



ADMINISTRATIVE REGISTER OF KENTUCKY

The submission deadline for this edition of the *Administrative Register of Kentucky* was noon, December 13, 2024

MEETING NOTICES

The **Administrative Regulation Review Subcommittee** is tentatively scheduled to meet on January 13, 2025 at 1:00 p.m. in room 149 Capitol Annex.

ARRS Tentative Agenda – 1233 [Online agenda updated as needed](#)

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

Title	Chapter	Regulation
806	KAR	050: 155
Cabinet, Department, Board, or Agency	Office, Division, Board, or Major Function	Specific Regulation

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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all of the administrative regulations that may be removed to complete the public comment process or deferred or withdrawn by promulgating agencies.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
MONDAY, January 13, 2025 at 1 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; "E" expires 01-25-2025) (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; "E" expires 01-25-2025) (Deferred from August)

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102 KAR 001:340. Calculation of final average salary.

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105 KAR 001:130. Hazardous position coverage.

105 KAR 001:445. Trustee elections.

BOARDS AND COMMISSIONS

Board of Veterinary Examiners

201 KAR 016:510. Fees for veterinarians.

201 KAR 016:513. Fees for Allied Animal Health Professional (AAHP) Permits.

201 KAR 016:515. Fees for veterinary facility registrations.

201 KAR 016:517. Fees for AAHP facility registrations.

201 KAR 016:520. Approved veterinary medical programs for veterinarians; approved veterinary technology programs for veterinary technicians. (Not Amended After Comments)

201 KAR 016:530. Examination requirements for veterinarians and veterinary technicians. (Not Amended After Comments)

201 KAR 016:590. Continuing education requirements, veterinarians and veterinary technicians. (Not Amended After Comments)

201 KAR 016:730. Approved Allied Animal Health Professional (AAHP) Programs; education requirements.

201 KAR 016:731. Examination requirements for AAHP providers.

201 KAR 016:732. Application requirements for AAHP permits - reinstatement.

201 KAR 016:735. Renewal requirements for AAHP permits – renewal notice – expiration.

201 KAR 016:737. Responsibilities for AAHP providers; limitations on practice.

201 KAR 016:762. Application requirements for Veterinary facility registration; veterinarian managers; registered responsible parties.

201 KAR 016:765. Veterinary facilities – renewal notice – requirements for renewal and reinstatement.

201 KAR 016:767. Registered veterinary facilities – duties of registered responsible parties and veterinarian managers.

201 KAR 016:772. Application requirements for AAHP facility registration; AAHP managers; registered responsible parties.

201 KAR 016:775. AAHP facilities – renewal notice – requirements for renewal and reinstatement.

201 KAR 016:777. Registered AAHP facilities - duties of registered responsible parties and AAHP managers.

Board of Nursing

201 KAR 020:057. Scope and standards of practice of advanced practice registered nurses. (Amended After Comments)

Board of Licensed Professional Counselors

201 KAR 036:050. Complaint management process.

INDEPENDENT ADMINISTRATIVE BODIES

Board of Emergency Medical Services

202 KAR 007:401. Paramedics. (Filed with Emergency; "E" expires 05-31-2025) (Deferred from December)

TOURISM, ARTS AND HERITAGE CABINET

Department of Fish and Wildlife Resources

Game

301 KAR 002:081. Transportation and holding of live native wildlife.

301 KAR 002:082. Transportation and holding of live exotic wildlife.

301 KAR 002:225. Dove, wood duck, teal, and other migratory game bird hunting.

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JUSTICE AND PUBLIC SAFETY CABINET

Office of the Secretary

501 KAR 006:410. Corrections policies and procedures: inmate life and issues. (Not Amended After Comments) (Deferred from October)

Department of Kentucky State Police

Driver Training

502 KAR 010:120E. Hazardous materials endorsement requirements. (Filed with Ordinary) ("E" expires 07-27-2025)

Department of Criminal Justice Training

General Training Provision

503 KAR 003:140. Telecommunications (Public Safety Dispatch) Academy trainee requirements; misconduct; penalties; discipline procedures.

TRANSPORTATION CABINET

Department of Vehicle Regulation

Certification of Title

601 KAR 023:050. Examination of Certificate of Title Applications by the Department of Vehicle Regulation utilizing available technologies or human persons to implement the directives set forth in KRS 186A.060 and KRA 186A.170(4)

EDUCATION AND LABOR CABINET

Board of Education

Office of Instruction

704 KAR 003:365. Complaint procedures for programs under the Elementary and Secondary Education Act of 1965.

704 KAR 003:535. Full-time enrolled online, virtual, and remote learning programs. (Deferred from November)

Office of Unemployment Insurance

Unemployment Insurance

787 KAR 001:010. Application for employer account; reports.

787 KAR 001:370. Professional Employer Organizations.

Department of Workplace Standards

Occupational Safety and Health

803 KAR 002:110. Employer and employee representatives. (Filed with Emergency)

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Department of Housing, Building, and Construction

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CABINET FOR HEALTH AND FAMILY SERVICES

Department of Public Health

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902 KAR 004:105. Kentucky Lifeline for Moms program implementation.

Sanitation

902 KAR 010:120. Kentucky public swimming and bathing facility operations. (Amended After Comments) (Deferred from December)

902 KAR 010:122. Repeal of 902 KAR 010:121 and 902 KAR 010:190. (Deferred from October) 902 KAR 010:123. Kentucky public swimming and bathing facilities construction requirements. (Amended After Comments) (Deferred from December)

902 KAR 010:125. Kentucky public swimming and bathing facility safety requirements. (Amended After Comments) (Deferred from December)

902 KAR 010:127. Kentucky public beach requirements. (Amended After Comments) (Deferred from December)

Trauma System

902 KAR 028:010. Definitions for 902 KAR Chapter 26. (Deferred from December)

902 KAR 028:020. Kentucky trauma system designation process. (Deferred from December)

902 KAR 028:030. Kentucky's trauma system level IV criteria. (Deferred from December)

902 KAR 028:040. Kentucky's Trauma Registry and Data Bank System. (Deferred from December)

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902 KAR 095:041. Repeal of 902 KAR 095:040.

Department for Medicaid Services

Medicaid Services

907 KAR 001:028. Independent laboratory and radiological service coverage and reimbursement.

Hospital Service Coverage and Reimbursement

907 KAR 010:015. Payments for outpatient hospital services. (Deferred from November)

Department for Aging and Independent Living

Aging Services

910 KAR 001:210. Kentucky Long-term Care Ombudsman Program.

910 KAR 001:241. Repeal of 910 KAR 001:240.

3. REGULATIONS REMOVED FROM JANUARY'S AGENDA

FINANCE AND ADMINISTRATION CABINET

Department of Revenue

Ad Valorem Tax; Administration

~~103 KAR 005:200. Valuation of multi-unit rental housing subject to government restriction on use. (Comments Received; SOC ext., due 12-13-2024) (Withdrawn 12-13-2024, SOC not filed by deadline.)~~

BOARDS AND COMMISSIONS

Board of Optometric Examiners

~~201 KAR 005:010. Application for licensure; endorsement. (Comments Received; SOC ext., due 1-15-2025)~~

INDEPENDENT ADMINISTRATIVE BODIES

Board of Emergency Medical Services

~~202 KAR 007:545. License classifications. (Deferred from December) (Withdrawn by Agency; 12-20-2024)~~

ENERGY AND ENVIRONMENT CABINET

Department of Environmental Protection

Solid Waste Facilities

~~401 KAR 047:110. Registered permit-by-rule. (Comments Received; SOC ext., due 1-15-2025)~~

Standards for Solid Waste Facilities

~~401 KAR 048:320. Operating requirements for less than one (1) acre or expanded less than two (2) acre construction or demolition debris landfills. (Comments Received; SOC ext., due 1-15-2025)~~

Department for Natural Resources

Division of Mine Permits

Bond and Insurance Requirements

~~405 KAR 010:001. Definitions. (Amended After Comments) (Deferred from January)~~

~~405 KAR 010:015. General bonding provisions. (Not Amended After Comments) (Deferred from January)~~

PUBLIC PROTECTION CABINET

Department of Financial Institutions

Credit Unions

~~808 KAR 003:050. Conduct of credit unions. (Amended After Comments) (Deferred from November)~~

Check Cashing

~~808 KAR 009:010. Deferred deposit database compliance. (Comments Received; SOC ext., due 01-15-2025)~~

**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
201 KAR 17:120E.**

Pursuant to KRS 13A.190(1)(a)3. and KRS 334A.188. SECTION 15.B.1, this emergency new administrative regulation is being promulgated to comply with the statutory requirements of the Board of Speech-Language Pathology and Audiology to review any rule adopted by the Audiology and Speech-Language Pathology Interstate Compact pursuant to SECTION 10 of KRS 334A.188 within sixty (60) days of adoption for the purpose of filing the rule as an emergency new administrative regulation pursuant to KRS 13A.190 and for filing the rule as an accompanying ordinary new administrative regulation pursuant to KRS Chapter 13A. This new administrative regulation incorporates by reference the rules adopted by the Audiology and Speech-Language Pathology Interstate Compact.

KRS 334A.188. Section 15.B.1. requires that this emergency regulation be promulgated, and therefore the filing of an ordinary administrative regulation alone is not sufficient. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation filed with this emergency administrative regulation is identical.

JENNIFER LUTES, M.S., SLP, Board Chair
ANDY BESHEAR, Governor

**BOARDS AND COMMISSIONS
Board of Speech-Language Pathology and Audiology
(New Emergency Administrative Regulation)**

201 KAR 17:120E. Audiology and Speech-Language Pathology Interstate Compact.

EFFECTIVE: November 26, 2024

RELATES TO: KRS 334A.188

STATUTORY AUTHORITY: KRS 334A.080(3), 334A.188

NECESSITY, FUNCTION, AND CONFORMITY: KRS 334A.188, Section 15.B.1. requires the Board of Speech-Language Pathology and Audiology to review any rule adopted by the Audiology and Speech-Language Pathology Interstate Compact pursuant to Section 10 of KRS 334A.188 within sixty (60) days of adoption for the purpose of filing the rule as an emergency administrative regulation pursuant to KRS 13A.190 and for filing the rule as an accompanying ordinary administrative regulation pursuant to KRS Chapter 13A. This administrative regulation incorporates by reference the rules adopted by the Counseling Compact.

Section 1. The Board of Speech-Language Pathology and Audiology shall comply with all rules of the Audiology and Speech-Language Pathology Interstate Compact, which includes the Audiology and Speech-Language Pathology Interstate Compact Rules as of April 17, 2023.

Section 2. Incorporation by Reference.

(1) The following material is incorporated by reference: "The Audiology and Speech-Language Pathology Interstate Compact Rules", October 7, 2023, and as revised.

(a) Chapter 1 – Rule on Definitions, adopted April 17, 2023;

(b) Chapter 2 – Rule on Data System Reporting Requirements, adopted April 17, 2023; and

(c) Chapter 3 – Rule on Implementation of Criminal Background Check Requirement, adopted October 7, 2023.

(2)

(a) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board Speech-Language

Pathology and Audiology, 500 Mero Street, 2 SC 32, Frankfort, Kentucky 40602, Monday through Friday, 8 a.m. to 4:30 p.m.; or

(b) This material may also be obtained on the Board of Speech-Language Pathology and Audiology Web site at <https://slp.ky.gov/>.

(3) This material may also be obtained at:

(a) The Audiology and Speech-Language Pathology Interstate Compact Commission, 1776 Avenue of the States, Lexington, Kentucky 40511; or

(b) <https://aslpcompact.com/commission/commission-governance-documents/>.

JENNIFER LUTES, M.S., SLP, Board Chair

APPROVED BY AGENCY: November 20, 2024

FILED WITH LRC: November 26, 2024 at 12:02 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 28, 2025, at 3:00 p.m. Eastern Time, at the Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky in PPC Conference Room 127CW. 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 January 31, 2025. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to https://ppc.ky.gov/reg_comment.aspx or the contact person.

CONTACT PERSON: Sara Boswell Janes, Staff Attorney III, Department of Professional Licensing, Office of Legal Services, 500 Mero Street, 2 NC WK#2, phone (502) 782-2709 (office), fax (502) 564-4818, email Sara.Janes@ky.gov, Link to public comment portal: https://ppc.ky.gov/reg_comment.aspx.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Sara Boswell Janes

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation implements KRS 334A.188, the Audiology and Speech-Language Pathology Interstate Compact.

(b) The necessity of this administrative regulation: This administrative regulation is necessary because KRS 334A.188, SECTION 15.B.1. requires rules adopted by the Counseling Compact to be promulgated as administrative regulations pursuant to KRS Chapter 13A.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the specific requirements of the authorizing statute, KRS 334A.188, SECTION 15.B.1. which requires rules adopted by the Audiology and Speech-Language Pathology Interstate Compact to be promulgated as administrative regulations pursuant to KRS Chapter 13A.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation conforms to the content of KRS 334A.188 which requires this promulgation.

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

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect the 4074 active and 119 inactive licensees in some capacity, and will also affect new applicants for licensure.

(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.

(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 imposed by this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be in compliance with the regulation.

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

(a) Initially: There is no additional cost.

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

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by credential holders and applicant.

(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 administrative regulation does not establish fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering was not applied as the changes apply to all 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 334A.080(3), 334A.188. Interstate compacts are specifically authorized under the federal constitution (Article 1, Section 10, Clause 3- the Compacts Clause) and take precedence over any conflicting state law pursuant to the Compacts Clause and the Contracts Clause, U.S. Constitution, Article 1, Section 10, Clause 1.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Board of Speech-Language Pathology and Audiology is the promulgating agency and the only affected state unit, part or division.

(a) Estimate the following for the first year:

Expenditures: The compact may become operational in 2025, however, the expenditures needed in the first year are currently indeterminable. There will likely be some state expenditures necessary for data system programming, administering applications for compact privileges within and without the Commonwealth, as well as administering complaint and enforcement actions for those with the privilege to practice in Kentucky, and possibly for Kentucky licensees with the privilege to practice in other states.

Revenues: If the compact becomes operational in Kentucky during the first year, the Board may require imposition of a fee to cover the cost of administration. However, at this time potential revenues are indeterminable.

Cost Savings: Indeterminable.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The compact may become operational in 2025, however, the expenditures, revenue and cost savings in subsequent years, if any, are currently indeterminable.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): None anticipated.

(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? There will be no difference in expenditures, revenues or cost savings to local entities in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3):

(a) Estimate the following for the first year:

Expenditures:

Revenues:

Cost Savings:

(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: There is minimal anticipated fiscal impact to this administrative regulation in the first year. It is possible there will be a fiscal impact of administering applications for compact privileges for in-state licensees who apply for the privilege to practice in another state, and for out of state licensees who apply for the privilege to practice in Kentucky. The Audiology and Speech-Language Pathology Interstate Compact Commission remains in its infancy and the work to be conducted by the state board on behalf of the compact is yet to be determined.

(b) Methodology and resources used to determine the fiscal impact: Methodology and resources are currently indeterminable since there are no known duties outlined for the state in relation to the compact.

(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 entities identified.

(b) The methodology and resources used to reach this conclusion: Methodology and resources are currently indeterminable since there are no known duties outlined for the state in relation to the compact; however, given the number of licensees, current budget and anticipated number of applications for out of state licensees to obtain the privilege to practice in Kentucky, no major economic impact is anticipated.

STATEMENT OF EMERGENCY
201 KAR 36:100E.

Pursuant to KRS 13A.190(1)(a)3. and KRS 335.560. SECTION 16.B.1, this emergency amendment to the administrative regulation is being promulgated to comply with the statutory requirements of the Board of Licensed Professional Counselors to review any rule adopted by the Counseling Compact pursuant to SECTION 11 of KRS 335.560 within sixty (60) days of adoption for the purpose of filing the rule as an emergency administrative regulation pursuant to KRS 13A.190 and for filing the rule as an accompanying ordinary administrative regulation pursuant to KRS Chapter 13A. This emergency amendment incorporates by reference the rules adopted by the Counseling Compact.

KRS 335.560 Section 16.B.1. requires that this emergency amendment be promulgated, and therefore the filing of an ordinary amendment alone is not sufficient. This emergency amended administrative regulation will be replaced by an ordinary amended administrative regulation. The ordinary amendment filed with this emergency amendment is identical.

DR. ANDREA BROOKS, Board Chair
ANDY BESHEAR, Governor

BOARDS AND COMMISSIONS
Board of Licensed Professional Counselors
(Emergency Amendment)

201 KAR 36:100E. Counseling compact.

EFFECTIVE: November 26, 2024

RELATES TO: KRS 335.560

STATUTORY AUTHORITY: KRS 335.515, 335.560

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.560, Section 16.B.1. requires the Board of Licensed Professional Counselors to review any rule adopted by the Counseling Compact pursuant to Section 11 of KRS 335.560 within sixty (60) days of adoption for the purpose of filing the rule as an emergency administrative regulation pursuant to KRS 13A.190 and for filing the rule as an accompanying ordinary administrative regulation pursuant to KRS Chapter 13A. This administrative regulation incorporates by reference the rules adopted by the Counseling Compact.

Section 1. The Board of Licensed Professional Counselors shall comply with all rules of the Counseling Compact, which includes the Counseling Compact Rules as of January 10, 2024.

Section 2. Incorporation by Reference.

(1) The following material is incorporated by reference: "The Counseling Compact Rules", January 10, 2024, and as revised.

(a) Chapter 2 – Definitions, adopted October 25, 2023;

(b) Chapter 3 – Examination Requirements, adopted October 25, 2023; [and]

(c) Chapter 4 – Data System Reporting Requirements, adopted January 10, 2024; [and]

(d) Chapter 5 – Rulemaking on Legacy Eligibility for Privilege to Practice, adopted October 8, 2024; and

(e) Chapter 6. Rulemaking on Implementing Criminal Background Checks, adopted October 8, 2024.

(2)

(a) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Licensed Professional Counselors, 500 Mero Street, 2 SC 32, Frankfort, Kentucky 40602, Monday through Friday, 8 a.m. to 4:30 p.m.; or

(b) This material may also be obtained on the Board of Licensed Professional Counselors' Web site at <https://lpc.ky.gov/>.

(3) This material may also be obtained at:

(a) The Counseling Compact Commission, 108 Wind Haven Drive, Suite A, Nicholasville, Kentucky 40356; or

(b) <https://counselingcompact.org/compact-commission/rulemaking/>.

DR. ANDREA BROOKS, Board Chair

APPROVED BY AGENCY: November 20, 2024

FILED WITH LRC: November 26, 2024 at 12:02 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 28, 2025, at 2:00 P.M. Eastern Time, at the Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky in PPC Conference Room 127CW. 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 January 31, 2025. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to https://ppc.ky.gov/reg_comment.aspx or the contact person.

CONTACT PERSON: Sara Boswell Janes, Staff Attorney III, Department of Professional Licensing, Office of Legal Services, 500 Mero Street, 2 NC WK#2, phone (502) 782-2709 (office), fax (502) 564-4818, email Sara.Janes@ky.gov, Link to public comment portal: https://ppc.ky.gov/reg_comment.aspx.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Sara Boswell Janes

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation implements KRS 335.560, the Counseling Compact.

(b) The necessity of this administrative regulation: This administrative regulation is necessary because KRS 335.560, SECTION 16.B.1. requires rules adopted by the Counseling Compact to be promulgated as administrative regulations pursuant to KRS Chapter 13A.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the specific requirements of the authorizing statute, KRS 335.560, SECTION 16.B.1. which requires rules adopted by the Counseling Compact to be promulgated as administrative regulations pursuant to KRS Chapter 13A.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation conforms to the content of KRS 335.560 which requires this promulgation.

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

(a) How the amendment will change this existing administrative regulation: The amendment will add two (2) new compact rules adopted on October 8, 2024.

(b) The necessity of the amendment to this administrative regulation: This amendment to the administrative regulation is necessary because KRS 335.560, SECTION 16.B.1. requires rules adopted by the Counseling Compact to be promulgated as administrative regulations pursuant to KRS Chapter 13A. Two (2) new rules were adopted on October 8, 2024.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms with the authorizing statutes by being filed within sixty (60) days of the adoption of the new rules by the Counseling Compact Commission.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will ensure the Board and all affected licensees have access and full disclosure of the rules relating to the compact and the privilege to practice in Kentucky and other compact states.

(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 4504 active and 59 inactive licensees in some capacity, and will also affect new applicants for licensure.

(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.

(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 imposed by this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be in compliance with the regulation.

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

(a) Initially: There is no additional cost.

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

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by credential holders and applicant.

(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.

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

(9) TIERING: Is tiering applied? Tiering was not applied as the changes apply to all 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 335.515, 335.560. Interstate compacts are specifically authorized under the federal constitution (Article 1, Section 10, Clause 3- the Compacts Clause) and take precedence over any conflicting state law pursuant to the Compacts Clause and the Contracts Clause, U.S. Constitution, Article 1, Section 10, Clause 1.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: the Kentucky Board of Licensed Professional Counselors is the promulgating agency and the only affected state unit, part or division.

(a) Estimate the following for the first year:

Expenditures: The compact will likely become operational in 2025, however, the expenditures needed in the first year are currently indeterminable. There will likely be some state expenditures necessary for data system programming, administering applications for compact privileges within and without the Commonwealth, as well as administering complaint and enforcement actions for those with the privilege to practice in Kentucky, and possibly for Kentucky licensees with the privilege to practice in other states.

Revenues: If the compact becomes operational in Kentucky during the first year, The Board may require imposition of a fee to cover the cost of administration. However, at this time potential revenues are indeterminable.

Cost Savings: Indeterminable.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The compact will likely become operational in 2025, however, the expenditures, revenue and cost savings in subsequent years, if any, are currently indeterminable.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): None anticipated.

(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? There will be no difference in expenditures, revenues or cost savings to local entities in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3):

(a) Estimate the following for the first year:

Expenditures:

Revenues:

Cost Savings:

(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: There is minimal anticipated fiscal impact to this administrative regulation in the first year. It is possible there will be a fiscal impact of administering applications for compact privileges for in-state licensees who apply for the privilege to practice in another state, and for out of state licensees who apply for the privilege to practice in Kentucky. The Compact Commission remains in its infancy and the work to be conducted by the state board on behalf of the compact is yet to be determined.

(b) Methodology and resources used to determine the fiscal impact: Methodology and resources are currently indeterminable

since there are no known duties outlined for the state in relation to the compact.

(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 entities identified.

(b) The methodology and resources used to reach this conclusion: Methodology and resources are currently indeterminable since there are no known duties outlined for the state in relation to the compact; however, given the number of licensees, current budget and anticipated number of applications for out of state licensees to obtain the privilege to practice in Kentucky, no major economic impact is anticipated.

**STATEMENT OF EMERGENCY
601 KAR 12:120E.**

This new emergency regulation is being promulgated to implement the 2021 Regular Session House Bill 439 amendments to KRS 186.577 requiring the Kentucky State Police to continue to submit persons applying for an initial operator's license, or an initial instruction permit, to a test of visual acuity and visual field at the time of application but now authorizing medical professionals to conduct the examinations prior to application when requested. It also implements the requirement that the Division of Driver Licensing submit persons applying for a renewal operator's license, a renewal instruction permit, or reinstatement to a test of visual acuity and visual field at time of application or by a medical professional prior to application. The regulation implements the requirement that persons whose visual acuity is 20/60 or better in one eye and who meet or exceed the visual field standard with corrective lenses shall have their driving privileges restricted to mandate the use of the corrective lenses. It also implements the KRS 186.577 requirement that the Transportation Cabinet establish visual field standards, create a driver vision testing form, and establish a credentialing process for osteopaths, physicians, and advanced practice registered nurses to conduct vision testing under the section.

House Bill 439 was enacted on March 15, 2021, signed by Governor Andy Beshear on March 25, 2021, and was to become effective on July 1, 2024, but in 2024 the General Assembly moved the effective date of the amendments to January 1, 2025 in Senate Bill 91 (R.S. 2024). House Bill 439 (R.S. 2021) amended KRS 186.577 to require vision testing for operator's license renewal; allow vision testing to be performed at the time of application; allow an applicant to submit a form attesting that they have submitted to a vision test less than twelve months from the application date; require that any vision testing form submitted shall be signed by an ophthalmologist, optometrist, or a KYTC credentialed osteopath, physician, or advanced practice registered nurse; direct the Transportation Cabinet to promulgate administrative regulations; allow the Transportation Cabinet to assess a fee for administering on-site vision testing; require that any funds received from the fee assessed by the cabinet for vision testing, be deposited into the photo license account; and amend KRS 186.480 and KRS 174.056 to conform. Section 53 of Senate Bill 91 (R.S. 2024) requires that no one applying for renewal be required to submit to driver vision testing prior to January 1, 2025.

This new emergency regulation is required to meet the impending deadline for implementing the amendments and necessitated by the continuous ongoing discussions with stakeholders including medical providers whose daily profession activities will be impacted by the new vision examination requirements. This new emergency administrative regulation will be replaced by an ordinary administrative regulation that is being filed simultaneously. The ordinary administrative regulation is identical to this new emergency administrative regulation.

ANDY BESHEAR, Governor
JIM GRAY, Secretary

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Driver Licensing
(New Emergency Administrative Regulation)

601 KAR 12:120E. Testing applicants for initial or renewal instruction permit, initial or renewal operator's license, or reinstatement.

EFFECTIVE: December 6, 2024

RELATES TO: KRS 186.412, 186.4121, 186.415, 186.416, 186.417, 186.419, 186.435, 186.442, 186.450, 186.480, 186.580, 601 KAR 12:020.

STATUTORY AUTHORITY: KRS 186.4101, 186.444, 186.570, 186.577

NECESSITY, FUNCTION, AND CONFORMITY: KRS 186.577 requires the Kentucky State Police to test persons applying for an initial operator's license or an initial instruction permit to submit to a test of visual acuity and visual field at the time of application. It also requires the Kentucky Transportation Cabinet, Department of Vehicle Regulation, Division of Driver Licensing, to test persons applying for a renewal operator's license, a renewal instruction permit, or reinstatement to submit to a test of visual acuity and visual field at the time of application. It also requires persons whose visual acuity is 20/60 or better in one (1) eye and who meet or exceed the visual field standard established by this administrative regulation with corrective lenses shall have their driving privileges restricted to mandate the use of the corrective lenses. KRS 186.577 also requires the Transportation Cabinet to promulgate administrative regulations pursuant to KRS Chapter 13A to implement the provisions of the section, including establishing visual field standards, the creation of a driver vision testing form, and establishing a credentialing process for osteopaths, physicians, and advanced practice registered nurses to conduct vision testing under the section.

Section 1. Definitions.

(1) "Corrective lens" means an ophthalmic lens, whether an eyeglass, contact lens, or single lens system, that corrects the refraction error or other optically correctable deficiency of the eye.

(2) "Credentialed medical specialist" means an osteopath, physician, or advanced practice registered nurse who is credentialed by the cabinet to perform vision testing under this administrative regulation.

(3) "Field of vision" means the entire horizontal and vertical planes a person has for each eye without shifting the gaze.

(4) "Licensing action" means any action by the Transportation Cabinet involving the denial, cancellation, restriction, or issuance of a motor vehicle operator's license pursuant to KRS Chapter 186.

(5) "Medical Review Board" means the Medical Review Board established pursuant to KRS 186.444 and 186.570(1)(c).

(6) "Visual field" is defined by KRS 186.576(13).

(7) "Vision specialist" means a person licensed to practice optometry as established in KRS Chapter 320 or its out-of-state equivalent, or an ophthalmologist who is a medical or osteopathic physician specializing in eye and vision care and licensed pursuant to KRS Chapter 311 or its out-of-state equivalent.

(8) "Vision testing" means the initial vision screening for visual acuity and visual field conducted by the Kentucky State Police, a credentialed medical specialist, or a vision specialist to test persons applying for an initial operator's license or an initial instruction permit, or the vision screening conducted by the Division of Driver Licensing, a credentialed medical specialist, or a vision specialist to test persons applying for a renewal operator's license, a renewal instruction permit, or reinstatement. It also means the further examination vision testing for visual acuity and visual field conducted by a vision specialist after a failed initial vision screening.

(9) "Visual field standards" means the driver's horizontal field of vision shall be at least thirty (30) degrees to both the left and the right without interruption and their vertical field of vision shall be at least twenty-five (25) degrees above and below fixation without interruption.

Section 2. Procedures for Testing Applicants for Initial or Renewal Instruction Permit, Initial or Renewal License, or Reinstatement.

(1) The following persons shall submit to a test of visual acuity and visual field at the time of application or renewal:

(a) All persons applying for an initial or renewal operator's license;

(b) All persons applying for an initial or renewal instruction permit; and

(c) Any person required to complete an examination under KRS 186.635.

(2) Vision testing under this section shall be administered to any person:

(a) Applying for an initial operator's license, an initial instruction permit, or reinstatement of a license when vision shall be tested as required in KRS 186.480:

1. Prior to the time of application under subsection (5) of this section; or

2. By Kentucky State Police at the time of application;

(b) Applying for operator's license renewal or instruction permit renewal:

1. Prior to the time of application under subsection (5) of this section; or

2. By the Transportation Cabinet at the time of application; or Identified in Kentucky administrative regulations promulgated by the

(c) Transportation Cabinet as being required to undergo the exam required by KRS 186.480.

(3) Visual acuity and visual field.

(a) Persons whose visual acuity is 20/40 or better in one (1) eye and who meet or exceed the visual field standard established by the Transportation Cabinet without corrective lenses shall not have a restriction placed on their driving privileges.

(b) Persons whose visual acuity is 20/40 or better in one (1) eye and who meet or exceed the visual field standard established by the Transportation Cabinet with corrective lenses shall have their driving privileges restricted to mandate the use of the corrective lenses.

(c) Persons with a horizontal visual field in the person's better eye of at least thirty (30) degrees to the left and right side of fixation without interruption and a vertical visual field in the person's better eye of at least twenty-five (25) degrees above and below fixation without interruption shall be eligible to test for an instruction permit or operator's license or shall be eligible for an instruction permit or operator's license renewal or reinstatement.

(d) If a person fails to meet a 20/40 visual acuity standard or the visual field standard established by this administrative regulation in an initial screening by the Kentucky State Police, the Division of Driver Licensing, or a credentialed medical specialist, the person shall be referred to a vision specialist for further examination. If a vision specialist performs the initial screening and the person does not meet the visual standards, the vision specialist may conduct any further examination necessary to complete the TC 94-202, Driver Vision Testing Certification.

(e) Any further examination visual field test conducted by a vision specialist after a failed initial vision screening under this administrative regulation shall test the entire field of vision for interruption.

(4) A person referred to a vision specialist under subsection (3) of this section whose visual acuity is 20/60 or better in one eye and who meets or exceeds the visual field standard established by this administrative regulation shall be eligible to test for an instruction permit or operator's license or shall be eligible for operator's license renewal or reinstatement. If corrective lenses were prescribed by a vision specialist, the person's driving privileges shall be restricted to mandate the use of the corrective lenses.

(5) Vision tests administered under subsection (2)(a) of this section shall be deemed to meet the testing provisions outlined in subsection (3) or (4) of this section, if the person submits a TC 94-202, Driver Vision Testing Certification, and the form has been completed by:

(a) A vision specialist; or

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(b) An osteopath, physician, or advanced practice registered nurse who is credentialed by the department to perform vision testing pursuant to KRS 186.577 and this administrative regulation.

(6) All driver vision testing forms completed under subsection (5) of this section shall:

(a) Attest that the applicant meets or exceeds the visual acuity standard and visual field standard established by KRS 186.577 and the department in this administrative regulation;

(b) Only be valid if the vision specialist or the credentialed osteopath, credentialed physician, or credentialed advanced practice registered nurse signed and completed the TC 94-202, Driver Vision Testing Certification, vision testing form less than twelve (12) months prior to the date of application or renewal;

(c) State whether the driving privileges of the applicant shall be restricted to mandate the use of corrective lenses;

(d) Clearly indicate that the vision testing under this section is a screening for minimum vision standards established in this section and is not a complete eye examination;

(e) After any examination requested pursuant to KRS 186.577 and this administrative regulation, the examining vision specialist or credentialed medical specialist shall complete and report the findings of an examination on the TC 94-202, Driver Vision Testing Certification, and shall submit it directly to the department if the person's visual acuity or visual field do not meet the standards in this administrative regulation; and

(f) If the department learns that a person applying for an initial or renewal instruction permit, initial or renewal license, or reinstatement, could have a medical condition that might affect safe driving, the department may, pursuant to 601 KAR 13:090, 601 KAR 13:100, and this administrative regulation require the person to provide the Medical Review Board with information about the person's medical condition and may thereafter take an appropriate licensing action.

(7) Any person seeking application or permit under subsection (1) of this section shall attest that he or she has submitted to and passed the visual acuity and visual field tests required under KRS 186.577 and this administrative regulation.

(8) Any person renewing an operator's license under KRS 186.416 shall be exempt from the vision testing requirements outlined in this administrative regulation.

(9) Persons who meet the requirements of KRS 186.578 and are issued operator's licenses under KRS 186.579 shall:

(a) Have their driving privileges restricted to the use of a bioptic telescopic device; and

(b) Be otherwise exempt from this section.

(10) Pursuant to KRS 186.480, the provisions of KRS 186.577 and of this administrative regulation shall not apply to an applicant who:

(a) At the time of application, holds a valid operator's license from another state, provided that state affords a reciprocal exemption to a Kentucky resident;

(b) At the time of application for a motorcycle instruction permit or motorcycle operator's license, presents evidence of successful completion of an approved rider training course under KRS 176.5062; or

(c) Is a citizen of the Commonwealth who has been serving in the United States military and has allowed his or her operator's license to expire.

(11) A credentialed medical specialist or a vision specialist shall complete the TC 94-202, Driver Vision Testing Certification, after any examination requested pursuant to KRS 186.577 and this administrative regulation and shall submit a copy of the certification of any examination failures to the Division of Driver Licensing. Unless the Division of Driver Licensing or the Kentucky State Police is conducting the initial screening at the time of application, the Kentucky State Police or the department shall require a person to submit a completed original copy of this form for that person to be eligible for an initial operator's license, an initial instruction permit, license renewal, permit renewal, or reinstatement.

Section 3. Appeal of a Denial of Initial Instruction Permit, Operator's License, Renewal, or Reinstatement for Vision Standards.

(1) After any further examination by a vision specialist requested pursuant to KRS 186.577 and this administrative regulation, an applicant who is deemed ineligible for an initial instruction permit, operator's license, renewal, or reinstatement because their visual acuity or visual field do not meet the applicable standards may appeal their denial to the Division of Driver Licensing, Medical Review Board.

(2) An applicant may file an appeal by submitting a copy of the TC 94-202, Driver Vision Testing Certification, certified by a vision specialist to the Medical Review Board within twenty (20) days of the date the further examination was completed.

Section 4. Credentialing of a Medical Specialist.

(1) A licensed osteopath, physician, or advanced practice registered nurse shall become credentialed by the Department of Vehicle Regulation before they may perform the initial vision testing required under KRS 186.577 and this administrative regulation. To become credentialed, the medical professional shall submit to the department a completed TC 94-203, Medical Specialist Credentialing Certification.

(2) The applicant medical specialist shall thereafter receive an approved copy of the TC 94-203, Medical Specialist Credentialing Certification, from the Division of Driver Licensing credentialing them to perform the initial vision screening required under KRS 186.577 and this administrative regulation prior to completing any driver vision examination, and prior to completing a TC 94-202, Driver Vision Testing Certification.

(3) The credentialed medical professional shall include their Medical Specialist Credential certification number on any completed TC 94-202, Driver Vision Testing Certification.

Section 5. Incorporated by Reference.

(1) The following material is incorporated by reference:

(a) "TC 94-202, Driver Vision Testing Certification," November 2024.

(b) "TC 94-203, Medical Specialist Credentialing Certification," November 2024.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Driver 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 the Transportation Cabinet's website at [https://transportation.ky.gov/Organizational-Resources/Pages/Forms-Library-\(TC-94\).aspx](https://transportation.ky.gov/Organizational-Resources/Pages/Forms-Library-(TC-94).aspx).

JIM GRAY, Secretary

MATTHEW COLE, Commissioner

JESSE ROWE, Staff Attorney Manager/Assistant General Counsel

APPROVED BY AGENCY: December 5, 2024

FILED WITH LRC: December 6, 2024 at 11:25 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 21, 2025, at 10:00 a.m. EST, at the Transportation Cabinet, Transportation Cabinet Building, 200 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 January 31, 2025. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

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CONTACT PERSON: Jesse Rowe, Staff Attorney Manager/Assistant General Counsel, Transportation Cabinet, Office of Legal Services, 200 Mero Street, Frankfort, Kentucky 40622, (502) 564-7650, fax (502) 564-5238, jessew.rowe@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jesse Rowe

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation implements the KRS 186.577 requirement that the Kentucky State Police continue to require persons applying for an initial operator's license, or an initial instruction permit, to submit to a test of visual acuity and visual field at the time of application but now authorizing medical professionals to conduct the examinations prior to application when requested. It also implements the requirement that the Division of Driver Licensing require persons applying for a renewal operator's license, a renewal instruction permit, or reinstatement to submit to a test of visual acuity and visual field at time of application. The regulation also requires persons whose visual acuity is 20/60 or better in one (1) eye and who meet or exceed the visual field standard with corrective lenses shall have their driving privileges restricted to mandate the use of the corrective lenses. It also implements the KRS 186.577 requirement that the Transportation Cabinet establish visual field standards, create a driver vision testing form, and establish a credentialing process for osteopaths, physicians, and advanced practice registered nurses to conduct vision testing under the section.

(b) The necessity of this administrative regulation: This regulation is required by KRS 186.577(10).

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation establishes the minimum standards required to achieve the intent of KRS 186.577.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes forms required by KRS 186.577 to report vision examinations for driver licensing applicants performed outside of the agencies and for credentialing of medical specialists who are not vision specialists to be among those who can perform the examinations.

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

(a) How the amendment will change this existing administrative regulation: N/A.

(b) The necessity of the amendment to this administrative regulation: N/A.

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation would affect the residents of Kentucky who may apply for a driver license. The Department of Vehicle Regulation reports approximately 3.5M active licensed drivers in Kentucky on a given day. It will control how the Department of Vehicle Regulation applies the vision standards required by KRS 186.577 and the regulation to applicants for a renewal, or reinstatement of an instruction permit or operator's license. This regulation also affects the Kentucky State Police and controls how it applies the vision standards required by KRS 186.577 and the regulation to applicants for an initial permit or license. This regulation also controls how vision specialists and credentialed medical specialists may conduct and report vision examinations requested pursuant to the regulation and KRS 186.577 and establishes a process for osteopaths, physicians, and advanced practice registered nurses to become credentialed medical specialists and to conduct vision testing under the regulation and statute.

(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 Department of Vehicle Regulation and the Kentucky State Police will be required to comply with the applicable vision standards in this regulation and KRS 186.577 in the issuance and denial of initial permits and licenses and their renewal and reinstatement. The Department of Vehicle Regulation, the Kentucky State Police, vision specialists, and credentialed medical specialists may conduct driver vision testing and vision specialists and credentialed medical specialists must report the examinations on the form required by the regulation. Residents of Kentucky who may apply for a driver instruction permit or license, renewal or reinstatement will be required to comply with this regulation and KRS 186.577 and submit to a test of visual acuity and visual field at or before application.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The Department of Vehicle Regulation and the Kentucky State Police will offer the required vision screening without additional expense to applicants for a permit, license, renewal, or reinstatement. Vision specialists and credentialed medical specialists will charge market rates for the same service. The Department of Vehicle Regulation has acquired 100 or more automatic visual acuity and visual field machines to conduct the examinations and has increased staff in the Frankfort central office and in the regional driver licensing offices. The Kentucky State Police already owns and maintains the same machines for the vision examinations previously required for initial permits or licenses by KRS 186.577 prior to the amendments requiring testing for renewals and reinstatements.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The Department of Vehicle Regulation and the Kentucky State Police will hereafter work together to ensure compliance with minimum vision standards for drivers throughout the years they may be licensed, improving roadway safety for the traveling public.

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

(a) Initially: The Kentucky Transportation Cabinet incurred initial equipment costs of approximately \$100,000.

(b) On a continuing basis: Implementing this administrative regulation will have ongoing equipment and personnel costs for the Kentucky Transportation Cabinet across each of the regional driver licensing offices and central office associated with compliance with KRS 186.577, totaling \$250,000 in recurring annual mostly personnel costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of the funding to be used for the implementation and enforcement of this administrative regulation is the general budget of the Kentucky Transportation Cabinet, Department of Vehicle Regulation.

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: KRS 186.577(11) authorizes the assessment of a fee to an applicant to cover the administrative costs of performing on-site vision testing. The Kentucky Transportation Cabinet has declined to assess such a fee. Applicants may choose to pay for driver vision testing conducted by vision specialists or credentialed medical specialists prior to application.

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(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 186.577.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Transportation Cabinet, Department of Vehicle Regulation, Division of Driver Licensing is the promulgating agency and it and the Kentucky State Police are affected.

(a) Estimate the following for the first year:

Expenditures: \$100,000 in initial equipment costs and \$250,000 in additional personnel costs for the Kentucky Transportation Cabinet.

Revenues: This administrative regulation is not expected to generate revenue.

Cost Savings: This administrative regulation is not expected to generate cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The Kentucky Transportation Cabinet will expend approximately \$250,000 in additional annual personnel and equipment costs to comply with KRS 186.577 and the administrative regulation. This administrative regulation is not expected to generate revenue and is not expected to generate cost savings.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): This administrative regulation will not affect local entities.

(a) Estimate the following for the first year:

Expenditures: This administrative regulation is not expected to generate additional expenditures for any local entities.

Revenues: This administrative regulation is not expected to generate revenue.

Cost Savings: This administrative regulation is not expected to generate cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures, revenues, and cost savings will not differ in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3): None.

(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? They will not differ.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This administrative regulation should cause no effect on the expenditures and revenues of a state or local government agency other than the Kentucky Transportation Cabinet. The Department of Vehicle Regulation has incurred \$100,000 in initial equipment costs to comply with KRS 186.577 and the additional personnel costs are based upon the estimated hours to accommodate the volume of driver vision testing and administration expected to occur in the department.

(b) Methodology and resources used to determine the fiscal impact: The Department of Vehicle Regulation has already incurred the initial equipment expense, it evaluated the time necessary to conduct a vision examination, and used historical data to determine the expected volume of renewals and reinstatements requiring a vision examination processed in a given year.

(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 will not have an overall negative or adverse major economic impact to the entities identified.

(b) The methodology and resources used to reach this conclusion: The Department of Vehicle Regulation evaluated its own expected costs based upon actual equipment costs, task complexity and volume, and historical personnel costs. No other entity can have additional expenditures to comply with this administrative regulation.

STATEMENT OF EMERGENCY
803 KAR 2:320E.

This emergency administrative regulation adopts the May 20, 2024, Occupational Safety and Health Administration ("OSHA") final rule that amended the Hazard Communication Standard ("HCS") to conform to the United Nations' Globally Harmonized System of Classification and Labelling of Chemicals, addressed issues that arose during the implementation of the 2012 HCS update, and provided better alignment with other U.S. agencies and international trading partners while enhancing the effectiveness of the standard. OSHA determined the revisions in the final rule enhance HCS effectiveness by ensuring employees are appropriately apprised of the chemical hazards to which they may be exposed, thus reducing the incidence of chemical-related occupational illnesses and injuries. The modifications to the standard include revised criteria for classification of certain health and physical hazards, revised provisions for updating labels, new labeling provisions for small containers, new provisions related to trade secrets, technical amendments related to the contents of safety data sheets, and related revisions to definitions of terms used in the standard. It is necessary to promulgate this emergency regulation to meet the requirements established in Pub.L. 91-596 84 STAT. 1590 Section 18 (Occupational Safety and Health ("OSH") Act of 1970), 29 C.F.R. 1902.3(c)(1), 29 C.F.R. 1902.3(d)(1), 29 C.F.R. 1902.3(d)(2), 29 C.F.R. 1902.37(b)(3), 29 C.F.R. 1953.1(a), 29 C.F.R. 1953.1(b), 29 C.F.R. 1953.5(a)(1), 29 C.F.R. 1953.(a)(2), 29 C.F.R. 1956.2(a), and 29 C.F.R. 1956.10(d)(1), which all require Kentucky OSH regulations to be as effective as the federal requirements. Furthermore, 29 C.F.R. 1953.5 mandates adoption of the final rule within six (6) months of the date of the May 20, 2024, promulgation. Therefore, Kentucky must adopt the rule no later than November 20, 2024. This emergency administrative regulation shall be replaced by an ordinary administrative regulation, which is being filed simultaneously with the Regulations Compiler. The ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor
JAMIE LINK, Chairman

EDUCATION AND LABOR CABINET
Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and Health Education and Training
(Emergency Amendment)

803 KAR 2:320E. Toxic and hazardous substances.

EFFECTIVE: November 19, 2024
RELATES TO: KRS 338.015, 338.031, 29 C.F.R. 1910.134, 1910.141, 1910.1000-1910.1450

STATUTORY AUTHORITY: KRS 338.051(3), 338.061
NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations and authorizes the chairman to reference federal standards without board approval if necessary to meet federal time requirements. KRS 338.061 authorizes the board to establish, modify, or repeal standards and reference federal standards. 29 C.F.R. 1910.1000 through 1910.1450 establishes ~~the[establish]~~ federal requirements relating to toxic and hazardous substances. This administrative regulation establishes the toxic and

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hazardous substances standards enforced by the Department of Workplace Standards in [the area of] general industry.

Section 1. Definitions.

(1) "Absolute filter" means a filter capable of retaining 99.97 percent of a mono disperse aerosol of zero and three-tenths (0.3) mu particles.

(2) "Area director" means Director, Division of Occupational Safety and Health Compliance, Kentucky Education and Labor Cabinet.

(3) "Authorized employee" means an employee whose duties require the employee to be in the regulated area and who has been specifically assigned to that area by the employer.

(4) "Clean change room" means a room where employees put on clean clothing or protective equipment in an environment free of 4,4'-Methylene bis (2-chloroaniline).

(5) "Closed system" means an operation involving 4,4'-Methylene bis (2-chloroaniline) if containment prevents the release of 4,4'-Methylene bis (2-chloroaniline) into regulated areas, nonregulated areas, or the external environment.

(6) "Decontamination" means the inactivation of 4,4'-Methylene bis (2-chloroaniline) or its safe disposal.

(7) "Director" means the Director, National Institute for Occupational Safety and Health, or any person directed by the director or the Secretary of Health, Education, and Welfare to act for the director.

(8) "Disposal" means the safe removal of 4,4'-Methylene bis (2-chloroaniline) from the work environment.

(9) "Emergency" means an unforeseen circumstance or set of circumstances resulting in the release of 4,4'-Methylene bis (2-chloroaniline) that could result in exposure to or contact with 4,4'-Methylene bis (2-chloroaniline).

(10) "Employee" is defined by KRS 338.015(2).

(11) "Employer" is defined by KRS 338.015(1).

(12) "External environment" means any environment external to regulated and nonregulated areas.

(13) "Isolated system" means a fully enclosed structure, other than the vessel of containment, of 4,4'-Methylene bis (2-chloroaniline), which is impervious to the passage of entry of 4,4'-Methylene bis (2-chloroaniline), and which would prevent the entry of 4,4'-Methylene bis (2-chloroaniline) into regulated areas, or the external environment, if leakage or spillage from the vessel of containment occurs.

(14) "Laboratory type hood" means a device:

(a) Enclosed on three (3) sides with the top and bottom designed and maintained to draw air inward at an average linear face velocity of 150 feet per minute with a minimum of 125 feet per minute; and

(b) Designed, constructed, and maintained so that an operation involving 4,4'-Methylene bis (2-chloroaniline) within the hood does not require the insertion of any portion of an employee's body other than hands and arms.

(15) "Nonregulated area" means any area under the control of the employer where entry and exit is neither restricted nor controlled.

(16) "Open vessel system" means an operation involving 4,4'-Methylene bis (2-chloroaniline) in an open vessel, which is not in an isolated system, a laboratory type hood, nor in any other system affording equivalent protection against the entry of 4,4'-Methylene bis (2-chloroaniline) into regulated areas, nonregulated areas, or the external environment.

(17) "Protective clothing" means clothing designed to protect an employee against contact with or exposure to 4,4'-Methylene bis (2-chloroaniline).

(18) "Regulated area" means an area where entry and exit is restricted and controlled.

(19) "Standard" means "occupational safety and health standards" as defined by KRS 338.015(3).

Section 2. 4,4'-Methylene bis (2-Chloroaniline).

(1) Scope and application.

(a) This section shall apply to any area in which 4,4'-Methylene bis (2-chloroaniline), Chemical Abstracts Service Registry Number

101144, is manufactured, processed, repackaged, released, handled, or stored. This section shall not apply to trans-shipment in sealed containers, except for the labeling requirements under subsection (4)(b), (c), and (d) of this section.

(b) This section shall not apply to solid or liquid mixtures containing less than one and zero-tenths (1.0) percent by weight of 4,4'-Methylene bis (2-chloroaniline).

(2) Requirements for areas containing 4,4'-Methylene bis (2-chloroaniline). A regulated area shall be established by an employer where 4,4'-Methylene bis (2-chloroaniline) is manufactured, processed, used, repackaged, released, handled, or stored. Those areas shall be controlled in accordance with the requirements established in paragraphs (a) through (g) of this subsection for the category or categories describing the operations involved.

(a) Isolated systems. Employees working with 4,4'-Methylene bis (2-chloroaniline) within an isolated system such as a "glove box" shall wash their hands and arms upon completion of the assigned task and before engaging in other activities not associated with the isolated system.

(b) Closed system operation. Within regulated areas if 4,4'-Methylene bis (2-chloroaniline) is stored in a sealed container, or contained in a closed system including piping systems, with any sample ports or openings closed while 4,4'-Methylene bis (2-chloroaniline) is contained within:

1. Access shall be restricted to authorized employees only; and

2. Employees shall be required to wash hands, forearms, face, and neck upon each exit from the regulated areas, close to the point of exit and before engaging in other activities.

(c) Open vessel system operations. Open vessel system operations shall be prohibited.

(d) Transfer from a closed system, charging or discharging point operations, or otherwise opening a closed system. In operations involving a "laboratory type hood," or in locations where 4,4'-Methylene bis (2-chloroaniline) is contained in an otherwise "closed system," but is transferred, charged, or discharged into other normally closed containers, the provisions of this paragraph shall apply.

1. Access shall be restricted to authorized employees only.

2. Each operation shall be provided with continuous local exhaust ventilation so that air movement shall always be from ordinary work areas to the operation.

a. Exhaust air shall not be discharged to regulated areas, nonregulated areas, or the external environment unless it is decontaminated.

b. Clean make-up air shall be introduced in sufficient volume to maintain the correct operation of the local exhaust system.

3. Employees shall be provided with, and required to wear, clean, full body protective clothing (smocks, coveralls, or long-sleeved shirt and pants), shoe covers, and gloves prior to entering the regulated area.

4. Employees engaged in 4,4'-Methylene bis (2-chloroaniline) handling operations shall be provided with and required to wear and use a half-face, filter-type respirator for dusts, mists, and fumes, in accordance with 29 C.F.R. 1910.134. A respirator affording a higher level of protection may be substituted.

5. Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day and to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal. The contents of the impervious containers shall be identified, as required under subsection (4)(b), (c), and (d) of this section.

6. Employees shall be required to wash hands, forearms, face, and neck on each exit from the regulated area, close to the point of exit, and before engaging in other activities.

7. Employees shall be required to shower after the last exit of the day.

8. Drinking fountains shall be prohibited in the regulated area.

(e) Maintenance and decontamination activities. In cleanup of leaks or spills, maintenance or repair operations on contaminated systems or equipment, or any operations involving work in an area

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where direct contact with 4,4'-Methylene bis (2-chloroaniline) could result, each authorized employee entering that area shall be:

1. Provided with and required to wear clean, impervious garments, including gloves, boots, and continuous-air supplied hood in accordance with 29 C.F.R. 1910.134;

2. Decontaminated before removing the protective garments and hood; and

3. Required to shower upon removing the protective garments and hood.

(f) Laboratory activities. The requirements of this paragraph shall apply to research and quality control activities involving the use of 4,4'-Methylene bis (2-chloroaniline).

1. Mechanical pipetting aids shall be used for all pipetting procedures.

2. Experiments, procedures, and equipment that could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

3. Surfaces on which 4,4'-Methylene bis (2-chloroaniline) is handled shall be protected from contamination.

- 4.

- a. Contaminated wastes and animal carcasses shall be collected in impervious containers that are closed and decontaminated prior to removal from the work area.

- b. The wastes and carcasses shall be incinerated so that no carcinogenic products are released.

5. All other forms of 4,4'-Methylene bis (2-chloroaniline) shall be inactivated prior to disposal.

6. Employees engaged in animal support activities shall be:

- a. Provided with and required to wear, a complete protective clothing change, clean each day, including coveralls or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices;

- b. Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day and to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal. The contents of the impervious containers shall be identified as required under subsection (4)(b), (c), and (d) of this section;

- c. Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to the point of exit and before engaging in other activities; and

- d. Required to shower after the last exit of the day.

7. Employees, except for those engaged in animal support activities, each day shall be:

- a. Provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat;

- b. Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day and to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal. The contents of the impervious containers shall be identified as required under subsection (4)(b), (c), and (d) of this section; and

- c. Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to the point of exit and before engaging in other activities.

8. Air pressure in laboratory areas and animal rooms where 4,4'-Methylene bis (2-chloroaniline) is handled and bioassay studies are performed shall be negative in relation to the pressure in the surrounding area. Exhaust air shall not be discharged to regulated areas, nonregulated areas, or the external environment unless it is decontaminated.

9. There shall not be a connection between regulated areas and any other areas through the ventilation system.

10. A current inventory of 4,4'-Methylene bis (2-chloroaniline) shall be maintained.

11. Ventilated apparatus such as laboratory type hoods, shall be tested at least semi-annually or immediately after ventilation modification of maintenance operations, by personnel fully qualified to certify correct containment and operation.

(g) Premixed solutions. If 4,4'-Methylene bis (2-chloroaniline) is present only in a single solution at a temperature not exceeding 120

degrees Celsius, the establishment of a regulated area shall not be required, except:

1. Only authorized employees shall be permitted to handle the materials;

2. Each day employees shall be provided with and required to wear a clean change of protective clothing (smocks, coveralls, or long-sleeved shirts and pants), gloves, and other protective garments and equipment necessary to prevent contact with the solution in the process used;

3. Employees shall be required to remove and leave protective clothing and equipment if leaving the work area at the end of the work day or if solution is spilled on the clothing or equipment. Used clothing and equipment shall be placed in impervious containers for decontamination or disposal. The contents of the impervious containers shall be identified, as required under subsection (4)(b), (c), and (d) of this section;

4. Employees shall be required to wash hands and face after removing protective clothing and equipment and before engaging in other activities;

5. Employees assigned to work covered by this paragraph shall be deemed to be working in regulated areas for the purposes of subsection (4)(a), (b), and (c) of this section; and

6. Work areas where solution could be spilled shall be:

- a. Covered daily or after any spill with a clean covering; and

- b. Cleaned thoroughly daily and after any spill.

(3) General regulated area requirements.

(a) Employee identification.

1. A daily roster of employees entering regulated areas shall be established and maintained.

2. The rosters or a summary of the rosters shall be retained for a period of twenty (20) years.

3. The rosters or summaries shall be provided upon request to authorized representatives of the assistant secretary and the director.

4. If the employer ceases business without a successor, rosters shall be forwarded by registered mail to the director.

(b) Emergencies. In an emergency, immediate measures, including the requirements of this paragraph, shall be implemented.

1. The potentially affected area shall be evacuated as soon as the emergency is determined.

2. Hazardous conditions created by the emergency shall be eliminated and the potentially affected area shall be decontaminated prior to the resumption of normal operations.

- 3.

- a. Special medical surveillance by a physician shall be instituted within twenty-four (24) hours for employees present in the potentially affected area at the time of the emergency.

- b. A report of the medical surveillance and any treatment shall be included in the incident report, in accordance with subsection (5)(b) of this section.

4. If an employee has a known contact with 4,4'-Methylene bis (2-chloroaniline), the employee shall be required to shower as soon as possible, unless contraindicated by physical injuries.

5. An incident report on the emergency shall be reported as established in subsection (5)(b) of this section.

(c) Hygiene facilities and practices.

1. Storage or consumption of food, storage or use of containers of beverages, storage or consumption of beverages, storage or application of cosmetics, smoking, storage of smoking materials, tobacco products or other products for chewing, or the chewing of those products, shall be prohibited in regulated areas.

2. If employees are required by this section to wash, washing facilities shall be provided in accordance with 29 C.F.R. 1910.141.

3. If employees are required by this section to shower, facilities shall be provided in accordance with 29 C.F.R. 1910.141(d)(3).

4. If employees wear protective clothing and equipment, clean change rooms shall be provided, in accordance with 29 C.F.R. 1910.141(e), for the number of employees required to change clothes.

5. If toilets are located in regulated areas, the toilets shall be in a separate room.

(d) Contamination control.

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1. Regulated areas, except for outdoor systems, shall be maintained under pressure negative with respect to nonregulated areas.

a. Local exhaust ventilation may be used to satisfy this requirement.

b. Clean make-up air in equal volume shall replace air removed.

2. Any equipment, material, or other item taken or removed from a regulated area shall be done so in a manner that does not cause contamination in nonregulated areas or the external environment.

3. Decontamination procedures shall be established and implemented to remove 4,4'-Methylene bis (2-chloroaniline) from the surface of materials, equipment, and the decontamination facility.

