designated by administrative regulation of the cabinet.

(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation will relieve the reporting burden for health care providers and will ensure proper reporting of other communicable diseases.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The entities affected by this administrative regulation include all health facilities as defined by KRS 216B.015(13), health professionals licensed under KRS Chapters 311 through 314, medical laboratories as defined by KRS 333.020(3), national reference laboratories contracted by Kentucky health professionals, laboratories, or healthcare facilities, pharmacists licensed under KRS Chapter 315, and veterinarians licensed under KRS Chapter 321.

(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: Health care providers will need to be aware of the revised reporting requirements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to health care providers to comply with the amendment to this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Health care providers will have less reporting burden.

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

(a) Initially: This is an ongoing program, there will be no initial cost.

(b) On a continuing basis: There is no increase in ongoing costs associated with the amendment to this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The reportable disease programs affected by this administrative regulation are funded through a mix of state general fund dollars, federal dollars, and specialized grants.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation,

if new, or by the change if it is an amendment: An increase in fees or funding is not necessary to implement the amendment to this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering is not applied. While the list of reportable diseases and conditions is separated by immediate, urgent, priority, routine, or general notification, all healthcare facilities and physicians are required to report any known communicable disease.

#### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050, 211.090(3), 211.180(1)(a), and 214.010.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Division of Epidemiology and Health Planning in the Department for Public Health is the promulgating agency.

(a) Estimate the following for the first year:

Expenditures: The amendment to this administrative regulation does not affect expenditures.

Revenues: The amendment to this administrative regulation does not affect revenues.

Cost Savings: The amendment to this administrative regulation does not result in cost savings for the promulgating agency.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no difference in expenditures, revenues, or cost savings in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Local health departments are the affected local entities.

(a) Estimate the following for the first year:

Expenditures: The amendment to this administrative regulation will not affect the expenditures for the identified local entities.

Revenues: The amendment to this administrative regulation will not generate revenue for the identified local entities.

Cost Savings: The amendment to this administrative regulation will not result in cost savings for the identified local entities.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no difference in expenditures, revenues, or cost savings in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3): Physicians, advanced registered nurse practitioners, hospitals, medical laboratories, pharmacist, and veterinarians are the additional regulated entities affected by the amendment to this administrative regulation.

(a) Estimate the following for the first year:

Expenditures: The amendment to this administrative regulation will not affect expenditures for the identified additional regulated entities.

Revenues: The amendment to this administrative regulation will not generate revenue for the identified additional regulated entities.

Cost Savings: The amendment to this administrative regulation will not result in cost savings for the identified additional regulated entities.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no change in expenditures, revenues, or cost savings in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The amendment to this administrative regulation will have minimal fiscal impact.

(b) Methodology and resources used to determine the fiscal impact: Reporting entities will only need to be aware of the changes in reportable conditions. The amendment to this administrative regulation does not require the reporting entities to implement any new processes or procedures that would impact their overall expenditures or revenues, or result in cost savings.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in

questions (2) - (4). (\$500,000 or more, in aggregate) This administrative regulation will not have an overall negative or adverse major economic impact.

(b) The methodology and resources used to reach this conclusion: The amendment to this administrative regulation is overall budget neutral for all entities identified in questions (2)-(4).

**CABINET FOR HEALTH AND FAMILY SERVICES**  
**Department for Public Health**  
**Division of Epidemiology and Health Planning**  
**(Amendment)**

**902 KAR 2:040. ~~Syndromic surveillance[ and screening of carriers and selected groups].~~**

RELATES TO: KRS 216B.015, Chapter 311 through 314 [211.180, 214.010, 214.020]

STATUTORY AUTHORITY: KRS 211.180, 214.010[495.040, 214.090]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.180 requires the Cabinet for Health and Family Services[mandates the Cabinet for Human Resources] to implement a statewide program for the surveillance, detection, prevention, and control of communicable diseases,[-] chronic diseases, and injuries. KRS 214.010 requires every physician, advanced practice registered nurse, and every head of family to notify the local health department of the existence of diseases and conditions designated by administrative regulation of the cabinet. This administrative regulation ensures[insures] that selected individuals and groups who serve as potential sources of certain communicable diseases are under proper medical surveillance in order to prevent outbreaks of such diseases among their contacts.

Section 1. Definitions.

(1) "Admit reason" means the primary reason a patient has presented and is admitted for healthcare.

(2) "Chief complaint" means a concise statement describing the symptoms, problems, health conditions, diagnoses, or other factors that are the reason for the patient encounter.

(3) "Completeness" means the full, detailed data gathered or measured during the patient encounter that is submitted in the correct HL7 messaging segment or position that can be parsed to one of the Centers for Disease Control and Prevention's National Syndromic Surveillance Program (NSSP) Priority 1, Priority 2, or Priority 3 data elements.

(4) "Diagnosis code" means the combination of numbers and letters that reference a certain medical condition, medical procedure, symptom, or disease. Diagnosis codes should be submitted as valid International Classification of Disease-Clinical Modification or Systematized Nomenclature of Medicine-Clinical Terms (SNOMED-CT) codes with the parsed corresponding code description.

(5) "Discharge disposition" means the patient's final destination upon leaving the health facility.

(6) "Encounter" means an interaction between a patient and healthcare provider to provide healthcare service or assess the health status of a patient.

(7) "Facility type" means the type of healthcare services primarily provided by a specific healthcare provider, such as emergency, inpatient, outpatient, urgent care, primary care, or medical specialty.

(8) "Health facility" is defined by KRS 216B.015(13).

(9) "Health professional" means a professional licensed under KRS Chapters 311 through 314.

(10) "HL7 messaging" means the message format that provides a framework for the management, integration, exchange, and retrieval of electronic information across different healthcare systems.

(11) "ICD-CM code" means International Classification of Disease – Clinical Modification that healthcare professionals use to classify and code all diagnoses, symptoms, and procedures for claims processing.

(12) "Kentucky Health Information Exchange" or "KHIE" means the secure network that ensures interoperability among healthcare providers across the commonwealth.

(13) "Medical record number" or "MRN" means the person-level identifier assigned to the patient by the facility that shall:

(a) Not be changed during the encounter; and

(b) Remain consistent across multiple encounters by the same patient at the same facility.

(14) "Patient class code" means the type and manner of admission method that describes the patient interaction with the healthcare facility or provider. Acceptable, valid codes shall be E (emergency), I (inpatient), O (outpatient), B (obstetrics), P (preadmit), or R (recurring patient).

(15) "Patient class" means the level of resources needed to provide healthcare during a given patient encounter. Valid patient classes shall be direct admit, emergency, inpatient, observation patient, obstetrics, outpatient, preadmit, or recurring patient.

(16) "Syndromic surveillance" means the electronic public health surveillance system that aggregates de-identified healthcare information about patients' demographic information, symptoms, diagnoses, and other healthcare encounter-level data to assess healthcare utilization patterns and trends to identify potential imminent threats to public health in near real-time.

(17) "Systematized Nomenclature of Medicine-Clinical Terms" or "SNOMED-CT" means the standardized, international, multilingual core set of clinical healthcare terminology codes used in electronic health records to supplement ICD-CM diagnosis codes.

(18) "Timeliness" means an initial encounter message level data is submitted and received within twenty forty-eight (48) hours of when the patient encounter occurred.

(19) "Validity" means the use of informative and contextually appropriate free-text strings and proper usage of applicable syndromic surveillance code value sets available within the Centers for Disease Control and Prevention's Public Health Information Network Vocabulary Access and Distribution System (PHIN VADS).

(20) "Visit ID" means the unique numerical identifier assigned by each hospital or healthcare provider to identify each specific patient encounter.

Section 2. Required Reporting. The following data elements shall be reported to the cabinet via KHIE within forty-eight (48) hours of each patient encounter:

(1) Name, which shall be reported separately, in the following format:

(a) First name;

(b) Middle name; and

(c) Last name;

(2) Date of birth in MM/DD/YYYY format with time of birth and age in units;

(3) Gender;

(4) Race;

(5) Ethnicity;

(6) County of residence;

(7) Zip code of residence, post office box (P.O. Box) zip codes

shall not be submitted;

(8) Medical record number (MRN);

(9) MRN assigning authority;

(10) Date and time of the actual patient encounter, which shall not be updated or altered in subsequent HL7 messaging updates for that patient encounter;

(11) Facility identification, including facility type;

(12) Admit reason, including a description with date and time of admission;

(13) Patient type;

(14) Patient class code;

(15) Chief complaint, which shall not include non-chief complaint related information such as screening questionnaires;

(16) Diagnosis code, which shall be:

(a) A valid ICD-CM code;

(b) A valid SNOMED-CT code with the corresponding diagnosis description and ICD-CM codes; and

(c) Submitted in the diagnosis code field;

(17) Discharge disposition including date and time of discharge;

(18) Death indicator, if applicable, including date and time of death;

(19) Visit ID - A new unique visit ID shall be assigned to the same patient, regardless of transfer status or changes to patient class or patient class code during that patient encounter; and

(20) Pregnancy status, if applicable.

Section 3. Data Submission.

(1) Health professionals and health facilities shall:

(a) Complete the electronic onboarding performed by the Kentucky Health Information Exchange (KHIE);

(b) Work directly with KHIE to establish an active, secure, electronic connection; and

(c) Actively participate with KHIE onboarding staff for ongoing data quality improvement.

(2)

(a) If the active connection required by subsection (1)(b) of this section is lost or an error in connection occurs, the health professional or health facility shall notify KHIE within one (1) business day; and

(b) Any backlog in data submission that results during a lost or errored connection shall be submitted when the connection is re-established.

(3) Syndromic surveillance data shall be submitted accordance with Centers for Disease Control and Prevention timeliness standards.

(4) Healthcare encounter data submitted shall include all required data elements listed in Section 2 of this administrative regulation. Only required data elements will be considered during assessments of data quality completeness and validity measures.

(5) Data transmitted to KHIE shall be deidentified and routed to state and national syndromic surveillance platforms on behalf of the submitting healthcare organization. [Carriers. Any person who is a carrier of the infectious agents of cholera, amoebic dysentery, bacillary dysentery, diphtheria, typhoid, paratyphoid fever shall be subject to supervision of the local health department or Cabinet for Human Resources, as provided by 902 KAR 2:050. Every physician and local health department shall report such carriers immediately to the Cabinet for Human Resources.]

~~[Section 2.] [Selected Groups. The Cabinet for Human Resources or individual local health departments may require periodic medical examinations for selected occupational groups including barbers, beauticians, school teachers and employees, and others who come into intimate contact with the public and potentially serve as sources of infection.]~~

STEVEN J. STACK, MD, MBA, Commissioner  
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: August 15, 2024

FILED WITH LRC: September 9, 2024 at 11:20 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 25, 2024, 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 November 18, 2024, 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 November 30, 2024. 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 502-564-7476; fax 502-564-7091; email CHFRegs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Julie Brooks or Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation requires carriers of specific diseases, specifically cholera, amoebic dysentery, bacillary dysentery, diphtheria, typhoid, and paratyphoid, to be subject to supervision by local health departments or the Cabinet for Human Resources and requires every physician and local health department to report these carriers to the Cabinet for Human Resources. This administrative regulation allows the Cabinet for Human Resources or local health departments to periodically require medical examinations for people in selected occupations, specifically barbers, beauticians, schoolteachers and employees, and others who come into intimate contact with the public and potentially serve as sources of infection.

(b) The necessity of this administrative regulation: This administrative regulation was necessary as a means of tracking carriers of the listed illnesses, and as a means to survey selected occupations for potential threats to public health.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 211.180 authorizes the cabinet to implement a statewide program for the detection, prevention, and control of communicable diseases. KRS 214.010 requires every physician, advanced practice registered nurse, and every head of family to notify the local health department of the existence of diseases and conditions as designated by administrative regulation.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation list specific diseases and occupations for surveillance.

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

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation updates the name of the cabinet to the Cabinet for Health and Family Services, adds new definitions, adds syndromic surveillance requirements including the required data elements and data submission procedures to standardize reporting by health professionals and health facilities, and deletes outdated requirements for the reporting and monitoring of identified carriers of selected diseases as well as deletes the authority to require certain occupations to submit to periodic medical examinations.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to standardize and assure completeness of data being submitted electronically to the Kentucky Health Information Exchange for syndromic surveillance purposes. This administrative regulation requires the cabinet to implement and maintain a statewide program for the detection, prevention and control of communicable diseases. Syndromic surveillance is one method of detecting incidence of any condition, outbreak, or unusual occurrences of disease in Kentucky. The reporting of healthcare information already occurs electronically via data feeds to the Kentucky Health Information Exchange, but the amendment to this administrative regulation will require hospitals and non-hospital agencies to submit syndromic surveillance data in a timely manner and to standardize the data that is submitted by healthcare facilities, which is often incomplete or of poor quality due to a lack of standards required by the current administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 211.180(1)(a) authorizes the Cabinet for Health and Family Services to implement a statewide program for the detection, prevention, and control of communicable diseases, chronic and degenerative diseases, dental diseases and abnormalities, occupational diseases and health hazards peculiar to industry, home accidents and health hazards, animal diseases that are transmissible to man, and other diseases and health hazards that can be controlled. KRS 214.010 requires every physician, advanced practice registered nurse, and every head of family to notify the local health department of the existence of diseases and conditions designated by administrative regulation of the cabinet, this amendment advances the

## VOLUME 51, NUMBER 4– October 1, 2024

completeness of reporting requirements as electronic reporting mechanisms progress. The amendment to this administrative regulation delineates which data elements are required and the timeliness for submitting them for syndromic surveillance purposes in conformance with KRS 211.180 and 214.010.

(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation will allow hospital and non-hospital facilities to submit data that can be monitored for increases in syndromes, conditions, and illnesses. Ongoing analysis of this data allows for detection of public health threats, monitoring of trends for pathogens required to be reported, outbreaks, and other outcomes of interest, identification of regional or other geographic trends in disease events, and more effective targeting of healthcare and public health interventions.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The amendment to this administrative regulation impacts all hospitals and non-hospital healthcare facilities that are fully onboarded with the Kentucky Health Information Exchange.

(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: Hospital and non-hospital facilities that are onboarded to the Kentucky Health Information Exchange may need to implement additional coding in order to assure complete and standard submission of required variables. All onboarded healthcare facilities are aware of the need to report electronically but have not had a standard to follow as to completeness or accuracy of data elements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The costs associated with compliance is unknown. Hospital and non-hospital facilities should already have the ability to submit syndromic surveillance data as they already submit electronic data to Kentucky Health Information Exchange (KHIE). Troubleshooting missing or incomplete data may incur additional cost but will be pursued by the cabinet only in cases where gaps are egregious, or compliance is clearly not being worked toward.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance, entities identified in question (3) will be more able to achieve the standards set by the Interoperability Program.

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

(a) Initially: No initial costs are expected for KHIE or the cabinet.

(b) On a continuing basis: No additional ongoing costs are expected for KHIE or the cabinet.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funding for syndromic surveillance activities is a mix of state general funds and federal grant dollars.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees or funding is not necessary to implement the amendment to this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering is not applied. The requirements of this administrative regulation are applied equally to health professionals and health facilities.

### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 211.180 and 214.010.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Cabinet for Health and Family Services, Department for Public Health, Division of Epidemiology and Health

Planning is the promulgating agency. The Kentucky Health Information Exchange in the Cabinet for Health and Family Services, Office of Inspector General will also be impacted by this administrative regulation.

(a) Estimate the following for the first year:

Expenditures: This administrative regulation will not impact expenditures in the first year.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: This administrative regulation does not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no change in expenditures, revenues, or cost savings in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): There are no affected local entities.

(a) Estimate the following for the first year:

Expenditures: Not applicable.

Revenues: Not applicable.

Cost Savings: Not applicable.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Not applicable.

(4) Identify additional regulated entities not listed in questions (2) or (3): All local hospitals and health care facilities that report syndromic surveillance data and the Kentucky Injury Prevention and Research Center at the University of Kentucky are additional regulated entities that will be impacted by this administrative regulation.

(a) Estimate the following for the first year:

Expenditures: This administrative regulation will not impact the expenditures of the additional regulated entities.

Revenues: This administrative regulation will not generate revenue for the additional regulated entities.

Cost Savings: This administrative regulation will not result in cost savings for the additional regulated entities.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no change in expenditures, revenue, or cost savings in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This administrative regulation will not have a significant fiscal impact. Health care facilities and hospitals are currently required to report syndromic surveillance data. This administrative regulation will ensure the accuracy and completeness of the data.

(b) Methodology and resources used to determine the fiscal impact: The fiscal impact was determined by considering the current processes in place for reporting syndromic surveillance data.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This administrative regulation does not have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4).

(b) The methodology and resources used to reach this conclusion: This administrative regulation does not generate revenue for any of the regulated entities or the department. Because regulated entities are currently reporting syndromic surveillance data, this administrative regulation will not impact their expenditures or result in cost savings.

### CABINET FOR HEALTH AND FAMILY SERVICES Department for Public Health Office of the Commissioner (Amendment)

#### 902 KAR 28:010. Definitions for 902 KAR Chapter 28.

RELATES TO: KRS 211.490, 211.492, 211.494, 211.496, 311A.010, 45 C.F.R. Parts 160, 162, and 164

STATUTORY AUTHORITY: KRS 211.494(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.494(8) authorizes the Department for Public Health to promulgate administrative regulations in accordance with KRS Chapter 13A to implement a statewide trauma care system. This

## VOLUME 51, NUMBER 4– October 1, 2024

administrative regulation establishes the definitions for 902 KAR Chapter 28 pertaining to the statewide trauma care system.

### Section 1. Definitions.

- (1) "ABEM" means the American Board of Emergency Medicine.
- (2) "ACS COT" means the American College of Surgeons Committee on Trauma.
- (3) "Adult" means an individual who has attained eighteen (18) years of age.
- (4) "AOBEM" means the American Osteopathic Board of Emergency Medicine.
- (5) "ATCN" means the Advanced Trauma Care for Nurses course for registered nurses of the American College of Surgeons Society of Trauma Nurses.
- (6) "ATLS" means the Advanced Trauma Life Support course of the American College of Surgeons.
- (7) "Board certified" means the physician has been certified by the appropriate specialty board recognized by the American Board of Medical Specialties.
- (8) "Commissioner" means the commissioner of the Kentucky Department for Public Health.
- (9) "Consultation" means the peer review process that:
  - (a) A hospital may request prior to verification to assess the hospital's system of trauma care, [its] institutional capabilities, and preparedness for verification; and
  - (b) Is conducted in accordance with 902 KAR 28:030, Section 2(1)(a).
- (10) "Department" means the Department for Public Health, Cabinet for Health and Family Services.
- (11) "Designation" means the process established in 902 KAR 28:020 by which a hospital is identified by the department as an appropriate facility to receive traumatically injured patients.
- (12) "Emergency medical services" or "EMS" is defined by KRS 311A.010(9)(6).
- (13) "Health Insurance Portability and Accountability Act of 1996" or "HIPAA" means the federal law codified at 45 C.F.R. Parts 160, 162, and 164 that covers the use of a patient's protected health information.
- (14) "ITLS" or "International Trauma Life Support" means an international standard training course for pre-hospital trauma care designed by the American College of Surgeons.
- (15) "Kentucky Trauma Advisory Committee" or "KyTAC" means the advisory committee established by KRS 211.494(3).
- (16) "Kentucky Trauma Hospital Reference[Resource] Manual" means the detailed reference document that:
  - (a) Provides guidance, information, references, and resources to assist hospital facilities:
    1. Seeking designation as a trauma center pursuant to 902 KAR 28:020 or 28:030; or
    2. Designated as a trauma center pursuant to 902 KAR 28:020 or 28:030;
  - (b) Is published by the Kentucky Trauma Advisory Committee and available on the Kentucky Hospital Association Web site at <https://www.kyha.com/kentucky-trauma-system>[<http://www.kyha.com/home/kentucky-trauma-care-system>]; and
  - (c) Is incorporated by reference in 902 KAR 28:030, Section 3.
- (17) "Kentucky Trauma Data Bank[Registry]" or "KTDB[KTR]" means a database of information submitted by designated trauma centers on the operation, quality, and services provided to patients, consistent with the standards of the National Trauma Data Bank (NTDB) as established by the American College of Surgeons Committee on Trauma (ASC COT).
- (18) "Level I trauma center" means a regional trauma center that:
  - (a) Provides total care of every aspect of injury from prevention through rehabilitation; and
  - (b) Meets the requirements for a Level I trauma center established in 902 KAR 28:020.
- (19) "Level II trauma center" means a regional trauma center that:
  - (a) Provides screening and initial trauma care of the injured patient regardless of the severity of injury; and
  - (b) Meets the requirements for a Level II trauma center established in 902 KAR 28:020.
- (20) "Level III trauma center" means a regional trauma center that:
  - (a) Provides prompt assessment, resuscitation, emergency operations, and stabilization;
  - (b) Arranges for transfer, if warranted, to a facility that can provide trauma care at a higher level;
  - (c) Serves communities that do not have immediate access to a Level I or Level II trauma center; and
  - (d) Meets the requirements for a Level III trauma center established in 902 KAR 28:020.
- (21) "Level IV trauma center" means a regional trauma center that:
  - (a) Provides advanced trauma life support before a patient is transferred to a higher level of care;
  - (b) Is located in a hospital emergency department; and
  - (c) Meets the requirements for a Level IV trauma center established in 902 KAR 28:030.
- (22) "Multidisciplinary trauma review committee" means a committee composed of the facility's trauma services medical director and other members of the facility trauma team that reviews trauma related morbidity and mortality in a hospital.
- (23) "NTDB" or "National Trauma Data Bank" means the national repository of trauma registry data established by the ACS COT and found at <https://www.facs.org/quality-programs/trauma/quality/national-trauma-data-bank/>[<http://www.facs.org/trauma/ntdb/index.html>].
- (24) "Prehospital care provider" means an individual or organization certified or licensed by the Kentucky Board of Emergency Medical Services to provide out-of-hospital emergency medical services.
- (25) "Process improvement program" means a quality assurance program established by a trauma center in accordance with the requirements of the ACS COT or the KyTAC[;] that:
  - (a) Continually evaluates the performance and quality of care provided by a trauma center; and
  - (b) Recommends quality improvements to the trauma care program of the center.
- (26) "Protected health information" means a patient's information as defined in the Health Insurance Portability and Accountability Act of 1996, or HIPAA, 45 C.F.R. Parts 160, 162, and 164.
- (27) "Response time" means the interval between notification and arrival of the general surgeon, surgical specialist, or other medical professional in the emergency department or operating room.
- (28) "RTTDC" or "Rural Trauma Team Development Course" means a course developed by ACS COT for rural hospitals to help a rural hospital develop its trauma team.
- (29) "TNCC" or "Trauma Nursing Care Course" means a training course that focuses on trauma care for nurses developed by the Emergency Nurses Association.
- (30) "Transfer agreement" means the formal, written agreement between hospitals for the transfer and acceptance of patients that meets the requirements established in 902 KAR 28:030.
- (31) "Trauma" is defined by KRS 211.492(1) and 311A.010(23)(17).
- (32) "Trauma center" is defined by KRS 211.492(2).
- (33) "Trauma center verification" is defined by KRS 211.492(3).
- (34) "Trauma coordinator" or "trauma services manager" means an individual:
  - (a) Designated by the hospital with responsibility for the coordination of all trauma care activities and who works in collaboration with the trauma services medical director; and
  - (b) Responsible for the requirements established in 902 KAR 28:030.
- (35) "Trauma registry" means a database comprised of trauma center data that is submitted by a hospital[all hospitals] designated as a trauma center consistent with the standards of the National Trauma Data Bank (NTDB) as established by the American College of Surgeons Committee on Trauma (ASC COT).

## VOLUME 51, NUMBER 4– October 1, 2024

(36) "Trauma services medical director" means the physician designated by the hospital to coordinate trauma care.

(37) "Trauma system" means the integrated network of hospitals and medical services including transportation[,] that strives to provide the timely and appropriate services relative to the degree of the patient's injury.

STEVEN J. STACK, MD, MBA, Commissioner  
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: August 15, 2024

FILED WITH LRC: September 9, 2024 at 11:20 a.m.

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall, if requested, be held on November 25, 2024, 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 November 18, 2024, 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 November 30, 2024. 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, KY 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Julie Brooks or Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation defines the terms used in 902 KAR Chapter 28 administrative regulations.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to ensure a consistent understanding of the defined terms.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 211.490(8) notes that a well-coordinated statewide trauma care system is vital to the health and wellbeing of the citizens of the commonwealth. KRS 211.494(8) authorizes the department to promulgate administrative regulations to implement a statewide trauma care system.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures a consistent understanding of the terms used in 902 KAR Chapter 28 administrative regulations.

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

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation updates the defined terms for clarification, updates website citations, and makes other changes necessary for KRS Chapter 13A compliance.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to ensure hospitals have accurate information when seeking designation as a trauma center.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 211.494(8) authorizes the department to promulgate administrative regulations to implement a statewide trauma care system.

(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation will

ensure hospitals have accurate information when seeking designation as a trauma care center.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The amendment to this administrative regulation impacts the twenty-one (21) hospitals currently designated as trauma centers and all hospitals that will apply for designation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Hospitals will need to be aware of the changes to the defined terms.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost for hospitals to comply with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Hospitals will be aware of the requirements for trauma care center designation.

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

(a) Initially: This is an ongoing program, there are no initial cost to implement this administrative regulation.

(b) On a continuing basis: There is no change in cost for the administrative body to implement the amendment to this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This administrative regulation is supported by funds available through the trauma care system fund established by KRS 211.496.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees or funding is not necessary to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering is not applied as the requirements of this administrative regulation are equally applied to all regulated entities.

### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 211.494.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Cabinet for Health and Family Services, Department for Public Health, is the promulgating agency.

(a) Estimate the following for the first year:

Expenditures: This administrative regulation does not impact program expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: This administrative regulation does not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Not applicable.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): There are no affected local entities.

(a) Estimate the following for the first year:

Expenditures: Not applicable.

Revenues: Not applicable.

Cost Savings: Not applicable.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Not applicable.

(4) Identify additional regulated entities not listed in questions (2) or (3): Additional regulated entities include the twenty-one (21) hospitals currently designated as trauma centers, all hospitals that will apply for designation, and the Kentucky Trauma Advisory Committee.

(a) Estimate the following for the first year:

VOLUME 51, NUMBER 4– October 1, 2024

Expenditures: This administrative regulation will not impact the expenditures of the additional regulated entities.

Revenues: This administrative regulation will not impact the revenues of the additional regulated entities.

Cost Savings: This administrative regulation will not result in cost savings for the additional regulated entities.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Not applicable.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This administrative regulation will have no fiscal impact.

(b) Methodology and resources used to determine the fiscal impact: This administrative regulation only establishes the definitions used throughout 902 KAR Chapter 28 administrative regulations. There is no fiscal impact related to the defined terms.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This administrative regulation does not have an overall negative or adverse major economic impact.

(b) The methodology and resources used to reach this conclusion: Not applicable.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 45 C.F.R. Parts 160, 162 and 164.

(2) State compliance standards. KRS 211.494(6) requires that all data obtained through the trauma registry or other data collected shall be confidential. The personal identifying information that is collected through the trauma registry shall not be subject to discovery or introduction into evidence in any civil action.

(3) Minimum or uniform standards contained in the federal mandate. 45 C.F.R. Parts 160, 162, and 164 cover the administrative data standards and related requirements for electronic data submission of protected health information. 45 C.F.R. 164.302 requires that any covered entity or business associate comply with the applicable standards, implementation specifications, and requirements for the electronic submission of protected health information of the covered entity. All data shared through the Kentucky trauma system registry must comply with all applicable parts of 45 C.F.R. Parts 160, 162, and 164.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No, this administrative regulation does not impose any stricter requirements, or additional of different responsibilities or requirements.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Office of the Commissioner
(Amendment)

902 KAR 28:020. Kentucky trauma system designation process.

RELATES TO: KRS 211.490, 211.492, 211.494, 211.496

STATUTORY AUTHORITY: KRS 211.494(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.494(8) authorizes the Department for Public Health to promulgate administrative regulations in accordance with KRS Chapter 13A to implement a statewide trauma care system. This administrative regulation establishes the voluntary hospital designation process for Kentucky's trauma system.

Section 1. Hospital Trauma Center Designation. A hospital shall receive designation as a trauma center by the Department for Public Health following successful completion of the verification and review process established in this administrative regulation and 902 KAR 28:030.

(1) Each hospital[Hospitals] seeking designation in the Kentucky trauma care system shall adhere to:

(a) The criteria established by the American College of Surgeons Verification Review Committee that is available at https://www.facs.org/quality-programs/trauma/quality/verification-review-and-consultation-program/[http://www.facs.org/trauma/verifivisitoutcomes.html and is included in the Reference Guide of Classification], if the facility is seeking designation as a Level I, II, or III trauma center; or

(b) The standards for Level IV designation established in 902 KAR 28:030.

(2) Each hospital[Hospitals] in Kentucky that volunteers[volunteer] to become part of the trauma care system shall make application to the Commissioner of Public Health using the:

(a) KYTAC-Application-1[KYTAC4], Hospital Application for Level IV Verification and Kentucky Designation as a Trauma Center, if the facility is seeking designation as a Level IV trauma center; or

(b) KYTAC-Application-2[KYTAC2], Hospital Application for Kentucky Trauma Center Designation, if the facility is seeking designation as a Level I, II, or III trauma center.

(3)

(a)

1. Except as provided by subparagraph 2. of this paragraph, designation shall be for a three (3) year period following trauma center verification.

2. Designation shall be for less than a three (3) year period following trauma center verification if the facility received a shorter provisional designation to address a non-critical deficiency identified during the verification site visit by either ACS COT or a Kentucky verification team.

(b) Each hospital[ and hospitals] shall be reverified to maintain trauma designation.

(4) Only those hospitals that[which] are designated trauma centers under the provisions of 902 KAR 28:010 through 28:060 shall be recognized by the commonwealth as belonging to the Kentucky Trauma Care System and may hold themselves out to the public as a trauma center.

Section 2. Level I, II, or III Designation[ by the Commissioner for Public Health].

(1) Upon being notified that the ACS COT has been requested to conduct a Level I, II, or III trauma center verification visit, and with the agreement of both the applying hospital and the ACS COT, the commissioner shall direct a representative of the department or the KyTAC to participate as an observer during the site visit.

(2) The commissioner shall issue a certificate of designation in the Kentucky trauma care system concurrent with the recommendations and time period specified in the ACS COT documents upon receipt of the KYTAC-Application-2, the appropriate fees, and a copy of the ACS COT documents indicating satisfactory verification to their latest standards.[The commissioner shall:]

(3)[(a)] [Upon receipt of the application and request to ACS COT, review any ACS COT correspondence regarding the results of any consultation site visit, or the trauma center verification visit and shall review a copy of any certificates issued by ACS COT, within thirty (30) days of receipt of the document at the hospital;]

[(b)] [Upon receipt of a copy of the ACS COT certificate of trauma center designation, issue a certificate of designation in the Kentucky Trauma Care System; and]

[(c)] [Upon agreement of both the applying hospital and the ACS COT, direct a representative of the department or the KyTAC to participate as an observer during the site visit.]

[(2)] The state-issued designation certificate shall be posted in a public area of the hospital adjacent to the Kentucky facility licensure certificate.

Section 3. [State Designation for Existing Trauma Centers.]

[(1)] [A hospital that has been voluntarily verified as a Level I, Level II, or Level III Trauma Center by ACS COT prior to the effective date of this administrative regulation that seeks designation as a Kentucky Trauma Care System Level I, Level II, or Level III trauma center, shall submit a completed KYTAC2 application form to the

## VOLUME 51, NUMBER 4– October 1, 2024

commissioner along with a copy of the ACS COT verification letter and certificate.]