4. Dry sweeping and dry mopping shall be prohibited.

(4) Signs, information, and training.

(a) Signs.

1. Entrance to regulated areas shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT Authorized Personnel Only

2. Entrances to regulated areas containing operations established in subsection (2)(e) of this section shall be posted with signs bearing the legend:

Cancer-Suspect Agent Exposed In this Area Impervious Suit Including Gloves, Boots, and Air-Supplied Hood Required At All Times Authorized Personnel Only

3. Appropriate signs and instructions shall be posted at the entrance to, and exit from, regulated areas, informing employees of the procedures that shall be followed in entering and leaving a regulated area.

(b) Container labeling. Containers shall be labeled in accordance with the requirements of 29 C.F.R. 1910.1200.

(c) Lettering.

1. Lettering on signs and instructions required by paragraph (a) of this subsection shall be a minimum letter height of two (2) inches.

2. Labels on containers required by paragraph (b) of this subsection shall:

a. Not be less than one-half (1/2) the size of the largest lettering on the package, up to a maximum required size of one (1) inch in height; and

b. Not use less than eight (8) point type.

(d) Prohibited statements. A statement shall not appear on or near any required sign, label, or instruction that contradicts or detracts from the effect of any required warning, information, or instruction.

(e) Training and indoctrination.

1. Each employee, prior to being authorized to enter a regulated area, shall receive a training and indoctrination program including:

a. The nature of the carcinogenic hazards of 4,4'-Methylene bis (2-chloroaniline), including local and systemic toxicity;

b. The specific nature of the operation involving 4,4'-Methylene bis (2-chloroaniline) that could result in exposure;

c. The purpose for and application of the medical surveillance program, including, as appropriate, methods of self-examination;

d. The purpose for and application of decontamination practices and procedures;

e. The purpose for and significance of emergency practices and procedures;

f. The employee's specific role in emergency procedures;

g. Specific information to aid the employee in recognition and evaluation of conditions and situations that could result in the release of 4,4'-Methylene bis (2-chloroaniline); and

h. The purpose for and application of specific first-aid procedures and practices.

2. Each employee shall receive a review of this section at the employee's first training and indoctrination program and annually thereafter.

3. Specific emergency procedures shall be established and posted, and employees shall be familiarized with their terms and rehearsed in their application.

4. All materials relating to the program shall be provided if requested by authorized representatives of the assistant secretary and the director.

(5) Reports.

(a) Operations. Not later than March 1 of each year, the information required by this paragraph shall be reported in writing by the employer to the nearest Area Director. Any change in the reported information shall be reported in writing within fifteen (15) calendar days of the change. The report shall contain:

1. A brief description and in-plant location of the areas regulated and the address of each regulated area;

2. The names and other identifying information as to the presence of 4,4'-Methylene bis (2-chloroaniline) in each regulated area;

3. The number of employees in each regulated area, during normal operations including maintenance activities; and

4. The manner in which 4,4'-Methylene bis (2-chloroaniline) is present in each regulated area, such as whether or not it is manufactured, processed, used, repackaged, released, stored, or otherwise handled.

(b) Incidents. Incidents that result in the release of 4,4'-Methylene bis (2-chloroaniline) into any area where employees may be exposed shall be reported in accordance with this paragraph.

1. A report of the incident and the facts obtainable at that time, including a report on any medical treatment of affected employees, shall be made within twenty-four (24) hours to the nearest Area Director.

2. A written report shall be filed with the nearest Area Director within fifteen (15) calendar days of the initial report and shall include:

a. A specification of the amount of material released, the amount of time involved, and an explanation of the procedure used in determining this figure;

b. A description of the area involved, and the extent of known and possible employee and area contamination;

c. A report of any medical treatment of affected employees and any medical surveillance program implemented; and

d. An analysis of the steps to be taken, with specific completion dates, to avoid further similar release.

(6) Medical surveillance. At no cost to the employee, a program of medical surveillance shall be established and implemented for employees considered for assignment to enter regulated areas, and for authorized employees.

(a) Examinations.

1. Before an employee is assigned to enter a regulated area, a preassignment physical examination by a physician shall be provided. The examination shall include the personal history of the employee, family, and occupational background, including genetic and environmental factors.

2. Authorized employees shall be provided with periodic physical examinations at least annually, following the preassignment examination.

3. In all physical examinations, the examining physician shall consider whether or not there exist conditions of increased risk, including reduced immunological competence, current treatment with steroids of cytotoxic agents, pregnancy, and cigarette smoking.

(b) Records.

1. Employers of employees examined pursuant to this subsection shall maintain complete and accurate records of all medical examinations. Records shall be maintained for at least the duration of the employee's employment. If the employee's employment is terminated, including by retirement or death, or if the employer ceases business without a successor, records, or notarized true copies thereof, shall be forwarded by registered mail to the director.

2. Records required by this paragraph shall be provided if requested by authorized representatives of the assistant secretary or the director. If requested by an employee or former employee, the records shall be provided to a physician designated by the employee or to a new employer.

3. Any physician who conducts a medical examination required by this subsection shall furnish to the employer a statement of the employee's suitability for employment in the specific exposure.

Section 3. Laboratory Activities. The requirements of this section shall apply to research and quality control activities involving the use of chemicals covered by 29 C.F.R. 1910.1003 through 1910.1016.

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(1) Mechanical pipetting aids shall be used for all pipetting procedures.

(2) Experiments, procedures, and equipment that could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

(3) Surfaces on which chemicals covered by 29 C.F.R. 1910.1003 through 1910.1016 are handled shall be protected from contamination.

(4) Contaminated wastes and animal carcasses shall be collected in impervious containers that are closed and decontaminated prior to removal from the work area. The wastes and carcasses shall be incinerated so that carcinogenic products shall not be released.

(5) All other forms of chemicals covered by 29 C.F.R. 1910.1003 through 1910.1016 shall be inactivated prior to disposal.

(6) Laboratory vacuum systems shall be protected with high-efficiency scrubbers or with disposal absolute filters.

(7) Employees engaged in animal support activities shall be:

(a) Provided with and required to wear, a complete protective clothing change, clean each day, including coveralls, or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices;

(b)

1. Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal; and

2. The contents of the impervious containers shall be identified as required under Section 2(4)(b), (c), and (d) of this administrative regulation;

(c) Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to point of exit, and before engaging in other activities; and

(d) Required to shower after the last exit of the day.

(8) Employees, except for those engaged only in animal support activities, each day shall be:

(a) Provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat;

(b)

1. Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal; and

2. The contents of the impervious containers shall be identified as required under Section 2(4)(b), (c), and (d) of this administrative regulation; and

(c) Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to point of exit, and before engaging in other activities.

(9) Air pressure in laboratory areas and animal rooms where chemicals covered by 29 C.F.R. 1910.1003 through 1910.1016 are handled and bioassay studies are performed shall be negative in relation to the pressure in surrounding areas. Exhaust air shall not be discharged to regulated areas, nonregulated areas, or the external environment unless it is decontaminated.

(10) There shall not be a connection between regulated areas and any other areas through the ventilation system.

(11) A current inventory of chemicals covered by 29 C.F.R. 1910.1003 through 1910.1016 shall be maintained.

(12) Ventilated apparatus such as laboratory-type hoods shall be tested at least semi-annually or immediately after ventilation modification or maintenance operations, by personnel fully qualified to certify correct containment and operation.

Section 4. Access to Exposure or Medical Records.

(1) The language relating to the access to exposure or medical records in subsection (2) of this section shall apply in lieu of 29 C.F.R. 1910.1020(e)(1)(i).

(2) If an employee or designated representative requests access to an exposure or medical record, the employer shall ensure that access is provided in a reasonable time, place, and manner, but not

longer than fifteen (15) days after the request for access is made unless sufficient reason is given why that time is unreasonable or impractical.

(3) The language relating to the access to exposure or medical records in subsection (4) of this section shall apply in lieu of 29 C.F.R. 1910.1020(e)(1)(iii).

(4) If an employee or designated representative requests a copy of a record, the employer shall, except as specified in 29 C.F.R. 1910.1020(e)(1)(v) of this section, within the period of time established in subsection (2) of this section, ensure that either:

(a) A copy of the record shall be provided without cost to the employee or representative;

(b) The necessary mechanical copying facilities (for example, photocopying) shall be made available without cost to the employee or representative for copying the record; or

(c) The record shall be loaned to the employee or representative for a reasonable time to enable a copy to be made.

Section 5.

(1) The language relating to gloves in subsection (2) of this section shall apply in lieu of 29 C.F.R. 1910.1030(d)(3)(ix).

(2) Gloves shall be worn if it can be reasonably anticipated that the employees might have hand contact with blood, other potentially infectious materials, mucous membranes, and nonintact skin if performing vascular access procedures or if handling or touching contaminated items or surfaces.

Section 6. Except as established by Sections 1 through 5 of this administrative regulation, general industry shall comply with 29 C.F.R. Subpart Z, Toxic and Hazardous Substances, published by the Office of the Federal Register, National Archives and Records Administration [Services, General Services Administration and the revisions to 29 C.F.R. 1910.1024 published in the July 14, 2020 Federal Register, Volume 85, Number 135].

JAMIE LINK, Secretary

APPROVED BY AGENCY: November 19, 2024

FILED WITH LRC: November 19, 2024 at 1:40 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held January 31, 2024, 10:00 a.m. EST via Zoom. Public access to the meeting is available at: <https://us06web.zoom.us/j/86096997465?pwd=RauFklhaJX7JIV39FZ0hz1cc63LD7k.1> or by telephone at (713) 353-0212, (888) 822-7517 toll free, conference code 194378. 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 January 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: Robin Maples, OSH Standards Specialist, Education and Labor Cabinet, Mayo-Underwood Building, 500 Mero Street, 3rd Floor, Frankfort, Kentucky 40601, phone (502) 564-4107, fax (502) 564-4769, email robin.maples@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Robin Maples

(1) Provide a brief summary of:

(a) What this administrative regulation does: Section 1 of this emergency administrative regulation defines terms not found in the federal standard. Section 2, effective since February 12, 1996, retains requirements for employees with occupational exposure to 4,4'-Methylenebis (2-Chloroaniline). Section 3, also effective since February 12, 1996, retains requirements associated with research and quality control laboratory activities involving the use of the chemicals covered by 29 C.F.R. 1910.1003-1016. Section 4, effective since July 17, 1997, retains requirements related to access to exposure or medical records. Section 5, effective since October 7, 1992, retains

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requirements involving glove use related to 29 C.F.R. 1910.1030. Section 6 adopts the requirements found in 29 C.F.R. 1910 Subpart Z, Toxic and hazardous substances and OSHA's May 20, 2024 final rule that amended HCS to conform to the United Nations' Globally Harmonized System of Classification and Labelling of Chemicals, addressed issues that arose during the implementation of the 2012 HCS update, and provided better alignment with other U.S. agencies and international trading partners while enhancing the effectiveness of the standard. OSHA determined the revisions in the final rule enhance HCS effectiveness by ensuring employees are appropriately apprised of the chemical hazards to which they may be exposed, thus reducing the incidence of chemical-related occupational illnesses and injuries. The modifications to the standard include revised criteria for classification of certain health and physical hazards, revised provisions for updating labels, new labeling provisions for small containers, new provisions related to trade secrets, technical amendments related to the contents of safety data sheets, and related revisions to definitions of terms used in the standard. Section 6 also adopts OSHA's October 9, 2024, final rule that corrects several primarily typographical errors in the May 20, 2024, final rule.

(b) The necessity of this administrative regulation: This regulation is necessary to meet the requirements established in Public Law 91-596 84 STAT. 1590 Section 18 (OSH Act of 1970), 29 C.F.R. 1902.3(c)(1), 29 C.F.R. 1902.3(d)(1), 29 C.F.R. 1902.3(d)(2), 29 C.F.R. 1902.37(b)(3), 29 C.F.R. 1953.1(a), 29 C.F.R. 1953.1(b), 29 C.F.R. 1953.5(a)(1), 29 C.F.R. 1953.(a)(2), 29 C.F.R. 1956.2(a), and 29 C.F.R. 1956.10(d)(1), which all require Kentucky OSH regulations to be as effective as the federal requirements. This regulation is equivalent.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate OSH administrative regulations and authorizes the chairman to reference federal standards without board approval if necessary to meet federal time requirements. This emergency administrative regulation is necessary to meet the requirements established in Public Law 91-596 84 STAT. 1590, 29 C.F.R. 1902.3(c)(1), 29 C.F.R. 1902.3(d)(1), 29 C.F.R. 1902.3(d)(2), 29 C.F.R. 1902.37(b)(3), 29 C.F.R. 1953.1(a), 29 C.F.R. 1953.1(b), 29 C.F.R. 1953.5(a)(1), 29 C.F.R. 1953.(a)(2), 29 C.F.R. 1956.2(a), and 29 C.F.R. 1956.10(d)(1), which all require the Kentucky OSH Program to be as effective as OSHA. This regulation complies and conforms with the authorizing statutes.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation promotes worker safety and health throughout Kentucky and ensures the state requirement is as effective as the federal requirement. This emergency regulation is necessary to meet the requirements established in Public Law 91-596 84 STAT. 1590 Section 18 (OSH Act of 1970), 29 C.F.R. 1902.3(c)(1), 29 C.F.R. 1902.3(d)(1), 29 C.F.R. 1902.3(d)(2), 29 C.F.R. 1902.37(b)(3), 29 C.F.R. 1953.1(a), 29 C.F.R. 1953.1(b), 29 C.F.R. 1953.5(a)(1), 29 C.F.R. 1953.(a)(2), 29 C.F.R. 1956.2(a), and 29 C.F.R. 1956.10(d)(1), which require Kentucky OSH regulations to be as effective as the federal requirements. This regulation is equivalent.

(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: Kentucky operates a State Plan approved by OSHA that provides employee OSH protections. OSHA approves, monitors, and provides funding to Kentucky. It is necessary to promulgate this emergency regulation to meet the requirements established in Public Law 91-596 84 STAT. 1590, 29 C.F.R. 1902.3(c)(1), 29 C.F.R. 1902.3(d)(1), 29 C.F.R. 1902.3(d)(2), 29 C.F.R. 1902.37(b)(3), 29 C.F.R. 1953.1(a), 29 C.F.R. 1953.1(b), 29 C.F.R. 1953.5(a)(1), 29 C.F.R. 1953.(a)(2), 29 C.F.R. 1956.2(a), and 29 C.F.R. 1956.10(d)(1), which all require the Kentucky OSH Program to be as effective as OSHA. The Education and Labor Cabinet must promulgate this emergency administrative to ensure the state is at least as effective as the federal requirement. This emergency administrative regulation ensures Kentucky's compliance with the federal mandates, maintains Kentucky's primacy, and retains federal funding.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate OSH administrative regulations and authorizes the chairman to reference federal standards without board approval if necessary to meet federal time requirements. This emergency administrative regulation is necessary to meet the requirements established in Public Law 91-596 84 STAT. 1590 (OSH Act of 1970), 29 C.F.R. 1902.3(c)(1), 29 C.F.R. 1902.3(d)(1), 29 C.F.R. 1902.3(d)(2), 29 C.F.R. 1902.37(b)(3), 29 C.F.R. 1953.1(a), 29 C.F.R. 1953.1(b), 29 C.F.R. 1953.5(a)(1), 29 C.F.R. 1953.(a)(2), 29 C.F.R. 1956.2(a), and 29 C.F.R. 1956.10(d)(1), which all require the Kentucky OSH Program to be as effective as OSHA. This regulation complies and conforms with the authorizing statutes.

(d) How the amendment will assist in the effective administration of the statutes: This amendment maintains consistency with the federal requirements. This amendment promotes employee health and safety throughout Kentucky and keeps the state program consistent with the federal program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This emergency administrative regulation affects all employers in the Commonwealth covered by KRS Chapter 338.

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

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

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no additional cost to the OSH Program to implement this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This emergency administrative regulation promotes worker safety and health throughout Kentucky and ensures the state requirement is as effective as the federal requirement.

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

(a) Initially: There is no cost to the OSH Program to implement this emergency administrative regulation.

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

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state and federal funding.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 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 338.051, KRS 338.061, Public Law 91-596 84 STAT. 1590 Section 18 (OSH Act of 1970), 29 C.F.R. 1902.3(c)(1), 29 C.F.R. 1902.3(d)(1), 29 C.F.R. 1902.3(d)(2), 29 C.F.R. 1902.37(b)(3), 29 C.F.R. 1953.1(a), 29 C.F.R. 1953.1(b), 29 C.F.R. 1953.5(a)(1), 29 C.F.R. 1953.(a)(2), 29 C.F.R. 1956.2(a), and 29 C.F.R. 1956.10(d)(1)

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: This emergency administrative regulation

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affects any unit, part, or division of state or local government covered by KRS Chapter 338.

(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 does not impose any additional requirements or expenditures.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): This administrative regulation affects any unit, part, or division of state or local government covered by KRS Chapter 338.

(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 does not impose any additional requirements or expenditures.

(4) Identify additional regulated entities not listed in questions (2) or (3):

(a) Estimate the following for the first year:

Expenditures: None

Revenues: None

Cost Savings: Nationwide, OSHA estimates the rule will affect 111,223 firms, 147,832 establishments, and 1,530,476 employees and, for each affected industry, will either provide cost savings or the costs would be less than one percent of revenues or ten percent of profits. Nationwide, the net cost savings of the final rule are expected to be \$29.8 million per year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? This amendment is not expected to have significant impact on expenditures, revenues, or cost savings in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: Nationwide, OSHA estimates the rule will affect 111,223 firms, 147,832 establishments, and 1,530,476 employees and, for each affected industry, will either provide cost savings or the costs would be less than one percent of revenues or ten percent of profits. Nationwide, the net cost savings of the final rule are expected to be \$29.8 million per year.

(b) Methodology and resources used to determine the fiscal impact: Federal Register, Volume 89, Number 63, V. Final Economic Analysis and Regulatory Flexibility Act Certification.

(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 emergency administrative regulation imposes no new direct cost burden on employers and does not require them to take any action to comply.

(b) The methodology and resources used to reach this conclusion: Federal Register, Volume 89, Number 63, V. Final Economic Analysis and Regulatory Flexibility Act Certification.

1953.1(b), 29 C.F.R. 1953.5(a)(1), 29 C.F.R. 1953.(a)(2), 29 C.F.R. 1956.2(a), and 29 C.F.R. 1956.10(d)(1).

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Yes

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Section 1 of this administrative regulation defines terms not found in the federal standard. Section 2, effective since February 12, 1996, retains requirements related to 4,4'-Methylene bis (2-chloroaniline). Section 3, also effective since February 12, 1996, retains requirements associated with research and quality control laboratory activities involving the use of the chemicals covered by 29 C.F.R. 1910.1003-1016 that are more protective than OSHA. Section 4, effective since July 17, 1997, retains requirements related to access to exposure or medical records that are more protective than OSHA. Section 5, effective since October 7, 1992, retains requirements related to glove use as it applies to 29 C.F.R. 1910.1030 that are more protective than OSHA.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. Public Law 91-596 84 STAT. 1590 Section 18 (OSH Act of 1970), 29 C.F.R. 1902.3(c)(1), 29 C.F.R. 1902.3(d)(1), 29 C.F.R. 1902.3(d)(2), 29 C.F.R. 1902.37(b)(3), 29 C.F.R. 1953.1(a), 29 C.F.R. 1953.1(b), 29 C.F.R. 1953.5(a)(1), 29 C.F.R. 1953.(a)(2), 29 C.F.R. 1956.2(a), and 29 C.F.R. 1956.10(d)(1).

(2) State compliance standards. The Kentucky OSH Program is mandated to be at least as effective as the federal requirement. Accordingly, in order to maintain the state program as effective as the federal program, Kentucky must adopt the federal requirement or develop an equivalent standard. This regulation is equivalent.

(3) Minimum or uniform standards contained in the federal mandate. Public Law 91-596 84 STAT. 1590 Section 18 (OSH Act of 1970), 29 C.F.R. 1902.3(c)(1), 29 C.F.R. 1902.3(d)(1), 29 C.F.R. 1902.3(d)(2), 29 C.F.R. 1902.37(b)(3), 29 C.F.R. 1953.1(a), 29 C.F.R.

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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.

NONE

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY
AND REVIEWING SUBCOMMITTEE

ARRS = Administrative Regulation Review Subcommittee
IJC = Interim Joint Committee

COUNCIL ON POSTSECONDARY EDUCATION
(As Amended at ARRS, December 9, 2024)

13 KAR 6:010. Aviation training scholarships.

RELATES TO: KRS 164.020(8)(a), 164.7011, 164.7013, 164.7015

STATUTORY AUTHORITY: KRS 164.7013(8)(a), 164.7015(2) NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.7013(8)(a) requires the Council on Postsecondary Education to promulgate administrative regulations to administer the Kentucky aerospace, aviation, and defense investment fund. KRS 164.7015(2) requires the council to establish[set forth] the requirements for partnership proposals between aviation programs and aviation industry partners to provide aviation training scholarships to Kentucky residents enrolled in aviation programs. This administrative regulation establishes provisions for aviation training scholarships.

Section 1. Definitions.

- (1) "Advisory committee" is defined by KRS 164.7011(1).
- (2) "Aviation" is defined by KRS 164.7011(2).
- (3) "Aviation industry partner" is defined by KRS 164.7011(3).
- (4) "Aviation program" is defined by KRS 164.7011(4).
- (5) "Council" is defined by KRS 164.001(5)(8).
- (6) "Dedicated money" is defined by KRS 164.7011(6).
- (7) "Eligible aviation credential" is defined by KRS 164.7011(7).
- (8) "Fund" is defined by KRS 164.7011(8).
- (9) "Kentucky resident" is defined by KRS 164.020(8)(a).
- (10) "Match" means general fund appropriation moneys[monies] from the fund provided to the institution, depending on availability of funds and ~~subject to funds availability,~~ based on at least a dollar-for-dollar contribution from the aviation industry partner pursuant to KRS 164.7015(3)(a).

Section 2. Notice of Funding Opportunities.

(1) Each year that general fund appropriations are available for distribution through the aerospace, aviation, and defense investment fund, the council shall publish notice of availability of funding opportunities for partnerships and issue a request for partnership proposals.

(2) The notice and request for partnership proposals shall include:

- (a) The funding period;
- (b) The date by which to submit a partnership proposal;
- (c) The dollar amount of available matching funds;
- (d) A list of priority eligible aviation credentials with high workforce demand as determined by the advisory committee based on data derived from the Kentucky Center for Statistics and aviation-related workforce organizations;
- (e) The partnership proposal evaluation criteria and relative weighting of each criterion;
- (f) How to submit a partnership proposal; and
- (g) The targeted date for making awards.

Section 3. Partnership Proposals. To be eligible for funding, a partnership proposal shall include:

(1) The participating aviation industry partners and aviation programs certified by the signature of the[their] respective chief executive officers and a designated point of contact and contact information for each partner;

(2) Certification that the "aviation program" meets the definition in KRS 164.7011(4);

(3) The total proposed budget for the program, which shall include[includes] the aviation industry partner contribution and the amount of aerospace, aviation, and defense investment funds

requested for match ~~in accordance with requirements set forth by the council~~;

(4) A narrative explaining how the aviation program plans to use the aviation industry partner contribution and match from the fund to award aviation training scholarships in eligible aviation credentials;

(5) A description of the aviation program's plan for student recruitment, scholarship award criteria, and selection process;

(6) An explanation of how the aviation program shall increase student enrollment in eligible aviation or aerospace credentials, program completion, and meet local, regional, or state workforce demands;

(7) If using dedicated moneys, an explanation of how the aviation industry partner shall onboard and retain graduates;

(8) An explanation of how graduates shall be supported through their service obligations;

(9) A description of how the partnership proposal shall meet the priorities established[set forth] in KRS 164.7015(2);

(10) A response to any other partnership proposal criteria ~~as determined by the advisory committee~~;

(11) A statement of assurances that both the aviation industry partner and the aviation program shall adhere to the statutory requirements in any written partnership contract as established[set forth] in KRS 164.7015(3); and

(12) The amount of the aviation industry partner's contribution certified by its chief financial officer and supported by appropriate documentation.

Section 4. Evaluation Process.

~~(1)~~ The advisory committee shall evaluate[review] and rank each ~~timely submitted and~~ complete proposal submitted on or before the due date, giving priority for proposals targeted to eligible aviation credentials with high workforce demand ~~as determined by the advisory committee~~.

~~(2)~~ Each proposal shall be evaluated based on any other objective criterion developed by the advisory committee.

Section 5. Partnership Awards.

(1) Upon award, the council, the aviation industry partner, and aviation program shall enter into a partnership contract in accordance with ~~the terms set forth in~~ KRS 164.7015(3).

(2) Once the partnership contract is finalized, the council shall disburse from the fund moneys[monies] deposited by the aviation industry partner and the matching funds appropriated by the General Assembly to the aviation program.

Section 6. Responsibilities of the Aviation Program. After an award is made and a partnership contract is finalized, the aviation program shall:

(1) Establish and enforce an aviation training scholarship application and process for solicitation, acceptance, and review of scholarship applications from students who are Kentucky residents in collaboration with the aviation industry partner;

(2) Require aviation training scholarship applicants to complete the Free Application for Federal Student Aid, if applicable;

(3) Establish aviation training scholarship deadlines;

(4) Award aviation training scholarships;

(5) Develop and administer a scholarship contract between the recipient and the aviation program in accordance with KRS 164.7015(6) and (7); and

(6) Meet any reporting requirements agreed to[set forth] in the partnership contract.

FILED WITH LRC: December 9, 2024

CONTACT PERSON: Sterling Crayton, Attorney, Council on Postsecondary Education, 100 Airport Road, Second Floor, Frankfort, Kentucky 40601, phone 502.573.1555, email sterling.crayton@ky.gov.

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COUNCIL ON POSTSECONDARY EDUCATION
(As Amended at ARRS, December 9, 2024)

13 KAR 6:020. Aviation equipment grants.

RELATES TO: KRS 164.7011, 164.7013, 164.7017

STATUTORY AUTHORITY: KRS 164.7013(8)(a), 164.7017

NECESSITY, FUNCTION, AND CONFORMITY: KRS

164.7013(8) requires the Council on Postsecondary Education to promulgate administrative regulations to administer the Kentucky aerospace, aviation, and defense investment fund. KRS 164.7017 requires the council to establish[set forth] the requirements for partnership proposals between aviation programs and aviation industry partners to provide aviation or aviation equipment grants for a public high school vocational program or public postsecondary education institution to maintain, acquire, or lease aviation or aviation equipment. This administrative regulation establishes requirements for aviation equipment grants.

Section 1. Definitions.

- (1) "Advisory committee" is defined by KRS 164.7011(1).
- (2) "Aviation" is defined by KRS 164.7011(2).
- (3) "Aviation industry partner" is defined by KRS 164.7011(3).
- (4) "Aviation program" is defined by KRS 164.7011(4).
- (5) "Council" is defined by KRS 164.001(5)(8).
- (6) [~~"Dedicated money" is defined by KRS 164.7011(6).~~]
[~~(7)~~] "Eligible aviation credential" is defined by KRS 164.7011(7).
[~~(7)~~][~~(8)~~] "Fund" is defined by KRS 164.7011(8).
[~~(8)~~][~~(9)~~] "Match" means general fund appropriation moneys[moneys] from the fund provided to the institution, depending on availability of funds and[subject to funds availability,] based on at least a dollar-for-dollar contribution from the aviation industry partner pursuant to KRS 164.7017(2)(a).
[~~(9)~~][~~(10)~~] "Public aviation program" is defined by KRS 164.7011(12).

Section 2. Notice of Funding Opportunities.

- (1) Each year that general fund appropriations are available for distribution through the fund, the council shall publish notice of availability of funding opportunities for partnerships and issue a request for partnership proposals.
- (2) The notice and request for partnership proposals shall include:
 - (a) The funding period;
 - (b) The date by which to submit a partnership proposal;
 - (c) The dollar amount of available matching funds;
 - (d) The partnership proposal evaluation criteria and relative weighting of each criterion;
 - (e) How to submit a partnership proposal; and
 - (f) The targeted date for making awards.

Section 3. Partnership Proposals. To be eligible for funding, a partnership proposal shall include:

- (1) The participating aviation industry partners and aviation programs certified by the signature of the[their] respective chief executive officers and a designated point of contact and contact information for each partner;
- (2) Certification that the "public aviation program" meets the definition in KRS 164.7011(12);
- (3) The total proposed budget for the program, which shall include[includes] the aviation industry partner contribution and the amount of aerospace, aviation, and defense investment funds requested for match [~~in accordance with requirements set forth by the council~~];
- (4) A narrative explaining how the partnership would meet the criteria for prioritization established[set forth] in KRS 164.7017(3)(a);
- (5) A response to any other partnership proposal criteria [~~as determined by the advisory committee~~]; and
- (6) The amount of the aviation industry partner's contribution certified by its chief financial officer and supported by appropriate documentation.

Section 4. Evaluation Process. The advisory committee shall review and rank each [~~timely submitted and~~] complete proposal submitted on or before the due date based on its published evaluation criteria, which shall include the priorities established[set forth] in KRS 164.7017(3)(a) [~~and any other objective criteria developed by the advisory committee~~].

Section 5. Partnership Awards.

(1) Upon award, the council, the aviation industry partner, and aviation program shall enter into a partnership contract in accordance with the terms established[set forth] in KRS 164.7017(2).

(2) Once the partnership contract is finalized, the council shall disburse from the fund, moneys[monies] deposited by the aviation industry partner and the matching funds appropriated by the General Assembly to the aviation program.

Section 6. Responsibilities of the Aviation Program. After an award is made and a partnership contract is finalized, the aviation program shall:

- (1) Submit proof that the entire amount of the aviation equipment grant is invested in accordance with KRS 164.7017(4); and
- (2) Meet any reporting requirements established[set forth] in the partnership contract.

FILED WITH LRC: December 9, 2024

CONTACT PERSON: Sterling Crayton, Attorney, Council on Postsecondary Education, 100 Airport Road, Second Floor, Frankfort, Kentucky 40601, phone 502.573.1555, email sterling.crayton@ky.gov.

STATE BOARD OF ELECTIONS
(As Amended at ARRS, December 9, 2024)

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) requires[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 box[boxes]" is defined by KRS 117.001(4).
- (3) "Ballot scanner" or "scanner" has the same definition as "automatic tabulating equipment" as defined by[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 by[in] KRS 117.001(6).
- (6) "Electronic or paper sign-in records" means the records contained in the signed voter rosters established[described] in KRS 117.025 and in Form SBE 25, "Supplemental Precinct Signature Roster".
- (7) "Hand-to-eye recount" means the procedures established[found] in KRS 117.383(8).
- (8) "Poll worker" means the same as "precinct election officer" defined by[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 established[described] in KRS 117.275.
- (11) "Vote tallying equipment" has the same definition as "automatic tabulating equipment" [~~as~~] defined by[in] KRS 117.001(2).

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(12) "Voter intent" is defined through the uniform definition of a vote used 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. ~~If [Should]~~ a term used in KRS 117.383(8) ~~is not [be]~~ defined in this administrative regulation or in the procedures ~~established[found]~~ in KRS 117.383(8), the term ~~shall [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, ~~12/2024[09/2024]~~; ~~and~~

(c) "Determinations and Findings Following Hand-to-eye Recount", Form SBE 91, ~~12/2024[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>.

FILED WITH LRC: December 9, 2024

CONTACT PERSON: Taylor Brown, General Counsel, 140 Walnut Street, Frankfort, Kentucky 40601, phone (502) 782-9499, email TaylorA.Brown@ky.gov.

FINANCE AND ADMINISTRATION CABINET
Teacher's Retirement System
(As Amended at ARRS, December 9, 2024)

102 KAR 1:380. Qualified domestic relations orders for TRS 4 members.

RELATES TO: KRS 161.220, ~~161.605~~, 161.633, 161.634, 161.635, 161.636, ~~161.640, 161.600~~, 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 ~~pursuant to[under]~~ KRS 161.633 or 161.634 (foundational benefit), annuities or disbursements from the supplemental benefit component established ~~pursuant to[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. Applicability, QDRO Information, and TRS Approval. The provisions of this administrative regulation shall apply to a QDRO for TRS 4 members.

(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; ~~or~~

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;

1. Upon execution of and receipt by TRS of a valid QDRO;

2. ~~Within and within~~ sixty (60) days following the active participant's effective retirement date with TRS; ~~and~~

3. ~~With or without interest, with interest to be awarded as of the date of dissolution of the marriage;~~

(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;

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(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 Periodic 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, or not 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; and.

(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 by via U.S. Mail or scanned and electronically mailed to TRS for review.

(7) TRS shall not review the draft QDRO until the following have been/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 pursuant to/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 by 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 the/their legal counsel who submitted the draft by hard copy by via U.S. Mail or electronic mail with notice to the other party or their legal counsel 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.

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(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.

(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. **TRS Benefits Subject to a QDRO.** 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. **TRS Benefits Not Subject to a QDRO.** 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. **Effect of Alternate Payee's Death on QDRO. Under the terms of the QDRO,** 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

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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. **TRS Costs and Legal Fees.** 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;

(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 **Designations**[**Designation**]", April 2023;

(k) "Kentucky Resident State Tax Withholding Election". January 2023; and

(l) "Withholding Certificate for **Periodic** 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) **This material may also be obtained from the TRS Web site at <https://trs.ky.gov/active-members>. The** W-4P may also be obtained at www.irs.gov/pub/irs-pdf/fw4p.pdf.

FILED WITH LRC: December 9, 2024

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.

BOARDS AND COMMISSIONS

Board of Pharmacy

(As Amended at ARRS, December 9, 2024)

201 KAR 2:030. License transfer[~~and Non-Resident Pharmacist License~~].

RELATES TO: KRS **315.050**, 315.191(1)(c), (d), ~~[[**315.050**]~~ 315.210

STATUTORY AUTHORITY: KRS 218A.205(8), 315.191(1)(a), (c), (d), 315.210

NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.210 authorizes the board to establish conditions for licensure by reciprocity. KRS 218A.205(8) requires the board to establish requirements for background checks for licensees. This administrative regulation establishes conditions, forms, and examination requirements for licensure by reciprocity **[and for licensure of non-resident pharmacists]**.

Section 1. Definitions.

(1) "Board" is defined by KRS 315.010(4).

(2) **"Good standing" means that a license is not suspended, revoked, surrendered, conditioned under terms of probation, or otherwise in a status that in any manner restricts the activity of the licensee.**

(3) "License transfer" means a license to practice pharmacy in Kentucky issued by the board to a pharmacist licensed in another jurisdiction.

(4) ~~[(3)]~~ "NABP" means the National Association of Boards of Pharmacy.

~~[(5)]~~ **"Non-Resident Pharmacist License" means a license issued by the board to a pharmacist licensed and located in another jurisdiction to practice pharmacy to citizens in Kentucky.**

Section 2. An applicant licensed in another jurisdiction shall be eligible for license transfer, if the:

(1) Requirements for licensure of the jurisdiction that granted his or her license met or exceeded Kentucky requirements for licensure when the license in the other jurisdiction was granted;

(2) Applicant holds in good standing, an active license to practice pharmacy;

(3) Applicant has:

(a) Completed and certified the NABP Preliminary Application for Transfer of Pharmacist License form; and

(b) Received an NABP Official Application for Transfer of Pharmacist License;

(4) Applicant is currently in good standing in the jurisdiction from which he or she has applied;

(5) Applicant has successfully completed an examination in jurisprudence;

(6) Applicant has submitted to a nation-wide criminal background investigation by means of fingerprint check by the Department of Kentucky State Police and the Federal Bureau of Investigation; and

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(7) Applicant has submitted to a query to the National Practitioner Data Bank of the United States Department of Health and Human Services.

Section 3. Required Information. An applicant shall provide the information required by the NABP Preliminary Application for Transfer of Pharmacist License form, including:

- (1) Name, maiden, and other names used currently or previously;
- (2) Address, telephone number;
- (3) Date of birth;
- (4) Social Security number;
- (5) Citizenship;
- (6) Sex;
- (7) State of original license by examination, including:
 - (a) License number;
 - (b) Original date of issue;
 - (c) Current status of original licensure; and
 - (d) State for which license transfer is requested;
- (8) Pharmacy education, including:
 - (a) Name and location of pharmacy school;
 - (b) Name of pharmacy degree;
 - (c) Date degree was received; and
 - (d) Other professional degrees, including the information specified by paragraphs (a) to (c) of this subsection;
- (9) Whether the applicant has earned certification by the Foreign Pharmacy Graduate Examination Committee, and, if so, the examination equivalency number assigned;
- (10) Total hours of practical experience as an intern prior to licensure as a pharmacist;
- (11) States, dates, and results of pharmacist licensure examinations;
- (12) Pharmacist licenses currently held, including issue date, expiration date, status, and any board action taken against the licensee;
- (13) Practice and employment, including nonpharmacist employment, from the past three (3) years;
- (14) Record of charges or convictions of any felony or misdemeanor offense, other than traffic offenses, and whether or not a sentence was imposed or suspended;
- (15) Record of any surrender of a pharmacist license or registration issued by the federal government or any state controlled substance authority;
- (16) Record of any pharmacist license revocation, suspension, restriction, termination, or other disciplinary action by any board of pharmacy or other state authority;
- (17) Record of whether the pharmacist is currently under investigation or subject to disciplinary action by the licensing jurisdiction, federal Food and Drug Administration, federal Drug Enforcement Administration or any state drug enforcement authority for the violation of any state or federal pharmacy, liquor, or drug laws;
- (18) Record of any condition or impairment, such as substance or alcohol abuse or dependency that in any way affects the pharmacist's ability to practice pharmacy in a safe and competent manner; and
- (19) Record of any application for initial licensure, renewal licensure, or licensure by transfer that was denied by any licensing authority, whether in pharmacy or any other profession.

Section 4. The board shall accept license transfer applications from jurisdictions that:

- (1) Are an active member of the NABP; and
- (2) Grant license transfers to pharmacists pursuant to conditions and requirements that are the equivalent of conditions and requirements established by the board.

Section 5. An applicant for license transfer shall:

- (1) Take and pass the Multistate Pharmacy Jurisprudence Examination administered by the NABP; and ~~shall~~

~~(2)~~

- ~~(a) Pay the fee established [fees] in 201 KAR 2:050, Section 1(2) for the application and initial license transfer; and~~
- ~~(b)(1) Pay the fee established in 201 KAR 2:050, Section 1(19) for the Query to the National Practitioner Data Bank of the United States.~~

~~Section 6. [An applicant licensed in another jurisdiction shall be eligible for non-resident pharmacist license if the applicant:] [Fee. An applicant shall include the fees specified by 201 KAR 2:050, Section 1(2) and (19).]~~

- ~~(1) [Holds in good standing an active license to practice pharmacy in any state;]~~
- ~~(2) [The applicant is issued a NABP Verify credential; and]~~
- ~~(3) [The applicant submits to a fingerprint-supported criminal record check by the Department of Kentucky State Police and the Federal Bureau of Investigation pursuant to KRS 218A.205(8).]~~

~~Section 7. [An applicant for non-resident pharmacist license shall be exempt from:]~~

- ~~(1) [The requirements for license transfer;]~~
- ~~(2) [The Multistate Pharmacy Jurisprudence Examination administered by NABP; and]~~
- ~~(3) [Continuing Education requirements of Kentucky.]~~

~~Section 8. [A non-resident pharmacist licensee shall:]~~

- ~~(1) [Maintain participation in the NABP Verify Program;]~~
- ~~(2) [Submit an initial application for non-resident pharmacist licensure;]~~
- ~~(3) [Submit an annual renewal of non-resident pharmacist license; and]~~
- ~~(4) [Pay the annual renewal of a pharmacist non-resident license fee established in 201 KAR 2:050.]~~

~~Section 9. [The following acts are prohibited with the utilization of a non-resident pharmacist license:]~~

- ~~(1) [Engaging in the practice of pharmacy in Kentucky while:]~~
 - ~~(a) [Residing in Kentucky; or]~~
 - ~~(b) [Employed by a pharmacy located in Kentucky; and]~~
 - ~~(2) [Serving as a pharmacist-in-charge of a Kentucky permitted facility.]~~

~~Section 10. [Board Discretion.]~~

- ~~(1) [The board maintains the discretion to deny an applicant a license if the applicant fails to demonstrate good mental health and moral character pursuant to KRS 315.050(1).]~~
- ~~(2) [The board may waive the provisions of Section 9 of this administrative regulation during a declared state of emergency.]~~

~~Section 11. [Section 7.] [Incorporation by Reference.]~~

- ~~(1) [The following material is incorporated by reference:]~~
 - ~~(a) "NABP Preliminary Application for Transfer of Pharmacist License", April 2018, is incorporated by reference.[: and] [:is incorporated by reference.]~~
 - ~~(b) ["Application/Renewal for Non-Resident Pharmacist License" 04/2024.]~~

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FILED WITH LRC: December 9, 2024

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BOARDS AND COMMISSIONS
Board of Pharmacy
(As Amended at ARRS, December 9, 2024)

201 KAR 2:050. Licenses and permits; fees.

RELATES TO: KRS 218A.205(3)(g), 315.035(1), (2), (4), 315.0351(1), 315.036(1), 315.050(5), 315.060, 315.110, 315.120, 315.191, 315.402

STATUTORY AUTHORITY: KRS 218A.205(3)(g), 315.035(1), (2), (4), 315.036(1), 315.050(5), 315.060, 315.110(1), 315.120(4), 315.191(1)(i), 315.402(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.191(1)(i) authorizes the board to assess reasonable fees for services rendered to perform its duties and responsibilities. This administrative regulation establishes reasonable fees for the board to perform all the functions for which it is responsible.

Section 1. The following fees shall be paid in connection with pharmacist examinations and licenses, pharmacy permits, intern certificates, and the issuance and renewal of licenses and permits:

- (1) Application for initial pharmacist license - \$150;
- (2) Application and initial license for a pharmacist license by license transfer - \$250;
- (3) Annual renewal of a pharmacist license - ninety-five (95) dollars;
- (4) Delinquent renewal penalty for a pharmacist license - ninety-five (95) dollars;
- (5) Annual renewal of an inactive pharmacist license - ten (10) dollars;
- (6) Pharmacy intern certificate valid six (6) years - twenty-five (25) dollars;
- (7) Duplicate of original pharmacist license wall certificate - seventy-five (75) dollars;
- (8) Application for a permit to operate a pharmacy - \$150;
- (9) Renewal of a permit to operate a pharmacy - \$150;
- (10) Delinquent renewal penalty for a permit to operate a pharmacy - \$150 dollars;
- (11) Change of location or change of ownership of a pharmacy or manufacturer permit - \$150;
- (12) Application for a permit to operate as a manufacturer - \$150;
- (13) Renewal of a permit to operate as a manufacturer - \$150;
- (14) Delinquent renewal penalty for a permit to operate as a manufacturer - \$150;
- (15) Change of location or change of ownership of a wholesale distributor license - \$150;
- (16) Application for a license to operate as a wholesale distributor - \$150;
- (17) Renewal of a license to operate as a wholesale distributor - \$150;
- (18) Delinquent renewal penalty for a license to operate as a wholesale distributor - \$150; ~~and~~ ~~and~~
- (19) Query to the National Practitioner Data Bank of the United States Department of Health and Human Services - twenty-five (25) dollars.

~~[(20)] [Application for non-resident pharmacist license - fifty (50) dollars;]~~

~~[(21)] [Renewal for non-resident pharmacist license - fifty (50) dollars; and]~~

~~[(22)] [Delinquent renewal penalty for non-resident pharmacist license - fifty (50) dollars].~~

Section 2. A pharmacy permit[An] applicant shall submit:

- (1) An initial or renewal application for a pharmacy permit on either the:
 - (a)
 1. Application for Permit to Operate a Pharmacy in Kentucky; or
 2. Application for Resident Pharmacy Permit Renewal; or
 - (b)
 1. Application for Non-Resident Pharmacy Permit, as incorporated by reference into 201 KAR 2:465; or
 2. Application for Non-Resident Pharmacy Permit Renewal, as incorporated by reference into 201 KAR 2:465; and

- (2) As appropriate, the:
 - (a) Initial application fee established by Section 1(8) of this administrative regulation; or
 - (b) Renewal fee established by Section 1(9) of this administrative regulation.

Section 3. All fees shall be non-refundable.

Section 4. Applications shall expire one (1) year after the date the application is received by the board.

Section 5. Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) ~~["Application for Non-Resident Pharmacy Permit", Form 3, 9/2023;]~~
 - ~~[(b)] ["Application for Non-Resident Pharmacy Permit Renewal", Form 4, 9/2023;]~~
 - ~~[(c)] ["Application for Permit to Operate a Pharmacy in Kentucky", Form 1, 6/2023; and~~
 - ~~[(d)] ["Application for Resident Pharmacy Permit Renewal", Form 2, 6/2023.~~

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BOARDS AND COMMISSIONS
Board of Pharmacy
(As Amended at ARRS, December 9, 2024)

201 KAR 2:210. Patient records, drug regimen review, patient counseling, and final product verification~~[and patient counseling].~~

RELATES TO: KRS 217.015(9), 218A.010(11), 218A.185, 315.010(7), (9), (14), (24), (25), 315.020(5)(e), 315.191(1), [(5), (6),]42 C.F.R. Part [Part]456

STATUTORY AUTHORITY: KRS 217.215(2), 315.191(1), [(5),]42 C.F.R. Part [Part]456

NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.191(1)(a) authorizes the board to promulgate administrative regulations to regulate and control all matters prescribed in KRS Chapter 315. [KRS 315.191(1), (56),]42 C.F.R. Part [CFR Part] 456 requires ~~mandates that~~ pharmacists to implement drug regimen ~~[utilization]~~ reviews and provide patient counseling to those recipients of health-care benefits for which federal funds are allocated. ~~[This administrative regulation provides for this mechanism and broadens its magnitude by rendering this valuable service available to all Kentucky's citizenry, equitably.]~~ This administrative regulation establishes rules for the dispensing of a prescription drug or medical order by a pharmacist and ensures comprehensive patient records are maintained and remain confidential.

Section 1. Definitions.

- (1) "Automated filling system":
 - (a) Means an automated system used by a pharmacy to assist in filling a prescription drug order or medical order by selecting, labeling, filling, or sealing medication for dispensing; and
 - (b) Does, ~~An "automated filling system" is~~ not include an automated device used solely to count medication, vacuum tube drug delivery systems, automated pharmacy systems as defined in KRS 218A.185, or automated dispensing systems as defined in 201 KAR 2:370.

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~~(2) ["Confidential information" is defined by KRS 315.010(7)].~~

~~(3) "Dispense" or "dispensing" is defined by KRS [315.010(9), KRS]217.015(9), [~~and KRS~~] 218A.010(11), and 315.010(9).~~

~~(3)(4) "Electronic verification" means the non-physical visual verification a pharmacist utilizes to verify the accuracy of the final contents of the prepared prescription product and affixed label prior to dispensing.~~

~~(4)(5) "Electronic verification system" means an electronic verification, bar code verification, weight verification, radio frequency identification, or similar electronic process or system that accurately verifies medication has been properly prepared and labeled by, or loaded into, an automated filling system.~~

~~(5)(6) "Final product verification" means the process a pharmacist utilizes to verify the accuracy of the final contents of any prepared prescription product and affixed label prior to dispensing.~~

~~(6)(7) "Manufacturer unit of use package" means a drug dispensed in the manufacturer's original and sealed packaging, or in the original and sealed packaging of a re-packager, without additional manipulation or preparation by the pharmacy, except for application of the pharmacy label.~~

~~(7)(8) "Medical Order" is defined by KRS 315.010(14).~~

~~(8)(9) "Prepared prescription product" means [is] a prescription drug or medical order prepared for dispensing by a pharmacist.~~

~~(9)(10) "Prescription drug order" is defined by KRS 315.010(25).~~

~~(10)(11) "Re-packager" means a re-packager registered with the United States Food and Drug Administration.~~

~~(11)(12) "Repacked" means any drug that has been removed from the original packaging of the manufacturer or a re-packager's packaging and is placed in a container for use in an automated filling system.~~

Section 2. Patient Records.

(1)

~~(a) A patient record system shall, with the exercise of professional judgment, be maintained by a pharmacy for patients for whom prescription drug or medical orders [prescriptive drug orders] are dispensed at that pharmacy location.~~

~~(2)(b) A pharmacist, with the exercise of professional judgment, shall establish a procedure for obtaining, recording, and maintaining information required for a patient record.~~

~~(3)(c) A pharmacist, or a pharmacy technician or a pharmacist intern [his designee], shall obtain, record, and maintain the information for a patient record.~~

~~(4)(d) A patient record shall:~~

~~(a) [4-] Be readily retrievable by manual or electronic means;~~

~~(b) [2-] Enable the pharmacist to identify previously dispensed drugs and known disease conditions;~~

~~(c) [3-] Enable the pharmacist to determine the impact of previously dispensed drugs and known disease conditions upon the newly submitted prescription drug or medical order [prescriptive drug order]; and~~

~~(d) [4-] Be maintained for not less than 180 days from the date of the last entry.~~

~~(5)(2) A patient record shall include:~~

~~(a) Full name of patient or animal for whom the drug is intended;~~

~~(b) Address and telephone number of the patient;~~

~~(c) Patient's age or date of birth;~~

~~(d) Patient's gender;~~

~~(e) A list of all prescriptions received by the pharmacy or dispensed to [obtained by] the patient at that pharmacy location for the past twelve (12) months by:~~

~~1. Prescription number;~~

~~2. Name and strength of medication;~~

~~3. Quantity;~~

~~4. Date received;~~

~~5. Identity of prescriber; and~~

~~6. Comments or other information as may be relevant to the specific patient or drug; and~~

~~(f) Individual medical history if significant, including known disease states, known allergies, idiosyncrasies, reactions or conditions relating to prospective drug use and drug regimen reviews.~~

~~Section 3. [Section 2-] Prospective Drug Regimen Review.~~

~~(1) A pharmacist shall conduct a prospective drug regimen review [shall be conducted by a pharmacist] prior to dispensing.~~

~~(2) It shall include an assessment of a patient's drug therapy and the prescription order.~~

~~(3) A prospective drug regimen review shall include a review by the pharmacist of the following:~~

~~(a) Known allergies;~~

~~(b) Rationale for use;~~

~~(c) Proper dose, route of administration, and directions;~~

~~(d) Synergism with currently employed modalities;~~

~~(e) Interaction or adverse reaction with applicable:~~

~~1. Drugs;~~

~~2. Foods; or~~

~~3. Known disease states;~~

~~(f) Proper utilization for optimum therapeutic outcomes; and~~

~~(g) Clinical misuse or abuse.~~

Section 4. Automated Filling Systems.

~~(1) Automated filling systems shall be stocked or loaded by a pharmacist, or by a pharmacist intern or certified pharmacy technician under the supervision of a pharmacist. A registered pharmacy technician may stock or load an automated filling system under the immediate supervision of a pharmacist.~~

~~(2) A licensed pharmacist shall inspect and verify the accuracy of the final contents of any prepared prescription product filled or packaged by an automated filling system and the affixed label [affixed thereto] prior to dispensing. A pharmacist shall be found [deemed] to have verified the prepared prescription product and the affixed label [affixed thereto] if:~~

~~(a) The filling process is fully automated from the time the filling process is initiated until a completed, labeled, and sealed prepared prescription product is produced by the automated filling system that is ready for dispensing to the patient. [No] Manual intervention with the medication or prepared prescription product shall not [may] occur after the medication is loaded into the automated filling system. Manual intervention shall not include preparing a finished prepared prescription product for mailing, delivery, or storage;~~

~~(b) A pharmacist verifies the accuracy of the prescription information used by or entered into the automated filling system for a specific patient prior to initiation of the automatic fill process. The name, initials, or identification code of the verifying pharmacist shall be recorded in the pharmacy's records and maintained for five (5) years after dispensing;~~

~~(c) The pharmacy establishes and follows a policy and procedure manual that complies with this administrative regulation;~~

~~(d) A pharmacist verifies the correct medication, repackaged container, or manufacturer unit of use package was properly stocked, filled, and loaded in the automated filling system prior to initiating the fill process. Alternatively, an electronic verification system may be used for verification of manufacturer unit of use packages or repacked medication previously verified by a pharmacist. The name, initials, or identification code of the verifying pharmacist shall be recorded in the pharmacy's records and maintained for five (5) years after dispensing;~~

~~(e) The medication to be dispensed is filled, labeled, and sealed in the prescription container by the automated filling system or dispensed by the system in a manufacturer's unit of use package or a repacked pharmacy container;~~

~~(f) An electronic verification system is used to verify the proper prescription label has been affixed to the correct medication, repackaged container, or manufacturer unit of use package for the correct patient; and~~

~~(g) Daily random quality testing is conducted by a pharmacist on a sample size of prescriptions filled by an automated filling system.~~

~~The required sample size shall be at least [not be less than] two (2) percent of the prescriptions filled by the automated system on the date tested or two (2) percent of the prescriptions filled by the automated system on the last day of system operation, as designated in writing by the pharmacist in charge. Proof of compliance, including date and results, of daily random quality testing shall be maintained and documented in the pharmacy's records.~~

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(3) Pharmacies verifying prescriptions utilizing the method in subsection (2) of this section shall establish and follow written policies and procedures to ensure the proper, safe, and secure functioning of the system. Policies and procedures shall be reviewed annually by the pharmacist in charge and shall be maintained in the pharmacy's records for a minimum of five (5) years. The required annual review shall be documented in the pharmacy's records and made available upon request.

(4) At a minimum, the pharmacy shall establish and follow policies and procedures for:

(a) Maintaining the automated filling system and any accompanying electronic verification system in good working order;

(b) Ensuring accurate filling, loading, and stocking of the system;

(c) Ensuring sanitary operations of the system and preventing cross-contamination of cells, cartridges, containers, cassettes, or packages;

(d) Reporting, investigating, and addressing filling errors and system malfunctions;

(e) Testing the accuracy of the automated filling system and any accompanying electronic verification system. At a minimum, the automated filling system and electronic verification system shall be tested before the first use of the system or restarting the system and upon any modification to the automated filling system or electronic verification system that changes or alters the filling or electronic verification process;

(f) Training persons authorized to access, stock, restock, or load the automated filling system in equipment use and operations;

(g) Tracking and documenting prescription errors related to the automated filling system that are not corrected prior to dispensing to the patient. ~~[Such]~~ Documentation shall be maintained for five (5) years and produced to the board upon request;

(h) Conducting routine and preventative maintenance, and, if applicable, calibration;

(i) Removing expired, adulterated, misbranded, or recalled drugs;

(j) Preventing unauthorized access to the system, including assigning, discontinuing, or changing security access;

(k) Identifying and recording persons responsible for stocking, loading, and filling the system;

(l) Ensuring compliance with state and federal law, including, all applicable labeling, storage and security requirements; and

(m) Maintaining an ongoing quality assurance program that monitors performance of the automatic fill system and any electronic verification system to ensure proper and accurate functioning.

(5) Records required by this administrative regulation shall be maintained by the pharmacy's records electronically or in writing for a minimum of five (5) years. When the verification requirements of subsection (2) of this section are completed by a pharmacist, the name, initials or identification code of the verifying pharmacist shall be recorded in the pharmacy's records and maintained for five (5) years after dispensing. Records shall be made available for inspection and produced to the board upon request.

Section 5. Final Product Verification.

(1) ~~A pharmacist shall conduct~~ final product verification of a prepared prescription product ~~shall be conducted by a pharmacist~~ prior to delivery of the prepared prescription product to the patient.

(2) ~~No~~ Further manipulation of a prepared prescription product shall ~~not~~ occur after the pharmacist's verification is complete other than applying the required container lid or seal and preparing the prepared prescription product for mailing, delivery, or storage.

(3) The identity of the pharmacist responsible for verifying the prepared prescription product shall be documented in the pharmacy's records.

(4) A mechanism shall be in place to record and communicate the pharmacist's verification.

(5) A licensed pharmacist may use an electronic verification system to verify the accuracy of a final prepared prescription product if:

(a) The electronic verification system allows the pharmacist to see an exact, clear, and unobstructed visual image or images of the

prepared prescription product contents and the label affixed to the container. If multiple units are being dispensed, the pharmacist shall be able to see and verify an image or images of each unit and each individual affixed label;

(b) Pharmacy technicians and pharmacist interns preparing a prescription to be verified with electronic verification shall be trained and competent to perform the duties assigned and have a documented initial and annual assessment of competency using the pharmacy's approved electronic verification system;

(c) The pharmacy maintains an ongoing quality assurance program that monitors performance of the electronic verification system to ensure proper and accurate functioning and ~~includes~~ ~~must include~~ procedures for system outages; and

(d) The pharmacy maintains records required by this ~~administrative regulation~~ ~~rule~~ electronically or in writing for a minimum of five (5) years. Records shall be made available for inspection and produced to the board upon request.

(6) Compounded preparations shall not be verified electronically. Compounded preparations shall be physically verified by a pharmacist.

(7) Final product verification of a prescription shall only occur on the premises of the originating pharmacy notwithstanding any final product verification occurring under 201 KAR 2:230 ~~unless a permit holder has received prior board approval. A single request may be made for commonly owned permit holders, and approval or denial may be issued in the aggregate based on common ownership.~~

(8) The board may, upon a petition by a permit holder and upon ~~a showing of good cause and in~~ the balancing the best interest of the public health, safety, and welfare, waive a specific portion of this section.

Section 6. Patient Counseling.

(1) The pharmacist shall offer to counsel a patient on matters which the pharmacist~~he~~ believes will optimize drug therapy with each patient or caregiver:

(a) Upon the presentation of an original prescription order; and

(b) On refill prescriptions, as professional discretion dictates.

(2)

~~(a)~~ The offer shall be made by the pharmacist in a face-to-face communication with the patient or caregiver, unless, in the professional judgment of the pharmacist, it is ~~found~~ ~~deemed~~ impractical or inappropriate.

~~(3)~~ ~~(b)~~ If ~~found~~ ~~deemed~~ impractical or inappropriate, the offer to counsel may be made:

~~(a)~~ ~~(1)~~ By the pharmacy technician or pharmacist intern~~pharmacist designee~~;

~~(b)~~ ~~(2)~~ In written communication;

~~(c)~~ ~~(3)~~ By telephone~~through access to a telephone service that is toll-free for long distance calls, unless the primary patient population is accessible through a local, measured, or toll-free exchange~~; or

~~(d)~~ ~~(4)~~ In another manner determined by the pharmacist to be appropriate.

~~(4)~~ ~~(3)~~ Patient counseling shall be:

(a) In person ~~if~~ ~~when~~ practical; or

(b) With reasonable effort, by telephone or real-time video.

~~(5)~~ ~~(4)~~ The pharmacist shall include the following elements of patient counseling that the pharmacist~~he~~ has determined are appropriate:

(a) The name and description of the drug;

(b) The dosage form, dose, route of administration, and duration of therapy;

(c) Special directions and precautions;

(d) Common and clinically significant adverse effects, interactions, or contraindications that may be encountered, including ~~the~~ ~~their~~ avoidance and the action required ~~if these~~ ~~should they~~ occur;

(e) Techniques for self-monitoring of drug therapy;

(f) Proper storage;

(g) Refill information;

(h) Action to be taken ~~if in event of~~ a missed dose;

(i) The pharmacist's[His] comments relevant to the individual's therapy; and

(j) Any other information peculiar to the specific patient or drug.

~~(6)[(5)]~~ If a pharmacist determines that it is appropriate, the pharmacist[he] may supplement patient counseling with additional forms of patient information, such as:

- (a) Written, electronic, or printed information leaflets;
- (b) Pictogram labels; and
- (c) Video programs.

~~(7)[(6)]~~ Mail-order pharmacies shall be subject to the same counseling requirements as any other pharmacy.

Section 7. Documentation of Counseling.

(1) A record that the patient refused the pharmacist's offer to counsel shall be maintained for one (1) year.

(2) If there is no record that the patient refused the pharmacist's offer to counsel, there shall be a presumption that:

(a) The offer to counsel, as required in Section 6[4] of this administrative regulation, was made and accepted; and

(b) The counseling was provided.

~~Section 8.[Section 3.] Confidentiality.~~

~~(1) A patient record shall be held in confidence.~~

~~(2) It shall be communicated or released:~~

- ~~(a) To the patient;~~
- ~~(b) As the patient directs; or~~
- ~~(c) As prudent, professional discretion dictates.~~

~~[Section 4.] [Prospective Drug Use Review.]~~

~~(1) [A prospective drug use review shall be conducted by a pharmacist prior to dispensing.]~~

~~(2) [It shall include an assessment of a patient's drug therapy and the prescription order.]~~

~~(3) [A prospective drug use review shall include a review by the pharmacist of the following:]~~

- ~~(a) [Known allergies;]~~
- ~~(b) [Rationale for use;]~~
- ~~(c) [Proper dose, route of administration, and directions;]~~
- ~~(d) [Synergism with currently employed modalities;]~~
- ~~(e) [Interaction or adverse reaction with applicable:]~~
- ~~1- [Drugs;]~~
- ~~2- [Foods; or]~~
- ~~3- [Known disease states;]~~
- ~~(f) [Proper utilization for optimum therapeutic outcomes; and]~~
- ~~(g) [Clinical misuse or abuse.]~~

~~[Section 5.] [Documentation of Counseling:]~~

~~(1) [A record that the patient refused the pharmacist's offer to counsel shall be maintained for one (1) year.]~~

~~(2) [If there is no record that the patient refused the pharmacist's offer to counsel, there shall be a presumption that:]~~

~~(a) [The offer to counsel, as required in Section 2 of this administrative regulation, was made and accepted; and]~~

~~(b) [The counseling was provided.]~~

Section 9.[Section 6.] The provisions of this administrative regulation shall not apply:

(1) To ~~[inpatients of-]a hospital or institution[;]~~ if other licensed health-care professionals may[are authorized to] administer the drugs; ~~and[or]~~

(2) Compliance with 902 KAR 20:016[902 KAR 20:016], 201 KAR 2:074 and 201 KAR 2:076 is maintained.~~[If there is documentation that the patient or caregiver refused consultation.]~~

FILED WITH LRC: December 9, 2024

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BOARDS AND COMMISSIONS
Board of Pharmacy
(As Amended at ARRS, December 9, 2024)

201 KAR 2:465. Non-resident pharmacy applications and waivers.

RELATES TO: KRS 315.191(1)(a), (d), 315.0351[~~201 KAR 2:050~~]

STATUTORY AUTHORITY: KRS 315.191(1)(a), (d)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.191(1)(a), (d) authorizes the board to promulgate administrative regulations and issue and renew permits for all pharmacies[~~and require all persons who engage in the practice of the profession of pharmacy for a Kentucky resident to hold an active Kentucky pharmacist license~~]. This administrative regulation establishes the requirements to obtain a non-resident pharmacy permit to engage in the practice of pharmacy in the Commonwealth.

Section 1. Inspection Requirements.

(1) Each pharmacy shall provide to the board and ~~[also]~~ maintain, in readily retrievable form, the record of a satisfactory inspection conducted within the previous twenty-four (24) month period by the licensing entity of the state where the pharmacy is located.

(2) If ~~an[no such]~~ inspection record as established in subsection (1) of this Section is not readily available, the record of the satisfactory inspection conducted at the expense of the pharmacy within the previous twenty-four (24) months by a third-party recognized by the board to inspect may be accepted.

(3) If ~~an[no such]~~ inspection has not been performed within the previous twenty-four (24) months, the board shall conduct or contract with a third party recognized by the board to inspect the pharmacy, for which all costs shall be borne by the applicant.

Section 2. Pharmacist-in-Charge.

(1) The pharmacist-in-charge shall directly and timely respond to any lawful request for information from the board or law enforcement authorities.

(2) The pharmacist-in-charge shall be responsible for receiving and maintaining publications distributed by the board.

(3) The pharmacist-in-charge shall be responsible for answering the toll-free telephone service six (6) days a week and a minimum of forty (40) hours per week. The toll-free telephone number shall be present on the label of each prescription dispensed by the pharmacy to a Kentucky resident. If the pharmacist-in-charge is unavailable, a staff pharmacist with access to patient records may answer the call, but the staff pharmacist shall notify the pharmacist-in-charge of the call and provide the pharmacist-in-charge with a callback number for the patient. If the staff pharmacist is unable to resolve the patient's question, the pharmacist-in-charge shall return the call of the patient within forty-eight (48) hours.

Section 3. Waiver.

(1) The board may grant a waiver from the permitting requirements of this section to any nonresident pharmacy which limits dispensing activity to isolated transactions.

(2) An isolated transaction is ~~[defined as-]a transaction in which dispensing is limited to an established patient of the dispensing pharmacy no more than three (3) times per calendar year.~~

Section 4. Applications.

(1) To receive[A prerequisite for receiving] a permit as an out-of-state pharmacy,~~[is that]~~ the facility shall[must] be in good standing in the state where it is located and submit evidence consisting of ~~[the following]:~~

(a) A copy of a valid license, permit, or registration issued by the regulatory or licensing agency of the state in which the pharmacy is located; and

(b) A letter from the regulatory or licensing agency of the state

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in which the pharmacy is located that certifies the pharmacy is in good standing. If the licensing agency does not provide a letter, primary source verification may be utilized.

(2) Each applicant ~~shall~~**must** disclose the ~~following~~:

(a)

1. Names and license numbers of all pharmacists and pharmacist-managers dispensing prescription legend drugs to an ultimate user in Kentucky, the names and, if available, the license or registration numbers of all supportive personnel employed by the out-of-state pharmacy who assist pharmacists in ~~the~~**such** dispensing;

2.~~(b)~~ Names, locations, titles, social security number, and date of birth of all principal corporate officers or members, if incorporated; and

3.~~(e)~~ If the pharmacy is owned by a partnership or sole proprietorship, the name, location, title, social security number, and date of birth of any partner or owner of the pharmacy.

~~(b)~~**(d)** A report containing this information shall be made on an annual basis and within thirty (30) days of each change for any principal office, pharmacist manager, corporate officer, partner, or owner of the pharmacy.

(3) Each non-resident pharmacy shall develop and provide the board with a policy and procedure manual that sets forth:

(a) Normal delivery protocols and times;

(b) The procedure to be followed if the patient's medication is not available at the out-of-state pharmacy, or if delivery will be delayed beyond normal delivery time;

(c) The procedure to be followed upon receipt of a prescription for an acute illness, which shall include a procedure for delivery of the medication to the patient from the out-of-state pharmacy at the earliest possible time, or an alternative that **ensures**~~assures~~ the patient the opportunity to obtain medication at the earliest possible time; **and**

(d) The procedure to be followed when the out-of-state pharmacy is advised that the patient's medication has not been received within the normal delivery time and that the patient is out of medication and requires interim dosage until mail prescription drugs become available; **and**

~~(e)~~ **[The procedure for shipping products pursuant to FDA approved and manufacturer guidelines].**

(4)

~~(a)~~ An applicant for an out-of-state pharmacy permit ~~shall~~**must** designate a resident agent in Kentucky for service of process.

~~(b)~~ ~~Any~~**such** out-of-state pharmacy that does not ~~so~~ designate a resident agent shall be deemed to have appointed the Secretary of State of the State of Kentucky to be its true and lawful attorney upon whom process may be served.

~~(c)~~ All legal process in any action or proceeding against ~~the~~**such** pharmacy arising from shipping, mailing, or delivering prescription drugs in Kentucky shall be served on the resident agent.

~~(d)~~ ~~In addition,~~ A copy of ~~the~~**such** service of process shall be mailed to the out-of-state pharmacy by certified mail, return receipt requested, at the address of the out-of-state pharmacy as designated on the registration form filed with the board.

~~(e)~~ ~~Any~~ out-of-state pharmacy which does not register in this state, shall be deemed to have consented to service of process on the Secretary of State as sufficient service.

(5) Any entity who ships, mails, or delivers prescription drugs to Kentucky residents from more than one (1) out-of-state pharmacy shall register each pharmacy separately.

(6) An out-of-state pharmacy shall report to the disciplinary action taken by another state or jurisdiction against the pharmacy or pharmacy staff within thirty **(30)** days of final case resolution.

(7) An applicant shall submit photographs of the exterior of the pharmacy building and working areas.

~~(8)~~ ~~[A person who engages in the practice of the profession of pharmacy for a Kentucky resident shall hold an active Kentucky pharmacist license except under Section 3 of this administrative regulation.]~~

Section 5. A nonresident pharmacy permit applicant shall submit:

(1) An initial or renewal application for a nonresident pharmacy permit on either the:

(a) Application for Non-Resident Pharmacy Permit; or

(b) Application for Non-Resident Pharmacy Permit Renewal; and

(2) As appropriate, the:

(a) Initial application fee established by 201 KAR 2:050, Section 1(8); or

(b) Renewal fee established by 201 KAR 2:050, Section 1(9).

Section 6. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Application for Non-Resident Pharmacy Permit", 04/2024; and

(b) "Application for Non-Resident Pharmacy Permit Renewal", 04/2024.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Pharmacy, State Office Building Annex, Suite 300, 125 Holmes Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the board's Web site at <https://pharmacy.ky.gov/Businesses/Pages/Non-Resident-Pharmacy-Permit-Information.aspx>.

FILED WITH LRC: December 9, 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.

BOARDS AND COMMISSIONS
Board of Optometric Examiners
(As Amended at ARRS, December 9, 2024)

201 KAR 5:005. Fines and fees.~~[Fees, fines, and forms].~~

RELATES TO: KRS Chapter 13B, 218A.205(3)(h), (8), 320.220, 320.250, 320.270, ~~320.280~~, 320.310, **320.331**
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~~(1)~~ 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 ~~\$300~~**\$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.

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Section 5. Late Renewal License Fee. A non-refundable late renewal license fee shall be \$100, in addition to the renewal license fee ~~established~~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 ~~established~~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.

FILED WITH LRC: December 9, 2024

CONTACT PERSON: Christi LeMay, Executive Director, 2365 Harrodsburg Road, Lexington Kentucky 40504, (859) 246-2744, email christi.lemay@ky.gov.

BOARDS AND COMMISSIONS **Board of Embalmers and Funeral Directors** **(As Amended at ARRS, December 9, 2024)**

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 ~~director~~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) **Except for an initial license inspection pursuant to 201 KAR 15:110, Section 5(5)**, 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 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.

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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://kbeffd.ky.gov/Pages/forms.aspx>.

FILED WITH LRC: December 9, 2024

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.

BOARDS AND COMMISSIONS
Board of Embalmers and Funeral Directors
(As Amended at ARRS, December 9, 2024)

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 ~~cosmeticizing~~ **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;

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12. Purchasing of necessary supplies;
13. Caring for equipment and premises; and
14. Professional responsibility.

Section 3. Supervision of Apprentices.

(1) Supervision of embalmer apprentices.

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

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

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

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

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

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

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

(2) Supervision of funeral director apprentices.

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

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

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

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

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

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

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

(3) Removals.

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

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

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

(d) An 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) Within thirty (30) days of being employed by another establishment, 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; and

(b) Appear before the board with the supervisor at the time and place identified by the board. ~~Identify the name, street address, and~~

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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) A leave of apprenticeship may be taken by 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; ~~or~~ 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 of commencement of leave, 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 for military service or mortuary school.~~

~~(4) An apprenticeship shall end ten (10) days after the administration of the first [1st] exam opportunity for a Level I apprentice or ten (10) days after the second [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 apprentice whose apprenticeship [which] becomes inactive under this section [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 the 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 of the deceased and the 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 of the deceased and the 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 apprentice [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 apprentice [applicant] on an article or a book related to embalming or funeral directing read by the

apprentice [applicant] during the six (6) month period. The report [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 established in subsection (3) of this section, an apprentice in mortuary school shall be exempt from the book report requirements of subsection [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 2[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 2[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>.

FILED WITH LRC: December 9, 2024

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.

BOARDS AND COMMISSIONS

Board of Embalmers and Funeral Directors
(As Amended at ARRS, December 9, 2024)

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.

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Section 1. General Requirements.

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

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

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

(b) Registered apprentices;

(c) Members of the family of the deceased;

(d) Authorized representatives of the deceased; or

(e) Any other individual otherwise allowed by law.

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

(a) Board approved embalming reports that include:

1. The name of each body embalmed;

2. The date of death;

3. The date and time that the embalming took place;

4. The name and signature of the embalmer; and

5. The embalmer's license number;

(b) Proper documentation of the authorization to embalm; and

(c) Accurate and current copies of:

1. The casket price list;

2. The outer burial container price list;

3. The general price list; and

4. The statement required by the Federal Trade Commission in 16 C.F.R. 453.2(b)(2) through (5), as maintained in the general practice of the establishment.

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

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

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

(7) An establishment shall display a sign that:

(a) Identifies the name of the establishment; and

(b) Is in a location visible from an adjacent public road.

(8) An establishment shall have adequate rest room facilities for members of the public if public funeral services or visitation or ceremonial services shall 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.

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(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.

(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. ~~If an establishment has~~~~[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 this administrative regulation~~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 a person[me] regarding the purchase of a funeral. If a person is[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 at [j] 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 contact the sponsoring license holder 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

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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 14.]~~ Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Establishment Application", 6/2024~~[9/2019]~~;

(b) "Establishment Update~~[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.

(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. Material 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>.

FILED WITH LRC: December 9, 2024

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.

BOARDS AND COMMISSIONS

Board of Embalmers and Funeral Directors (As Amended at ARRS, December 9, 2024)

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 license 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://kbefd.ky.gov/Pages/forms.aspx>.

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BOARDS AND COMMISSIONS

Board of Embalmers and Funeral Directors (As Amended at ARRS, December 9, 2024)

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; and

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(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 shall 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 promulgated by the board. 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://kbefd.ky.gov/Pages/forms.aspx>.

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BOARDS AND COMMISSIONS
Board of Veterinary Examiners
(As Amended at ARRS, December 9, 2024)

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 ~~(4)~~ ~~(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 ~~(1)(b) requires (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

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(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 care as defined by KRS 321.181 ~~(33)~~(40).

(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 care as defined by KRS 321.181 ~~(33)~~(40).

(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 ~~8~~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.

FILED WITH LRC: December 9, 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.

BOARDS AND COMMISSIONS
Board of Veterinary Examiners
(As Amended at ARRS, December 9, 2024)

201 KAR 16:612. Notice to Comply ~~(NC)~~(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 ~~(NC)~~(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 an NC~~a~~NOC and an~~a~~ NOV.

Section 1. Notice to Comply ~~(NC)~~(NOC).

(1) The board, or an employee or agent of the board, may issue an NC~~a~~NOC to any person or business for violation of any provision of KRS Chapter 321 or 201 KAR Chapter 16~~administrative regulations promulgated by the board thereunder~~.

(2) An NC~~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 an NOV~~a~~notice of violation being issued.

(3) An NC~~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 that has been or may have been~~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 NC~~NOC~~;

(f) A reasonable time for compliance; ~~and~~

(g) Notice that failure to take required action may result in the issuance of an NOV~~a~~notice of violation;

(h) Identification of the board's agent issuing the form; and

(i) The date the NC~~NOC~~ was issued.

(4) An NC~~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 an~~a~~ NOV to any person for violation of any provision of KRS Chapter 321 or 201 KAR Chapter 16~~administrative regulations promulgated by the board thereunder~~.

(2) An~~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) An~~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) The items listed in KRS 321.235(2)(h)~~A citation to the~~

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~~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;~~

~~[(d)] [(f)] Notice of the penalty for the violation or violations for which the notice was issued;~~

~~[(e)] [(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; and~~

~~[(i)] [(f)] Date the NOV was issued; and~~

~~[(j)] [Notice of rights of appeal].~~

(5) An NOV [A notice of violation] may be issued in tangible or electronic form.

FILED WITH LRC: December 9, 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.

BOARDS AND COMMISSIONS
Board of Veterinary Examiners
(As Amended at ARRS, December 9, 2024)

201 KAR 16:614. Fines.

RELATES TO: KRS 321.190, 321.201, 321.207, 321.236, 321.352, 321.441, 321.990

STATUTORY AUTHORITY: KRS 321.235(1)(b), 321.352(1); ~~(4); (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; and

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; and

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; and

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; and

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; and

2. For subsequent offenses in an amount of not less than \$500 and not more than \$1,000; and

~~[(f)] [(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; and

2. For subsequent offenses in an amount of not less than \$250 and not more than \$500; and

~~[(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 201 KAR Chapter 16 [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; and

(b) For subsequent offenses in an amount of not less than \$250 and not more than \$500; and

(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; and

(b) For subsequent offenses in an amount of not less than \$1,000 and not more than \$2,500; and

(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; and

(b) For subsequent offenses in an amount of not less than \$1,000 and not more than \$2,500; and

(5) A person who is an officer who refuses to enforce the provisions of KRS [this] Chapter 321 [if/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; and

(b) For subsequent offenses in an amount of not less than \$250 and not more than \$500; and

(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; and

(b) For subsequent offenses in an amount of not less than \$500 and not more than \$1,000; and

(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; and

(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; and

(b) For subsequent offenses in an amount of not less than \$1,000 and not more than \$2,500.^[j]

(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. ~~[(4)]~~Each day or part of a day that a violation continues is a separate violation and subject to additional fines per day.

FILED WITH LRC: December 9, 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.

BOARDS AND COMMISSIONS
Board of Medical Imaging and Radiation Therapy
(As Amended at ARRS, December 9, 2024)

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.080, 311B.100(2), (3), 311B.110, 311B.120, 311B.140, 311B.180, 311B.190

STATUTORY AUTHORITY: KRS 311B.050, 311B.080, 311B.100(2), 311B.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.050 requires the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to establish the procedures for the issuance and renewal of a license. KRS 311B.100(2) and KRS 311B.110(6) require the board to promulgate administrative regulations to establish the qualifications for an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, and a nuclear medicine technologist. This administrative regulation establishes requirements for licensure, renewal, and reinstatement.

Section 1. Eligibility for an Advanced Imaging Professional, a Medical Imaging Technologist, a Radiographer, a Radiation Therapist, and a Nuclear Medicine Technologist License. A person shall not be eligible for a license pursuant to this administrative regulation for diagnostic imaging or therapeutic purposes unless the person has:

- (1) Satisfactorily passed the national examination administered by the American Registry of Radiologic Technologists or the Nuclear Medicine Technology Certification Board examination;
- (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 ~~(5)~~~~(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 ~~(5)~~~~(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;

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(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.

(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", ~~October 2023~~ **August 2024**; and

(b) KBMIRT Form 2, "License Renewal Application-Medical Imaging or Radiation Therapy", ~~October 2023~~ **August 2024**.

(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. **This material is also available on the board's Web site at <https://kbmirt.ky.gov>.**

FILED WITH LRC: December 9, 2024

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.

BOARDS AND COMMISSIONS Board of Medical Imaging and Radiation Therapy (As Amended at ARRS, December 9, 2024)

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.

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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) and (b) of this subsection, the board may make an award to other eligible applicants.

(4) Disbursement of funds shall be made directly to the recipient.

(5) 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) 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. Disbursement Contract and Promissory Note. Prior to disbursement of funds, the recipient shall sign a notarized KBMIRT Form 12 and KBMIRT Form 13.

Section 6. 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. 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. 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 Deferment", 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. **This material is also available on the board's Web site at <https://kbmirt.ky.gov>.**

FILED WITH LRC: December 9, 2024

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VOLUME 51, NUMBER 7– January 1, 2025

KENTUCKY BOARD OF EMERGENCY MEDICAL SERVICES
(As Amended at ARRS, December 9, 2024)

202 KAR 7:560. Ground vehicle staff.

RELATES TO: KRS 189.910-189.950, 311A.030, 311A.190
STATUTORY AUTHORITY: KRS 311A.020, 311A.025, 311A.030, 311A.190

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311A.020 requires the Board of Emergency Medical Services to exercise all administrative functions in the regulation of the emergency medical services system and the licensing of ambulance services and medical first response agencies, except those regulated by the Board of Emergency Medical Services or the Cabinet for Health and Family Services. KRS 311A.030 requires the board to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers and medical first response agencies. This administrative regulation establishes the minimum staffing requirements for ground vehicles.

Section 1. Staffing Requirements.

(1) Each Class I agency BLS ambulance shall at minimum, be staffed by:

(a) A driver certified as an emergency medical responder (EMR); 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)

(a) Each Class IV service operating an ALS ambulance shall at minimum be staffed by:

1. [(a)] A driver certified as an emergency medical technician (EMT); and

2. [(b)] An attendant certified as an Advanced EMT or licensed as a paramedic.

[(b)] 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~~

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(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;

(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 shall **is** not **be** 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.

FILED WITH LRC: December 9, 2024

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.

**KENTUCKY BOARD OF EMERGENCY MEDICAL SERVICES
(As Amended at ARRS, December 9, 2024)**

202 KAR 7:596. Mobile integrated healthcare licensure.

RELATES TO: KRS 311A.010, 311A.020, 311A.025, ~~311A.032~~~~311A.030~~, 311A.170, ~~311A.180~~, 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 **needs** ~~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,

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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, **Section 7(1)**;

(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.

(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 **of** 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; **or**

(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;

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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 ~~that~~ *which* address the assessment, planning, and care coordination services while providing MIH services. At a minimum, ~~the~~ *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;

(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

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MIH program policy shall be fully operational and available for each patient encounter.

Section 13. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Mobile Integrated Healthcare Program License Application", July 2024; and

(b) "Mobile Integrated Healthcare Program Renewal Application", December 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.

FILED WITH LRC: December 9, 2024

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.

**TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(As Amended at ARRS, December 9, 2024)**

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) authorizes/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 authorizes/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 the 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 the 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 the 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.~~]

FILED WITH LRC: December 9, 2024

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

**JUSTICE AND PUBLIC SAFETY CABINET
(As Amended at ARRS, December 9, 2024)**

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~~]

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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, administrative regulation, condition or policy of employment or service with the public safety agency, official mutual-aid agreement, or other law to perform, including any social, ceremonial, or 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 by, 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 ~~within the scope of his or her employment duties as 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 ~~or her~~ 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 ~~or her~~ death;

(d) The police officer's willfulness or wanton disregard that brings about his ~~or her~~ death; or

(e) Voluntary intoxication of the police officer ~~that 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.

(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]

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~~[(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.]~~

FILED WITH LRC: December 9, 2024

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.

**JUSTICE AND PUBLIC SAFETY CABINET
(As Amended at ARRS, December 9, 2024)**

500 KAR 1:021. Filing and processing of death benefit claims.

RELATES TO: KRS 61.315, 83A.087, 87A.088, 95.445, 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 death benefits for police officers as defined in KRS 61.315(1)(a) who die~~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 the 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, Claim for Death Benefits~~incorporated by reference in this administrative regulation~~;

(b) All supporting documents or proof required by~~in~~ this administrative regulation; and

(c) A Form 2, Report of Police Officer's Death,~~incorporated by reference in this administrative regulation~~ completed by the police officer's employing public safety agency, organization, or unit with the 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 established~~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 copy of the marriage license or marriage 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 persons~~parties~~ married;
- 2. Date of marriage; and
- 3. Place of marriage.

(c) If the police officer was previously married, a certified copy of the divorce decree or a certified divorce certificate of each previous marriage for the police officer shall be submitted.

(d) If the spouse of the police officer was previously married, a certified copy of the divorce decree or a certified divorce certificate 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 to~~with~~ the deceased police officer; or
- 5. Other record admissible in a court of competent jurisdiction~~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 shall be provided.

(3) Parent.

(a) 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:

- 1.~~(a)~~ A birth certificate;
- 2.~~(b)~~ An adoption decree;
- 3.~~(c)~~ A paternity decree;
- 4.~~(d)~~ A~~Other~~ government agency record that reveals the parental relationship with the deceased police officer; or
- 5.~~(e)~~ A~~Other~~ record admissible in a court of competent jurisdiction~~family court~~ to determine the claimant's relationship to the officer including genetic test results; or

(b)~~(f)~~ If none of the documents listed in paragraph~~paragraphs~~ (a) [~~through~~ ~~(e)~~] of this subsection exist,

paragraph~~paragraphs~~ (a) [~~through~~ ~~(e)~~] of this subsection exist,

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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 shall be provided.

(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 if the copy shall/will be accepted.

Section 3. Proof of Death as a Direct Result of an Act in the Line of Duty.

(1) To establish that 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
 - 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 was on duty or was on duty within twenty-four (24) hours, 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

[~~(e)~~] 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 if/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 proceed as established in follow 500 KAR 1:030.

Section 8. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Form 1, Claim for Death Benefits", 2024 edition; and

(b) "Form 2, Report of Police Officer's Death", 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>.

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JUSTICE AND PUBLIC SAFETY CABINET
(As Amended at ARRS, December 9, 2024)

500 KAR 1:030. Request for hearing.

RELATES TO: KRS Chapter 13B, 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) Be in writing;

(b) Be received by the office of the secretary within thirty (30) days of the date of the notice of ineligibility; and

(c) Establish 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 by the secretary or the designated hearing officer with written notice [being] sent to the claimant and the cabinet's representative, if any, pursuant to KRS Chapter 13B.

(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 [Ne] 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 at 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 and shall be subject to review as provided by KRS Chapter 13B.

(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.

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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.

TRANSPORTATION CABINET

Department of Highways

Division of Traffic Operations

(As Amended at ARRS, December 9, 2024)

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 Overdimensional 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);

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(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 that which are a part of the Interstate System shall be as follows 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 that 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 that 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 that 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 that 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 follows 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 that 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.

(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 that 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 follows 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 that 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 that 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 that 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-5-304~~] shall constitute a designation by the Secretary of Transportation as contemplated by KRS 189.280.

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(2) City ordinances ~~that~~ **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.

FILED WITH LRC: December 9, 2024

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**EDUCATION AND LABOR CABINET
Division of Workplace Development
Office of Unemployment Insurance
(As Amended at ARRS, December 9, 2024)**

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), **341.413**

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 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" ~~is~~ **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 ~~3~~ **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 ~~4~~ **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** ~~"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.

FILED WITH LRC: December 9, 2024

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**PUBLIC PROTECTION CABINET
Department of Financial Institutions
Division of Depository Institutions
(As Amended at ARRS, December 9, 2024)**

808 KAR 15:050. Out-of-state trust companies operating in Kentucky.

RELATES TO: KRS 286.3-146

STATUTORY AUTHORITY: KRS 286.1-020(1), KRS 286.3-146(2)(a)2

NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.1-020(1) authorizes the commissioner to promulgate administrative regulations to interpret and carry out the provisions and intent of KRS Chapter 286. KRS 286.3-146(2)(a)2 authorizes the commissioner to promulgate **an administrative** ~~[a]~~ regulation to prescribe the form and format of **filings required by KRS 286.3-146(2)]** ~~out-of-state trust companies' notice of intent to conduct the activities outlined in KRS 286.3-146(1) in Kentucky~~. This administrative regulation establishes the procedure by which an out-of-state trust company ~~without a physical location in Kentucky,~~ may **comply with KRS 286.3-146(2)]** ~~file a written notification of their intent to conduct the activities outlined in KRS 286.3-146(1) within Kentucky~~.

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Section 1. An out-of-state trust company ~~shall without a physical location in Kentucky may conduct activities authorized under KRS 286.3-146(1) in Kentucky if they~~ submit a completed "Notification by Out-of-State Trust Company of Business Activity" Form to the department at least thirty (30) days prior to ~~commencing business pursuant to KRS 286.3-146(2) engaging in activities authorized under KRS 286.3-146(1)~~ in Kentucky.

Section 2. Incorporation by Reference.

(1) Form B-1, "Notification by Out-of-State Trust Company of Business Activity", ~~December~~ July 12, 2024, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Financial Institutions, 500 Mero St 2SW19, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 5:00 p.m. This material may also be obtained from the department's Web site at https://kfi.ky.gov/new_docs.aspx?cat=56 [~~https://kfi.ky.gov/new_docs.aspx?cat=65~~].

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CONTACT PERSON: Kathryn Adams-Cornett, Staff Attorney, and Marni Gibson, Commissioner, Dept. of Financial Institutions, 500 Mero Street, 2SW19, Frankfort, Kentucky 40601, phone 502-782-9065, fax 502-573-8787, email katie.adams@ky.gov or Marni.Gibson@ky.gov.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Epidemiology and Health Planning
(As Amended at ARRS, December 9, 2024)

902 KAR 2:040. Syndromic surveillance [and screening of carriers and selected groups].

RELATES TO: KRS 216B.015, ~~Chapters~~ Chapter 311 - ~~through~~ 314 [211.180, 214.010, 214.020]

STATUTORY AUTHORITY: KRS 211.180, 214.010 [495.040, 211.090]

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 these [~~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 that is [~~is~~]. 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, such as Valid patient classes shall be~~ direct admit, emergency, inpatient, observation patient, obstetrics, outpatient, preadmit, or recurring patient.

(15) "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).

(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;

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(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, **except for** post office box (P.O. Box) zip codes, **which** 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 erred connection shall be submitted when the connection is re-established.

(3) Syndromic surveillance data shall be submitted **in** 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 **shall/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.]~~

FILED WITH LRC: December 9, 2024

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CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Maternal and Child Health
(As Amended at ARRS, December 9, 2024)

902 KAR 30:200. Coverage and payment for services.

RELATES TO: KRS 200.654, ~~[200.654, 200.672, 303.120-122, 303.220-226, 303.500, 303.520, 303.521, 20 U.S.C. 1438, 1440]~~

STATUTORY AUTHORITY: KRS 194A.050, ~~[200.654, 200.660(3), (7), (8)]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) authorizes the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds. KRS 200.660 requires the Cabinet for Health and Family Services to administer funds appropriated to implement the provisions of KRS 200.650 ~~through~~ 200.676, to enter into contracts with early intervention service providers, and to promulgate administrative regulations necessary to implement KRS 200.650 ~~through~~ 200.676. This administrative regulation establishes the provisions relating to early intervention services for which payment shall be made on behalf of eligible recipients.

Section 1. Participation Requirements. An ~~[approved]~~ Kentucky Early Intervention System (KEIS) early intervention service provider or agency, **approved in accordance with 902 KAR 30:150**, shall~~[that requests to participate as an approved First Steps provider shall comply with the following]:~~

(1) Submit to an ongoing review by the Department for Public Health, or its agent, for compliance with 902 KAR Chapter 30;

(2)

(a) Meet the qualifications for a professional or paraprofessional established in 902 KAR 30:150; or

(b) Employ or contract with a professional or paraprofessional who meets the qualifications established in 902 KAR 30:150;

(3) Ensure that a professional or paraprofessional employed by the provider who provides a service in the KEIS[First Steps] program shall complete training on KEIS[First Steps] philosophy, practices, and procedures provided by Department for Public Health[First Steps] representatives ~~before~~prior to providing [First Steps] services;

(4) Agree to provide KEIS[First Steps] services as authorized by an Individualized Family Service Plan (IFSP) as required by 902 KAR 30:130;

(5) Agree to maintain and ~~to~~submit, as requested by the Department for Public Health, required information, records, and reports to ensure compliance with 902 KAR Chapter 30;

(6) Establish a contractual arrangement directly with the Cabinet for Health and Family Services for the provision of KEIS[First Steps] services; and

(7) Agree to provide upon request information necessary for reimbursement for services by the Cabinet for Health and Family Services in accordance with this administrative regulation~~[, which shall include the tax identification number and usual and customary charges].~~

Section 2. Reimbursement.

(1) The Department for Public Health shall reimburse a participating KEIS[First Steps] provider or agency:

(a) The lower of the actual billed charge for the service; or

(b) The fixed upper limit established in this section for the service being provided.

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(2)(4) A charge submitted to the Department for Public Health shall be the provider's usual and customary charge for the same service.

(3)(2) The fixed upper limit for services shall be as established in this subsection.

(a) Initial evaluation. The developmental component of the initial evaluation for an infant or toddler[a child] without an established risk condition shall be provided by face-to-face contact with the infant or toddler[child] and parent. Payment

[1.] [In the office or center-based site, the fee] shall be \$311 for a completed evaluation as a single unit of service[~~\$270 per service event.~~]

[2.] [In the home or community site, the fee shall be \$270 per service event].

(b) Five (5) Area Assessment. The developmental component of the initial evaluation for an infant or toddler[the child] with an established risk condition shall be provided by face-to-face contact with the infant or toddler[child] and parent. Payment

[1.] [In the office or center-based site, the fee] shall be \$201 for a completed assessment as a single unit of service[~~\$175 per service event.~~]

[2.] [In the home or community-based site, the fee shall be \$175 per service event].

(c) Annual or exit assessment. The annual or exit assessment shall be provided by face-to-face contact with the infant or toddler[child] and parent. Payment

[1.] [In the office or center-based site, the fee] shall be \$201 for a completed assessment as a single unit of service[~~\$175 per service event.~~]

[2.] [In the home or community-based site, the fee shall be \$175 per service event].

(d) Discipline-specific[Discipline specific] assessment. The discipline-specific[discipline specific] assessment conducted by an early intervention[a direct] service provider shall be provided by face-to-face contact with the infant or toddler[child] and parent. Payment

[1.] [In the office or center-based site, the fee] shall be \$201 for a completed assessment as a single unit of service[~~\$175 per service event.~~]

[2.] [In the home or community-based site, the fee shall be \$175 per service event].

(e) Record review. A record review shall be provided by a Department for Public Health approved team and paid at the contracted amount.

(f) Intensive clinic evaluation. The intensive level evaluation shall be provided by a Department for Public Health approved team and shall include face-to-face contact with the infant or toddler[child] and parent. A board-certified physician shall be included on the team. Payment

[1.] [In the office or center-based site, which involves a board certified physician, the fee] shall be \$1,100 for a completed evaluation as a single unit of service. An individual provider shall not be reimbursed for participation on the intensive evaluation team[per service event.]

[2.] [In the community site, which involves a board certified physician, the fee shall be \$1,100 per service event].

(g) Early intervention or collateral services in accordance with Section 4[3](1), (2), (4) and (5) of this administrative regulation shall be[have] the fixed upper limits established in this paragraph.

1. The fee for collateral service or an early intervention service, including cotreatment, shall be:

a. Seventy-two (72) dollars per hour of service in an office, clinic, or center-based site;

b. \$102 per hour of service in a home or community-based site, including childcare settings; or

c. Eighty-nine (89) dollars per hour for a tele-intervention service, if when the service is provided by:

(i) An audiologist;

(ii) A certified social worker;

(iii) Cued language transliterator;

(iv) A developmental interventionist;

(v) A dietitian;

(vi) A licensed clinical social worker;

(vii) A licensed marriage and family therapist;

(viii) A licensed psychologist, licensed psychological practitioner, licensed professional clinical counselor, or a certified psychologist with autonomous functioning;

(ix) An occupational therapist;

(x) An orientation and mobility specialist;

(xi) A physical therapist;

(xii) A registered nurse;

(xiii) A sign language specialist;

(xiv) A speech therapist;

(xv) A teacher of the deaf and hard of hearing; or

(xvi) A teacher of the visually impaired.

2.

a. Early intervention service providers established in subparagraph 1. of this paragraph listed in subparagraph 1. of paragraph (g) of this subsection shall be eligible for a one-time payment of \$500 once the provider obtains they obtain initial fidelity in the KEIS coaching program; and

b. An additional payment of \$102 shall be made to eligible early intervention service providers for the submission of a required video for fidelity authentication that successfully demonstrates fidelity.

3. The fee for collateral service or an early intervention service, including cotreatment, shall be:

a. Seventy (70) dollars per hour of service in an office, clinic, or center-based site;

b. Ninety-three (93) dollars per hour of service in a home or community-based site, including childcare settings; or

c. Eighty-one (81) dollars per hour for a tele-intervention service, if when the service is provided by:

(i) An assistive technology specialist;

(ii) A cued language transliterator paraprofessional;

(iii) A licensed psychological associate or a certified psychologist; or

(iv) A sign language and cued language paraprofessional.

4. The fee for collateral service or an early intervention service, including cotreatment, shall be:

a. Fifty-three (53) dollars per hour of service in an office, clinic, or center-based site;

b. Eighty-one (81) dollars per hour of service in a home or community-based site, including childcare settings; or

c. Seventy (70) dollars per hour of service for tele-intervention service, if when the service is provided by:

(i) An occupational therapy assistant; or

(ii) A physical therapy assistant.

5. The fee for collateral service shall be eighty-seven (87) dollars per hour of service in an office, clinic, or center-based site, if when the service is provided by:

a. A nurse practitioner;

b. An ophthalmologist;

c. An optometrist; or

d. A physician

[1.] [For an audiologist:]

[a.] [In the office or center-based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-three (63) dollars per hour of service; or]

[b.] [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-nine (89) dollars per hour of service.]

[2.] [For a marriage and family therapist:]

[a.] [In the office or center-based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-three (63) per hour of service; or]

[b.] [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-nine (89) per hour of service.]

[3.] [For a licensed psychologist, a licensed psychological practitioner, a licensed professional clinical counselor, or certified psychologist with autonomous functioning:]

[a.] [In the office or center-based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-three (63) dollars per hour of service; or]

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[b.] [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-nine (89) dollars per hour of service.]

[4.] [For a licensed psychological associate or a certified psychologist:]

[a.] [In the office or center-based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-one (61) dollars per hour of service; or]

[b.] [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-one (81) dollars per hour of service.]

[5.] [For a developmental interventionist:]

[a.] [In the office or center based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-three (63) dollars per hour of service; or]

[b.] [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-nine (89) dollars per hour of service.]

[6.] [For a registered nurse:]

[a.] [In the office or center based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-three (63) dollars per hour of service; or]

[b.] [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-nine (89) dollars per hour of service.]

[7.] [For a dietitian:]

[a.] [In the office or center based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-three (63) dollars per hour of service; or]

[b.] [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-nine (89) dollars per hour of service.]

[8.] [For an occupational therapist:]

[a.] [In the office or center based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-three (63) dollars per hour of service; or]

[b.] [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-nine (89) dollars per hour of service.]

[9.] [For an occupational therapy assistant:]

[a.] [In the office or center based site, the fee for a collateral service or an early intervention service including cotreatment shall be forty-six (46) dollars per hour of service; or]

[b.] [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be seventy (70) dollars per hour of service.]

[10.] [For an orientation and mobility specialist:]

[a.] [In the office or center-based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-three (63) dollars per hour of service; or]

[b.] [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-nine (89) dollars per hour of service.]

[11.] [For a physical therapist:]

[a.] [In the office or center based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-three (63) dollars per hour of service; or]

[b.] [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-nine (89) dollars per hour of service.]

[12.] [For a physical therapist assistant:]

[a.] [In the office or center based site, the fee for a collateral service or an early intervention service including cotreatment shall be forty-six (46) dollars per hour of service; or]

[b.] [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be seventy (70) dollars per hour of service.]

[13.] [For a speech therapist:]

[a.] [In the office or center based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-three (63) dollars per hour of service; or]

[b.] [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-nine (89) dollars per hour of service.]

[14.] [For a social worker:]

[a.] [In the office or center based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-one (61) dollars per hour of service; or]

[b.] [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-one (81) dollars per hour of service.]

[15.] [For a teacher of the deaf and hard of hearing:]

[a.] [In the office or center based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-three (63) dollars per hour of service; or]

[b.] [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-nine (89) dollars per hour of service.]

[16.] [For a teacher of the visually impaired:]

[a.] [In the office or center based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-three (63) dollars per hour of service; or]

[b.] [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-nine (89) dollars per hour of service.]

[17.] [For a physician or a nurse practitioner providing a collateral service in the office or center based site, the fee shall be seventy-six (76) dollars per hour of service. A physician or a nurse practitioner shall not receive reimbursement for early intervention.]

[18.] [For an assistive technology specialist:]

[a.] [In the office or center based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-one (61) dollars per hour of service; or]

[b.] [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-one (81) dollars per hour of service.]

[19.] [For a sign language and cued language specialist:]

[a.] [In the office or center based site, the fee for a collateral service or an early intervention service including cotreatment shall be sixty-three (63) dollars per hour of service; or]

[b.] [In the home or community site, the fee for a collateral service or an early intervention service including cotreatment shall be eighty-nine (89) dollars per hour of service.]

[20.] [For an optometrist or ophthalmologist providing collateral service in an office or center based site, the fee shall be sixty-three (63) dollars per hour of service. An optometrist or ophthalmologist shall not receive reimbursement for early intervention.]

(h) Respite shall be nine (9)[seven (7)] dollars [and sixty (60) cents] per hour.

(4)[(3)]

(a) For early intervention or collateral services, hours shall be determined using the beginning and ending time for a service.

1. The hours shall be computed as **established in clauses a. through d. of this subparagraph.**[follows:]

a. Fifteen (15) to twenty-nine (29) minutes shall equal 0.25 hours.[j]

b. Thirty (30) to forty-four (44) minutes shall equal 0.50 hours.[j]

c. Forty-five (45) to fifty-nine (59) minutes shall equal 0.75 hours.[j; and]

d. Sixty (60) to seventy-four (74) minutes shall equal one (1) hour.

2. Services shall be documented in the KEIS[First Steps] data management system and shall include:

a. A service note describing the intervention provided during the session;

b. A list of participants present during the early intervention session;

c. The caregiver's report of [the child's] progress since the last session, including any modifications to the suggested intervention or barriers to implementing the intervention;

d. The parent's and child's response to intervention that describes the skill level of the parent and child and if the skill has

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increased, decreased, or stayed the same and the method used to measure progress; and

e. The plan for the next visit, based on the family's and child's response to intervention and the IFSP outcome.

(b) Service documentation shall be entered within ten (10) calendar days of the service delivery date. Documentation entered after ten (10) calendar days from the date of service shall be immediately disapproved for payment.

(c) Once the provider has entered a corrected service log, a payment adjustment shall be made. Payment shall be prorated on the following scale:

1. Correction entered within one (1) to five (5) calendar days, claim paid at a ten (10)~~[three (3)]~~ dollar reduction;
2. Correction entered within six (6) to ten (10) calendar days, claim paid at a fifteen (15)~~[an eight (8)]~~ dollar reduction;
3. Correction entered within eleven (11) to fifteen (15) calendar days, claim paid at a twenty-five (25) dollar reduction;
4. Correction entered within sixteen (16) to thirty (30) calendar days, claim paid at one half the maximum KEIS payment; and
5. Correction entered after thirty (30) calendar days or beyond shall be disapproved and not adjusted for payment.

(d) For service coordination services, hours shall be determined using the beginning and ending time for a service documented in staff notes in accordance with 902 KAR 30:110, Section 2(10).

1. The hours shall be computed as established in clauses a. through d. of this subparagraph.~~[follows:]~~

- a. One (1) to twenty-two (22) minutes shall equal 0.25 hours.~~[;]~~
- b. Twenty-three (23) to thirty-seven (37) minutes shall equal 0.50 hours.~~[;]~~
- c. Thirty-eight (38) to fifty-two (52) minutes shall equal 0.75 hours.~~[; and]~~
- d. Fifty-three (53) to sixty-seven (67) minutes shall equal one (1) hour.

2. Service coordination minutes spent over the course of a day for an individual infant, toddler,~~[on a child]~~ or family shall be accumulated at the end of the day in order to determine the total number of hours spent.

~~[5][4] [A payment for a discipline specific assessment, five (5) area assessment, annual or exit assessment, initial or intensive evaluation listed in subsection (2) of this section shall be based on a complete evaluation as a single unit of service. An individual provider shall not be reimbursed for participation on the intensive evaluation team.]~~

~~[5] Payment for assistive technology devices shall be made in accordance with 902 KAR 30:130, Section 4[3].~~

(a) The total rental cost of an assistive technology device shall not exceed the purchase price of that device. The length of rental shall be based on the purchase price of the device and shall not exceed ten (10) months in length.

(b) The total purchase cost of an assistive technology device shall include the actual cost of the item being purchased, all related shipping charges, and an administrative fee not to exceed ten (10) percent.

(6) Transportation costs shall~~[may]~~ be reimbursed if~~[when]~~ the service is necessary to enable an eligible infant or toddler to receive early intervention services. Reimbursement and related cost of travel~~[Payment for transportation]~~ shall be the lesser of the billed charge or:

- (a) For a commercial transportation carrier, an amount derived by multiplying one (1) dollar by the actual number of loaded miles using the most direct route;
- (b) For a private automobile carrier, an amount equal to twenty-five (25) cents per loaded mile transported; or
- (c) For a noncommercial group carrier, an amount equal to fifty (50) cents per eligible infant or toddler~~[child]~~ per mile transported.

(7) [A] Payment for a group intervention service shall be thirty-two (32) dollars per infant or toddler~~[child]~~ per hour of direct contact service for each infant or toddler~~[child]~~ in the group with a limit of three (3) eligible children per professional or paraprofessional who can practice without direct supervision.

Section 3. Tele-intervention Services.

(1) Tele-intervention services shall be:

- (a) Documented and authorized on the IFSP; and
- (b) Provided with the same processes and standards as face-to-face services.

(2) The written informed consent for tele-intervention services signed by the parent may include electronic signatures and transmission.

(3) Tele-intervention shall be based on:

- (a) A shortage of a provider discipline needed to address the needs of the infant or toddler; or
- (b) The unique needs of the infant or toddler and ~~the infant or toddler's~~their family.

Section 4. Limitations.

(1) Service Assessments.

(a) Payment for a discipline specific assessment shall be limited to three (3) assessments per discipline per infant or toddler~~[child]~~, unless:

1. Additional hours are necessary based on the reasons established~~[stated]~~ in paragraph (b) of this subsection and documented in accordance with 902 KAR 30:130, Section 1(7); and

2. [from birth to the age of three (3)]~~[unless]~~ Preauthorized by the Department for Public Health in accordance with Section 5[4] of this administrative regulation.

(b)

1. A service assessment payment shall not be made for the provision of routine early intervention services by a discipline in the general practice of that discipline.

2. Payment for a service assessment shall be restricted to the need for additional testing due to new concerns or significant change in the infant's or toddler's~~[child's]~~ status that impacts the early intervention services authorized on the IFSP.

3. Routine activity of assessing progress and outcomes shall be billed as early intervention.

(2) ~~[For early intervention,]~~ Unless prior authorized by the Department for Public Health in accordance with Section 5[4] of this administrative regulation, limitations for payment of early intervention services shall be as established in this subsection.

(a) For office, center, or home and community-based sites:

1. Payment shall be limited to no more than one (1) hour per day per infant or toddler~~[child]~~ per discipline by a:

- a. Professional meeting the qualifications established in 902 KAR 30:150; or
- b. Paraprofessional meeting the qualifications established in 902 KAR 30:150.

2. Payment shall be limited to no more than twenty-four (24) hours for a single discipline and thirty-six (36) hours for more than one (1) discipline during a six (6) month period and for group shall be limited to an additional forty-eight (48) hours during a six (6) month period.

(b) Group intervention shall include the provision of early intervention services by KEIS qualified personnel, with two (2) or more eligible infants or toddlers, at an early intervention professional's office, center, or other community-based setting where infants and toddlers typically spend their time.~~[;]~~

1. The group may also include infants and toddlers without disabilities ~~if as long as~~ a three (3) to one (1) ratio of children to staff is maintained.~~[; and]~~

2. Infants and toddlers~~[For group:]~~

~~[1.] [Children]~~ shall not be eligible for both group and individual early intervention services by the same discipline concurrently on the IFSP~~[Individualized Family Services Plan.]~~

~~[2.] [Group service shall be provided by enrolled First Steps providers in accordance with 902 KAR 30:150, Section 1(11). The ratio of staff to children in group early intervention shall be limited to a maximum of three (3) children per professional and paraprofessional per group.]~~

(c) Payment for siblings seen at the same time shall be calculated by dividing the total time spent by the number of siblings to get the amount of time to bill per infant or toddler~~[child]~~.

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(d) Payment for a service shall be limited to a service that is authorized by the IFSP team in accordance with 902 KAR 30:130, Section 3(3).

(e)

1. Except as provided in subparagraph 2. of this paragraph, payment shall be limited to a service provided as a face-to-face contact or tele-intervention with the infant or toddler[child] and either the [child's]-parent or caregiver.

2. Early intervention family services authorized by KRS 200.654(7) may be provided without the infant or toddler[child] present if the reason the infant's or toddler's[child's] presence is clinically contraindicated is documented in the session note.

(3) Respite shall be a service provided to the family of an eligible infant or toddler for the purpose of providing relief from the care of the infant or toddler in order to strengthen the family's ability to attend to the child's developmental needs.[For respite,] Payment shall:

(a) Be limited to no more than eight (8) hours of respite per month, per eligible infant or toddler[child];

(b) Not be allowed to accumulate beyond each month; and

(c) Be limited to families in crisis, or strong potential for crisis without the provision of respite.

(4) [~~For collateral services,~~] Payment for collateral services shall be a billable service for the enrolled KEIS[First Steps] providers[,] who are providing early intervention services for the eligible infant or toddler[child] through an IFSP and paid by KEIS[the First Steps system].

(a) Payment for attending the[The length of an] IFSP meeting shall be limited to no more than one (1) hour.

(b) Payment for attendance at one (1) Admissions and Release Committee (ARC) meeting held prior to a toddler's[child's] third birthday shall be limited to the service coordinator and primary coach[service] provider selected by the IFSP team.

(c) Participation at an initial IFSP meeting by an initial evaluator shall be limited to an evaluator who conducted the initial evaluation in accordance with 902 KAR 30:120, Section 2(5)(a). Payment shall be at the collateral services rate for the discipline that the evaluator represents.

(5)

(a) Cotreatment shall occur if more than one (1) provider is present and providing early intervention services at the same time. Each provider's service log shall document:

1. Why the cotreatment approach was used; and

2. A description of the intervention strategies and coaching suggestions.

(b) [~~For cotreatment,~~] Payment shall be limited to three (3) disciplines providing services concurrently.

(6) Unless prior authorized by the Department for Public Health due to a shortage of direct service providers, an initial evaluator shall not be eligible to provide early intervention to an infant or toddler[a child] whom the evaluator evaluated and that[which] resulted in the infant or toddler[child] becoming eligible.

Section 5.[~~Section 4.~~] Prior Authorization Process.

(1) Authorization for payment for early intervention services beyond the limits established in Section 4[3] of this administrative regulation shall be submitted to the cabinet or its designee, as determined by the Department for Public Health, [~~and~~] approved prior to the service being delivered, and shall include [~~the following~~]:

(a) A service exception request completed in the KEIS[First Steps] data management system; and

(b) [~~The Record Review~~] Supporting documentation.

(2) The record review team shall issue a written recommendation for the IFSP team to consider within ten (10) calendar days of receipt of the request.

(3) If the IFSP team is not in agreement with the recommendation of the record review team:

(a) A request for further review shall be submitted to the Department for Public Health; and

(b) A three (3) person team from the Department for Public Health, Division of Maternal and Child Health, including the division director, shall render a recommendation.

(4) If the IFSP team is not in agreement with the three (3) person team recommendation established in subsection (3)(b) of this section:

(a) The infant's or toddler's[child's] IFSP team shall be asked to reconvene for an IFSP meeting with a representative from the record review team and a representative from the three (3) member team; and

(b) If the IFSP team concludes at that IFSP meeting that the services are still needed, payment for the service shall be authorized for the duration of the current IFSP.

Section 6.[~~Section 5.~~] System of Payment and Fees.

(1) All families enrolling in KEIS[~~the First Steps system~~] shall be assessed for the family's ability to pay a participation fee for early intervention services in accordance with KRS 200.654 (7)(f) to (m). Families with private or public insurance shall not be charged disproportionately more than families without insurance.

(2) A charge to the family shall not be made for [~~the following functions~~]:

(a) Child find activities;

(b) Evaluation and assessment of the infant, toddler,[child] and family;

(c) Service coordination;

(d) Administrative [~~and coordinative~~] activities supporting the[including] development, review, and evaluation of individualized family service plans; and

(e) The implementation of procedural safeguards.

(3) Families shall be notified of the KEIS System of Payments[receive a copy of the First Steps System of Payment notice] during the intake meeting, at the initial IFSP meeting, and at each subsequent IFSP meeting.

(4) Payment of fees shall be for the purpose of [:-]

[~~(a)~~] maximizing available sources of funding for early intervention services[; and]

[~~(b)~~] [~~Giving families an opportunity to assist with the cost of services if there is a means to do so, in a family share approach~~].

(5) The family share payment shall:

(a) Be based on a sliding fee scale;

(b) Be explained to the family by the point of entry[POE] staff; and

(c) Begin with the provision of an early intervention service[,], and continue for the duration of participation in early intervention services.

(6) The ability to pay shall be determined based on:

(a) [~~Be based on~~] The level of the family gross income identified on the last Federal Internal Revenue Service statement or check stubs from the four (4) most recent consecutive pay periods, as reported by the family; and

(b) The level of income matched with the level of poverty, utilizing the federal poverty guidelines as published annually by the Federal Department of Health and Human Services as established in subparagraphs 1. through 9. of this paragraph.[, based on the following scale:]

1. Below 249 percent of poverty, there shall be no payment.[;]

2. From 250 percent of poverty to 299 percent, the payment shall be five (5) dollars per month of participation.[;]

3. From 300 percent of poverty to 349 percent, the payment shall be ten (10) dollars per month of participation.[;]

4. From 350 percent of poverty to 399 percent, the payment shall be twenty-five (25) dollars per month of participation.[;]

5. From 400 percent of poverty to 449 percent, the payment shall be seventy-five (75) dollars per month of participation.[;]

6. From 450 percent of poverty to 499 percent, the payment shall be \$150 per month of participation.[;]

7. From 500 percent of poverty to 549 percent, the payment shall be \$200 per month of participation.[;]

8. From 550 percent of poverty to 599 percent, the payment shall be \$300 per month of participation.[; and]

9. At[From] 600 percent of poverty and above, the payment shall be \$400 per month of participation.

(7) The family share participation fee shall not:

(a) Exceed the cost of the actual monthly Part C service;

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(b) Apply to a family whose infant or toddler[child] is covered by public insurance benefits (Medicaid); or

(c) Prevent or delay an infant or toddler[a child] from receiving services.

(8) The family may request a reduction or waiver of the family share fee if the family is unable to pay as established in paragraphs (a) and (b) of this subsection[shows to the satisfaction of the Department for Public Health an inability to pay, in accordance with the following:]

(a) The service coordinator shall submit the request on the Family Share Extraordinary Family Expenses Worksheet through TOTS to the Department for Public Health, KEIS[First Steps] Family Share Administrator, on behalf of the family [a Family Share Extraordinary Expenses Worksheet (FS-24)] to have the amount of the family share payment reduced or eliminated for a period not to exceed three (3) calendar months. A request shall not be submitted for a retroactive period unless extenuating circumstances, such as an unexpected hospitalization, occurs, and

(b) The family shall undergo a financial review by the Department for Public Health that may:

1. Adjust the gross household income by subtracting extraordinary expenses; and

2.

a. Result in a calculation of a new family share payment amount based on the family's adjusted income compared to the percentage of the poverty level established in subsection (6)(b) of this section. If a recalculation is completed, the Department for Public Health shall conduct a review at least quarterly; or

b. Suspend or reduce the family share payment, based on a verified financial crisis that would be exacerbated by their obligated family share payment. The Department for Public Health shall conduct a review at least quarterly.