~~[(a)] [The application for designation in the Kentucky system shall be made within six (6) months of the effective date of this administrative regulation.]~~

~~[(b)] [Upon receipt of the application and ASC verification letter and certificate, a trauma center designation certificate shall be issued by the commissioner and shall be posted in a public area of the hospital adjacent to the Kentucky facility licensure certificate.]~~

~~[(c)] [The period of Kentucky designation shall be concurrent with the expiration date of the ACS COT verification.]~~

~~[(d)] [The initial fee for trauma center designation as specified in 902 KAR 28:060 shall be waived for the initial designation cycle for a hospital that has been voluntarily certified by ACS COT prior to the effective date of this administrative regulation.]~~

~~[(2)] [A hospital previously designated as a Level I, Level II, or Level III trauma center seeking redesignation by the Commissioner shall file a completed KYTAC2 application form concurrent with the application or request to ACS COT for a reverification site visit.]~~

~~[(3)] [A hospital that does not meet the requirements of subsection (1) of this section and that is preparing for initial voluntary trauma center designation as a Level I, Level II, or Level III trauma center shall apply to the commissioner for designation following successful completion of the ACS COT verification process.]~~

~~[(4)] [The period of redesignation shall be concurrent with the expiration date of the ACS COT verification.]~~

~~[(5)] [The fee for redesignation shall be the same as the fee for initial designation as specified in 902 KAR 28:060.]~~

### ~~[Section 4.] Level IV Trauma Center Designation.~~

#### ~~(1) Designation process[Initial designation].~~

~~(a) Once the facility has completed the Level IV [consultation or verification and review process][Program] pursuant to Section 1 of this administrative regulation, the original completed KYTAC-Application-1[KYTAC1 application form] shall be forwarded to KyTAC. KyTAC shall conduct a review of the facility's compliance with this administrative regulation and 902 KAR 28:030 and make recommendations to the commissioner within sixty (60) days of receipt of the application.~~

~~(b)~~

~~1. If the facility meets all the requirements of this administrative regulation and 902 KAR 28:030, a certificate of trauma center designation shall be:~~

~~a. Issued by the commissioner for a three (3) year period following completion of the trauma center verification process except as provided by subparagraph 2. of this paragraph; and~~

~~b. Posted in a public area of the hospital adjacent to the Kentucky facility licensure certificate.~~

~~2. If the facility has a deficiency that is not deemed critical to the effective functioning of the trauma center, the commissioner may issue a provisional designation certificate for a period of time less than three (3) years to provide time to address or correct the deficiency. The commissioner shall send a written notice informing the facility of that determination, and the facility may be subject to a subsequent audit or re-verification of the finding to confirm that it was satisfactorily addressed. The facility may appeal the decision in accordance with 902 KAR 28:060.~~

~~3. If the facility does not meet the requirements of this administrative regulation and 902 KAR 28:030, the commissioner shall send a written notice to the facility informing the facility of that determination. The facility may appeal the decision in accordance with 902 KAR 28:060.~~

~~(c)~~

~~1. Except as provided by subparagraph 2. of this paragraph, designation shall be for a three (3) year period following satisfactory completion of the trauma center verification process.~~

~~2. Designation shall be for less than a three (3) year period following trauma center verification if the facility received a shorter provisional designation to address a non-critical deficiency identified during the verification site visit in accordance with paragraph (b)2. of this subsection.~~

~~(2) Redesignation. At least four (4)[Within six (6)] months preceding the expiration of a designation certificate, the hospital~~

shall initiate the process established in 902 KAR 28:030 for reverification and redesignation.

### ~~Section 4.[Section 5.] Designation Suspension or Revocation.~~

~~(1) A designated trauma center hospital that is unable to meet the applicable minimum required criteria of a Level I, Level II, or Level III trauma center as established by ACS COT, or a Level IV trauma center as established in 902 KAR 28:030, shall notify the commissioner within five (5) business days of the event that[which] caused the facility to fall below minimum criteria.~~

~~(2) If the commissioner becomes aware of a significant change in the status of the trauma care program at a designated hospital that may potentially affect its designation status, the commissioner may:~~

~~(a) Request confirmation of continued designation status from the hospital; or~~

~~(b) Assign a representative of KyTAC or a designee to conduct a site visit to review the status of the trauma program and report the findings [~~back~~]to the commissioner within thirty (30) days of assignment.~~

~~(3) The commissioner may consult with KyTAC and the ACS COT on information received from the hospital and site visit, and may:~~

~~(a) Suspend the hospital's designation;~~

~~(b) Place the facility into a probationary status pending resolution within thirty (30) days of the disciplinary action; or~~

~~(c) Revoke the hospital's designation.~~

~~(4) If the designation is revoked, and if the facility seeks redesignation, the facility shall correct the identified problems, and request, at its expense, a focused review to demonstrate that each problem has been corrected.~~

~~(5) Following the review required by subsection (4) of this section, the commissioner shall:~~

~~(a) Reinstate the designation;~~

~~(b) Request that the facility reapply for verification at a lower level;~~

~~(c) Deny redesignation; or~~

~~(d) Refer the matter to KyTAC for determination of other appropriate action.~~

~~(6) A hospital not able to meet trauma center criteria at the initial designation level shall not hold designation as a trauma center until reverified at an appropriate level and redesignated.~~

### ~~Section 5.[Section 6.] Incorporation by Reference.~~

~~(1) The following material is incorporated by reference:~~

~~(a) KYTAC-Application-1[KYTAC4], "Hospital Application for Level IV Verification and Kentucky Designation as a Trauma Center", January 2024[April 2012]; and~~

~~(b) KYTAC-Application-2[KYTAC2], "Hospital Application for Kentucky Trauma Center Designation", January 2024[April 2012]; and]~~

~~[(c)] [~~"American College of Surgeons Verification Review Committee Reference Guide of Classification", January 2012.~~]~~

~~(2) This material:~~

~~(a) May be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department for Public Health, Commissioner's Office, 275 East Main Street, Frankfort, Kentucky 406012, Monday through Friday, 8 a.m. to 4:30 p.m.; and~~

~~(b) Is available online at <https://www.kyha.com/kentucky-trauma-system/>.~~

STEVEN J. STACK, MD, MBA, Commissioner

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: August 15, 2024

FILED WITH LRC: September 9, 2024 at 11:20 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 25, 2024, 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 November 18, 2024, 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 November 30, 2024. 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 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

#### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Julie Brooks or Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the voluntary hospital designation process for Kentucky's trauma system.

(b) The necessity of this administrative regulation: According to the Kentucky Hospital Association, trauma is the leading killer of those 45 or younger. Injury death rates in Kentucky are 1/3 higher than the U.S. average, making Kentucky the second deadliest state in the nation. Trauma is the costliest disease, even more than cancer or cardiovascular disease. Rural trauma is more deadly than urban trauma (traffic injury mortality is inversely proportional to population density).

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 211.494 authorizes the Department for Public Health to establish a statewide trauma care system that is designed to reduce or prevent death and disability from trauma, provider optimal care for trauma victims, minimize the economic impact of lost wages and productivity for trauma patients, and contain the costs associated with trauma care.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures hospitals seeking voluntary designation as part of the statewide trauma care system are aware of the application process based on the level of designation being sought.

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

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation clarifies the process for levels I, II, III, and IV designation, and updates the material incorporated by reference.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to ensure hospitals in Kentucky are following the most up to date guidelines and processes when seeking designation as a trauma center.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 211.494 authorizes the Department for Public Health to establish a statewide trauma care system that is designed to reduce or prevent death and disability from trauma, provide optimal care for trauma victims, minimize the economic impact of lost wages and productivity for trauma patients, and contain the costs associated with trauma care.

(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation will ensure hospitals seeking voluntary designation as part of the statewide trauma care system are aware of the application process based on the level of designation being sought.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation impacts the twenty-one (21) hospitals currently designated as a level I, II, III, or IV trauma center and all future hospitals that may seek trauma center designation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Hospitals that are currently designated as a trauma center will need to be aware of the process to renew the designation. Hospitals seeking new designation will need to be aware of the application review and approval process based on the level of designation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The costs associated with complying with this administrative regulation vary depending on the level of designation. Level I, II, and III hospitals pay \$500 fee every three years and cover the costs associated with the ACS COT site visit. Level IV hospitals will pay \$500 fee every three years and cover the costs of each site review team member.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Hospitals that receive trauma center designation will be able to provide a needed service to the communities they serve.

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

(a) Initially: This is an ongoing program, there are no initial costs to implement.

(b) On a continuing basis: There is no change in cost for the administrative body to implement the amendment to this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This administrative regulation is supported by funds available through the trauma care system fund established by KRS 211.496.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees or funding is not necessary to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering is applied. Hospitals seeking Level I, II, or III designation are required to meet the standards of the American College of Surgeons Committee on Trauma. Hospitals seeking Level IV designation must meet the state issued standards.

#### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 211.494.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Cabinet for Health and Family Services, Department for Public Health is the promulgating agency.

(a) Estimate the following for the first year:

Expenditures: The amendment to this administrative regulation will not impact the expenditures of the department.

Revenues: The amendment to this administrative regulation will not generate revenue for the department.

Cost Savings: The amendment to this administrative regulation will not result in cost savings for the department.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Not applicable.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): There are no affective local entities.

(a) Estimate the following for the first year:

Expenditures: Not applicable.

Revenues: Not applicable.

Cost Savings: Not applicable.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Not applicable.

(4) Identify additional regulated entities not listed in questions (2) or (3): Additional regulated entities include the twenty-one (21)

hospitals currently designated as trauma centers, all hospitals that will apply for designation, and the Kentucky Trauma Advisory Committee.

(a) Estimate the following for the first year:

Expenditures: Expenditures for designated trauma hospitals will be dependent on each hospital's level of trauma care designation.

Revenues: The amendment to this administrative regulation will not impact the designated trauma center revenue.

Cost Savings: The amendment to this administrative regulation will not result in cost savings for the designated trauma centers.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no change in expenditures, revenue, or cost savings in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The amendment to this administrative regulation will have minimal fiscal impact.

(b) Methodology and resources used to determine the fiscal impact: The amendment to this administrative regulation clarifies the process for levels I, II, III, and IV designation, and updates the material incorporated by reference. The costs associated with complying with this administrative regulation vary depending on the level of designation. Level I, II, and III hospitals pay \$500 fee every three years and cover the costs associated with the ACS COT site visit. Level IV hospitals will pay \$500 fee every three years and cover the costs of each site review team member.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) The amendment to this administrative regulation will not have an overall negative or adverse major economic impact.

(b) The methodology and resources used to reach this conclusion: The potential cost for the regulated entities is less than \$500,000 every three (3) years.

**CABINET FOR HEALTH AND FAMILY SERVICES**  
**Department for Public Health**  
**Office of the Commissioner**  
**(Amendment)**

**902 KAR 28:030. Kentucky's trauma system level IV criteria.**

RELATES TO: KRS 211.490, 211.492, 211.494, 211.496

STATUTORY AUTHORITY: KRS 211.494(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.494(8) authorizes the Department for Public Health to promulgate administrative regulations in accordance with KRS Chapter 13A to implement a statewide trauma care system. This administrative regulation establishes the criteria for a Level IV trauma center in the Kentucky Trauma Care System.

Section 1. Level IV Trauma Centers.

(1) A hospital that seeks designation as a Level IV trauma center shall meet the criteria established in this subsection.

(a) Trauma program.

1. A trauma program shall be created with agreement from the hospital's board of directors, administration, and medical staff.

2. The board of directors, administration, medical, nursing, and ancillary staff shall commit to provide trauma care at the level for which the facility is seeking trauma center verification.

3. A board resolution advising of that commitment shall be submitted with the KYTAC-Application-1, [KYTAC1 application] incorporated by reference in 902 KAR 28:020, Section 5[6].

4. The trauma program shall adopt and meet the "Pediatric Readiness in the Emergency Department" policy guidance for care of children, as endorsed by the American Academy of Pediatrics (AAP), the American College of Emergency Physicians (ACEP), the American College of Surgeons, and the Emergency Nurses Association (ENA), and published at [https://www.annemergmed.com/article/S0196-0644\(18\)31167-3/pdf](https://www.annemergmed.com/article/S0196-0644(18)31167-3/pdf).

(b) Trauma services medical director.

1. The trauma services medical director shall be a physician on staff at the facility.

2. The job description shall include roles and responsibilities for trauma care, including trauma team formation, supervision and leadership, and continuing education.

3. The medical director shall act as the medical staff liaison to administration and[,] nursing staff, and as the primary contact for that facility with other trauma centers in the region.

4. The medical director shall maintain certification as an Advanced Trauma Life Support (ATLS) provider if not Board Certified/Board Eligible by the American Board of Emergency Medicine (ABEM) or the American Osteopathic Board of Emergency Medicine (AOBEM). The trauma services medical director may participate in a Rural Trauma Team Development Course (RTTDC) [~~participation shall be required for the trauma services medical director~~].

(c) Trauma coordinator[~~services manager~~].

1. The facility shall have a trauma coordinator[~~services manager~~] who may be referred to as the trauma services manager or trauma program manager[~~coordinator~~].

2. The trauma coordinator[~~manager~~] shall work with the medical director to coordinate and implement the facility's trauma care response.

3. The job description of this position shall include time dedicated to the trauma program, separate from other duties the trauma coordinator[~~program manager~~] may have at the facility.

(d) Emergency department coverage.

1. The facility shall have twenty-four (24) hour physician coverage of the emergency department and a designated physician medical director for the emergency department.

2. A mid-level provider, such as a nurse practitioner or physician[~~physician's~~] assistant, may serve as the trauma team leader. A designated emergency department physician shall be present for immediate consultation during trauma team activations.

(e) Emergency department physicians. Physicians assigned to the emergency department of a Level IV Trauma Center shall:

1. Be licensed in the Commonwealth of Kentucky; and

2.

a. Maintain current Advanced Trauma Life Support® (ATLS) provider certification; or

b. Be certified by ABEM or AOBEM.

(f) Surgical staff.

1. Orthopedic surgery, plastic surgery, and radiology medical staff availability shall be documented by published call schedules.

2. If surgical services are provided, anesthesia coverage shall be provided.

3. Surgical staff shall document completion of fifteen (15) hours of annual trauma-related continuing medical education for surgeons completed every three (3) years as part of the CME required by the Kentucky Board of Medical Licensure.

4. Surgical specialties participating in the trauma team shall have at least one (1) representative of its specialty attend more than half of the hospital's multi-disciplinary trauma review committee meetings.

(g) Prior to being assigned to the facility's trauma team, nurses responsible for trauma care at the facility shall have completed one of the following professional education courses specific to trauma care:

1. Trauma Nursing Core Course (TNCC); or

2. Advanced Trauma Care for Nurses (ATCN).

(h) Transfer Protocols.

1. The facility shall have a written transfer protocol describing the method to transfer the trauma patient requiring a higher level of care.

2. The transfer protocol shall address:

a. Available ground or air transport services;

b. Alternative transport services;

c. Receiving trauma centers and trauma surgeon contact information;

d. What supplies, records, and resources shall be available for use to affect the transfer; and

e. Specific anatomic and physiologic criteria that will immediately initiate transfer to definitive care.

3. The transfer protocol shall be developed with involvement of each local ground EMS provider and regional air medical provider to

VOLUME 51, NUMBER 4– October 1, 2024

assure seamless patient care during transfer and be consistent with the protocol examples found in the Kentucky Trauma Hospital Reference[Resource] Manual.

(i) Transfer agreements. A Level IV Trauma Center shall have:

1. A written agreement with a verified Level I, II, or III trauma center or a hospital whose capabilities exceed that of a Level IV facility regarding the transfer and care of adult and pediatric trauma patients;

2. A written agreement with back-up transfer agreements specifically for burn patients if the primary regional receiving facility does not have the required capacity; and

3. Transfer plans that shall be defined and consistent with the examples found in the Kentucky Trauma Hospital Reference[Resource] Manual.

(j) Radiology.

1. The facility shall have a radiologic technologist available on-site twenty-four (24) hours a day to provide basic plain films used in the evaluation of trauma patients.

2. A twenty (20) minute response time for trauma team activation shall be required. Response times shall be documented and monitored by the trauma coordinator and the facility's process improvement program.

3. The facility shall have computed tomography and sonography capabilities.

(k) Clinical laboratory.

1. The facility shall have a lab technician available on duty or on-call twenty-four (24) hours a day to perform basic studies used in the initial evaluation of trauma patients, including Complete Blood Count, typing, coagulation profile, and Arterial Blood Gas.

2. A twenty (20) minute response time from trauma team activation shall be required for a lab technician. Response times shall be documented and monitored by the trauma coordinator and the facility's process improvement program.

3. The lab or facility blood bank shall have at least two (2) units of O-negative blood available for trauma patients, to be infused at the facility or while en route[en-r ute] to definitive care.

4. Access to blood and blood products during an emergency situation if the lab is not staffed shall be documented.

5. The facility shall have the capability to conduct micro-sampling.

(l) Respiratory therapy.

1. The facility shall have a respiratory care practitioner on duty or on-call twenty-four (24) hours a day to respond to the emergency department if the trauma team is activated.

2. A twenty (20) minute response time from trauma team activation shall be required if a respiratory care practitioner is not on-site. Response times shall be documented and monitored by the trauma coordinator and the facility's process improvement program.

3. Other trained health care personnel may fulfill the respiratory care practitioner's role until the designated respiratory care practitioner arrives.

(2) Trauma Team Activation Protocol. A facility designated as a Level IV Trauma Center shall have a written trauma team activation protocol in place that:

(a) Documents the members of the trauma team and their response requirements if activated;

(b) Establishes the criteria based on severity, anatomy, or physiology of the injury for trauma team activation and provides the names of each person authorized to activate the trauma team; and

(c) Is consistent with the examples of trauma team activation protocols found in the Kentucky Trauma Hospital Reference[Resource] Manual.

(3) Performance improvement.

(a) A facility designated as a Level IV Trauma Center shall develop a performance improvement program that includes:

1. An in-house trauma registry or a secure on-line trauma registry system; and

2. A written policy outlining the quality and performance improvement (PI) portion of the trauma program, which shall include:

a. The names of each person responsible for performing PI reviews;

b. The names of the multidisciplinary trauma review committee;

c. The composition by name and position of the morbidity and mortality review committee;

d. The minimum number of cases to be reviewed annually including:

(i) Patients requiring transfer;

(ii) Record of each trauma death;

(iii) Noncompliance of trauma team members to response time requirements;

(iv) Bypasses;

(v) Transfers; and

(vi) Trauma care provided by physicians not meeting minimal education requirements;

e. Frequency of performance improvement meetings;

f. Minimum requirements for member attendance by position; and

g. ~~[Evidence of a quality assurance program as required by 902 KAR 20:016, Section 3(8)(b)6; and]~~

~~[h.] Feedback obtained from patients transferred to a Level I, II, or III trauma center.~~

(b) Each performance improvement program shall be consistent with the examples in the Kentucky Trauma Hospital Reference[Resource] Manual.

(4) Level IV Trauma Center emergency department.

(a) Basic and essential equipment and supplies for the care and treatment of both adult and pediatric patients shall be present in a Level IV Trauma Center emergency room.

(b) A Level IV Trauma Center emergency room shall contain items described as the minimum equipment and supply lists found in the Kentucky Trauma Hospital Reference[Resource] Manual.

(5) Level IV Trauma Center designated treatment rooms[operating room].

(a) Any operating room available and used for the surgical care of victims of trauma shall have the following:

1. Operating room staff available within thirty (30) minutes of notification;

2. Anesthesia staff available within thirty (30) minutes of notification; and

3. Age-specific equipment including thermal control equipment for patients, fluids, and blood products.

~~(b) [C-arm capability shall be required if orthopedic procedures are to be performed.]~~

~~[(c)]~~ Post-anesthetic recovery shall contain equipment for monitoring and resuscitation, pulse oximetry, and thermal control.

~~[(c)]~~ Required resuscitation equipment shall include:

1. Airway and ventilation;

2. Pulse oximetry;

3. Suction;

4. Electro Cardiogram;

5. Defibrillator;

6. IV administration sets;

7. Large bore vascular catheters;

8. Cricothyroidotomy;

9. Thoracostomy;

10. Emergency drugs;

11. Broselow or Handtevy pediatric resuscitation system equipment and supplies[tape];

12. Fluid and body warmer,

13. Qualitative CO2 detector; and

14. EMS communication equipment.

(6) Trauma diversion.

(a) The Level IV trauma center shall have a policy in place that outlines the circumstances that shall trigger a trauma diversion and the procedures to be followed, including procedures if one (1) or more hospital resources are functioning at maximum capacity or are otherwise unavailable.

(b) This process shall be coordinated with the EMS providers in the service area and potential receiving facilities.

~~(c) [EMS providers shall coordinate diversion plans under the provisions of 202 KAR 7:501, Section 5(3).]~~

~~[(d)]~~ Examples of trauma diversion protocols shall be found in the Kentucky Trauma Hospital Reference[Resource] Manual.

(7) Other Level IV requirements. A facility designated as a Level IV trauma center may:

VOLUME 51, NUMBER 4– October 1, 2024

(a) Host or participate in a joint RTTDC program. Participation by physicians, members of administration, nursing, ancillary support staff, and local prehospital care providers shall be strongly encouraged;

(b) Conduct or participate in local or regional outreach education, specifically ATLS, APLS, ENPC, TNCC, and ITLS/PHTLS courses, and conduct or participate in local or regional presentations of trauma-related CME for physicians, nurses, prehospital staff, and other personnel; and

(c) Participate in injury prevention programs organized by the facility or in cooperation with the Kentucky Injury Prevention Research Center (KIPRC), law enforcement, fire, EMS and other safety organizations. Documentation of injury prevention program activities shall be available for review during the trauma center verification or reverification process.

Section 2. Level IV Site Visits.

(1) A hospital may request a site visit from a peer review team for a consultation visit, a verification visit, or a reverification visit.

(a) A consultation visit shall be conducted to assess the facility's system of trauma care delivery or to prepare for a verification visit.

1. A consultation visit shall follow the same format as a verification visit.

2. Site visit reviewers shall provide recommendations to aid a facility in attaining verification readiness.

(b) A verification visit shall be conducted to confirm the facility is performing as a trauma center according to the criteria listed in Section 1 of this administrative regulation.

1. Site visit reviewers shall provide a report of findings to the KyTAC.

2. The KyTAC, upon receipt and review of the report, shall recommend to the Commissioner of Public Health that:

a. A Certificate of ~~Designation~~[Verification] be issued, and that the Commissioner designate the facility as a Level IV Trauma Center; or

b. The facility be notified of deficiencies in writing and a focus review visit scheduled within eight (8) [~~six (6)~~] months of the date of the original verification visit to review [~~identify~~] those deficiencies and verify that they have been isolated and corrected [~~can be isolated and correctable~~].

(c) A reverification visit shall be requested by a facility previously issued a certificate of ~~designation~~[verification] if the facility does not want its certificate of [verification and] designation to expire.

1. The facility shall schedule a reverification visit at least four (4) [~~six (6)~~] months prior to the expiration date of its current certificate of [verification and] designation as a Level IV Trauma Center.

2. A facility whose current certificate of ~~designation~~[verification] has lapsed due to the facility's failure to initiate reverification shall submit a new KYTAC-Application-1 [~~KYTAC1~~] as required by 902 KAR 28:020 and this administrative regulation.

3. A reverification visit shall follow the same procedures established in subsection (2) of this section.

(2) Site visit teams.

(a) A site visit team shall be composed of a minimum number of persons as follows:

- 1. Consultation visit: Two (2) members;
- 2. Verification visit: Two (2) [~~Three (3)~~] members;
- 3. Reverification visit: Two (2) [~~Three (3)~~] members; or
- 4. Focus review visit: Two (2) members, one (1) of whom shall have been on the original verification team.

(b) At least one (1) [~~Each~~] site visit team member shall be a physician or registered nurse trauma center program manager [~~member of either the:~~]

[1.] American College of Surgeons; or

[2.] American Board of Emergency Medicine;

(c) ~~The Commissioner of Public Health shall solicit from the KyTAC two (2) names for each team member position for the requested visit.~~

~~[(d)] The Commissioner of Public Health shall select the team members from the list provided and notify KyTAC of the team members selected.~~

~~[(e)] Only one (1) of each team's members may be a KyTAC member.~~

Section 3. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Kentucky Trauma Hospital Reference [~~Resource~~] Manual", May 2024; and

(b) "Pediatric Readiness in the Emergency Department", Annals of Emergency Medicine, December 2018 [~~April, 2012, is incorporated by reference~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department for Public Health, Commissioner's Office, 275 East Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) "Kentucky Trauma Hospital Reference Manual" is available online at <https://www.kyha.com/kentucky-trauma-system/>.

(4) "Pediatric Readiness in the Emergency Department", Annals of Emergency Medicine, is available online at [https://www.annemergmed.com/article/S0196-0644\(18\)31167-3/pdf](https://www.annemergmed.com/article/S0196-0644(18)31167-3/pdf).

STEVEN J. STACK, MD, MBA, Commissioner  
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: August 26, 2024

FILED WITH LRC: September 9, 2024 at 11:20 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 25, 2024, 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 November 18, 2024, 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 November 30, 2024. 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 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Julie Brooks or Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the criteria for a Level IV trauma center in the Kentucky Trauma Care System.

(b) The necessity of this administrative regulation: Trauma is a severe health problem in the state, a major cause of death and long-term disability and an essential public health service. It is essential for persons in need of trauma care to receive that care within sixty (60) minutes immediately following the injury. This administrative regulation is necessary to establish the criteria for Level IV trauma centers to ensure timely access to an elevated level of emergency care.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 211.494 establishes a comprehensive statewide trauma care program in the Department for Public Health to reduce or prevent death and disability from trauma, provide optimal care for trauma victims, and recognize levels of care for the appropriate delivery of a full range of medical services to all trauma patients in the Commonwealth.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will help to ensure a statewide, coordinated trauma care

## VOLUME 51, NUMBER 4– October 1, 2024

system by providing a method for hospitals to receive designation as a Level IV trauma center.

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

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation adds the requirement that the Level IV trauma centers adopt the Pediatric Readiness in the Emergency Department policy guidelines, revises the job descriptions for the trauma center medical director and the trauma center coordinator or managers, extends the timeline for a hospital to correct identified deficiencies from six (6) months to eight (8) months, revises the number of site visitors for the verification team, and updates the material incorporated by reference.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to ensure the emergency departments in Level IV trauma centers are adequately prepared to care for pediatric trauma patients, to give potential Level IV trauma centers sufficient time to correct identified deficiencies, and to simplify the Level IV trauma center designation process.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 211.494 establishes a comprehensive statewide trauma care program in the Department for Public Health to reduce or prevent death and disability from trauma, provide optimal care for trauma victims, and recognize levels of care for the appropriate delivery of a full range of medical services to all trauma patients in the commonwealth.

(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation will help to ensure a statewide, coordinated trauma care system by providing a method for hospitals to receive designation as a Level IV trauma center.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are currently thirteen (13) hospitals designated as Level IV trauma centers and six (6) hospitals listed as in development for Level IV trauma center designation.

(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: Current designated hospitals will need to be aware of the requirements upon their reverification. Hospitals seeking initial designation will need to be aware of the requirements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The cost associated with Level IV hospital verification includes the \$500 fee every three years and cover the costs of each site review team member.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Hospitals that receive and maintain Level IV trauma center designation will be able to provide a needed service to the communities they serve.

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

(a) Initially: This is an ongoing program, there are no initial cost to implement.

(b) On a continuing basis: There is no change in cost for the administrative body to implement the amendment to this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This administrative regulation is supported by funds available through the trauma care system fund established by KRS 211.496.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees or funding is not necessary to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering is not applied. The requirements of this administrative regulation are equally applied to all hospitals seeking Level IV trauma center designation.

### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 211.494.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Cabinet for Health and Family Services, Department for Public Health is the promulgating agency.

(a) Estimate the following for the first year:

Expenditures: The amendment to this administrative regulation will not impact expenditures of the department.

Revenues: The amendment to this administrative regulation will not generate revenue for the department.

Cost Savings: The amendment to this administrative regulation will not result in cost savings for the department.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The expenditures, revenue, and cost savings for the department will not change in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): There are no affected local entities.

(a) Estimate the following for the first year:

Expenditures: Not applicable.

Revenues: Not applicable.

Cost Savings: Not applicable.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Not applicable.

(4) Identify additional regulated entities not listed in questions (2) or (3): The additional regulated entities include the thirteen (13) hospitals currently designated as Level IV trauma centers and the six (6) hospitals seeking designation.

(a) Estimate the following for the first year:

Expenditures: Level IV trauma centers are assessed a \$1,000 fee every three (3) years. There are also expenditures related to the cost for each verification site visitor.

Revenues: The amendment to this administrative regulation will not impact the revenues for the Level IV trauma centers.

Cost Savings: The amendment to this administrative regulation changes the number of site visitors from three in each category to two. This will result in minimal cost savings for the regulated entities as they are required to cover the expenses for each verification site visitor.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no change in expenditures, revenues, cost savings in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The amendment to this administrative regulation will have minimal fiscal impact on the department and regulated entities.

(b) Methodology and resources used to determine the fiscal impact: Reducing the number of required site visitors will make it easier to recruit potential site visitors and will lower the cost for the regulated entities. The materials incorporated by reference are available online and therefore will be free of charge for hospitals to access.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This administrative regulation does not have an overall negative or adverse major economic impact.

(b) The methodology and resources used to reach this conclusion: The costs to the department or regulated entities will not exceed \$500,000.

VOLUME 51, NUMBER 4– October 1, 2024

CABINET FOR HEALTH AND FAMILY SERVICES  
Department for Public Health  
Office of the Commissioner  
(Amendment)

**902 KAR 28:040. Kentucky's Trauma [System-]Registry and Data Bank System.**

RELATES TO: KRS 211.490, 211.492, 211.494, 211.496

STATUTORY AUTHORITY: 211.494(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.494(8) authorizes the Department for Public Health to promulgate administrative regulations in accordance with KRS Chapter 13A to implement a statewide trauma care system. This administrative regulation establishes the criteria for use of a trauma [system-]registry and the Kentucky Trauma Data Bank by a [Level IV-]trauma center in the Kentucky trauma care system.

Section 1. [Kentucky Trauma Registry.]

~~[(1)] [The department shall establish a single statewide Kentucky Trauma Registry (KTR) through the Kentucky Injury Prevention Research Center to be the statewide repository for trauma data.]~~

~~[(2)] [Requests for data from the KTR shall be directed to the Kentucky Commissioner for Public Health.]~~

~~[(3)] [Requests for reports on a specific trauma center shall be addressed to the Trauma Coordinator or Trauma Program Manager of the trauma center in question.]~~

~~[(4)] [Pursuant to KRS 211.494(6), data obtained through a trauma registry shall be considered protected health information.]~~

~~[Section 2.] Trauma Center Registries.~~

~~(1) All trauma centers designated by the Commissioner for Public Health in the Kentucky Trauma Care System shall:~~

~~(a) Establish and maintain a trauma registry that is compatible with the current NTDB standards established in the National Trauma Data Standard Data Dictionary available from the American College of Surgeons at <https://www.facs.org/quality-programs/trauma/quality/national-trauma-data-bank/national-trauma-data-standard/>; and, 2012 Admissions; or~~

~~(b) Have a secure, on-line system that is NTDB and HIPAA compliant.~~

~~(2) An individual trauma center registry shall have its new or updated trauma data uploaded electronically at least quarterly to the KTDB[KTR].~~

~~(3) Trauma Registry. The inclusion criteria for the KTDB[KTR] shall be specified in the Kentucky Trauma Hospital Reference[Trauma] Manual incorporated by reference in 902 KAR 28:030, Section 3.~~

Section 2. Kentucky Trauma Data Bank.