(9) In accordance with 902 KAR 30:180, the family may contest the imposition of a fee or the determination of their ability to pay by filing:

(a) A Mediation/Due Process Request Form, incorporated by reference in 902 KAR 30:180 to request mediation or a due process hearing[request for mediation,]

[(b)] [A request for a due process hearing];

[(b)](c) A written [state][An administrative] complaint; or

[(c)](d) An appeal to the Part C Coordinator for final resolution.

(10) Income shall be verified during the intake process and at six (6) month intervals[,] and more often if changes in household income will result in a change in the amount of the obligated family share payment.

(11) A family that refuses to have its income verified shall be assessed a family share payment of \$400 per month of participation.

(12) If multiple children in a family receive early intervention services, the family share payment shall be the same as if there were one (1) child receiving services.

[(13)]

[(a)] [If a family has the ability to pay the family share but refuses to do so for three (3) consecutive months, the family shall receive service coordination, IFSP development, procedural safeguards, and assessment services only until discharged from the program or the family share balance is paid in full, whichever occurs first.]

[(b)] [The service coordinator shall provide the family a financial notice of action at thirty (30) calendar days prior to the suspension of ongoing IFSP services.]

Section 7.[Section 6.] Use of Insurance.

(1) Public Insurance.

(a) The state lead agency shall be the enrolled Medicaid provider for early intervention services. A contracted provider or agency shall not bill Medicaid directly for early intervention services provided in accordance with the IFSP.

(b) Written notification in accordance with 34 C.F.R. 303.520 (a)(3)(i) through-(iv) shall be provided to the infant's or toddler's[child's] parent or guardian before the use of public benefits or insurance to pay for early intervention services.

(c) A parent or guardian shall not be required to sign up for or enroll in public benefits or insurance programs as a condition of receiving early intervention services.

(2) Private Insurance.

(a) Parent or guardian written consent shall be obtained:

1. For the use of private insurance to pay for the initial provision of an early intervention service on the IFSP; and

2. Each time written consent for services is required due to an increase in the frequency, length, duration, or intensity in the provision of service in the child's IFSP.

(b) A family who chooses to use private insurance for payment of KEIS[a First Steps] service shall not be responsible for payment of insurance deductibles or copayments related to this service.

(c) The fee paid to the early intervention provider by KEIS shall be the full reimbursement from KEIS and the provider shall not charge the family any co-pay or deductible associated with the services.

(d) Families shall be responsible for payment of their insurance premiums.

(e) Federal Part C funds may be used to pay the cost of insurance premiums if when obtaining insurance for the infant or toddler[child] is the most cost-effective[cost-effective] method for KEIS to pay for early intervention services.[]

(f) A family who has the ability to pay and gives consent for the use of private insurance may waive the family share fee. If the consent to bill private insurance is revoked by the family, the family shall be assessed the corresponding family share fee.[]

(g) A family who has the ability to pay and does not give consent for the use of private insurance shall be assessed a family share fee as described in Section 6[5](6)(b) of this administrative regulation.

(h) If a family is assessed as having an inability to pay and does not give consent for the use of private insurance, this lack of consent shall not prevent or delay an infant or toddler[a child] from receiving services.

(i) If a family receives payment from insurance, these funds shall be surrendered to the early intervention provider for services rendered. Failure to surrender the payment shall result in the amount of the insurance payment being added to the family share balance due.

(j) A provider shall bill a third-party insurance for an early intervention service prior to billing KEIS[First Steps]. Documentation regarding the billing, the third-party insurance representative's response, and payment, if any, shall be maintained in the early intervention[child's] record and submitted through the KEIS[First Steps] data management system.

Section 8.[Section 7.] Use of Funds.

(1) Consistent with 34 C.F.R. 303.120 through 303.122 and 303.220 through 303.226, the state lead agency may use the federal Part C funds for activities or expenses that are reasonable and necessary for implementing the KEIS[Kentucky Early Intervention System] program for infants and toddlers with disabilities including:

[(a)](1) For direct early intervention services for infants and toddlers with disabilities and their families that are not otherwise funded through other public or private sources;

[(b)](2) To expand and improve services for infants and toddlers with disabilities and their families; and

[(c)](3) To strengthen the statewide system by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers, including establishing linkages with appropriate public and private community-based organizations, service, and personnel for the purposes of:

1. [(a)] Identifying and evaluating at-risk infants and toddlers;

2. [(b)] Making referrals for the infants and toddlers identified and evaluated under subparagraph 1.[paragraph (a)] of this subsection; and

3. [(c)] Conducting periodic follow-up on each referral, to determine if the status of the infant or toddler involved has changed with respect to eligibility [of the infant or toddler] for services.

(2) In accordance with 34 C.F.R. 303.500, Part C funds shall be the payor of last resort.

Section 9. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Family Share Extraordinary Family Expenses Worksheet", FS-24, June 2021; and

(b) "Notice of System of Payments", FS-48, March 2024.

(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.

(3) This material may also be obtained at the cabinet's Web site at <https://www.chfs.ky.gov/agencies/dph/dmch/ecdb/Pages/keis.aspx>.

[Section 8.] [Incorporation by Reference.]

[(1)] [The following material is incorporated by reference:]

[(a)] ["Record Review Supporting Documentation", July 2012;]

[(b)] ["System of Payment Notice", April 2014; and]

[(c)] ["Family Share Extraordinary Expenses Worksheet", December 2013.]

[(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.]

FILED WITH LRC: December 9, 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

BOARDS AND COMMISSIONS
Board of Nursing
(Amended After Comments)

201 KAR 20:057. Scope and standards of practice of advanced practice registered nurses.

RELATES TO: KRS 218A.171, 218A.172, 218A.202, 218A.205(3)(a), (b), 314.011(7), (8), 314.039, 314.042, 314.091, 314.193(2), 314.195, 314.475

STATUTORY AUTHORITY: KRS 218A.205(3)(a), (b), 314.042, 314.131(1), 314.193(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218A.205(3)(a) and (b) require the Board of Nursing, in consultation with the Kentucky Office of Drug Control Policy, to establish by administrative regulation mandatory prescribing and dispensing standards for licensees authorized to prescribe or dispense controlled substances, and in accordance with the Centers for Disease Control and Prevention (CDC) guidelines, to establish a prohibition on a practitioner issuing a prescription for a Schedule II controlled substance for more than a three (3) day supply if intended to treat pain as an acute medical condition, unless an exception applies. KRS 314.131(1) authorizes the board to promulgate administrative regulations necessary to enable it to carry into effect the provisions of KRS Chapter 314 and authorizes the board to require by administrative regulation that licensees and applicants utilize a specific method of submission of documents or information that is required to be provided to the board, including electronic submission. KRS 314.193(2) authorizes the board to promulgate administrative regulations establishing standards for the performance of advanced practice registered nursing to safeguard the public health and welfare. This administrative regulation establishes the scope and standards of practice for an advanced practice registered nurse.

Section 1. Definitions.

(1) "Collaboration" means the relationship between the advanced practice registered nurse (APRN) and a physician in the provision of prescription medication, including both autonomous and cooperative decision-making, with the APRN and the physician contributing their respective expertise.

(2) "Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Controlled Substances" or "CAPA-CS" means the written document pursuant to KRS 314.042(11).

(3) "Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Nonscheduled Legend Drugs" or "CAPA-NS" means the written document pursuant to KRS 314.042(8).

(4) "Good standing" is defined by KRS 314.039.

(5) "Immediate family member" means a spouse, parent, parent-in-law, stepparent, child, stepchild, son-in-law, daughter-in-law, sibling, stepsibling, brother-in-law, sister-in-law, grandparent, grandchild, spouse of grandparent or grandchild, or other person residing in the same residence as the APRN.

(6) "KBML" means the Kentucky Board of Medical Licensure.

(7) "PDMP" means the electronic prescription drug monitoring program system for monitoring scheduled controlled substances and medicinal cannabis currently in use in Kentucky pursuant to KRS 218A.202, including the Kentucky All Schedule Prescription Electronic Reporting (KASPER) System.

Section 2.

(1) The practice of the APRN shall be in accordance with the standards and functions established in scope and standards of practice statements adopted by the board in subsection (2) of this section.

(2) The following scope and standards of practice statements shall be adopted:

(a) AACN Scope and Standards for Acute Care Nurse Practitioner Practice;

(b) AACN Scope and Standards for Acute Care Clinical Nurse Specialist Practice;

(c) Neonatal Nursing: Scope and Standards of Practice;

(d) Nursing: Scope and Standards of Practice;

(e) Pediatric Nursing: Scope and Standards of Practice;

(f) Psychiatric- Mental Health Nursing: Scope and Standards of Practice;

(g) Scope of Practice for Nurse Practitioners;

(h) Standards of Practice for Nurse Practitioners;

(i) Scope of Nurse Anesthesia Practice;

(j) Standards for Nurse Anesthesia Practice;

(k) Standards for Office Based Anesthesia Practice;

(l) Standards for the Practice of Midwifery;

(m) Oncology Nursing Scope and Standards of Practice;

(n) The Women's Health Nurse Practitioner: Guidelines for Practice and Education;

(o) Definition of Midwifery and Scope of Practice of Certified Nurse-Midwives and Certified Midwives; and

(p) Standards for Professional Nursing Practice in the Care of Women and Newborns.

Section 3. CAPA-CS Practice Requirements for APRNs.

(1) In the performance of advanced practice registered nursing, the APRN shall seek consultation or referral in those situations outside the APRN's scope of practice.

(2) An APRN wishing to have a CAPA-CS in the first year of the APRN's licensure shall be employed by a health care entity or provider. If the employing provider is an APRN, the employing APRN shall have been granted an exemption under Section 7 of this administrative regulation.

(3) During term of the CAPA-CS, the APRN and the collaborating physician shall meet in person or via video conferencing, or by phone, if in person or video conferencing is not feasible, to review the APRN's reverse PDMP queries since the last review with the collaborating physician[report]. The review may include information from the patient's medical record that relates to the condition or conditions being treated with controlled substances by the APRN.

(a) Both the APRN and the physician shall maintain a written record of:

1. The meeting date;

2. A summary of the discussions; and

3. Any recommendations made[~~that shall be made in writing~~].

(b) The record shall be maintained by both parties for a period of one (1) year past the expiration of the APRN CAPA-CS.

(c) The APRN's meeting records shall be subject to audit by the board and the physician's records shall be subject to audit by the KBML. The sole purpose of the audit shall be to document that the collaboration meetings have taken place to verify compliance with this section.

(4) In the first year of the CAPA-CS, the APRN and a physician shall meet at least quarterly.

(5) In the ensuing three (3) years of the CAPA-CS, the APRN and the physician shall meet at least biannually.

Section 4. Advanced practice registered nursing shall include prescribing and administering medications, as well as ordering treatments, devices, diagnostic tests, and performing certain procedures that shall be consistent with the scope and standards of practice of the APRN.

Section 5. Advanced practice registered nursing shall not preclude the practice by the APRN of registered nursing practice as defined by KRS 314.011(6).

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Section 6.

(1)

(a) A CAPA-NS and a CAPA-CS shall include the:

1. Name;
2. Practice address;
3. Phone number;
4. License number of both the APRN and each physician who is a party to the agreement; and
5. Population focus and area of practice of the APRN and each physician.

(b) An APRN shall use a CAPA-NS Agreement Form.

(c) An APRN shall use the Standardized CAPA-CS Agreement Form.

(2)

(a) To notify the board of the existence of a CAPA-NS pursuant to KRS 314.042(8)(b), the APRN shall submit an online notification as established in paragraph (e) of this subsection.

(b) To notify the board that the requirements of KRS 314.042(9) have been met and that the APRN will be prescribing nonscheduled legend drugs without a CAPA-NS, the APRN shall submit an online notification as established in paragraph (e) of this subsection.

(c) To notify the board of the existence of a CAPA-CS pursuant to KRS 314.042(11)(b), the APRN shall submit an online notification as established in paragraph (e) of this subsection.

(d) To notify the board that the requirements of KRS 314.042(14) have been met and request that the APRN be exempt from prescribing scheduled legend drugs under a CAPA-CS, the APRN shall complete the request for APRN exemption from CAPA-CS prescriptive authority and pay the listed fee in 201 KAR 20:240, Section 3(1)(e). Each submitted request shall be subject to the fee, regardless of whether the board grants the exemption after making a determination under Section 7 of this administrative regulation.

(e) Each notification, recission, and exemption request shall be submitted by the APRN to the board via the online KBN Nurse Portal at www.kbn.ky.gov, and shall include the information and documentation required by subsection (1) of this section and this subsection.

(f) Upon request by the board, the APRN shall furnish to the board a copy of the executed CAPA-NS Agreement Form or Standardized CAPA-CS Agreement Form.

(3) For purposes of the CAPA-NS and the CAPA-CS, in determining whether the APRN and the collaborating physician are qualified in the same or a similar specialty, the board shall consider the facts of each [particular-]situation and the scope of the APRN's and the physician's actual practice.

(4) An APRN with controlled substance prescriptive authority, shall:

(a) Obtain a United States Drug Enforcement Administration (DEA) Controlled Substance Registration Certificate and shall report the APRN's Kentucky DEA number, and any change in the status of a certificate by providing a copy of each registration certificate to the board within thirty (30) days of issuance.

(b) Register for a master account with the PDMP, within thirty (30) days of obtaining a DEA Controlled Substance Registration Certificate, and prior to prescribing controlled substances. A copy of the PDMP master account registration certificate shall be submitted to the board via the online KBN Nurse Portal within thirty (30) days of receipt of confirmation of registration by the PDMP.

(5) An APRN shall report any changes to a CAPA-NS or a CAPA-CS to the board within thirty (30) days.

(6) If an APRN's CAPA-NS or CAPA-CS ends unexpectedly for reasons outside the APRN's control such as being ended by the physician without notice, the physician's license becoming no longer valid in Kentucky, or the death of a physician, the APRN may continue to prescribe for thirty (30) days, after documenting in each patient's medical record the applicant's professional determination that the continued prescribing is justified based on the individual facts applicable to the patient's diagnosis and treatment. This thirty (30) day grace period shall not be extended or occur successively.

(7) An APRN with a CAPA-NS or a CAPA-CS shall report a practice address to the board. A change to the practice address shall be reported to the board within thirty (30) days.

(8) All documents and information required to be reported to the board by this section shall be reported by uploading the document or information through the board's Web site, <https://kbn.ky.gov>. The board shall not accept documents or information sent in any other format.

Section 7. CAPA-CS Exemption Review Request.

(1) An APRN who wishes to request a CAPA-CS exemption pursuant to KRS 314.042(14) shall:

(a) Complete a CAPA-CS exemption review request on the board's Web site as required in Section 6(8) of this administrative regulation;

(b) Submit the fee required by 201 KAR 20:240, Section 3(1)(e); and

(c) Comply with the requirements established in KRS 314.042(14) and this administrative regulation.

(2) Upon receipt of the CAPA-CS exemption review request, the board shall verify the following:

(a) The APRN has had four (4) years of controlled substance prescribing authority;

(b) The APRN's license is in good standing;

(c) The APRN has maintained a DEA registration and a current registration certificate is on file with the board;

(d) The APRN has maintained a PDMP registration and a current registration is on file with the board;

(e) That a current Notification of a CAPA-CS for the APRN is on record with the board; and

(f) The APRN has an active account with the PDMP.

(3) Upon receipt of the CAPA-CS exemption review request, the board shall:

(a) Perform a criminal background check for any unreported misdemeanor or felony convictions in Kentucky; and

(b) Perform a check of the coordinated licensure information system specified in KRS 314.475 for any unreported disciplinary actions in another state.

(4) The APRN submitting the request shall cooperate with supplemental requests for documentation before the board makes a determination that the APRN's license is in good standing pursuant to KRS 314.042(14).

(5) An APRN wishing to practice in Kentucky through licensure by endorsement may request an exemption under this section.

(a) An APRN wishing to practice in Kentucky through licensure by endorsement is exempt from the CAPA-CS requirement if the APRN:

1. Has met the prescribing requirements for controlled substances in a state that grants such prescribing authority to APRNs;

2. Has had authority to prescribe controlled substances for at least four (4) years; and

3. Has a license in good standing.

(b) An APRN wishing to practice in Kentucky through licensure by endorsement who has had the authority to prescribe controlled substances for less than four (4) years and wishes to continue to prescribe controlled substances shall enter into a CAPA-CS with a physician licensed in Kentucky and comply with the provisions of KRS 314.042(11), until the requirements of this section are met.

(6) If the board determines that the APRN is eligible for the exemption after a review and determination of the exemption request under this section, the board shall notify the APRN in writing that the CAPA-CS is no longer required. The board shall not require the APRN to maintain a CAPA-CS as a condition to prescribe controlled substances unless the board imposes the requirement as part of an action instituted under KRS 314.091(1).

(7) If the board denies the exemption request, the denial shall be in writing and shall state the reasons for the denial. The requestor may request a hearing pursuant to KRS Chapter 13B within twenty (20) days of receiving written notification of the denial. If a hearing is requested and the order of the board is adverse to the advance practice registered nurse, the board may impose costs pursuant to 201 KAR 20:162, Section 7.

(8) The APRN nurse shall not prescribe controlled substances without a CAPA-CS until the board has completed its review and has

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notified the APRN in writing that the APRN is exempt from the CAPA-CS requirement.

Section 8. Prescribing Medications without Prescriptive Authority. Prescribing nonscheduled legend drugs without a CAPA-NS or prescribing controlled substances without a CAPA-CS shall constitute a violation of KRS 314.091(1), unless:

(1) In the case of nonscheduled legend drugs, the CAPA-NS has been discontinued pursuant to KRS 314.042(9) or if the prescribing occurred within the grace period established in Section 6(6) of this administrative regulation; or

(2) In the case of controlled substances, the APRN was granted an CAPA-CS exemption by the board under KRS 314.042(14)(e) prior to the date the medications were prescribed.

Section 9. The board may make an unannounced visit to an APRN's practice to determine if it is consistent with the requirements established by KRS Chapter 314 and 201 KAR Chapter 20. Patient and prescribing records shall be made available for immediate inspection.

Section 10. Prescribing Standards for Controlled Substances.

(1)

(a) This section shall apply to APRNs with controlled substance prescriptive authority. It also applies to the utilization of the PDMP.

(b) The APRN shall practice according to the applicable scope and standards of practice for the APRN's role and population focus. This section does not alter the prescribing limits established in KRS 314.011(8).

(2) Prior to the initial prescribing of a controlled substance to a patient, the APRN shall:

(a) Obtain the patient's medical history, including history of substance use, and conduct an examination of the patient and document the information in the patient's medical record. An APRN certified in psychiatric-mental health shall obtain a medical and psychiatric history, perform a mental health assessment, and document the information in the patient's medical record;

(b) Query the PDMP for the twelve (12) month period immediately preceding the request for available data on the patient and maintain all PDMP report identification numbers and the date of issuance of each PDMP report in the patient's record;

(c) Develop a written treatment plan stating the objectives of the treatment and further diagnostic examinations required; and

(d) Discuss with the patient, the patient's parent if the patient is an unemancipated minor child, or the patient's legal guardian or health care surrogate:

1. The risks and benefits of the use of controlled substances, including the risk of tolerance and drug dependence;

2. That the controlled substance shall be discontinued once the condition requiring its use has resolved; and

3. Document that the discussion occurred and obtain written consent for the treatment.

(3) The treatment plan shall include an exit strategy, if appropriate, including potential discontinuation of the use of controlled substances.

(4) For subsequent or continuing long-term prescriptions of a controlled substance for the same medical complaint, the APRN shall:

(a) Update the patient's medical history and document the information in the patient's medical record;

(b) Modify and document changes to the treatment plan as clinically appropriate; and

(c) Discuss the risks and benefits of any new controlled substances prescribed, including the risk of tolerance and drug dependence with the patient, the patient's parent if the patient is an unemancipated minor child, or the patient's legal guardian or health care surrogate.

(5) During the course of treatment, the APRN shall query the PDMP no less than once every three (3) months for the twelve (12) month period immediately preceding the request for available data on the patient. The APRN shall maintain in the patient's record all PDMP report identification numbers and the date of issuance of each PDMP report or a copy or saved image of the PDMP report. If neither an identification number nor an image can be saved to the

patient's record as a result of technical limitations of the APRN's electronic health record system, the APRN shall make a concurrent note in the patient's record documenting the date and time that the APRN reviewed the patient's PDMP report.

(6) These requirements may be satisfied by other licensed practitioners in a single group practice if:

(a) Each licensed practitioner involved has lawful access to the patient's medical record;

(b) Each licensed practitioner performing an action to meet these requirements is acting within the scope of practice of his or her profession; and

(c) There is adequate documentation in the patient's medical record reflecting the actions of each practitioner.

(7) If prescribing a controlled substance for the treatment of chronic, non-cancer pain, the APRN, in addition to the requirements of this section, shall obtain a baseline drug screen and further random drug screens if the APRN:

(a) Finds a drug screen clinically appropriate; or

(b) Believes that it is appropriate to determine whether the controlled substance is being taken by the patient.

(8) If prescribing a controlled substance for the treatment of a mental health condition, the APRN shall meet the requirements of this section and KRS 314.011(8)(a) and (b).

(9) Prior to prescribing a controlled substance for a patient in the emergency department of a hospital that is not an emergency situation, the APRN shall:

(a) Obtain the patient's medical history, conduct an examination of the patient, and document the information in the patient's medical record. An APRN certified in psychiatric - mental health shall obtain a medical and psychiatric history, perform a mental health assessment, and document the information in the patient's medical record;

(b) Query the PDMP for the twelve (12) month period immediately preceding the request for available data on the patient and document the data in the patient's record;

(c) Develop a written treatment plan stating the objectives of the treatment and further diagnostic examinations required; and

(d) Discuss the risks and benefits of the use of controlled substances with the patient, the patient's parent if the patient is an unemancipated minor child, the patient's legal guardian, or health care surrogate, including the risks of tolerance and drug dependence, and document that the discussion occurred and that the patient consented to that treatment.

(10) For each patient for whom an APRN prescribes a controlled substance, the APRN shall keep accurate, readily accessible, and complete medical records, which include:

(a) Medical history and physical or mental health examination;

(b) Diagnostic, therapeutic, and laboratory results;

(c) Evaluations and consultations;

(d) Treatment objectives;

(e) Discussion of risk, benefits, and limitations of treatments;

(f) Treatments;

(g) Medications, including date, type, dosage, and quantity prescribed;

(h) Instructions and agreements;

(i) Periodic reviews of the patient's file; and

(j) The date and time of the [All PDMP report identification numbers and the date of issuance] request and review of each PDMP query[report].

(11) The requirement to query the PDMP shall not apply to:

(a) An APRN prescribing or administering a controlled substance immediately prior to, during, or within the fourteen (14) days following an operative or invasive procedure or a delivery if the prescribing or administering is medically related to the operative or invasive procedure of the delivery and the medication usage does not extend beyond the fourteen (14) days;

(b) An APRN prescribing or administering a controlled substance necessary to treat a patient in an emergency situation; or

(c) An APRN prescribing a controlled substance:

1. For administration in a hospital or long-term-care facility with an institutional account, or an APRN in a hospital or facility without an institutional account, if the hospital, long-term-care facility, or licensee queries the PDMP for all available data on the patient or

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resident for the twelve (12) month period immediately preceding the query within twelve (12) hours of the patient's or resident's admission and places a copy of the query in the patient's or resident's medical records during the duration of the patient's stay at the facility;

2. As part of the patient's hospice or end-of-life treatment;
 3. For the treatment of pain associated with cancer or with the treatment of cancer;
 4. To assist a patient with submitting to a diagnostic test or procedure;
 5. Within seven (7) days of an initial prescription pursuant to subsection (1) of this section if the prescriber:
 - a. Substitutes a controlled substance for the initial prescribing;
 - b. Cancels any refills for the initial prescription; and
 - c. Requires the patient to dispose of any remaining unconsumed medication;
 6. Within ninety (90) days of an initial prescription pursuant to subsection (1) of this section if the prescribing is done by another licensee in the same practice or in an existing coverage arrangement, if done for the same patient for the same condition;
 7. To a research subject enrolled in a research protocol approved by an institutional review board that has an active federal-wide assurance number from the United States Department of Health and Human Services, Office for Human Research Protections if the research involves single, double, or triple blind drug administration or is additionally covered by a certificate of confidentiality from the National Institutes of Health;
 8. During the effective period of any disaster or situation with mass casualties that have a direct impact on the APRN's practice;
 9. As part of the administering or ordering of controlled substances to prisoners in a state, county, or municipal correctional facility;
 10. That is a Schedule IV controlled substance for no longer than three (3) days for an established patient to assist the patient in responding to the anxiety of a nonrecurring event; or
 11. That is classified as a Schedule V controlled substance.
- (12) In accordance with 21 C.F.R. 1306.12(b)(1)(iv) - (v), federal regulation 21 C.F.R. 1306.12(b) concerning the issuance of multiple prescriptions for Schedule II controlled substances shall not apply to APRNs in this state.

(13) No less than once every six (6) months, an APRN who holds a DEA Controlled Substance Registration Certificate shall query and review the~~[a reverse]~~ PDMP ~~[report]~~ for the preceding six (6) months to determine if the information contained in the PDMP is correct. If the information is incorrect, the APRN shall comply with 902 KAR 55:110 and take the necessary steps to seek correction of the information, by:

- (a) First contacting the reporting pharmacy;
 - (b) Contacting law enforcement if suspected fraudulent activity;
- or

(c) Contacting the Drug Enforcement Professional Practices Branch, Office of Inspector General, Cabinet for Health and Family Services.

(14) An APRN shall not issue a prescription for hydrocodone combination products for more than a three (3) day supply if the prescription is intended to treat pain as an acute medical condition, except if:

- (a) The APRN, in his or her professional judgment, believes that more than a three (3) day supply of hydrocodone combination products is medically necessary to treat the patient's pain as an acute medical condition and the APRN adequately documents the acute medical condition and lack of alternative treatment options that justifies deviation from the three (3) day supply limit on the patient's medical records;
- (b) The prescription for hydrocodone combination products is prescribed to treat chronic pain;
- (c) The prescription for hydrocodone combination products is prescribed to treat pain associated with a valid cancer diagnosis;
- (d) The prescription for hydrocodone combination products is prescribed to treat pain while the patient is receiving hospice or end-of-life treatment;

(e) ~~[The prescription for hydrocodone combination products is prescribed as part of a narcotic treatment program licensed by the Cabinet for Health and Family Services;]~~

~~[(f)]~~ The prescription for hydrocodone combination products is prescribed to treat pain following a major surgery, which is any operative or invasive procedure or a delivery, or the treatment of significant trauma; or

~~(f)(g)~~ Hydrocodone combination products are administered directly to an ultimate user in an inpatient setting.

(15) Prescriptions written for hydrocodone combination products pursuant to subsection (14)(a) through (g) of this section shall not exceed thirty (30) days without any refill.

(16) An APRN may prescribe electronically. Electronic prescription shall be as established in KRS 218A.171.

(17) For any prescription for a controlled substance, the prescribing APRN shall discuss with the patient the effect the patient's medical condition and medication may have on the patient's ability to safely operate a vehicle in any mode of transportation.

Section 11. Immediate Family Member and Self-prescribing or Administering Medications.

(1) An APRN shall not self-prescribe or administer controlled substances.

(2) An APRN shall not prescribe or administer controlled substances to his or her immediate family member except as established in subsections (3) and (4) of this section.

(3) An APRN may prescribe or administer controlled substances to an immediate family member:

- (a) In an emergency situation;
- (b) For a single episode of an acute illness through one (1) prescribed course of medication; or
- (c) In an isolated setting, if no other qualified practitioner is available.

(4)

- (a) An APRN who prescribes or administers controlled substances for an immediate family member pursuant to subsections (3)(a) or (b) of this section shall document all relevant information and notify the appropriate provider.

(b) An APRN who prescribes or administers controlled substances for an immediate family member pursuant to subsection (3)(c) of this section shall maintain a provider-practitioner relationship and appropriate patient records.

Section 12. Incorporation by Reference.

(1) The following material is incorporate by reference:

(a) "AACN Scope and Standards for Adult-Gerontology and Pediatric Acute Care Nurse Practitioners~~[Practitioner Practice]~~", 2021~~[2017]~~ Edition, American Association of Critical-Care Nurses;

(b) "AACN Scope and Standards for Acute Care Clinical Nurse Specialist Practice", 2022~~[2014]~~ Edition, American Association of Critical-Care Nurses;

(c) "Neonatal Nursing: Scope and Standards of Practice", 2021, 3rd~~[2013]~~ Edition, American Nurses Association/ National Association of Neonatal Nurses;

(d) "Nursing: Scope and Standards of Practice", 2021, 4th~~[2015]~~ Edition, American Nurses Association;

(e) "Pediatric Nursing: Scope and Standards of Practice", 2015, 2nd Edition, American Nurses Association/ Society of Pediatric Nursing/ National Association of Pediatric Nurse Practitioners;

(f) "Psychiatric-Mental Health Nursing: Scope and Standards of Practice", 2022, 3rd Edition~~[2014]~~, American Nurses Association/ American Psychiatric Nursing Association;

(g) "Scope of Practice for Nurse Practitioners", 2022~~[2019]~~ Edition, American Association of Nurse Practitioners;

(h) "Standards of Practice for Nurse Practitioners", 2022~~[2019]~~ Edition, American Association of Nurse Practitioners;

(i) "Scope of Nurse Anesthesia Practice", 2020~~[2013]~~ Edition, American Association of Nurse Anesthetists;

(j) "Standards for Nurse Anesthesia Practice", 2019 Edition, American Association of Nurse Anesthetists;

(k) ~~["Standards for Office Based Anesthesia Practice", 2019~~

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Edition, American Association of Nurse Anesthetists;]
[(H)] "Standards for the Practice of Midwifery", 2022[2014] Edition, American College of Nurse Midwives;
[(L)][(M)] "Oncology Nursing Scope and Standards of Practice", 2019 Edition, Oncology Nursing Society;
[(M)][(N)] "The Women's Health Nurse Practitioner: Guidelines for Practice and Education", 2020, 8th[2014] Edition, Association of Women's Health, Obstetric and Neonatal Nurses/Nurse Practitioners in Women's Health;
[(N)][(O)] "Definition of Midwifery and Scope of Practice of Certified Nurse-Midwives and Certified Midwives", 2021[2012] Edition, American College of Nurse Midwives;
[(O)][(P)] "Standards for Professional Nursing Practice in the Care of Women, Newborns, and People Across the Life Span[and Newborns]", 2023, 9th[2019] Edition, Association of Women's Health, Obstetric and Neonatal Nurses;
[(P)][(Q)] "Standardized CAPA-CS Agreement Form", 9/2023; and
[(R)][(S)] "CAPA-NS Agreement Form", 9/2023.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the board's Web site at <https://kbn.ky.gov/document-library/Pages/default.aspx>.

AUDRIA DENKER, President, Board of Nursing
APPROVED BY AGENCY: November 22, 2024
FILED WITH LRC: December 4, 2024 at 9:45 a.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jeffrey Prather

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets standards for APRN practice.

(b) The necessity of this administrative regulation: This administrative regulation is necessary because of KRS 314.042.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by setting standards of practice.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by setting standards 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 amendments update the regulation to reflect changes in technology and that the electronic prescription drug monitoring program system for monitoring scheduled controlled substances (PDMP) is maintained online. It may be queried for information, including access and review times for audit purposes. The PDMP does not necessarily produce a physical report with a report number. Also, the material incorporated by reference (MIR) has been updated to the current updated or revised versions.

(b) The necessity of the amendment to this administrative regulation: These regulation amendments were necessary due updates in technology and the MIR.

(c) How the amendment conforms to the content of the authorizing statutes: By clearly stating prescribing requirements.

(d) How the amendment will assist in the effective administration of the statutes: By clearly stating standards, procedures, and requirements.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Kentucky APRNs, approximately 14,000 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: APRNs with prescriptive authority who query the PDMP pursuant to this regulation will need to document in the patient file the date and time the PDMP was queried.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be following the administrative regulation and KRS 314.042 and will be authorized to prescribe controlled substances.

(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: Agency funds.

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

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

(9) TIERING: Is tiering applied? The changes will apply equally, 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. Kentucky Revised Statutes 218A.205(3)(a), (b), 314.131(1), 314.042, and 314.193.

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

(a) Estimate the following for the first year:
Expenditures: No expenditures to estimate.

Revenues: No revenues to estimate.

Cost Savings: No cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no difference to expenditures, revenues, or cost savings.

(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): Advanced Practice Registered Nurses.

(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? There will be no difference to expenditures, revenues, or cost savings.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The regulation updates language regarding PDMP reporting, and the material incorporated by referenced. Revenues are unaffected.

(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) This

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administrative regulation will not have a major economic impact.

(b) The methodology and resources used to reach this conclusion:
N/A.

ENERGY AND ENVIRONMENT CABINET Department for Natural Resources Division of Mine Permits (Amended After Comments)

405 KAR 10:001. Definitions for 405 KAR Chapter 10.

RELATES TO: KRS Chapter 350, 7 C.F.R. Part 657, 30 C.F.R. [Parts]700.5, 701.5, 707.5, 730-733, 735, 761.5, 762.5, 773.5, 800.5, 843.5, 917, 40 C.F.R. Part 136, 30 U.S.C. Chapter 25, 1253, 1255, 1291

STATUTORY AUTHORITY: KRS 350.028, 350.465, 350.500 - 350.521, 7 C.F.R. Part 657, 30 C.F.R. [Parts]700.5, 701.5, [707.5,]730-733, 735, [761.5, 762.5,]773.5, 800.5, [843.5,]917, 40 C.F.R. Part 136, 30 U.S.C. 1253, 1255, 1291

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 350 requires the cabinet to promulgate administrative regulations pertaining to surface coal mining and reclamation operations under the permanent regulatory program. This administrative regulation establishes definitions for terms used in 405 KAR Chapter 10.

Section 1. Definitions.

(1) "Acquisition" means the purchase, lease, or option on the land for the purpose of conducting or allowing through resale, lease, or option the action of conducting surface coal mining and reclamation operations.

(2) "Active acre":

(a) Means an acre of land or fraction thereof, permitted and bonded for surface disturbance pursuant to a surface coal mining permit as of July 1, 2013; and

(b) Does not mean:

1. Acreage contained in a permit for which the entire permit has not been initially disturbed by the permittee after permit issuance;

2. Acreage contained in a permit, or increment thereof, that has completed initial reclamation and received a minimum of a Phase 1 bond release; or

3. Undisturbed acreage completely released from liability as a result of a bond release or bond reduction.

(3) "Actuarial soundness" is defined by KRS 350.500(1).

(4) "Adjacent area" means land located outside the affected area or permit area, depending on the context in which "adjacent area" is used, where air, surface, surface water, groundwater, fish, wildlife, vegetation, or other resources protected by KRS Chapter 350 could be adversely impacted by surface coal mining and reclamation operations.

(5) "Affected area" means any land or water area that is used to facilitate, or is physically altered by, surface coal mining and reclamation operations. The affected area includes:

(a) The disturbed area;

(b) Any area upon which surface coal mining and reclamation operations are conducted;

(c) Any adjacent lands the use of which is incidental to surface coal mining and reclamation operations;

(d) All areas covered by new or existing roads used to gain access to, or for hauling coal to or from, surface coal mining and reclamation operations, except as established in this definition;

(e) Any area covered by surface excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, or shipping areas;

(f) Any areas upon which are sited structures, facilities, or other property or material on the surface resulting from, or incident to, surface coal mining and reclamation operations;

(g) The area located above underground workings associated with underground mining activities;

(h) Auger mining or in situ mining; and

(i) Every road used for the purposes of access to, or for hauling coal to or from, surface coal mining and reclamation operations, unless the road:

1. Was designated as a public road pursuant to the laws of the jurisdiction in which it is located;

2. Is maintained with public funds and constructed in a manner similar to other public roads of the same classification within the jurisdiction; and

3. There is substantial (more than incidental) public use.

(6) "Applicant" means any person seeking a permit, permit revision, permit amendment, permit renewal or transfer, assignment, or sale of permit rights from the cabinet to conduct surface coal mining and reclamation operations pursuant to KRS Chapter 350 and 405 KAR Chapters 7 through 24.

(7) "Cabinet" is defined by KRS 350.010(10).

(8) "C.F.R." means Code of Federal Regulations.

(9) "Coal" means combustible carbonaceous rock, classified as anthracite, bituminous, subbituminous, or lignite by ASTM Standard D 388-77.

(10) "Coal mined and sold" means coal severed or removed as a result of surface coal mining operations and subsequently sold, transferred, or used by the permittee or operator.

(11) "Collateral bond" means an indemnity agreement in a sum certain payable to the cabinet executed by the permittee and supported by the deposit with the cabinet of cash, negotiable certificates of deposit, or an irrevocable letter of credit of any bank organized and authorized to transact business in the United States.

(12) "Cropland" means land used for the production of adapted crops for harvest, alone or in a rotation with grasses and legumes, and includes row crops, small grain crops, hay crops, nursery crops, orchard crops, and other similar specialty crops.

(13) "Day" means calendar day unless otherwise specified to be a working day.

(14) "Department" means the Department for Natural Resources.

(15) "Disturbed area" means an area where vegetation, topsoil, or overburden is removed or upon which topsoil, spoil, coal processing waste, underground development waste, or noncoal waste is placed by surface coal mining operations. Those areas are classified as "disturbed" until reclamation is complete, and the performance bond or other assurance of performance required by 405 KAR Chapter 10 is released.

(16) "Dormancy fee" means the annual fee established in KRS 350.518(2)(f).

(17) "FDIC" means Federal Deposit Insurance Corporation.

(18) "Federal lands":

(a) Means any lands, including mineral interests, owned by the United States, without regard to how the United States acquired ownership of the lands or which agency manages the lands; and

(b) Does not mean Indian lands.

(19) "Final disposition" means the status of an enforcement action taken by the cabinet pursuant to KRS Chapter 350 for which a final secretary's order has been entered and the time for appeal has expired or all appeals have been exhausted, or an agreed order has been entered.

(20) "FSLIC" means Federal Savings and Loan Insurance Corporation.

(21) "Full-cost bonding" means performance bonds that have been submitted by a permittee for surface coal mining operation permits in lieu of participation and membership in the Kentucky Reclamation Guaranty Fund.

(22) "Historically used for cropland" means land that:

(a) Has been used for cropland for any five (5) years or more out of the ten (10) years immediately preceding the:

1. Application; or

2. Acquisition of the land for the purpose of conducting surface coal mining and reclamation operations;

(b) Would likely have been used as cropland for any five (5) out of the last ten (10) years immediately preceding the acquisition or the application but for some fact of ownership or control of the land unrelated to the productivity of the land; or

(c) The cabinet determines, on the basis of additional cropland history of the surrounding land and the land under consideration, are

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clearly cropland but fall outside the specific five (5) years in ten (10) criterion.

(23) "Impoundment" means a closed basin, naturally formed or artificially built, which is dammed or excavated for the retention of water, sediment, or waste.

(24) "KRGF" means the Kentucky Reclamation Guaranty Fund.

(25) "Land use" means specific functions, uses, or management-related activities of an area, and could be identified in combination when joint or seasonal uses occur and could include land used for support facilities that are an integral part of the use. In some instances, a specific use can be identified without active management.

(26) "Long-term treatment" means the use of any active or passive water treatment necessary to meet water quality effluent standards.

~~(27) ["Long-term treatment" means the use of any active or passive water treatment necessary to meet water quality effluent standards at the time a permit or any affected permit increment attains phase one (1) bond release standards as determined by the cabinet pursuant to 405 KAR 10:040.]~~

~~[(27)]~~ "Member" means a permittee in the Kentucky Reclamation Guaranty Fund.

~~(28) [(27)] [(28)]~~ "Non-production fee" means the annual fee established in KRS 350.518(2)(e).

~~(29) [(28)] [(29)]~~ "Notice of noncompliance and order for remedial measures" means a written document and order prepared by an authorized representative of the cabinet that establishes with specificity the violations of KRS Chapter 350, 405 KAR Chapters 7 through 24, or permit conditions that the authorized representative of the cabinet determines to have occurred based upon an inspection, and the necessary remedial actions, if any, and the time schedule for completion thereof, necessary and appropriate to correct the violations.

~~(30) [(29)] [(30)]~~ "Operations" is defined by KRS 350.010(6).

~~(31) [(30)] [(31)]~~ "Operator" is defined by KRS 350.010(8).

~~(32) [(31)] [(32)]~~ "Opt-out" means the decision by a permittee to not participate in the KRGF and to provide full-cost bonding pursuant to 405 KAR 10:080.

~~(33) [(32)] [(33)]~~ "Order for cessation and immediate compliance" means a written document and order issued by an authorized representative of the cabinet when:

(a) A person to whom a notice of noncompliance and order for remedial measures was issued has failed, as determined by a cabinet inspection, to comply with the terms of the notice of noncompliance and order for remedial measures within the time limits set therein, or as subsequently extended; or

(b) The authorized representative finds, on the basis of a cabinet inspection, any condition or practice or any violation of KRS Chapter 350, 405 KAR Chapters 7 through 24, or any condition of a permit or exploration approval that:

1. Creates an imminent danger to the health or safety of the public; or
2. Is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources.

~~(34) [(33)] [(34)]~~ "ORGF" means the Office of the Reclamation Guaranty Fund.

~~(35) [(34)] [(35)]~~ "Owned or controlled" and "owns or controls" mean any one (1) or a combination of the relationships established in paragraphs (a) and (b) of this definition:

- (a)
1. Being a permittee of a surface coal mining operation;
 2. Based on instruments of ownership or voting securities, owning of record in excess of fifty (50) percent of an entity; or
 3. Having any other relationship that gives one (1) person authority directly or indirectly to determine the manner in which an applicant, an operator, or other entity conducts surface coal mining operations; and

(b) One (1) of the following relationships, which constitutes ownership or control unless a person demonstrates that the person subject to the presumption does not in fact have the authority directly or indirectly to determine the manner in which the relevant surface coal mining operation is conducted:

1. Being an officer or director of an entity;

2. Being the operator of a surface coal mining operation;
3. Having the ability to commit the financial or real property assets or working resources of an entity;

4. Being a general partner in a partnership;
5. Based on the instruments of ownership or the voting securities of a corporate entity, owning of record ten (10) through fifty (50) percent of the entity; or

6. Owning or controlling coal to be mined by another person under a lease, sublease, or other contract and having the right to receive the coal after mining or having authority to determine the manner in which that person or another person conducts a surface coal mining operation.

~~(36) [(35)] [(36)]~~ "Performance bond" means a surety bond, a collateral bond, or a combination thereof, or bonds filed pursuant to the provisions of the Kentucky Reclamation Guaranty Fund (405 KAR 10:070, KRS 350.595, and 350.500[—]350.521), by which a permittee assures faithful performance of all the requirements of KRS Chapter 350, 405 KAR Chapters 7 through 24, and the requirements of the permit and reclamation plan.

~~(37) [(36)] [(37)]~~ "Permit" means written approval issued by the cabinet to conduct surface coal mining and reclamation operations.

~~(38) [(37)] [(38)]~~ "Permit area" means the area of land, indicated on the approved map submitted by the permittee with an application, required to be covered by the permittee's performance bond pursuant to 405 KAR Chapter 10 and that includes the area of land upon which the permittee proposes to conduct surface coal mining and reclamation operations pursuant to the permit, including all disturbed areas. Areas adequately bonded under another valid permit, pursuant to 405 KAR Chapter 10, could be excluded from the permit area.

~~(39) [(38)] [(39)]~~ "Permittee" means an operator or a person holding or required by KRS Chapter 350 or 405 KAR Chapters 7 through 24 to hold a permit to conduct surface coal mining and reclamation operations during the permit term and until all reclamation obligations imposed by KRS Chapter 350 and 405 KAR Chapters 7 through 24 are satisfied.

~~(40) [(39)] [(40)]~~ "Person" is defined by KRS 350.010(9).

~~(41) [(40)] [(41)]~~ "Person having an interest that is or may be adversely affected" or "person with a valid legal interest" includes any person:

(a) Who uses any resource of economic, recreational, aesthetic, or environmental value that could be adversely affected by coal exploration or surface coal mining and reclamation operations, or by any related action of the cabinet; or

(b) Whose property is or could be adversely affected by coal exploration or surface coal mining and reclamation operations, or by any related action of the cabinet.

~~(42) [(41)] [(42)]~~ "Prime farmland" means those lands defined by the Secretary of Agriculture in 7 C.F.R. 657 and that have been "historically used for cropland".

~~(43) [(42)] [(43)]~~ "Reclamation" is defined by KRS 350.010(12).

~~(44) [(43)] [(44)]~~ "Secretary" is defined by KRS 350.010(11).

~~(45) [(44)] [(45)]~~ "SMCRA" means Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. Chapter 25 [of 4977] (Pub. L. [PL] 95-87), as amended.

~~(46) [(45)] [(46)]~~ "Surety bond" means an indemnity agreement in a sum certain, payable to the cabinet and executed by the permittee, which is supported by the performance guarantee of a corporation licensed to do business as a surety in the Commonwealth of Kentucky.

~~(47) [(46)] [(47)]~~ "Surface coal mining and reclamation operations" is defined by KRS 350.010(3).

~~(48) [(47)] [(48)]~~ "Surface coal mining operations" is defined by KRS 350.010(1).

~~(49) [(48)] [(49)]~~ "Suspended solids" or nonfilterable residue, expressed as milligrams per liter, means organic or inorganic materials carried or held in suspension in water that are retained by a standard glass fiber filter in the procedure outlined by the U.S. EPA's regulations for waste water and analyses (40 C.F.R. 136).

~~(50) [(49)] [(50)]~~ "Ton" means 2,000 pounds avoirdupois (0.90718 metric ton).

~~(51) [(50)] [(51)]~~ "Topsoil" means the A and E soil horizon layers of the four (4) master soil horizons.

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~~(52)~~~~(51)~~~~(52)~~ "U.S. EPA" means United States Environmental Protection Agency.

~~(53)~~~~(52)~~~~(53)~~ "Voluntary Bond Pool" is defined by KRS 350.500(5).

~~(54)~~~~(53)~~~~(54)~~ "Willfully" and "willful violation" mean that a person acted either intentionally, voluntarily, or consciously, and with intentional disregard or plain indifference to legal requirements, in authorizing, ordering, or carrying out an act or omission that constituted a violation of SMCRA, KRS Chapter 350, 405 KAR Chapters 7 through 24, or a permit condition, or that constituted a failure or refusal to comply with an order issued pursuant to SMCRA, KRS Chapter 350, or 405 KAR Chapters 7 through 24.405 KAR 10:001 Definitions for 405 KAR Chapter 10.

REBECCA W. GOODMAN, Secretary

APPROVED BY AGENCY: December 9, 2024

FILED WITH LRC: December 13, 2024 at 11:15 a.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Dawn Baase

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation defines terms used in 405 KAR Chapter 10.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to clearly define the terms used in 405 KAR Chapter 10.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS Chapter 350 provides the department the authority to promulgate administrative regulations for implementing a permanent program to regulate coal mining in the Commonwealth. This administrative regulation defines terms used in 405 KAR Chapter 10.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation defines terms used in 405 KAR Chapter 10 and will assist in the interpretation of those 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 adds a definition for "long term treatment".

(b) The necessity of the amendment to this administrative regulation: The amendment adds a definition for "long-term treatment" to be used in 405 KAR Chapter 10.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the authorizing statutes by defining the term "long-term treatment" as used in 405 KAR Chapter 10.

(d) How the amendment will assist in the effective administration of the statutes: The amendment defines the term "long-term treatment".

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This provision would apply to any entity operating a surface coal mine operation in the Commonwealth. There are currently 1,022 surface coal mines operating 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 entities identified do not have any actions or requirements due the amendments 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 entities identified will not have additional costs due to this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The amendment defines and clarifies the term "long-term treatment" for the entities identified.

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

(a) Initially: There is no cost associated with implementing this amendment.

(b) On a continuing basis: There will be no costs associated with the implementation of this amendment.

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

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

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

(9) TIERING: Is tiering applied? No, tiering is not applied to this administrative regulation as it only contains definitions for 405 KAR Chapter 10.

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 350.028, 350.465, 350.500 - 350.521, 7 C.F.R. Part 657, 30 C.F.R. 700.5, 701.5, 730-733, 735, 773.5, 800.5, 917, 40 C.F.R. Part 136, 30 U.S.C. 1253, 1255, 129

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Energy and Environment Cabinet, Department for Natural Resources, Division of Mine Permits, and Division of Mine Reclamation and Enforcement.

(a) Estimate the following for the first year:

Expenditures: There are no known effects on current expenditures.

Revenues: There are no known effects on current revenues.

Cost Savings: There are no known cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures, revenues, and cost savings will not change in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): There are no known effects for local entities.

(a) Estimate the following for the first year:

Expenditures: There are no known effects on expenditures.

Revenues: There are no known effects on revenues.

Cost Savings: There are no known cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures, revenues, and cost savings will not change in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3): Regulated entities are those who have obtained a surface coal mine permit in the Commonwealth.

(a) Estimate the following for the first year:

Expenditures: There are no known effects on expenditures.

Revenues: There are no known effects to revenues for regulated entities.

Cost Savings: There are no known cost savings for regulated entities.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures, revenues, and cost savings will not change in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: There are no fiscal impacts from this administrative regulation.

(b) Methodology and resources used to determine the fiscal impact: This administrative regulation only establishes definitions of the terms used in 405 KAR Chapter 10.

(6) Explain:

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(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 not a negative or adverse major economic impact to the entities identified.

(b) The methodology and resources used to reach this conclusion: This administrative regulation only establishes definitions of the terms used in 405 KAR Chapter 10.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 30 C.F. R. Part 701

(2) State compliance standards. KRS 350.028 and KRS 350.060.

(3) Minimum or uniform standards contained in the federal mandate. 30 C.F.R. 701.5

(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 stricter or additional requirements than the federal regulation.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. NA

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](#).

GENERAL GOVERNMENT CABINET
Kentucky Board of Licensed Professional Counselors
(Amendment)

201 KAR 36:100. Counseling compact.

RELATES TO: KRS 335.560

STATUTORY AUTHORITY: KRS 335.515, 335.560

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.560, Section 16.B.1. requires the Board of Licensed Professional Counselors to review any rule adopted by the Counseling Compact pursuant to Section 11 of KRS 335.560 within sixty (60) days of adoption for the purpose of filing the rule as an emergency administrative regulation pursuant to KRS 13A.190 and for filing the rule as an accompanying ordinary administrative regulation pursuant to KRS Chapter 13A. This administrative regulation incorporates by reference the rules adopted by the Counseling Compact.

Section 1. The Board of Licensed Professional Counselors shall comply with all rules of the Counseling Compact, which includes the Counseling Compact Rules as of January 10, 2024.

Section 2. Incorporation by Reference.

(1) The following material is incorporated by reference: "The Counseling Compact Rules", January 10, 2024, and as revised.

(a) Chapter 2 – Definitions, adopted October 25, 2023;

(b) Chapter 3 – Examination Requirements, adopted October 25, 2023;[-and]

(c) Chapter 4 – Data System Reporting Requirements, adopted January 10, 2024;[-]

(d) Chapter 5 – Rulemaking on Legacy Eligibility for Privilege to Practice, adopted October 8, 2024; and

(e) Chapter 6. Rulemaking on Implementing Criminal Background Checks, adopted October 8, 2024.

(2)

(a) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Licensed Professional Counselors, 500 Mero Street, 2 SC 32, Frankfort, Kentucky 40602, Monday through Friday, 8 a.m. to 4:30 p.m.; or

(b) This material may also be obtained on the Board of Licensed Professional Counselors' Web site at <https://lpc.ky.gov/>.

(3) This material may also be obtained at:

(a) The Counseling Compact Commission, 108 Wind Haven Drive, Suite A, Nicholasville, Kentucky 40356; or

(b) <https://counselingcompact.org/compact-commission/rulemaking/>.

DR. ANDREA BROOKS, Board Chair

APPROVED BY AGENCY: November 20, 2024

FILED WITH LRC: November 26, 2024 at 12:02 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 25, 2025, at 2:00 P.M. Eastern Time, at the Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky in PPC Conference Room 127CW. 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 February 28, 2025. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative

regulation to https://ppc.ky.gov/reg_comment.aspx or the contact person.

CONTACT PERSON: Sara Boswell Janes, Title: Staff Attorney III

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 335.515, 335.560. Interstate compacts are specifically authorized under the federal constitution (Article 1, Section 10, Clause 3- the Compacts Clause) and take precedence over any conflicting state law pursuant to the Compacts Clause and the Contracts Clause, U.S. Constitution, Article 1, Section 10, Clause 1.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: the Kentucky Board of Licensed Professional Counselors is the promulgating agency and the only affected state unit, part or division.

(a) Estimate the following for the first year:

Expenditures: The compact will likely become operational in 2025, however, the expenditures needed in the first year are currently indeterminable. There will likely be some state expenditures necessary for data system programming, administering applications for compact privileges within and without the Commonwealth, as well as administering complaint and enforcement actions for those with the privilege to practice in Kentucky, and possibly for Kentucky licensees with the privilege to practice in other states.

Revenues: If the compact becomes operational in Kentucky during the first year, The Board may require imposition of a fee to cover the cost of administration. However, at this time potential revenues are indeterminable.

Cost Savings: Indeterminable.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The compact will likely become operational in 2025, however, the expenditures, revenue and cost savings in subsequent years, if any, are currently indeterminable.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): None anticipated.

(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? There will be no difference in expenditures, revenues or cost savings to local entities in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3):

(a) Estimate the following for the first year:

Expenditures:

Revenues:

Cost Savings:

(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: There is minimal anticipated fiscal impact to this administrative regulation in the first year. It is possible there will be a fiscal impact of administering applications for compact privileges for in-state licensees who apply for the privilege to practice in another state, and for out of state licensees who apply for the privilege to practice in Kentucky. The Compact Commission remains in its infancy and the work to be conducted by the state board on behalf of the compact is yet to be determined.

(b) Methodology and resources used to determine the fiscal impact: Methodology and resources are currently indeterminable since there are no known duties outlined for the state in relation to the compact.

(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 entities identified.

(b) The methodology and resources used to reach this conclusion: Methodology and resources are currently indeterminable since there are no known duties outlined for the state in relation to the compact; however, given the number of licensees, current budget and anticipated number of applications for out of state licensees to obtain the privilege to practice in Kentucky, no major economic impact is anticipated.

**TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(Amendment)**

301 KAR 2:132. Elk hunting seasons, permits, zones, and requirements.

RELATES TO: KRS 150.010, 150.170(4), 150.180, 150.990
STATUTORY AUTHORITY: KRS 150.025(1), 150.177, 150.178, 150.390(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits and methods of take, and to make these requirements apply to a limited area. KRS 150.177 authorizes the department to issue special commission permits for game species to nonprofit wildlife conservation organizations. KRS 150.178 authorizes the department to issue cooperator permits to landowners who enroll property for public hunting access. KRS 150.390(3) requires the department to promulgate administrative regulations establishing the conditions under which depredation permits for elk may be issued. This administrative regulation establishes the requirements for the elk permit drawing and quota hunts, the conditions under which special commission and landowner cooperator permits may be used, procedures for elk damage abatement, and any postseason hunt held after the quota hunts.

Section 1. Definitions.

- (1) "Antlered elk" means an elk having visible polished antler protruding above the hairline.
- (2) "Antlerless elk" means an elk without visible polished antler protruding above the hairline.
- (3) "Archery equipment" means a long bow, recurve bow, or compound bow incapable of holding an arrow at full or partial draw without aid from the archer.
- (4) "Bait":
 - (a) Means a substance composed of grains, minerals, salt, fruits, vegetables, hay, or any other food materials, whether natural or manufactured, that could lure, entice, or attract wildlife; and
 - (b) Does not mean the establishment and maintenance of plantings for wildlife, foods found scattered solely as the result of normal agricultural planning or harvesting practices, foods available to wildlife through normal agricultural practices of livestock feeding if the areas are occupied by livestock actively consuming the feed on a daily basis, or standing farm crops under normal agricultural practices.
- (5) "Crossbow" means a bow designed or fitted with a device to hold an arrow at full or partial draw without aid from the archer.
- (6) "Electronic decoy" means a motorized decoy powered by electricity, regardless of source.
- (7) "Elk" means *Cervus canadensis nelsoni*.
- (8) "Elk Restoration Permit" or "ERP" means an elk permit given to a landowner or lessee who allows the department to capture elk on the landowner or lessee's property for restoration or restocking purposes.
- (9) "Firearm" means a breech or muzzle-loading rifle, shotgun, or handgun.
- (10) "Landowner cooperator" means a landowner or lessee who owns or leases at least 5,000 acres of land in the restoration zone

and enters into an agreement with the department to allow public access and hunting for at least five (5) years.

(11) "Loyalty Redraw" means a secondary drawing to award any unpurchased elk quota hunt permits, remaining after the purchase deadline for those individuals initially drawn for the elk quota hunt, to those applicants with the highest number of cumulative application years.

(12) "Muzzleloader" means a rifle, shotgun, or handgun that is loaded from the discharging end of the barrel or discharging end of the cylinder.

(13) "Out-of-zone" means all counties not included in the restoration zone.

(14) "Restoration zone" means the Kentucky counties: Bell, Breathitt, Clay, Floyd, Harlan, Johnson, Knott, Knox, Leslie, Letcher, Magoffin, Martin, McCreary, Perry, Pike, and Whitley.

(15) "Shed" means an antler that has naturally been cast off the skull as a part of the annual growth and replacement process.