(1) The department shall maintain a single statewide Kentucky Trauma Data Bank (KTDB) to be the statewide repository for trauma registry data submitted by each designated trauma center.

(2) A request for data from the KTDB shall be directed to the Kentucky Commissioner for Public Health.

(3) A request for a report on a specific trauma center shall be addressed to the trauma coordinator or trauma program manager of the trauma center in question.

(4) Pursuant to KRS 211.494(6), data obtained through a trauma registry shall be considered protected health information.

[Section 3.] [Incorporation by Reference.]

~~[(1)] ["National Trauma Data Standard Data Dictionary, 2012 Admissions", July 2011, is incorporated by reference.]~~

~~[(2)] [This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department for Public Health, Commissioner's Office, 275 East Main Street, Frankfort, Kentucky 40604, Monday through Friday, 8 a.m. to 4:30 p.m.]~~

STEVEN J. STACK, MD, MBA, Commissioner

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: August 26, 2024

FILED WITH LRC: September 9, 2024 at 11:20 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 25, 2024, 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 November 18, 2024, 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 November 30, 2024. 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, KY 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Julie Brooks or Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the criteria for use of a trauma registry and the Kentucky Trauma Data Bank by a trauma center in the Kentucky trauma care system.

(b) The necessity of this administrative regulation: According to the Kentucky Hospital Association, trauma is the leading killer of those 45 or younger. Injury death rates in Kentucky are 1/3 higher than the U.S. average, making Kentucky the second deadliest state in the nation. Trauma is the costliest disease, even more than cancer or cardiovascular disease. Rural trauma is more deadly than urban trauma (traffic injury mortality is inversely proportional to population density). It is necessary that the Department for Public Health to have timely and accurate data on the number and types of traumas that occurs throughout the state.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 211.494 authorizes the Department for Public Health to establish a statewide trauma care program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will ensure the timely and accurate collection of data related to trauma care in Kentucky.

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

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation updates the requirements for the trauma registry and the Kentucky Trauma Data Bank and adds the requirement that all designated trauma care centers report timely and accurate data.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to ensure the timely and accurate collection of data related to trauma care in Kentucky.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 211.494 authorizes the Department for Public Health to establish a statewide trauma care program.

(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation will ensure all designated trauma centers in Kentucky are reporting timely and accurate trauma care data.

## VOLUME 51, NUMBER 4– October 1, 2024

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation impacts the twenty-one (21) hospitals currently designated as a level I, II, III, or IV trauma center and all future hospitals that may seek trauma center designation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: All hospitals designated as a trauma center will need to be aware of the data reporting requirements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to the hospitals to report the required data elements.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Designated hospitals will have timely and accurate data on the provision of trauma care.

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

(a) Initially: This is an ongoing program, there are no initial cost.

(b) On a continuing basis: There is no change in cost for the administrative body to implement the amendment to this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This administrative regulation is supported by funds available through the trauma care system fund established by KRS 211.496.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees or funding is not necessary to implement the amendment to this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering is not applied as the requirements of this administrative regulation are applied equally to the regulated entities.

### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 211.494.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Cabinet for Health and Family Services, Department for Public Health is the promulgating agency.

(a) Estimate the following for the first year:

Expenditures: The amendment to this administrative regulation does not impact the expenditures of the department.

Revenues: The amendment to this administrative regulation does not generate revenue for the department.

Cost Savings: The amendment to this administrative regulation will not result in cost savings for the department.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no change in expenditures, revenue, or cost savings in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): There are no affected local entities.

(a) Estimate the following for the first year:

Expenditures: Not applicable.

Revenues: Not applicable.

Cost Savings: Not applicable.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Not applicable.

(4) Identify additional regulated entities not listed in questions (2) or (3): Additional regulated entities include the twenty-one (21) hospitals currently designated as trauma centers, all hospitals that will apply for designation, the Kentucky Trauma Advisory Committee, and the Kentucky Injury Prevention Research Center.

(a) Estimate the following for the first year:

Expenditures: Expenditures to the regulated entities will be minimal as the required data can be reported electronically.

Revenues: The amendment to this administrative regulation will not generate revenue for the regulated entities.

Cost Savings: Reporting data electronically to the Kentucky Trauma Data Bank will result in minimal cost savings for the regulated entities.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no change in expenditures, revenue, or cost savings in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The amendment to this administrative regulation will have minimal fiscal impact.

(b) Methodology and resources used to determine the fiscal impact: There will be minimal cost savings to the regulated entities to report the required data electronically.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This administrative regulation will not have an overall negative or adverse major economic impact.

(b) The methodology and resources used to reach this conclusion: The cost associated with the amendment to this administrative regulation will not exceed \$500,000.

### FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 45 C.F.R. Parts 160, 162 and 164.

(2) State compliance standards. KRS 211.494(6) requires that all data obtained through the trauma registry or other data collected shall be confidential. The personal identifying information that is collected through the trauma registry shall not be subject to discovery or introduction into evidence in any civil action.

(3) Minimum or uniform standards contained in the federal mandate. 45 C.F.R. Parts 160, 162, and 164 cover the administrative data standards and related requirements for electronic data submission of protected health information. 45 C.F.R. 164.302 requires that any covered entity or business associate comply with the applicable standards, implementation specifications, and requirements for the electronic submission of protected health information of the covered entity. All data shared through the Kentucky trauma system registry must comply with all applicable parts of 45 C.F.R. Parts 160, 162, and 164.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No, this administrative regulation does not impose any stricter requirements, or additional or different responsibilities or requirements.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.



NEW ADMINISTRATIVE REGULATIONS

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](#).

**STATE BOARD OF ELECTIONS  
(New Administrative Regulation)**

**31 KAR 4:230. Post-election audit procedures.**

RELATES TO: KRS 117.383(8)

STATUTORY AUTHORITY: KRS 117.015(1)(a), 117.383(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS

117.015(1) establishes the State Board of Elections as the independent agency of state government which shall administer the election laws of the state. KRS 117.383(8) directs the State Board of Elections to promulgate an administrative regulation providing for the conducting and review of an election audit through a hand-to-eye recount. This administrative regulation establishes the post-election audit to be performed throughout the Commonwealth.

Section 1. Definitions.

(1) "Ballot" is defined by KRS 117.001(3).

(2) "Ballot boxes" is defined by KRS 117.001(4).

(3) "Ballot scanner" or "scanner" has the same definition as "automatic tabulating equipment" as defined in KRS 117.001(2).

(4) "Designated marking area" means the area in the near vicinity of the area containing the oval, box, or space designating a candidate on a ballot.

(5) "Election" is defined in KRS 117.001(6).

(6) "Electronic or paper sign-in records" means the records contained in the signed voter rosters described in KRS 117.025 and in Form SBE 25, "Supplemental Precinct Signature Roster".

(7) "Hand-to-eye recount" means the procedures found in KRS 117.383(8).

(8) "Poll worker" means the same as "precinct election officer" as found in KRS 117.045.

(9) "Race" means a single decision or set of associated decisions being put before voters for candidates to elected office.

(10) "Register tape" means the return sheets described in KRS 117.275.

(11) "Vote tallying equipment" has the same definition as "automatic tabulating equipment" as defined in KRS 117.001(2).

(12) "Voter intent" is defined through the uniform definition of a vote found in 31 KAR 6:030.

Section 2. Post-election Hand-to-eye Recount.

(1) Following all elections for office in the Commonwealth there shall be a hand-to-eye recount of ballots, during which poll workers shall hand-tally ballots cast in the election on a Form SBE 90, "Post-election Hand-to-eye Recount Tally Sheet."

(2) Determinations and findings made by a County Board of Elections following the hand-to-eye recount shall be recorded on a Form SBE 91, "Determinations and Findings Following Hand-to-eye Recount" for reporting to the Attorney General and Secretary of State. Should a term used in KRS 117.383(8) not be defined in this administrative regulation or in the procedures found in KRS 117.383(8), the term is to be defined either through KRS 446.010 or by a vote of the County Board of Elections.

Section 3. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Supplemental Precinct Signature Roster", Form SBE 25, 09/2020;

(b) "Post-election Hand-to-eye Recount Tally Sheet", Form SBE 90, 09/2024;

(c) "Determinations and Findings Following Hand-to-eye Recount", Form SBE 91, 09/2024.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Elections, 140 Walnut Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material may also be obtained on the board's Web site at <https://elect.ky.gov>.

KAREN SELLERS, Executive Director

APPROVED BY AGENCY: September 12, 2024

FILED WITH LRC: September 12, 2024 at 11:15 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this new administrative regulation shall be held on November 21, 2024, at 10:00 a.m. ET, at the office of the State Board of Elections. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. This hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until November 30, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Taylor Brown, General Counsel, 140 Walnut Street, Frankfort, Kentucky 40601, phone (502) 782-9499, email [TaylorA.Brown@ky.gov](mailto:TaylorA.Brown@ky.gov).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Taylor Brown

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the post-election audit to be performed with a hand-to-eye recount throughout the Commonwealth following elections.

(b) The necessity of this administrative regulation: This administrative regulation is necessary as KRS 117.383(8) requires it.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 117.383 directly instructs the State Board of Elections to promulgate this administrative regulation.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will allow for uniform instruction as to the hand-to-eye recount required under KRS 117.383(8).

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

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

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

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

(d) How the amendment will assist in the effective administration of the statutes: This is a new 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 affect candidates for elected office, vendors of electronic voting equipment, county clerks, county boards of election, the Attorney General, the Secretary of State, and the State Board of Elections.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: To comply with this administrative regulation, candidates for elected office, vendors of electronic voting equipment, county clerks, and county boards of elections will need to follow instructions setting forth procedures for a hand-to-eye recount of ballots; the Attorney General and the Secretary of State will need to



VOLUME 51, NUMBER 4– October 1, 2024

determine what procedures to take when findings are reported using the SBE Form 91; the State Board of Elections will need to produce and make available the Forms described.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The State Board of Elections should not incur any more costs than are already being expended. The Board cannot estimate expenses for candidates, vendors, the Attorney General, or the Secretary of State. The Board also cannot estimate expenses for county clerks or county boards of election, though in the legislation authorizing this administrative regulation, an appropriation for reimbursement to each county clerk for actual expenses up to \$5,000 was made for the next two fiscal years.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Compliance with this new administrative regulation will allow for a means of providing a post-election audit of ballots cast.

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

(a) Initially: The State Board of Elections estimates that the implementation of this administrative regulation will the agency no more funds than are already being expended.

(b) On a continuing basis: The State Board of Elections estimates that the implementation of this administrative regulation will the agency no more funds than are already being expended.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: In the legislation authorizing this administrative regulation, an appropriation for reimbursement to each county clerk for actual expenses up to \$5,000 was made for the next two fiscal years. Funds from the administrative budgets of the Attorney General, the Secretary of State and the State Board of Elections will be used in the respective implementation and enforcement of this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Initial implementation of this administrative regulation can be achieved without an increase in fees or funding by the General Assembly as the legislation authorizing this administrative regulation contained an appropriation for reimbursement to each county clerk for actual expenses up to \$5,000 was made for the next two fiscal years. Continuation of the hand-to-eye recount envisioned by the legislation authorizing this administrative regulation will require additional funding from the General Assembly following fiscal year 2025-2026.

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

(9) TIERING: Is tiering applied? Tiering is not used in this administrative regulation, as a desired result of the promulgation of this administrative regulation is uniform procedures for the administration of elections throughout all of the counties in the Commonwealth.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 117.015(1)(a) and KRS 117.383(8) require and authorize the actions taken by this administrative regulation.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: This administrative regulation will affect the promulgating agency, the State Board of Elections, as well as, the Attorney General and the Secretary of State.

(a) Estimate the following for the first year:

Expenditures: The State Board of Elections expects that this administrative regulation amendment will cost the agency no more to administer than is currently expended.

Revenues: It is not expected or intended that this administrative regulation will generate any revenue.

Cost Savings: The State Board of Elections expects that this administrative regulation will not generate any specific cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The State Board of Elections does not anticipate

expenditures, revenues, or cost savings to differ in subsequent years for the agency.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): This administrative regulation will affect county clerks and county boards of election.

(a) Estimate the following for the first year:

Expenditures: The legislation authorizing this administrative regulation made an appropriation for reimbursement to each county clerk for actual expenses up to \$5,000 for the first year, capping statewide expenditures at \$1,200,000.

Revenues: It is not expected or intended that this administrative regulation will generate any revenue.

Cost Savings: The State Board of Elections expects that this administrative regulation will not generate any specific cost savings for the regulated entities.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The legislation authorizing this administrative regulation made an appropriation for reimbursement to each county clerk for actual expenses up to \$5,000 for the second year of implementation, capping statewide expenditures at \$1,200,000. After the 2025-2026 fiscal year, no appropriation has been made and expenditure amounts will not be known until after the administrative regulation has been promulgated and counties report back actual costs.

(4) Identify additional regulated entities not listed in questions (2) or (3): This administrative regulation will affect candidates for elected office and vendors of electronic voting equipment.

(a) Estimate the following for the first year:

Expenditures: The State Board of Elections cannot estimate what, if any, expenditures candidates or vendors may incur as a result of this administrative regulation.

Revenues: It is not expected or intended that this administrative regulation will generate any revenue for candidates, though it may for vendors.

Cost Savings: The State Board of Elections expects that this administrative regulation will not generate any specific cost savings for the regulated entities.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The State Board of Elections cannot estimate how anticipated expenditures, revenues, or cost savings may differ in subsequent years. (a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? The State Board of Elections expects that this administrative regulation will not generate any specific cost savings for the regulated entities. (b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? The State Board of Elections expects that this administrative regulation will not generate any specific cost savings for the regulated entities.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The State board of Elections expects that this administrative regulation will have little to no fiscal impact on the regulated entities, outside those expenditures already undertaken, for the first two fiscal years. After the fiscal year of 2025-2026, this administrative regulation will have a fiscal impact on county clerks and county boards of election, the degree of which will be shown after implementation.

(b) Methodology and resources used to determine the fiscal impact: This determination of this administrative regulation's fiscal impact is made by the listed contact person and other agency staff based on their collective experience with the subject matter.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) The State Board of Elections believes a negative or adverse major economic impact may result for the entities identified in questions (2)-(4) without additional appropriations from the General Assembly past fiscal year 2025-2026.

(b) The methodology and resources used to reach this conclusion: This conclusion is made by the listed contact person and other agency staff based on their collective experience with the subject matter.

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

**102 KAR 1:380. Qualified domestic relations orders for TRS 4 members.**

RELATES TO: KRS 161.220, 161.633, 161.634, 161.635, 161.636, 161.700, 161.716, 403.190, 26 U.S.C. 414(P)

STATUTORY AUTHORITY: KRS 161.310(1), 161.700(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.310(1) requires the Board of Trustees of the Teachers' Retirement System of the State of Kentucky (TRS) to promulgate administrative regulations for the administration of the funds of the retirement system. KRS 161.700(4) requires the Board of Trustees of TRS to promulgate administrative regulations setting forth the requirements, procedures, and forms for the approval and processing of qualified domestic relations orders impacting the benefits of participants in the retirement system. This administrative regulation establishes these requirements for TRS 4 members in lieu of the provisions of 102 KAR 1:320.

Section 1. Definitions.

(1) "Alternate payee" is defined by KRS 161.220(26).

(2) "Benefits" means a monthly service or disability retirement allowance provided from the foundational benefit component established under KRS 161.633 or 161.634 (foundational benefit), annuities or disbursements from the supplemental benefit component established under KRS 161.635 or 161.636 (supplemental benefit), or refund payable at the request of a participant covered by TRS who terminates employment in a TRS covered position prior to becoming eligible to receive a retirement allowance.

(3) "Member" is defined by KRS 161.220(4).

(4) "Participant" is defined by KRS 161.220(24).

(5) "Qualified domestic relations order" or "QDRO" is defined by KRS 161.220(25).

(6) "TRS 4 members" means those individuals whose earliest effective date of membership in the retirement system begins on or after January 1, 2022.

Section 2.

(1) A QDRO shall state the following:

(a) The participant's name, TRS participant identification number, and last-known mailing address;

(b) The alternate payee's name and last-known mailing address;

(c) The date of the marriage;

(d) The date of the decree of dissolution of marriage;

(e) That the order is for the purpose of property division;

(f) Whether the order applies to:

1. An active account from which the participant is not currently receiving a retirement allowance;

2. A retired account from which the participant is currently receiving a retirement allowance and the date on which the participant retired the account;

3. The participant's foundational benefit;

4. The participant's supplemental benefit;

(g) Whether the alternate payee shall receive:

1. Recurring monthly payments from the participant's foundational benefit under Option A, Option B, or Option C; and

2. For an account that has not yet been retired, a share of a termination refund of the contributions posted to the participant's foundational benefit account as either:

a. A fixed dollar amount; or

b. A percentage calculated under Section 7(2) of this administrative regulation or as determined by either the court or the parties;

(h) Whether the alternate payee shall receive from the supplemental benefit of an account that has not yet been retired a disbursement of a one (1) time fixed dollar amount, with or without interest, with interest to be awarded as of the date of dissolution of the marriage, the one (1) time fixed dollar amount being payable upon execution of and receipt by TRS of a valid QDRO and within

sixty (60) days following the active participant's effective retirement date with TRS;

(i) Whether the alternate payee shall receive from the supplemental benefit of an account that has not yet been retired, a share of a termination refund of the contributions posted to that account as either:

1. A fixed dollar amount; or

2. A percentage calculated under Section 7(2) of this administrative regulation or as determined by either the court or the parties;

(j) Whether the alternate payee shall receive from a supplemental benefit of an account that was retired prior to entry of the decree of dissolution of marriage, a monthly annuity or a one (1) time disbursement from the participant's remaining supplemental benefit balance as:

1. A one (1) time fixed dollar amount; or

2. A percentage calculated under Section 7(2) of this administrative regulation or as determined by either the court or the parties;

(k) When payments shall begin if an annuity;

(l) When payments shall cease if an annuity;

(m) That the alternate payee shall be paid in the same form as the participant, except that the alternate payee shall be entitled to only a one (1) time distribution from the supplemental benefit if the account has not been retired prior to entry of the decree of dissolution;

(n) If the alternate payee shall share in the participant's cost of living adjustments if the QDRO awards a fixed dollar amount of the foundational benefit to the alternate payee;

(o) Who shall be responsible for payment of the TRS processing fee; and

(p) All information required on the Qualified Domestic Relations Order to Divide TRS 4 Member's Benefits.

(2) A QDRO shall be:

(a) Approved by TRS as to enforceability and compliance with the requirements of KRS 161.700 and this administrative regulation;

(b) Approved and submitted by the participant and alternate payee or their legal counsel;

(c) Signed by the judge of a court of competent jurisdiction;

(d) Filed with the clerk of the court; and

(e) Certified by the clerk of the court.

Section 3. Administrative Provisions.

(1) Upon entry of a final divorce decree, the participant shall forward a copy of the decree to TRS and:

(a) If the participant is a retired member, request:

1. A Change of Option Following Termination of Marriage form, if the participant wants to change his or her retirement option, which shall be filed with TRS within sixty (60) days of the entry of the final divorce decree;

2. A Change of Beneficiary for Retired Member form, if the participant had chosen retirement Option I or Option II and does not want to change his or her retirement option, but wants to name a new beneficiary;

3. A Designation of Beneficiary for TRS Life Insurance Benefit form, if the participant wants to designate a beneficiary other than his or her estate; or

4. A W-4P Withholding Certificate for Pension or Annuity Payments or "W-4P", if the participant wants to change the amount of federal tax withheld from his or her retirement benefit; or

(b) If the participant is an active member, he or she shall request:

1. TRS 4 Active Member Account Beneficiary Designations form, if the participant wants to designate a beneficiary other than his or her estate; or

2. A Designation of Beneficiary for TRS Life Insurance Benefit form, if the participant wants to designate a beneficiary other than his or her estate.

(2) Thirty (30) days prior to filing the QDRO with TRS, the participant or alternate payee shall present a written request for benefits information for divorce purposes. The participant, alternate payee, or third party, including party's legal counsel, shall provide a completed TRS Authorization for Release of Information form with the request.

(3) For a QDRO directed to an active account from which a participant is not currently receiving a retirement allowance, TRS may, for the current fiscal year, provide the unaudited salary information electronically submitted to TRS by the participant's employer upon receipt of the written request and release.

(4) If the QDRO is directed to an account from which the participant is not currently receiving a retirement allowance, TRS shall not project future earnings or future service, provide an actuarial opinion of present value of the participant's benefits nor calculate the value of the Social Security benefit the member would have received if he or she had contributed for purposes of offset under KRS 403.190. TRS shall provide:

(a) The participant's total accrued service credit, including service credit purchased during the marriage, and the participant's account balance, including the total amount of accrued contributions and interest, as posted at the end of each fiscal year during the marriage and for which an employer annual report has been received by TRS and for which the participant has not received a refund; and

(b) An estimate of the monthly retirement allowance the participant would receive from the foundational benefit if the participant retired without a statutory reduction of the basic retirement allowance based upon the participant's final compensation and total accrued service credit as of the date of the dissolution of marriage or receipt of the request for the information.

(c) The balance in the supplemental benefit.

(5) If the QDRO is directed to an account that has been retired, TRS shall provide the participant's monthly retirement allowance received from the foundational benefit, and any annuity received by the participant from the supplemental benefit, any remaining accumulated account balance at retirement, in the supplemental benefit, the total retirement allowance or annuity received to date, and the participant's total accrued service credit, including any service credit purchased during the marriage. The parties, their legal counsel, or the court may use the information to decide which, if any, portion of the participant's foundational benefit and supplemental benefit are marital. TRS shall not decide whether, or if, any portion of the participant's foundational benefit and supplemental benefit are marital and potentially subject to division.

(6) The participant, alternate payee, or legal counsel shall submit a Qualified Domestic Relations Order to Divide Teachers' Retirement System 4 Member's Benefits form to TRS for review forty-five (45) days prior to filing the QDRO with the court. The draft QDRO shall be approved by the participant and alternate payee or their legal counsel. If more than one (1) of the participant's accounts is subject to classification and division as marital property, a separate QDRO shall be issued for each TRS account. The draft QDRO may be sent via U.S. Mail or scanned and electronically mailed to TRS for review.

(7) TRS shall not review the draft QDRO until the following are received:

(a) A \$300 nonrefundable processing fee, by money order, certified check or on the attorney's trust account, made payable to the Kentucky State Treasurer, except that a processing fee shall not be charged for a QDRO issued solely for child support;

(b) The TRS Confidential Information form, which shall include the participant's and alternate payee's address, Social Security number, and date of birth;

(c) Copies of the participant's and alternate payee's signed Social Security cards;

(d) If the QDRO is directed to an account that has been retired, a TRS Authorization for Direct Deposit form completed by the alternate payee and his or her financial institution; and

(e) Any other documents that are required to confirm additional service credit purchased, or sought to be purchased, for retirement calculation purposes under KRS 161.220 through 161.716, including TRS Military Service Certification and Affidavit form, with a copy of the discharge papers.

(8) Within twenty (20) days of receipt of the QDRO, TRS shall notify the participant and alternate payee in writing whether the QDRO meets TRS requirements. If the QDRO meets TRS requirements, TRS shall approve the QDRO and return a fully executed hard copy via U.S. Mail for submission to the court. If the

participant or alternate payee are represented by legal counsel, the approved QDRO shall instead be provided to their legal counsel by hard copy via U.S. Mail or electronic mail for submission to the court. If the participant is a retired member, TRS shall forward tax withholding forms to the alternate payee.

(9) If the QDRO does not meet TRS requirements, TRS shall notify the participant and alternate payee, in writing, identifying those provisions which are not in compliance and the amendments needed to bring the QDRO into compliance. If the participant or alternate payee is represented by legal counsel, this notice shall be provided to their legal counsel. The amended QDRO shall be submitted to TRS for review and approval prior to filing with the court.

(10) TRS shall reject any QDRO entered by a court that has not been reviewed or approved by TRS prior to its submission to the court. TRS shall notify the participant, alternate payee, or their legal counsel, and the court in writing, identifying those provisions that are not in compliance and the amendments needed to bring the QDRO into compliance before it shall be accepted by TRS.

(11) If the QDRO is subsequently amended before filing with the court, the amended QDRO shall be resubmitted to TRS with a \$150 nonrefundable processing fee for review and approval.

(12) Following approval by the court, the participant, alternate payee, or legal counsel shall file a certified copy of the QDRO with TRS.

(a) The QDRO shall not become effective until the certified copy is received by TRS.

(b) Upon receipt of the certified copy, TRS shall designate the participant's account for implementation of the QDRO.

(c) While a separate account balance shall not be maintained for the alternate payee, a separate payroll account shall be established.

(d) If the participant is a retired member, payments to the alternate payee shall commence in the calendar month following the date that a certified copy of the QDRO is received by TRS, if the alternate payee has supplied correctly executed tax withholding forms. If the alternate payee either fails to return the tax withholding forms or does not correctly execute the forms, TRS shall apply the IRS default option in effect on the date the forms are received. If the alternate payee chooses a different option and then provides correctly executed tax withholding forms, future payments shall be adjusted. Retroactive payments shall not be paid for periods between entry of the parties' decree of dissolution and entry and acceptance of the QDRO by TRS.

(e) If the QDRO is directed to an account that has not yet been retired, payments to the alternate payee shall commence in the calendar month in which the participant begins to receive a monthly annuity. Upon receipt of an active member's retirement application, a TRS Authorization for Direct Deposit form and tax withholding documents shall be mailed to the alternate payee's last known address. Pursuant to KRS 161.640(3)(a), TRS cannot begin electronic fund transfers to the alternate payee until receipt of a fully executed TRS Authorization for Direct Deposit form. If the alternate payee either fails to return the tax withholding forms or does not correctly execute the forms, TRS shall proceed in the same manner as described in paragraph (d) of this subsection.

(f) If the participant is an active member who withdraws from service prior to eligibility for retirement and requests a refund of his or her accumulated foundational benefit or supplemental benefit, the provisions of 102 KAR 1:060, setting forth the requirements for processing payment of the refund to the participant or alternate payee, shall be followed. If the parties fail to designate the alternate payee's share of a refund in the QDRO, TRS shall refund the participant's entire foundational benefit and supplemental benefit to the participant in accordance with the provision of this administrative regulation and 102 KAR 1:060, and TRS and its staff shall have no liability for making the refund in this manner.

(13) If TRS is enforcing a QDRO that is subsequently amended or terminated by the court, then either the participant, alternate payee, or legal counsel shall submit a certified copy of the amended QDRO or order of termination to TRS for processing.

(14) The participant, alternate payee, or legal counsel shall not submit a QDRO that is not final and under consideration by an appellate court.

## VOLUME 51, NUMBER 4– October 1, 2024

(15) The alternate payee shall be responsible for notifying TRS of any change in name, mailing address, or banking information.

(a) TRS shall provide a Name or Change of Address form or Authorization for Direct Deposit form upon request.

(b) TRS shall contact the alternate payee at the last known mailing address on file to notify the alternate payee when a retirement benefit subject to the QDRO becomes payable.

(c) Other than sending a notice as established in paragraph (b) of this subsection, TRS shall have no duty or responsibility to search for, or locate, the alternate payee.

(d) If the notification sent to the alternate payee's last known address is returned due to the alternate payee's failure to notify TRS of an address change or if the bank notifies TRS that the alternate payee's account has been closed, within sixty (60) days of the return of the notification to the alternate payee or receipt of notification from the bank, the amounts otherwise payable to the alternate payee shall be paid to the participant until a new address or bank account information is provided by the alternate payee.

(e) TRS shall have no liability to the alternate payee with respect to amounts paid to the participant.

(16) The participant shall be responsible for notifying TRS in writing of an event that causes benefit payments to alternate payee spouse, child, or other dependent to cease.

(a) The participant shall provide TRS with a certified copy of the alternate payee's death certificate or marriage certificate. TRS shall suspend payments due to the alternate payee provided that submission of proof of the death or marriage of the alternate payee, if marriage terminates payments under the QDRO, is received by TRS before the beginning of the month following receipt of the participant's written notification.

(b) The alternate payee shall also be responsible for notifying TRS in writing of the alternate payee's remarriage if, under the terms of the QDRO, that is an event that terminates the alternate payee's right to receive any payments.

(c) TRS shall not be responsible for payments made to the alternate payee until it is given timely written notice and documentation of any event terminating those payments.

Section 4. A QDRO may apply to a participant's:

- (1) Retirement allowance from the foundational benefit;
- (2) Disability retirement allowance from the foundational benefit;
- (3) Disbursements, and if the participant is retired and receiving a retirement allowance, any annuity from the supplemental benefit; or
- (4) Termination refund.

Section 5. A QDRO shall not apply to a participant's:

- (1) Survivor annuity that becomes payable after the participant's death;
- (2) Survivor benefits that become payable after an active contributing participant's death;
- (3) Accounts that are not vested at the time of the dissolution of marriage;
- (4) Life insurance benefit;
- (5) Refund as a result of an error;
- (6) Refund of an active or retired account in response to a participant's death;
- (7) Health insurance; and
- (8) Any other payment or benefit not described in Section 4 of this administrative regulation.

Section 6. If an alternate payee has, under the terms of the QDRO, been awarded a share of the participant's annuity benefits and dies before the participant dies, retires, or withdraws his or her account, the entire remaining account value shall be restored to the participant.

Section 7. Calculation and Payment.

(1)

(a) If the QDRO is directed to an account that has been retired, the portion of the participant's benefits payable to the alternate payee as a percentage of the participant's total service retirement allowance, disability retirement allowance, annuities or disbursements from the supplemental benefit component, or refundable account balance, accrued through the date of dissolution

of marriage, that is in excess of the retirement benefits of the alternate payee as provided under KRS 403.190(4), shall be calculated by the following fraction:

1. The numerator of which shall be the participant's total full and fractional years of creditable TRS service earned during the marriage, including service credit purchased during the marriage; and

2. The denominator of which shall be the participant's total full and fractional years of TRS service credit through the date of retirement.

(b) The resulting fraction shall be converted to a percentage that shall be divided by two (2).

(c) Option C may be utilized if the duration of the retired participant and the alternate payee's marriage was less than the participant's total full and fractional years of TRS service at the date of retirement. The parties or their legal counsel shall report the marital years in Option C of the QDRO.

(2) (a) If the QDRO is directed to an account that has not yet been retired, the portion of the participant's benefits payable to the alternate payee as a percentage of the participant's total service retirement allowance or disability retirement allowance payable from the foundational benefit or one (1) time disbursement from the supplemental benefit, or refundable account balance, accrued through the date of dissolution of marriage, that is in excess of the retirement benefits of the alternate payee as provided under KRS 403.190(4), shall be calculated by the following fraction:

1. The numerator of which shall be the participant's total full and fractional years of creditable TRS service earned during the marriage, including service credit purchased during the marriage, as reported by the parties or their legal counsel in Option C of the QDRO; and

2. The denominator of which shall be the participant's total full and fractional years of TRS service credit as determined by TRS at the time that the participant retires either by service retirement or disability retirement or requests a refund of his or her account balance.

(b) The resulting fraction shall be converted to a percentage that shall be divided by two (2).

(3) If an alternate payee has, under the terms of the QDRO, been awarded a share of the participant's disability retirement allowance that is subsequently discontinued, the alternate payee shall not receive a benefit.

(4) If the QDRO is directed to an account that has not yet been retired, the participant's total annuity from the foundational benefit shall be calculated without inclusion of the discounts required under KRS 161.600(2)(d).