(16) "Unit" means a designated area in the restoration zone with specific management restrictions.

(17) "Voucher cooperator" means a landowner or lessee who owns or leases at least 100 acres of land in the restoration zone and enters into an agreement with the department to allow elk hunting access.

(18) "Youth" means a person under the age of sixteen (16) by the first date of the hunt.

Section 2. Elk Damage Control. The department may authorize the removal or destruction of elk that are causing property damage. A person authorized to destroy an elk shall:

- (1) Attach a department-issued destruction tag to an elk prior to moving the carcass; and
- (2) Not remove the destruction tag until the carcass is processed.

Section 3. Elk Quota Hunts.

(1) The elk quota hunt application period shall be August 1 of the year preceding a given calendar year's elk hunt season to April 30 of the year of that season.

(2) An applicant shall:

- (a) Complete the elk quota hunt application process on the department's Web site at fw.ky.gov; and
- (b) Pay a nonrefundable application fee as outline in 301 KAR 5:022 ~~of ten (10) dollars~~.

(3) The commissioner shall extend the application deadline if technical difficulties with the application system prevent applications from being accepted for one (1) or more days during the application period.

(4) There shall be a random electronic drawing from each applicant pool.

(5) Youths may enter a separate drawing pool for either-sex elk permits that shall be valid for use during all elk seasons, pursuant to Section 9 of this administrative regulation.

(6) A youth shall not apply for the youth-only elk quota hunt more than once per application period.

(7) An applicant for the youth-only elk quota hunt may also apply for a regular quota hunt, as established in subsection (12) of this section.

(8) A youth drawn for the youth-only elk quota hunt shall not be drawn in any other elk quota hunt held during the same calendar year.

(9) A youth drawn for the youth-only elk quota hunt shall be ineligible to be drawn in the youth-only elk quota hunt in subsequent years.

(10) Nonresidents shall not comprise more than ten (10) percent of all drawn applicants in each quota hunt pool, except that the Loyalty Redraw shall exclude nonresidents.

(11) A quota hunt permit awarded from any department-administered drawing shall not be transferable.

(12) In addition to the youth-only quota hunt, there shall be three (3) separate regular elk quota hunts consisting of:

- (a) Antlered firearms;
- (b) Antlerless firearms; and
- (c) Either-sex archery and crossbow.

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- (13) An applicant shall:
- (a) Apply only once for an individual elk quota hunt;
 - (b) Not be eligible to be drawn in more than one (1) of the three (3) quota hunt pools;
 - (c) Only be selected by a random electronic drawing;
 - (d) Pay a nonrefundable application fee of ten (10) dollars for each entry; and
 - (e) If selected, be eligible to purchase a quota elk hunt permit for the applicable season and hunt type until midnight (eastern) on June 15 of the hunt year.
- (14) A person who is drawn for an elk quota hunt, including Loyalty Redraw applicants who purchase elk quota hunt permits offered to them through the Loyalty Redraw secondary drawing, shall be ineligible to be drawn for any elk quota hunt for the following three (3) years.
- (15) A person who does not have access to the department's Web site to apply for any quota hunt may contact the department toll free at (800)858-1549 for assistance in applying.

Section 4. Loyalty Redraw.

- (1) Annually, if there are unpurchased elk hunt permits remaining after the purchase deadline for those initially drawn for the elk quota hunt, a Loyalty Redraw shall be held.
- (2) The Loyalty Redraw shall consist of a secondary random electronic drawing to award elk quota hunt permits not purchased before midnight (eastern) on June 15 of the hunt year, and shall be conducted before the Elk Hunting Unit drawing.
- (3) The Loyalty Redraw shall be limited to resident applicants from the three (3) elk quota hunt pools, plus the youth-only quota hunt pool who have applied for at least one (1) elk quota hunt permit for the most cumulative years, including the current year, without ever being drawn for at least one (1) elk quota hunt permit.
- (4) Resident applicants who are eligible for the Loyalty Redraw shall be automatically entered into the secondary drawing elk quota hunt pools for which they applied in the current hunt year.
- (5) This secondary drawing procedure shall mirror the primary electronic random drawing for quota elk hunt permits, except that nonresident applicants shall be excluded.
- (6) A Loyalty Redraw applicant who is drawn for an available leftover permit may purchase the appropriate quota elk hunt permit until midnight (eastern) on June 30.
- (7) A Loyalty Redraw permit holder who does not apply for the Elk Hunting Unit drawing by midnight (eastern) on June 30 of the hunt year shall be automatically entered into the unit drawing for random assignment to an Elk Hunting Unit.
- (8) An applicant who is eligible for the Loyalty Redraw in a given year and is drawn for quota elk hunt permit in the secondary drawing, and who does not purchase the elk quota hunt permit for which he or she is drawn in that year, shall:
- (a) Have their number of cumulative years of application reset to zero and be ineligible for the Loyalty Redraw until he or she accumulates the required number of cumulative years of applications necessary to again qualify for the Loyalty Redraw; and
 - (b) Be eligible to apply for the next year's elk quota hunts without waiting three (3) years.

Section 5. Landowner Cooperator Permits.

- (1) With the approval of the commission, the commissioner shall issue to a landowner cooperator:
- (a) One (1) either-sex permit annually per 5,000 acres of land enrolled with the department in a hunting access agreement for the duration of the agreement;
 - (b) Two (2) antlerless-only permits annually per 5,000 acres of land enrolled with the department in a hunting access agreement for the duration of the agreement; or
 - (c) One (1) antlerless-only permit annually per 5,000 acres of land enrolled with the department in an elk hunting access agreement for the duration of the agreement.
- (2) A recipient of a landowner cooperator permit shall comply with the season, bag limit, and hunter requirements in Sections 8 and 9 of this administrative regulation.

(3) A landowner cooperator permit shall only be used on the land that is established in the agreement, ~~except that it may be used on adjacent property if:~~

- ~~[(a)] [The adjacent property is owned by a different landowner; and]~~
- ~~[(b)] [The adjacent landowner has granted permission to the permit holder.]~~

(4) A landowner cooperator permit may be transferred to any person eligible to hunt in Kentucky, but prior to hunting, the landowner cooperator or person who has received the transferred permit shall provide the department with the hunter's:

- (a) Name;
 - (b) Fish and Wildlife customer identification number;
 - (c) Address; and
 - (d) Telephone number.
- (5) The landowner cooperator permit shall not be transferable if it was already used for the harvest of an elk.
- (6) Public access agreements with the department shall be recorded in writing.

Section 6. Voucher Cooperator Permits.

- (1) A voucher cooperator shall accrue one (1) voucher point for each legally harvested elk.
- (2) A voucher cooperator who accrues ten (10) total points from the voucher cooperator permit program alone, or in combination with points accumulated from the elk restoration permit program, on land enrolled pursuant to Section 1(17) of this administrative regulation shall receive one (1) either-sex elk permit from the department.
- (3) A recipient of a voucher cooperator elk permit shall comply with all the requirements established in Sections 8 and 9 of this administrative regulation.
- (4) A voucher cooperator elk permit shall only be used on:
- (a) The property enrolled with the department per agreement; or
 - (b) Other property that the landowner or lessee owns or leases.
- (5) A voucher cooperator permit may be transferable to any person eligible to hunt in Kentucky.
- (6) If a voucher cooperator permit is to be transferred, then the landowner, lessee, or person who has received the transferred permit shall provide to the department by August 15 the hunter's:
- (a) Name;
 - (b) Fish and Wildlife customer identification number;
 - (c) Address; and
 - (d) Telephone number.
- (7) A permit shall not be transferable after being used for the harvest of an elk.

Section 7. Elk Restoration Permits.

- (1) A landowner or lessee who allows the department to capture elk on the landowner or lessee's property shall accrue one (1) point for each captured elk.
- (2) A landowner or lessee who accrues ten (10) total points from the elk restoration permit program alone, or in combination with points accumulated from the voucher cooperator permit program shall receive one (1) either-sex elk permit from the department that shall only be used the following hunting season.
- (3) A recipient of an ERP shall comply with all the requirements established in Sections 8 and 9 of this administrative regulation.
- (4) An ERP shall only be used on property that the ERP recipient owns or leases.
- (5) An ERP recipient may transfer the permit to any person eligible to hunt in Kentucky.
- (6) If an ERP recipient transfers an ERP to another hunter, then the ERP recipient shall provide to the department by August 15 the hunter's:
- (a) Name;
 - (b) Address;
 - (c) Telephone number; and
 - (d) Fish and Wildlife customer identification number.
- (7) An ERP shall be invalid if it has already been used to harvest an elk.

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Section 8. Hunter Requirements.

(1) A person shall carry proof of purchase of a valid Kentucky hunting license and valid elk permit while hunting, unless exempted by KRS 150.170.

(2) The statewide bag limit shall be one (1) elk per hunter per license year.

(3) If a legal elk hunter kills any elk:

(a) The person shall immediately cease hunting elk for the remainder of the elk season; and

(b) The elk permit held by that individual shall immediately become invalid.

(4) A drawn applicant may apply to hunt in up to five (5) units. The drawn applicant shall complete the application process on the department's Web site at fw.ky.gov.

(a) Up to three (3) drawn applicants may apply for their unit choices as a party.

(b) If the party is drawn for a unit, then all hunters in the party shall be assigned to that same unit.

(c) If the number of slots remaining in the quota is less than the number of hunters in the next party selected, the entire party shall be assigned to the party's next choice ranking or be assigned to a unit by the department.

(5) A drawn applicant who does not apply for a unit shall be assigned to a unit by the department.

(6) An applicant drawn for a unit may hunt only in the assigned unit, except that a person who is drawn for any elk quota hunt may hunt on his or her land within the restoration zone.

(7) An elk hunter or any person accompanying an elk hunter shall comply with hunter orange requirements established in 301 KAR 2:172.

(8) An elk hunter shall not:

(a) Take elk except during daylight hours;

(b) Use dogs, except to recover wounded elk using leashed tracking dogs;

(c) Hunt over bait, or hunt over an area where bait was present in the preceding 30 days, inside the elk restoration zone;

(d) Drive elk from outside the assigned area;

(e) Take an elk while it is swimming;

(f) Use electronic calls or electronic decoys; or

(g) Take an elk if the hunter is in a vehicle, boat, or on horseback, except that a disabled hunter who has a hunting method exemption permit issued pursuant to 301 KAR 3:027 may use a stationary vehicle as a hunting platform.

(9) A person shall:

(a) Obtain a vehicle tag from the department prior to hunting elk in the restoration zone; and

(b) Display the vehicle tag in the windshield of the vehicle while hunting elk.

(10) A youth shall be accompanied by an adult who shall remain in a position to take immediate control of the youth's firearm.

(11) An adult accompanying a youth shall not be required to possess a hunting license or elk permit if the adult is not hunting.

(12) A person shall only use the equipment and ammunition established in paragraphs (a) through (e) of this subsection to take an elk:

(a) A crossbow or archery equipment loaded with a broadhead of seven-eighths (7/8) inch or wider, either fixed or upon expansion;

(b) A firearm:

1. With an action that fires a single round of ammunition upon each manipulation of the trigger;

2. Of .270 caliber or larger; and

3. Loaded with centerfire, single projectile ammunition designed to expand upon impact;

(c) A muzzleloader of .50 caliber or larger;

(d) A shotgun of twenty (20) gauge or larger loaded with a shell containing one (1) projectile; or

(e) A handgun loaded with:

1. Centerfire cartridges;

2. Bullets of .270 caliber or larger designed to expand upon impact; and

3. Cartridges with a case length of 1.285 inches or larger.

(13) A crossbow shall contain a working safety device.

(14) An elk hunter shall not use a magazine capable of holding more than ten (10) rounds.

(15) A quota elk hunter shall only take an elk of the type and sex determined by the permit drawn.

(16) A hunter drawn for a firearms elk permit shall hunt elk pursuant to that permit only during the five (5) day period assigned during the initial drawing.

(17) An individual who receives or is transferred a landowner cooperater permit, a voucher cooperater permit, an elk restoration permit, or a special commission permit may hunt in all of the quota hunts and shall hunt in accordance with the seasons, limits, and equipment established in Section 8 of this administrative regulation.

(18)

(a) A person who is drawn for an elk quota hunt permit or was issued a landowner cooperater permit, a special commission permit, an elk restoration permit, or voucher cooperater permit shall complete and submit a post-season elk hunting survey on the department's Web site at fw.ky.gov no later than the last day of February.

(b) A person who fails to comply with the requirements established in paragraph (a) of this subsection shall be ineligible to apply for any quota hunt or no-hunt option the following year.

Section 9. Elk Quota Hunt Seasons and Limits.

(1) A person drawn for an either-sex archery and crossbow permit shall use archery or crossbow equipment to take either-sex elk from the:

(a) Second Saturday in September through the fourth Friday in September; and

(b) First Saturday in December through the second Friday in December.

(2) A person drawn for an antlered firearms permit shall use any legal equipment as established in Section 8(12) of this administrative regulation to take an antlered elk during one (1) of two (2) five (5) day periods randomly assigned by the department from the:

(a) Last Saturday in September for five (5) consecutive days; or

(b) First Saturday in October for five (5) consecutive days.

(3) A person drawn for an antlerless firearms permit shall use any legal equipment as established in Section 8(12) of this administrative regulation to take an antlerless elk during one (1) of two (2) five (5) day periods randomly assigned by the department from the:

(a) Last Saturday in November for five (5) consecutive days; or

(b) First Saturday in January for five (5) consecutive days.

~~[(b)] [Last Saturday in December for five (5) consecutive days.]~~

Section 10. Unit Boundaries and Elk Viewing Areas.

(1) Hunting unit boundaries and the boundaries of Boone's Ridge~~[the Appalachian Wildlife Center Viewing Area]~~ are incorporated by reference.

(2) Boone's Ridge~~[Elk-viewing areas]~~ shall be closed to all elk hunting.

Section 11. Tagging and Checking Requirements.

(1) Immediately after taking an elk, a hunter shall record on a hunter's log:

(a) The species harvested;

(b) The sex of the animal;

(c) Date of harvest; and

(d) County of harvest.

(2) A hunter shall check a harvested elk before midnight on the day the elk is recovered by:

(a) Calling (800) 245-4263 and providing the requested information; or

(b) Completing the online check-in process at fw.ky.gov.

(3) A hunter who has checked in an elk shall record the confirmation number on a hunter's log.

(4) If the hide or head is removed from the carcass before the elk is checked in, then the hunter shall be required to demonstrate proof of the sex of the elk.

(a) For antlered elk the hunter shall retain the:

1. Head with antlers; or

2. Testicles, scrotum, or penis attached to the carcass; or

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(b) For antlerless elk the hunter shall retain the:

1. Head;
2. Udder or vulva attached to the carcass; or
3. Testicles, scrotum, or penis attached to the carcass.

(5) If a harvested elk leaves the possession of the hunter, the hunter shall attach to the carcass a hand-made tag that contains the hunter's:

- (a) Confirmation number;
 - (b) Name; and
 - (c) Telephone number.
- (6) A person shall not provide false information in:
- (a) Completing the hunter's log;
 - (b) Checking an elk; or
 - (c) Creating a carcass tag.

Section 12. Elk Hunting on Public Land.

(1) A person drawn for an elk quota hunt or the recipient of a special commission permit may hunt on the areas listed in paragraphs (a) through (f) of this subsection within the restoration zone pursuant to the conditions of the permit received:

- (a) Wildlife Management Areas;
- (b) Hunter Access Areas;
- (c) State forests;
- (d) Big South Fork National River and Recreation Area;
- (e) Daniel Boone National Forest; or
- (f) Jefferson National Forest.

(2) Portions of Paintsville Lake WMA that lie out of the restoration zone shall be subject to the requirements established in Section 14 of this administrative regulation.

(3) Elk hunting shall not be allowed on public areas during quota deer hunts listed in 301 KAR 2:178.

~~[(4)] [Paul Van Booven WMA and Fishtrap Lake WMA shall be designated as an elk viewing area and shall be closed to all elk hunting.]~~

~~[(4)]~~ (5) A person shall not mimic the sound of an elk on public land open to elk hunting from September 1 until the opening of the elk archery season.

Section 13. Out-of-zone Elk Hunting.

(1) The methods for taking deer and the deer seasons established in 301 KAR 2:172 shall apply to a person taking elk outside of the restoration zone, except that a hunter shall comply with the equipment and ammunition requirements established in Section 8 of this administrative regulation.

(2) Unless exempted by KRS 150.170, a person who is hunting out-of-zone elk shall possess:

- (a) A valid Kentucky hunting license; and
- (b) An out-of-zone elk permit.

(3) A person may take an elk of either sex, which shall not count toward the person's deer bag limit.

(4) Any elk harvested out-of-zone shall be telechecked pursuant to Section 11 of this administrative regulation.

Section 14. Elk Antlers.

(1) A person who takes possession of any elk antler that has the skull or skull plate attached to it shall contact the department's Law Enforcement Division within twenty-four (24) hours.

(2) An elk shed shall be legal to possess.

Section 15. Elk Permit Deferral. A person who is the holder of a valid elk quota hunt permit, landowner cooperator permit, voucher cooperator permit, an ERP, or special commission permit may defer use of the permit to the following year if:

- (1)
 - (a) There is a death of the permit holder's:
 1. Spouse;
 2. Child; or
 3. Legal guardian, if the permit holder is under eighteen (18) years old; and
 - (b) The permit holder provides to the department a death certificate and one (1) of the following documents prior to May 1 of the year following the hunting season:
 1. A marriage certificate;
 2. A birth certificate; or

3. An affidavit of paternity or maternity;

(2) The permit holder shall be a member of one (1) of the service branches of the U.S. Armed Forces in either an active duty, reserve component, or National Guard status as of April 30 of the hunt year:

(a) Is deployed or assigned to military duty outside the continental United States or assigned to military duty to another location or duty station so that his or her assignment makes impracticable participation in the hunt for which the permit was drawn; and

(b) The permit holder submits to the department electronically by email or fax or by mail, postmarked or received before midnight of the day immediately prior to the opening day of the applicable hunting season, a copy of military orders, or if unavailable, a letter from a commanding officer, documenting the permit holder's overseas deployment, overseas duty assignment, or assignment outside of Kentucky, showing that the effective date or dates of the assignment include one (1) or more of the hunt dates for which the hunter holds a permit; or

(3) A permit holder that meets criteria in subsection (2) of this section may also automatically defer his or her permit for a second year if the military assignment or assignments make impracticable participation in his or her assigned hunt during the year following his or her obtaining the permit, but in either case shall provide to the elk program by May 1 of his or her actual hunt year, a copy of applicable military orders (or official letter) that made use of the permit impracticable for the first, or first and second, elk seasons after first obtaining the elk permit.

Section 16. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "Elk Hunting Units" map, 2024[2019] edition; and
- (b) "Boone's Ridge[Appalachian Wildlife Center] Viewing Area" map, 2024[2019] edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m., Eastern Time.

RICH STORM, Commissioner

APPROVED BY AGENCY: December 12, 2024

FILED WITH LRC: December 12, 2024 at 2:22 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 27, 2025, at 11:30 a.m., at the KDFWR Administrative 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 February 28, 2025. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jenny Gilbert, Legislative Liaison, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman's Lane, (502) 564-3400, fax: (502) 564-0506, email: fwpubliccomments@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jenny Gilbert

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for the elk permit drawing and quota hunts, the conditions under which special commission permits, landowner cooperator permits, elk restoration permits, and cooperator voucher permits can be used, and procedures for elk damage abatement.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to effectively manage elk populations in Kentucky, while providing optimal elk hunting and tourism opportunities.

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(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish hunting seasons, bag limits, and the methods of taking wildlife. KRS 150.177 authorizes the department to issue special commission permits for game species to nonprofit wildlife conservation organizations. KRS 150.178 authorizes the department to issue cooperator permits to landowners who enroll property for public hunting access. KRS 150.390(3) authorizes the department to promulgate administrative regulations establishing the conditions under which depredation permits for elk may be issued.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statutes by establishing all the requirements for elk hunting and the procedures for elk damage abatement.

(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 (1) require landowner cooperator permits to be used only on land contained within the access agreement, (2) require hunters to remove any bait 30 days prior to hunting in that area, (3) move the second cow elk gun season to the first Saturday in January to remove the overlap with Christmas, and (4) open Paul VanBooven WMA and Fishtrap Lake WMA to elk hunting.

(b) The necessity of the amendment to this administrative regulation: The amendments will increase elk hunting opportunity, remove calendar conflicts, and more fairly regulate the use of bait and landowner cooperator elk permits.

(c) How the amendment conforms to the content of the authorizing statutes: See 1(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See 1(d) above.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All elk hunters, as well as those members of the public applying for elk permits will have the potential to be positively impacted.

(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: Elk Hunters will have more opportunity to hunt with the opening of two wildlife management areas. Additionally, baiting regulations will be clarified. Landowner cooperator elk permits will be required to hunt on the areas enrolled in the access agreements thus better defining where this hunter can utilize their elk permit.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional costs will be incurred.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Drawn elk hunters will have more opportunity, reduced conflicts with the Christmas holiday, and more well-defined regulations concerning baiting of elk. Landowner cooperator permit holders will have a better-defined hunt area and less advantage over the drawn hunters.

(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: The source of funding is the State Game and Fish Fund.

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

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

(9) TIERING: Is tiering applied? Tiering will not be applied as this will pertain to all hunters, landowners within the elk zone and those applying to hunt elk in 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 150.025(1) authorizes the department to promulgate administrative regulations to establish hunting seasons, bag limits, and the methods of taking wildlife. KRS 150.177 authorizes the department to issue special commission permits for game species to nonprofit wildlife conservation organizations. KRS 150.178 authorizes the department to issue cooperator permits to landowners who enroll property for public hunting access. KRS 150.390(3) authorizes the department to promulgate administrative regulations establishing the conditions under which depredation permits for elk may be issued.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: KDFWR Division of Law Enforcement and Wildlife will be impacted by this 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? These will not differ 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): 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: None
(b) Methodology and resources used to determine the fiscal impact: These amendments will not substantially impact any part of state or local government.

(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: These amendments will not substantially impact any part of state or local government.

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(Amendment)

301 KAR 2:172. Deer hunting seasons, zones, and requirements.

RELATES TO: KRS 150.010, 150.170, 150.177, 150.180, 150.411(3), 150.990

STATUTORY AUTHORITY: KRS 150.025(1), 150.170, 150.175, 150.390(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the 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 these requirements apply to a limited area or the entire state. KRS 150.170 authorizes exemptions for

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certain people from hunting license and permit requirements. KRS 150.175 requires the department to promulgate administrative regulations relating to the kinds of licenses and permits listed in the statute. KRS 150.390(1) prohibits the taking of deer in any manner contrary to any provisions of KRS Chapter 150 or KAR Title 301. This administrative regulation establishes deer hunting seasons and zones, bag limits, legal methods of taking, and checking and recording requirements for deer hunting.

Section 1. Definitions.

(1) "Additional deer permit" means a permit that allows the holder to take up to two (2) additional deer beyond those allowed by the statewide deer permit in the following combinations:

- (a) One (1) antlered deer and one (1) antlerless deer; or
- (b) Two (2) antlerless deer.

(2) "Adult" means a person who is at least eighteen (18) years of age.

(3) "Air gun" means a pneumatic gun fired by a charge of compressed air.

(4) "Antlered deer" means a male or female deer, excluding male fawns, with a visible antler protruding above the hairline.

(5) "Antlerless deer" means a male or female deer with no visible antler protruding above the hairline.

(6) "Archery equipment" means a long bow, recurve bow, or compound bow incapable of holding an arrow at full or partial draw without aid from the archer.

(7) "Arrow" means the projectile fired from a bow or crossbow.

(8) "Centerfire" means a type of gun that detonates a cartridge by the firing pin striking a primer in the middle of the end of the cartridge casing.

(9) "Chronic Wasting Disease" or "CWD" means a transmissible spongiform encephalopathy found in cervids.

(10) "Crossbow" means a bow with a string designed or fitted with a device to hold an arrow at full or partial draw without aid from the archer.

(11) "CWD Surveillance Zone" means an area designated as being subject to special deer hunting regulations due to a CWD positive cervid detection.

(12) "Deer" means a member of the species *Odocoileus virginianus*.

(13) "Firearm" means a breech or muzzle-loading rifle, shotgun, or handgun.

(14) "KDSS" means the Kentucky Direct Sales System.

(15) "License year" means the period from March 1 through the last day of February.

(16) "Modern gun" means an air gun, rifle, handgun, or shotgun that is loaded from the rear of the barrel.

(17) "Muzzle-loading gun" means a rifle, shotgun, or handgun that is loaded from the discharging end of the barrel or discharging end of the cylinder.

(18) "Novice deer hunter" means a person who has not harvested more than two (2) deer in Kentucky in the last ten (10) years.

(19) "Shed" means an antler that has naturally been cast off the skull as a part of the annual growth and replacement process.

(20) "Special deer hunt" means a one (1) or two (2) day deer hunt sponsored and overseen by the department on private land that:

(a) Allows a novice deer hunter to use a modern gun outside of modern gun deer season; and

(b) Shall be made available only to a:

1. Kentucky resident;
2. Person enrolled as a resident or non-resident student in a public or non-public postsecondary institution located in Kentucky; or
3. Member of the United States military, or his or her spouse or children, stationed at a military base in Kentucky.

(21) "Statewide deer hunting requirements" means the season dates, zone descriptions, bag limits, and other requirements for deer hunting established in this administrative regulation.

(22) "Statewide deer permit" means a permit, which, in conjunction with appropriate licenses, seasons, and methods, allows the holder to take:

(a) One (1) antlered deer and no more than three (3) antlerless deer; or

(b) No more than four (4) antlerless deer.

(23) "Youth" means a person under the age of sixteen (16) by the date of the hunt.

(24) "Youth deer permit" means a permit, which in conjunction with appropriate licenses, seasons, and methods, allows the holder to take:

(a) One (1) antlered deer and no more than three (3) antlerless deer; or

(b) No more than four (4) antlerless deer.

(25) "Zone" means an area consisting of counties designated by the department within which deer hunting season dates and limits are set for the management and conservation of deer in Kentucky.

Section 2. License and Deer Permit Requirements.

(1) Unless license exempt, as established in KRS 150.170, a person who is hunting deer shall carry a valid:

- (a) Kentucky hunting license; and
- (b) Deer permit.

(2) Unless license exempt, as established in KRS 150.170, a youth who is hunting deer shall carry a valid:

- (a) Kentucky youth hunting license; and
- (b) Youth deer permit.

Section 3. Hunter Restrictions.

(1) A deer hunter shall not:

- (a) Take a deer except during daylight hours;
- (b) Use dogs, except leashed tracking dogs, to recover a wounded deer;

(c) Take a deer that is swimming;

(d) From a vehicle, boat, or on horseback, take a deer, except that a hunter with a disabled hunting exemption permit issued by the department may use a stationary vehicle as a hunting platform; and

(e) Possess or use a decoy or call powered by electricity from any source.

(2) A person shall only use the equipment established in paragraphs (a) through (e) of this subsection to take a deer:

(a) A crossbow or archery equipment loaded with a broadhead of seven-eighths (7/8) inch or wider upon expansion;

(b) A firearm:

1. With an action that fires a single round of ammunition upon each manipulation of the trigger; and

2. Loaded with centerfire, single projectile ammunition designed to expand upon impact;

(c) A muzzle-loading gun;

(d) A shotgun loaded with a shell containing single projectile ammunition designed to expand upon impact; or

(e) An air gun:

1. Of .35 caliber or larger;

2. Charged by an external tank; and

3. Loaded with single projectile ammunition designed to expand upon impact.

(3) A person shall only use a weapon that complies with the appropriate season established in Section 5 of this administrative regulation to take a deer.

(4) A crossbow shall contain a working safety device.

(5) A person shall not use a magazine capable of holding more than ten (10) rounds to take a deer.

Section 4. Hunter Orange Clothing Requirements.

(1) During the modern gun deer season, muzzle-loader season, and any youth gun season, a person hunting any species during daylight hours and any person accompanying a hunter, shall display solid, unbroken hunter orange visible from all sides on the head, back, and chest except while hunting waterfowl or mourning dove.

(2) During an elk firearm season, as established in 301 KAR 2:132, a person hunting any species and any person accompanying a hunter within the elk restoration zone, shall display solid, unbroken hunter orange visible from all sides on the head, back, and chest, except while hunting waterfowl or mourning dove.

(3) The hunter orange portions of a garment worn to fulfill the requirements of this section:

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- (a) May display a small section of another color; and
- (b) Shall not have mesh weave openings exceeding one-fourth (1/4) inch by any measurement.
- (4) A camouflage-pattern hunter orange garment worn without additional solid hunter orange on the head, back, and chest shall not meet the requirements of this section.

Section 5. Statewide Season Dates.

- (1) A deer hunter may use archery equipment to hunt deer statewide from the first Saturday in September through the third Monday in January.
- (2) A deer hunter may take deer with a modern gun statewide beginning the second Saturday in November for sixteen (16) consecutive days.
- (3) A deer hunter may use a muzzle-loading gun to hunt deer statewide:
 - (a) For two (2) consecutive days beginning the third Saturday in October;
 - (b) For nine (9) consecutive days beginning the second Saturday in December; and
 - (c) During any season in which a modern gun may be used to take deer.
- (4) A deer hunter may use a crossbow to hunt deer statewide from the third Saturday in September through the third Monday in January.
- (5) A youth or a legal resident hunter sixty-five (65) years or older may hunt with a crossbow from the first Saturday in September through the third Monday in January.
- (6) There shall be a youth-only modern gun season for nine (9)~~two (2)~~ consecutive days beginning on the second Saturday in October, in which a youth deer hunter shall comply with this administrative regulation and all other statewide deer hunting requirements.

- (7) There shall be a free youth-only modern gun season for two (2) consecutive days beginning on the Saturday after Christmas during which a youth:
 - (a) Shall not be required to have a hunting license or deer permit; and
 - (b) Shall comply with this administrative regulation and all other statewide deer hunting requirements.

Section 6. Zones.

- (1) Zone 1 shall consist of Anderson, Ballard, Boone, Bracken, Bullitt, Caldwell, Calloway, Campbell, Carlisle, Carroll, Christian, Crittenden, Franklin, Fulton, Gallatin, Grant, Graves, Green, Hardin, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jefferson, Kenton, Larue, Livingston, Lyon, Marshall, Mason, McClean, McCracken, Mercer, Muhlenberg, Nelson, Oldham, Owen, Pendleton, Robertson, Scott, Shelby, Spencer, Todd, Trigg, Trimble, Union, Washington, Webster, and Woodford Counties.
- (2) Zone 2 shall consist of Adair, Allen, Barren, Bath, Bourbon, Boyd, Boyle, Breckinridge, Butler, Carter, Casey, Clark, Daviess, Edmonson, Fayette, Fleming, Grayson, Greenup, Hancock, Jessamine, Lawrence, Lewis, Lincoln, Logan, Madison, Marion, Meade, Metcalf, Monroe, Montgomery, Nicholas, Ohio, Simpson, Taylor, and Warren Counties.
- (3) Zone 3 shall consist of Cumberland, Elliott, Estill, Garrard, Johnson, Laurel, Morgan, Powell, Pulaski, Rowan, Wayne, and Wolfe Counties.
- (4) Zone 4 shall consist of Bell, Breathitt, Clay, Clinton, Floyd, Harlan, Jackson, Knott, Knox, Lee, Leslie, Letcher, Magoffin, Martin, McCreary, Menifee, Owsley, Perry, Pike, Rockcastle, Russell, and Whitley Counties.

Section 7. Season and Zone Limits.

- (1) A person shall not take more deer than each zone allows, as established in this section.
- (2) A person shall not take more than one (1) antlered deer per license year, regardless of permit type used or zone hunted, except as established in 301 KAR 2:111, 2:178, or 3:100.
- (3) A person may take an unlimited number of antlerless deer in Zone 1 if the person has purchased the appropriate additional deer permits.

- (4) A person may take up to a total of four (4) deer in Zone 2.
- (5) In Zone 3, a person may take up to a total of four (4) deer, except that a firearm or air gun shall not be used to take a total of more than one (1) antlerless deer.
- (6) In Zone 4, a person may take one antlerless deer, but only during:

- (a) Archery season, except that a person shall not take an antlerless deer during modern gun season, the October muzzleloader season, or the first six (6) days of the December muzzleloader season;
- (b) Crossbow season, except that a person shall not take an antlerless deer during modern gun season, the October muzzleloader season, or the first six (6) days of the December muzzleloader season;
- (c) Any youth weekend; or
- (d) The last three (3) days of the December muzzleloader season.

Section 8. Supervision of Youth Gun Deer Hunters.

- (1) An adult shall:
 - (a) Accompany a person under sixteen (16) years old; and
 - (b) Remain in a position to take immediate control of the youth's gun.
- (2) An adult accompanying a youth hunter shall not be required to possess a hunting license or deer permit if the adult is not hunting.

Section 9. Harvest Recording.

- (1) Immediately after taking a deer, and prior to moving the carcass, a person shall record, in writing:
 - (a) The species taken;
 - (b) The date taken;
 - (c) The county where taken; and
 - (d) The sex of the deer taken on one (1) of the following:
 1. The hunter's log section on the reverse side of a license or permit;
 2. The hunter's log produced in a hunting guide;
 3. A hunter's log printed from the Internet;
 4. A hunter's log available from any KDSS agent; or
 5. An index or similar card.
- (2) The person shall retain and possess the completed hunter's log while the person is in the field during the current hunting season.

Section 10. Checking a Deer.

- (1) A person shall check a harvested deer before 11:59 p.m. on the day the deer is recovered by:
 - (a) Calling (800) 245-4263 and providing the requested information; or
 - (b) Completing the online check-in process at fw.ky.gov.
- (2) A person who has checked in a deer shall record the confirmation number on a hunter's log.
- (3) If a hunter removes the hide or head of a harvested deer before the deer is checked in, then the hunter shall retain the deer parts established in paragraphs (a) and (b) of this subsection:
 - (a) For antlered deer, the:
 1. Head with antlers; or
 2. Testicles, scrotum, or penis attached to the carcass; or
 - (b) For antlerless deer, the:
 1. Head; or
 2. Udder or vulva attached to the carcass.
- (4) If a hunter transfers possession of a harvested deer, or if the harvested deer is out of the hunter's possession, the hunter shall attach to the carcass a hand-made tag that contains the following information:
 - (a) The confirmation number;
 - (b) The hunter's name; and
 - (c) The hunter's telephone number.
- (5) A person shall not provide false information while:
 - (a) Completing the hunter's log;
 - (b) Checking a deer; or
 - (c) Creating a carcass tag.

Section 11. Transporting and Processing Deer.

- (1) A person shall:
 - (a) Not transport an unchecked deer out of Kentucky;

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(b) Have proof that a deer or parts of deer brought into Kentucky were legally taken; or

(c) Not sell deer hides except to a licensed:

1. Fur buyer;
2. Fur processor; or
3. Taxidermist.

(2) A taxidermist or an individual who commercially butchers deer shall not accept a deer carcass or any part of a deer without a valid disposal permit issued by the department pursuant to KRS 150.411(3) or a proper carcass tag as established in Section 10 of this administrative regulation.

(3) An individual who commercially butchers deer shall keep accurate records of the hunter's name, address, confirmation number, and date received for each deer in possession and retain the records for a period of one (1) year.

Section 12. Special Deer Hunt Program.

(1) A special deer hunt shall:

(a) Consist of a minimum of ten (10) novice deer hunters selected on a first-come, first-served basis;

(b) Take place on private land with the permission of the landowner;

(c) Only be overseen and sponsored by department employees; and

(d) Take place during the archery deer season.

(2) A special deer hunt participant shall possess a valid hunting license and deer permit, except if the participant is license-exempt, as established in KRS 150.170.

Section 13. Antlers.

(1) A person shall not use a device that is designed to entangle or trap the antlers of a deer.

(2) A shed of a deer shall be legal to possess.

Section 14. CWD Surveillance Zone Requirements.

(1) A CWD Surveillance Zone shall be limited to an area surrounding the location(s) of CWD positive cervid detections as biologically and logistically necessary to monitor and combat the spread of CWD. The areas designated as part of the CWD Surveillance Zone shall be published on the department's Web site at fw.ky.gov.

(2) In any area identified as a CWD Surveillance Zone, the following requirements shall be effective:

(a) In addition to items in Sections 10 and 11 above a hunter harvesting deer in a CWD Surveillance Zone shall:

1. Transport the entire carcass or the entire head; and

2. Telecheck confirmation number to a KDFWR authorized check station in the CWD Surveillance Zone during the identified time periods as advertised by the department at <https://fw.ky.gov>.

(b) A hunter harvesting deer in a CWD Surveillance Zone shall not:

1. Transport a full carcass or any part thereof outside of the CWD Surveillance Zone, except deboned meat, clean skull plates, antlers, antlers attached to a clean skull plate, clean skulls, clean teeth, finished taxidermy work, and hides of legally harvested cervids; or

2. Bait or feed any wildlife inside the CWD Surveillance Zone, except for:

a. Normal agricultural practices, including food plots;

b. Hanging bird feeders within the curtilage of the home; and

c. Furbearer trapping attractants, except grain salt or mineral.

RICH STORM, Commissioner

APPROVED BY AGENCY: December 12, 2024

FILED WITH LRC: December 12, 2024 at 2:22 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 27, 2025, at 10:00 a.m., at the 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 February 28, 2025. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jenny Gilbert, Legislative Liaison, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman's Lane, (502) 564-3400, fax: (502) 564-0506, email: fwpubliccomments@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jenny Gilbert

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the manner in which white-tailed deer may be harvested in Kentucky.

(b) The necessity of this administrative regulation: Deer are a public resource entrusted to the state for management. As such, there must be regulations in place to control the method and manner in which deer may be taken.

(c) How this administrative regulation conforms to the content of the authorizing statutes: Conforms to KRS 150.025(1), 150.170, 150.175, 150.390(1) as these statutes allow the department to establish bag limits, season structure, etc. for the taking of wild deer.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes the manner in which deer may be taken in Kentucky and therefore assists in the effective administration of the abovementioned 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: Changes the October youth season from two to nine consecutive days.

(b) The necessity of the amendment to this administrative regulation: This amendment allows for an additional 7 days of firearm deer hunting statewide.

(c) How the amendment conforms to the content of the authorizing statutes: Conforms to KRS 150.025(1), 150.170, 150.175, 150.390(1) as these statutes allow the department to establish bag limits, season structure, etc. for the taking of wild deer.

(d) How the amendment will assist in the effective administration of the statutes: An additional 7 days of firearm harvest will help slow increasing deer populations through increased take.

(3) List the type and number of individuals, businesses, organizations, or state and local governments 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: No additional actions required.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost to participate.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Additional hunting opportunities and a reduction in deer density.

(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 recurring cost

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Fish and Game funds

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

funding are required

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

(9) TIERING: Is tiering applied? No, tiering is not applied because all youth hunters across Kentucky will have an equal opportunity to participate in this expanded season.

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(1), 150.170, 150.175, 150.390(1)

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Promulgating agency is Kentucky Department of Fish and Wildlife Resources

(a) Estimate the following for the first year:

Expenditures: No expenditures required

Revenues: No increased revenue

Cost Savings: No cost savings

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will not be differences in subsequent years

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): No local entities to be impacted by this amendment.

(a) Estimate the following for the first year:

Expenditures: No expenditures required

Revenues: No increased revenue

Cost Savings: No cost savings

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will not be differences in subsequent years

(4) Identify additional regulated entities not listed in questions (2) or (3): There are no other regulated entities impacted by this amendment

(a) Estimate the following for the first year:

Expenditures: No expenditures required

Revenues: No increased revenue

Cost Savings: No cost savings

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will not be any differences in subsequent years

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: There is not anticipated fiscal impact associated with this amendment

(b) Methodology and resources used to determine the fiscal impact: No additional funds/ fees are implemented by this amendment

(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 won't be any quantifiable economic impact

(b) The methodology and resources used to reach this conclusion: No additional funds/ fees are implemented by this amendment.

**TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(Amendment)**

301 KAR 2:300. Black bear seasons and requirements.

RELATES TO: KRS 150.010, 150.092, 150.170, 150.175, 150.990

STATUTORY AUTHORITY: KRS 150.025(1), 150.390(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits and methods of take, and to make these requirements apply to a limited area. KRS 150.390(1) prohibits the taking of bears in any manner contrary to any provisions of KRS Chapter 150 or KAR Title 301. This administrative regulation establishes bear hunting and chasing seasons, bear hunting areas, legal methods of take, and permitting, checking, and recording requirements.

Section 1. Definitions.

(1) "Adult" means an individual who is at least eighteen (18) years of age.

(2) "Archery equipment" means a long bow, recurve bow, or compound bow incapable of holding an arrow at full or partial draw without aid from the archer.

(3) "Arrow" means the projectile fired from a bow or crossbow.

(4) "Baited area" means an area where feed, grains, or other substances capable of luring black bears have been placed.

(5) "Bear" means the species *Ursus americanus*.

(6) "Bear chase permit" means a permit, which in conjunction with appropriate licenses, seasons, and methods, allows the holder to use dogs to chase a bear.

(7) "Bear permit" means a permit, which in conjunction with appropriate licenses, seasons, and methods, allows the holder to harvest one (1) black bear of either sex.

(8) "Bear Zone 1" means Bell, Harlan, Letcher, and McCreary Counties.

(9) "Bear Zone 2" means Adair, Bath, Boyd, Breathitt, Carter, Casey, Clark, Clay, ~~Clinton,~~ Cumberland, Elliot, Estill, Fleming, Floyd, Garrard, Greenup, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Lewis, Lincoln, Madison, Magoffin, Martin, Menifee, Montgomery, Morgan, Owsley, Perry, Pike, Powell, Pulaski, Rockcastle, Rowan, Russell, ~~Wayne,~~ Whitley, and Wolfe Counties.

(10) "Bear Zone 3" means Clinton and Wayne Counties.

~~(11)(140)~~ "Chase-only season" means a designated season when a person may use dogs to chase a bear, without killing or intentionally injuring a bear.

~~(12)(141)~~ "Combination bear permit" means a permit, which in conjunction with appropriate licenses, seasons, and methods, allows the holder to harvest one (1) black bear of either sex and to use dogs to chase a bear.

~~(13)(142)~~ "Crossbow" means a bow designed or fitted with a device to hold an arrow at full or partial draw without aid from the archer.

~~(14)(143)~~ "Firearm" means a breech- or muzzle-loading rifle, shotgun, or handgun.

~~(15)(144)~~ "License year" means the period from March 1 through the last day of February.

~~(16)(145)~~ "Modern gun" means a rifle, handgun, or shotgun loaded from the rear of the barrel.

~~(17)(146)~~ "Muzzleloader" means a rifle, shotgun, or handgun loaded from the discharging end of the barrel or discharging end of the receiver.

~~(18)(147)~~ "Youth" means a person under the age of sixteen (16) on the day of the hunt.

~~(19)(148)~~ "Youth bear chase permit" means a permit, which in conjunction with appropriate licenses, seasons, and methods, allows a youth to use dogs to chase a bear.

Section 2. Feeding Black Bears. A person shall not engage in any direct or indirect feeding of black bears.

Section 3. Bear Chase Requirements.

(1) Unless exempted by KRS 150.170, a person, while using dogs to chase a bear, shall carry on his or her person any valid annual Kentucky hunting license and a valid:

- (a) Bear chase permit;
- (b) Youth bear chase permit; or
- (c) Combination bear permit.

(2) A person shall not:

(a) Kill or intentionally injure a bear during a chase-only season;

(b) Chase a bear except during daylight hours while a chase season is open;

(c) Chase a bear from a baited area:

- 1. While bait is present; or
- 2. For thirty (30) days after the bait has been removed; or
- (d) Disturb a bear in a den.

(3) A person shall only use a dog to chase a bear on public hunting areas, or on private land with permission of the landowner, in all bear zones, except that it shall be prohibited to chase bears

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with dogs in the areas established in paragraphs (a) through (g) of this subsection:

- (a) Daniel Boone National Forest;
- (b) Miller-Welch Central Kentucky Wildlife Management Area;
- (c) Beaver Creek Wildlife Management Area;
- (d) Cane Creek Wildlife Management Area;
- (e) Mill Creek Wildlife Management Area;
- (f) Pioneer Weapons Wildlife Management Area; and
- (g) Redbird Wildlife Management Area.

Section 4. Chasing Bears with Dogs. A person shall not use a dog to chase a bear except during the seasons established in subsections (1) and (2) of this section.

(1) The chase-only season shall be from:

- (a) June 1 through August 31; and
- (b) September 9 through September 30; and

(2) The bear hunt with dogs season shall be pursuant to Section 8(1) of this administrative regulation and shall also be open as a chase-only season.

Section 5. Bear Permit Requirements.

(1) Unless exempted by KRS 150.170, a person hunting a bear during the archery, crossbow, or modern gun seasons shall carry on his or her person a valid annual Kentucky hunting license and a valid bear permit or combination bear permit while hunting.

(2) Unless exempted by KRS 150.170, during the bear hunt with dogs season:

(a) A person attempting to harvest a bear shall carry on his or her person a valid annual Kentucky hunting license and either a valid:

1. Bear permit and bear chase permit; or
2. Combination bear permit; and

(b) A person in a bear hunt or bear chase party who does not intend to harvest a bear shall carry on his or her person a valid annual Kentucky hunting license and either a valid:

1. Bear chase permit; or
2. Combination bear permit.

(3) Unless exempted by KRS 150.170, during a bear chase season, a person in a hunt party engaged in the pursuit of bear with the use of dogs shall carry on his or her person any valid annual Kentucky hunting license and either a valid:

- (a) Bear chase permit; or
- (b) Combination bear permit.

Section 6. Hunter Restrictions.

(1) A person shall not:

(a) Harvest a bear except during daylight hours;

(b) Use a dog during the modern gun, muzzleloader, or archery and crossbow season to hunt bear, except leashed tracking dogs may be used to recover a wounded or dead bear;

(c) Hunt bear on a baited area:

1. While bait is present; or
2. For thirty (30) days after the bait has been removed;

(d) Harvest:

1. A female bear that has a cub; or
2. A bear that weighs less than seventy-five (75) pounds;

(e) Harvest a bear that is swimming;

(f) Harvest a bear if the person is in a vehicle, boat, or on horseback, except that a hunter in possession of a disability hunting methods exemption permit issued by the department as established in 301 KAR 3:027 may use a stationary vehicle as a hunting platform;

(g) Harvest a bear in a den;

(h) Disturb a bear in a den for the purpose of taking the bear if the bear exits the den; or

(i) Use radio telemetry equipment to locate a bear that is equipped with a radio-tracking collar.

(2) An adult shall accompany and maintain control of a youth who is hunting bear with a firearm.

Section 7. Equipment Restrictions.

(1) A person shall only use the equipment and ammunition established in paragraphs (a) through (e) of this subsection to take a bear:

(a) A crossbow or archery equipment loaded with a broadhead of seven-eighths (7/8) inch or wider upon expansion;

(b) A modern rifle:

1. With an action that fires a single round of ammunition upon each manipulation of the trigger;

2. Loaded with:

a. Bullets of .264 caliber (6.5 mm) or larger; and

b. Centerfire, single projectile ammunition designed to expand upon impact;

(c) A muzzleloader of .45 caliber or larger;

(d) A shotgun of twenty (20) gauge or larger loaded with a shell containing a slug or a slug with a sabot; or

(e) A handgun loaded with:

1. Centerfire cartridges;

2. Bullets of .264 caliber (6.5 mm) designed to expand upon impact; and

3. Cartridges with a case length of 1.285 inches or larger.

(2) A crossbow shall contain a working safety device.

(3) A bear hunter using a modern gun shall not use a magazine capable of holding more than ten (10) rounds.

(4) A bear hunter may use archery, crossbow, or muzzleloader equipment to take a bear during bear modern gun season.

Section 8. Bear Season Dates and Bag Limits.

(1) A legal bear hunter shall only kill a bear in the open bear zones during the seasons established in paragraphs (a) through (f) of this subsection:

(a) The archery and crossbow season for bears in Bear Zone 1 shall be for three (3) consecutive days beginning on the fourth Saturday in October;

(b) The archery and crossbow season for bears in Bear Zone 2 shall be for five (5) consecutive days beginning on the fourth Saturday in October;

(c) The archery and crossbow season for bears in Bear Zone 3 shall be for fourteen (14) consecutive days beginning the third Saturday in September, and five (5) consecutive days beginning on the fourth Saturday in October;

~~(d)(e)~~ The modern gun season for bears in Bear Zone 1 shall be for three (3) consecutive days beginning on the second Saturday in December;

~~(e)(f)~~ The modern gun season for bears in Bear Zone 2 and Bear Zone 3 shall be for five (5) consecutive days beginning on the second Saturday in December;

~~(f)(g)~~ The bear hunt with dogs season in Bear Zone 1 shall be for five (5) consecutive days beginning on the Monday prior to the fourth Saturday in October; and

~~(g)(h)~~ The bear hunt with dogs season in Bear Zone 2 and Bear Zone 3 shall be for five (5) consecutive days beginning on the Monday prior to the fourth Saturday in October and for nine (9) consecutive days beginning the Thursday following the fourth Saturday in October.

(2) A person shall not harvest more than one (1) bear in a license year.

Section 9. Bear Hunt with Dogs Requirements.

(1) A person shall only harvest a bear using legal equipment with the use of unleashed dogs that are actively pursuing, chasing, baying, or treeing a bear prior to harvest.

(2) A dog used to harvest bears shall be a purebred or a crossbreed of the recognized dog breeds established in paragraphs (a) through (l) of this subsection.

(a) Airedale;

(b) American black and tan coonhound;

(c) Black mouth cur;

(d) Bluetick coonhound;

(e) English coonhound;

(f) Leopard cur;

(g) Majestic tree hound;

(h) Mathis;

(i) Mountain cur;

(j) Plott hound;

(k) Redbone coonhound; ~~or~~

(l) Siberian Laika; or

(m)[(4)] Treeing walker coonhound.

Section 10. Hunter Orange Clothing Requirements.

(1) During any modern gun or muzzleloader season for bears, a person hunting any species, and any person accompanying a hunter, shall display solid, unbroken hunter orange visible from all sides on the head, back, and chest, except these requirements shall not apply to a person hunting:

- (a) Waterfowl; or
- (b) Furbearers at night during a legal furbearer season.

(2) The hunter orange portions of a garment worn to fulfill the requirements of this section:

- (a) May display a small section of another color; and
- (b) Shall not have mesh weave openings exceeding one-fourth (1/4) inch by any measurement.

Section 11. Bear Reserves. The areas established in subsections (1) through (3) of this section shall be closed to all bear hunting and bear chase with dogs.

- (1) Cumberland Gap National Historical Park;
- (2) Hensley-Pine Mountain Wildlife Management Area; and
- (3) Big South Fork National River and Recreation Area.

Section 12. Harvest Recording and Check-in Requirements.

(1) Immediately after harvesting a bear, and before moving the carcass, a person shall record on a hunter's log the:

- (a) Species taken;
- (b) Date taken;
- (c) County where taken; and
- (d) Sex of the bear.

(2) A person who has harvested a bear shall:

- (a) Retain a completed hunter's log;

(b) Telecheck the bear by 8 p.m. Eastern Standard Time the day the bear was harvested by:

- 1. Calling 800-245-4263 and completing the telecheck process or checking the bear on the department's Web site at fw.ky.gov; and
- 2. Recording the confirmation number on the hunter's log;
- (c) Arrange for department personnel to inspect the bear by:

1. Calling the department at 800-858-1549 within twenty-four (24) hours of harvest and prior to removing the harvested bear from the Bear Zone; and

2. Presenting to department personnel the bear carcass or an intact hide that contains the skull and proof of sex by including the attached:

- a. Testicles, scrotum, or penis for a male bear; or
- b. Udder or vulva for a female bear; and

(d) Attach to the carcass a department issued tag after having the bear inspected by department personnel.

RICH STORM, Commissioner

APPROVED BY AGENCY: December 12, 2024

FILED WITH LRC: December 12, 2024 at 2:22 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 27, 2025 at 11:00 a.m., at the KDFWR Administrative 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 February 28, 2025. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jenny Gilbert, Legislative Liaison, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman's Lane, (502) 564-3400, fax: (502) 564-0506, email: fwpubliccomments@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jenny Gilbert

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes black bear chase and hunt seasons, chase and hunt requirements, bag limits, and legal methods of take.

(b) The necessity of this administrative regulation: To establish bear hunting season requirements and methods of take to provide reasonable hunting and chasing opportunity, while properly managing bear populations in Kentucky.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025(1) authorizes the Department of Fish and Wildlife Resources to promulgate administrative regulations to establish open seasons for the taking of wildlife, regulate bag limits, and to make these requirements apply to a limited area. KRS 150.390(1) prohibits the taking of bears in any manner contrary to any provisions of Chapter 150 or its regulations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in administering the above statutes by defining the seasons, bag limits, and methods of chase and take used to manage black bears 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 will establish a 14-day hunting season in Clinton and Wayne Counties as well as add the Siberian Laika to the list of approved dogs to be used during bear chase and the hunt with dogs seasons.

(b) The necessity of the amendment to this administrative regulation: The 14-day season addition in Clinton and Wayne Counties is necessary to attempt to reduce the level of crop depredation in the area.

(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: There were approximately 1500 bear hunters taking part in the 2023 bear season.

(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: Archery hunters will have more opportunity to bear hunt in Clinton and Wayne Counties. Dog hunters will have the ability to use an additional and popular breed of dog when chasing and hunting bears.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Fees were not raised or altered with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): More opportunity will be available for bear hunting.

(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: The source of funding is the State Game and Fish Fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increases 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: None.

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(9) TIERING: Is tiering applied? Tiering was not used because all persons who hunt bears area required to abide by the same requirements.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. The Kentucky Department of Fish and Wildlife Resources' Divisions of Wildlife and Law Enforcement will be impacted by this amendment.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: KDFWR Division of Administrative Services will be impacted by this amendment.

(a) Estimate the following for the first year:

Expenditures: No increase.

Revenues: No increase.

Cost Savings: None.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? This will not differ 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: No change.

Revenues: No change.

Cost Savings: No change.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? This will not differ in subsequent years.

(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: No fiscal impact will be noted.

(b) Methodology and resources used to determine the fiscal impact: The changes to the administrative regulation will not change how this regulation is enforced and will not lead to an increase in fees, expenditures or revenue.

(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: The changes to the administrative regulation will not change how this regulation is enforced and will not lead to an increase in fees, expenditures or revenue.

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(Amendment)

301 KAR 5:022. License, tag, and permit fees.

RELATES TO: KRS 150.025, 150.180, 150.183, 150.240, 150.275, 150.280, 150.290, 150.450, 150.485, 150.520, 150.525, 150.600, 150.603, 150.660, 150.720

STATUTORY AUTHORITY: KRS 150.175, 150.195(4)(f), 150.225, 150.620

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.175 authorizes the types of licenses, permits, and tags. KRS 150.195(4)(f) requires the Department of Fish and Wildlife Resources to promulgate an administrative regulation establishing the license and permit terms and the expiration date of licenses and permits. KRS 150.225 requires the department to promulgate administrative regulations establishing reasonable license fees relating to hunting, fishing, and trapping. KRS 150.620 authorizes the department to charge reasonable fees for the use of lands and

waters it has acquired for wildlife management and public recreation. This administrative regulation establishes fees and terms for licenses, permits, and tags.

Section 1. Licenses, tags, and permits listed in this section shall be valid from March 1 through the last day of February the following year, except the senior lifetime sportsman's license shall be valid for the life of the license holder while the license holder maintains Kentucky residency.

(1) Sport fishing licenses:

(a) Statewide annual fishing license (resident): twenty-three (23) dollars;

(b) Statewide annual fishing license (nonresident): fifty-five (55) dollars;

(c) Joint married couple statewide fishing license (resident): forty-two (42) dollars;

(d) Statewide three (3) year fishing license (resident): fifty-five (55) dollars; and

(e) Trout permit: ten (10) dollars.

(2) Commercial fishing licenses:

(a) Commercial fishing license (resident), plus ten (10) resident commercial gear tags: \$150;

(b) Commercial fishing license (nonresident), plus ten (10) nonresident commercial gear tags: \$600; and

(c) Commercial fishing license for Asian carp and scaled rough fish (nonresident), plus ten (10) nonresident gear tags: \$150.

(3) Commercial fishing gear tags (shall not be sold singly):

(a) Commercial fishing gear tags (resident) block of ten (10) tags: fifteen (15) dollars;

(b) Commercial fishing gear tags (nonresident) block of ten (10) tags: \$100; and

(c) Commercial fishing gear tags for Asian carp and scaled rough fish (nonresident), block of ten (10) tags: fifteen (15) dollars.

(4) Hunting licenses:

(a) Statewide hunting license (resident): twenty-seven (27) dollars;

(b) Statewide hunting license (nonresident): \$160;

(c) Statewide youth hunting license (resident): six (6) dollars;

(d) Statewide youth hunting license (nonresident): ten (10) dollars;

(e) Shooting preserve hunting license: five (5) dollars; and

(f) Migratory bird and waterfowl permit: fifteen (15) dollars.

(5) Combination hunting and fishing license (resident): forty-two (42) dollars.