(a) If at retirement the participant is subject to discounts required under KRS 161.600(2)(d), and if the QDRO establishes a set dollar amount to be withheld from the retirement benefits that are payable to the participant and to be paid to the alternate payee, TRS shall reduce the amount to be paid to the alternate payee under the QDRO by the amount of the discounts.

(b) TRS shall increase the amount paid to the alternate payee in amount equal to any discounts that are subsequently eliminated as the result of the participant's return to work after retirement under the provisions of KRS 161.605(11), upon the participant's resumption of receipt of retirement benefits.

Section 8. Any person who attempts to make TRS a party to a domestic relations action in order to determine an alternate payee's right to receive a portion of the annuity benefits payable to the participant shall be liable to TRS for its costs and legal fees.

Section 9. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Teachers' Retirement System Authorization for Release of Information", July 2016;

(b) "Qualified Domestic Relations Order to Divide Teachers' Retirement System 4 Member's Benefits", July 2024;

(c) "Teachers' Retirement System Confidential Information", July 2016;

(d) "Teachers' Retirement System Authorization for Direct Deposit", July 2016;

VOLUME 51, NUMBER 4– October 1, 2024

- (e) "Teachers' Retirement System Military Service Certification and Affidavit", July 2016;
  - (f) "Teachers' Retirement System Name or Change of Address", July 2016;
  - (g) "Change of Option Following Termination of Marriage", July 2016;
  - (h) "Change of Beneficiary for Retired Member", July 2016;
  - (i) "Designation of Beneficiary for TRS Life Insurance Benefit", July 2016;
  - (j) "TRS 4 Active Member Account Beneficiary Designation", April 2023;
  - (k) "Kentucky Resident State Tax Withholding Election", January 2023; and
  - (l) "Withholding Certificate for Pension or Annuity Payments" or "W-4P", 2024.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Teachers' Retirement System, 479 Versailles Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 5 p.m.
- (3) W-4P may also be obtained at [www.irs.gov/pub/irs-pdf/fw4p.pdf](http://www.irs.gov/pub/irs-pdf/fw4p.pdf).

BRENDA MCGOWAN, Chairperson

APPROVED BY AGENCY: June 17, 2024

FILED WITH LRC: September 6, 2024 at 1:35 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on 22 November 2024, at 9:00 a.m. Eastern Time at the offices of the retirement systems at 479 Versailles Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing 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 30 November 2024. 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: Robert B. Barnes, Deputy Executive Secretary of Operations and General Counsel, Teachers' Retirement System, 479 Versailles Road, Frankfort, Kentucky 40601, phone (502) 848-8508, fax (502) 573-0199, email [Beau.Barnes@trs.ky.gov](mailto:Beau.Barnes@trs.ky.gov).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Robert B. Barnes

(1) Provide a brief summary of:

(a) What this administrative regulation does: Establishes the requirements, procedures and forms for the approval and processing of qualified domestic relations orders for Teachers' Retirement System (TRS) 4 members.

(b) The necessity of this administrative regulation: This administrative regulation establishes and ensures compliance with the requirements of KRS 161.700.

(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 (1) setting forth the procedures and timelines to be followed in filing a QDRO for TRS 4 members, (2) setting the filing fees, (3) providing the formula for calculating the amount to be paid to the alternate payee, and (4) incorporating the forms required by TRS.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statutes by informing TRS 4 participants, their alternate payees, legal counsel and the courts what is required to expedite approval and implementation of a QDRO.

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

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: TRS 4 participants and alternate payees of these participants of TRS subject to a QDRO.

(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: Parties and/or legal counsel will have to follow procedures for processing and acceptance of QDROs for TRS 4 members.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost other than the filing fee which was part of the costs incurred as part of the individual's legal fees in obtaining a divorce and property settlement.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Alternate payees will be able to receive benefits from TRS 4 members.

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

(a) Initially: None.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Administrative expenses of TRS incurred in processing QDROs will be paid in part, if not all, via the processing fees. Any costs above the processing fees will be paid from restricted funds held by TRS.

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation imposes the same filing fee as that for TRS 1, 2 and 3 members for filing of a QDRO which helps to recoup administrative expenses in processing those orders.

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

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 161.700, KRS 161.310 and 161.470.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Teachers' Retirement System of the State of Kentucky

(a) Estimate the following for the first year:

Expenditures: Potential for minimal costs with some QDROs for which the processing fee does not cover the administrative time required for processing.

Revenues: None.

Cost Savings: None.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? No material change is expected.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts):

(a) Estimate the following for the first year:

Expenditures: None.

Revenues: None.

Cost Savings: None.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? None.

(4) Identify additional regulated entities not listed in questions (2) or (3):

VOLUME 51, NUMBER 4– October 1, 2024

- (a) Estimate the following for the first year:  
Expenditures: None.  
Revenues: None.  
Cost Savings: None.
- (b) How will expenditures, revenues, or cost savings differ in subsequent years? None.
- (5) Provide a narrative to explain the:
  - (a) Fiscal impact of this administrative regulation: None.
  - (b) Methodology and resources used to determine the fiscal impact: None.
- (6) Explain:
  - (a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) None.
  - (b) The methodology and resources used to reach this conclusion: None are needed as there is no impact.

**BOARDS AND COMMISSIONS**  
**Board of Veterinary Examiners**  
**(New Administrative Regulation)**

**201 KAR 16:612. Notice to Comply (NOC) and Notice of Violation (NOV).**

RELATES TO: KRS 321.187, 321.190, 321.203, 321.205, 321.207, 321.208, 321.211, 321.221, 321.235, 321.236, 321.352, 321.441, 321.442, 321.443, 321.990

STATUTORY AUTHORITY: KRS 321.235(1)(b), 321.235(2)(h)  
 NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.235(2)(h) authorizes the board to issue a notice to comply (NOC) or a notice of violation (NOV) to any person for violations of KRS Chapter 321. KRS 321.235(1)(b) requires the board to promulgate administrative regulations to implement KRS Chapter 321. This administrative regulation establishes the process and effect of issuing a NOC and a NOV.

Section 1. Notice to Comply (NOC).

- (1) The board, or an employee or agent of the board, may issue a NOC to any person or business for violation of any provision of KRS Chapter 321 or administrative regulations promulgated by the board thereunder.
- (2) A NOC may also be issued during an inspection to request additional information needed to determine compliance or as a notice to correct a minor violation found during the inspection. The failure to provide the information requested or to correct the violation within the time allotted may result in a notice of violation being issued.
- (3) A NOC from the board shall contain the following items:
  - (a) The name and address of the person or business to whom it is issued;
  - (b) A description of any information that is being requested;
  - (c) A citation to any statutory or regulatory requirement has been or may be violated;
  - (d) A description of the circumstances surrounding any violation or possible violation for which additional information is requested;
  - (e) Measures required to comply with the NOC;
  - (f) A reasonable time for compliance; and
  - (g) Notice that failure to take required action may result in the issuance of a notice of violation;
  - (h) Identification of the board's agent issuing the form; and
  - (i) Date the NOC was issued.
- (4) A notice to comply may be issued in tangible or electronic form.

Section 2. Notice of Violation (NOV).

- (1) The board, or an employee or agent of the board, may issue a NOV to any person for violation of any provision of KRS Chapter 321 or administrative regulations promulgated by the board thereunder.
- (2) A NOV establishes that a violation of statute or administrative regulation exists and that a business or person is operating in violation of the law and is subject to penalty pursuant to KRS Chapter 321.

- (3) Each day or part of a day that a violation continues is a separate violation subject to daily penalties.
- (4) A NOV from the board shall contain the following items:
  - (a) The name and address of the person or business to whom it is issued;
  - (b) A citation to the statutory or regulatory requirement or requirements that have been violated;
  - (c) A description of the circumstances surrounding the violation or violations, set forth in common and concise language;
  - (d) Measures required to correct each violation;
  - (e) Notice that each day or part of a day that a violation continues is a separate violation;
  - (f) Notice of the penalty for the violation or violations for which the notice was issued;
  - (g) A reasonable time for correction, if the respondent cannot take measures to correct the violation immediately;
  - (h) Identification of the board's agent issuing the notice;
  - (i) Date the NOV was issued; and
  - (j) Notice of rights of appeal.
- (5) A notice of violation may be issued in tangible or electronic form.

MICHELLE M. SHANE, Executive Director  
 For JOHN C. PARK, DVM, Board Chair

APPROVED BY AGENCY: September 12, 2024

FILED WITH LRC: September 12, 2024 at 1:40 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 22, 2024, at 1:00 pm EST, at the offices of the Kentucky Board of Veterinary Examiners, 4047 Iron Works Pkwy, Suite 104, Lexington, Kentucky 40511. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing 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 November 30, 2024. 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: Michelle M. Shane, Executive Director, Kentucky Board of Veterinary Examiners, 4047 Iron Works Parkway, Suite 104, Lexington, Kentucky 40511, phone 502-564-5433, fax 502-753-1458, email Michelle.Shane@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michelle M. Shane

- (1) Provide a brief summary of:
  - (a) What this administrative regulation does: This administrative regulation establishes the process and effect of issuing a notice to comply (NOC) and a notice of violation (NOV).
  - (b) The necessity of this administrative regulation: This new administrative regulation is necessary to establish process and effect of issuing a notice to comply (NOC) and a notice of violation (NOV) as authorized by KRS 321.235(1)(b) and 321.235(2)(h).
  - (c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 321.235(1)(b) requires the board to promulgate administrative regulations to implement KRS Chapter 321. KRS 321.235(2)(h) empowers the board to issue NOVs and NOCs.
  - (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This new administrative regulation will assist in effective administration by clearly expressing what fees have been approved by providing transparent requirements so constituents may be aware of this aspect of the enforcement 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: N/A. This is a new administrative regulation.
  - (b) The necessity of the amendment to this administrative regulation: N/A. This is a new administrative regulation.

## VOLUME 51, NUMBER 4– October 1, 2024

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

(d) How the amendment will assist in the effective administration of the statutes: N/A. 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: Fines are applicable to all credential holders of the board (approx. 3,500 licenses) and all non-credential holders who violate KRS Chapter 321 or 201 KAR Chapter 16.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: All persons or entities shall be required to comply with KRS Chapter 321 and 201 KAR Chapter 16, or they may be subject to the issuance of an NOC or NOV by the board.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): If a person or entity complies with KRS Chapter 321 and 201 KAR Chapter 16, there shall be no costs assessed.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): If a person or entity complies with the law, there shall be no fines assessed.

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

(a) Initially: There will be no increase in costs because a program already exists to enforce KRS Chapter 321 and 201 KAR Chapter 16. The KBVE expects costs for all board operations to be approximately \$759,700 annually in the near term.

(b) On a continuing basis: The KBVE expects costs for all board operations to be approximately \$900,000 annually in future bienniums as new programming is brought online, per the mandates in the modernized Kentucky Veterinary Medicine Practice Act, KRS Chapter 321.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: KBVE does not receive any general funds. All funds for the agency come from licensing fees, service fees, and administrative fines.

(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 to run KBVE's enforcement program.

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

(9) TIERING: Is tiering applied? Tiering is not applied because this new administrative regulation applies to all KBVE credential holders and public entities and other persons within the Commonwealth of Kentucky.

### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 321.235(1)(b) and 321.235(2)(h).

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The promulgating agency is the Kentucky Board of Veterinary Examiners. There are no other affected state units, parts, or divisions.

(a) Estimate the following for the first year:

Expenditures: KBVE has an established enforcement program, and there will not be additional expenditures as a result of this filing. The KBVE expects costs for all board operations to be approximately \$759,700 annually in the near term.

Revenues: Revenue shall only be generated by this filing if entities fail to comply with the law

Cost Savings: There will be no cost savings; this new administrative regulation simply codifies the requirements, making them easily accessible for all citizens and regulated entities.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Staff time and database management will be required for record keeping. Costs will be minimal.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): County animal control agencies or animal shelters may be impacted if they fail to follow the law as established in KRS Chapter 321 and 201 KAR Chapter 16.

(a) Estimate the following for the first year:

Expenditures: KBVE has an established enforcement program, and there will not be additional expenditures as a result of this filing. The KBVE expects costs for all board operations to be approximately \$759,700 annually in the near term.

Revenues: Revenue shall only be generated by this filing if entities fail to comply with the law.

Cost Savings: There will be no cost savings; this new administrative regulation simply codifies the requirements, making them easily accessible for all citizens and regulated entities.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Staff time and database management will be required for record keeping. Costs will be minimal.

(4) Identify additional regulated entities not listed in questions (2) or (3): KBVE does not anticipate that any other regulated entities will be impacted. However, any person or entity found to be in violation of KRS Chapter 321 or 201 KAR Chapter 16 may be subject to issuance of an NOC or NOV by the KBVE.

(a) Estimate the following for the first year:

Expenditures: KBVE has an established enforcement program, and there will not be additional expenditures as a result of this filing. The KBVE expects costs for all board operations to be approximately \$759,700 annually in the near term.

Revenues: Revenue shall only be generated by this filing if entities fail to comply with the law.

Cost Savings: There will be no cost savings; this new administrative regulation simply codifies the requirements, making them easily accessible for all citizens and regulated entities.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Staff time and database management will be required for record keeping. Costs will be minimal.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: Fines shall be pooled in KBVE's general account and be used to pay programmatic costs; these costs are shared across board operations to keep fees as low as possible. Costs include overhead, staffing and benefits, database usage and maintenance, contractors, legal counsel, etc. All fees and fines shall ensure that the board and its staff remain operational, efficient, and responsive to both the public and constituent needs, while also implementing and enforcement the mandates within the modernized Kentucky Veterinary Medicine Practice Act, KRS Chapter 321. It is unknown how much revenue these fines are anticipated to generate because it is unknown how many entities will be found to be in violation of KRS Chapter 321 or 201 KAR Chapter 16.

(b) Methodology and resources used to determine the fiscal impact: A large spreadsheet was used to calculate all board revenues, expenditures, proposed fees, and estimated quantities of applications based on historical numbers. Projections were calculated ten (10) years out to F.Y. 2036. However, fines were not included in projections because it is unknown how many entities will be found to be in violation of KRS Chapter 321 or 201 KAR Chapter 16.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This new regulation shall not have a "major economic impact", as defined in KRS 13A.010(13). The fines from NOV's are minimal and are used for board operations and ongoing enforcement of KRS Chapter 321 and 201 KAR Chapter 16 pursuant to KRS 321.235(1)(a).

(b) The methodology and resources used to reach this conclusion: "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)] Fines from NOV's issued pursuant to this new administrative regulation will be no more than \$1,000 per instance per day.

**BOARDS AND COMMISSIONS**  
**Board of Veterinary Examiners**  
**(New Administrative Regulation)**

**201 KAR 16:614. Fines.**

RELATES TO: KRS 321.352, 321.990

STATUTORY AUTHORITY: KRS 321.235(1)(b), 321.352(1), (5)  
NECESSITY, FUNCTION, AND CONFORMITY: KRS

321.352(1) requires the board to establish the amounts, limits, or ranges for any fines imposed under KRS Chapter 321 through the promulgation of administrative regulations. KRS 321.235(1)(b) requires the board to promulgate administrative regulations to implement and enforce KRS Chapter 321 and 201 KAR Chapter 16. This administrative regulation establishes the amounts, limits, or ranges for all fines imposed under KRS Chapter 321.

Section 1. Mandatory Fines.

(1) A person who, for practicing or performing services without a credential issued by the board, violates or aids in the violation of:

(a) KRS 321.190 shall be fined per violation per day for practice as a veterinarian:

1. For the first offense in an amount of not less than \$250 and not more than \$500;

2. For subsequent offenses in an amount of not less than \$500 and not more than \$1,000;

(b) KRS 321.190 shall be fined per violation per day for practice as a veterinary technician:

1. For the first offense in an amount of not less than \$100 and not more than \$250;

2. For subsequent offenses in an amount of not less than \$250 and not more than \$500;

(c) KRS 321.201 shall be fined per violation per day for the veterinarian supervisor and the individual acting as a special permittee:

1. For the first offense in an amount of not less than \$250 and not more than \$500;

2. For subsequent offenses in an amount of not less than \$500 and not more than \$1,000;

(d) KRS 321.207 shall be per violation per day for the animal control agency, the designated on-site manager, and the individual acting as an animal euthanasia specialist:

1. For the first offense in an amount of not less than \$50 and not more than \$150;

2. For subsequent offenses in an amount of not less than \$150 and not more than \$300;

(e) KRS 321.211 shall be fined per violation per day:

1. For the first offense in an amount of not less than \$250 and not more than \$500;

2. For subsequent offenses in an amount of not less than \$500 and not more than \$1,000;

(f) KRS 321.236 shall be fined per violation per day for the veterinarian manager and the registered responsible party:

1. For the first offense in an amount of not less than \$250 and not more than \$500;

2. For subsequent offenses in an amount of not less than \$500 and not more than \$1,000;

(g) KRS 321.441 shall be fined per violation per day:

1. For the first offense in an amount of not less than \$100 and not more than \$250;

2. For subsequent offenses in an amount of not less than \$250 and not more than \$500;

(h) KRS 321.442 shall be fined per violation per day:

1. For the first offense in an amount of not less than \$100 and not more than \$250;

2. For subsequent offenses in an amount of not less than \$250 and not more than \$500;

(2) A person who is issued a notice of violation by the board for failure to comply with KRS Chapter 321 or an administrative regulation promulgated thereunder shall be fined in the amount per violation per day:

(a) For the first offense in an amount of not less than \$100 and not more than \$250;

(b) For subsequent offenses in an amount of not less than \$250 and not more than \$500;

(3) A person who exercises or attempts to exercise control over, interferes with, or attempts to influence the professional judgment of a credential holder in any manner, including through coercion, collusion, extortion, inducement, or intimidation shall be fined per violation per day:

(a) For the first offense in an amount of not less than \$500 and not more than \$1,000;

(b) For subsequent offenses in an amount of not less than \$1,000 and not more than \$2,500;

(4) A person who violates any ruling of the board or hinders any agent of the board in carrying out the duties assigned to the agent shall be fined per violation per day:

(a) For the first offense in an amount of not less than \$500 and not more than \$1,000;

(b) For subsequent offenses in an amount of not less than \$1,000 and not more than \$2,500;

(5) A person who is an officer who refuses to enforce the provisions of this chapter when called upon by the board to do so shall be fined per violation per day:

(a) For the first offense in an amount of not less than \$100 and not more than \$250;

(b) For subsequent offenses in an amount of not less than \$250 and not more than \$500;

(6) A person who attempts in any way to hinder or obstruct the board in carrying out the provisions of KRS Chapter 321 shall be fined per violation per day:

(a) For the first offense in an amount of not less than \$100 and not more than \$500;

(b) For subsequent offenses in an amount of not less than \$500 and not more than \$1,000;

(7) A person who resists, obstructs, interferes with, threatens, attempts to intimidate, or in any other manner interferes with an agent of the board or who willfully refuses to obey their lawful order shall be fined per violation per day:

(a) For the first offense in an amount of not less than \$500 and not more than \$1,000;

(b) For subsequent offenses in an amount of not less than \$1,000 and not more than \$2,500.

Section 2. Permissive Fines.

(1) The board may impose an additional fine per violation per day for a person who is convicted under KRS 321.990:

(a) For the first offense in an amount of not less than \$500 and not more than \$1,000;

(b) For subsequent offenses in an amount of not less than \$1,000 and not more than \$2,500;

(2) The board may impose an additional fine for any violation of the Kentucky Veterinary Medicine Practice Act that consists of an amount equal to the cost of investigative and legal fees, court reporters, expert witnesses, administrative hearing officers, and all related costs incurred by the board in processing the case.

Section 3. Continuing Violation. (1) Each day or part of a day that a violation continues is a separate violation and subject to additional fines per day.

MICHELLE M. SHANE, Executive Director

For JOHN C. PARK, DVM, Board Chair

APPROVED BY AGENCY: September 12, 2024

FILED WITH LRC: September 12, 2024 at 1:40 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 22, 2024, at 1:00 p.m. EST, at the offices of the Kentucky Board of Veterinary Examiners, 4047 Iron Works Pkwy, Suite 104, Lexington, Kentucky 40511. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing 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



## VOLUME 51, NUMBER 4– October 1, 2024

regulation. Written comments shall be accepted through November 30, 2024. 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: Michelle M. Shane, Executive Director, Kentucky Board of Veterinary Examiners, 4047 Iron Works Parkway, Suite 104, Lexington, Kentucky 40511, phone 502-564-5433, fax 502-753-1458, email Michelle.Shane@ky.gov.

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michelle M. Shane

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the amounts, limits, or ranges for all fines imposed under KRS Chapter 321.

(b) The necessity of this administrative regulation: Establishing the fine amounts in administrative regulation shall ensure transparency of the rules and equitable application of the fines.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 321.352(1) requires the board to establish the amounts, limits, or ranges for any fines imposed under KRS Chapter 321 through the promulgation of administrative regulations. KRS 321.235(1)(b) requires the board to promulgate administrative regulations to implement and enforce KRS Chapter 321.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation makes clear the established fine amounts for violations of KRS Chapter 321 and 201 KAR Chapter 16.

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

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

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

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

(d) How the amendment will assist in the effective administration of the statutes: N/A. 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: Fines are applicable to all credential holders of the board (approx. 3,500 licenses) and all non-credential holders who violate KRS Chapter 321 or 201 KAR Chapter 16.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: All persons or entities shall be required to comply with KRS Chapter 321 and 201 KAR Chapter 16, or they may be subject to a fine.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): If a person or entity complies with KRS Chapter 321 and 201 KAR Chapter 16, there shall be no costs assessed.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): If a person or entity complies with the law, there shall be no fines assessed.

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

(a) Initially: There will be no increase in costs because a program already exists to enforce KRS Chapter 321 and 201 KAR Chapter 16. The KBVE expects costs for all board operations to be approximately \$759,700 annually in the near term.

(b) On a continuing basis: The KBVE expects costs for all board operations to be approximately \$900,000 annually in future biennia as new programming is brought online, per the mandates in the modernized Kentucky Veterinary Medicine Practice Act, KRS Chapter 321.

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

KBVE does not receive any general funds. All funds for the agency come from licensing fees, service fees, and administrative fines.

(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 to run KBVE's enforcement program.

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

(9) TIERING: Is tiering applied? Tiering is not applied because this new administrative regulation applies to all KBVE credential holders and public entities and other persons within the Commonwealth of Kentucky.

### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 321.235(1)(b), 321.352(1), (5)

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The promulgating agency is the Kentucky Board of Veterinary Examiners. There are no other affected state units, parts, or divisions.

(a) Estimate the following for the first year:

Expenditures: KBVE has an established enforcement program, and there will not be additional expenditures as a result of this filing. The KBVE expects costs for all board operations to be approximately \$759,700 annually in the near term.

Revenues: Revenue shall only be generated by this filing if entities fail to comply with the law.

Cost Savings: There will be no cost savings; this new administrative regulation simply codifies the requirements, making them easily accessible for all citizens and regulated entities.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Staff time and database management will be required for record keeping. Costs will be minimal.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): County animal control agencies or animal shelters may be impacted if they fail to follow the law as established in KRS Chapter 321 and 201 KAR Chapter 16.

(a) Estimate the following for the first year:

Expenditures: KBVE has an established enforcement program, and there will not be additional expenditures as a result of this filing. The KBVE expects costs for all board operations to be approximately \$759,700 annually in the near term.

Revenues: Revenue shall only be generated by this filing if entities fail to comply with the law.

Cost Savings: There will be no cost savings; this new administrative regulation simply codifies the requirements, making them easily accessible for all citizens and regulated entities.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Staff time and database management will be required for record keeping. Costs will be minimal.

(4) Identify additional regulated entities not listed in questions (2) or (3): KBVE does not anticipate that any other regulated entities will be impacted. However, any person or entity found to be in violation of KRS Chapter 321 or 201 KAR Chapter 16 may be subject to fines assessed by the KBVE.

(a) Estimate the following for the first year:

Expenditures: KBVE has an established enforcement program, and there will not be additional expenditures as a result of this filing. The KBVE expects costs for all board operations to be approximately \$759,700 annually in the near term.

Revenues: Revenue shall only be generated by this filing if entities fail to comply with the law.

Cost Savings: There will be no cost savings; this new administrative regulation simply codifies the requirements, making them easily accessible for all citizens and regulated entities.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Staff time and database management will be required for record keeping. Costs will be minimal.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: Running an administrative program mandated by the General Assembly costs money. Fines shall be pooled in KBVE's general account and be used to pay programmatic costs; these costs are shared across board operations to keep fees as low as possible. Costs include overhead, staffing and benefits, database usage and maintenance, contractors, legal counsel, etc. All fees and fines shall ensure that the board and its staff remain operational, efficient, and responsive to both the public and constituent needs, while also implementing and enforcement the mandates within the modernized Kentucky Veterinary Medicine Practice Act, KRS Chapter 321. It is unknown how much revenue these fines are anticipated to generate because it is unknown how many entities will be found to be in violation of KRS Chapter 321 or 201 KAR Chapter 16.

(b) Methodology and resources used to determine the fiscal impact: A large spreadsheet was used to calculate all board revenues, expenditures, proposed fees, and estimated quantities of applications based on historical numbers. Projections were calculated ten (10) years out to F.Y. 2036. However, fines were not included in projections because it is unknown how many entities will be found to be in violation of KRS Chapter 321 or 201 KAR Chapter 16.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This new regulation shall not have a "major economic impact", as defined in KRS 13A.010(13). The fines are minimal and are used for board operations and ongoing enforcement of KRS Chapter 321 and 201 KAR Chapter 16 pursuant to KRS 321.235(1)(a).

(b) The methodology and resources used to reach this conclusion: "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)]: Fines from this administrative regulation will be no more than \$1,000 per instance per day.

**KENTUCKY BOARD OF EMERGENCY MEDICAL SERVICES  
(New Administrative Regulation)**

**202 KAR 7:596. Mobile integrated healthcare licensure.**

RELATES TO: KRS 311A.010, 311A.020, 311A.025, 311A.030, 311A.170, 311A.190, 29 C.F.R. § 1910.1030

STATUTORY AUTHORITY: KRS 311A.020, 311A.025, 311A.030, 311A.190

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311A.030 requires the Kentucky Board of Emergency Medical Services to promulgate administrative regulations establishing requirements for licensing, inspecting, and regulating mobile integrated healthcare programs. This administrative regulation establishes the requirements for mobile integrated healthcare program licensure.

**Section 1. Definitions.**

(1) "Discharge planner" means a person coordinating the transition of the patient from the care facility to another location and who ensures that the services and care that the patient will need are coordinated.

(2) "Home health agency" means an appropriately licensed organization that provides skilled nursing care and therapy services in eligible patients' homes in accordance with applicable federal, state and local requirements.

(3) "Mobile integrated healthcare" or "MIH" is defined by KRS 311A.010(18).

(4) "Organization" means any business entity created under the laws of the Commonwealth of Kentucky.

(5) "Patient care planning" means written documents that help empower patients with complex conditions to better manage their own care. These plans are meant to be written collaboratively with the patient and family and incorporate the patient's and family's

goals, preferences for care, and action plans for exacerbations of conditions.

(6) "Primary care provider" means a physician (Doctor of Medicine or Doctor of Osteopathy), nurse practitioner, or physician assistant licensed or certified under Kentucky law, who provides, coordinates, or helps a patient access a range of healthcare services.

**Section 2. Applying for a Mobile Integrated Healthcare Program License.** An individual or organization applying for an MIH program license shall submit to the KBEMS office:

(1) A completed Mobile Integrated Healthcare Program License Application;

(2) The application fee as established in 202 KAR 7:030;

(3) A current map or the ZIP codes of the MIH program's intended service area;

(4) A written description of the:

(a) Program;

(b) Service area; and

(c) Specific services to be provided.

**Section 3. Mobile Integrated Healthcare Program Licensure.**

(1) The KBEMS office shall issue a Class V mobile integrated healthcare program license to an individual or organization that satisfies the requirements of this section and section 2 of this administrative regulation.

(2) A Class V MIH program license shall be issued only to the individual or organization named in the Mobile Integrated Healthcare Program License Application.

(3) A Class V MIH program license shall not be transferable.

(4) A Class V MIH program shall conspicuously display its license in a prominent public area at the Program's primary administrative office of operation.

(5) The following information shall be included on the license issued by the KBEMS office:

(a) Operating name of the MIH program;

(b) Physical location of the MIH program's primary administrative office of operation;

(c) The number and physical location of satellite locations, if any, operated by the MIH program;

(d) The license classification;

(e) The level of service provided;

(f) The number of equipment sets operated by the MIH program; and

(g) The specific geographic area to be served by the MIH program.

(6) A MIH program license shall expire annually on December 31.

**Section 4. Renewal of a Mobile Integrated Healthcare Program License.** To renew a Class V MIH program license, the license holder shall:

(1) Submit to the KBEMS office a completed Mobile Integrated Healthcare Program Renewal Application;

(2) Pass an inspection conducted by the KBEMS office of the MIH program's premises, equipment, supplies, and records; and

(3) Submit to the KBEMS office the fee established in 202 KAR 7:030.

**Section 5. Inspections.**

(1) Compliance with licensing pursuant to this administrative regulation shall be validated through on-site inspections of the MIH program by representatives or employees of the KBEMS office. The inspection shall include a:

(a) Review of all equipment and supplies stocked; and

(b) Review of personnel records, policy manuals, and other reports required to be maintained pursuant to 202 KAR Chapter 7.

(2) Each representative or employee of the KBEMS office shall have access to the MIH program's premises, records, and equipment during the hours that the MIH program operates.

(3) Notice of a regulatory violation identified during an inspection shall be transmitted in writing to the MIH program by the KBEMS office.

## VOLUME 51, NUMBER 4– October 1, 2024

(4) Within ten (10) business days of receipt of notice of a regulatory violation, the MIH program shall submit a written plan for the elimination or correction of the regulatory violation to the KBEMS office.

(5) The plan shall specify the date by which the violations will be corrected.

(6) Within ten (10) business days following receipt of the plan, the KBEMS office shall notify the MIH program, in writing, whether the plan is accepted as providing for the elimination or correction of the violation.

(7) The KBEMS office may conduct follow-up visits to verify compliance with the plan.

(8) If a portion or all the plan is unacceptable:

(a) The KBEMS office shall specify, in writing, why the plan is unacceptable; and

(b) The provider shall modify or amend the plan and resubmit it to the KBEMS office within ten (10) business days after receipt of notice that the plan is unacceptable.

(9) Unannounced inspections of an MIH program may be conducted for a:

(a) Complaint allegation;

(b) Follow-up visit; or

(c) Relicensing inspection.

Section 6. Unethical Conduct. The following acts shall be considered unethical conduct in the practice of providing MIH, and an MIH program or its EMS personnel shall be subject to disciplinary action and sanctions in accordance with KRS Chapters 311A and 13B for such conduct:

(1) Failing to submit, amend, or modify a plan of correction to eliminate or correct a regulatory violation;

(2) Failing to eliminate or correct a regulatory violation;

(3) Falsifying an application for licensure;

(4) Changing a license issued by the board without board approval;

(5) Attempting to obtain or obtaining a license by:

(a) Fraud;

(b) Forgery;

(c) Deception;

(d) Misrepresentation; or

(e) Subterfuge;

(f) Providing false or misleading advertising;

(g) Falsifying, or causing to be falsified, reports regarding patient care or other reports provided to the KBEMS office;

(h) Providing an unauthorized level of service;

(i) Failing to provide the board or its representative with information upon request, or obstructing an investigation regarding alleged or confirmed violations of KRS Chapter 311A or 202 KAR Chapter 7;

(j) Issuing a payment on an invalid account or an account with insufficient funds to pay established fees, fines, or charges;

(k) Submitting fraudulent or misleading claims for reimbursement; or

(l) Failing to comply with local ordinances, federal statutes, KRS Chapter 311A, or 202 KAR Chapter 7.