(6) Sportsman's licenses:

(a) Sportsman's license (resident), which includes a resident hunting and fishing license, spring turkey permit, fall turkey permit, trout permit, state migratory bird and waterfowl permit, and statewide deer permit: ninety-five (95) dollars;

(b) Youth sportsman's license (resident), which may be issued to a person before he or she has reached his or her sixteenth birthday and for which the privileges remain valid through the end of the applicable license year, and which includes a statewide hunting license, a statewide deer permit, a spring turkey permit, fall turkey permit, migratory game bird and waterfowl permit, statewide annual fishing license, and a Ballard WMA waterfowl hunt permit valid for all days the license holder lawfully waterfowl hunts at Ballard WMA: thirty (30) dollars;

(c) Senior sportsman's licenses, which include a resident hunting and fishing license, spring turkey permit, fall turkey permit, trout permit, state migratory bird and waterfowl permit, and statewide deer permit. Senior licenses shall not be valid unless the holder carries proof of their Kentucky residency and proof of age on the holder's person while performing an act authorized by the license:

1. Annual senior sportsman's license (resident): twelve (12) dollars; and

2. Senior lifetime sportsman's license (resident): \$180;

(d) Disabled sportsman's license (resident), which includes a resident hunting and fishing license, spring turkey permit, fall turkey permit, trout permit, state migratory bird, waterfowl permit, and statewide deer permit: twelve (12) dollars.

(7) Trapping licenses:

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- (a) Trapping license (resident): twenty (20) dollars;
- (b) Trapping license (resident landowner – tenant): ten (10) dollars;
- (c) Trapping license (nonresident): \$130; and
- (d) Youth trapping license (resident): five (5) dollars.
- (8) Game permits:
 - (a) Bear permit (resident): thirty (30) dollars;
 - (b) Youth bear permit (resident): ten (10) dollars;
 - (c) Bear chase permit (resident): thirty (30) dollars;
 - (d) Youth bear chase permit (resident): ten (10) dollars;
 - (e) Combination bear permit (resident), which includes a bear permit and a bear chase permit: fifty (50) dollars;
 - (f) Bear permit (nonresident): \$250;
 - (g) Youth bear permit (nonresident): \$100;
 - (h) Bear chase permit (nonresident): fifty (50) dollars;
 - (i) Youth bear chase permit (nonresident): fifteen (15) dollars;
 - (j) Quota cow elk permit (resident): sixty (60) dollars;
 - (k) Quota cow elk permit (nonresident): \$400;
 - (l) Quota bull elk permit (resident): \$100;
 - (m) Quota bull elk permit (nonresident): \$550;
 - (n) Quota either sex archery and crossbow elk permit (resident): \$100;
 - (o) Quota either sex archery and crossbow elk permit (nonresident): \$550.
 - (p) Out-of-zone elk permit (resident): thirty (30) dollars;
 - (q) Out-of-zone elk permit (nonresident): \$400;
 - (r) Statewide deer permit (resident): thirty-five (35) dollars;
 - (s) Statewide deer permit (nonresident): \$235;
 - (t) Statewide youth deer permit (resident), valid for taking four (4) deer: ten (10) dollars;
 - (u) Statewide youth deer permit (nonresident), valid for taking four (4) deer: fifteen (15) dollars;
 - (v) Additional deer permit: fifteen (15) dollars;
 - (w) Spring turkey permit (resident): thirty (30) dollars;
 - (x) Spring turkey permit (nonresident): \$110;
 - (y) Fall turkey permit (resident): thirty (30) dollars;
 - (z) Fall turkey permit (nonresident): \$110;
 - (aa) Youth turkey permit (resident), valid for taking one (1) wild turkey during spring or fall seasons: ten (10) dollars;
 - (bb) Youth turkey permit (nonresident), valid for taking one (1) wild turkey during spring or fall seasons: fifteen (15) dollars;
 - (cc) Quota youth elk permit (resident): thirty (30) dollars; and
 - (dd) Quota youth elk permit (nonresident): \$200.
- (9) Peabody WMA user permit: fifteen (15) dollars.
- (10) Land Between the Lakes hunting permit: as stated at landbetweentheakes.us.
- (11) Conservation permit: five (5) dollars.
- (12) Bobcat hunting permit: Free.
- (13) Commercial guide licenses:
 - (a) Commercial guide license (resident): \$150; and
 - (b) Commercial guide license (nonresident): \$400.
- (14) Experimental commercial fishing methods program permits:
 - (a) Tier I experimental commercial fishing methods program permit (resident): \$800;
 - (b) Tier I experimental commercial fishing methods program permit (nonresident): \$1,600;
 - (c) Tier II experimental commercial fishing methods program permit (resident): \$1,200; and
 - (d) Tier II experimental commercial fishing methods program permit (nonresident): \$2,400.

Section 2. Licenses, tags, and permits listed in this section shall be valid for the calendar year issued.

- (1) Live fish and bait dealer's licenses:
 - (a) Live fish and bait dealer's license (resident): fifty (50) dollars; and
 - (b) Live fish and bait dealer's license (nonresident): \$150.
- (2) Commercial taxidermist license: \$150.
- (3) Shooting area permit: \$150.
- (4) Dog training area permit: fifty (50) dollars.
- (5) Collecting permits:
 - (a) Educational wildlife collecting permit: twenty-five (25) dollars; and

- (b) Scientific wildlife collecting permit: \$100.
- (6) Nuisance wildlife control operator's permit: \$100.
- (7) Pay lake license:
 - (a) Pay lakes obtaining all fish from private hatcheries only:
 - 1. Lakes with two (2) acres or less: \$250; and
 - 2. Each additional acre or part of an acre: Fifty (50) dollars; and
 - (b) Pay lakes obtaining all or a portion of catfish from public waters:
 - 1. Lakes with two (2) acres or less: \$600; and
 - 2. Each additional acre or part of an acre: fifty (50) dollars.
 - (8) Commercial captive wildlife permit: \$150.
 - (9) Commercial fish propagation permit: fifty (50) dollars.
 - (10) Wildlife rehabilitator's permit: twenty-five (25) dollars.
 - (11) Annual wildlife transportation permit: \$250.
 - (12) Peabody Wildlife Management Area annual event permit: \$250.

Section 3. Licenses, tags, and permits listed in this section shall be valid for three (3) years from the date of issue.

- (1) Falconry permit: seventy-five (75) dollars.
- (2) Noncommercial captive wildlife permit: seventy-five (75) dollars.

Section 4. Licenses, tags, and permits listed in this section shall be valid for the date or dates specified on each.

- (1) Short-term licenses:
 - (a) One (1) day fishing license (resident): seven (7) dollars;
 - (b) One (1) day fishing license (nonresident): fifteen (15) dollars;
 - (c) Seven (7) day fishing license (nonresident): thirty-five (35) dollars;
 - (d) One (1) day hunting license (resident) (not valid for deer, elk, bear, or turkey hunting): seven (7) dollars;
 - (e) One (1) day hunting license (nonresident) (not valid for deer, elk, bear, or turkey hunting): twenty-five (25) dollars; and
 - (f) Seven (7) day hunting license (nonresident) (not valid for deer, elk, bear, or turkey hunting): sixty-five (65) dollars.
- (2) Individual wildlife transportation permit: twenty-five (25) dollars.
- (3) Special resident commercial fishing permit: \$600.
- (4) Special nonresident commercial fishing permit: \$900.
- (5) Commercial waterfowl shooting area permit: \$150.
- (6) Shoot-to-retrieve field trial permits:
 - (a) Per trial (maximum four (4) days): seventy-five (75) dollars; and
 - (b) Single day: twenty-five (25) dollars.
- (7) Boat dock permit: \$100 per ten (10) year permit period beginning January 1, 2008, except that the fee shall be pro-rated for the number of years remaining in the ten (10) year period.
- (8) Shoreline use permit: Valid for a fifteen (15) year permit period beginning January 1, 2010, pro-rated to the nearest five (5) year interval remaining in the fifteen (15) year period, and containing three (3) tiers, including:
 - (a) Tier I: \$100;
 - (b) Tier II: \$200; and
 - (c) Tier III: \$300.
- (9) Peabody individual event permit: twenty-five (25) dollars.
- (10) Commercial roe-bearing fish buyer's permit:
 - (a) Commercial roe-bearing fish buyer's permit (resident): \$500; and
 - (b) Commercial roe-bearing fish buyer's permit (nonresident): \$1,000.
- (11) Commercial roe-bearing fish harvester's permit:
 - (a) Commercial roe-bearing fish harvester's permit (resident): \$500; and
 - (b) Commercial roe-bearing fish harvester's permit (nonresident): \$1,500.
- (12) Otter Creek Outdoor Recreation Area:
 - (a) Daily Entry Permit: three (3) dollars, with children under twelve (12) free; and
 - (b) Daily Special Activities Permit: seven (7) dollars.
- (13) Commercial foxhound training enclosure permit: \$150.
- (14) Noncommercial foxhound training enclosure permit: twenty-five (25) dollars.

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~~(15)~~[(44)] Fish transportation permit: twenty-five (25) dollars.

Section 5. Licenses, tags, and permits listed in this section shall be valid on a per-unit basis as specified.

- (1) Ballard WMA waterfowl hunt permit (per person, per day; youths under age sixteen (16) exempted): fifteen (15) dollars.
- (2) Pheasant hunt permit (per person, per day): twenty-five (25) dollars.
- (3) Horse stall rental (per space, per day): two (2) dollars.
- (4) Dog kennel rental (per dog, per day): fifty (50) cents.
- (5) Captive cervid permit (per facility, per year): \$150.
- (6) Noncommercial captive cervid permit (per facility, per three (3) years): seventy-five (75) dollars.

Section 6. The following licenses listed in this section shall be valid from April 1 through March 31 of the following year:

- (1) Fur processor's license (resident): \$150;
- (2) Fur buyer's license (resident): fifty (50) dollars; and
- (3) Fur buyer's license (nonresident): \$300.

Section 7. The following Otter Creek Outdoor Recreation Area permits shall be valid from July 1 through June 30 of the following year:

- (1) Annual Entry Permit: thirty (30) dollars, with children under twelve (12) free; and
- (2) Annual Special Activities Permit: seventy (70) dollars.

Section 8. The following non-refundable application fees listed in this section shall be valid for the application to hunt in a department administered quota hunt or for a chance to be drawn for permits as specified.

- (1) Pheasant quota hunt application fee: three (3) dollars.
- (2) Antlered elk firearms quota hunt application fee: ten (10) dollars.
- (3) Antlerless elk firearms quota hunt application fee: ten (10) dollars.
- (4) Either-sex elk archery and crossbow quota hunt application fee: ten (10) dollars.
- (5) Youth quota elk hunt application fee: ten (10) dollars.
- (6) Deer quota hunt application fee: three (3) dollars.
- (7) Waterfowl quota hunt application fee: three (3) dollars.
- (8) Sandhill crane quota hunt application fee: three (3) dollars.
- (9) Elk hunt sweepstakes and premium combination big game permit application fee:
 - (a) Five (5) dollars for residents and ten (10) dollars for one (1) application;
 - (b) Ten (10) dollars for residents and twenty (20) dollars for nonresidents per bundle of three (3) applications; and
 - (c) Twenty-five (25) dollars for residents and fifty (50) dollars for nonresidents per bundle of ten (10) applications.
- (10) Standard combination big game permit application fee:
 - (a) Three (3) dollars for residents and six (6) dollars for nonresidents for one (1) application;
 - (b) Eight (8) dollars for residents and sixteen (16) dollars for nonresidents per bundle of three (3) applications; and
 - (c) Twenty (20) dollars for residents and forty (40) dollars for nonresidents per bundle of ten (10) applications.

RICH STORM, Commissioner

APPROVED BY AGENCY: December 12, 2024

FILED WITH LRC: December 12, 2024 at 2:22 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 27, 2025, at 10:30 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 February 28, 2025. Send written notification of intent

to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jenny Gilbert, Legislative Liaison, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman's Lane, (502) 564-3400, fax: (502) 564-0506, email: fwpubliccomments@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jenny Gilbert

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes fees and terms for licenses, permits, and tags sold by the Department of Fish and Wildlife Resources.

(b) The necessity of this administrative regulation: This administrative regulation is necessary for the department to establish reasonable license fees, permit terms, and the expiration dates of licenses and permits.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.175 authorizes the types of licenses, permits, and tags that the department can issue. KRS 150.195(4)(f) requires the department to promulgate an administrative regulation establishing the license and permit terms and the expiration date of licenses and permits. KRS 150.225 requires the Department to prescribe reasonable fees for licenses, permits, and registrations authorized by Chapter 150. KRS 150.620 authorizes the department to charge reasonable fees for the use of lands and waters it has acquired for wildlife management and public recreation.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation fulfills the requirements and purposes of the statutes identified in (1)(c) by establishing reasonable fees and terms for licenses, permits, and tags issued by 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 amendment creates a noncommercial foxhound training enclosure permit to allow operation of foxhound enclosures of 40 to 200 acres.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to create the new noncommercial foxhound training enclosure permit. These smaller enclosures were previously permitted under 301 KAR 2:081, however, they are being moved to 301 KAR 2:041 with other foxhound training enclosure regulations.

(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: Those who wish to operate foxhound training enclosures of 40 to 200 acres will be able to obtain a noncommercial foxhound training permit to do so legally.

(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: Purchasers of the above permit will be allowed to operate foxhound training enclosures of 40 to 200 acres.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The annual fee for a noncommercial foxhound training enclosure permit is \$25.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): People may operate foxhound training enclosures of 40 to 200 acres.

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

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

(b) On a continuing basis: There will be no additional cost to the department on a continuing basis beyond routine permit application review, issuance of permits, and enforcement.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding is the State Game and Fish Fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This amendment establishes a new \$25 annual permit but removes the previous requirement of a \$75 dollar permit required every three years.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This amendment establishes a new \$25 annual permit but removes the previous requirement of a \$75 dollar permit required every three years.

(9) TIERING: Is tiering applied? No. Tiering is not applied because every eligible person will have to pay the same price for each particular permit issued.

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 150.175, 150.195, 150.225, and 150.620.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: KDFWR will be impacted by this amendment.

(a) Estimate the following for the first year:

Expenditures: There should be no additional expenditures for the first year.

Revenues: Revenues should remain static as the requirement of a \$75 permit every three years was eliminated and replaced with the requirement of a \$25 permit annually.

Cost Savings: There should not be any cost savings for the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Subsequent years should be roughly equal to the first year in regards to expenditures, revenues, and cost savings.

(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): Foxhound training enclosure operators purchasing the noncommercial foxhound training enclosure permit.

(a) Estimate the following for the first year:

Expenditures: \$25 permit fee

Revenues: This permit is for noncommercial activities only.

Cost Savings: None anticipated, n/a

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Subsequent years should be roughly equal to the first year in regard to expenditures, revenues, and cost savings.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: n/a These enclosures are privately owned and operated. This administrative regulation has minimal fiscal impact.

(b) Methodology and resources used to determine the fiscal impact: There will be no additional costs to administer 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) No negative economic impact anticipated considering the \$25 permit application fee and no substantial increase in time for issuing permits and enforcement.

(b) The methodology and resources used to reach this conclusion: There will be no additional costs to administer this regulation.

EDUCATION AND LABOR CABINET
Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and Health Education and Training
(Amendment)

803 KAR 2:300. General.

RELATES TO: KRS 338.015, 29 C.F.R. 1910.3-1910.7, 1910.9
STATUTORY AUTHORITY: KRS 338.051(3), 338.061

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations and authorizes the chairman of the board to reference federal standards without board approval if necessary to meet federal time requirements. KRS 338.061 authorizes the board to establish, modify, or repeal standards and reference federal standards. 29 C.F.R. 1910.3-1910.7 and 1910.9 establish occupational safety and health standards found to be national consensus standards or established federal standards. This administrative regulation establishes the general standards enforced by the Department of Workplace Standards in general industry.

Section 1. Definitions.

(1) "Act" means KRS Chapter 338.

(2) "Assistant secretary" means Secretary, Education and Labor Cabinet, or Commissioner, Department of Workplace Standards, Education and Labor Cabinet.

(3) "C.F.R." means Code of Federal Regulations.

(4) "Employee" is defined by KRS 338.015(2).

(5) "Employer" is defined by KRS 338.015(1).

(6) "Established federal standard" is defined by KRS 338.015(10).

(7) "National consensus standard" is defined by KRS 338.015(9).

(8) "Secretary of Labor" means Secretary, Education and Labor Cabinet, or Commissioner, Department of Workplace Standards, Education and Labor Cabinet.

(9) "Standard" means "occupational safety and health standard" as defined by KRS 338.015(3).

(10) "U.S. Department of Labor" means U.S. Department of Labor or Kentucky Education and Labor Cabinet, 500 Mero Street, 3rd Floor, Frankfort, Kentucky 40601.

Section 2. Except as modified by the definitions in Section 1 of this administrative regulation, general industry shall comply with the following federal requirements/regulations published by the Office of the Federal Register, National Archives and Records Administration[.]

[(1)] 29 C.F.R. 1910.3-1910.7 and 1910.9[; and]

[(2)] [The revisions to 29 C.F.R. 1910.6 as published in the May 14, 2019 Federal Register, Volume 84, Number 93].

JAMIE LINK, Secretary

APPROVED BY AGENCY: December 12, 2024

FILED WITH LRC: December 12, 2024 at 1:14 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held February 21, 2024 at 10:00 AM EST via Zoom. Public access to the meeting is available at:

<https://us06web.zoom.us/j/86096997465?pwd=RauFklhaJX7JIV39FZ0hz1cc63LD7k.1> or by telephone at (713) 353-0212, (888) 822-7517 toll free, conference code 194378. 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

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comments on the proposed administrative regulation. Written comments shall be accepted through February 28, 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: Robin Maples, OSH Standards Specialist, Education and Labor Cabinet, Mayo-Underwood Building, 500 Mero Street, 3rd Floor, Frankfort, Kentucky 40601, phone (502) 564-4107, fax (502) 564-4769, email robin.maples@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Robin Maples

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation, in Section 1, defines terms not found in the federal standard. Section 2 requires employers in general industry to comply with the requirements of 29 C.F.R. 1910.3-1910.7 and 1910.9.

(b) The necessity of this administrative regulation: This regulation is necessary to meet the requirements established in Public Law 91-596 84 STAT. 1590 Section 18 (OSH Act of 1970), 29 C.F.R. 1902.3(c)(1), 29 C.F.R. 1902.3(d)(1), 29 C.F.R. 1902.3(d)(2), 29 C.F.R. 1902.37(b)(3), 29 C.F.R. 1953.1(a), 29 C.F.R. 1953.1(b), 29 C.F.R. 1953.5(a)(1), 29 C.F.R. 1953.(a)(2), 29 C.F.R. 1956.2(a), and 29 C.F.R. 1956.10(d)(1), which all require Kentucky OSH regulations to be as effective as the federal requirements. This regulation is equivalent.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate OSH administrative regulations and authorizes the chairman to reference federal standards without board approval if necessary to meet federal time requirements. This administrative regulation is necessary to meet the requirements established in Public Law 91-596 84 STAT. 1590, 29 C.F.R. 1902.3(c)(1), 29 C.F.R. 1902.3(d)(1), 29 C.F.R. 1902.3(d)(2), 29 C.F.R. 1902.37(b)(3), 29 C.F.R. 1953.1(a), 29 C.F.R. 1953.1(b), 29 C.F.R. 1953.5(a)(1), 29 C.F.R. 1953.(a)(2), 29 C.F.R. 1956.2(a), and 29 C.F.R. 1956.10(d)(1), which all require the Kentucky OSH Program to be as effective as OSHA. This regulation complies and conforms with the authorizing statutes.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation promotes worker safety and health throughout Kentucky and ensures the state requirement is as effective as the federal requirement. This regulation is necessary to meet the requirements established in Public Law 91-596 84 STAT. 1590 Section 18 (OSH Act of 1970), 29 C.F.R. 1902.3(c)(1), 29 C.F.R. 1902.3(d)(1), 29 C.F.R. 1902.3(d)(2), 29 C.F.R. 1902.37(b)(3), 29 C.F.R. 1953.1(a), 29 C.F.R. 1953.1(b), 29 C.F.R. 1953.5(a)(1), 29 C.F.R. 1953.(a)(2), 29 C.F.R. 1956.2(a), and 29 C.F.R. 1956.10(d)(1), which require Kentucky OSH regulations to be as effective as the federal requirements. This regulation is equivalent.

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

(a) How the amendment will change this existing administrative regulation: It updates the regulation to comport with the Federal Register, Volume 89, Number 98 published May 20, 2024.

(b) The necessity of the amendment to this administrative regulation: Kentucky operates a State Plan approved by OSHA that provides employee OSH protections. OSHA approves, monitors, and provides funding to Kentucky. It is necessary to promulgate this regulation to meet the requirements established in Public Law 91-596 84 STAT. 1590, 29 C.F.R. 1902.3(c)(1), 29 C.F.R. 1902.3(d)(1), 29 C.F.R. 1902.3(d)(2), 29 C.F.R. 1902.37(b)(3), 29 C.F.R. 1953.1(a), 29 C.F.R. 1953.1(b), 29 C.F.R. 1953.5(a)(1), 29 C.F.R. 1953.(a)(2), 29 C.F.R. 1956.2(a), and 29 C.F.R. 1956.10(d)(1), which all require the Kentucky OSH Program to be as effective as OSHA. The Education and Labor Cabinet must promulgate this administrative to ensure the state is at least as effective as the federal requirement. This administrative regulation ensures Kentucky's compliance with the federal mandates, maintains Kentucky's primacy, and retains federal funding.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate OSH administrative regulations and authorizes the chairman to reference federal standards without board approval if necessary to meet federal time requirements. This administrative regulation is necessary to meet the requirements established in Public Law 91-596 84 STAT. 1590 (OSH Act of 1970), 29 C.F.R. 1902.3(c)(1), 29 C.F.R. 1902.3(d)(1), 29 C.F.R. 1902.3(d)(2), 29 C.F.R. 1902.37(b)(3), 29 C.F.R. 1953.1(a), 29 C.F.R. 1953.1(b), 29 C.F.R. 1953.5(a)(1), 29 C.F.R. 1953.(a)(2), 29 C.F.R. 1956.2(a), and 29 C.F.R. 1956.10(d)(1), which all require the Kentucky OSH Program to be as effective as OSHA. This regulation complies and conforms with the authorizing statutes.

(d) How the amendment will assist in the effective administration of the statutes: This amendment maintains consistency with the federal requirements. This amendment promotes employee health and safety throughout Kentucky and keeps the state program consistent with the federal program.

(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 employers in the Commonwealth covered by KRS Chapter 338.

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

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

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no additional cost to the OSH Program to implement this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This administrative regulation promotes worker safety and health throughout Kentucky and ensures the state requirement is as effective as the federal requirement.

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

(a) Initially: There is no cost to the OSH Program to implement this administrative regulation.

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

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state and federal funding.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 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 338.051, KRS 338.061, Public Law 91-596 84 STAT. 1590 Section 18 (OSH Act of 1970), 29 C.F.R. 1902.3(c)(1), 29 C.F.R. 1902.3(d)(1), 29 C.F.R. 1902.3(d)(2), 29 C.F.R. 1902.37(b)(3), 29 C.F.R. 1953.1(a), 29 C.F.R. 1953.1(b), 29 C.F.R. 1953.5(a)(1), 29 C.F.R. 1953.(a)(2), 29 C.F.R. 1956.2(a), and 29 C.F.R. 1956.10(d)(1)

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: This administrative regulation affects any unit, part, or division of state or local government covered by KRS Chapter 338.

(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 does not impose any additional requirements or expenditures.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): This administrative regulation affects any unit, part, or division of state or local government covered by KRS Chapter 338.

(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 does not impose any additional requirements or expenditures.

(4) Identify additional regulated entities not listed in questions (2) or (3):

(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 is not expected to have significant impact on expenditures, revenues, or cost savings in subsequent years.

(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: Federal Register, Volume 89, Number 63, V. Final Economic Analysis and Regulatory Flexibility Act Certification.

(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 imposes no new direct cost burden on employers and does not require them to take any action to comply.

(b) The methodology and resources used to reach this conclusion: Federal Register, Volume 89, Number 63, V. Final Economic Analysis and Regulatory Flexibility Act Certification.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. KRS 338.051, KRS 338.061, Public Law 91-596 84 STAT. 1590 Section 18 (OSH Act of 1970), 29 CFR 1902.3(c)(1), 29 CFR 1902.3(d)(1), 29 CFR 1902.3(d)(2), 29 CFR 1902.3(d)(3), 29 CFR 1902.37(b)(3), 29 CFR 1953.1(a), 29 CFR 1953.1(b), 29 CFR 1953.5(a)(1), 29 CFR 1953.5(a)(2), 29 CFR 1956.2(a), and 29 CFR 1956.10(d)(1).

(2) State compliance standards. The Kentucky OSH Program is mandated to be at least as effective as the federal requirement. Accordingly, in order to maintain the state program as effective as the federal program, Kentucky must adopt the federal requirement or develop an equivalent standard. This regulation is equivalent.

(3) Minimum or uniform standards contained in the federal mandate. Public Law 91-596 84 STAT. 1590 Section 18 (OSH Act of 1970), 29 C.F.R. 1902.3(c)(1), 29 C.F.R. 1902.3(d)(1), 29 C.F.R. 1902.3(d)(2), 29 C.F.R. 1902.37(b)(3), 29 C.F.R. 1953.1(a), 29 C.F.R. 1953.1(b), 29 C.F.R. 1953.5(a)(1), 29 C.F.R. 1953.5(a)(2), 29 C.F.R. 1956.2(a), and 29 C.F.R. 1956.10(d)(1).

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

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.

EDUCATION AND LABOR CABINET
Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and Health Education and Training
(Amendment)

803 KAR 2:320. Toxic and hazardous substances.

RELATES TO: KRS 338.015, 338.031, 29 C.F.R. 1910.134, 1910.141, 1910.1000-1910.1450

STATUTORY AUTHORITY: KRS 338.051(3), 338.061

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations and authorizes the chairman to reference federal standards without board approval if necessary to meet federal time requirements. KRS 338.061 authorizes the board to establish, modify, or repeal standards and reference federal standards. 29 C.F.R. 1910.1000 through 1910.1450 establishes the [establish] federal requirements relating to toxic and hazardous substances. This administrative regulation establishes the toxic and hazardous substances standards enforced by the Department of Workplace Standards in [the area of] general industry.

Section 1. Definitions.

(1) "Absolute filter" means a filter capable of retaining 99.97 percent of a mono disperse aerosol of zero and three-tenths (0.3) mu particles.

(2) "Area director" means Director, Division of Occupational Safety and Health Compliance, Kentucky Education and Labor Cabinet.

(3) "Authorized employee" means an employee whose duties require the employee to be in the regulated area and who has been specifically assigned to that area by the employer.

(4) "Clean change room" means a room where employees put on clean clothing or protective equipment in an environment free of 4,4' Methylene bis (2-chloroaniline).

(5) "Closed system" means an operation involving 4,4'-Methylene bis (2-chloroaniline) if containment prevents the release of 4,4' Methylene bis (2-chloroaniline) into regulated areas, nonregulated areas, or the external environment.

(6) "Decontamination" means the inactivation of 4,4'-Methylene bis (2-chloroaniline) or its safe disposal.

(7) "Director" means the Director, National Institute for Occupational Safety and Health, or any person directed by the director or the Secretary of Health, Education, and Welfare to act for the director.

(8) "Disposal" means the safe removal of 4,4'-Methylene bis (2-chloroaniline) from the work environment.

(9) "Emergency" means an unforeseen circumstance or set of circumstances resulting in the release of 4,4'-Methylene bis (2-chloroaniline) that could result in exposure to or contact with 4,4'-Methylene bis (2-chloroaniline).

(10) "Employee" is defined by KRS 338.015(2).

(11) "Employer" is defined by KRS 338.015(1).

(12) "External environment" means any environment external to regulated and nonregulated areas.

(13) "Isolated system" means a fully enclosed structure, other than the vessel of containment, of 4,4'-Methylene bis (2-chloroaniline), which is impervious to the passage of entry of 4,4'-Methylene bis (2-chloroaniline), and which would prevent the entry of 4,4'-Methylene bis (2-chloroaniline) into regulated areas, or the external environment, if leakage or spillage from the vessel of containment occurs.

(14) "Laboratory type hood" means a device:

(a) Enclosed on three (3) sides with the top and bottom designed

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and maintained to draw air inward at an average linear face velocity of 150 feet per minute with a minimum of 125 feet per minute; and

(b) Designed, constructed, and maintained so that an operation involving 4,4'-Methylene bis (2-chloroaniline) within the hood does not require the insertion of any portion of an employee's body other than hands and arms.

(15) "Nonregulated area" means any area under the control of the employer where entry and exit is neither restricted nor controlled.

(16) "Open vessel system" means an operation involving 4,4'-Methylene bis (2-chloroaniline) in an open vessel, which is not in an isolated system, a laboratory type hood, nor in any other system affording equivalent protection against the entry of 4,4'-Methylene bis (2-chloroaniline) into regulated areas, nonregulated areas, or the external environment.

(17) "Protective clothing" means clothing designed to protect an employee against contact with or exposure to 4,4'-Methylene bis (2-chloroaniline).

(18) "Regulated area" means an area where entry and exit is restricted and controlled.

(19) "Standard" means "occupational safety and health standards" as defined by KRS 338.015(3).

Section 2. 4,4'-Methylene bis (2-Chloroaniline).

(1) Scope and application.

(a) This section shall apply to any area in which 4,4'-Methylene bis (2-chloroaniline), Chemical Abstracts Service Registry Number 101144, is manufactured, processed, repackaged, released, handled, or stored. This section shall not apply to trans-shipment in sealed containers, except for the labeling requirements under subsection (4)(b), (c), and (d) of this section.

(b) This section shall not apply to solid or liquid mixtures containing less than one and zero-tenths (1.0) percent by weight of 4,4'-Methylene bis (2-chloroaniline).

(2) Requirements for areas containing 4,4'-Methylene bis (2-chloroaniline). A regulated area shall be established by an employer where 4,4'-Methylene bis (2-chloroaniline) is manufactured, processed, used, repackaged, released, handled, or stored. Those areas shall be controlled in accordance with the requirements established in paragraphs (a) through (g) of this subsection for the category or categories describing the operations involved.

(a) Isolated systems. Employees working with 4,4'-Methylene bis (2-chloroaniline) within an isolated system such as a "glove box" shall wash their hands and arms upon completion of the assigned task and before engaging in other activities not associated with the isolated system.

(b) Closed system operation. Within regulated areas if 4,4'-Methylene bis (2-chloroaniline) is stored in a sealed container, or contained in a closed system including piping systems, with any sample ports or openings closed while 4,4'-Methylene bis (2-chloroaniline) is contained within:

1. Access shall be restricted to authorized employees only; and
2. Employees shall be required to wash hands, forearms, face, and neck upon each exit from the regulated areas, close to the point of exit and before engaging in other activities.

(c) Open vessel system operations. Open vessel system operations shall be prohibited.

(d) Transfer from a closed system, charging or discharging point operations, or otherwise opening a closed system. In operations involving a "laboratory type hood," or in locations where 4,4'-Methylene bis (2-chloroaniline) is contained in an otherwise "closed system," but is transferred, charged, or discharged into other normally closed containers, the provisions of this paragraph shall apply.

1. Access shall be restricted to authorized employees only.
2. Each operation shall be provided with continuous local exhaust ventilation so that air movement shall always be from ordinary work areas to the operation.

a. Exhaust air shall not be discharged to regulated areas, nonregulated areas, or the external environment unless it is decontaminated.

b. Clean make-up air shall be introduced in sufficient volume to maintain the correct operation of the local exhaust system.

3. Employees shall be provided with, and required to wear, clean, full body protective clothing (smocks, coveralls, or long-sleeved shirt and pants), shoe covers, and gloves prior to entering the regulated area.

4. Employees engaged in 4,4'-Methylene bis (2-chloroaniline) handling operations shall be provided with and required to wear and use a half-face, filter-type respirator for dusts, mists, and fumes, in accordance with 29 C.F.R. 1910.134. A respirator affording a higher level of protection may be substituted.

5. Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day and to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal. The contents of the impervious containers shall be identified, as required under subsection (4)(b), (c), and (d) of this section.

6. Employees shall be required to wash hands, forearms, face, and neck on each exit from the regulated area, close to the point of exit, and before engaging in other activities.

7. Employees shall be required to shower after the last exit of the day.

8. Drinking fountains shall be prohibited in the regulated area.

(e) Maintenance and decontamination activities. In cleanup of leaks or spills, maintenance or repair operations on contaminated systems or equipment, or any operations involving work in an area where direct contact with 4,4'-Methylene bis (2-chloroaniline) could result, each authorized employee entering that area shall be:

1. Provided with and required to wear clean, impervious garments, including gloves, boots, and continuous-air supplied hood in accordance with 29 C.F.R. 1910.134;

2. Decontaminated before removing the protective garments and hood; and

3. Required to shower upon removing the protective garments and hood.

(f) Laboratory activities. The requirements of this paragraph shall apply to research and quality control activities involving the use of 4,4'-Methylene bis (2-chloroaniline).

1. Mechanical pipetting aids shall be used for all pipetting procedures.

2. Experiments, procedures, and equipment that could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

3. Surfaces on which 4,4'-Methylene bis (2-chloroaniline) is handled shall be protected from contamination.

4.

a. Contaminated wastes and animal carcasses shall be collected in impervious containers that are closed and decontaminated prior to removal from the work area.

b. The wastes and carcasses shall be incinerated so that no carcinogenic products are released.

5. All other forms of 4,4'-Methylene bis (2-chloroaniline) shall be inactivated prior to disposal.

6. Employees engaged in animal support activities shall be:

a. Provided with and required to wear, a complete protective clothing change, clean each day, including coveralls or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices;

b. Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day and to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal. The contents of the impervious containers shall be identified as required under subsection (4)(b), (c), and (d) of this section;

c. Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to the point of exit and before engaging in other activities; and

d. Required to shower after the last exit of the day.

7. Employees, except for those engaged in animal support activities, each day shall be:

a. Provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat;

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b. Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day and to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal. The contents of the impervious containers shall be identified as required under subsection (4)(b), (c), and (d) of this section; and

c. Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to the point of exit and before engaging in other activities.

8. Air pressure in laboratory areas and animal rooms where 4,4'-Methylene bis (2-chloroaniline) is handled and bioassay studies are performed shall be negative in relation to the pressure in the surrounding area. Exhaust air shall not be discharged to regulated areas, nonregulated areas, or the external environment unless it is decontaminated.

9. There shall not be a connection between regulated areas and any other areas through the ventilation system.

10. A current inventory of 4,4'-Methylene bis (2-chloroaniline) shall be maintained.

11. Ventilated apparatus such as laboratory type hoods, shall be tested at least semi-annually or immediately after ventilation modification of maintenance operations, by personnel fully qualified to certify correct containment and operation.

(g) Premixed solutions. If 4,4'-Methylene bis (2-chloroaniline) is present only in a single solution at a temperature not exceeding 120 degrees Celsius, the establishment of a regulated area shall not be required, except:

1. Only authorized employees shall be permitted to handle the materials;

2. Each day employees shall be provided with and required to wear a clean change of protective clothing (smocks, coveralls, or long-sleeved shirts and pants), gloves, and other protective garments and equipment necessary to prevent contact with the solution in the process used;

3. Employees shall be required to remove and leave protective clothing and equipment if leaving the work area at the end of the work day or if solution is spilled on the clothing or equipment. Used clothing and equipment shall be placed in impervious containers for decontamination or disposal. The contents of the impervious containers shall be identified, as required under subsection (4)(b), (c), and (d) of this section;

4. Employees shall be required to wash hands and face after removing protective clothing and equipment and before engaging in other activities;

5. Employees assigned to work covered by this paragraph shall be deemed to be working in regulated areas for the purposes of subsection (4)(a), (b), and (c) of this section; and

6. Work areas where solution could be spilled shall be:

- a. Covered daily or after any spill with a clean covering; and
- b. Cleaned thoroughly daily and after any spill.

(3) General regulated area requirements.

(a) Employee identification.

1. A daily roster of employees entering regulated areas shall be established and maintained.

2. The rosters or a summary of the rosters shall be retained for a period of twenty (20) years.

3. The rosters or summaries shall be provided upon request to authorized representatives of the assistant secretary and the director.

4. If the employer ceases business without a successor, rosters shall be forwarded by registered mail to the director.

(b) Emergencies. In an emergency, immediate measures, including the requirements of this paragraph, shall be implemented.

1. The potentially affected area shall be evacuated as soon as the emergency is determined.

2. Hazardous conditions created by the emergency shall be eliminated and the potentially affected area shall be decontaminated prior to the resumption of normal operations.

3.

a. Special medical surveillance by a physician shall be instituted within twenty-four (24) hours for employees present in the potentially affected area at the time of the emergency.

b. A report of the medical surveillance and any treatment shall be included in the incident report, in accordance with subsection (5)(b) of this section.

4. If an employee has a known contact with 4,4'-Methylene bis (2-chloroaniline), the employee shall be required to shower as soon as possible, unless contraindicated by physical injuries.

5. An incident report on the emergency shall be reported as established in subsection (5)(b) of this section.

(c) Hygiene facilities and practices.

1. Storage or consumption of food, storage or use of containers of beverages, storage or consumption of beverages, storage or application of cosmetics, smoking, storage of smoking materials, tobacco products or other products for chewing, or the chewing of those products, shall be prohibited in regulated areas.

2. If employees are required by this section to wash, washing facilities shall be provided in accordance with 29 C.F.R. 1910.141.

3. If employees are required by this section to shower, facilities shall be provided in accordance with 29 C.F.R. 1910.141(d)(3).

4. If employees wear protective clothing and equipment, clean change rooms shall be provided, in accordance with 29 C.F.R. 1910.141(e), for the number of employees required to change clothes.

5. If toilets are located in regulated areas, the toilets shall be in a separate room.

(d) Contamination control.

1. Regulated areas, except for outdoor systems, shall be maintained under pressure negative with respect to nonregulated areas.

a. Local exhaust ventilation may be used to satisfy this requirement.

b. Clean make-up air in equal volume shall replace air removed.

2. Any equipment, material, or other item taken or removed from a regulated area shall be done so in a manner that does not cause contamination in nonregulated areas or the external environment.

3. Decontamination procedures shall be established and implemented to remove 4,4'-Methylene bis (2-chloroaniline) from the surface of materials, equipment, and the decontamination facility.

4. Dry sweeping and dry mopping shall be prohibited.

(4) Signs, information, and training.

(a) Signs.

1. Entrance to regulated areas shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT Authorized Personnel Only

2. Entrances to regulated areas containing operations established in subsection (2)(e) of this section shall be posted with signs bearing the legend:

Cancer-Suspect Agent Exposed In this Area Impervious Suit Including Gloves, Boots, and Air-Supplied Hood Required At All Times Authorized Personnel Only

3. Appropriate signs and instructions shall be posted at the entrance to, and exit from, regulated areas, informing employees of the procedures that shall be followed in entering and leaving a regulated area.

(b) Container labeling. Containers shall be labeled in accordance with the requirements of 29 C.F.R. 1910.1200.

(c) Lettering.

1. Lettering on signs and instructions required by paragraph (a) of this subsection shall be a minimum letter height of two (2) inches.

2. Labels on containers required by paragraph (b) of this subsection shall:

a. Not be less than one-half (1/2) the size of the largest lettering on the package, up to a maximum required size of one (1) inch in height; and

b. Not use less than eight (8) point type.

(d) Prohibited statements. A statement shall not appear on or near any required sign, label, or instruction that contradicts or detracts from the effect of any required warning, information, or instruction.

(e) Training and indoctrination.

1. Each employee, prior to being authorized to enter a regulated area, shall receive a training and indoctrination program including:

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- a. The nature of the carcinogenic hazards of 4,4'-Methylene bis (2-chloroaniline), including local and systemic toxicity;
- b. The specific nature of the operation involving 4,4'-Methylene bis (2-chloroaniline) that could result in exposure;
- c. The purpose for and application of the medical surveillance program, including, as appropriate, methods of self-examination;
- d. The purpose for and application of decontamination practices and procedures;
- e. The purpose for and significance of emergency practices and procedures;
- f. The employee's specific role in emergency procedures;
- g. Specific information to aid the employee in recognition and evaluation of conditions and situations that could result in the release of 4,4'-Methylene bis (2-chloroaniline); and
- h. The purpose for and application of specific first-aid procedures and practices.

2. Each employee shall receive a review of this section at the employee's first training and indoctrination program and annually thereafter.

3. Specific emergency procedures shall be established and posted, and employees shall be familiarized with their terms and rehearsed in their application.

4. All materials relating to the program shall be provided if requested by authorized representatives of the assistant secretary and the director.

(5) Reports.

(a) Operations. Not later than March 1 of each year, the information required by this paragraph shall be reported in writing by the employer to the nearest Area Director. Any change in the reported information shall be reported in writing within fifteen (15) calendar days of the change. The report shall contain:

1. A brief description and in-plant location of the areas regulated and the address of each regulated area;

2. The names and other identifying information as to the presence of 4,4'-Methylene bis (2-chloroaniline) in each regulated area;

3. The number of employees in each regulated area, during normal operations including maintenance activities; and

4. The manner in which 4,4'-Methylene bis (2-chloroaniline) is present in each regulated area, such as whether or not it is manufactured, processed, used, repackaged, released, stored, or otherwise handled.

(b) Incidents. Incidents that result in the release of 4,4'-Methylene bis (2-chloroaniline) into any area where employees may be exposed shall be reported in accordance with this paragraph.

1. A report of the incident and the facts obtainable at that time, including a report on any medical treatment of affected employees, shall be made within twenty-four (24) hours to the nearest Area Director.

2. A written report shall be filed with the nearest Area Director within fifteen (15) calendar days of the initial report and shall include:

a. A specification of the amount of material released, the amount of time involved, and an explanation of the procedure used in determining this figure;

b. A description of the area involved, and the extent of known and possible employee and area contamination;

c. A report of any medical treatment of affected employees and any medical surveillance program implemented; and

d. An analysis of the steps to be taken, with specific completion dates, to avoid further similar release.

(6) Medical surveillance. At no cost to the employee, a program of medical surveillance shall be established and implemented for employees considered for assignment to enter regulated areas, and for authorized employees.

(a) Examinations.

1. Before an employee is assigned to enter a regulated area, a preassignment physical examination by a physician shall be provided. The examination shall include the personal history of the employee, family, and occupational background, including genetic and environmental factors.

2. Authorized employees shall be provided with periodic physical examinations at least annually, following the preassignment examination.

3. In all physical examinations, the examining physician shall consider whether or not there exist conditions of increased risk, including reduced immunological competence, current treatment with steroids of cytotoxic agents, pregnancy, and cigarette smoking.

(b) Records.

1. Employers of employees examined pursuant to this subsection shall maintain complete and accurate records of all medical examinations. Records shall be maintained for at least the duration of the employee's employment. If the employee's employment is terminated, including by retirement or death, or if the employer ceases business without a successor, records, or notarized true copies thereof, shall be forwarded by registered mail to the director.

2. Records required by this paragraph shall be provided if requested by authorized representatives of the assistant secretary or the director. If requested by an employee or former employee, the records shall be provided to a physician designated by the employee or to a new employer.

3. Any physician who conducts a medical examination required by this subsection shall furnish to the employer a statement of the employee's suitability for employment in the specific exposure.

Section 3. Laboratory Activities. The requirements of this section shall apply to research and quality control activities involving the use of chemicals covered by 29 C.F.R. 1910.1003 through 1910.1016.

(1) Mechanical pipetting aids shall be used for all pipetting procedures.

(2) Experiments, procedures, and equipment that could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

(3) Surfaces on which chemicals covered by 29 C.F.R. 1910.1003 through 1910.1016 are handled shall be protected from contamination.

(4) Contaminated wastes and animal carcasses shall be collected in impervious containers that are closed and decontaminated prior to removal from the work area. The wastes and carcasses shall be incinerated so that carcinogenic products shall not be released.

(5) All other forms of chemicals covered by 29 C.F.R. 1910.1003 through 1910.1016 shall be inactivated prior to disposal.

(6) Laboratory vacuum systems shall be protected with high-efficiency scrubbers or with disposal absolute filters.

(7) Employees engaged in animal support activities shall be:

(a) Provided with and required to wear, a complete protective clothing change, clean each day, including coveralls, or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices;

(b)

1. Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal; and

2. The contents of the impervious containers shall be identified as required under Section 2(4)(b), (c), and (d) of this administrative regulation;

(c) Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to point of exit, and before engaging in other activities; and

(d) Required to shower after the last exit of the day.

(8) Employees, except for those engaged only in animal support activities, each day shall be:

(a) Provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat;

(b)

1. Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal; and

2. The contents of the impervious containers shall be identified as required under Section 2(4)(b), (c), and (d) of this administrative regulation; and

(c) Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to point of exit, and before engaging in other activities.

(9) Air pressure in laboratory areas and animal rooms where chemicals covered by 29 C.F.R. 1910.1003 through 1910.1016 are handled and bioassay studies are performed shall be negative in relation to the pressure in surrounding areas. Exhaust air shall not be discharged to regulated areas, nonregulated areas, or the external environment unless it is decontaminated.

(10) There shall not be a connection between regulated areas and any other areas through the ventilation system.

(11) A current inventory of chemicals covered by 29 C.F.R. 1910.1003 through 1910.1016 shall be maintained.

(12) Ventilated apparatus such as laboratory-type hoods shall be tested at least semi-annually or immediately after ventilation modification or maintenance operations, by personnel fully qualified to certify correct containment and operation.

Section 4. Access to Exposure or Medical Records.

(1) The language relating to the access to exposure or medical records in subsection (2) of this section shall apply in lieu of 29 C.F.R. 1910.1020(e)(1)(i).

(2) If an employee or designated representative requests access to an exposure or medical record, the employer shall ensure that access is provided in a reasonable time, place, and manner, but not longer than fifteen (15) days after the request for access is made unless sufficient reason is given why that time is unreasonable or impractical.

(3) The language relating to the access to exposure or medical records in subsection (4) of this section shall apply in lieu of 29 C.F.R. 1910.1020(e)(1)(iii).

(4) If an employee or designated representative requests a copy of a record, the employer shall, except as specified in 29 C.F.R. 1910.1020(e)(1)(v) of this section, within the period of time established in subsection (2) of this section, ensure that either:

(a) A copy of the record shall be provided without cost to the employee or representative;

(b) The necessary mechanical copying facilities (for example, photocopying) shall be made available without cost to the employee or representative for copying the record; or

(c) The record shall be loaned to the employee or representative for a reasonable time to enable a copy to be made.

Section 5.

(1) The language relating to gloves in subsection (2) of this section shall apply in lieu of 29 C.F.R. 1910.1030(d)(3)(ix).

(2) Gloves shall be worn if it can be reasonably anticipated that the employees might have hand contact with blood, other potentially infectious materials, mucous membranes, and nonintact skin if performing vascular access procedures or if handling or touching contaminated items or surfaces.

Section 6. Except as established by Sections 1 through 5 of this administrative regulation, general industry shall comply with 29 C.F.R. Subpart Z, Toxic and Hazardous Substances, published by the Office of the Federal Register, National Archives and Records Administration [Services, General Services Administration and the revisions to 29 C.F.R. 1910.1024 published in the July 14, 2020 Federal Register, Volume 85, Number 135].

JAMIE LINK, Secretary

APPROVED BY AGENCY: November 19, 2024

FILED WITH LRC: November 19, 2024 at 1:40 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held January 31, 2024, 10:00 a.m. EST via Zoom. Public access to the meeting is available at: <https://us06web.zoom.us/j/86096997465?pwd=RauFkIhaJX7JlV39FZ0hz1cc63LD7k.1> or by telephone at (713) 353-0212, (888) 822-7517 toll free, conference code 194378. 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 January 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: Robin Maples, OSH Standards Specialist, Education and Labor Cabinet, Mayo-Underwood Building, 500 Mero Street, Third Floor, Frankfort, Kentucky 40601, phone (502) 564-4107, fax (502) 564-4769, email robin.maples@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Robin Maples

(1) Provide a brief summary of:

(a) What this administrative regulation does: Section 1 of this administrative regulation defines terms not found in the federal standard. Section 2, effective since February 12, 1996, retains requirements for employees with occupational exposure to 4,4'-Methylenebis (2-Chloroaniline). Section 3, also effective since February 12, 1996, retains requirements associated with research and quality control laboratory activities involving the use of the chemicals covered by 29 C.F.R. 1910.1003-1016. Section 4, effective since July 17, 1997, retains requirements related to access to exposure or medical records. Section 5, effective since October 7, 1992, retains requirements involving glove use related to 29 C.F.R. 1910.1030. Section 6 adopts the requirements found in 29 C.F.R. 1910 Subpart Z, Toxic and hazardous substances and OSHA's May 20, 2024 final rule that amended HCS to conform to the United Nations' Globally Harmonized System of Classification and Labelling of Chemicals, addressed issues that arose during the implementation of the 2012 HCS update, and provided better alignment with other U.S. agencies and international trading partners while enhancing the effectiveness of the standard. OSHA determined the revisions in the final rule enhance HCS effectiveness by ensuring employees are appropriately apprised of the chemical hazards to which they may be exposed, thus reducing the incidence of chemical-related occupational illnesses and injuries. The modifications to the standard include revised criteria for classification of certain health and physical hazards, revised provisions for updating labels, new labeling provisions for small containers, new provisions related to trade secrets, technical amendments related to the contents of safety data sheets, and related revisions to definitions of terms used in the standard. Modifications to the standard also include corrections and technical amendments made by OSHA and published in the Federal Register, October 9, 2024. Section 6 also adopts OSHA's October 9, 2024, final rule that corrects several primarily typographical errors in the May 20, 2024, final rule.

(b) The necessity of this administrative regulation: This regulation is necessary to meet the requirements established in Public Law 91-596 84 STAT. 1590 Section 18 (Occupational Safety and Health (OSH) Act of 1970), 29 C.F.R. 1902.3(c)(1), 29 C.F.R. 1902.3(d)(1), 29 C.F.R. 1902.3(d)(2), 29 C.F.R. 1902.37(b)(3), 29 C.F.R. 1953.1(a), 29 C.F.R. 1953.1(b), 29 C.F.R. 1953.5(a)(1), 29 C.F.R. 1953.5(a)(2), 29 C.F.R. 1956.2(a), and 29 C.F.R. 1956.10(d)(1), which all require Kentucky OSH regulations to be as effective as the federal requirements. This regulation is equivalent.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations and authorizes the chairman to reference federal standards without board approval if necessary to meet federal time requirements. This emergency administrative regulation is necessary to meet the requirements established in Public Law 91-596 84 STAT. 1590, 29 C.F.R. 1902.3(c)(1), 29 C.F.R. 1902.3(d)(1), 29 C.F.R. 1902.3(d)(2), 29 C.F.R. 1902.37(b)(3), 29 C.F.R. 1953.1(a), 29 C.F.R. 1953.1(b), 29 C.F.R. 1953.5(a)(1), 29 C.F.R. 1953.5(a)(2), 29 C.F.R. 1956.2(a), and 29 C.F.R. 1956.10(d)(1), which all require the Kentucky OSH Program to be as effective as OSHA. This regulation complies and conforms with the authorizing statutes.

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

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regulation promotes worker safety and health throughout Kentucky and ensures the state requirement is as effective as the federal requirement. This regulation is necessary to meet the requirements established in Public Law 91-596 84 STAT. 1590 Section 18 (OSH Act of 1970), 29 C.F.R. 1902.3(c)(1), 29 C.F.R. 1902.3(d)(1), 29 C.F.R. 1902.3(d)(2), 29 C.F.R. 1902.37(b)(3), 29 C.F.R. 1953.1(a), 29 C.F.R. 1953.1(b), 29 C.F.R. 1953.5(a)(1), 29 C.F.R. 1953.5(a)(2), 29 C.F.R. 1956.2(a), and 29 C.F.R. 1956.10(d)(1), which require Kentucky OSH regulations to be as effective as the federal requirements. This regulation is equivalent.

(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: Kentucky operates a State Plan approved by the Occupational Safety and Health Administration (OSHA) that provides employee occupational safety and health (OSH) protections. OSHA approves, monitors, and provides funding to Kentucky. It is necessary to promulgate this regulation to meet the requirements established in Public Law 91-596 84 STAT. 1590, 29 C.F.R. 1902.3(c)(1), 29 C.F.R. 1902.3(d)(1), 29 C.F.R. 1902.3(d)(2), 29 C.F.R. 1902.37(b)(3), 29 C.F.R. 1953.1(a), 29 C.F.R. 1953.1(b), 29 C.F.R. 1953.5(a)(1), 29 C.F.R. 1953.5(a)(2), 29 C.F.R. 1956.2(a), and 29 C.F.R. 1956.10(d)(1), which all require the Kentucky OSH Program to be as effective as OSHA. The Education and Labor Cabinet must promulgate this administrative to ensure the state is at least as effective as the federal requirement. This administrative regulation ensures Kentucky's compliance with the federal mandates, maintains Kentucky's primacy, and retains federal funding.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations and authorizes the chairman to reference federal standards without board approval if necessary to meet federal time requirements. This administrative regulation is necessary to meet the requirements established in Public Law 91-596 84 STAT. 1590 (OSH Act of 1970), 29 C.F.R. 1902.3(c)(1), 29 C.F.R. 1902.3(d)(1), 29 C.F.R. 1902.3(d)(2), 29 C.F.R. 1902.37(b)(3), 29 C.F.R. 1953.1(a), 29 C.F.R. 1953.1(b), 29 C.F.R. 1953.5(a)(1), 29 C.F.R. 1953.5(a)(2), 29 C.F.R. 1956.2(a), and 29 C.F.R. 1956.10(d)(1), which all require the Kentucky OSH Program to be as effective as OSHA. This regulation complies and conforms with the authorizing statutes.

(d) How the amendment will assist in the effective administration of the statutes: This amendment maintains consistency with the federal requirements. This amendment promotes employee health and safety throughout Kentucky and keeps the state program consistent with the federal program.

(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 employers in the Commonwealth covered by KRS Chapter 338.

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

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

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no additional cost to the OSH Program to implement this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This administrative regulation promotes worker safety and health throughout Kentucky and ensures the state requirement is as effective as the federal requirement.

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

(a) Initially: There is no cost to the OSH Program to implement this administrative regulation.

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

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state and federal funding.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 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 338.051, KRS 338.061, Public Law 91-596 84 STAT. 1590 Section 18 (OSH Act of 1970), 29 C.F.R. 1902.3(c)(1), 29 C.F.R. 1902.3(d)(1), 29 C.F.R. 1902.3(d)(2), 29 C.F.R. 1902.37(b)(3), 29 C.F.R. 1953.1(a), 29 C.F.R. 1953.1(b), 29 C.F.R. 1953.5(a)(1), 29 C.F.R. 1953.5(a)(2), 29 C.F.R. 1956.2(a), and 29 C.F.R. 1956.10(d)(1)

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: This administrative regulation affects any unit, part, or division of state or local government covered by KRS Chapter 338.

(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 does not impose any additional requirements or expenditures.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): This administrative regulation affects any unit, part, or division of state or local government covered by KRS Chapter 338.

(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 does not impose any additional requirements or expenditures.

(4) Identify additional regulated entities not listed in questions (2) or (3):

(a) Estimate the following for the first year:

Expenditures: None

Revenues: None

Cost Savings: Nationwide, OSHA estimates the rule will affect 111,223 firms, 147,832 establishments, and 1,530,476 employees and, for each affected industry, will either provide cost savings or the costs would be less than one percent of revenues or ten percent of profits. Nationwide, the net cost savings of the final rule are expected to be \$29.8 million per year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? This amendment is not expected to have significant impact on expenditures, revenues, or cost savings in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: Nationwide, OSHA estimates the rule will affect 111,223 firms, 147,832 establishments, and 1,530,476 employees and, for each affected industry, will either provide cost savings or the costs would be less

than one percent of revenues or ten percent of profits. Nationwide, the net cost savings of the final rule are expected to be \$29.8 million per year.

(b) Methodology and resources used to determine the fiscal impact: Federal Register, Volume 89, Number 63, V. Final Economic Analysis and Regulatory Flexibility Act Certification.

(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 imposes no new direct cost burden on employers and does not require them to take any action to comply.

(b) The methodology and resources used to reach this conclusion: Federal Register, Volume 89, Number 63, V. Final Economic Analysis and Regulatory Flexibility Act Certification.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. Public Law 91-596 84 STAT. 1590 Section 18 (OSH Act of 1970), 29 C.F.R. 1902.3(c)(1), 29 C.F.R. 1902.3(d)(1), 29 C.F.R. 1902.3(d)(2), 29 C.F.R. 1902.37(b)(3), 29 C.F.R. 1953.1(a), 29 C.F.R. 1953.1(b), 29 C.F.R. 1953.5(a)(1), 29 C.F.R. 1953.(a)(2), 29 C.F.R. 1956.2(a), and 29 C.F.R. 1956.10(d)(1).

(2) State compliance standards. The Kentucky OSH Program is mandated to be at least as effective as the federal requirement. Accordingly, in order to maintain the state program as effective as the federal program, Kentucky must adopt the federal requirement or develop an equivalent standard. This regulation is equivalent.

(3) Minimum or uniform standards contained in the federal mandate. Public Law 91-596 84 STAT. 1590 Section 18 (OSH Act of 1970), 29 C.F.R. 1902.3(c)(1), 29 C.F.R. 1902.3(d)(1), 29 C.F.R. 1902.3(d)(2), 29 C.F.R. 1902.37(b)(3), 29 C.F.R. 1953.1(a), 29 C.F.R. 1953.1(b), 29 C.F.R. 1953.5(a)(1), 29 C.F.R. 1953.(a)(2), 29 C.F.R. 1956.2(a), and 29 C.F.R. 1956.10(d)(1).