Section 7. Public Notice of Negative Action. The KBEMS office shall publish on the KBEMS web site, or shall otherwise disseminate, the name of any MIH program that is fined, placed on probationary status, placed on restricted status, suspended, or that has had its license revoked.

Section 8. Management Requirements for Mobile Integrated Healthcare Programs.

(1) All MIH programs shall maintain:

(a) An organizational chart that establishes lines of authority, including the designation of:

1. An administrator responsible for ensuring compliance with KRS Chapter 311A and 202 KAR Chapter 7 during the daily operation of the MIH program; and

2. A designee who shall serve in the absence of the administrator;

(b) Records and reports at the MIH program's primary administrative office, including:

1. An original, electronic equivalent, or copy of all patient care records;

2. An electronic copy of all completed patient care reports, which shall be maintained to ensure confidentiality and safekeeping for at least seven (7) years from the date on which the service was rendered or, in the case of a minor, at least three (3) years after the minor reaches the age of majority;

3. Copies of patient care reports for the preceding twelve (12) months, which shall be accessible and be immediately available to the board, KBEMS office, or their representatives upon request; and

4. Referrals for service received or made by the MIH program, which shall be maintained to ensure confidentiality and safekeeping for at least seven (7) years from the date on which the service was rendered or, in the case of a minor, at least three (3) years after the minor reaches the age of majority;

(c) Personnel files for each employee or volunteer who performs MIH activities on behalf of a MIH program. Personnel files shall be maintained for at least one (1) year following separation from employment. At a minimum, all personnel files shall contain:

1. A pre-employment and annual criminal background check administered by the Kentucky Administrative Office of the Courts; and

2. A copy of the employee's valid KBEMS certification or licensure card, if any;

(d) A written plan for providers to consult with online medical control for the patient population they are treating. This plan shall address at a minimum:

1. The availability of medical direction during hours of operation;

2. The availability of medical direction during an emergency event;

3. The provision of medical direction by a medical professional with a higher level of training or expertise; and

4. Recommended actions if:

a. There is an equipment failure, a communication barrier, or other unusual circumstance; and

b. It is not possible to contact online medical direction;

(e) A plan and records for the provision of continuing education for staff and volunteers, including:

1. A written plan for the method of assessing the continuing education needs of the MIH program's staff; and

2. A coordinated plan to meet those needs, including a provision that all continuing education shall be provided either by a licensed EMS-TEI or in accordance with 202 KAR 7:601;

(f) An infection control plan in accordance with 29 C.F.R. § 1910.1030;

(g) Policies and procedures which address the assessment, planning, and care coordination services while providing MIH services. At a minimum such policies shall address:

1. Securing consent to obtain or release patient medical records to other healthcare providers;

2. Coordination of care and reporting to discharge planners, home health agencies, primary care providers, and other organizations;

3. Referral process to other outpatient care providers appropriate to address the needs identified in the patient care planning;

4. Identification of patients eligible for services;

5. Discontinuation of care and completion of care goals;

6. Documentation requirements for each visit; and

7. Patient communication and contact with the MIH program and its staff;

(h) A written plan for the quality assessment of patient care and provider quality improvement, including a monthly review of patient care reports and evaluation of staff performance related to patient care. This plan shall address at a minimum:

1. Employee health and safety;

2. Compliance with protocols and operating procedures;

3. Additional training necessary for the patient care provider or providers;

4. Equipment preventive maintenance programs; and

5. A process for the resolution of customer complaints;

## VOLUME 51, NUMBER 4– October 1, 2024

(i) A written orientation program for all personnel, including at a minimum:

1. Validation of certification or license with KBEMS;
2. A review of all agency policies, procedures, and protocols;
3. Operational aspects of the equipment;
4. Inspection and routine maintenance of equipment;
5. Appropriate processes for disinfection of equipment;
6. Local navigation and geographic orientation; and
7. Completion of patient care reports and other documentation as established by the MIH program; and

(j) Proof of professional liability malpractice insurance of a minimum of \$1,000,000.

(2) Each agency shall notify the board at least twenty-four (24) hours prior to the transfer of coverage, cancellation, lapse, or other cessation or change in professional liability malpractice insurance.

(3) Each MIH program shall verify valid staff certification or licensure as of the first day of the calendar year.

(4) If ceasing to operate, a MIH program shall provide the KBEMS office with the physical storage location of all patient care reports within five (5) business days of closure. The reports shall be maintained by the owner of the MIH program or a contracted third party to meet the retention requirements established in subsection (1)(b) of this section.

Section 9. Operating Requirements for Mobile Integrated Healthcare Programs.

(1) Each MIH program shall establish and publish its hours of operation for its geographic service area.

(2) Each MIH program shall retain staffing schedules for at least the previous twelve (12) months.

(3) A MIH program shall have a written scope of care policy which includes the types of services performed, limitations of response, and the types of medical teams provided.

(4) A MIH program shall promptly submit any changes to its written scope of care policy to the KBEMS office.

(5) Each MIH program shall post fee schedules in accordance with KRS 311A.032(1)(a) and 202 KAR 7:575.

Section 10. Staffing Requirement for Mobile Integrated Healthcare Programs. Each MIH program shall, at a minimum, be staffed by one (1) advanced practice paramedic licensed by the board and certified by the board as a community paramedic.

Section 11. Medical Directors of Mobile Integrated Healthcare Programs.

(1) Each MIH program shall have a medical director who meets the requirements established in 202 KAR 7:801.

(2) A MIH program shall notify the KBEMS office within twenty-four (24) hours of a decision to discontinue a medical director agreement by either MIH program or the medical director.

(3) If a MIH program is found to be operating without a medical director, the MIH program shall be provided emergency medical direction by the KBEMS medical advisor for a fee of \$100 per day for the first thirty (30) calendar days that the MIH program is without a medical director, and for a fee of \$500 per day thereafter.

Section 12. Equipment Requirements for Mobile Integrated Healthcare Programs.

(1) Each MIH program shall maintain evidence in the form of a letter that its medical protocols have been reviewed and approved by the board in accordance with KRS 311A.180. A hard copy or electronic equivalent of approved protocols shall be accessible to each provider throughout each patient encounter.

(2) A MIH program shall stock and maintain drugs and medications as required by the master drug list contained in protocols established in accordance with this section.

(3) Controlled drugs shall be stored in a locked storage box in a locked compartment that is accessible to emergency medical services personnel.

(4) A MIH program may maintain other supplies or equipment that are required to carry out its protocols as approved by the board in accordance with KRS 311A.180.

(5) All items with expiration dates that are maintained by a MIH program shall not be expired.

(6) A MIH program shall establish a master equipment and medication list by policy. All equipment and medication required by MIH program policy shall be fully operational and available for each patient encounter.

Section 13. Incorporation by Reference.

(1) "Mobile Integrated Healthcare Program License Application", July 2024, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Kentucky Board of Emergency Medical Services, 500 Mero Street, 5th Floor 5SE32, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material may also be obtained at [kbems.ky.gov](http://kbems.ky.gov).

JOHN R. HOLDER, Chair

APPROVED BY AGENCY: August 8, 2024

FILED WITH LRC: September 3, 2024 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 27, 2024, at 1:00 p.m. ET at the Kentucky Board of Emergency Medical Services, 500 Mero Street, 5th Floor 5SE32, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 2024. 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: John K. Wood, counsel for the Kentucky Board of Emergency Medical Services, 163 East Main Street, Suite 200, Lexington, Kentucky 40507, phone (859) 225-4714, email [administrativeregulations@wgmfirm.com](mailto:administrativeregulations@wgmfirm.com).

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John K. Wood

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 311A.030 requires the Board to promulgate administrative regulations establishing requirements for licensing, inspecting, and regulating mobile integrated healthcare programs. This administrative regulation establishes the requirements for mobile integrated healthcare program licensure.

(b) The necessity of this administrative regulation: Currently, there are no administrative regulations promulgated by the Board establishing requirements for mobile integrated healthcare programs. This administrative regulation is necessary to establish those requirements.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 311A.030 by establishing the requirements for licensing, inspecting, and regulating mobile integrated healthcare programs.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 311A.030 requires the Board to promulgate administrative regulations establishing requirements for licensing, inspecting, and regulating mobile integrated healthcare programs. This administrative regulation will assist in the effective administration of KRS 311A.030 by establishing the requirements for mobile integrated healthcare programs.

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

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

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

VOLUME 51, NUMBER 4– October 1, 2024

(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 affect individuals or organizations applying for a mobile integrated healthcare program license and those licensed as a mobile integrated healthcare 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: Individuals or organizations seeking licensure as a mobile integrated healthcare program will be required to apply for a license in accordance with Section 2 of this administrative regulation and to comply with the operating, management, license renewal, inspection, ethical, and other requirements established by 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): Pursuant to 202 KAR 7:030, Section 7, the initial licensing fee will be \$3,000, the license renewal fee will be \$400, and the inspection fee will be \$100 for each set of equipment. The costs of staffing, equipment, and other costs of establishing and operating a mobile integrated healthcare program will vary.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This administrative regulation will allow individuals and organizations seeking to provide mobile integrated healthcare services to become licensed by the Board.

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

(a) Initially: Other than administrative costs, there will be no costs to the Board in implementing this administrative regulation.

(b) On a continuing basis: Other than administrative costs, there will be no costs to the Board in implementing this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Kentucky Board of Emergency Medical Services is a state agency that receives its annual budget from the state government.

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish any fees. However, 202 KAR 7:030, Section 7, establishes fees for initial licensure, license transfer, license renewal, inspections, and inspection violations.

(9) TIERING: Is tiering applied? Tiering is not applied to this administrative regulation because the amendment applies to mobile integrated healthcare programs.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 311A.030 requires the Board to promulgate administrative regulations establishing requirements for licensing, inspecting, and regulating mobile integrated healthcare programs. This administrative regulation establishes the requirements for mobile integrated healthcare program licensure.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Emergency Medical Services.

(a) Estimate the following for the first year:

Expenditures: None.

Revenues: None.

Cost Savings: None.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? This amendment should not affect the Board's expenditures, revenues, or costs.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Local entities, such as cities and counties, may be affected by the provision of mobile integrated healthcare services in their communities.

(a) Estimate the following for the first year:

Expenditures: None

Revenues: None

Cost Savings: None.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? This administrative regulation should not affect the expenditures, revenues, or costs savings of local entities.

(4) Identify additional regulated entities not listed in questions (2) or (3): Mobile integrated healthcare services.

(a) Estimate the following for the first year:

Expenditures: Pursuant to 202 KAR 7:030, Section 7, the initial licensing fee will be \$3,000. The costs of staffing, equipment, and other costs of establishing and operating a mobile integrated healthcare program will vary.

Revenues: 1-year revenues will vary by mobile integrated healthcare program.

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Pursuant to 202 KAR 7:030, Section 7, the license renewal fee will be \$400 and the inspection fee will be \$100 for each set of equipment. The costs of staffing, equipment, and other costs of establishing and operating a mobile integrated healthcare program in subsequent years will vary.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This administrative regulation could have a fiscal impact on healthcare services, as the care provided by mobile integrated healthcare programs could help patients avoid hospitalization or other medical care.

(b) Methodology and resources used to determine the fiscal impact: The Board is not aware of any methodology or resources that could be used to determine the fiscal impact of mobile integrated healthcare programs.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This administrative regulation is not expected to have an overall negative or adverse major economic impact on the affected entities.

(b) The methodology and resources used to reach this conclusion: The Board is not aware of any methodology or resources that could be used to determine the fiscal impact of mobile integrated healthcare programs.

JUSTICE AND PUBLIC SAFETY CABINET  
(New Administrative Regulation)

500 KAR 1:021. Filing and processing of death benefit claims.

RELATES TO: KRS 61.315, 83A.087, 87A.088, Chapter 183, 446.010

STATUTORY AUTHORITY: KRS 61.315(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.315(2) authorizes payment to the surviving spouse and surviving children or parents of a police officer who dies in the line of duty. KRS 61.315(4) authorizes the Justice and Public Safety Cabinet to promulgate administrative regulations establishing criteria and procedures for these payments concerning deceased police officers as defined in KRS 61.315(1)(a), including defining when one has died in the line of duty. This administrative regulation provides criteria and procedures applicable to filing and processing of death benefit claims.

Section 1. Submission of Claim.

(1) A claim for benefits pursuant to KRS 61.315(2) for the death of a police officer resulting from an act in the line of duty shall be made for an eligible claimant by filing with the claim administrator at the address indicated on the form:

(a) A complete Form 1 incorporated by reference in this administrative regulation;

(b) All supporting documents or proof required in this administrative regulation; and

(c) A Form 2 incorporated by reference in this administrative regulation completed by the police officer's employing public safety agency, organization, or unit with required documentary proof.

(2) Form 1 shall be executed by the claimant or the claimant's legally designated representative with written proof of such designation.

(3) If the claimant is under a disability, including mental or physical incapacity or as a result of being a minor, the claim shall be submitted and executed by the claimant's legally appointed guardian, committee, trustee, or other legal representative with written proof of the disability and proof of the legal authority of representation by means of affidavit, certified court record, or other legal document.

(4) The claimant shall establish with evidence:

(a) That the police officer died as a result of an act in the line of duty as set out in Section 3 of this administrative regulation;

(b) That the claimant is the spouse, child, or parent of the police officer as required by KRS 61.315(2); and

(c) The existence or nonexistence of other eligible claimants to establish priority and payment amounts pursuant to the claim.

(5) The claim for death benefits shall be filed within three (3) years of the date of the death of the police officer for which the claim is made, unless the secretary extends the filing deadline for good cause shown by the claimant.

(6) The claim administrator may require a claimant to submit additional information or evidence concerning the criteria for benefit eligibility, the correct survivor to receive the benefit, the amount of the benefit, or any other issue deemed material for the claim by the claim administrator.

(a) If information or evidence to support a condition required for eligibility is not submitted, the claim administrator shall inform the claimant of the required information or evidence. The claimant shall submit the evidence within ninety (90) days of the request for evidence unless the claim administrator extends the filing deadline for good cause shown by the claimant.

(b) The claimant's failure to submit evidence as requested by the claim administrator shall be a basis for determining that the claimant has failed to satisfy the conditions required to be eligible for death benefits.

(7) A claim for benefits may be withdrawn at any time upon written notice to the claim administrator signed by claimant or the claimant's legally designated representative.

Section 2. Proof of Relationship.

(1) Spouse.

(a) If the claimant is a spouse of the police officer, the spouse shall submit documentary proof of marriage in the form of:

1. A duly issued and certified marriage license or certificate;
2. Any certified government or official report of the marriage;
3. An affidavit of the marriage officiant; or
4. An affidavit of two (2) witnesses of the marriage.

(b) The documentary proof submitted shall establish the:

1. Names of parties married;
2. Date of marriage; and
3. Place of marriage.

(c) If the police officer was previously married, a certified divorce decree of each previous marriage for the police officer shall be submitted.

(d) If the spouse of the police officer was previously married, a certified divorce decree of each previous marriage for the spouse shall be submitted.

(2) Child.

(a) If the claimant is a child of the police officer, documentary evidence of the relationship and age of the child shall be provided in the form of a certified official copy of a:

1. Birth certificate;
2. Adoption decree;
3. Paternity decree; or
4. Other government agency record that reveals the age and relationship of the child with the deceased police officer; or
5. Other record admissible in family court to determine the child's relationship to the officer including genetic test results; or

(b) If none of the documents listed in paragraph (a) of this subsection exist, affidavits of two (2) credible witnesses who are not beneficiaries of the benefit payment or an affidavit of the police officer executed prior to death establishing the police officer's recognition of the child as his or her natural or adopted child.

(3) Parent. If the claimant is a parent of the police officer, proof of the relationship shall be provided in the form of a certified official copy of:

- (a) Birth certificate;
- (b) Adoption decree;
- (c) Paternity decree;
- (d) Other government agency record that reveals the parental relationship with the deceased police officer;

(e) Other record admissible in family court to determine the claimant's relationship to the officer including genetic test results; or

(f) If none of the documents listed in paragraphs (a) through (e) of this subsection exist, affidavits of two (2) credible witnesses who are not beneficiaries of the benefit payment establishing the police officer's recognition of the claimant as his or her parent.

(4) If the claimant is claiming through an auxiliary police officer appointed pursuant to KRS 95.445, the claimant shall:

- (a) Provide the ordinance establishing the auxiliary police force;
- (b) Provide official records showing the police officer was appointed by the appropriate officials;

(c) State whether the appointment was for a third, fourth, fifth or sixth class city or urban-county government; and

(d) State whether a first-class city is within the county wherein the auxiliary police officer was appointed.

(5) Unavailability of certified copies of records.

(a) If a certified copy of any record required in this section cannot be obtained through diligent effort, the claimant may submit an uncertified copy and explain the reason that the record is unavailable.

(b) The claim administrator shall notify the claimant or representative whether the explanation for unavailability is sufficient and the copy will be accepted.

Section 3. Proof of Death as a Direct Result of an Act in the Line of Duty.

(1) To establish the death of the police officer was the direct result of an act in the line of duty, the claimant shall provide a certified copy of the following:

- (a) Police officer's death certificate;
- (b) Employment records substantiating the police officer's paid status as required by KRS 61.315(1)(a);
- (c) Autopsy report, if performed;
- (d) Toxicology report, if performed;
- (e) Uniform incident report;
- (f) Report of incident by investigating agency, if made;
- (g) Investigative report prepared by the employing public safety agency, organization, or unit regarding the circumstances leading to the death; and

(h) Other documents to support eligibility as required by the claim administrator.

(2) A death of a police officer shall be presumed to be a direct result of an act in the line of duty if evidence establishes:

- (a) The police officer's status as a police officer;
- (b) The death results from the hostile action of an individual that knew of the officer's status as a police officer; and
- (c) Nothing else motivated the individual's hostile action toward the police officer to so great a degree as either:

1. The police officer's status as a police officer; or

## VOLUME 51, NUMBER 4– October 1, 2024

2. Retaliation for an act in the line of duty performed by a police officer.

(3) Death resulting from a heart attack, stroke, or vascular rupture suffered by a police officer shall be presumed to be a direct result of an act in the line of duty, if evidence establishes:

(a) The police officer, while on duty:

1. Engaged in a situation involving a nonroutine stressful or strenuous physical activity; or

2. Participated in a training exercise involving nonroutine stressful or strenuous physical activity; and

(b) The heart attack, stroke, or vascular rupture commenced:

1. While the police officer was engaged or participating as described in subparagraphs 1. and 2. in paragraph (a) of subsection (3) of this section;

2. While the police officer remained on duty after being engaged or participating as described in subparagraphs 1. and 2. in paragraph (a) of subsection (3) of this section; or

3. Not later than twenty-four (24) hours after the police officer was engaged or participating as described in subparagraphs 1. and 2. in paragraph (a) of subsection (3) of this section; and

(c) The heart attack, stroke, or vascular rupture was a substantial factor in the death of the police officer, unless competent medical evidence establishes that the heart attack, stroke, or vascular rupture was unrelated to the engagement or participation or was directly and proximately caused by something other than the mere presence of cardiovascular-disease risk factors.

(4) The death of a police officer from COVID-19 shall be presumed to be a direct result of an act in the line of duty, if evidence establishes:

(a) The police officer engaged in an act in the line of duty between January 1, 2020, and March 21, 2022;

(b) The police officer was diagnosed with COVID-19, or evidence indicates that the police officer had COVID-19, during the 45-day period beginning with the last day of the officer's duty within the parameters set forth in paragraph (a) of this subsection; and

(c) The police officer had COVID-19 or complications from COVID-19 at the time of his or her death, unless competent medical evidence exists to show that the police officer's death was directly and proximately caused by something other than COVID-19.

Section 4. Benefit Disqualification. If an act or omission of an eligible survivor was a substantial factor in the death of the police officer, benefits shall be precluded as to that eligible survivor only.

Section 5. Claim Decision.

(1) A claim is considered filed when the claim administrator receives Form 1.

(2) A claim is considered complete when:

(a) All required forms, reports, documents, and evidence, including any requested information and evidence, are submitted to the claim administrator; or

(b) The time allowed to provide the required forms, reports, documents, and evidence has elapsed.

(3) The claim administrator shall provide written notice to the claimant or claimant's representative when the claim administrator considers the claim complete.

(4) The claim administrator shall make an eligibility determination on the claim within 120 days of the claim being considered complete.

(5) If a claimant is determined to be eligible for a benefit, the claim administrator shall:

(a) Notify the claimant in writing at the claimant's last known address of the determination; and

(b) Present the claim to the State Treasurer within forty (40) working days.

(6) If the claimant is determined not eligible for a benefit, the claim administrator shall:

(a) Notify the claimant in writing at claimant's last known address of the determination;

(b) Provide an explanation of the criteria that was not met; and

(c) State the appeal rights for the claim.

Section 6. Priority and Amount of Claim Benefits. The priority and amount of benefits paid shall comply with KRS 61.315.

Section 7. Rights to Appeal. An appeal shall follow 500 KAR 1:030.

Section 8. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Form 1", 2024 edition; and

(b) "Form 2", 2024 edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Line of Duty Death Benefits, 125 Holmes Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the agency Web site at <https://justice.ky.gov/Departments-Agencies/ols/Pages/lodd.aspx>.

KEITH JACKSON, Secretary

APPROVED BY AGENCY: September 9, 2024

FILED WITH LRC: September 13, 2024 at 11:35 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Tuesday, November 26, 2024, 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 November 30, 2024. 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, Staff 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](mailto: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: The administrative regulation provides criteria and procedures applicable to filing and processing of a claim for benefits for the death of a police officer in the line of duty pursuant to KRS 61.315(4).

(b) The necessity of this administrative regulation: KRS 61.315(4) authorizes the Justice and Public Safety Cabinet to promulgate administrative regulations establishing criteria and procedures for death benefits for police officers as defined in KRS 61.315(1)(a) who die in the line of duty.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is necessary to provide an understanding of the criteria and procedures applicable to filing and processing of a claim for benefits for the death of a police officer in the line of duty pursuant to KRS 61.315(4). This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation establishes the criteria and procedures applicable to filing and processing of a claim for benefits for the death of a police officer in the line of duty pursuant to KRS 61.315(4). It provides direction and information to Justice and Public Safety Cabinet employees tasked with processing benefit claims and members of the public filing benefit claims.

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

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

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

VOLUME 51, NUMBER 4– October 1, 2024

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect Justice and Public Safety Cabinet employees responsible for processing line of duty death benefit claims, the police officer's employing public safety agency, organization, or unit, and members of the public seeking line of duty death benefits.

(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: Justice and Public Safety Cabinet employees responsible for processing line of duty death benefit claims, the police officer's employing public safety agency, organization, or unit, and members of the public seeking line of duty death benefits will have to become familiar with the criteria and procedures applicable to filing and processing of a claim for benefits for the death of a police officer in the line of duty pursuant to KRS 61.315(4).

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no pecuniary cost associated with complying with the administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance with the administrative regulation, members of the public seeking line of duty death benefits will better understand criteria and procedures applicable to filing and processing of a claim for benefits for the death of a police officer in the line of duty pursuant to KRS 61.315(4), and Justice and Public Safety Cabinet employees will better understand how to process claims.

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

(a) Initially: Because this is an ongoing program authorized by an existing statute, there will be no new administrative costs associated with this administrative regulation. However, the administrative body dedicates 15% of one attorney and one paralegal's job duties to administering the line of duty death benefit program, which costs approximately \$18,324.00 per year.

(b) On a continuing basis: The administrative body dedicates 15% of one attorney and one paralegal's job duties to administering the line of duty death benefit program, which costs approximately \$18,324.00 per year.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The administrative body uses agency funds to administer the line of duty death benefit program. However, line of duty death benefits are paid to claimants from the general fund budget reserve trust 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: The administrative regulation does not establish any fees.

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

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

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 61.315, 83A.087, 87A.088, 183.881, 446.010.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Justice and Public Safety Cabinet.

(a) Estimate the following for the first year:

Expenditures: The administrative body dedicates 15% of one attorney and one paralegal's job duties to administering the line of duty death benefit program, which costs approximately \$18,324.00 per year.

Revenues: The administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): The deceased police officer's employing public safety agency, organization, or unit will be affected by the regulation.

(a) Estimate the following for the first year:

Expenditures: The administrative regulation is not expected to increase the deceased police officer's employing public safety agency, organization, or unit's expenditures except to the extent it will require the provision of information contained on Form 2.

Revenues: The administrative regulation is not expected to increase revenues.

Cost Savings: The administrative regulation is not expected to result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(4) Identify additional regulated entities not listed in questions (2) or (3): Members of the public who file a claim for line of duty death benefits will be affected by this administrative regulation.

(a) Estimate the following for the first year:

Expenditures: Members of the public seeking line of duty death benefits will need to expend an unknown amount of time to become familiar with the criteria and procedures applicable to filing and processing of a claim for benefits for the death of a police officer in the line of duty pursuant to KRS 61.315(4) as well as provide the required documentation.

Revenues: The administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The fiscal impact of this administrative regulation for the Justice and Public Safety Cabinet includes the administrative costs related to those employees responsible for processing line of duty death benefit claims at an approximate cost of \$18,324.00 per year. With regard to benefits awarded to claimants, there has been an average of 2.5 claims for benefits per year over the last seven years at a cost of \$80,000.00 per claim totaling an average of \$200,000.00 per year. Additionally, because the regulation includes criteria for benefits for deaths of officers from COVID-19 resulting from an act in the line of duty, and there may be approximately four such claims for benefits to be processed, resulting in an additional \$320,000.00 benefits that may be awarded.

(b) Methodology and resources used to determine the fiscal impact: The Justice and Public Safety Cabinet determined the number of employees needed to administer the line of duty death benefits program and their salaries as well as the amount of their time expended on the program. Using these figures, it determined the cost to administer the program. Additionally, the Justice and Public Safety Cabinet looked at seven years' worth of data for claims filed as well as its knowledge of potential claims to determine the fiscal impact of the regulation.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) There is the possibility of an overall negative or adverse major economic impact by



the administrative regulation. This administrative regulation for the Justice and Public Safety Cabinet includes the administrative costs related to those employees responsible for processing line of duty death benefit claims at an approximate cost of \$18,324.00 per year. With regard to the Commonwealth, there has been an average of 2.5 claims for benefits per year over the last seven years at a cost of \$80,000.00 per claim totaling \$200,000.00 per year. Additionally, because the regulation includes criteria for benefits for deaths of officers from COVID-19 resulting from an act in the line of duty, and there may be approximately four such claims for benefits, an additional \$320,000.00 benefits may be awarded.

(b) The methodology and resources used to reach this conclusion:

The Justice and Public Safety Cabinet determined the number of employees needed to administer the line of duty death benefits program and their salaries as well as the amount of their time expended on the program. Using these figures, it determined the cost to administer the program. Additionally, the Justice and Public Safety Cabinet looked at seven years' worth of data for claims filed as well as its knowledge of potential claims to determine the fiscal impact of the regulation insofar as it establishes criteria related to the award of benefits.

**ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE**  
**Minutes of September 10, 2024**

**Call to Order and Roll Call**

The September meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, September 10, 2024, at 1:00 p.m. in Room 149 of the Capitol Annex. Senator Stephen West, Co-Chair, called the meeting to order, and roll call was taken.

**Present were:**

**Members:** Senator Stephen West, Co-Chair; Representative Derek Lewis, Co-Chair; Senator David Yates; and Representatives Randy Bridges and Deanna Frazier Gordon.

**LRC Staff:** Stacy Auterson, Laura Begin, Emily Caudill, Ange Darnell, Emily Harkenrider, Karen Howard, Anna Latek, and Carrie Nichols.

**Guests:** Cassie Trueblood, Education Professional Standards Board; Al Duncan, Juan Renaud, Department of Veterans Affairs; Karen Sellers, State Board of Elections; Amy Burke, Ed Price, Department of Law; Patrick McGee, Finance and Administration Cabinet; Eden Davis, Board of Pharmacy; Matt Byrd, Doug Hardin, Boxing and Wrestling Commission; Steven Fields, Department of Fish and Wildlife Resources; Tony Hatton, Michael Kennedy, Division for Air Quality; Jon Johnson, Godwin Onodu, Transportation Cabinet; Todd Allen, Department of Education; Jeb Pinney, Public Service Commission; Julie Brooks, Rachael Ratliff, Kelli Root, Cabinet for Health and Family Services; Adam Goebel, Stewart McCollam, Jack Mazurak, Kentucky Distillers' Association; and Rachel Nally, Heaven Hill Brands.

**Administrative Regulations Reviewed by this Subcommittee:**

**EDUCATION AND LABOR CABINET: Education Professional Standards Board: General Administration**

016 KAR 001:030E. Procedures for educator certificate surrender, revocation, suspension, reinstatement, and reissuance, and for application denial. Cassie Trueblood, policy advisor, represented the board.

**Teaching Certificates**

016 KAR 002:030E. Substitute teachers.

**Internship**

016 KAR 007:011. Repeal of 016 KAR 007:010.

**Alternative Routes to Certification**

016 KAR 009:010E. Provisional and professional certificate for exceptional work experience.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 and 3 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 2 to comply with the board's statutory authority. Without objection, and with agreement of the agency, the amendments were approved.

016 KAR 009:030. Professional and provisional certificate for college faculty.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 3 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Sections 1 and 2 to comply with the board's statutory authority. Without objection, and with agreement of the agency, the amendments were approved.

016 KAR 009:080E. University-based alternative certification program.

016 KAR 009:100E. Alternative Route to Certification Institute.

**OFFICE OF THE GOVERNOR: Department of Veterans Affairs: Kentucky Veterans Burial and Memorial Benefits**

017 KAR 004:030. Veterans' Service Organization Burial Honor Guard Program. Al Duncan, division director, and Juan Renaud, deputy commissioner, represented the department.

A motion was made and seconded to approve the following amendments: (1) to add a definition for "discharge under other than dishonorable conditions"; (2) to establish a new section with requirements previously included in a definition; (3) to amend Sections 3 through 5 to comply with the formatting requirements of KRS Chapter 13A; and (4) to update incorporated material. Without objection, and with agreement of the agency, the amendments were approved.

**STATE BOARD OF ELECTIONS: Forms and Procedures**

031 KAR 004:031E. Reporting. Karen Sellers, executive director, represented the board.

Co-Chair Lewis stated that both Co-Chairs appreciated the board and Jefferson County staff working together to resolve the issues related to these administrative regulations.

In response to a question by Co-chair West, Ms. Sellers stated that prior concerns from Jefferson County election officials had been addressed through the proposed agency amendments to these administrative regulations.

Senator Yates thanked the board for working to ensure public trust in Kentucky elections.

The following amendments were approved by this subcommittee at the July 9, 2024 meeting: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A.

A motion was made and seconded to approve the following amendment: to amend Section 3(2) to require totals for those candidates who have filed a declaration of intent with the Secretary of State to be a write-in candidate pursuant to KRS 117.265(2), if five (5) percent or more of the votes cast in that candidate's election were for write-in candidates. Without objection, and with agreement of the agency, the amendment was approved.

031 KAR 004:031. Reporting.

The following amendments were approved by this subcommittee at the July 9, 2024 meeting: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A.

A motion was made and seconded to approve the following amendment: to amend Section 3(2) to require totals for those candidates who have filed a declaration of intent with the Secretary of State to be a write-in candidate pursuant to KRS 117.265(2), if five (5) percent or more of the votes cast in that candidate's election were for write-in candidates. Without objection, and with agreement of the agency, the amendment was approved.

031 KAR 005:040E. Questions regarding voter eligibility.

The following amendments were approved by this subcommittee at the July 9, 2024 meeting: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A.

031 KAR 005:040. Questions regarding voter eligibility.

The following amendments were approved by this subcommittee at the July 9, 2024 meeting: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A.

**OFFICE OF THE ATTORNEY GENERAL: Department of Law: Criminal Investigations**

040 KAR 010:010. Uniform procedure and timeline for

## VOLUME 51, NUMBER 4 – October 1, 2024

conducting independent election inquiries. Amy Burke, special attorney, and Ed Price, division director, represented the department.

The following amendments were approved by this subcommittee at the July 9, 2024 meeting: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 4 to comply with the drafting requirements of KRS Chapter 13A.

The following amendments were approved by this subcommittee at the August 13, 2024 meeting: (1) to amend Section 4(12)(b) and (c) for consistency with KRS 117.076; and (2) to amend Section 4(12)(d) to make a technical correction.

### **FINANCE AND ADMINISTRATION CABINET: Purchasing**

200 KAR 005:021. Manual of policies and procedures. Patrick McGee, staff attorney manager, represented the cabinet.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A; and (2) to update incorporated material. Without objection, and with agreement of the agency, the amendments were approved.

### **BOARDS AND COMMISSIONS: Board of Pharmacy**

201 KAR 002:015. Continuing education. Eden Davis, general counsel, represented the board.

201 KAR 002:470. Change of ownership.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

### **Boxing and Wrestling Commission**

201 KAR 027:006. Powers and duties of inspector. Matt Byrd, executive director, and Doug Hardin, staff attorney, represented the commission

In response to questions by Senator Yates, Mr. Byrd stated that alcohol had been removed from anti-doping testing requirements, and this change was adopted uniformly by the World Anti-Doping Agency. State and local agencies had the authority to be more stringent than the international guidelines in order to guarantee the safety of all participants.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 027:023. Drug testing for boxing, kickboxing, mixed martial arts, wrestling, and elimination event shows.

A motion was made and seconded to approve the following amendments: to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Sections 1 through 3 and 5 through 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 027:041. Managers.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 027:106. Violations, penalties, and appeals.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 2, 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.

### **TOURISM, ARTS AND HERITAGE CABINET: Department of Fish and Wildlife Resources**

301 KAR 001:410. Taking of fish by nontraditional fishing methods. Steven Fields, staff attorney, represented the department.

### **TRANSPORTATION CABINET: Motor Vehicle Tax**

601 KAR 009:220. Motor vehicle dealer plates. Jon Johnson, assistant general counsel, and Godwin Onodu, division director, represented the cabinet.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 3 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 3 for consistency with KRS 186.070(1)(c)3. Without objection, and with agreement of the agency, the amendments were approved.

### **EDUCATION AND LABOR CABINET: Department of Education: School Administration and Finance**

702 KAR 003:320. Finance officer certification requirements. Todd Allen, general counsel, represented the department.

A motion was made and seconded to approve the following amendments: to amend Sections 5, 6, and 10 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

### **Office of Instruction**

704 KAR 003:313. Repeal of 704 KAR 003:303.

### **Academic Standards**

704 KAR 008:130. Required Kentucky Academic Standards for Visual and Performing Arts.

### **ENERGY AND ENVIRONMENT CABINET: Public Service Commission Utilities**

807 KAR 005:015E. Access and attachments to utility poles and facilities. Jeb Pinney, executive advisor, represented the commission.

In response to a question by Co-Chair West, Mr. Pinney stated that the original version of this administrative regulation was the result of 2021 legislation. The current version was attributable to Senate Joint Resolution 175 from the 2024 Regular Session of the General Assembly.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3(8) to correct transposed deadlines; and (2) to amend Sections 3 and 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

### **CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Maternal and Child Health**

902 KAR 004:030. Newborn screening program. Julie Brooks, regulation coordinator, represented the department.

Representative Frazier Gordon thanked the department for adding two (2) conditions to the profile.

A motion was made and seconded. to approve the following amendments: to amend Sections 5 and 13 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

### **Department for Community Based Services: Child Welfare**

922 KAR 001:350E. Requirements for public child welfare agency foster parents, adoptive parents, and respite care providers. Rachel Ratliff, regulations coordinator, and Kelli Root, assistant director, represented the department.

**The following administrative regulations were deferred or removed from the September 10, 2024, subcommittee agenda:**

**GENERAL GOVERNMENT CABINET: Council on Postsecondary Education: Public Educational Institutions**

013 KAR 002:120. Comprehensive funding model for the allocation of state general fund appropriations to public universities.

013 KAR 002:130. Comprehensive funding model for the allocation of state general fund appropriations to the Kentucky Community and Technical College System institutions.

**EDUCATION AND LABOR CABINET: Education Professional Standards Board: Teaching Certificates**

016 KAR 002:160. Probationary certificate for teachers of exceptional children.

**BOARDS AND COMMISSIONS: Board of Pharmacy**

201 KAR 002:030. License transfer and non-resident pharmacist license.

201 KAR 002:050. License and permits; fees.

201 KAR 002:210. Patient records, drug regimen review, patient counseling, and final product verification.

201 KAR 002:370. Pharmacy services in a long-term care facility (LTCF).

201 KAR 002:465. Non-resident Pharmacy Applications and waivers.

201 KAR 002:480. Telework and electronic supervision for remote prescription processing.

**Board of Interpreters for the Deaf and Hard of Hearing**

201 KAR 039:001. Definitions for 201 KAR Chapter 39.

201 KAR 039:030. Application; qualifications for full licensure; and certification levels.

201 KAR 039:040. Fees.

201 KAR 039:050. Renewal and reinstatement of full licenses.

201 KAR 039:060. Reinstatement of full license subject to disciplinary action.

201 KAR 039:070. Application and qualifications for temporary licensure and extensions.

201 KAR 039:075. Supervision.

201 KAR 039:090. Continuing education unit requirements.

201 KAR 039:100. Complaint procedure.

201 KAR 039:120. Code of ethics.

201 KAR 039:130. Registration for nonresident interpreters.

**ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division for Air Quality: General Administrative Procedures**

401 KAR 050:038. Air emissions fee. Tony Hatton, commissioner, and Michael Kennedy, division director, represented the division.

In response to questions by Co-Chair West, Mr. Hatton stated that the division was better equipped to process emissions permit requests in a timely manner than the US EPA. This administrative regulation established how Kentucky's air quality program was funded, by calculating the per-ton emissions fee based on the program's cost estimates. The current operating budget was \$18.7 million, which was not a significant increase from last year. This budget was comprised of restricted funds. This proposed version would decrease the general fee per ton, while eliminating the 4,000-

ton cap; therefore, most permittees would experience a fee reduction. Emitters such as large electric-generating utilities and large distillers were expected to experience a per-ton decrease, but an overall increase because of the elimination of the 4,000-ton cap. This amendment exempted fire pump engine systems, which were required to comply with safety standards.

In response to questions by Senator Yates, Mr. Hatton stated that Louisville Gas and Electric (LG&E) power stations that would be affected by the emissions rate change would be E.W. Brown, Ghent, and Trimble County.

In response to a question by Co-Chair West, Mr. Hatton stated that the division agreed to defer consideration of this administrative regulation to the October meeting of this subcommittee. A motion was made and seconded to defer consideration of this administrative regulation. Without objection, and with agreement of the agency, the administrative regulation was deferred.

**JUSTICE AND PUBLIC SAFETY CABINET: Parole Board**

501 KAR 001:080. Parole board policies and procedures.

**Department of Corrections: Office of the Secretary**

501 KAR 006:021. Repeal of 501 KAR 006:020.

501 KAR 006:280. Risk and needs assessment.

501 KAR 006:300. News media.

501 KAR 006:310. Monitoring and operation of private prisons.

501 KAR 006:320. Corrections policies and procedures: inmate funds.

501 KAR 006:330. Corrections policies and procedures: personnel.

501 KAR 006:340. Corrections policies and procedures: research and information.

501 KAR 006:350. Inmate or offender or supervision record request.

501 KAR 006:360. Corrections policies and procedures: safety and critical incident notification.

501 KAR 006:370. Corrections policies and procedures: security and control.

501 KAR 006:380. Corrections policies and procedures: special management and restrictive housing inmates, safekeepers, and contract prisoners.

501 KAR 006:390. Corrections policies and procedures: inmate diet.

501 KAR 006:400. Corrections policies and procedures: inmate health care.

501 KAR 006:410. Corrections policies and procedures: inmate life and issues.

501 KAR 006:420. Corrections policies and procedures: inmate rules and discipline.

501 KAR 006:430. Corrections policies and procedures: communication, mail, and visiting.

501 KAR 006:440. Corrections policies and procedures: inmate reception, orientation, and personal property.

501 KAR 006:450. Corrections policies and procedures: classification.

501 KAR 006:460. Corrections policies and procedures: inmate

**VOLUME 51, NUMBER 4 – October 1, 2024**

work programs.

501 KAR 006:470. Corrections policies and procedures: inmate education and training.

501 KAR 006:480. Library services.

501 KAR 006:490. Corrections policies and procedures: inmate recreation and activities.

501 KAR 006:500. Religious programs.

501 KAR 006:510. Corrections policies and procedures: release preparation and temporary release.

501 KAR 006:520. Citizen involvement, volunteer, and reentry mentor service programs.

501 KAR 006:530. Corrections policies and procedures: programs and sentence credits.

501 KAR 006:540. Inmate record.

**PUBLIC PROTECTION CABINET: Department of Insurance: Health Insurance Contracts**

806 KAR 017:570. Minimum standards for Medicare supplement insurance policies and certificates.

**CABINET FOR HEALTH AND FAMILY SERVICES : Department for Public Health: Food and Cosmetics**

902 KAR 045:001E. Definitions for hemp-derived cannabinoid products.

902 KAR 045:001. Definitions for hemp-derived cannabinoid products.

902 KAR 045:012E. Hemp-derived cannabinoid product retail and food service establishment requirements.

902 KAR 045:012. Hemp-derived cannabinoid product retail and food service establishment requirements.

902 KAR 045:021E. Hemp-derived cannabinoid products

registration, processing, manufacturing, storage and distribution requirements.

902 KAR 045:021. Hemp-derived cannabinoid products registration, processing, manufacturing, storage and distribution requirements.

902 KAR 045:031E. Hemp-derived cannabinoid product sampling and testing requirements.

902 KAR 045:031. Hemp-derived cannabinoid product sampling and tasting requirements.

**Department for Medicaid Services**

907 KAR 001:044. Coverage provisions and requirements regarding community mental health center behavioral health services.

**Behavioral Health**

907 KAR 015:005. Definitions for 907 KAR Chapter 015.

**Office of the Secretary: Medicinal Cannabis Program**

915 KAR 001:010. Initial and renewal application for cannabis business licenses.

915 KAR 001:020. Cannabis business licenses.

**Department for Community Based Services: Child Welfare**

922 KAR 001:050. State funded adoption assistance.

922 KAR 001:060. Federal Title IV-E adoption assistance.

**Daycare**

922 KAR 002:090. Child-care center licensure.

922 KAR 002:120. Child-care center health safety standards.

**The subcommittee adjourned at 2:05 p.m. The next meeting of this subcommittee was tentatively scheduled for October 15, 2024, at 1 p.m. in Room 149 of the Annex.**

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.

**INTERIM JOINT COMMITTEE ON FAMILIES AND CHILDREN  
Meeting of August 28, 2024**

The following administrative regulations were available for consideration and placed on the agenda of the Interim Joint Committee on Families & Children for its meeting of August 28, 2024, having been referred to the Committee on August 7, 2024, pursuant to KRS 13A.290(6):

910 KAR 001:270

Committee activity regarding the review of the above-referenced administrative regulations is reflected in the minutes of the August 28, 2024 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

**INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE  
Meeting of September 17, 2024**

The Interim Joint Committee on Banking and Insurance met on September 17, 2024 and a quorum was present. The following administrative regulations were available for consideration having been referred to the Committee on August 7, 2024, pursuant to KRS 13A.290(6):

808 KAR 010:260

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(8) and 13A.030(2):

None

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

808 KAR 010:260

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300:

None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the September 17, 2024 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

**INTERIM JOINT COMMITTEE ON EDUCATION  
Meeting of September 17, 2024**

The Interim Joint Committee on Education met on 17 September, 2024, and a quorum was present. The following administrative regulations were available for consideration having been referred to the Committee on 4 September, 2024, pursuant to KRS 13A.290(6):

016 KAR 009:030 Emergency  
016 KAR 002:200 Proposed  
016 KAR 002:170 Proposed  
016 KAR 002:140 Proposed

016 KAR 002:110 Proposed  
011 KAR 015:110 Proposed  
011 KAR 015:090 Proposed  
011 KAR 004:080 Proposed

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(8) and 13A.030(2):

None

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

None

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300:

None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the 17 September 2024 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

**INTERIM JOINT COMMITTEE ON TRANSPORTATION  
Meeting of September 17, 2024**

The IJC on Transportation met on September 17, 2024 and a quorum was present. The following administrative regulations were available for consideration having been referred to the Committee on July 3, 2024, pursuant to KRS 13A.290(6):

601 KAR 023:040

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(8) and 13A.030(2):

none

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

601 KAR 023:040

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300:

none

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the September 17, 2024 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

## CUMULATIVE SUPPLEMENT

Unless otherwise noted, information contained in these indexes relates only to administrative regulations printed in this, the 51<sup>st</sup> year of the *Administrative Register of Kentucky*, from July 2024 through June 2025.

### **Locator Index - Effective Dates**

**D - 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 “50 Ky.R.” notation are regulations that were originally published in last year’s issues of the *Administrative Register of Kentucky* but had not yet gone into effect when the last *Register* year ended.

### **KRS Index**

**D - 9**

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**

**D - 15**

A list of administrative regulations for which certification letters have been filed pursuant to KRS 13A.3104 during this *Register* year.

### **Technical Amendment Index**

**D - 16**

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**

**D - 17**

A general index of administrative regulations published during this *Register* year, and is mainly broken down by agency.

**LOCATOR INDEX - EFFECTIVE DATES**

Administrative regulations published in previous Register years may appear in this index if a regulation had not completed the KRS Chapter 13A review process by the beginning of *Register* year 50. The "Register number" or "Ky.R. number" is listed the first time a regulation is published during that Register year. Once the regulation has been published in another Register year, the new Ky.R. number will appear next to the page number entry. To view versions of regulations published in prior *Registers*, please visit our online [Administrative Registers of Kentucky](#).

**SYMBOL KEY:**

- \* Statement of Consideration not filed by deadline
- \*\* Withdrawn, deferred more than twelve months (KRS 13A.300(2)(e) and 13A.315(1)(d))
- \*\*\* Withdrawn before being printed in Register
- IJC Interim Joint Committee
- (r) Repealer regulation: KRS 13A.310(3)-on the effective date of an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.

902 KAR 045:021E	50 Ky.R. 2368	4-24-2024
902 KAR 045:031E	50 Ky.R. 2373	4-24-2024
915 KAR 001:010E	50 Ky.R. 2378	4-18-2024
Am Comments	51 Ky.R. 226	7-15-2024
915 KAR 001:020E	50 Ky.R. 2383	4-18-2024
Am Comments	51 Ky.R. 230	7-15-2024
922 KAR 001:350E	51 Ky.R. 207	7-1-2024
922 KAR 002:090E	51 Ky.R. 22	5-20-2024

**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.

013 KAR 002:120E	50 Ky.R. 2349	4-30-2024
013 KAR 002:130E	50 Ky.R. 2352	4-30-2024
016 KAR 001:030E	51 Ky.R. 191	7-15-24
016 KAR 002:030E	51 Ky.R. 195	7-15-24
016 KAR 009:010E	51 Ky.R. 197	7-8-2024
As Amended	645	9-10-2024
016 KAR 009:030E	51 Ky.R. 10	5-31-2024
016 KAR 009:080E	51 Ky.R. 200	7-8-2024
016 KAR 009:100E	51 Ky.R. 204	7-8-2024
031 KAR 002:010E	50 Ky.R. 2147	4-15-2024
As Amended	51 Ky.R. 218	7-9-2024
031 KAR 003:041E	50 Ky.R. 2150	4-15-2024
As Amended	51 Ky.R. 219	7-9-2024
031 KAR 004:031E	50 Ky.R. 2152	4-15-2024
Am Comments	51 Ky.R. 220	7-9-2024
As Amended	645	9-10-2024
031 KAR 004:220E	50 Ky.R. 2154	4-15-2024
As Amended	51 Ky.R. 221	7-9-2024
031 KAR 005:026E	50 Ky.R. 2158	4-15-2024
As Amended	51 Ky.R. 223	7-9-2024
Replaced	492	8-22-2024
031 KAR 005:040E	50 Ky.R. 2161	4-15-2024
As Amended	51 Ky.R. 224	7-9-2024
101 KAR 002:210E	51 Ky.R. 620	9-13-2024
200 KAR 005:021E	51 Ky.R. 12	5-16-2024
As Amended	474	8-13-2024
201 KAR 028:240E	50 Ky.R. 2354	5-14-2024
As Amended	51 Ky.R. 225	7-9-2024
201 KAR 036:100E	50 Ky.R. 1649	9-14-2024
Am Comments	2002	3-5-2024
Replaced	51 Ky.R. 105	6-18-2024
202 KAR 002:020E	51 Ky.R. 471	8-6-2024
202 KAR 007:201E	51 Ky.R. 622	9-3-2024
202 KAR 007:301E	51 Ky.R. 626	9-3-2024
202 KAR 007:330E	51 Ky.R. 630	9-3-2024
202 KAR 007:401E	51 Ky.R. 634	9-3-2024
202 KAR 007:560E	51 Ky.R. 640	9-3-2024
501 KAR 006:330E	50 Ky.R. 2356	5-15-2024
Expired; Ordinary SOC not filed by deadline		9-13-2024
501 KAR 006:430E	50 Ky.R. 2358	5-15-2024
803 KAR 025:089E	50 Ky.R. 2360	5-14-2024
807 KAR 005:015E	51 Ky.R. 14	5-31-2024
Am Comments	474	8-15-2024
As Amended	646	9-10-2024
902 KAR 045:001E	50 Ky.R. 2362	4-24-2024
902 KAR 045:012E	50 Ky.R. 2364	4-24-2024

**ORDINARY ADMINISTRATIVE REGULATIONS**

011 KAR 004:080		
Amended	50 Ky.R. 2238	
As Amended	51 Ky.R. 483	9-17-2024
011 KAR 015:090		
Amended	50 Ky.R. 2240	
As Amended	51 Ky.R. 483	9-17-2024
011 KAR 015:110		
Amended	50 Ky.R. 2245	
As Amended	51 Ky.R. 488	9-17-2024
013 KAR 002:120	50 Ky.R. 2459	
013 KAR 002:130	50 Ky.R. 2461	
013 KAR 006:010	51 Ky.R. 596	
013 KAR 006:020	51 Ky.R. 598	
016 KAR 001:030		
Amended	51 Ky.R. 329	
016 KAR 002:030		
Amended	51 Ky.R. 333	
016 KAR 002:110	50 Ky.R. 2464	
As Amended	51 Ky.R. 489	9-17-2024
016 KAR 002:140	50 Ky.R. 2466	
As Amended	51 Ky.R. 490	
016 KAR 002:160		
Amended	50 Ky.R. 1934	
Withdrawn by agency		9-23-2024
Expired, w/d after certified To-Be-Amended		9-23-2024
016 KAR 002:170	50 Ky.R. 2469	
As Amended	51 Ky.R. 491	9-17-2024
016 KAR 002:200	50 Ky.R. 2471	
As Amended	51 Ky.R. 492	9-17-2024
016 KAR 004:020		
Amended	50 Ky.R. 1557	
As Amended	2004	7-2-2024
016 KAR 004:030		
Amended	50 Ky.R. 1937	7-16-2024
016 KAR 007:011(r)	51 Ky.R. 170	
016 KAR 009:010		
Amended	51 Ky.R. 335	
016 KAR 009:030		
Amended	51 Ky.R. 77	
As Amended	654	
016 KAR 009:080		
Amended	51 Ky.R. 337	
016 KAR 009:100		
Amended	51 Ky.R. 341	
017 KAR 004:030		
Amended	51 Ky.R. 79	
As Amended	654	
017 KAR 006:020	50 Ky.R. 984	
Am Comments	1700	
As Amended	51 Ky.R. 35	
As Amended at IJC	655	
017 KAR 006:030	50 Ky.R. 986	



**LOCATOR INDEX - EFFECTIVE DATES**

<b>Regulation Number</b>	<b>46 Ky.R. Page No.</b>	<b>Effective Date</b>	<b>Regulation Number</b>	<b>46 Ky.R. Page No.</b>	<b>Effective Date</b>
Am Comments	1702		105 KAR 001:190		
As Amended	51 Ky.R. 37		Amended	50 Ky.R. 2265	
As Amended at IJC	657		As Amended	51 Ky.R. 251	
030 KAR 007:011	50 Ky.R. 2110		105 KAR 001:215		
031 KAR 002:010			Amended	50 Ky.R. 1168	
Amended	50 Ky.R. 2247		Am Comments	1704	
As Amended	51 Ky.R. 239		As Amended	1865	6-4-2024
031 KAR 003:041	50 Ky.R. 2319		105 KAR 001:390		
As Amended	51 Ky.R. 240		Amended	50 Ky.R. 1558	
031 KAR 004:031	50 Ky.R. 2321		As Amended	2004	7-2-2024
As Amended	51 Ky.R. 241		105 KAR 001:411		
As Amended	657		Amended	50 Ky.R. 2276	
031 KAR 004:220	50 Ky.R. 2323		As Amended	51 Ky.R. 261	
As Amended	51 Ky.R. 220		105 KAR 001:451		
031 KAR 004:230	51 Ky.R. 818		Amended	51 Ky.R. 356	
031 KAR 005:026			105 KAR 001:455	50 Ky.R. 1614	
Amended	50 Ky.R. 2250		As Amended	2008	7-2-2024
As Amended	51 Ky.R. 244		105 KAR 001:470	50 Ky.R. 1622	
As Amended IJC	492	8-22-2024	As Amended	2015	7-2-2024
031 KAR 005:040	50 Ky.R. 2326		106 KAR 001:131		
As Amended	51 Ky.R. 245		Amended	50 Ky.R. 1563	
040 KAR 010:010	50 Ky.R. 2111		As Amended	2017	7-2-2024
As Amended	51 Ky.R. 246		200 KAR 005:021		
As Amended	494		Amended	51 Ky.R. 82	
040 KAR 012:010	51 Ky.R. 600		As Amended	658	
101 KAR 001:325			200 KAR 014:011		
Amended	50 Ky.R. 1736	7-30-2024	Amended	51 Ky.R. 515	
101 KAR 001:335			200 KAR 014:081		
Amended	50 Ky.R. 2253		Amended	51 Ky.R. 518	
As Amended	51 Ky.R. 495		200 KAR 014:091		
101 KAR 001:345			Amended	51 Ky.R. 520	
Amended	50 Ky.R. 2255		200 KAR 015:010		
101 KAR 001:375			Amended	51 Ky.R. 522	
Amended	50 Ky.R. 2257		201 KAR 001:190		
As Amended	51 Ky.R. 496		Amended	1360	
101 KAR 001:396(r)	50 Ky.R. 2328		As Amended	1869	6-4-2024
101 KAR 002:086	51 Ky.R. 601		201 KAR 001:200	50 Ky.R. 1625	
101 KAR 002:210			As Amended	2020	7-2-2024
Amended	51 Ky.R. 709		201 KAR 002:015		
102 KAR 001:138	51 Ky.R. 430		Amended	50 Ky.R. 2282	
102 KAR 001:320			201 KAR 002:030		
Amended	51 Ky.R. 511		Amended	50 Ky.R. 2284	
102 KAR 001:350			201 KAR 002:050		
Amended	51 Ky.R. 344		Amended	50 Ky.R. 2287	
102 KAR 001:370	51 Ky.R. 431		201 KAR 002:210		
102 KAR 001:380	51 Ky.R. 820		Amended	51 Ky.R. 83	
103 KAR 005:200	51 Ky.R. 603		201 KAR 002:220		
104 KAR 001:010			Amended	50 Ky.R. 2091	
Amended	50 Ky.R. 78		201 KAR 002:370		
As Amended	51 Ky.R. 37		Amended	51 Ky.R. 87	
104 KAR 001:040			201 KAR 002:465	50 Ky.R. 2330	
Amended	50 Ky.R. 80		Am Comments	51 Ky.R. 502	
As Amended	51 Ky.R. 38		201 KAR 002:470	51 Ky.R. 171	
104 KAR 001:050			As Amended	659	
Amended	50 Ky.R. 82		201 KAR 002:480	51 Ky.R. 172	
As Amended	51 Ky.R. 39		201 KAR 005:005		
104 KAR 001:080			Amended	51 Ky.R. 711	
Amended	50 Ky.R. 84		201 KAR 005:010		
As Amended	51 Ky.R. 40		Amended	51 Ky.R. 712	
104 KAR 001:100			201 KAR 005:090		
Amended	50 Ky.R. 86		Amended	51 Ky.R. 714	
105 KAR 001:001			201 KAR 008:533		
Amended	50 Ky.R. 2259		Amended	50 Ky.R. 1739	
As Amended	51 Ky.R. 247		As Amended	2393	6-18-2024
105 KAR 001:120			201 KAR 008:563		
Amended	50 Ky.R. 2262		Amended	51 Ky.R. 525	
As Amended	51 Ky.R. 249		201 KAR 008:610	51 Ky.R. 607	
105 KAR 001:140			201 KAR 010:030		
Amended	51 Ky.R. 346		Amended	50 Ky.R. 1744	7-30-2024
105 KAR 001:142	51 Ky.R. 432		201 KAR 010:040		

**LOCATOR INDEX - EFFECTIVE DATES**

<b>Regulation Number</b>	<b>46 Ky.R. Page No.</b>	<b>Effective Date</b>	<b>Regulation Number</b>	<b>46 Ky.R. Page No.</b>	<b>Effective Date</b>
Amended	50 Ky.R. 1745	7-30-2024	201 KAR 028:240	50 Ky.R. 2488	
201 KAR 010:050			As Amended	51 Ky.R. 499	
Amended	50 Ky.R. 1748	7-30-2024	201 KAR 036:100	50 Ky.R. 1798	6-18-2024
201 KAR 010:070			201 KAR 039:001		
Amended	50 Ky.R. 1749	7-30-2024	Amended	51 Ky.R. 89	
201 KAR 010:080			201 KAR 039:030		
Amended	50 Ky.R. 1750	7-30-2024	Amended	51 Ky.R. 92	
201 KAR 015:030			201 KAR 039:040		
Amended	51 Ky.R. 715		Amended	51 Ky.R. 94	
201 KAR 015:050			201 KAR 039:050		
Amended	51 Ky.R. 717		Amended	51 Ky.R. 96	
201 KAR 015:110			201 KAR 039:060		
Amended	51 Ky.R. 721		Amended	51 Ky.R. 98	
201 KAR 015:120			201 KAR 039:070		
Amended	51 Ky.R. 725		Amended	51 Ky.R. 100	
201 KAR 015:125			201 KAR 039:075	51 Ky.R. 175	
Amended	51 Ky.R. 727		201 KAR 039:090		
201 KAR 016:520			Amended	51 Ky.R. 102	
Amended	51 Ky.R. 729		201 KAR 039:100		
201 KAR 016:530			Amended	51 Ky.R. 105	
Amended	51 Ky.R. 731		201 KAR 039:120		
201 KAR 016:562			Amended	51 Ky.R. 107	
Amended	51 Ky.R. 734		201 KAR 039:130	51 Ky.R. 177	
201 KAR 016:590			201 KAR 046:035		
Amended	51 Ky.R. 736		Amended	51 Ky.R. 739	
201 KAR 016:612	51 Ky.R. 824		201 KAR 046:040		
201 KAR 016:614	51 Ky.R. 826		Amended	51 Ky.R. 741	
201 KAR 018:010			201 KAR 046:060		
Amended	51 Ky.R. 361		Amended	51 Ky.R. 744	
201 KAR 018:030			201 KAR 046:100		
Amended	51 Ky.R. 363		Amended	51 Ky.R. 746	
201 KAR 018:115			202 KAR 002:020		
Amended	51 Ky.R. 530		Amended	51 Ky.R. 538	
201 KAR 018:192			202 KAR 006:090		
Amended	51 Ky.R. 364		Amended	50 Ky.R. 2098	
201 KAR 018:196			As Amended	51 Ky.R. 266	
Amended	51 Ky.R. 368		202 KAR 007:201		
201 KAR 020:056			Amended	51 Ky.R. 748	
Amended	51 Ky.R. 371		202 KAR 007:301		
201 KAR 020:057			Amended	51 Ky.R. 752	
Amended	51 Ky.R. 532		202 KAR 007:330		
201 KAR 020:215			Amended	51 Ky.R. 756	
Amended	51 Ky.R. 374		202 KAR 007:401		
201 KAR 020:230			Amended	51 Ky.R. 760	
Amended	51 Ky.R. 377		202 KAR 007:545		
201 KAR 020:320			Amended	51 Ky.R. 765	
Amended	50 Ky.R. 2092		202 KAR 007:560		
Am Comments	51 Ky.R. 325		Amended	51 Ky.R. 768	
As Amended	497		202 KAR 007:596	51 Ky.R. 828	
201 KAR 20:360			301 KAR 001:001		
Amended	50 Ky.R. 2095	7-30-2004	Amended	50 Ky.R. 2289	
201 KAR 020:370			301 KAR 001:140		
Amended	50 Ky.R. 1753	6-18-2024	Amended	50 Ky.R. 1756	6-6-2024
201 KAR 020:390			301 KAR 001:146		
Amended	51 Ky.R. 379		Amended	50 Ky.R. 1758	6-6-2024
201 KAR 020:506			301 KAR 001:150		
Amended	50 Ky.R. 1754	6-18-2024	Amended	50 Ky.R. 1761	7-18-2024
201 KAR 023:160	50 Ky.R. 524		301 KAR 001:152		
201 KAR 027:006	50 Ky.R. 2481		Amended	50 Ky.R. 2292	
Am Comments	51 Ky.R. 504		As Amended	51 Ky.R. 268	
As Amended	659		301 KAR 001:155		
201 KAR 027:023	50 Ky.R. 2482		Amended	50 Ky.R. 1568	6-6-2024
Am Comments	51 Ky.R. 505		301 KAR 001:201		
As Amended	660		Amended	50 Ky.R. 1768	6-6-2024
201 KAR 027:041	50 Ky.R. 2485		301 KAR 001:410		
Am Comments	51 Ky.R. 507		Amended	51 Ky.R. 109	
As Amended	661		301 KAR 002:122		
201 KAR 027:106	50 Ky.R. 2486		Amended	50 Ky.R. 2101	7-18-2024
Am Comments	51 Ky.R. 509		301 KAR 002:132		
As Amended	661		Amended	50 Ky.R. 1939	