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Yes

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Section 1 of this administrative regulation defines terms not found in the federal standard. Section 2, effective since February 12, 1996, retains requirements related to 4,4'-Methylene bis (2-chloroaniline). Section 3, also effective since February 12, 1996, retains requirements associated with research and quality control laboratory activities involving the use of the chemicals covered by 29 C.F.R. 1910.1003-1016 that are more protective than OSHA. Section 4, effective since July 17, 1997, retains requirements related to access to exposure or medical records that are more protective than OSHA. Section 5, effective since October 7, 1992, retains requirements related to glove use as it applies to 29 C.F.R. 1910.1030 that are more protective than OSHA.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Behavioral Health, Developmental and
Intellectual Disabilities
Division of Substance Use Disorder
(Amendment)

908 KAR 1:410. Recovery housing.

RELATES TO: 26 U.S.C. 501(c), 42 U.S.C. 3607, 12187

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 210.450, 222.211, 222.500-510

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary to protect the health of Kentucky citizens and to implement programs mandated by federal law or to qualify for the receipt of federal funds. KRS 222.504(3) authorizes the cabinet to promulgate administrative regulations governing recovery housing certification.

This administrative regulation establishes the standards and requirements for recovery housing certification.

Section 1. Definitions.

(1) "Applicant" means the owner, operator, or agency that submits an application for the certification of a recovery residence.

(2) "Cabinet" is defined by KRS 222.500(1).

(3) "Certified recovery residence" means a recovery residence that has met the required standards recognized and approved by the Cabinet for Health and Family Services.

(4) "Certifying organization" is defined by KRS 222.500(2).

(5) "Certification" means evidence of confirmation of compliance by a Cabinet for Health and Family Services recognized certifying organization, the Kentucky Recovery Housing Network, or Kentucky state affiliate recognized by the National Alliance for Recovery Residences."

~~(6)~~(5) "Department" means the Department for Behavioral Health, Developmental and Intellectual Disabilities.

~~(6)~~ ["Kentucky Recovery Housing Network" means the organization recognized by the National Alliance for Recovery Residences (NARR) as the state affiliate.]

(7) "Local government" is defined by KRS 222.500 (3).

(8) "National Alliance for Recovery Residence Standards" or "NARR standards" means the current version of the~~a set of~~ published national standards for all levels of recovery residences and is available on the NARR Web site at <https://narronline.org/affiliate-services/standards-and-certification-program/>.

(9) "Recovery residence" is defined by KRS 222.500(5).

(10) "Recovery support services" is defined by KRS 222.500(6).

(11) "Resident-driven length of stay" is defined by KRS222.500(7).

Section 2. Application Process for Certification of Recovery Residences and Fees.

(1) Entities required by KRS 222.502 to obtain certification as a recovery residence shall submit:

(a) A Recovery Housing Certification Application that includes full, complete, and accurate information for each residence;

(b) An initial certification fee of \$250 for one recovery residence, plus \$50 for each additional site owned and operated by the same entity and included in the application;

~~(c)~~(b) A completed Recovery Housing Attestations~~[Assurances]~~ for each residence;

~~(d)~~(e) A signed Recovery Housing Code of Ethics;

~~(e)~~(d) A signed, notarized statement granting permission by the property owner of record, if other than the applicant, to operate a recovery residence on the owner's property;

~~(f)~~(e) Proof of adequate commercial general liability insurance~~[fire, liability, and hazard insurance coverage]~~ on the building in which the residence is located;

~~(g)~~(f) Proof of current registration and good standing with the Kentucky Secretary of State;

(h) Evidence of compliance with applicable zoning and other ordinances and building codes, which may include certificate of occupancy, for each residence;

~~(i)~~(g) A copy of resident program policies that include:

1. Terms of occupancy, including policies related to residents' prescription and non-prescription medication usage and storage;

2. Financial obligations, including any fees, charges, or rents that may accrue to the resident and the process, time frame, and requirements for the collection of the obligations;

3. Financial deposits that may be collected, if any, and the time frame process, and requirements for the return of the deposits; ~~and~~

4. Any circumstances under which the resident may be entitled to a refund of any amount for financial obligations collected by the recovery residence, if applicable; and

5. All relevant policies for NARR standards.

~~(j)~~(h) A copy of the emergency preparedness plan for the recovery house, that includes:

1. Emergency contact numbers;
2. An evacuation plan and map;

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3. An emergency relocation plan that specifies where residents may live temporarily; and

4. A continuity of operations plan; and

~~(k)(4)~~ If applicable, any forms, documents, and guides used to mentor each resident or monitor each resident's participation in the development of the resident's recovery plan.

(2) If an application is incomplete ~~or inaccurate~~, the certifying organization:

(a) Shall return the application within ten (10) business days to the applicant with written instructions regarding proper completion and resubmission of the application within a specified time frame; and

(b) May conduct a pre-inspection site visit.

(3) The cabinet or certifying organization may conduct an inspection of the residence at any time without prior notice, including inspecting and copying financial and resident records.

(4) Required entities, as established by KRS 222.502, shall submit a Kentucky Recovery Housing Application with the required supporting documentation identified in Section 2(1) to the Department for Behavioral Health, Developmental, and Intellectual Disabilities, attention: Kentucky Recovery Housing Certification Program by:

(a) Electronic mail to kyrecoveryhousing@ky.gov; or

(b) Written mail to 275 E. Main Street, 4W, Frankfort, Kentucky 40621.

Section 3. Approval or Denial of the Application for Recovery Residence Certification.

(1) The certifying organization shall conduct a site visit after the completed application and required documentation is received to determine if the application for certification for a recovery residence is:

- (a) Approved;
- (b) Provisionally approved; or
- (c) Denied.

(2) The certifying organization shall grant approval for certification for a period of twelve (12) months if the applicant is in compliance with the NARR standards.

(3) The certifying organization may grant provisional approval of the application for initial certification of a recovery residence if:

- (a) The certifying organization has identified deficiencies with respect to specific NARR standards; and
- (b) The identified deficiencies do not pose an imminent risk to the health, safety, or welfare of a resident.

(4) The certifying organization shall deny the application for certification of a recovery residence if:

- (a) The applicant is in noncompliance with the NARR standards;
- (b) The documents submitted by the entity contain inaccurate information that grossly misrepresents the entity's qualifications to provide defined services;
- (c) The entity does not meet application process deadlines set by the certifying organization;

~~(d)(b)~~ One (1) or more deficiencies have been identified that pose an imminent risk to the health, safety, or welfare of the residents; or

~~(e)(e)~~ Information contained on the application reveals that there would be an unreasonable risk of harm to the residents if certification were granted.

(5) The certifying organization may deny the application for certification of a recovery residence if the applicant has previously discontinued operations of a recovery residence without prior notification of 60 days' or more to staff, residents, and the certifying organization, and without implementation of a transition plan for residents to alternative living arrangements.

(6) If provisional approval is granted, it shall:

(a) Be for a period of six (6) months from the date of the issuance of the provisional approval;

(b) Require the entity to request the certifying organization to conduct a site visit for reconsideration of certification prior to the expiration of the provisional approval; and

(c) Require the entity to submit documentation that demonstrates that the identified deficiencies have been eliminated.

(7)

(a) Provisional approval may be granted two consecutive times, for a maximum of twelve (12) months, at the end of which time the application for certification shall be denied;

(b) The entity shall have up to thirty (30) days to continue to operate and assist residents in securing alternative housing;

(c) The entity shall cease all operations by the thirty-first day after the date of notification of denial; and

(d) The entity shall not submit a new application for certification as a recovery residence without proof of completion of corrective action for the identified deficiencies.

(8) Certification, if granted, shall be valid for the residence and address for which the original certification is issued.

(9) Recovery residence certification is not transferable, if the sale or transfer of a recovery residence causes a change in at least twenty-five (25) percent of ownership, the new owner shall apply for certification as established in Section 2 of this administrative regulation.

Section 4. Recertification and Fees.

(1) An entity that has been granted certification as a recovery residence, shall submit an application for recertification to the certifying organization at least sixty (60) days prior to the expiration date of the current certification. The recertification application shall include a fee of \$100 for the first site operated, plus \$20 for each additional site owned and operated by the same entity and included in the recertification application.

(2) The certifying organization shall conduct a site visit as part of the recertification process.

(3)

(a) Recertification shall be granted for a period of two (2) years if the applicant is currently certified and is in compliance with the NARR standards; or

(b) Subsequent to the issuance of provisional recovery residence certification, the identified deficiencies on the basis of which the provisional certification was granted have been fully and satisfactorily remediated.

(4) Provisional approval shall be granted of the application for recertification of a recovery residence if:

- (a) The certifying organization has identified deficiencies with respect to specific NARR standards; ~~and~~
- (b) The identified deficiencies do not pose an imminent risk to the health, safety, or welfare of a resident; and[-]

(c) The entity shall not submit a new application for recertification as a recovery residence without proof of completion of corrective action for the identified deficiencies.

(5) If provisional approval is granted during recertification, it shall be granted once and for a period not to exceed six (6) months.

(6) If an applicant is granted provisional approval during the recertification process before being granted certification, then certification shall be for a period of one (1) year.

(7) An application for recertification shall be denied if:

- (a) The applicant is in noncompliance with the NARR standards;
- (b) One (1) or more deficiencies have been identified that pose an imminent risk to the health, safety, or welfare of the residents; or
- (c) The application reveals that there would be an unreasonable risk of harm to the residents if certification were granted.

(d) The entity has not provided proof of completion of corrective action for previously identified deficiencies.

(8) If the applicant has discontinued operations of a recovery residence without complying with the provisions of this administrative regulation an application for recertification may be denied.

(9) If the certifying organization does not conduct a site visit before the expiration of certification, the certifying organization shall issue a written notification to the owner or operator of the recovery residence that extends certification for a period of up to ninety (90) days or until the certifying organization is able to conduct a site visit of the recovery residence.

(10) The certifying organization shall notify the department of the organization's~~organizations~~ determination of an application for certification within ten (10) business days from the date of notification to the applicant.

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Section 5. Department Responsibilities.

(1) The department shall:

(a) Require certified recovery residences to provide proof of certification at least annually;

(b) Require certified recovery residences to notify the department of any change in their certification status by a certifying organization;

(c) Require separate proof of certification for each recovery residence owned or operated by an individual or entity in the commonwealth;

(d) Post on its Web site the name, telephone number, and location by local jurisdiction of each certified recovery residence and shall update the list at least quarterly;

(e) Post on its Web site the name of each certifying organization approved by the cabinet; and

(f) Notify local governments with appropriate jurisdiction of receipt of proof of certification from a recovery residence within thirty (30) days of receipt of proof of certification.

(2) The department or certifying organization may conduct an inspection of the residence at any time without prior notice, including inspecting and copying financial and resident records.

(3) The department or local government with appropriate jurisdiction may seek legal action, up to and including cessation of operations and monetary penalties, against a recovery residence that fails to meet the requirements of this administrative regulation.

~~(4)~~(3) The department, or certifying organization, shall not disclose the address of a recovery residence except to local governments, local law enforcement, and emergency personnel.

Section 6. Recovery Residence Owner or Operator Responsibilities. The owner or operator of a certified recovery residence shall ensure:

(1) The residence and its operations are in compliance with the NARR standards;

(2) The residence develops and adheres to a written policy regarding the criminal history, including substantiated abuse or neglect of a child or vulnerable adult, of any staff member, employee, peer, or volunteer who serves in a staff capacity with the recovery residence and, in that capacity, has direct and regular interaction with residents; ~~and~~

(3) If the certified recovery residence plans to discontinue operations, the owner or operator submits, at least sixty (60) calendar days before the residence intends to cease operations, to the certifying organization, a written plan that includes:

(a) Date operations will cease; and

(b) Notification to residents of the planned discontinuation of operations and of other certified recovery residences and housing options; ~~and~~

(4) If the certified recovery residence must temporarily discontinue operations due to emergency condition(s) (such as fire, flood, or other catastrophic situation), the owner or operator must:

(a) implement the emergency preparedness plan defined in Section 2; and

(b) notify the certifying organization and the department within twenty-four (24) hours of the onset of the emergency condition(s).

Section 7. Background Checks.

(1) All staff of a recovery residence who have job duties that involve providing services to a client, or who may have one-on-one contact with a client, shall:

(a) Have a criminal record check performed upon initial hire through the Administrative Office of the Courts or the Kentucky State Police; and

(b) Not have a criminal conviction, ~~or~~ plea of guilty, release from incarceration due to expiration of sentence, or be under any level of probation or parole supervision other than administrative as defined in Kentucky Corrections Policies and Procedures (CPP) 27-12-01 for a minimum of five (5) years for ~~to~~ a:

1. Sex crime as specified in KRS 17.500;

~~or~~ 2. Criminal offense against a minor as specified in KRS 17.500;

3. Felony offense related to health care fraud, neglect, physical abuse, sexual abuse, or exploitation of a child or adult; ~~or~~

4. Violent offense as specified in KRS 439.3401.

(2) A recovery residence that houses individuals under the age of eighteen (18) shall not employ anyone listed on the central registry established by 922 KAR 1:470.

(3) A recovery residence shall perform annual criminal records checks as described in this subsection on a random sample of at least twenty-five (25) percent of all personnel.

Section 8. Request for Reconsideration.

(1) An applicant for certification dissatisfied by a decision of the cabinet, or certifying agency, may submit a request for reconsideration, in writing, to the commissioner for the department, or designee, within ten (10) days following notice of the decision.

(2) The written request shall include:

(a) The application for certification that was denied; and

(b) Documentation that addresses the reasons the application for certification was denied.

(3) Upon receipt of a request for reconsideration, the commissioner or designee, shall:

(a) Review the request; and

(b) Render a written decision on the request for reconsideration within thirty (30) calendar days unless an extension is granted by the commissioner or designee:

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

2. With notice provided to the applicant for certification.

Section 9. Fines and Penalties. Whoever knowingly establishes, maintains, or operates a recovery residence without a certification granted pursuant to this section shall, for a first offense, be subject to a fine of not more than fifty dollars (\$50) per day and for each subsequent offense by a fine of not more than one hundred dollars (\$100) per day.

Section 10. Recovery Residences Exempt from Certification. Upon request by the cabinet or local government with appropriate jurisdiction, an entity that meets the statutory definition of recovery residence as defined in KRS 222.500(5) but claims exemption pursuant to KRS 222.502(1)(b) shall provide evidence of the claimed status.

Section 11. Exceptions to Prohibition Against Provision of On-Site Medical and Clinical Services.

(1) A recovery residence may provide on-site medical or clinical services, including telehealth services, in the following situations only:

(a) The recovery residence is operated by, or is a direct subsidiary of, an appropriately licensed provider;

(b) The services are provided as a part of the continuum of care; and

1. The recovery residence can demonstrate resident driven length of stay or referral to another recovery residence with resident driven length of stay.

2. Referral may be demonstrated by either:

a. The entity owns additional recovery residences with resident driven length of stay; or

b. The recovery residence employs written policies around: (i.) Educating clients on the importance of stepping down to a recovery residence with resident driven length of stay; (ii.) Developing relationships with recovery residences that have resident driven length of stay;

c. Assisting clients in making contact with recovery residences that have resident driven length of stay; or

d. Providing transportation for discharging clients to recovery residences with resident driven length of stay.

(2) A recovery residence may contract with a separate organization to provide on-site medical or clinical services, including telehealth services, in the following situations only if:

(a) There has been no exchange of consideration between the recovery residence and the contracted provider; or

(b) If the contract does include an exchange of consideration, the following conditions must be met the amount is fixed and is:

1. Not dependent on number of residents in services;

2. Not dependent on amount of services provided to residents; and

3. Residents retain the right to receive services from any other qualified provider of their choosing.

Section 12.~~[Section 9.]~~ Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Kentucky Recovery Housing Attestations~~[Assurances]~~", 10/24~~[07/24]~~;

(b) "Kentucky Recovery Housing Certification Application", 07/24; and

(c) "Kentucky Recovery Housing Code of Ethics", 10/24~~[07/24]~~; and

~~[(d)] ["NARR Standard 3.0", 2018.]~~

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Behavioral Health, Developmental and Intellectual Disabilities~~[Department for Community Based Services]~~, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be viewed on the department's~~[departments]~~ Web site at <https://www.chfs.ky.gov/agencies/dbhdid/Pages/default.aspx>.

(3) This material is also available at <https://narronline.org/affiliate-services/standards-and-certification-program/>.

KATHERINE R. MARKS, Ph. D., Commissioner
CARRIE BANAHAN, Deputy Secretary

APPROVED BY AGENCY: December 5, 2024

FILED WITH LRC: December 11, 2024 at 2:20 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on February 24, 2025, using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by February 17, 2025, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until February 28, 2025. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: (s): Tanya Dickinson and Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements and standards for the administration of recovery housing certification.

(b) The necessity of this administrative regulation: This administrative regulation establishes the requirements and standards for the administration of recovery housing certification.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the authorizing statutes through fulfilling the requirements in KRS 222.502 establishing the requirements and standards for the administration of recovery housing certification.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation conforms to the authorizing statutes through fulfilling the requirements in KRS 222.502 by establishing the standards and

requirements for the certification of recovery housing. (2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

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

(a) How the amendment will change this existing administrative regulation: The amendment clarifies the certification and recertification applications' contents and process, incorporates fees for applications; introduces fines for operation of a noncertified, nonexempt recovery house; and establishes guidelines for provision of on-site medical and clinical services to recovery house residents consistent with best practices and other department regulations.

(b) The necessity of the amendment to this administrative regulation: The amendment provides clarifications for administration of the recovery house administration process and establishes minimal funding to ensure adequate on-going resources.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment provides clarifications for administration of the recovery house administration process and clarifies confirmation of exempt programs.

(d) How the amendment will assist in the effective administration of the statutes: The amendment clarifies protections and safeguards for local jurisdictions and recovery house residents and ensures adequate funding for administration of the certification process, consistent with department expectations discussed in the original regulation's impact analysis statement.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: As of October 8, 2024, there are currently 256 certified recovery residences with a total of 3550 available beds for residents. There are 343 pending applications for recovery housing certification with another potential 3736 beds available to residents. All of the applications for recovery housing certification have been submitted by 113 unique applicants.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The regulated entities will be required to meet the criteria established in the statute and submit the required application, fee, and supporting documentation required to meet the standards established to be certified as a recovery residence.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): If not already certified, the initial application will cost \$250, plus \$50 for each additional site maintained by the same operator; application for recertification will be charged at the same ratio of \$100, plus \$20 for each additional site maintained. The higher cost for the initial certification application reflects the more extensive document and site review required to establish a baseline for compliance by the provider and recovery house(s).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The regulated entities will experience certification and an increased opportunity for funding for programming designed for individuals who experience substance use disorder and are in recovery.

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

(a) Initially: The Department for Behavioral Health, Developmental, and Intellectual Disabilities estimates it will cost approximately \$450,000 to implement the recovery house certification program in the first year.

(b) On a continuing basis: The Department for Behavioral Health, Developmental, and Intellectual Disabilities estimates it will cost approximately \$450,000 annually, on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This administrative regulation will be funded through a combination of state general funds, related application fees, and federal grant funds (when available).

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation,

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if new, or by the change if it is an amendment: Consistent with department expectations discussed in the original regulation's impact analysis, administration of the program has highlighted the current and future need for dedicated funding, including establishment of certification fees to address current and anticipated future demand.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This amendment establishes certification application fees in the amount of \$250, plus \$50 for each additional site maintained by the same operator and recertification application fees (at the same ratio) in the amount of \$100, plus \$20 for each additional site maintained. The higher cost for the initial certification application reflects the more extensive document and site review required to establish a baseline for compliance by the provider and recovery house(s).

(9) TIERING: Is tiering applied? Tiering is not applied because this administrative regulation will be applied in a like manner statewide.

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, KRS 222.502, KRS 222.504

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department for Behavioral Health, Developmental and Intellectual Disabilities is the promulgating agency, other agencies have not been identified.

(a) Estimate the following for the first year:

Expenditures: \$450,000 to implement the full recovery house certification program in the first year of this amendment (the current program operating cost). Funds are needed to support salaries of at least 8 full-time staff to implement the certification process, travel reimbursement to perform recovery residence site visits, training and technical assistance, community outreach and education. These costs also include the funds necessary to purchase, implement, and utilize a data management platform.

Revenues: \$11,500 (estimated 20 new certification applications at \$250 each, plus an estimated 65 recertification applications at \$100 each).

Cost Savings: \$11,500

(b) How will expenditures, revenues, or cost savings differ in subsequent years? This amendment will generate an estimated \$24,200 in subsequent years (estimated 20 new certification applications at \$250 each, plus an estimated 192 recertification applications at \$100 each). The expected expenditures of \$450,000 will remain similar.

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

(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? They will not.

(4) Identify additional regulated entities not listed in questions (2) or (3):

(a) Estimate the following for the first year:

Expenditures: \$11,500 (estimated 20 new certification applications at \$250 each, plus an estimated 65 recertification applications at \$100 each).

Revenues: \$0

Cost Savings: \$0

(b) How will expenditures, revenues, or cost savings differ in subsequent years? This amendment will cost regulated entities an estimated \$24,200 in subsequent years (estimated 20 new certification applications at \$250 each, plus an estimated 192 recertification applications at \$100 each).

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The majority of existing affected providers will have been certified at no cost prior to the implementation of this amendment. Therefore, revenue from initial applications for certification will be minimized, and the estimated revenue from recertification application fees will represent a more accurate expectation for future years, plus the addition of a more

limited number of new providers and sites (accounting for those already in operation).

(b) Methodology and resources used to determine the fiscal impact: proposed cost of certification or recertification multiplied by number of estimated affected entities requiring certification.

(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 will not have a major economic impact – as defined by KRS 13A.010 – on regulated entities.

(b) The methodology and resources used to reach this conclusion: The sum of the proposed cost of certification or recertification multiplied by number of estimated affected entities requiring certification is well below this threshold.

CABINET FOR HEALTH AND FAMILY SERVICES
Office of Human Resource Management
(Amendment)

920 KAR 1:090. Client Civil Rights complaint process.

RELATES TO: KRS 18A.095, 194A.005(1), 194A.030(1)[194A.030(4)], 344.010(5), 344.015, 344.020, 7 C.F.R. 15, 15a, 15b, 15d, 15e, 16, 272.6, 28 C.F.R. 35, 36, 45 C.F.R. 80, 83, 84, 85, 86, 90, 91, 260.34, 260.35, 5 U.S.C. 552a, 7 U.S.C. 2011-2036, 20 U.S.C. 1681, 29 U.S.C. 794, 42 U.S.C. 290dd-1, 300w-7, 300x-57, 608(d), 708, 1996b, 8625, 9918, 10406, 12131-12213, 2000d-2000d-7, 6101-6107, Pub.L. 109-171, 110-246, 110-325, [EO-2]009[-544-] Pres. EO 13166

STATUTORY AUTHORITY: KRS 194A.050(1), 344.015

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 344.015 and the federal grants to the cabinet, inclusive of those funds through the United States Departments of Health and Human Services and Agriculture, require the Cabinet for Health and Family Services to maintain a program atmosphere free from discrimination and to respond to a complaint alleging discrimination. This administrative regulation establishes the client Civil Rights complaint process for programs administered directly by the cabinet or indirectly through a contractual or other arrangement.

Section 1. Definitions.

(1) "Cabinet" is defined by KRS 194A.005(1).

(2) "Cabinet program" means a program of service, financial aid, or other benefit administered by the cabinet and provided:

(a) Directly by the cabinet; or

(b) Indirectly by the cabinet through a contractual or other arrangement.

(3) "Client" means a person who:

(a) Applies in writing, electronically, verbally, or through a designated representative for participation in a cabinet program; or

(b) Receives a service, financial aid, or other benefit from a cabinet program.

(4) "Complaint" means a verbal or written allegation of discrimination in the delivery of a cabinet program.

(5) "Complainant" means a person or group of people who alleges discrimination in the delivery of a service, financial aid, or other benefit in a cabinet program.

(6) "Discrimination" is defined by KRS 344.010(5).

(7) "Nutrition program or activity":

(a) Means a cabinet program administered federally by the U.S. Department of Agriculture, Food and Nutrition Services; and

(b) Includes the Supplemental Nutrition Assistance Program (SNAP), formerly known as the Food Stamp Program:

1. Defined by 7 U.S.C. 2012, as amended by Pub.L. 110-246; and

2. Governed by Title 921 KAR Chapter 3.

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(8) "Office of Human Resource Management" or "OHRM" means the major organizational unit of the cabinet established in accordance with KRS 194A.030(1)~~[194A.030(10) and EO-2]009[544]~~.

(9) "Protected class" means a group of people who qualifies for protection from discrimination under law, policy, or similar authority.

(10) "Retaliation" means an action taken against an individual because the individual participated in a protected activity, such as:

- (a) Opposing or reporting a discriminatory practice; or
- (b) Participating in or cooperating with an investigation of discrimination.

Section 2. Administrative Policy.

(1) The cabinet shall comply with the following federal and state laws prohibiting discrimination:

(a) In a cabinet program:

1. KRS 344.015 and 344.020;
2. 28 C.F.R. 35 or 36;
3. 20 U.S.C. 1681;
4. 29 U.S.C. 794;
5. 42 U.S.C. 12131-12213, as amended by Pub.L. 110-325;
6. 42 U.S.C. 2000d-2000d-7;
7. 42 U.S.C. 6101-6107 or 45 C.F.R. 91;
8. Presidential Executive Order 13166; or
9. Another federal, state, or local law applicable to a cabinet program;

(b) In a nutrition program or activity:

1. 7 C.F.R. 15, 15a, 15b, 15d, 15e, 16, or 272.6; or
2. 7 U.S.C. 2011-2036, as amended by Pub.L. 110-246; or

(c) In a cabinet program funded through the U.S. Department of Health and Human Services:

1. 45 C.F.R. 80, 83, 84, 85, 86, 90, 260.34, or 260.35;
2. 42 U.S.C. 290dd-1, 300w-7, 300x-57, 708, 1996b, 8625, 9918, or 10406; or
3. 42 U.S.C. 608(d), as amended by Pub.L. 109-171.

(2) If a federal or state law specifies or sets a restriction for a cabinet program, such as eligibility for a service, financial aid, or other benefit, the restriction shall take precedence over a protected class under subsection (1) of this section.

Section 3. Complaint Submission.

(1) The Office of Human Resource Management shall provide an internal complaint process to investigate and stop an activity in a cabinet program in accordance with Section 2(1) of this administrative regulation.

(2) An individual shall report a complaint by:

(a) Submitting a completed and signed CHFS-OHRM-CCRC, CHFS Client Civil Rights Complaint Form, edition Rev. 2024~~[CHFS-OHRM-EEO-1, CHFS Client Civil Rights Complaint Form]~~;

(b) Submitting a written and signed statement to OHRM; or

(c) Verbally reporting a complaint to OHRM, if the individual refuses or declines to place allegations of discrimination in writing.

(3) The cabinet shall accept an anonymous complaint that provides sufficient information about alleged discrimination in a cabinet program to enable an investigation by OHRM.

(4) Staff of OHRM shall attempt to elicit from a complainant the following:

(a) The name, address, and telephone number or other means of contacting the complainant;

(b) The name of the cabinet program involved in the alleged discrimination and specific location delivering the cabinet program;

(c)

1. The nature of the incident or action that led the complainant to believe that discrimination was a factor; or

2. An example of the method of administration that is having a discriminatory effect on:

- a. The public;
- b. A potential eligible person; or
- c. A client;

(d) The basis on which the complainant believes discrimination or harassment exists, for example:

1. Race;

2. Color;

3. Religion;

4. Sex;

5. National origin;

6. Age;

7. Retaliation;

8. Sexual orientation;

9. Disability;

10. Political beliefs;

11. Sexual harassment; or

12. Limited English Proficiency;

(e) The name, telephone number, title, and business or personal address of any other person who may have knowledge of the alleged discrimination;

(f)

1. The date or dates during which the alleged discrimination occurred; and

2. The duration of the alleged discrimination, if it is continuing; and

(g) Recommendation of the complainant to resolve the alleged discrimination.

(5) Staff of OHRM shall document verbal information elicited in accordance with subsection (4) of this section.

(6)

(a) No cabinet employee shall:

1. Retaliate against an individual who:

a. Submits a complaint in accordance with this section; or

b. Assists in the investigation of a complaint; or

2. Interfere with an investigation of a complaint.

(b) An employee who does not comply with paragraph (a) of this subsection shall be subject to disciplinary action, up to and including dismissal in accordance with KRS 18A.095.

Section 4. Complaint Acceptance.

(1) Prior to taking action on a complaint, including an investigation, OHRM:

(a) Shall verify the complaint:

1. Indicates a violation of a law specified in Section 2 of this administrative regulation; and

2. Meets minimum reporting requirements established in Section 3 of this administrative regulation;

(b) Shall determine an action plan to address the complaint, including investigative steps; and

(c) May request consultation on the complaint from:

1. The head of the major organizational unit within the cabinet administering the cabinet program involved in the complaint or a designee;

2. The cabinet's Office of Legal Services; or

3. An entity listed in Section 9(1) of this administrative regulation.

(2) If an individual's allegation does not involve discrimination in a cabinet program in accordance with Section 2 of this administrative regulation, OHRM shall:

(a) Refer the individual to the:

1. ~~[Cabinet's Office of the Ombudsman;]~~

~~[2-]~~ Head of the major organizational unit within the cabinet administering the cabinet program involved in the allegation or a designee; or

~~2.~~~~[3-]~~ Another federal, state, or local agency if the agency has jurisdiction over the program involved in the individual's allegation; or

(b) Provide written notice to the individual that no further action or investigation by OHRM is warranted, if the individual provided contact information.

Section 5. Complaint Processing.

(1)

(a) Except for a complaint that alleges discrimination in a nutrition program or activity, OHRM shall provide notice of a complaint's acceptance in accordance with Section 4(1) of this administrative regulation, to the:

1. Complainant, if the complaint includes information in accordance with Section 3(4)(a) of this administrative regulation; and

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2. Head of the major organizational unit within the cabinet administering the cabinet program involved in the complaint.

(b) The Office of Human Resource Management shall process a complaint that alleges discrimination in a nutrition program or activity pursuant to Section 6 of this administrative regulation.

(2) In accordance with the complaint's action plan developed pursuant to Section 4(1)(b) of this administrative regulation, OHRM shall:

(a) Conduct an investigation, which may include:

1. Inspection of a cabinet program's records; and

2. An interview with:

a. A client;

b. Staff of a cabinet program; or

c. An individual with knowledge of the complaint who is either identified in the complaint or discovered during the course of the investigation; and

(b) Send written notice of the investigation's outcome to the:

1. Complainant, if the complainant provided information in accordance with Section 3(4)(a) of this administrative regulation; and

2. Head of the major organizational unit within the cabinet administering the cabinet program involved in the complaint.

(3)

(a) The Office of Human Resource Management shall process a complaint in a cabinet program, subject to this section, within 180 days from the complaint's initial report.

(b) The executive director of OHRM or a designee may grant an extension to the timeframe specified in paragraph (a) of this subsection if OHRM:

1. Requires additional time to determine a complaint's outcome, including investigation of the complaint; and

2. Notifies the complainant who provided information in accordance with Section 3(4)(a) of this administrative regulation of the extension.

Section 6. Processing Complaints in a Nutrition Program or Activity.

(1) In accordance with 7 C.F.R. 15 or 272.6, the cabinet shall maintain a separate Civil Rights complaint process for clients under a nutrition program or activity.

(2)

(a) If a complaint in a nutrition program or activity is reported and accepted in accordance with Section 4(1) of this administrative regulation, OHRM shall advise the complainant, if known, in writing:

1. That the complaint has been received;

2. Of confidentiality and applications of 5 U.S.C. 552a;

3. Of planned actions, including investigation of the complaint; and

4. If additional information is needed to resolve the issue at the lowest possible level of the cabinet's organizational structure.

(b) If OHRM determines that further investigation of a complaint under a nutrition program or activity is not warranted, OHRM shall provide written explanation to the United States Department of Agriculture, Food and Nutrition Services, Southeast Regional Office.

(3) The Office of Human Resource Management shall refer a client complaint of discrimination based on age in a nutrition program or activity to the United States Department of Agriculture, Food Nutrition Service, Southeast Regional Office, within five (5) days of the complaint's initial report.

(4) Unless the United States Department of Agriculture grants an extension, OHRM shall process a complaint in a nutrition program or activity, accepted in accordance with Section 4(1) of this administrative regulation, within ninety (90) days of the complaint's initial report.

(5) An investigation of a complaint in a nutrition program or activity shall consist of:

(a) Contact with the client involved in the alleged discrimination or an authorized representative;

(b) A review of the client's case file;

(c) A review of a sample of case files of similarly situated clients, if the client involved in the alleged discrimination is a client in the Supplemental Nutrition Assistance Program; and

(d) Contact with the major organizational unit within the cabinet that administers the nutrition program or activity for a response to the allegation established in the complaint.

(6) Upon conclusion of any planned action on a complaint under a nutrition program or activity, OHRM shall provide written notice to the complainant, if known, that contains:

(a) The name of the complainant;

(b) A number identifying the complaint;

(c) The date the complaint was reported to OHRM;

(d) The cabinet's jurisdictional authority;

(e) A statement of each allegation and an applicable legal citation from Section 2(1) of this administrative regulation;

(f) The methodology for the investigation of the complaint;

(g) The outcome of the investigation; and

(h) The complainant's right to file a complaint with the Secretary of the United States Department of Agriculture and contact information.

Section 7. Recommendation for Corrective Action.

(1) If an investigation's outcome indicates the need for a corrective action by the cabinet program, OHRM shall recommend the corrective action to the major organizational unit within the cabinet administering the cabinet program involved in the complaint.

(2) A recommendation for corrective action may include:

(a) Referral to law enforcement, if a criminal act is suspected;

(b) Technical assistance from a federal or state agency, if the federal or state agency has:

1. Expertise sought by OHRM or the cabinet program; or

2. Jurisdiction over the cabinet program involved in the complaint; or

(c) Disciplinary action against a cabinet employee, up to and including dismissal in accordance with KRS 18A.095, if the investigation's outcome indicates cause.

Section 8. Withdrawal of a Complaint.

(1) A complainant shall submit a written and signed statement to OHRM to:

(a) Request a withdrawal of a complaint; and

(b) State the reason for the withdrawal.

(2) The Office of Human Resource Management shall accept a request for a complaint's withdrawal from a complainant if:

(a) The request shows no sign of coercion, harassment, or another act to compel the complainant to withdraw the complaint; and

(b) The complaint's allegation no longer merits continuing the investigation.

(3) The Office of Human Resource Management shall send written notice to the complainant and the head of the major organizational unit within the cabinet administering the cabinet program involved in the complaint, if OHRM:

(a) Accepts the request for withdrawal; or

(b) Rejects the withdrawal request and proceeds with an investigation or another planned action.

Section 9. Alternative Complaint Processes.

(1) In lieu of, or in addition to, the Civil Rights complaint process established in this administrative regulation, a client may elect to file a complaint directly with another entity, such as the:

(a) U.S. Department of Health and Human Services' Office for Civil Rights;

(b) U.S. Department of Agriculture's Office of Assistant Secretary for Civil Rights or Food Nutrition Service Southeast Regional Office;

(c) U.S. Department of Education's Office of Civil Rights;

(d) U.S. Department of Labor's Civil Rights Center;

(e) U.S. Department of Justice's Civil Rights Division;

(f) Kentucky Commission on Human Rights; or

(g) Another federal, state, or local agency with jurisdiction over the cabinet program involved in the alleged discrimination.

(2) Upon request of a client, OHRM shall provide information on filing a complaint with an entity listed in subsection (1)(a) through (g) of this section.

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(3) This administrative regulation shall not inhibit an individual's right to seek review through a court of appropriate jurisdiction.

Section 10. Incorporation by Reference.

(1) The "CHFS-OHRM-CCRC, CHFS Client Civil Rights Complaint Form", edition Rev. 2024["CHFS-OHRM-EE0-1, CHFS Client Civil Rights Complaint Form", edition 2010,] is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. or online at www.chfs.ky.gov/agencies/os/ohrm/Pages/default.aspx.

MICHELE BARNES, Executive Director
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: November 26, 2024

FILED WITH LRC: December 4, 2024 at 1:50 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on February 24, 2025, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by February 17, 2025, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until February 28, 2025. 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; CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jay Klein and Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation identifies the CHFS client Civil Rights complaint process.

(b) The necessity of this administrative regulation: In order to maintain federal funding, the cabinet must maintain a program atmosphere free from discrimination and to respond to a complaint alleging discrimination.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation provides a complaint process, including a complaint form.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides a complaint process, including a complaint form.

(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 complaint form is revised to assist Limited English Proficiency (LEP) and disabled clients in making a complaint.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation includes an addition to the complaint form regarding Limited English Proficiency and communication disabled clients, per a request from the auditor from the United States Department of Agriculture (USDA), Office of Civil Rights, as well as other updates to conform to KRS 13A.

(c) How the amendment conforms to the content of the authorizing statutes: To provide a complaint form for the complaint process.

(d) How the amendment will assist in the effective administration of the statutes: To provide a complaint form for the complaint process.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All cabinet clients will be able to file a complaint using the complaint form incorporated in this administrative regulation.

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

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

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Cabinet clients will be able to identify their communication needs more easily.

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

(a) Initially: No cost.

(b) On a continuing basis: No cost.

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

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

(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? No costs. Not applicable.

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(1) and KRS 344.015

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Cabinet for Health and Family 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? Not applicable

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): None

(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? Not applicable

(4) Identify additional regulated entities not listed in questions (2) or (3): None

(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? Not applicable

(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: 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) 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

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 28 C.F.R. 35 or 36; 20 U.S.C. 1681; 29 U.S.C. 794; 42 U.S.C. 12131-12213, as amended by Pub.L. 110-325; 42 U.S.C. 2000d-2000d-7; 42 U.S.C. 6101-6107 or 45 C.F.R. 91; 7 C.F.R. 15, 15a, 15b, 15d, 15e, 16, or 272.6; 7 U.S.C. 2011-2036, as amended by Pub.L. 110-246; 45 C.F.R. 80, 83, 84, 85, 86, 90, 260.34, or 260.35; 42 U.S.C. 290dd-1, 300w-7, 300x-57, 708, 1996b, 8625, 9918, or 10406; 42 U.S.C. 608(d), as amended by Pub.L. 109-171.

(2) State compliance standards. KRS 194A.050(1) and KRS 344.015.

(3) Minimum or uniform standards contained in the federal mandate. The establishment of a Civil Rights complaint process for cabinet clients.

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

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Child Care
(Amendment)

922 KAR 2:020. Child Care Assistance Program (CCAP) improper payments, claims, and penalties.

RELATES TO: KRS 13B, 23A.010, 45.237-45.241, 194A.060, 45 C.F.R. 98, 205.50, 42 U.S.C. 601-619, 9857-9858q

STATUTORY AUTHORITY: KRS 45.237(4), 194A.050(1), 199.8994, 45 C.F.R. 98.60(i)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary[Secretary] of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet, qualify for the receipt of federal funds, and cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 199.8994 requires the cabinet to administer all child care funds to the extent allowable under federal law or regulation and in a manner which is in the best interest of the clients to be served. 45 C.F.R. 98.60(i) and KRS 45.237(4) require the cabinet, as the lead agency for Kentucky, to recover child care payments that are the result of fraud or improper payment. This administrative regulation establishes procedures for improper payments, claims, and penalties used by the cabinet in the administration of the Child Care Assistance Program (CCAP).

Section 1. Definitions.

(1) "Agency error" means an error on the part of the cabinet or its designee.

(2) "Cabinet" means the Cabinet for Health and Family Services or its designee.

(3) "Child Care Assistance Program" or "CCAP" means Kentucky's child care subsidy program providing families, who meet the eligibility requirements of 922 KAR 2:160, with the financial resources to find and afford quality child care.

(4) "Child care provider" means the individual, business, or business proprietor who is receiving, or has received, payment for child care services under CCAP.

(5) "Claim" means an amount owed to the cabinet as a result of an overpayment of CCAP.

(6) "Claimant" means a current or former CCAP recipient, or child care provider subject to a claim.

(7) "Compromise a claim" means accepting less than the full value of a claim.

(8) "Hearing officer" is defined by KRS 13B.010(7).

(9) "Improper payment" is defined by KRS 45.237(1)(f) or 45 C.F.R. 98.100(d).

(10) "Inadvertent error claim" means an overpayment resulting from a misunderstanding or unintended error on the part of a recipient or a child care provider.

(11) "Intentional program violation" or "IPV" means a CCAP recipient, or child care provider having intentionally:

(a) Made a false or misleading statement; or

(b) Misrepresented, concealed, or withheld facts.

(12) "Overpayment" means a CCAP payment which exceeded the amount a CCAP recipient, or a child care provider was eligible to receive.

(13) "Recipient" means a family who has been found eligible for CCAP.

(14) "Terminate a claim" means ceasing all collection actions on a claim.

(15) "Underpayment" means a payment which was less than the amount a recipient or a child care provider was eligible to receive.

Section 2. Responsibility for a Claim.

(1) A parent of a recipient household or a child care provider shall be responsible for paying a claim which resulted from an:

(a) Overpayment due to an action or inaction on the part of the recipient or the child care provider, including failure to report a change in circumstance in accordance with 922 KAR 2:160, Section 12[14]; or

(b) Agency error that provided the recipient or the child care provider with an overpayment.

(2) The cabinet shall make an exception to subsection 1(b) of this section if the recipient:

(a) Is approved for CCAP in accordance with 922 KAR 2:160, Section 5 or 6; and

(b) Complied with the requirements of the recipient's:

1. Case plan developed in accordance with 922 KAR 1:430; or

2. Kentucky Works Program self-sufficiency plan developed in accordance with 921 KAR 2:370.

Section 3. Claim Category.

(1) A claim shall be classified in one (1) of the following three (3) categories:

(a) A claim resulting from an IPV;

(b) Inadvertent error claim; or

(c) Agency error claim.

(2) The cabinet shall establish an IPV against a recipient or a child care provider if:

(a) A court of appropriate jurisdiction issues a conviction, or accepts an Alford or guilty plea, related to an IPV in CCAP against a parent of the recipient household or the child care provider;

(b) A parent of the recipient household or a child care provider completes, signs, and returns the:

1. DCC-84 Supplement A, Voluntary Waiver of Administrative Disqualification Hearing, 2024[02/16]; or

2. DCC-83, Deferred Adjudication Disqualification Consent Agreement, 2024[02/16]; or

(c) A hearing officer or an agency head makes a determination finding an IPV as a result of an administrative disqualification hearing.

Section 4. Action on an Improper Payment.

(1) The cabinet shall investigate each:

(a) Instance of an improper payment; or

(b) Allegation of an IPV related to a:

1. Recipient; or

2. Child care provider.

(2) The cabinet shall initiate action to correct an improper payment in a CCAP case.

(3) If an overpayment has occurred, the cabinet shall:

(a) Determine the amount of overpayment in accordance with Section 5 of this administrative regulation; and

(b) Categorize and establish a claim to recover the amount of the overpayment.

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(4) If the cabinet has sufficient documentary evidence to confirm that a recipient or child care provider has committed an IPV, the cabinet shall:

(a)

1. Refer the case to the cabinet's Office of Inspector General (OIG) for investigation or referral for prosecution if warranted by the facts of the case;

2. Initiate an administrative disqualification hearing in accordance with Section 9 of this administrative regulation; or

3. Accept a parent of a recipient household or a child care provider's waiver of an administrative disqualification hearing through the parent or child care provider's completing, signing, and returning a DCC-84 Supplement A as specified in Section 3(2)(b) of this administrative regulation; and

(b) Take an action necessary to establish a claim to collect any overpayment resulting from the suspected IPV.

Section 5. Calculating a Claim.

(1) The cabinet shall calculate the amount of an overpayment for an:

(a) Agency error back to the month that the error first occurred, but not more than twelve (12) months prior to the date that the cabinet became aware of the overpayment;

(b) Inadvertent error back to the month that the misunderstanding or error first occurred, but not more than three (3) years prior to date that the cabinet became aware of the overpayment; and

(c) IPV back to the month of the fraudulent act first occurred, but not more than five (5) years prior to the date that the cabinet became aware of the overpayment.

(2) If an overpayment occurred as a result of a change during the period of CCAP eligibility, the first day of the claim shall begin thirty-one (31) days from the date of the change.

(3) If the overpayment occurred due to the failure of a parent of a recipient household to report information at application or recertification for eligibility in accordance with 922 KAR 2:160, Section 2_~~or~~8, or 9, the claim shall start the first day of the approval of the application or recertification.

(4)

(a) The cabinet shall:

1. Calculate the amount of CCAP for each month that a recipient or a child care provider received the improper payment; and

2. Subtract the correct amount of CCAP from the CCAP actually received.

(b) The difference shall be the amount of the overpayment.

(5) If the overpayment exists for the entire period of CCAP eligibility, the cabinet shall calculate the full amount of benefits overpaid:

(a) On behalf of the recipient; or

(b) To the child care provider.

(6) If an overpayment and an underpayment exist for a recipient or a child care provider, the amounts of the overpayment and the underpayment shall be offset to determine the total amount of the claim.

(7) The amount of a claim may differ from a calculation obtained through the methods outlined in this section if a different claim amount is ordered by:

(a) An administrative hearing officer or agency head in accordance with~~[:]~~

~~[1.] [Until April 1, 2017, 922 KAR 1:320; or]~~

~~[2.] [Effective April 1, 2017, 922 KAR 2:260; or]~~

(b) A court of appropriate jurisdiction.

(8) Child care provider claims with an estimated value of ten thousand (\$10,000) or more will be referred to the Office of Inspector General (OIG).

(9) CCAP recipient claims with an estimated value of five thousand (\$5,000) or more will be referred to the Office of Inspector General (OIG).

Section 6. General Claim Notices.

(1) A KCD-2, General Claims Notice, 02/16, shall serve many purposes in the administration of CCAP claims collections, including the use as:

(a) An appointment letter;

(b) A demand letter;

(c) A notification of benefit reduction;

(d) A past due notice;

(e) A repayment agreement;

(f) A claim adjustment notice;

(g) A claim termination notice;

(h) A payment receipt;

(i) Notice of a claim being paid in full; or

(j) Notice of a delinquent claim's referral for collection in accordance with Section 11(2) of this administrative regulation.

(2) The language on the KCD-2 shall differ according to the purpose of the notice as described in subsection (1) of this section.

Section 7. Notification of a Claim.

(1) The cabinet shall:

(a) Provide initial notice in accordance with Section 6 of this administrative regulation to a recipient or a child care provider suspected of having a claim;

(b) Provide notice of a suspected IPV, if applicable, with a:

1. DCC-84, Notice of Suspected Intentional Program Violation, 02/16; and

2. DCC-84 Supplement A, 02/16; and

(c) Offer the recipient or the child care provider an opportunity to meet with the cabinet to:

1. Discuss the potential claim;

2. Determine the category of the claim as specified in Section 3 of this administrative regulation; and

3. Sign the DCC-84 Supplement A, if an IPV is suspected.

(2) If a recipient or a child care provider requests to reschedule the meeting within ten (10) days of the date of the notice provided in accordance with subsection (1) of this section, the cabinet shall reschedule the meeting.

(3) The cabinet shall determine the claim's category in accordance with Section 3 of this administrative regulation and the amount of the claim based on the information available to the cabinet if the recipient or the child care provider:

(a) Fails to attend the meeting to discuss the claim; and

(b) Does not contact the cabinet to reschedule the meeting in accordance with subsection (2) of this section.

(4) If the cabinet determines the category and amount of a claim in accordance with subsections (1) through (3) of this section:

(a) Collection shall be initiated in accordance with Section 10 of this administrative regulation; and

(b) Subsequent notice pursuant to Section 6 of this administrative regulation shall be mailed to the recipient or the child care provider to give the claim:

1. Amount;

2. Time period;

3. Reason; and

4. Classification in accordance with Section 3 of this administrative regulation.

(5) A recipient or a child care provider shall return the notice made pursuant to subsection (4)(b) of this section within ten (10) days of receipt if the recipient or child care provider chooses to request an administrative hearing on the establishment of the claim in accordance with this administrative regulation.

Section 8. Disqualification Period.

(1) A recipient or a child care provider determined to have committed an IPV in accordance with Section 3(2) of this administration regulation shall have a period of disqualification from CCAP pursuant to subsection (2) of this section.

(2)

(a) A disqualification period from CCAP shall adhere to the following guidelines:

1. Twelve (12) months disqualification for a first occurrence of IPV;

2. Twenty-four (24) months disqualification for a second occurrence of IPV; and

3. Permanent disqualification for a third occurrence of IPV.

(b) The cabinet shall make an exception to paragraph (a) of this subsection if:

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1. The recipient is approved for CCAP in accordance with 922 KAR 2:160, Section 5 or 6; and

2. CCAP is necessary for the recipient to comply with the requirements of the recipient's:

- a. Case plan developed in accordance with 922 KAR 1:430; or
- b. Kentucky Works Program self-sufficiency plan developed in accordance with 921 KAR 2:370.

(3) If a court of appropriate jurisdiction issues a disqualification period upon conviction of a charge, or acceptance of an Alford or guilty plea, related to the IPV, the cabinet:

(a) May make exception to a disqualification period specified in subsection (2) of this section; and

(b) Shall enforce the court-ordered disqualification period.

(4) Unless subsection (2)(b) of this section applies, the disqualification period shall continue uninterrupted until it is completed regardless of the eligibility of the recipient or the child care provider.

(5) Regardless of the disqualification period, the recipient or the child care provider shall continue to be responsible for the payment of a claim resulting from the IPV.

(6) Eligibility of a recipient or payment to a child care provider shall not be affected by a suspected IPV until a disqualification is established in accordance with subsection (1) of this section.

(7) If a court of appropriate jurisdiction fails to impose a disqualification period for an IPV, the cabinet shall impose a penalty in accordance with this section.

(8) The cabinet shall not separate the same act of IPV repeated over a period of time for the imposition of multiple, separate penalties.

Section 9. Administrative Disqualification Hearing.

(1) The cabinet shall initiate an administrative disqualification hearing on the establishment of an IPV if the:

(a) Facts of the IPV do not warrant civil or criminal prosecution through a court of appropriate jurisdiction;

(b) Referral for prosecution is declined by prosecutorial authorities;

(c) Referral for prosecution is withdrawn by the cabinet; or

(d) Recipient or child care provider declines to sign the DCC-84 Supplement A.

(2) If the facts of the case arise out of the same or related circumstances, the cabinet shall not initiate an administrative disqualification hearing against a recipient or a child care provider:

(a) Whose case is currently referred for prosecution; or

(b) Subsequent to an action taken against the recipient or the child care provider by the prosecutor or a court of appropriate jurisdiction.

(3) Unless a different procedure is specified in this section, an administrative disqualification hearing shall:

(a) Be conducted in accordance with KRS Chapter 13B and 922 KAR 2:260[:];

[4.] [Until April 1, 2017, 922 KAR 1:320; or]

[2.] [Effective April 1, 2017, 922 KAR 2:160; and]

(b) Include:

1. The issuance of a recommended order;
2. Procedures for written exceptions; and
3. The issuance of a final order.

(4) The cabinet may initiate an administrative disqualification hearing regardless of the current eligibility of a recipient or the payment status of a child care provider.

(5)

(a) In accordance with KRS 13B.050, an administrative disqualification hearing notice shall be sent by:

1. Certified mail, return receipt requested, to the individual; or
2. Another method, such as electronic or first class mail, if the individual waives his or her right to certified mail delivery under KRS 13B.050.

(b) An administrative disqualification hearing notice shall provide information in accordance with KRS 13B.050.

(6) Timeframes for an administrative disqualification hearing shall be in accordance with KRS 13B.110 and 13B.120.

(7)

(a) The cabinet shall combine a request for an administrative hearing in accordance with Section 16 of this administrative regulation and an administrative disqualification hearing into a single hearing if the:

1. Factual issues arise out of the same or related circumstances; and

2. Recipient or the child care provider receives prior notice that the hearings are being combined.

(b) If the hearings are combined for the purpose of settling the amount of the claim concurrent with a determination of whether an IPV occurred, the recipient or the child care provider subject to the claim shall lose the right to a subsequent administrative hearing on the amount of the claim.

(8) During an administrative disqualification hearing, the hearing officer shall advise the recipient or child care provider accused of an IPV of the option to refuse to answer questions during the hearing.

(9)

(a) If a recipient or child care provider does not appear for the administrative disqualification hearing, the hearing officer shall proceed in accordance with KRS 13B.080(6).

(b) The cabinet shall conduct a new administrative disqualification hearing if the:

1. Recipient or the child care provider was not represented at the hearing;

2. Recipient or the child care provider was determined to have committed an IPV; and

3. Hearing officer determined the household had good cause for not appearing, in accordance with[:]

[a.] [Until April 1, 2017, 922 KAR 1:320, Section 6(7); or]

[b.] [Effective April 1, 2017,] 922 KAR 2:260, Section 5(7).

(10)

(a) The determination of an IPV made through an administrative disqualification hearing shall not be reversed by a subsequent administrative hearing decision.

(b) A recipient or child care provider shall be entitled to seek relief through a court of appropriate jurisdiction in accordance with:

1. KRS 13B.140 to 13B.160; or

2. KRS 23A.010.

Section 10. Collection of a Claim.

(1) The cabinet shall collect a claim from a claimant through:

(a) Voluntary payment arrangement, negotiated either orally or in writing, which includes a payment schedule;

(b) Court-ordered repayment;

(c) State tax refund interception in accordance with KRS 45.238;

(d) Lottery offsets;

(e) Wage garnishment; or

(f) Referral to a collection agency.

(2)

(a) The cabinet shall accept a lump sum payment on a claim from a recipient or a child care provider.

(b) The lump sum payment may be a full or partial payment.

(3)

(a) If a claimant who is a child care provider submits a completed DCC-97 Supplement A, Voluntary Payment Reduction, indicating the amount the provider wishes to have applied to the claim, the child care provider currently receiving CCAP payment may choose to have an amount withheld from the provider's CCAP payment to be applied towards a claim.

(b) The amount indicated on the DCC-97 shall not be less than ten (10) percent of the total CCAP payment.

(4) The cabinet shall refund to a claimant any amount the claimant pays in excess of the amount of the claim.

Section 11. Delinquent Claims.

(1) In accordance with KRS 45.237(4), a claim shall be considered delinquent if:

(a) A claimant has not made a payment or entered into a satisfactory payment arrangement with cabinet sixty (60) calendar days from the date on the notice provided in accordance with Section 7(4)(b) of this administrative regulation; or

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(b) Sixty (60) days have lapsed since the claimant has missed a scheduled payment pursuant to the payment arrangement with the cabinet.

(2) The cabinet shall pursue collection on a delinquent claim through a collection method specified in Section 10(1)(b) through (f) of this administrative regulation.

(3)

(a) If the cabinet determines that a claimant who is a recipient is delinquent on a payment in accordance with subsection (1) of this section for ninety (90) days, the cabinet shall:

1. Terminate the recipient's CCAP; and
2. Not reapprove the recipient for CCAP until the recipient has paid all delinquent payments.

(b) The cabinet shall make an exception to paragraph (a) of this subsection if:

1. The recipient is approved for CCAP in accordance with 922 KAR 2:160, Section 5 or 6; and
2. CCAP is necessary for the recipient to comply with the requirements of the recipient's:
 - a. Case plan developed in accordance with 922 KAR 1:430; or
 - b. Kentucky Works Program self-sufficiency plan developed in accordance with 921 KAR 2:370.

(4) If the cabinet determines that a claimant who is a child care provider is delinquent on a payment in accordance with subsection (1) of this section for ninety (90) days, the cabinet shall:

- (a) Disallow any CCAP payments to the child care provider; and
- (b) Not approve the child care provider for further CCAP payments until the provider has paid all delinquent payments.

(5) The cabinet shall provide notice in accordance with Section 6 of this administrative regulation prior to an action specified in subsection (3) or (4) of this section.

(6) If the cabinet is unable to determine a claim's delinquency status because the claim collection is coordinated through the court system, the cabinet shall not subject a claim to the requirements for delinquent debts in accordance with this section.

(7) A claim shall not be considered delinquent if:

- (a) Another claim for the same claimant is currently being paid through a repayment agreement or court order; and
- (b) The cabinet expects to begin collection on the claim once the prior claim is settled.

(8)

(a) A claim awaiting an administrative hearing shall not be considered delinquent.

(b) If a hearing officer or agency head determines that a claim does exist as result of an administrative hearing, the cabinet shall:

1. Send subsequent notice of the claim in accordance with Section 6 of this administrative regulation; and
2. Base delinquency on the due date of the subsequent notice.

(c) If a hearing officer or agency head determines that a claim does not exist as a result of an administrative hearing, the cabinet shall terminate the claim in accordance with Section 12(2) of this administrative regulation.

Section 12. Compromising or Terminating a Claim.

(1) Except for a claim that is established by a court of appropriate jurisdiction, the cabinet may compromise a claim or a portion of a claim if:

(a) A request for a compromise is received from the claimant; and

(b) The cabinet makes a determination that the claimant will be unable to pay the claim within five (5) years.

(2) Except for a claim that is established by a court of appropriate jurisdiction the[The] cabinet shall terminate a claim if the:

(a) Claim:

1. Is invalid, unless pursuing the overpayment as a different type of claim is appropriate;
 2. Balance is twenty-five (25) dollars or less, and the claim has been delinquent for ninety (90) days or more, unless another claim is pending against the same claimant resulting in an aggregate claim total of greater than twenty-five (25) dollars; or
 3. Has been delinquent for at least three (3) years;
- (b) Claimant dies; or

(c) Cabinet is unable to locate the claimant.

(3) The cabinet shall provide notice in accordance with Section 6 of this administrative regulation if the cabinet:

- (a) Compromises or terminates a claim; and
- (b) Has a mailing address for the claimant.