**LOCATOR INDEX - EFFECTIVE DATES**

<b>Regulation Number</b>	<b>46 Ky.R. Page No.</b>	<b>Effective Date</b>	<b>Regulation Number</b>	<b>46 Ky.R. Page No.</b>	<b>Effective Date</b>
As Amended	2397	6-6-2024	As Amended	2044	6-6-2024
301 KAR 002:178			401 KAR 045:250		
Amended	50 Ky.R. 1768		Amended	50 Ky.R. 948	
301 KAR 003:005			As Amended	2047	6-6-2024
Amended	51 Ky.R. 772		401 KAR 047:110		
301 KAR 003:030			Amended	51 Ky.R. 773	
Amended	50 Ky.R. 1944		401 KAR 048:320		
As Amended	2400	6-6-2024	Amended	51 Ky.R. 777	
301 KAR 003:130	50 Ky.R. 1986		401 KAR 050:038	50 Ky.R. 2473	
As Amended	2401	6-6-2024	401 KAR 103:005	50 Ky.R. 1212	
301 KAR 004:020			Am Comments	1908	
Repealed	50 Ky.R. 1437	6-4-2024	As Amended	2047	6-6-2024
301 KAR 004:021(r)	50 Ky.R. 1437	6-4-2024	401 KAR 103:010	50 Ky.R. 1215	
301 KAR 004:050			Am Comments	1910	
Repealed	50 Ky.R. 1437	6-4-2024	As Amended	2048	6-6-2024
301 KAR 005:001			401 KAR 103:020	50 Ky.R. 1218	
Amended	50 Ky.R. 1365		Am Comments	1914	
As Amended	1885	6-4-2024	As Amended	2050	6-6-2024
301 KAR 005:010			401 KAR 103:030	50 Ky.R. 1221	
Amended	50 Ky.R. 1367		Am Comments	1917	
As Amended	1885	6-4-2024	As Amended	2051	6-6-2024
301 KAR 005:020			405 KAR 010:001		
Amended	50 Ky.R. 1368		Amended	51 Ky.R. 540	
As Amended	1886	6-4-2024	405 KAR 010:015		
301 KAR 005:022			Amended	51 Ky.R. 543	
Amended	50 Ky.R. 2296		416 KAR 001:001	50 Ky.R. 1799	6-6-2024
As Amended	51 Ky.R. 271		416 KAR 001:010		
301 KAR 005:040			Amended	50 Ky.R. 1775	6-6-2024
Amended	50 Ky.R. 2103		416 KAR 001:020	50 Ky.R. 1801	6-6-2024
As Amended	51 Ky.R. 40	7-18-2024	500 KAR 001:010		
301 KAR 005:200			Amended	51 Ky.R. 781	
Amended	50 Ky.R. 1371		500 KAR 001:021	51 Ky.R. 831	
As Amended	1887	6-4-2024	500 KAR 001:030		
301 KAR 005:210	50 Ky.R. 2113		Amended	51 Ky.R. 783	
As Amended	51 Ky.R. 41	7-18-2024	500 KAR 013:020		
302 KAR 045:020	50 Ky.R. 1627		Amended	50 Ky.R. 1185	
As Amended	2022	7-2-2024	Am Comments	1729	7-30-2024
401 KAR 045:010			501 KAR 001:080		
Amended	50 Ky.R. 914		Amended	51 Ky.R. 113	
As Amended	2023	6-6-2024	501 KAR 002:060		
401 KAR 045:020			Amended	50 Ky.R. 1946	9-3-2024
Amended	50 Ky.R. 916		501 KAR 003:010		
As Amended	2024	6-6-2024	Amended	50 Ky.R. 1948	9-3-2024
401 KAR 045:025			501 KAR 003:040		
Amended	50 Ky.R. 919		Amended	50 Ky.R. 1950	9-3-2024
As Amended	2025	6-6-2024	501 KAR 003:060		
401 KAR 045:030			Amended	50 Ky.R. 1952	9-3-2024
Amended	50 Ky.R. 921		501 KAR 003:080		
As Amended	2026	6-6-2024	Amended	50 Ky.R. 1954	9-3-2024
401 KAR 045:040			501 KAR 003:090		
Amended	50 Ky.R. 926		Amended	50 Ky.R. 1956	9-3-2024
As Amended	2030	6-6-2024	501 KAR 003:100		
401 KAR 045:050			Amended	50 Ky.R. 1958	9-3-2024
Amended	50 Ky.R. 929		501 KAR 003:140		
As Amended	2032	6-6-2024	Amended	50 Ky.R. 1960	9-3-2024
401 KAR 045:080			501 KAR 006:021(r)	50 Ky.R. 2490	
Amended	50 Ky.R. 932		501 KAR 006:280	50 Ky.R. 2477	
As Amended	2034	6-6-2024	501 KAR 006:300	50 Ky.R. 2491	
401 KAR 045:100			Am Comments	51 Ky.R. 672	
Amended	50 Ky.R. 935		501 KAR 006:310	50 Ky.R. 2493	
As Amended	2035	6-6-2024	501 KAR 006:320	50 Ky.R. 2495	
401 KAR 045:105	50 Ky.R. 994		501 KAR 006:330	50 Ky.R. 2496	
Am Comments	1721		Withdrawn	*	9-23-2024
As Amended	2040	6-6-2024	501 KAR 006:340	50 Ky.R. 2498	
401 KAR 045:140			501 KAR 006:350	50 Ky.R. 2499	
Amended	50 Ky.R. 942		501 KAR 006:360	50 Ky.R. 2501	
As Amended	2043	6-6-2024	501 KAR 006:370	50 Ky.R. 2503	
401 KAR 045:160			501 KAR 006:380	50 Ky.R. 2504	
Amended	50 Ky.R. 944		501 KAR 006:390	50 Ky.R. 2506	
Am Comments	1725		501 KAR 006:400	50 Ky.R. 2507	

**LOCATOR INDEX - EFFECTIVE DATES**

<b>Regulation Number</b>	<b>46 Ky.R. Page No.</b>	<b>Effective Date</b>	<b>Regulation Number</b>	<b>46 Ky.R. Page No.</b>	<b>Effective Date</b>
501 KAR 006:410	50 Ky.R. 2509		739 KAR 001:060	51 Ky.R. 436	
501 KAR 006:420	50 Ky.R. 2510		739 KAR 001:070	51 Ky.R. 438	
501 KAR 006:430	50 Ky.R. 2512		739 KAR 002:160	50 Ky.R. 2115	
Am. Comments	51 Ky.R. 674		As Amended	51 Ky.R. 43	
501 KAR 006:440	50 Ky.R. 2513		780 KAR 002:010		
501 KAR 006:450	50 Ky.R. 2515		Repealed	50 Ky.R. 2333	8-20-2024
501 KAR 006:460	50 Ky.R. 2516		780 KAR 002:031(r)	50 Ky.R. 2333	8-20-2024
Am Comments	51 Ky.R. 675		780 KAR 003:030		
501 KAR 006:470	50 Ky.R. 2518		Amended	50 Ky.R. 2302	
Am Comments	51 Ky.R. 677		As Amended	51 Ky.R. 276	8-20-2024
501 KAR 006:480	50 Ky.R. 2519		780 KAR 003:035		
501 KAR 006:490	50 Ky.R. 2521		Amended	50 Ky.R. 2304	
501 KAR 006:500	50 Ky.R. 2522		As Amended	51 Ky.R. 277	8-20-2024
501 KAR 006:510	50 Ky.R. 2526		780 KAR 003:072		
501 KAR 006:520	50 Ky.R. 2527		Amended	51 Ky.R. 570	
501 KAR 006:530	50 Ky.R. 2530		780 KAR 003:080		
Am Comments	51 Ky.R. 678		Amended	51 Ky.R. 576	
501 KAR 006:540	50 Ky.R. 2532		780 KAR 003:100		
501 KAR 007:010			Amended	50 Ky.R. 2305	
Amended	50 Ky.R. 1962	9-3-2024	As Amended	51 Ky.R. 278	8-20-2024
501 KAR 007:040			780 KAR 003:120		
Amended	50 Ky.R. 1964	9-3-2024	Amended	50 Ky.R. 2308	8-20-2024
501 KAR 007:080			780 KAR 003:130		
Amended	50 Ky.R. 1966	9-3-2024	Amended	50 Ky.R. 2310	
501 KAR 007:090			As Amended	51 Ky.R. 279	8-20-2024
Amended	50 Ky.R. 1967	9-3-2024	780 KAR 006:010		
501 KAR 013:010			Amended	50 Ky.R. 2312	8-20-2024
Amended	50 Ky.R. 1969		780 KAR 006:020		
As Amended	51 Ky.R. 273		Amended	50 Ky.R. 2314	8-20-2024
600 KAR 004:010			787 KAR 001:360		
Amended	51 Ky.R. 549		Amended	51 Ky.R. 791	
601 KAR 009:220			803 KAR 025:089	50 Ky.R. 2478	
Amended	51 Ky.R. 114		806 KAR 017:570		
As Amended	662		Amended	51 Ky.R. 120	
601 KAR 012:080	50 Ky.R. 1628		807 KAR 005:078		
As Amended	2053		Amended	50 Ky.R. 2118	
As Amended IJC	51 Ky.R. 42	6-4-2024	As Amended	51 Ky.R. 44	7-18-2024
601 KAR 023:040	50 Ky.R. 1988		808 KAR 003:050		
As Amended	51 Ky.R. 42		Amended	51 Ky.R. 382	
As Amended at IJC	663		808 KAR 009:010		
603 KAR 005:050			Amended	51 Ky.R. 793	
Amended	51 Ky.R. 785		808 KAR 010:260		
603 KAR 005:066			Amended	50 Ky.R. 2316	
Amended	51 Ky.R. 787		As Amended	51 Ky.R. 280	
603 KAR 005:350			As Amended at IJC	667	
Amended	51 Ky.R. 789		808 KAR 015:050	51 Ky.R. 439	
702 KAR 001:116			810 KAR 004:070		
Amended	51 Ky.R. 551		Amended	50 Ky.R. 1374	
702 KAR 003:320			As Amended	1890	6-4-2024
Amended	51 Ky.R. 116		810 KAR 007:040		
As Amended	664		Amended	50 Ky.R. 2105	
702 KAR 004:090			As Amended	51 Ky.R. 48	
Amended	51 Ky.R. 554		815 KAR 007:120		
703 KAR 005:080			Amended	50 Ky.R. 1973	
Amended	51 Ky.R. 557		As Amended	51 Ky.R. 500	
703 KAR 005:240			815 KAR 007:125		
Amended	51 Ky.R. 559		Amended	50 Ky.R. 1976	
704 KAR 003:095			As Amended	51 Ky.R. 501	
Amended	50 Ky.R. 1572	6-4-2024	900 KAR 001:009		
704 KAR 003:313(r)	51 Ky.R. 179		Amended	51 Ky.R. 578	
704 KAR 003:305			900 KAR 007:030		
Amended	51 Ky.R. 562		Amended	50 Ky.R. 1379	6-18-2024
704 KAR 003:535			900 KAR 007:040		
Amended	51 Ky.R. 567		Amended	50 Ky.R. 1382	6-18-2024
704 KAR 003:550	50 Ky.R. 2332		902 KAR 002:020		
As Amended	51 Ky.R. 275	8-20-2024	Amended	51 Ky.R. 795	
704 KAR 007:140			902 KAR 002:040		
Amended	50 Ky.R. 2300		Amended	51 Ky.R. 804	
As Amended	51 Ky.R. 276	8-20-2024	902 KAR 004:030		
704 KAR 008:130	51 Ky.R. 180		Amended	51 Ky.R. 138	

**LOCATOR INDEX - EFFECTIVE DATES**

<b>Regulation Number</b>	<b>46 Ky.R. Page No.</b>	<b>Effective Date</b>	<b>Regulation Number</b>	<b>46 Ky.R. Page No.</b>	<b>Effective Date</b>
As Amended	668		910 KAR 002:020		
902 KAR 004:130			Recodified as 922 KAR 005:150		7-23-2024
Recodified as 922 KAR 2:130		7-23-2024	910 KAR 002:030		
902 KAR 010:120			Recodified as 922 KAR 005:160		7-23-2024
Amended	51 Ky.R. 385		910 KAR 002:040		
902 KAR 010:122(r)	51 Ky.R. 440		Recodified as 922 KAR 005:170		7-23-2024
902 KAR 010:123	51 Ky.R. 441		910 KAR 002:060		
902 KAR 010:125	51 Ky.R. 448		Recodified as 922 KAR 005:180		7-23-2024
902 KAR 010:127	51 Ky.R. 152		915 KAR 001:001	50 Ky.R. 1805	
902 KAR 020:036			Am Comments	2413	
Amended	50 Ky.R. 1576		As Amended	51 Ky.R. 287	9-3-2024
As Amended	51 Ky.R. 51	7-30-2024	915 KAR 001:010	50 Ky.R. 2550	
902 KAR 020:048			Am Comments	51 Ky.R. 696	
Amended	50 Ky.R. 1385		915 KAR 001:020	50 Ky.R. 2554	
Am Comments	2063	6-18-2024	Am Comments	51 Ky.R. 700	
902 KAR 020:086			915 KAR 001:030	50 Ky.R. 1808	
Amended	50 Ky.R. 1396		Am Comments	2416	
Am Comments	2074	6-18-2024	As Amended	51 Ky.R. 288	8-28-2024
902 KAR 028:010			915 KAR 001:040	50 Ky.R. 1815	
Amended	51 Ky.R. 806		Am Comments	2423	
902 KAR 028:020			As Amended	51 Ky.R. 294	8-28-2024
Amended	51 Ky.R. 809		915 KAR 001:050	50 Ky.R. 1821	
902 KAR 028:030			As Amended	51 Ky.R. 300	8-28-2024
Amended	51 Ky.R. 812		915 KAR 001:060	50 Ky.R. 1823	
902 KAR 0028:040			Am Comments	2430	
Amended	51 Ky.R. 816		As Amended	51 Ky.R. 301	8-28-2024
902 KAR 030:200			915 KAR 001:070	50 Ky.R. 1829	
Amended	51 Ky.R. 398		Am Comments	2437	
902 KAR 045:001	50 Ky.R. 2535		As Amended	51 Ky.R. 306	8-28-2024
Am Comments	51 Ky.R. 68		915 KAR 001:080	50 Ky.R. 1836	
902 KAR 045:012	50 Ky.R. 2537		Am Comments	2444	
Am Comments	51 Ky.R. 682		As Amended	51 Ky.R. 312	8-28-2024
902 KAR 045:021	50 Ky.R. 2540		915 KAR 001:090	50 Ky.R. 1839	
Am Comments	51 Ky.R. 685		Am Comments	2447	
902 KAR 045:031	50 Ky.R. 2545		As Amended	51 Ky.R. 314	8-28-2024
Am Comments	51 Ky.R. 690		915 KAR 001:100	50 Ky.R. 1842	
907 KAR 001:044			Am Comments	2450	
Amended	50 Ky.R. 1409		As Amended	51 Ky.R. 315	8-28-2024
Am Comments	1920		915 KAR 001:110	50 Ky.R. 1845	
907 KAR 001:061			Am Comments	2453	
Amended	50 Ky.R. 1414		As Amended	51 Ky.R. 317	8-28-2024
As Amended	2053	7-2-2024	915 KAR 002:001	50 Ky.R. 2122	8-28-2024
907 KAR 001:065			915 KAR 002:010	50 Ky.R. 2124	
Amended	50 Ky.R. 1779	6-18-2024	Am. Comments	51 Ky.R. 70	
907 KAR 001:479			As Amended	320	8-28-2024
Amended	50 Ky.R. 1786	6-18-2024	915 KAR 002:020	50 Ky.R. 2128	8-28-2024
907 KAR 003:066			915 KAR 002:030	50 Ky.R. 2130	
Amended	50 Ky.R. 1417	6-18-2024	Am. Comments	51 Ky.R. 74	
907 KAR 010:015			As Amended	323	8-28-2024
Amended	51 Ky.R. 581		915 KAR 002:040	50 Ky.R. 2132	
907 KAR 013:010			As Amended	51 Ky.R. 324	8-28-2024
Amended	50 Ky.R. 1793	6-18-2024	921 KAR 002:015		
907 KAR 013:015			Amended	50 Ky.R. 1589	
Amended	50 Ky.R. 1795	6-18-2024	As Amended	51 Ky.R. 58	7-30-2024
907 KAR 015:005			921 KAR 003:030		
Amended	50 Ky.R. 1419		Amended	51 Ky.R. 588	
Am Comments	1925		922 KAR 001:050		
907 KAR 015:100	50 Ky.R. 2335		Amended	51 Ky.R. 142	
Withdrawn		6-5-2024	922 KAR 001:060		
907 KAR 020:035			Amended	51 Ky.R. 146	
Amended	51 Ky.R. 584		922 KAR 001:140		
908 KAR 001:410	50 Ky.R. 1441		Amended	50 Ky.R. 1595	
Am Comments	2086	7-30-2024	Am. Comments	2223	
910 KAR 001:170			As Amended	2402	6-19-2024
Amended	50 Ky.R. 1584		922 KAR 001:145	50 Ky.R. 1636	
As Amended	2055	7-2-2024	Am Comments	2226	
910 KAR 001:270			As Amended	2404	6-19-2024
Amended	50 Ky.R. 1978		922 KAR 001:350		
Am. Comments	51 Ky.R. 63		Amended	51 Ky.R. 405	
As Amended	281		922 KAR 001:470		

## LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	46 Ky.R. Page No.	Effective Date	Regulation Number	46 Ky.R. Page No.	Effective Date
Amended	51 Ky.R. 590				
922 KAR 001:490					
Amended	51 Ky.R. 415				
922 KAR 001:495					
Amendment	50 Ky.R. 1599				
Am Comments	2229	6-19-2024			
922 KAR 001:565					
Amended	50 Ky.R. 1603				
Am Comments	2233	6-19-2024			
922 KAR 002:090					
Amended	51 Ky.R. 149				
922 KAR 002:120					
Amended	51 Ky.R. 158				
922 KAR 2:130					
Recodified from 902 KAR 004:130		7-23-2024			
922 KAR 002:160					
Amended	51 Ky.R. 420				
922 KAR 005:070					
Amended	50 Ky.R. 1606				
As Amended	2059	6-19-2024			
922 KAR 005:120					
Amended	50 Ky.R. 1610				
As Amended	2406	6-19-2024			
Amendment	51 Ky.R. 593				
922 KAR 005:150					
Recodified from 910 KAR 002:020		7-23-2024			
922 KAR 005:160					
Recodified from 910 KAR 002:030		7-23-2024			
922 KAR 005:170					
Recodified from 910 KAR 002:040		7-23-2024			
922 KAR 005:180					
Recodified from 910 KAR 002:060		7-23-2024			

-----  
**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
2.015	922 KAR 001:350	78.545	105 KAR 001:142
12.020	603 KAR 005:350	78.625	105 KAR 001:142
12.355	202 KAR 007:201	78.782	105 KAR 001:142
	202 KAR 007:301	83A.087	500 KAR 001:010
	202 KAR 007:330		500 KAR 001:021
	202 KAR 007:401	87A.088	500 KAR 001:010
13B	016 KAR 001:030		500 KAR 001:021
	016 KAR 002:030	103.200	200 KAR 015:010
	201 KAR 039:060	103.2101	200 KAR 015:010
	902 KAR 010:120	103.282	200 KAR 015:010
	922 KAR 002:090	103.286	200 KAR 015:010
15.266	040 KAR 012:010	116.048	921 KAR 003:030
15.268	040 KAR 012:010	117.383	031 KAR 004:230
15.272	040 KAR 012:010	131.130	103 KAR 005:200
15.274	040 KAR 012:010	132.191	103 KAR 005:200
16.505 - 16.652	105 KAR 001:140	132.420	103 KAR 005:200
16.645	105 KAR 001:142	148.0222	603 KAR 005:350
17.165	922 KAR 001:470	150.010	301 KAR 001:410
17.500-580	922 KAR 001:490		301 KAR 003:005
18A.095	105 KAR 001:140	150.070	301 KAR 001:410
18A.10	105 KAR 001:140	150.170	301 KAR 003:005
18A.030	101 KAR 002:086	150.175	301 KAR 001:410
	101 KAR 002:210		301 KAR 003:005
18A.032	101 KAR 002:086	150.235	301 KAR 001:410
18A.095	900 KAR 001:009	150.390	301 KAR 003:005
18A.110	101 KAR 002:086	150.445	301 KAR 001:410
18A.225	101 KAR 002:210	150.620	301 KAR 001:410
	101 KAR 002:210E	150.990	301 KAR 001:410
18A.2254	101 KAR 002:210	151	922 KAR 002:120
	101 KAR 002:210E	156.070	702 KAR 004:090
27A.090	922 KAR 001:490		704 KAR 003:313
36.042	703 KAR 005:240		704 KAR 003:535
38.030	202 KAR 007:330		704 KAR 008:130
	202 KAR 007:330E	156.111	016 KAR 009:080
39	202 KAR 007:330	156.160	702 KAR 004:090
	202 KAR 007:330E		704 KAR 003:305
39A.050	202 KAR 007:330		704 KAR 003:313
	202 KAR 007:330E		704 KAR 003:535
40.360	017 KAR 004:030		704 KAR 008:130
40.362	017 KAR 004:030	156.808	780 KAR 003:072
40.364	017 KAR 004:030		780 KAR 003:080
40.366	017 KAR 004:030	157	922 KAR 002:090
42.014	200 KAR 014:091	158.030	922 KAR 002:090
42.500	200 KAR 014:011		922 KAR 002:120
	200 KAR 014:081	158.070	704 KAR 003:535
	200 KAR 014:091	158.140	704 KAR 003:305
42.505-545	200 KAR 014:091	158.141	704 KAR 003:305
42.520	200 KAR 014:011	158.142	704 KAR 003:305
	200 KAR 014:081	158.1411	703 KAR 003:305
42.525	200 KAR 014:011	158.1413	703 KAR 003:305
	200 KAR 014:081		704 KAR 003:535
45A.045	200 KAR 005:021	158.150	703 KAR 005:240
45A.425	702 KAR 004:090	158.4416	704 KAR 003:535
61.315	500 KAR 001:010	158.622	704 KAR 003:305
	500 KAR 001:021	158.645	703 KAR 003:305
	500 KAR 001:030		704 KAR 003:313
61.505 - 61.705	105 KAR 001:140		704 KAR 008:130
61.510	105 KAR 001:451	158.6451	703 KAR 003:305
61.543	105 KAR 001:451		703 KAR 005:240
61.552	105 KAR 001:451		704 KAR 003:313
61.598	105 KAR 001:142		704 KAR 003:535
61.645	105 KAR 001:142		704 KAR 008:130
	105 KAR 001:451	158.6453	703 KAR 005:080
61.675	105 KAR 001:142		703 KAR 005:240
	105 KAR 001:451		704 KAR 003:313
61.685	105 KAR 001:451		704 KAR 008:130
61.870 - 61.884	922 KAR 001:350	158.6455	703 KAR 005:080
61.876	922 KAR 001:470		703 KAR 005:240
61.5991	105 KAR 001:451	160.151	922 KAR 001:470
72.020	202 KAR 007:401	160.160	702 KAR 004:090
78.510 - 78.852	105 KAR 001:140	160.180	702 KAR 001:116

KRS SECTION	REGULATION	KRS SECTION	REGULATION
160.290	704 KAR 003:313		922 KAR 002:120
	704 KAR 008:130	189.125	922 KAR 001:350
160.345	016 KAR 009:080		922 KAR 002:120
	704 KAR 003:535	189.222	603 KAR 005:066
160.380	016 KAR 001:030	189.281	603 KAR 005:350
	704 KAR 003:535	189.337	603 KAR 005:050
	922 KAR 001:470	189.390	603 KAR 005:350
160.431	702 KAR 003:320	189.515	603 KAR 005:350
161.010 - 161.100	016 KAR 001:030	189.520	603 KAR 005:350
161.020	016 KAR 002:030	189.910-189.950	202 KAR 007:560
	016 KAR 007:010	190	601 KAR 009:220
	016 KAR 009:030	194A.005	900 KAR 001:009
161.020	702 KAR 003:320		922 KAR 001:350
161.027	016 KAR 009:080		922 KAR 001:490
161.028	016 KAR 007:011	194A.050	902 KAR 004:030
	016 KAR 009:010	194A.060	922 KAR 001:350
	016 KAR 009:030		922 KAR 002:160
	016 KAR 009:100		922 KAR 005:120
161.028	016 KAR 002:030	194A.062	900 KAR 001:009
161.028	016 KAR 009:080	194A.380-383	922 KAR 001:470
161.030	016 KAR 002:030	194A.505	907 KAR 020:035
	016 KAR 007:011	194A.540	201 KAR 020:215
	016 KAR 009:010	198A.740 - 198A.750	202 KAR 002:020
	016 KAR 009:030	199.011	922 KAR 001:350
	016 KAR 009:100		922 KAR 001:490
161.030	016 KAR 009:080		922 KAR 002:090
161.048	016 KAR 009:010		922 KAR 002:120
	016 KAR 009:030	199.430	922 KAR 001:350
	016 KAR 009:080	199.462	922 KAR 001:490
	016 KAR 009:100	199.466	922 KAR 001:470
161.100	016 KAR 002:030	199.470	922 KAR 001:490
161.102	016 KAR 001:030	199.500	922 KAR 001:060
161.120	016 KAR 001:030	199.502	922 KAR 001:060
161.1211	016 KAR 009:080	199.555	922 KAR 001:050
161.220	102 KAR 001:320		922 KAR 001:060
	102 KAR 001:350	199.557	922 KAR 001:060
	102 KAR 001:370	199.802	922 KAR 001:350
	102 KAR 001:380	199.894	922 KAR 002:090
161.440	102 KAR 001:138		922 KAR 002:120
	102 KAR 001:350		922 KAR 002:160
161.507	102 KAR 001:350	199.895	922 KAR 002:090
161.515	102 KAR 001:350	199.8951	922 KAR 002:120
161.545	102 KAR 001:350	199.896	922 KAR 001:470
161.5465	102 KAR 001:350		922 KAR 002:120
161.547	102 KAR 001:350		922 KAR 002:160
161.548	102 KAR 001:350	199.896-898	922 KAR 002:090
161.549	102 KAR 001:350	199.8962	922 KAR 002:120
161.580	102 KAR 001:138	199.898	922 KAR 002:160
161.633	102 KAR 001:380	199.8982	922 KAR 001:470
161.634	102 KAR 001:380		922 KAR 002:160
161.635	102 KAR 001:370	199.899	922 KAR 002:160
	102 KAR 001:380	200.672	902 KAR 030:200
161.636	102 KAR 001:370	202B.010	922 KAR 001:050
	102 KAR 001:380	205.520	907 KAR 010:015
161.700	102 KAR 001:320		907 KAR 020:035
	102 KAR 001:380	205.619	907 KAR 020:035
161.716	102 KAR 001:320	205.637	907 KAR 010:015
	102 KAR 001:380	209	922 KAR 005:120
162.010	702 KAR 004:090	211.015	902 KAR 010:120
164.7011	013 KAR 006:010		902 KAR 010:123
	013 KAR 006:020		902 KAR 010:125
164.7013	013 KAR 006:010		902 KAR 010:127
	013 KAR 006:020	211.090	902 KAR 004:030
164.7015	013 KAR 006:010		902 KAR 010:123
164.7017	013 KAR 006:020		902 KAR 010:127
164A.580	739 KAR 001:060	211.180	902 KAR 004:030
	739 KAR 001:070		902 KAR 010:122
164A.590	739 KAR 001:060	211.205	902 KAR 010:120
164A.595	739 KAR 001:070		902 KAR 010:125
164A.600	739 KAR 001:070	211.210	902 KAR 010:123
174.020	603 KAR 005:350		902 KAR 010:127
183	500 KAR 001:021	211.220	902 KAR 010:123
183.881	500 KAR 001:010		902 KAR 010:127
186	601 KAR 009:220	211.350 - 211.380	922 KAR 002:120



KRS SECTION	REGULATION	KRS SECTION	REGULATION
211.490	902 KAR 028:010		401 KAR 048:320
	902 KAR 028:020	224.40-650	401 KAR 047:110
	902 KAR 028:030		401 KAR 048:320
	902 KAR 028:040	224.43-010	401 KAR 048:320
211.492	902 KAR 028:010	224.43-020	401 KAR 048:320
	902 KAR 028:020	224.43-040	401 KAR 047:110
	902 KAR 028:030	224.43-020	401 KAR 047:110
	902 KAR 028:040	224.43-070	401 KAR 047:110
211.494	902 KAR 028:010		401 KAR 048:320
	902 KAR 028:020	224.43-310	401 KAR 047:110
	902 KAR 028:030		401 KAR 048:320
	902 KAR 028:040	224.43-315	401 KAR 047:110
211.496	902 KAR 028:010		401 KAR 048:320
	902 KAR 028:020	224.43-330	401 KAR 047:110
	902 KAR 028:030		401 KAR 048:320
	902 KAR 028:040	224.43-340	401 KAR 047:110
211.684	922 KAR 001:470		401 KAR 048:320
	922 KAR 001:490	224.43-345	401 KAR 047:110
211.990	902 KAR 010:120		401 KAR 048:320
	902 KAR 010:123	224.43-350	401 KAR 047:110
	902 KAR 010:127		401 KAR 048:320
214.010	922 KAR 002:090	224.70-100	401 KAR 047:110
214.036	922 KAR 002:090		401 KAR 048:320
	922 KAR 002:160	224.70-110	401 KAR 047:110
214.155	902 KAR 003:040		401 KAR 048:320
214.625	902 KAR 002:020	224.99-010	401 KAR 047:110
214.645	902 KAR 002:020		401 KAR 048:320
214.990	902 KAR 002:020	224.99-020	401 KAR 047:110
215.520	902 KAR 002:020		401 KAR 048:320
216.2955	922 KAR 005:120	229.011	201 KAR 027:006
216.380	907 KAR 010:015		201 KAR 027:023
216B.015	902 KAR 002:020	229.025	201 KAR 027:006
	902 KAR 002:040		201 KAR 027:023
	922 KAR 005:120		201 KAR 027:041
216B.020	202 KAR 007:545		201 KAR 027:106
217	922 KAR 002:120	229.031	201 KAR 027:006
217.015	201 KAR 002:210		201 KAR 027:106
218A.010	016 KAR 001:030	229.035	201 KAR 027:006
	201 KAR 002:210	229.061	201 KAR 027:006
218A.171	201 KAR 020:057	229.091	201 KAR 027:106
218A.172	201 KAR 020:057	229.155	201 KAR 027:006
218A.202	201 KAR 020:057		201 KAR 027:106
218A.205	201 KAR 005:005	229.171	201 KAR 027:006
	201 KAR 005:010		201 KAR 027:023
	201 KAR 020:056		201 KAR 027:041
	201 KAR 020:057		201 KAR 027:106
	201 KAR 020:215	229.190	201 KAR 027:006
224.01-010	401 KAR 047:110		201 KAR 027:106
	401 KAR 048:320	229.200	201 KAR 027:006
224.10-100	401 KAR 047:110		201 KAR 027:023
	401 KAR 048:320		201 KAR 027:106
224.10-105	401 KAR 047:110	229.991	201 KAR 027:006
	401 KAR 048:320	446.010	500 KAR 001:010
224.40-100	401 KAR 047:110	857.160	201 KAR 016:562
	401 KAR 048:320	258.015	922 KAR 001:350
224.40-110	401 KAR 047:110	258.035	922 KAR 001:350
	401 KAR 048:320	258.065	902 KAR 002:020
224.40-120	401 KAR 047:110	258.990	902 KAR 002:020
	401 KAR 048:320	278.030	807 KAR 005:015E
224.40-305	401 KAR 047:110	278.040	807 KAR 005:015E
	401 KAR 048:320	278.5464	807 KAR 005:015E
224.40-310	401 KAR 047:110	286.3-146	808 KAR 015:050
	401 KAR 048:320	286.6-095	808 KAR 003:050
224.40-315	401 KAR 047:110	286.6-100	808 KAR 003:050
	401 KAR 048:320	286.6-225	808 KAR 003:050
224.40-320	401 KAR 047:110	286.6-585	808 KAR 003:050
	401 KAR 047:320	286.6-715	808 KAR 003:050
224.40-325	401 KAR 047:110	286.9-010	808 KAR 009:010
	401 KAR 048:320	286.9-075	808 KAR 009:010
224.40-330	401 KAR 047:110	286.9-100	808 KAR 009:010
	401 KAR 048:320	286.9-140	808 KAR 009:010
224.40-340	401 KAR 047:110	304.2-310	806 KAR 017:570
	401 KAR 048:320	304.2-320	806 KAR 017:570
224.40-605	401 KAR 047:110	304.3-240	806 KAR 017:570

KRS SECTION	REGULATION	KRS SECTION	REGULATION
304.12-020	806 KAR 017:570		202 KAR 007:401
304.14-120	806 KAR 017:570	311A.130	202 KAR 007:301
304.14-640	907 KAR 020:035	311A.135	202 KAR 007:401
301.14-642	907 KAR 020:035	311A.140	202 KAR 007:201
304.14-500 - 3014.14-550	806 KAR 017:570		202 KAR 007:301
304.17-311	806 KAR 017:570		202 KAR 007:330
304.17A-005	806 KAR 017:570	311A.142	202 KAR 007:401
304.18-034	806 KAR 017:570	311A.145	202 KAR 007:201
304.28-205	806 KAR 017:570		202 KAR 007:301
304.32-275	806 KAR 017:570		202 KAR 007:330
304.33-030	806 KAR 017:570	311A.150	202 KAR 007:330
304.39-110	603 KAR 005:350	311A.160	202 KAR 007:201
304.40-075	201 KAR 008:563	311A.165	202 KAR 007:301
309.300	201 KAR 039:001	311A.170	202 KAR 007:401
309.301	201 KAR 039:001		202 KAR 007:596
	201 KAR 039:130	311A.190	202 KAR 007:401
309.304	201 KAR 039:001		202 KAR 007:545
	201 KAR 039:030		202 KAR 007:560
	201 KAR 039:050		202 KAR 007:596
	201 KAR 039:075	311A.195	202 KAR 007:330
	201 KAR 039:090	311B.020	201 KAR 046:040
	201 KAR 039:100	311B.050	201 KAR 046:040
	201 KAR 039:120		201 KAR 046:060
309.306	201 KAR 039:040		201 KAR 046:100
309.312	201 KAR 039:030	311B.080	201 KAR 046:035
	201 KAR 039:040	311B.100	201 KAR 046:040
	201 KAR 039:050	311B.110	201 KAR 046:040
	201 KAR 039:070		201 KAR 046:060
	201 KAR 039:075	311B.120	201 KAR 046:040
309.314	201 KAR 039:040	311B.130	201 KAR 046:060
	201 KAR 039:050	311B.180	201 KAR 046:040
309.316	201 KAR 039:100	311B.190	201 KAR 046:040
309.318	201 KAR 039:060	313.021	201 KAR 007:610
	201 KAR 039:100	313.030	201 KAR 008:563
	201 KAR 039:120	313.040	201 KAR 008:563
309.460	201 KAR 008:610	313.060	201 KAR 008:563
309.462	201 KAR 008:610	313.080	201 KAR 008:563
309.464	201 KAR 008:610	313.130	201 KAR 008:563
311.282	902 KAR 002:020	313.254	201 KAR 008:563
311.571	902 KAR 002:020	314.011	201 KAR 020:056
311.646	922 KAR 002:120		201 KAR 020:057
311.720	922 KAR 001:350		201 KAR 020:215
311.840	922 KAR 001:350		201 KAR 020:390
311-314	902 KAR 002:040		922 KAR 001:350
311A.010	202 KAR 007:201		922 KAR 002:090
	202 KAR 007:301		922 KAR 002:120
	202 KAR 007:330		922 KAR 002:160
	202 KAR 007:596	314.025	201 KAR 020:390
	902 KAR 028:010	314.026	201 KAR 020:390
311A.020	202 KAR 007:330	314.027	201 KAR 020:390
	202 KAR 007:596	314.039	201 KAR 020:057
311A.025	202 KAR 007:201	314.041	201 KAR 020:230
	202 KAR 007:301	314.042	201 KAR 020:056
	202 KAR 007:330		201 KAR 020:057
	202 KAR 007:401	314.04	201 KAR 020:215
	202 KAR 007:596	314.051	201 KAR 020:230
311A.030	202 KAR 007:201	314.071	201 KAR 030:230
	202 KAR 007:401	314.073	201 KAR 020:215
	202 KAR 007:545		201 KAR 020:230
	202 KAR 007:560	314.091	201 KAR 020:056
	202 KAR 007:596		201 KAR 020:057
311A.050-090	202 KAR 007:201	314.103	201 KAR 020:056
	202 KAR 007:301	314.109	201 KAR 020:056
	202 KAR 007:330	314.161	201 KAR 020:056
311A.050-100	202 KAR 007:401	314.193	201 KAR 020:057
311A.095	202 KAR 007:201	314.195	201 KAR 020:057
	202 KAR 007:301	314.475	201 KAR 020:056
	202 KAR 007:330		201 KAR 020:057
311A.100	202 KAR 007:201	314.991	201 KAR 020:215
	202 KAR 007:301	315.010	201 KAR 002:210
	202 KAR 007:330		201 KAR 002:370
311A.120	202 KAR 007:201		902 KAR 002:020
	202 KAR 007:301	315.020	201 KAR 002:210
	202 KAR 007:330		201 KAR 002:370

KRS SECTION	REGULATION	KRS SECTION	REGULATION
	201 KAR 002:480	322.160	201 KAR 018:115
315.030	201 KAR 002:370	322.180	201 KAR 018:115
315.035	201 KAR 002:470		201 KAR 018:192
315.036	201 KAR 002:470		201 KAR 018:196
315.121	201 KAR 002:370	322.190	201 KAR 018:192
315.191	201 KAR 002:210		201 KAR 018:196
315.310	201 KAR 002:480	322.220	201 KAR 018:115
315.340	201 KAR 002:470	322.290	201 KAR 018:192
315.350	201 KAR 002:470		201 KAR 018:196
315.405	201 KAR 002:470	333.020	902 KAR 002:020
315.4104	201 KAR 002:470	333.130	902 KAR 002:020
316.010	201 KAR 015:110	335B.010	900 KAR 001:009
316.030	201 KAR 015:050	335B.020	900 KAR 001:009
	201 KAR 015:110	337	780 KAR 003:072
316.125	201 KAR 015:030	337.275	922 KAR 002:160
	201 KAR 015:110	341.413	787 KAR 001:360
316.127	201 KAR 015:110	350	405 KAR 010:001
316.130	201 KAR 015:030	350.020	405 KAR 010:015
	201 KAR 015:110	350.060	405 KAR 010:015
316.132	201 KAR 015:030	350.062	405 KAR 010:015
316.140	201 KAR 015:030	350.064	405 KAR 010:015
	201 KAR 015:120	350.093	405 KAR 010:015
316.165	201 KAR 015:125	350.095	405 KAR 010:015
316.260	201 KAR 015:110	350.100	405 KAR 010:015
318	922 KAR 002:120	350.151	405 KAR 010:015
320.220	201 KAR 005:005	350.465	405 KAR 010:015
	201 KAR 005:010	350.503	405 KAR 010:015
320.250	201 KAR 005:005	403.190	102 KAR 001:320
	201 KAR 005:010		102 KAR 001:380
320.270	201 KAR 005:005	403.352	922 KAR 001:470
	201 KAR 005:010	424.170	702 KAR 004:090
320.280	201 KAR 005:090	439.310 - 439.440	501 KAR 001:080
320.310	201 KAR 005:005	446.010	500 KAR 001:021
321.181	902 KAR 002:020	446.400	202 KAR 007:401
	201 KAR 016:562	527.070	922 KAR 002:120
321.187	201 KAR 016:612	527.100	922 KAR 001:350
321.190	201 KAR 016:590	527.110	922 KAR 001:350
	201 KAR 016:612	532.040 - 532.060	501 KAR 001:080
321.193	201 KAR 016:520	532.400	501 KAR 001:080
	201 KAR 016:530	600.020	922 KAR 001:350
321.203	201 KAR 016:612		922 KAR 001:470
321.205	201 KAR 016:612		922 KAR 001:490
321.207	201 KAR 016:562		922 KAR 002:160
	201 KAR 016:612	605.090	922 KAR 001:350
321.208	201 KAR 016:612		922 KAR 001:490
321.211	201 KAR 016:590	610.110	922 KAR 001:350
	201 KAR 016:612	605.120	922 KAR 001:490
321.221	201 KAR 016:590		922 KAR 002:160
	201 KAR 016:612	605.130	922 KAR 001:490
321.235	201 KAR 016:562	620.020	201 KAR 020:215
	201 KAR 016:590		922 KAR 002:090
	201 KAR 016:612	620.030	922 KAR 001:350
321.236	201 KAR 016:612		922 KAR 002:090
321.352	201 KAR 016:614		922 KAR 002:120
321.356	201 KAR 016:612	620.020	922 KAR 002:160
321.441	201 KAR 016:520	620.050	922 KAR 001:350
	201 KAR 016:530		922 KAR 001:470
	201 KAR 016:590		922 KAR 001:490
	201 KAR 016:612	620.050 - 620.120	922 KAR 001:470
321.442	201 KAR 016:590	620.051	922 KAR 001:470
	201 KAR 016:612	620.140	922 KAR 001:350
321.443	201 KAR 016:612	620.360	922 KAR 001:350
321.351	201 KAR 016:562	620.363	922 KAR 001:350
321.990	201 KAR 016:612	625	922 KAR 001:050
	201 KAR 016:614		922 KAR 001:060
322.010	201 KAR 018:010		922 KAR 001:490
	201 KAR 018:030	655.601-603	603 KAR 005:050
322.040	201 KAR 018:010	2 C.F.R.	702 KAR 004:090
	201 KAR 018:030	7 C.F.R.	405 KAR 010:001
322.040-050	201 KAR 018:115		921 KAR 003:030
322.045	201 KAR 018:010		922 KAR 002:160
	201 KAR 018:030	12 C.F.R.	808 KAR 003:050
322.120	201 KAR 018:010	16 C.F.R.	201 KAR 015:110
	201 KAR 018:030		603 KAR 005:350

KRS SECTION	REGULATION	KRS SECTION	REGULATION
	922 KAR 001:350	52 U.S.C. 20506	921 KAR 003:030
	922 KAR 002:120	EO 2016-270	201 KAR 027:006
17 C.F.R.	200 KAR 014:011	Ky. Acts 2022 Ch. 199	787 KAR 001:360
20 C.F.R.	922 KAR 002:160	Ky. Const. 172, 174	103 KAR 005:200
23 C.F.R.	603 KAR 005:050	Pub. L. 108-173	806 KAR 017:570
	603 KAR 005:066	Pub. L. 111-5	200 KAR 015:010
26 C.F.R.	900 KAR 001:090	Pub. L. 114-10	806 KAR 017:570
29 C.F.R.	202 KAR 007:596	Pub. L. 114-94	600 KAR 004:010
	780 KAR 003:072	Pub. L. 116-127	806 KAR 017:570
	902 KAR 010:123	Pub. L. 117-328	806 KAR 017:570
30 C.F.R.	405 KAR 010:001		
30 C.F.R.	405 KAR 010:015		
34 C.F.R.	016 KAR 009:080		
	016 KAR 009:100		
	902 KAR 030:200		
	922 KAR 002:160		
40 C.F.R.	405 KAR 010:001		
41 C.F.R.	105 KAR 001:140		
42 C.F.R.	105 KAR 001:140		
	201 KAR 002:210		
	806 KAR 017:570		
	907 KAR 010:015		
	922 KAR 001:350		
45 C.F.R.	105 KAR 001:140		
	806 KAR 017:570		
	902 KAR 028:010		
	922 KAR 001:060		
	922 KAR 001:350		
	922 KAR 001:490		
	922 KAR 002:090		
	922 KAR 002:120		
	922 KAR 002:160		
49 C.F.R.	600 KAR 004:010		
	922 KAR 002:120		
74 F.R. 18808	806 KAR 017:570		
7 U.S.C.	921 KAR 003:030		
	922 KAR 002:160		
8 U.S.C.	922 KAR 001:350		
10 U.S.C.	017 KAR 004:030		
	202 KAR 007:201		
	202 KAR 007:301		
	202 KAR 007:330		
15 U.S.C.	200 KAR 014:011		
	600 KAR 004:010		
	902 KAR 010:123		
20 U.S.C.	808 KAR 003:050		
23 U.S.C.	600 KAR 004:010		
25 U.S.C.	922 KAR 002:160		
26 U.S.C.	102 KAR 001:320		
	102 KAR 001:380		
	105 KAR 001:140		
	200 KAR 014:011		
	200 KAR 015:200		
	900 KAR 001:009		
29 U.S.C.	201 KAR 015:110		
	780 KAR 003:072		
	806 KAR 017:570		
	922 KAR 002:160		
30 U.S.C.	405 KAR 010:001		
	405 KAR 010:015		
34 U.S.C.	922 KAR 002:160		
38 U.S.C.	907 KAR 020:035		
	922 KAR 002:160		
42 U.S.C.	806 KAR 017:570		
	907 KAR 010:015		
	921 KAR 003:030		
	922 KAR 001:350		
	922 KAR 001:470		
	922 KAR 001:490		
	922 KAR 001:060		
	922 KAR 002:090		
	922 KAR 002:160		
	922 KAR 005:120		
49 U.S.C.	600 KAR 004:010		

**CERTIFICATION LETTER SUMMARIES**

<b>Regulation Number</b>	<b>Letter Filed Date</b>	<b>Action</b>
004 KAR 001:010	08-12-2024	Remain in Effect without Amendment
004 KAR 001:040	08-12-2024	Remain in Effect without Amendment
004 KAR 001:050	08-12-2024	Remain in Effect without Amendment
016 KAR 002:090	06-25-2024	Remain in Effect without Amendment
016 KAR 002:160	12-01-2022	Expired 9-23-2024, KRS 13A.3104(3)(b)2., To be amended certification letter filed on 12-01-2022. Amendment filed 02-15-2024, withdrawn by agency 9-23-2024.
040 KAR 002:145	07-23-2024	Remain in Effect without Amendment
201 KAR 032:050	07-17-2024	Remain in Effect without Amendment
201 KAR 034:020	08-02-2024	Remain in Effect without Amendment
201 KAR 034:030	08-02-2024	Remain in Effect without Amendment
201 KAR 034:050	08-02-2024	Remain in Effect without Amendment
201 KAR 044:090	08-02-2024	Remain in Effect without Amendment
201 KAR 046:095	08-21-2024	Remain in Effect without Amendment
301 KAR 006:005	07-29-2024	To be amended, filing deadline 01-29-2026
501 KAR 001:030	08-30-2024	To be amended, filing deadline 02-28-2026
704 KAR 003:540	08-08-2024	Remain in Effect without Amendment
804 KAR 003:100	05-13-2024	Remain in Effect without Amendment
804 KAR 004:230	09-25-2024	Remain in Effect without Amendment
804 KAR 010:010	09-25-2024	Remain in Effect without Amendment
900 KAR 006:125	07-18-2024	Remain in Effect without Amendment
902 KAR 020:360	07-18-2024	Remain in Effect without Amendment
902 KAR 055:040	07-18-2024	Remain in Effect without Amendment
902 KAR 055:095	07-23-2024	To be amended; filing deadline 1-23-2026
907 KAR 023:001	07-22-2024	Remain in Effect without Amendment
907 KAR 023:010	07-22-2024	Remain in Effect without Amendment
910 KAR 001:210	06-17-2024	To be Amended; filing deadline 12-17-2025

## TECHNICAL AMENDMENT INDEX

The Technical Amendment Index is a list of administrative regulations that have had technical, nonsubstantive amendments made during the 49<sup>th</sup> 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
201 KAR 020:506	6-24-2024	810 KAR 008:050	7-1-2024
809 KAR 001:002	7-1-2024	810 KAR 009:010	7-1-2024
809 KAR 001:003	7-1-2024	921 KAR 1:400	8-1-2024
809 KAR 010:001	7-1-2024	921 KAR 1:410	8-1-2024
809 KAR 010:002	7-1-2024		
809 KAR 010:003	7-1-2024		
809 KAR 010:004	7-1-2024		
809 KAR 010:005	7-1-2024		
809 KAR 010:006	7-1-2024		
809 KAR 010:007	7-1-2024		
809 KAR 010:008	7-1-2024		
810 KAR 002:001	7-1-2024		
810 KAR 002:010	7-1-2024		
810 KAR 002:020	7-1-2024		
810 KAR 002:030	7-1-2024		
810 KAR 002:040	7-1-2024		
810 KAR 002:050	7-1-2024		
810 KAR 002:060	7-1-2024		
810 KAR 002:070	7-1-2024		
810 KAR 002:080	7-1-2024		
810 KAR 003:001	7-1-2024		
810 KAR 003:010	7-1-2024		
810 KAR 003:020	7-1-2024		
810 KAR 003:030	7-1-2024		
810 KAR 003:040	7-1-2024		
810 KAR 003:050	7-1-2024		
810 KAR 004:001	7-1-2024		
810 KAR 004:010	7-1-2024		
810 KAR 004:020	7-1-2024		
810 KAR 004:030	7-1-2024		
810 KAR 004:040	7-1-2024		
810 KAR 004:050	7-1-2024		
810 KAR 004:060	7-1-2024		
810 KAR 004:070	7-1-2024		
810 KAR 004:080	7-1-2024		
810 KAR 004:090	7-1-2024		
810 KAR 004:100	7-1-2024		
810 KAR 005:0001	7-1-2024		
810 KAR 005:010	7-1-2024		
810 KAR 005:020	7-1-2024		
810 KAR 005:030	7-1-2024		
810 KAR 005:040	7-1-2024		
810 KAR 005:050	7-1-2024		
810 KAR 005:060	7-1-2024		
810 KAR 005:070	7-1-2024		
810 KAR 005:080	7-1-2024		
810 KAR 006:0001	7-1-2024		
810 KAR 006:010	7-1-2024		
810 KAR 006:020	7-1-2024		
810 KAR 006:030	7-1-2024		
810 KAR 007:010	7-1-2024		
810 KAR 007:020	7-1-2024		
810 KAR 007:030	7-1-2024		
810 KAR 007:050	7-1-2024		
810 KAR 007:060	7-1-2024		
810 KAR 007:070	7-1-2024		
810 KAR 008:010	7-1-2024		
810 KAR 008:020	7-1-2024		
810 KAR 008:025	7-1-2024		
810 KAR 008:030	7-1-2024		
810 KAR 008:040	7-1-2024		

## SUBJECT INDEX

### ATTORNEY GENERAL

Office of Regulatory Relief  
Regulatory sandbox; application, reporting; 040 KAR 012:010

### BANKING

See *Financial Institutions (KAR Title 808)*

### BOARDS AND COMMISSIONS

See also *Occupations and Professions*  
See listing below for other possible, specific subject headings:

*Elections (KAR Title 031)*  
*Embalmers and Funeral Directors (201 KAR Chapter 015)*  
*Emergency Medical Services (202 KAR Chapter 007)*  
*Dentistry (201 KAR Chapter 008)*  
*Interpreters for Deaf and Hard of Hearing (201 KAR Chapter 039)*  
*Medical Imaging and Radiation Therapy (201 KAR Chapter 046)*  
*Nursing (201 KAR Chapter 020)*  
*Optometric Examiners (201 KAR Chapter 005)*  
*Pharmacy (201 KAR Chapter 002)*  
*Professional Engineers and Land Surveyors (201 KAR Chapter 018)*  
*Veterinary Examiners (201 KAR Chapter 16)*

### CHILD CARE

Centers:  
Health and safety standards; 922 KAR 002:120  
Licensure; 922 KAR 002:090  
Child care assistance program; 922 KAR 002:160

### COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Capital construction projects:  
Contracting for; 739 KAR 001:070  
Management of; 739 KAR 001:060

### COMMUNITY-BASED SERVICES

See also: *Child Care (922 KAR Chapter 2)*  
*Family Support (KAR Title 921)*  
*Protection and Permanency (KAR Title 922)*

### DENTISTRY, BOARD OF

Dental Community Health Workers; 201 KAR 008:610  
Dental hygienist licensure; 201 KAR 008:563

### EDUCATION

See also:  
*Council on Postsecondary Education (KAR Title 013)*  
*Education Professional Standards (KAR Title 016)*  
*Kentucky Community and Technical College System (KAR Title 739)*  
*Teachers' Retirement System (KAR Title 102)*  
*Technical Education (KAR Title 780)*

Academic Standards  
Visual and performing arts; 704 KAR 008:130  
Assessment and Accountability  
Administrative procedures and guidelines; 703 KAR 005:240  
Administration Code for Kentucky's Educational Assessment Program; 703 KAR 005:080  
Facilities Management  
Property disposal; 702 KAR 004:090  
General Administration  
Annual in-service training of district board members; 702 KAR 001:116  
Office of Instruction  
High school graduation, minimum requirements; 704 KAR 003:305  
Learning programs: full-time online, virtual, remote; 704 KAR 003:535  
Repeal of 704 KAR 003:303; 704 KAR 003:313  
School Administration and Finance  
Finance officer certification requirements; 702 KAR 003:320

### EDUCATION PROFESSIONAL STANDARDS

Alternative Routes to Certification:  
Institute for; 016 KAR 009:100  
Professional and provisional certificate for: College faculty; 016 KAR 009:030  
Exceptional work experience; 016 KAR 009:010  
University-based program; 016 KAR 009:080  
General Administration  
Procedures for educator certificate surrender, revocation, suspension, reinstatement and reissuance, application denial; 016 KAR 001:030  
Internship  
Repeal of 016 KAR 007:010; 016 KAR 007:011  
Teaching Certificates  
Substitute teachers; 016 KAR 002:030

### ELECTIONS, STATE BOARD OF

Procedures  
Post-election audits; 031 KAR 004:230

### EMBALMERS AND FUNERAL DIRECTORS, BOARD OF

Apprenticeship and supervision requirements; 201 KAR 015:050  
Fees; 201 KAR 015:030  
Funeral establishment criteria; 201 KAR 015:110  
Requirements for applicants holding license in another state; 201 KAR 015:120  
Surface transportation permit; 201 KAR 015:125

### EMERGENCY MEDICAL SERVICES, BOARD OF

Licensure  
Advanced Emergency Medical Technician; 202 KAR 007:330  
Classifications; 202 KAR 007:545  
Emergency Medical Responders; 202 KAR 007:201  
Emergency Medical Technicians; 202 KAR 007:301  
Ground Vehicle Staff; 202 KAR 007:560  
Mobile Integrated Healthcare; 202 KAR 007:596  
Paramedics; 202 KAR 007:401

### ENVIRONMENTAL PROTECTION

Waste Management  
Operating requirements for less than one (1) acre or expanded less than two (2) acre construction or demolition debris landfills; 401 KAR 047:320  
Registered permit-by-rule; 401 KAR 047:110

### FAMILY SUPPORT

Supplemental Nutrition Assistance Program  
Application process; 921 KAR 003:030

### FINANCE AND ADMINISTRATION

See also *Revenue (KAR Title 103)*  
Purchasing  
Policies and Procedures Manual; 200 KAR 005:011  
State Investment Commission  
Guidelines for money market instruments; 200 KAR 014:091  
Qualified investments; 200 KAR 014:011  
Repurchase agreements; 200 KAR 014:081

### FINANCIAL INSTITUTIONS

Credit Unions  
Conduct of; 808 KAR 003:050  
Division of Non-Depository Institutions  
Deferred deposit database compliance; 808 KAR 009:010  
General  
Out-of-State Trust Companies Operating in Kentucky; 808 KAR 015:050

### FISH AND WILDLIFE RESOURCE

Fishing  
Nontraditional methods; 301 KAR 001:410  
Land Management  
Public use of newly acquired or newly managed lands; 301 KAR 003:005

## SUBJECT INDEX

### HEALTH AND FAMILY SERVICES

- Community-Based Services (KAR Titles 921 and 922)
- Family Support (KAR Title 921)
- Protection and Permanency (KAR Title 922)
- Public Health (KAR Title 902)

#### Administration

- Employee access to federal tax information; 900 KAR 001:009

### HOUSING

#### Housing Corporation

- Rural Housing Trust Fund; 202 KAR 002:020

### INSURANCE

#### Health Insurance Contracts

- Medicare supplement policies, certificates; 806 KAR 017:570

### INTERPRETERS FOR DEAF AND HARD OF HEARING

#### Applications

- Full licensure; 201 KAR 039:030
- Temporary licensure; 201 KAR 039:070
- Temporary licensure extension; 201 KAR 039:070
- Certification levels; 201 KAR 039:030
- Complaint procedures; 201 KAR 039:100
- Continuing education, requirements; 201 KAR 039:090
- Definitions; 201 KAR 039:001
- Ethics; 201 KAR 039:120

#### Licensure

- Applications, qualification for full; 201 KAR 039:030
- Fees; 201 KAR 039:040
- Reinstatement, disciplinary action; 201 KAR 039:060
- Renewal and reinstatement; 201 KAR 039:050
- Temporary licensure and extensions; 201 KAR 039:070

#### Registration, nonresidents; 201 KAR 039:130

#### Supervision; 201 KAR 039:075

### JUSTICE AND PUBLIC SAFETY

#### Benefits

- Filing and processing of death benefit claims; 500 KAR 001:021

#### Definitions

- For 500 KAR Chapter 1; 500 KAR 001:010

#### Hearings

- Requests for; 500 KAR 001:030

#### Parole Board

- Policies and procedures; 501 KAR 001:080

### MEDICAL IMAGING AND RADIATION THERAPY, BOARD OF

#### Education

- Continuing education requirements; 201 KAR 046:060
- Medical Imaging and Radiation Therapy Scholarship and Continuing Education Fund; 201 KAR 046:100

#### Licensure

- Medical imaging technologist, advanced imaging professional, radiographer, nuclear medicine technologist, and radiation therapist licenses; 201 KAR 046:040

#### Standards

- Practice, scopes of practice, and ethical standards; 201 KAR 046:035

### MEDICAID SERVICES

#### Hospital Service Coverage and Reimbursement

- Outpatient hospital services - payments; 907 KAR 010:015

#### Medicaid Eligibility

- Spousal impoverishment and nursing facility requirements; 907 KAR 020:035

### NATURAL RESOURCES

#### Mine Permits

- Definitions; 405 KAR 010:001
- General bonding provisions; 405 KAR 010:015

### NURSING

#### APRN

- Licensure and certification requirements; 201 KAR 020:056
- Scope and standards of practice; 201 KAR 020:057
- Continuing competency requirements; 201 KAR 020:215
- Licensure and Certification:
  - APRN requirements; 201 KAR 020:056
  - Renewal of licenses; 201 KAR 020:230
- Nursing Incentive Scholarship Fund; 201 KAR 020:390

### OCCUPATIONS AND PROFESSIONS

#### See Boards and Commissions

#### See listings for specific subject headings

### OPTOMETRIC EXAMINERS, BOARD OF

- Application for licensure, endorsement; 201 KAR 005:010
- Fines and fees; 201 KAR 005:005
- Renewal fees, annual; 201 KAR 005:090

### PERSONNEL

#### Cabinet, Classified

- Internship interview preference; 101 KAR 002:086

#### Office of the Secretary

- 2025 Plan Year Handbooks for Public Employee Health Insurance Program; 101 KAR 002:210 & E

### PHARMACY

- Long-term care facility services; 201 KAR 002:370
- Ownership; change of; 201 KAR 002:470
- Records, drug regimen review, patient counseling and final product verification; 201 KAR 002:210
- Telework, electronic supervision for remote prescription processing; 201 KAR 002:480

### POSTSECONDARY EDUCATION

#### Aviation Education Programs:

- Equipment grants; 013 KAR 006:020
- Training scholarships; 013 KAR 006:010

### PROFESSIONAL ENGINEERS AND LAND SURVEYORS

- Classes of applicants; 201 KAR 018:010
- In training certificates; 201 KAR 018:030
- License reinstatement; 201 KAR 018:115

#### Professional development

- Professional engineers; 201 KAR 018:196
- Professional land surveyors; 201 KAR 018:192

### PROTECTION AND PERMANENCY

#### Adult Services

- Vulnerable adult maltreatment registry/appeals; 922 KAR 005:120

#### Child Welfare

- Background checks for foster and adoptive parents and relative and fictive kin caregivers; 922 KAR 001:490
- Central registry; 922 KAR 001:470
- Federal Title IV-E adoption assistance; 922 KAR 001:060
- Requirements for public child welfare agency foster parents, adoptive parents, and respite care providers; 922 KAR 001:350
- State funded adoption assistance; 922 KAR 001:050

### PUBLIC HEALTH

#### Epidemiology and Health Planning

- Reportable disease surveillance; 902 KAR 002:020
- Syndromic surveillance; 902 KAR 002:040

#### Kentucky Early Intervention System

- Coverage and payment for services; 902 KAR 030:200

#### Maternal and Child Health

- Newborn screening program; 902 KAR 004:030

#### Office of the Commissioner

- Definitions for 902 KAR Chapter 28; 902 KAR 028:010
- Trauma registry and data bank system; 902 KAR 028:040
- Trauma system designation process; 902 KAR 028:020
- Trauma system Level IV criteria; 902 KAR 028:030



## SUBJECT INDEX

### Sanitation

- Construction requirements; 902 KAR 010:123
- Facility operations; 902 KAR 010:120
- Facility safety requirements; 902 KAR 010:125
- Public beach requirements; 902 KAR 010:127
- Repeal of 902 KAR 010:121 and 190; 902 KAR 010:122

### PUBLIC PENSIONS AUTHORITY

#### General Rules

- Employer's administrative duties; 105 KAR 001:140
- Limitations and exclusions on creditable compensation in the last five years of fiscal service; 105 KAR 001:142
- Quasi-governmental employer reports on independent contractors and leased employees; 105 KAR 001:451

### PUBLIC SERVICE COMMISSION

#### Utilities

- Access and attachments to utility poles and facilities; 807 KAR 005:015E

### REVENUE

#### Ad Valorem Tax; Administration

- Valuation of multi-unit rental housing subject to government restriction on use; 103 KAR 005:200

### TEACHERS' RETIREMENT SYSTEM

#### General Rules

- Annuitization, disbursement from supplemental benefits; 102 KAR 001:370
- Crediting of interest for TRS 4 members; 102 KAR 001:138
- Full actuarial cost purchase; 102 KAR 001:350
- Qualified domestic relations orders; 102 KAR 001:320
- Qualified domestic relations orders for TRS 4 members; 102 KAR 001:380

### TECHNICAL EDUCATION

#### Personnel System for Certified and Equivalent Employees

- Attendance, comp time, leave; 780 KAR 003:072
- Duration of school term, use of school days, extended employment; 780 KAR 003:080

### TRANSPORTATION

#### Civil Rights and Small Business Development

- Certification of disadvantaged business enterprises; 600 KAR 004:01

#### Motor Vehicle Tax

- Dealer plates; 601 KAR 009:220

#### Planning

- Off-highway vehicles, safety and routes; 603 KAR 005:350

#### Traffic Operations

- Uniform traffic control devices; 603 KAR 005:050
- Weight (mass) limits for trucks; 603 KAR 005:066

### VETERANS AFFAIRS

#### Veterans Services

- Burial Honor Guard Program; 017 KAR 004:030

### VETERINARY EXAMINERS, BOARD OF

#### Education

- Approved medical programs for veterinarians and veterinary technicians; 201 KAR 016:520
- Continuing education requirements for veterinarians and veterinary technicians; 201 KAR 016:590
- Examination requirements for veterinarians and veterinary technicians; 201 KAR 016:530

#### Fines and Fees

- Fines; 201 KAR 016:614
- Notice to Comply and Notice of Violation; 201 KAR 016:612

#### Standards

- Duties and responsibilities of an animal euthanasia specialist; 201 KAR 016:562

### WASTE MANAGEMENT

See *ENVIRONMENTAL PROTECTION – Division of Waste Management*

### WORKFORCE DEVELOPMENT

#### Unemployment Insurance

- Overpayment waivers; 787 KAR 001:360

**SUBJECT INDEX**