Section 13. Underpayments and CCAP Restoration.

(1) If an underpayment has occurred, the cabinet shall issue a payment to the child care provider that includes the difference between the amount that the child care provider:

- (a) Was entitled to receive; and
- (b) Actually received.

(2) CCAP shall be restored for no more than twelve (12) months to a recipient or a child care provider if benefits were lost:

- (a) Due to an agency error; or
- (b) By a disqualification period for an IPV that is subsequently reversed through an order of a court of appropriate jurisdiction.

Section 14. Disclosure of Information. The disclosure or the use of CCAP information shall be restricted in accordance with:

- (1) KRS 194A.060; and
- (2) 45 C.F.R. 205.50(a)(1)(i).

Section 15. Retention of Records.

(1) Records for CCAP shall be retained in accordance with 45 C.F.R. 98.90(e).

(2) The cabinet shall retain:

- (a) The official records of an administrative disqualification hearing until all appeals have been exhausted; and
- (b) A CCAP record with an IPV disqualification indefinitely.

Section 16. A parent in the recipient household or a child care provider may request an appeal of the establishment of a claim in accordance with[.]

- [(1)] [Until April 1, 2017, 922 KAR 1:320, Section 2(10); or]
[(2)] [Effective April 1, 2017,] 922 KAR 2:260, Section 2(4).

Section 17. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "DCC-83, Deferred Adjudication Disqualification Consent Agreement", 2024[02/16];
- (b) "DCC-84, Notice of Suspected Intentional Program Violation", 2024[02/16];
- (c) "DCC-84 Supplement A, Voluntary Waiver of Administrative Disqualification Hearing", 2024[02/16];
- (d) "DCC-97 Supplement A, Voluntary Payment Reductions", 2024[11/09]; and
- (e) "KCD-2, General Claims Notice", 02/16.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family Services, Department for Community Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 am through 4:30 p.m. This material may also be viewed on the department's Web site at <https://chfs.ky.gov/agencies/dCBS/Pages/default.aspx>.

LESA DENNIS, Acting Commissioner

CARRIE BANAHAN, Deputy Secretary

APPROVED BY AGENCY: December 11, 2024

FILED WITH LRC: December 11, 2024 at 2:20 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on February 24, 2025, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by February 17, 2025, 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

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proposed administrative regulation until February 28, 2025. 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: 502-564-6746; Fax: 502-564-7091; CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: (s) Rachael Ratliff and Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes procedures for improper payments, claims, and penalties used by the cabinet in the administration of the Child Care Assistance Program (CCAP).

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish improper payments, claims, and penalties within CCAP.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation conforms to the content of the authorizing statutes by establishing procedures for improper payments, claims, and penalties used by the cabinet in CCAP.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation currently assists in the effective administration of the statutes through its establishment of the cabinet's procedures for improper payments, claims, and penalties in CCAP.

(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 makes technical corrections in reference to other amended regulations, and their corresponding sections.

(b) The necessity of the amendment to this administrative regulation: This amendment clarifies correct citations to references of other regulations.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes through its enhancement of penalties and claim collection practices in CCAP.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes through its improvements to the cabinet's procedures for improper payments, claims, and penalties in CCAP.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The parent of a child eligible for CCAP or a provider serving a child eligible for CCAP could be impacted by this administrative regulation if an overpayment or underpayment or a suspected intentional program violation has occurred involving the child's case/eligibility or payment to the child care provider.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: There are no new actions concerning 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 are no new or additional costs to regulated entities

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The amendment to this administrative regulation will foster accuracy in benefits and program integrity for applicants, recipients, and providers participating in CCAP. (5) Provide an estimate of how much it will cost the administrative body to implement:

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

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

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

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The sources of funding to be used for implementation and enforcement of this administrative regulation are the federal Child Care and Development Fund Block Grant, state match, state maintenance of effort funds, and state general funds. In addition, child care provided to work-eligible adults participating in the Kentucky Works Program is supported by federal and state funds allocated to the Temporary Assistance or Needy Families (TANF) Block Grant.

(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 amendment to this administrative regulation does not require any increase in fees or funding.

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

(9) TIERING: Is tiering applied? Tiering is not applied. This administrative regulation will be applied in a like manner statewide.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 45 C.F.R. Part 98, 205.50, 42 U.S.C. 601-619, 9857-9858q

(2) State compliance standards. KRS Chapter 13B, 45.237-45.241, 194A.050(1), 194A.060, 199.8994

(3) Minimum or uniform standards contained in the federal mandate. 45 C.F.R. Part 98, 205.50, 42 U.S.C. 601-619, 9857-9858q

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation will not impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation will not impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate.

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 Chapter 13B, 45.237-45.241, 194A.050(1), 194A.060, 199.8994, 45 C.F.R. Part 98, 205.50, 42 U.S.C. 601-619, 9857-9858q

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Cabinet for Health and Family Services will be impacted by this administrative regulation.

(a) Estimate the following for the first year:

Expenditures: This administrative regulation will create no new or additional costs during the first year.

Revenues: This administrative regulation will generate no new revenue during the first year.

Cost Savings: This administrative regulation will create no cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? This administrative regulation will create no new or additional costs in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Licensed, Certified, or Registered Relative providers are impacted by this administrative regulation.

(a) Estimate the following for the first year:

Expenditures: This administrative regulation will create no new or additional costs during the first year.

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Revenues: This administrative regulation will generate no new revenue during the first year.

Cost Savings: This administrative regulation will create no cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? This administrative regulation will create no new or additional costs in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3): No other entities are affected.

(a) Estimate the following for the first year:

Expenditures:

Revenues:

Cost Savings:

(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 administrative regulation will create no new or additional costs.

(b) Methodology and resources 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 administrative regulation has no major economic impact.

(b) The methodology and resources used to reach this conclusion: This administrative regulation has no major economic impact.

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](#).

BOARDS AND COMMISSIONS
Board of Speech-Language Pathology and Audiology
(New Administrative Regulation)

201 KAR 17:120. Audiology and Speech-Language Pathology Interstate Compact.

RELATES TO: KRS 334A.188

STATUTORY AUTHORITY: KRS 334A.080(3), 334A.188

NECESSITY, FUNCTION, AND CONFORMITY: KRS 334A.188, Section 15.B.1. requires the Board of Speech-Language Pathology and Audiology to review any rule adopted by the Audiology and Speech-Language Pathology Interstate Compact pursuant to Section 10 of KRS 334A.188 within sixty (60) days of adoption for the purpose of filing the rule as an emergency administrative regulation pursuant to KRS 13A.190 and for filing the rule as an accompanying ordinary administrative regulation pursuant to KRS Chapter 13A. This administrative regulation incorporates by reference the rules adopted by the Counseling Compact.

Section 1. The Board of Speech-Language Pathology and Audiology shall comply with all rules of the Audiology and Speech-Language Pathology Interstate Compact, which includes the Audiology and Speech-Language Pathology Interstate Compact Rules as of October 7, 2023.

Section 2. Incorporation by Reference.

(1) The following material is incorporated by reference: "The Audiology and Speech-Language Pathology Interstate Compact Rules", October 7, 2023, and as revised.

(a) Chapter 1 – Rule on Definitions, adopted April 17, 2023;

(b) Chapter 2 – Rule on Data System Reporting Requirements, adopted April 17, 2023; and

(c) Chapter 3 – Rule on Implementation of Criminal Background Check Requirement, adopted October 7, 2023.

(2)

(a) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board Speech-Language Pathology and Audiology, 500 Mero Street, 2 SC 32, Frankfort, Kentucky 40602, Monday through Friday, 8 a.m. to 4:30 p.m.; or

(b) This material may also be obtained on the Board of Speech-Language Pathology and Audiology Web site at <https://slp.ky.gov/>.

(3) This material may also be obtained at:

(a) The Audiology and Speech-Language Pathology Interstate Compact Commission, 1776 Avenue of the States, Lexington, Kentucky 40511; or

(b) <https://aslpcompact.com/commission/commission-governance-documents/>.

JENNIFER LUTES, M.S., SLP, Board Chair

APPROVED BY AGENCY: November 20, 2024

FILED WITH LRC: November 26, 2024 at 12:02 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 25, 2025, at 3:00 p.m. Eastern Time, at the Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky in PPC Conference Room 127CW. 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 February 28, 2025. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative

regulation to https://ppc.ky.gov/reg_comment.aspx or the contact person.

CONTACT PERSON: Sara Boswell Janes, Staff Attorney III, Department of Professional Licensing, Office of Legal Services, 500 Mero Street, 2 NC WK#2, phone (502) 782-2709 (office), fax (502) 564-4818, email Sara.Janes@ky.gov, Link to public comment portal: https://ppc.ky.gov/reg_comment.aspx

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Sara Boswell Janes

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation implements KRS 334A.188, the Audiology and Speech-Language Pathology Interstate Compact.

(b) The necessity of this administrative regulation: This administrative regulation is necessary because KRS 334A.188, SECTION 15.B.1. requires rules adopted by the Counseling Compact to be promulgated as administrative regulations pursuant to KRS Chapter 13A.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the specific requirements of the authorizing statute, KRS 334A.188, SECTION 15.B.1. which requires rules adopted by the Audiology and Speech-Language Pathology Interstate Compact to be promulgated as administrative regulations pursuant to KRS Chapter 13A.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation conforms to the content of KRS 334A.188 which requires this promulgation.

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

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect the 4074 active and 119 inactive licensees in some capacity, and will also affect new applicants for licensure.

(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.

(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 imposed by this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be in compliance with the regulation.

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

(a) Initially: There is no additional cost.

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

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by credential holders and applicant.

(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 administrative regulation does not establish fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering was not applied as the changes apply to all 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 334A.080(3), 334A.188. Interstate compacts are specifically authorized under the federal constitution (Article 1, Section 10, Clause 3- the Compacts Clause) and take precedence over any conflicting state law pursuant to the Compacts Clause and the Contracts Clause, U.S. Constitution, Article 1, Section 10, Clause 1.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Board of Speech-Language Pathology and Audiology is the promulgating agency and the only affected state unit, part or division.

(a) Estimate the following for the first year:

Expenditures: The compact may become operational in 2025, however, the expenditures needed in the first year are currently indeterminable. There will likely be some state expenditures necessary for data system programming, administering applications for compact privileges within and without the Commonwealth, as well as administering complaint and enforcement actions for those with the privilege to practice in Kentucky, and possibly for Kentucky licensees with the privilege to practice in other states.

Revenues: If the compact becomes operational in Kentucky during the first year, the Board may require imposition of a fee to cover the cost of administration. However, at this time potential revenues are indeterminable.

Cost Savings: Indeterminable.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The compact may become operational in 2025, however, the expenditures, revenue and cost savings in subsequent years, if any, are currently indeterminable.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): None anticipated.

(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? There will be no difference in expenditures, revenues or cost savings to local entities in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3):

(a) Estimate the following for the first year:

Expenditures:

Revenues:

Cost Savings:

(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: There is minimal anticipated fiscal impact to this administrative regulation in the first year. It is possible there will be a fiscal impact of administering applications for compact privileges for in-state licensees who apply for the privilege to practice in another state, and for out of state licensees who apply for the privilege to practice in Kentucky. The Audiology and Speech-Language Pathology Interstate Compact Commission remains in its infancy and the work to be conducted by the state board on behalf of the compact is yet to be determined.

(b) Methodology and resources used to determine the fiscal impact: Methodology and resources are currently indeterminable since there are no known duties outlined for the state in relation to the compact.

(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 entities identified.

(b) The methodology and resources used to reach this conclusion: Methodology and resources are currently indeterminable since there are no known duties outlined for the state in relation to the compact; however, given the number of licensees, current budget and anticipated number of applications for out of state licensees to obtain the privilege to practice in Kentucky, no major economic impact is anticipated.

**TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Driver Licensing
(New Administrative Regulation)**

601 KAR 12:120. Testing applicants for initial or renewal instruction permit, initial or renewal operator's license, or reinstatement.

RELATES TO: KRS 186.412, 186.4121, 186.415, 186.416, 186.417, 186.419, 186.435, 186.442, 186.450, 186.480, 186.580, 601 KAR 12:020.

STATUTORY AUTHORITY: KRS 186.4101, 186.444, 186.570, 186.577

NECESSITY, FUNCTION, AND CONFORMITY: KRS 186.577 requires the Kentucky State Police to test persons applying for an initial operator's license or an initial instruction permit to submit to a test of visual acuity and visual field at the time of application. It also requires the Kentucky Transportation Cabinet, Department of Vehicle Regulation, Division of Driver Licensing, to test persons applying for a renewal operator's license, a renewal instruction permit, or reinstatement to submit to a test of visual acuity and visual field at the time of application. It also requires persons whose visual acuity is 20/60 or better in one (1) eye and who meet or exceed the visual field standard established by this administrative regulation with corrective lenses shall have their driving privileges restricted to mandate the use of the corrective lenses. KRS 186.577 also requires the Transportation Cabinet to promulgate administrative regulations pursuant to KRS Chapter 13A to implement the provisions of the section, including establishing visual field standards, the creation of a driver vision testing form, and establishing a credentialing process for osteopaths, physicians, and advanced practice registered nurses to conduct vision testing under the section.

Section 1. Definitions.

(1) "Corrective lens" means an ophthalmic lens, whether an eyeglass, contact lens, or single lens system, that corrects the refraction error or other optically correctable deficiency of the eye.

(2) "Credentialed medical specialist" means an osteopath, physician, or advanced practice registered nurse who is credentialed by the cabinet to perform vision testing under this administrative regulation.

(3) "Field of vision" means the entire horizontal and vertical planes a person has for each eye without shifting the gaze.

(4) "Licensing action" means any action by the Transportation Cabinet involving the denial, cancellation, restriction, or issuance of a motor vehicle operator's license pursuant to KRS Chapter 186.

(5) "Medical Review Board" means the Medical Review Board established pursuant to KRS 186.444 and 186.570(1)(c).

(6) "Visual field" is defined by KRS 186.576(13).

(7) "Vision specialist" means a person licensed to practice optometry as established in KRS Chapter 320 or its out-of-state equivalent, or an ophthalmologist who is a medical or osteopathic physician specializing in eye and vision care and licensed pursuant to KRS Chapter 311 or its out-of-state equivalent.

(8) "Vision testing" means the initial vision screening for visual acuity and visual field conducted by the Kentucky State Police, a credentialed medical specialist, or a vision specialist to test persons applying for an initial operator's license or an initial instruction

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permit, or the vision screening conducted by the Division of Driver Licensing, a credentialed medical specialist, or a vision specialist to test persons applying for a renewal operator's license, a renewal instruction permit, or reinstatement. It also means the further examination vision testing for a visual acuity and visual field conducted by a vision specialist after a failed initial vision screening.

(9) "Visual field standards" means the driver's horizontal field of vision shall be at least thirty (30) degrees to both the left and the right without interruption and their vertical field of vision shall be at least twenty-five (25) degrees above and below fixation without interruption.

Section 2. Procedures for Testing Applicants for Initial or Renewal Instruction Permit, Initial or Renewal License, or Reinstatement.

(1) The following persons shall submit to a test of visual acuity and visual field at the time of application or renewal:

(a) All persons applying for an initial or renewal operator's license;

(b) All persons applying for an initial or renewal instruction permit; and

(c) Any person required to complete an examination under KRS 186.635.

(2) Vision testing under this section shall be administered to any person:

(a) Applying for an initial operator's license, an initial instruction permit, or reinstatement of a license when vision shall be tested as required in KRS 186.480:

1. Prior to the time of application under subsection (5) of this section; or

2. By Kentucky State Police at the time of application;

(b) Applying for operator's license renewal or instruction permit renewal:

1. Prior to the time of application under subsection (5) of this section; or

2. By the Transportation Cabinet at the time of application; or Identified in Kentucky administrative regulations promulgated by the

(c) Transportation Cabinet as being required to undergo the exam required by KRS 186.480.

(3) Visual acuity and visual field.

(a) Persons whose visual acuity is 20/40 or better in one (1) eye and who meet or exceed the visual field standard established by the Transportation Cabinet without corrective lenses shall not have a restriction placed on their driving privileges.

(b) Persons whose visual acuity is 20/40 or better in one (1) eye and who meet or exceed the visual field standard established by the Transportation Cabinet with corrective lenses shall have their driving privileges restricted to mandate the use of the corrective lenses.

(c) Persons with a horizontal visual field in the person's better eye of at least thirty (30) degrees to the left and right side of fixation without interruption and a vertical visual field in the person's better eye of at least twenty-five (25) degrees above and below fixation without interruption shall be eligible to test for an instruction permit or operator's license or shall be eligible for an instruction permit or operator's license renewal or reinstatement.

(d) If a person fails to meet a 20/40 visual acuity standard or the visual field standard established by this administrative regulation in an initial screening by the Kentucky State Police, the Division of Driver Licensing, or a credentialed medical specialist, the person shall be referred to a vision specialist for further examination. If a vision specialist performs the initial screening and the person does not meet the visual standards, the vision specialist may conduct any further examination necessary to complete the TC 94-202, Driver Vision Testing Certification.

(e) Any further examination visual field test conducted by a vision specialist after a failed initial vision screening under this administrative regulation shall test the entire field of vision for interruption.

(4) A person referred to a vision specialist under subsection (3) of this section whose visual acuity is 20/60 or better in one eye and who meets or exceeds the visual field standard established by this administrative regulation shall be eligible to test for an instruction permit or operator's license or shall be eligible for operator's license

renewal or reinstatement. If corrective lenses were prescribed by a vision specialist, the person's driving privileges shall be restricted to mandate the use of the corrective lenses.

(5) Vision tests administered under subsection (2)(a) of this section shall be deemed to meet the testing provisions outlined in subsection (3) or (4) of this section, if the person submits a TC 94-202, Driver Vision Testing Certification, and the form has been completed by:

(a) A vision specialist; or

(b) An osteopath, physician, or advanced practice registered nurse who is credentialed by the department to perform vision testing pursuant to KRS 186.577 and this administrative regulation.

(6) All driver vision testing forms completed under subsection (5) of this section shall:

(a) Attest that the applicant meets or exceeds the visual acuity standard and visual field standard established by KRS 186.577 and the department in this administrative regulation;

(b) Only be valid if the vision specialist or the credentialed osteopath, credentialed physician, or credentialed advanced practice registered nurse signed and completed the TC 94-202, Driver Vision Testing Certification, vision testing form less than twelve (12) months prior to the date of application or renewal;

(c) State whether the driving privileges of the applicant shall be restricted to mandate the use of corrective lenses;

(d) Clearly indicate that the vision testing under this section is a screening for minimum vision standards established in this section and is not a complete eye examination;

(e) After any examination requested pursuant to KRS 186.577 and this administrative regulation, the examining vision specialist or credentialed medical specialist shall complete and report the findings of an examination on the TC 94-202, Driver Vision Testing Certification, and shall submit it directly to the department if the person's visual acuity or visual field do not meet the standards in this administrative regulation; and

(f) If the department learns that a person applying for an initial or renewal instruction permit, initial or renewal license, or reinstatement, could have a medical condition that might affect safe driving, the department may, pursuant to 601 KAR 13:090, 601 KAR 13:100, and this administrative regulation require the person to provide the Medical Review Board with information about the person's medical condition and may thereafter take an appropriate licensing action.

(7) Any person seeking application or permit under subsection (1) of this section shall attest that he or she has submitted to and passed the visual acuity and visual field tests required under KRS 186.577 and this administrative regulation.

(8) Any person renewing an operator's license under KRS 186.416 shall be exempt from the vision testing requirements outlined in this administrative regulation.

(9) Persons who meet the requirements of KRS 186.578 and are issued operator's licenses under KRS 186.579 shall:

(a) Have their driving privileges restricted to the use of a bioptic telescopic device; and

(b) Be otherwise exempt from this section.

(10) Pursuant to KRS 186.480, the provisions of KRS 186.577 and of this administrative regulation shall not apply to an applicant who:

(a) At the time of application, holds a valid operator's license from another state, provided that state affords a reciprocal exemption to a Kentucky resident;

(b) At the time of application for a motorcycle instruction permit or motorcycle operator's license, presents evidence of successful completion of an approved rider training course under KRS 176.5062; or

(c) Is a citizen of the Commonwealth who has been serving in the United States military and has allowed his or her operator's license to expire.

(11) A credentialed medical specialist or a vision specialist shall complete the TC 94-202, Driver Vision Testing Certification, after any examination requested pursuant to KRS 186.577 and this administrative regulation and shall submit a copy of the certification of any examination failures to the Division of Driver Licensing. Unless the Division of Driver Licensing or the Kentucky State Police

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is conducting the initial screening at the time of application, the Kentucky State Police or the department shall require a person to submit a completed original copy of this form for that person to be eligible for an initial operator's license, an initial instruction permit, license renewal, permit renewal, or reinstatement.

Section 3. Appeal of a Denial of Initial Instruction Permit, Operator's License, Renewal, or Reinstatement for Vision Standards.

(1) After any further examination by a vision specialist requested pursuant to KRS 186.577 and this administrative regulation, an applicant who is deemed ineligible for an initial instruction permit, operator's license, renewal, or reinstatement because their visual acuity or visual field do not meet the applicable standards may appeal their denial to the Division of Driver Licensing, Medical Review Board.

(2) An applicant may file an appeal by submitting a copy of the TC 94-202, Driver Vision Testing Certification, certified by a vision specialist to the Medical Review Board within twenty (20) days of the date the further examination was completed.

Section 4. Credentialing of a Medical Specialist.

(1) A licensed osteopath, physician, or advanced practice registered nurse shall become credentialed by the Department of Vehicle Regulation before they may perform the initial vision testing required under KRS 186.577 and this administrative regulation. To become credentialed, the medical professional shall submit to the department a completed TC 94-203, Medical Specialist Credentialing Certification.

(2) The applicant medical specialist shall thereafter receive an approved copy of the TC 94-203, Medical Specialist Credentialing Certification, from the Division of Driver Licensing credentialing them to perform the initial vision screening required under KRS 186.577 and this administrative regulation prior to completing any driver vision examination, and prior to completing a TC 94-202, Driver Vision Testing Certification.

(3) The credentialed medical professional shall include their Medical Specialist Credential certification number on any completed TC 94-202, Driver Vision Testing Certification.

Section 5. Incorporated by Reference.

(1) The following material is incorporated by reference:

(a) "TC 94-202, Driver Vision Testing Certification," November 2024.

(b) "TC 94-203, Medical Specialist Credentialing Certification," November 2024.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Driver 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 the Transportation Cabinet's website at [https://transportation.ky.gov/Organizational-Resources/Pages/Forms-Library-\(TC-94\).aspx](https://transportation.ky.gov/Organizational-Resources/Pages/Forms-Library-(TC-94).aspx).

JIM GRAY, Secretary

MATTHEW COLE, Commissioner

JESSE ROWE, Staff Attorney Manager/Assistant General Counsel

APPROVED BY AGENCY: December 5, 2024

FILED WITH LRC: December 6, 2024 at 11:25 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 21, 2025, at 10:00 AM EST, at the Transportation Cabinet, Transportation Cabinet Building, 200 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 February 28, 2025. 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: Jesse Rowe, Staff Attorney Manager/Assistant General Counsel, Transportation Cabinet, Office of Legal Services, 200 Mero Street, Frankfort, Kentucky 40622, (502) 564-7650, fax (502) 564-5238, jessew.rowe@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jesse Rowe

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation implements the KRS 186.577 requirement that the Kentucky State Police continue to require persons applying for an initial operator's license, or an initial instruction permit, to submit to a test of visual acuity and visual field at the time of application but now authorizing medical professionals to conduct the examinations prior to application when requested. It also implements the requirement that the Division of Driver Licensing require persons applying for a renewal operator's license, a renewal instruction permit, or reinstatement to submit to a test of visual acuity and visual field at time of application. The regulation also requires persons whose visual acuity is 20/60 or better in one (1) eye and who meet or exceed the visual field standard with corrective lenses shall have their driving privileges restricted to mandate the use of the corrective lenses. It also implements the KRS 186.577 requirement that the Transportation Cabinet establish visual field standards, create a driver vision testing form, and establish a credentialing process for osteopaths, physicians, and advanced practice registered nurses to conduct vision testing under the section.

(b) The necessity of this administrative regulation: This regulation is required by KRS 186.577(10).

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation establishes the minimum standards required to achieve the intent of KRS 186.577.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes forms required by KRS 186.577 to report vision examinations for driver licensing applicants performed outside of the agencies and for credentialing of medical specialists who are not vision specialists to be among those who can perform the examinations.

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

(a) How the amendment will change this existing administrative regulation: N/A.

(b) The necessity of the amendment to this administrative regulation: N/A.

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation would affect the residents of Kentucky who may apply for a driver license. The Department of Vehicle Regulation reports approximately 3.5M active licensed drivers in Kentucky on a given day. It will control how the Department of Vehicle Regulation applies the vision standards required by KRS 186.577 and the regulation to applicants for a renewal, or reinstatement of an instruction permit or operator's license. This regulation also affects the Kentucky State Police and controls how it applies the vision standards required by KRS 186.577 and the regulation to applicants for an initial permit or license. This regulation also controls how vision specialists and credentialed medical specialists may conduct and report vision examinations requested pursuant to the regulation and KRS 186.577 and establishes a process for osteopaths, physicians, and advanced practice registered nurses to become credentialed medical specialists and to conduct vision testing under the regulation and statute.

(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:

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(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 Department of Vehicle Regulation and the Kentucky State Police will be required to comply with the applicable vision standards in this regulation and KRS 186.577 in the issuance and denial of initial permits and licenses and their renewal and reinstatement. The Department of Vehicle Regulation, the Kentucky State Police, vision specialists, and credentialed medical specialists may conduct driver vision testing and vision specialists and credentialed medical specialists must report the examinations on the form required by the regulation. Residents of Kentucky who may apply for a driver instruction permit or license, renewal or reinstatement will be required to comply with this regulation and KRS 186.577 and submit to a test of visual acuity and visual field at or before application.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The Department of Vehicle Regulation and the Kentucky State Police will offer the required vision screening without additional expense to applicants for a permit, license, renewal, or reinstatement. Vision specialists and credentialed medical specialists will charge market rates for the same service. The Department of Vehicle Regulation has acquired 100 or more automatic visual acuity and visual field machines to conduct the examinations and has increased staff in the Frankfort central office and in the regional driver licensing offices. The Kentucky State Police already owns and maintains the same machines for the vision examinations previously required for initial permits or licenses by KRS 186.577 prior to the amendments requiring testing for renewals and reinstatements.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The Department of Vehicle Regulation and the Kentucky State Police will hereafter work together to ensure compliance with minimum vision standards for drivers throughout the years they may be licensed, improving roadway safety for the traveling public.

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

(a) Initially: The Kentucky Transportation Cabinet incurred initial equipment costs of approximately \$100,000.

(b) On a continuing basis: Implementing this administrative regulation will have ongoing equipment and personnel costs for the Kentucky Transportation Cabinet across each of the regional driver licensing offices and central office associated with compliance with KRS 186.577, totaling \$250,000 in recurring annual mostly personnel costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of the funding to be used for the implementation and enforcement of this administrative regulation is the general budget of the Kentucky Transportation Cabinet, Department of Vehicle Regulation.

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: KRS 186.577(11) authorizes the assessment of a fee to an applicant to cover the administrative costs of performing on-site vision testing. The Kentucky Transportation Cabinet has declined to assess such a fee. Applicants may choose to pay for driver vision testing conducted by vision specialists or credentialed medical specialists prior to application.

(9) TIERING: Is tiering applied? No tiering is required under any law nor is it necessary for proper application of the law.

promulgating agency and it and the Kentucky State Police are affected.

(a) Estimate the following for the first year:

Expenditures: \$100,000 in initial equipment costs and \$250,000 in additional personnel costs for the Kentucky Transportation Cabinet.

Revenues: This administrative regulation is not expected to generate revenue.

Cost Savings: This administrative regulation is not expected to generate cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The Kentucky Transportation Cabinet will expend approximately \$250,000 in additional annual personnel and equipment costs to comply with KRS 186.577 and the administrative regulation. This administrative regulation is not expected to generate revenue and is not expected to generate cost savings.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): This administrative regulation will not affect local entities.

(a) Estimate the following for the first year:

Expenditures: This administrative regulation is not expected to generate additional expenditures for any local entities.

Revenues: This administrative regulation is not expected to generate revenue.

Cost Savings: This administrative regulation is not expected to generate cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures, revenues, and cost savings will not differ in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3): None.

(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? They will not differ.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This administrative regulation should cause no effect on the expenditures and revenues of a state or local government agency other than the Kentucky Transportation Cabinet. The Department of Vehicle Regulation has incurred \$100,000 in initial equipment costs to comply with KRS 186.577 and the additional personnel costs are based upon the estimated hours to accommodate the volume of driver vision testing and administration expected to occur in the department.

(b) Methodology and resources used to determine the fiscal impact: The Department of Vehicle Regulation has already incurred the initial equipment expense, it evaluated the time necessary to conduct a vision examination, and used historical data to determine the expected volume of renewals and reinstatements requiring a vision examination processed in a given year.

(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 will not have an overall negative or adverse major economic impact to the entities identified.

(b) The methodology and resources used to reach this conclusion: The Department of Vehicle Regulation evaluated its own expected costs based upon actual equipment costs, task complexity and volume, and historical personnel costs. No other entity can have additional expenditures to comply with 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 186.577.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Transportation Cabinet, Department of Vehicle Regulation, Division of Driver Licensing is the

**EDUCATION AND LABOR CABINET
Kentucky Board of Education
Department of Education
(New Administrative Regulation)**

704 KAR 3:315. Certification of Nonpublic Schools.

RELATES TO: KRS 159.030, 159.040, 158.070, 159.080, 156.160.

STATUTORY AUTHORITY: KRS 156.070

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NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160(3) provides that nonpublic schools may voluntarily comply with the curriculum, certification, and textbook standards established by the Kentucky Board of Education (KBE) and be certified upon application to the board. KRS 156.070(4) authorizes the KBE to promulgate regulations necessary to the efficient management and operation of programs under the KBE's jurisdiction. KRS 158.080 outlines the required courses to be taught in nonpublic schools. KRS 158.070 establishes the minimum required length of the school term. KRS 159.040 provides the records that must be maintained by nonpublic schools.

Section 1. Definitions. (1) "Nonpublic school" means any private, parochial, home-based, or church school. A public charter school as defined by KRS 160.1592 is not a nonpublic school.

Section 2. Procedures for Certification.

(1) Nonpublic schools seeking voluntary certification from the Kentucky Board of Education (KBE) shall seek accreditation from an accrediting agency approved by the Kentucky Nonpublic Schools Commission (KNPSC).

(2) Following successful accreditation, nonpublic schools seeking voluntary certification shall apply with the KNPSC.

(3) The KNPSC shall annually produce a list of nonpublic schools that have successfully completed the accreditation process and are recommended for certification by the KBE. The list shall be submitted to the Kentucky Department of Education (KDE) by April 15 of each year for consideration by the KBE at its next regularly scheduled meeting.

(4) Upon the recommendation of the KNPSC, any certified nonpublic school may have its certification revoked by the KBE at any point during the school year. Such recommendations shall be heard at the next regularly scheduled meeting of the KBE.

Section 3. KNPSC Required Policies.

(1) The KNPSC shall develop a policy for the screening and selection of eligible accrediting agencies. The policy shall include at a minimum:

(a) A procedure for accrediting agencies to seek approval by the KNPSC.

(b) Detailed criteria for the screening and selection of eligible accrediting agencies.

(c) A timeline for completing the screening and selection process.

(d) Procedures for the periodic re-screening of approved accrediting agencies.

(e) A list of approved accrediting agencies.

(2) The KNPSC shall develop a policy for recommending nonpublic schools to the KBE for certification. The policy shall include at a minimum:

(a) A process for nonpublic schools to apply for certification through the KNPSC.

(b) A process to ensure that the nonpublic school is accredited by an approved accrediting agency.

(c) A process to ensure the nonpublic school is in compliance with the reporting requirements in KRS 159.030.

(d) A process to ensure the nonpublic school is in compliance with the record keeping requirements in KRS 159.040.

(e) A process to ensure the nonpublic school is in compliance with the course requirements in KRS 158.070.

(f) A process to ensure the nonpublic school is in compliance with the required length of school term in KRS 158.080.

(3) The KNPSC shall develop a policy to govern the recommended certification revocation of nonpublic schools. The policy shall include at a minimum:

(a) The conditions under which the KNPSC shall undergo consideration for certification revocation.

(b) A process for investigating and collecting evidence to support a recommendation for certification revocation.

(c) A process for the certified nonpublic school to appeal a decision to recommend certification revocation to the full KNPSC board of directors.

(d) A prohibition against recommending certification revocation for the failure to pay certification or accreditation fees.

(4) The KDE shall provide technical assistance as requested by the KNPSC.

(5) The KNPSC shall annually submit the three required policies along with a letter explaining any updates to the policies by April 15 for review by the KBE at its next regularly scheduled meeting. Changes to the policies shall not be implemented until they are reviewed and approved by the KBE.

Section 4. Posting Requirements.

(1) The KNPSC and KDE shall post on their websites a list of certified nonpublic schools that includes:

(a) The name of the certified nonpublic school,

(b) The public school district in which the nonpublic school is physically located,

(c) The grade levels served,

(d) The physical address,

(e) The telephone number,

(f) A static email address,

(g) The school's website URL, and

(h) The expiration date for the nonpublic school's voluntary certification.

(2) The KNPSC and KDE shall post on their websites the list of approved accrediting agencies in Section 2(1)(e) of this regulation.

(3) The KNPSC and KDE shall post on their websites the three required policies found in Section 3 of this regulation. This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

ROBBIE FLETCHER, Commissioner of Education
SHARON PORTER ROBINSON, Chair, Board of Education

APPROVED BY AGENCY: December 5, 2024

FILED WITH LRC: December 9, 2024 at 3:35 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held February 24, 2025 at 10:00 a.m., in the State Board Room, Fifth Floor, 300 Sower Boulevard, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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 February 28, 2025. 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: Todd G. Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, Fifth Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321, email regcomments@education.ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Todd G. Allen

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation codifies the procedures for the annual certification of nonpublic schools.

(b) The necessity of this administrative regulation: KRS 156.160(3) provides that nonpublic schools may voluntarily comply with the curriculum, certification, and textbook standards established by the Kentucky Board of Education (KBE) and be certified upon application to the board. This regulation codifies the procedures for such certification.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation ensures that the certification process remains voluntary and aligns with statutory requirements for the functioning of nonpublic schools.

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(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation codifies the process for the annual certification of nonpublic schools.

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

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Kentucky Board of Education, the Kentucky Nonpublic Schools Commission, nonpublic schools.

(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 Kentucky Nonpublic Schools Commission will be required to adopt three new policies that govern the process for recommending nonpublic schools for voluntary certification to the Kentucky Board of Education. It also outlines the procedures that the Commission must take to make such a recommendation.

(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 to any of the aforementioned entities as a result of this regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The process for the voluntary certification of nonpublic schools will be more uniform and more easily understood by nonpublic schools.

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

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

(b) On a continuing basis: There are no continuing costs to implementing this regulation.

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

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

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

(9) TIERING: Is tiering applied? Tiering is not applied. The regulation applies uniformly.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There are no expenditures, revenues, or cost savings associated with this regulation.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): None.

(a) Estimate the following for the first year:

Expenditures: There are no expenditures associated with this regulation.

Revenues: There are no revenues associated with this regulation.

Cost Savings: There are no cost savings associated with this regulation.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There are no expenditures, revenues, or cost savings associated with this regulation.

(4) Identify additional regulated entities not listed in questions (2) or (3): Kentucky Nonpublic Schools Commission, nonpublic schools.

(a) Estimate the following for the first year:

Expenditures: There are no expenditures associated with this regulation.

Revenues: There are no revenues associated with this regulation.

Cost Savings: There are no cost savings associated with this regulation.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There are no expenditures, revenues, or cost savings associated with this regulation.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: There are no costs associated with this administrative regulation.

(b) Methodology and resources used to determine the fiscal impact: There are no costs associated with this administrative 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 administrative regulation is not expected to have an overall negative or adverse major economic impact.

(b) The methodology and resources used to reach this conclusion: There are no costs associated with 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 156.160(3) provides that nonpublic schools may voluntarily comply with the curriculum, certification, and textbook standards established by the Kentucky Board of Education (KBE) and be certified upon application to the board. This regulation codifies the procedures for such certification.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Board of Education, the Department of Education.

(a) Estimate the following for the first year:

Expenditures: There are no expenditures associated with this regulation.

Revenues: There are no revenues associated with this regulation.

Cost Savings: There are no cost savings associated with this regulation.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of December 9, 2024

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of December 9, 2024

Call to Order and Roll Call

The December meeting of the Administrative Regulation Review Subcommittee was held on Monday, December 9, 2024, at 1:00 p.m. in Room 149 of the Capitol Annex. Representative Derek Lewis, 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; Senators Julie Raque Adams, Damon Thayer, and David Yates; and Representatives Randy Bridges, Deanna Frazier Gordon, and Keturah Herron.

LRC Staff: Stacy Auterson, Laura Begin, Emily Caudill, Ange Darnell, Emily Harkenrider, Karen Howard, Anna Latek, Callie Lewis, and Carrie Nichols.

Guests: Travis Powell, Council on Postsecondary Education; Taylor Brown, State Board of Elections; Chris Chamness, Personnel Cabinet; Beau Barnes, Teachers' Retirement System; Eden Davis, Christopher Harlow, Board of Pharmacy; Christi LeMay, Dr. Karoline Munson, OD, Board of Optometric Examiners; Jeff Allen, Board of Dentistry; John Blevins, Kanetha Dorsey, Jonathan Rideout, Board of Embalmers and Funeral Directors; Dr. John Park, DVM, Michelle Shane, Board of Veterinary Examiners; Elizabeth Morgan, R.T., Board of Medical Imaging and Radiation Therapy; Eddie Slone, John Wood, Board of Emergency Medical Services; Steven Fields, Jenny Gilbert, Department of Fish and Wildlife Resources; Nathan Goens, Justice and Public Safety Cabinet; Jon Johnson, Jason Siwula, Tim Tharpe, Department of Highways; Greg Higgins, Buddy Wheatley, Office of Unemployment Insurance; Robin Maples, Chuck Stribling, Buddy Wheatley, Department of Workplace Standards; Katie Adams-Cornett, Marni Gibson, Department of Financial Institutions; Dr. Allen Brenzel, M.D., Julie Brooks, John Prather, Rachael Ratliff, Carrell Rush, Jonathan Scott, Andrew Waters, Cabinet for Health and Family Services; Cookie Crews, Department of Corrections; Michael Frazier, Kentucky Student Rights Association, Eastern Kentucky University; Student Government Association; and Steve Brown, ASCB Therapy.

Administrative Regulations Review by this Subcommittee:

COUNCIL ON POSTSECONDARY EDUCATION: Aerospace

013 KAR 006:010. Aviation training scholarships. Travis Powell, senior vice president and general counsel, represented the council.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO, STATUTORY AUTHORITY, and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

013 KAR 006:020. Aviation equipment grants.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 and 3 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

STATE BOARD OF ELECTIONS: Forms and Procedures

031 KAR 004:230. Post-election audit procedures. Taylor Brown, general counsel, represented the board.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 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.

PERSONNEL CABINET: Classified

101 KAR 002:210E. 2024 and 2025 Plan year handbooks for the Public Employee Health Insurance Program. Chris Chamness, commissioner, represented the cabinet.

101 KAR 002:210. 2025 plan year handbook for the Public Employee Health Insurance Program.

FINANCE AND ADMINISTRATION CABINET: Teachers' Retirement System

102 KAR 001:380. Qualified domestic relations orders for TRS 4 members. Beau Barnes, deputy executive secretary and general counsel, represented the system.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1 through 6, 8, and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 002:030. License transfer and non-resident pharmacist license. Eden Davis, general counsel, and Christopher Harlow, executive director, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Section 5 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend the TITLE and the NECESSITY, FUNCTION, AND CONFORMITY paragraph to delete references to the licensure of non-resident pharmacists; (3) to amend Section 1 to delete the definition for "non-resident pharmacist license"; (4) to delete Sections 6 through 10, which provide for non-resident pharmacist licensure; and (5) to delete an incorporated form. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 002:050. License and permits; fees.

A motion was made and seconded to approve the following amendments: to amend Section 1 to: (1) delete the application, renewal, and delinquent renewal penalty fees of fifty (50) dollars for a non-resident pharmacist license; and (2) make a conforming amendment. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 002:210. Patient records, drug regimen review, patient counseling, and final product verification.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO, STATUTORY AUTHORITY, and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 3 through 6, and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 5(7) to: (a) add an exception to requiring final product verification of a prescription as only occurring on the premises of the originating pharmacy, if a permit holder has received prior board approval; and (b) add that a single request may be made for commonly owned permit holders. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 002:465. Non-resident pharmacy applications and waivers.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 4(8) to delete the requirement that a person who engages in the practice of pharmacy for a Kentucky resident shall hold an active Kentucky pharmacist license; and (3) to amend Section 4(7) to make

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conforming amendments. Without objection, and with agreement of the agency, the amendments were approved.

Board of Optometric Examiners

201 KAR 005:005. Fines and fees. Christi LeMay, executive director, and Dr. Karoline Munson, OD, secretary – treasurer, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 5 and 11 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 3 to increase the initial license fee for consistency with the renewal license fee, the reinstatement fee, and 201 KAR 5:090. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 005:090. Annual renewal fee.

Board of Dentistry

201 KAR 008:610. Dental community health workers. Jeff Allen, executive director, represented the board.

Board of Embalmers and Funeral Directors

201 KAR 015:030. Fees. John Blevins, general counsel; Kanetha Dorsey, executive director; and Jonathan Rideout, chair, represented the board.

A motion was made and seconded to approve the following amendments: to amend Sections 4 and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 015:050. Apprenticeship and supervision requirements.

A motion was made and seconded to approve the following amendments: to amend Sections 2 through 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 015:110. Funeral establishment criteria.

A motion was made and seconded to approve the following amendments: to amend Sections 3, 5, 8, 10, and 12 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 015:120. Requirements for applicants holding a license in another state.

A motion was made and seconded to approve the following amendment: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

201 KAR 015:125. Surface transportation permit.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Veterinary Examiners

201 KAR 016:562. Duties and responsibilities of an animal euthanasia specialist. Dr. John Park, DVM, and Michelle Shane, executive director, represented the board.

In response to questions by Senator Thayer, Dr. Park stated that drugs for animal euthanasia were required to have US FDA approval.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

In response to questions by Co-Chair West, Ms. Shane stated that this administrative regulation was being amended in response to the Practice Act of 2023, which authorized the board to provide better enforcement mechanisms pertaining to unlicensed practitioners and the processing of grievances. If practicing on their own animals, farmers were statutorily excluded from enforcement against unlicensed veterinary practitioners. The board had multiple open grievances against unlicensed veterinary practitioners.

In response to questions by Senator Yates, Ms. Shane stated that it was not standard procedure for the board to maintain records of veterinary malpractice insurance coverage. Dr. Park stated that proof of veterinary malpractice insurance was usually only necessary on the occasion of litigation. Senator Yates stated that requiring proof of malpractice insurance might be good practice and might assist in addressing unlicensed practitioners.

A motion was made and seconded to approve the following amendments: to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 016:614. Fines.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to delete the authority to fine for a violation of KRS 321.211 and 321.442 not specifically provided for in KRS 321.352(1); and (2) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 1 through 3 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Medical Imaging and Radiation Therapy

201 KAR 046:035. Practice standards, scopes of practice, and ethical standards. Elizabeth Morgan, R.T., executive director, represented the board.

201 KAR 046:040. Medical imaging technologist, advanced imaging professional, radiographer, nuclear medicine technologist, and radiation therapist licenses.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 3 and 16 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 046:060. Continuing education requirements.

201 KAR 046:100. Medical Imaging and Radiation Therapy Scholarship and Continuing Education Fund.

A motion was made and seconded to approve the following amendments: to amend Sections 3 and 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

INDEPENDENT ADMINISTRATIVE BODIES: Board of Emergency Medical Services

202 KAR 007:201. Emergency medical responders. Eddie Slone, executive director, and John Wood, counsel, represented the board.

202 KAR 007:301. Emergency medical technician.

202 KAR 007:330. Advanced emergency medical technician.

202 KAR 007:560. Ground vehicle staff.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without

objection, and with agreement of the agency, the amendments were approved.

202 KAR 007:596. Mobile integrated healthcare licensure.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 1, 2, 5, 6, 8, and 13 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to add incorporated material. Without objection, and with agreement of the agency, the amendments were approved.

TOURISM, ARTS AND HERITAGE CABINET: Department of Fish and Wildlife Resources: Hunting and Fishing

301 KAR 003:005. Public use of newly acquired or newly managed lands. Steven Fields, staff attorney, and Jenny Gilbert, legislative liaison, represented the department.

In response to a question by Co-Chair Lewis, Ms. Gilbert stated that, in the department's review of this administrative regulation for the purposes of sunset provisions, the department determined that this administrative regulation should be amended regarding managed lands incompatible with hunting or fishing. Incompatible lands included, for example, office space, equipment storage areas, and areas under construction.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

JUSTICE AND PUBLIC SAFETY CABINET: Peace Officer Death Benefits

500 KAR 001:010. Definitions for 500 KAR Chapter 1. Nathan Goens, staff attorney, represented the cabinet.

A motion was made and seconded to approve the following amendments: to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 3, 5, 7, and 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

500 KAR 001:030. Request for hearing.

A motion was made and seconded to approve the following amendments: to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

TRANSPORTATION CABINET: Department of Highways: Traffic

603 KAR 005:050. Uniform traffic control devices. Jon Johnson, staff attorney; Jason Siwula, executive director of project development; and Tim Tharpe, division director, represented the department.

603 KAR 005:066. Weight (mass) limits for trucks.

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 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

603 KAR 005:350. Off-highway vehicles, safety, and routes.

EDUCATION AND LABOR CABINET: Office of Unemployment Insurance: Unemployment Insurance

787 KAR 001:360. Overpayment waivers. Greg Higgins, executive director, and Buddy Wheatley, deputy general counsel, represented the office.

In response to questions by Co-Chair West, Mr. Wheatley stated that the office would investigate the possibility of (and authority for, if needed) rolling the five (5) dollar county clerk unemployment insurance lien release fee into the lien payoff, which is made to the cabinet.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY paragraph and Sections 1 through 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department of Workplace Standards: Division of Occupational Safety and Health Compliance

803 KAR 002:110E. Employer and employee representatives. Robin Maples, occupational safety and health standards specialist; Chuck Stribling, deputy commissioner; and Buddy Wheatley, deputy general counsel, represented the department.

PUBLIC PROTECTION CABINET: Department of Financial Institutions: General

808 KAR 015:050. Out-of-State trust companies operating in Kentucky. Katie Adams-Cornett, attorney, and Marni Gibson, commissioner, represented the department.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph, Sections 1 and 2, and incorporated material 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: Communicable Diseases

902 KAR 002:020. Reportable disease surveillance. Julie Brooks, regulation coordinator; John Prather, systems architect; and Carrell Rush, epidemiologist technical advisor, represented the department.

In response to questions by Co-Chair West, Ms. Rush stated that the department's influenza-mortality reporting priority would be focused on pediatric and pregnancy-related influenza mortality. Overall influenza-mortality reporting was burdensome for public health partners and not as effective for the purposes of forecasting the severity of the influenza season. Mortality cases outside of medical facilities were reported through a different process than mortality within medical facilities. This difference in the reporting processes was the factor that made overall influenza-mortality reporting burdensome for public health partners.

In response to a question by Senator Yates, Ms. Rush stated that, because coronavirus infection (COVID-19) had become endemic, it was being moved from the urgent reporting category to a lower-tier reporting category. Urgent reporting was for infections such as measles and smallpox, which were reportable within twenty-four (24) hours.

In response to a question by Co-Chair Lewis, Ms. Rush stated that free-living amoebic organisms were an emerging pathogen because of improved diagnostics and warmer waters and temperatures. Many states were beginning to monitor free-living amoebas due to the severity of illnesses from these pathogens.

902 KAR 002:040. Syndromic surveillance.

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.

Kentucky Early Intervention System

902 KAR 030:200. Coverage and payment for services. Julie Brooks, regulation coordinator, and Andrew Waters, assistant director, represented the department. Steve Brown, business manager, ASCB Therapy, appeared in support of this administrative regulation.

In response to a question by Co-Chair Lewis, Mr. Brown stated that ASCB Therapy represented over 100 therapists engaged in early intervention services for approximately 1,400 of Kentucky's children. Therapists in the Kentucky Early Intervention System had not received a rate increase in over twenty (20) years, which led to therapists leaving the system to provide their services in other settings. This rate increase was long overdue.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO, STATUTORY AUTHORITY, and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 4, 6, and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to add a Section 9 for incorporated material. Without objection, and with agreement of the agency, the amendments were approved.

Department for Medicaid Services

907 KAR 001:044. Coverage provisions and requirements regarding community mental health center behavioral health services. Dr. Allen Brenzel, M.D., psychiatric consultant, and Jonathan Scott, chief legislative and regulatory officer, represented the department.

In response to a question by Co-Chair Lewis, Mr. Scott stated that, while the department met with stakeholders, the parties were unable to reach a compromise and were at an impasse. The department was concerned about maintaining an appropriate level of care if providers did not meet minimum, specific qualifications. The department was expanding its provider base and had identified many providers seeking to employ those previously designated as mental health associates. Dr. Brenzel stated that the department's goal was to balance quality and safety for individuals served in an environment with a provider shortage. This administrative regulation embodied that balance.

Senator Yates stated that unlicensed, unsupervised, and inadequately trained individuals could cause significant damage by providing substandard care. Kentucky was experiencing a provider shortage. A balance must be struck.

In response to a question by Senator Julie Raque Adams, Co-Chair Lewis stated that 907 KAR 001:044 and 907 KAR 015:005 were found deficient by this subcommittee and deferred at the October 15, 2024 meeting; were deferred by the agency from the November 13, 2024 meeting; and were being considered at this meeting to determine if it would be possible to remedy the underlying matter that led to the finding of deficiency. After discussion, the finding of deficiency was not removed.

Behavioral Health

907 KAR 015:005. Definitions for 907 KAR Chapter 015.

Department for Community Based Services: Family Support: Supplemental Nutrition Assistance Program

921 KAR 003:030. Application process. Rachael Ratliff, regulation coordinator, represented the department.

Protection and Permanency: Child Welfare

922 KAR 001:490. Background checks for foster and adoptive parents and relative and fictive kin caregivers.

Adult Services

922 KAR 005:120. Vulnerable adult maltreatment registry and appeals.

Other Business: Upon Senator Damon Thayer's last subcommittee meeting before retiring from the Kentucky General Assembly, Co-Chair Lewis presented Senator Thayer with a citation honoring his service. Co-Chair West thanked Senator Thayer for his service, tenacity, and friendship. Senator Thayer stated that his early tenure on this subcommittee helped him gain insight regarding various state

government programs and agencies. He emphasized the importance of this subcommittee's continued work toward maintaining governmental separation of powers, which ensured the proper balance of authority.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 006:020. Corrections policies and procedures. Cookie Crews, commissioner, represented the department.

In response to questions by Co-Chair West, Ms. Crews stated that the department was unprepared to discuss inmate gender reassignment surgery and hormone therapy policies and procedures until the Kentucky Attorney General responded to the department's request regarding whether or not the department was required to cover the costs of these treatments. The department had not provided for any inmate gender reassignment surgeries since these policies and procedures were revised by memorandum in August 2021 and June 2023.

Senator Thayer stated that the agency seemed reluctant to discuss these policies and procedures, which appeared to have been enacted by memorandum outside of the administrative regulation process. This topic was a factor in the recent national election, and it did not seem as if Kentucky taxpayers were interested in covering the costs of gender reassignment surgeries and hormone therapy for inmates who had been convicted of committing crimes in the Commonwealth. The department should cease the pursuit of these policies and procedures.

In response to questions by Representative Frazier Gordon, Ms. Crews stated that the packet provided by the department to subcommittee members contained relevant information on these policies and procedures. Although these policies and procedures had been enacted by the department approximately three (3) years ago, the request for an opinion from the Kentucky Attorney General was submitted by the department on December 6, 2024, which was the Friday prior to this subcommittee meeting.

Co-Chair Lewis stated that the department-provided packet did not seem to include information on hormone therapy provided at department expense to transgender inmates. Ms. Crews stated that the department was awaiting the Attorney General's opinion on these policies and procedures.

In response to questions by Senator Yates, Ms. Crews stated that the department was waiting for the Attorney General to determine if the department was required to cover the costs of inmate gender reassignment surgeries and hormone therapies. Sometimes hormone therapies were necessary for reasons unrelated to transgender matters.

In response to questions by Co-Chair West, Ms. Crews stated that, as a non-attorney, she could not clarify nuances of the department's request to the Attorney General. She did not recall why the department enacted these policies and procedures by memorandum outside of the administrative regulation process in August 2021 and June 2023; however, she would research that history and respond to this subcommittee with that information. Co-Chair West stated that the department seemed to be enacting law through internal policy. The subcommittee needed information regarding any federal law that might authorize or be related to these policies and procedures.

In response to a question by Senator Julie Raque Adams, Ms. Crews stated that there were transgender women in Kentucky's women's prison. She did not know how many and would respond to this subcommittee with that information.

Co-Chair Lewis stated that the subcommittee would again request that the department return and provide specific information regarding gender reassignment surgery and hormone therapy policies and procedures.

The following administrative regulations were deferred or removed from the December 9, 2024, subcommittee agenda:

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.

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Travis Powell, senior vice president and general counsel, represented the council. Michael Frazier, Kentucky Student Rights Association, Eastern Kentucky University; Student Government Association, appeared in opposition to 013 KAR 002:120.

Senator Thayer stated that the legislature did not intend to support performance funding for students with GPAs as low as 1.6.

Co-Chair West stated that the council should consider any possible conflicts pertaining to the statutory authority for these administrative regulations.

In response to a question by Co-Chair Lewis, Mr. Frazier stated that Eastern Kentucky University's Student Government Association and Kentucky Students' Rights Coalition were opposed to 013 KAR 002:120 because KRS 164.092 did not provide for the weighting of performance funding for underrepresented students.

Representative Frazier Gordon stated that performance funding was intended to provide access related to undergraduate degrees, including meaningful employment after graduation, and should be focused on those purposes.

In response to a question by Co-Chair Lewis, Mr. Powell stated that, after discussions, the council requested deferral of these administrative regulations to the January 2025 meeting of this subcommittee.

A motion was made and seconded to defer consideration of these administrative regulations to the January 2025 meeting of this subcommittee. Without objection, and with agreement of the agency, these administrative regulations were deferred.

013 KAR 002:130. Comprehensive funding model for the allocation of state general fund appropriations to the Kentucky Community and Technical College System institutions.

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Ad Valorem Tax; Administration

103 KAR 005:200. Valuation of multi-unit rental housing subject to government restriction on use.

BOARDS AND COMMISSIONS: Board of Optometric Examiners

201 KAR 005:010. Application for licensure; endorsement.

Board of Veterinary Examiners

201 KAR 016:520. Approved veterinary medical programs for veterinarians; approved veterinary technology programs for veterinary technicians.

201 KAR 016:530. Examination requirements for veterinarians and veterinary technicians.

201 KAR 016:590. Continuing education requirements, veterinarians and veterinary technicians.

Board of Nursing

201 KAR 020:057. Scope and standards of practice of advanced practice registered nurses.

INDEPENDENT ADMINISTRATIVE BODIES: Board of Emergency Medical Services

202 KAR 007:401. Paramedics.

202 KAR 007:545. License classifications.

ENERGY AND ENVIRONMENT CABINET: Department of Environmental Protection: Solid Waste Facilities

401 KAR 047:110. Registered permit-by-rule.

Standards for Solid Waste Facilities

401 KAR 048:320. Operating requirements for less than one (1) acre or expanded less than two (2) acre construction or demolition debris landfills.

Department for Natural Resources: Division of Mine Permits: Bond and Insurance Requirements

405 KAR 010:001. Definitions.

405 KAR 010:015. General bonding provisions.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 006:410. Corrections policies and procedures: inmate life and issues.

EDUCATION AND LABOR CABINET: Board of Education: Department of Education: Office of Instruction

704 KAR 003:535. Full-time enrolled online, virtual, and remote learning programs.

PUBLIC PROTECTION CABINET: Department of Financial Institutions: Credit Unions

808 KAR 003:050. Conduct of credit unions.

Check Cashing

808 KAR 009:010. Deferred deposit database compliance.

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.

Trauma System

902 KAR 028:010. Definitions for 902 KAR Chapter 28.

902 KAR 028:020. Kentucky trauma system designation process.

902 KAR 028:030. Kentucky's trauma system level IV criteria.

902 KAR 028:040. Kentucky's Trauma Registry and Data Bank System.

Department for Medicaid Services: Hospital Service Coverage and Reimbursement

907 KAR 010:015. Payments for outpatient hospital services.

The subcommittee adjourned at 2:35 p.m. The next meeting of this subcommittee was tentatively scheduled for January 13, 2025, 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 September 25, 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 September 25, 2024, having been referred to the Committee on September 4, 2024, pursuant to KRS 13A.290(6):

922 KAR 002:090E

Committee activity regarding the review of the above-referenced administrative regulations is reflected in the minutes of the September 25, 2024 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

**INTERIM JOINT COMMITTEE ON FAMILIES AND CHILDREN
Meeting of October 23, 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 October 23, 2024, having been referred to the Committee on October 2, 2024, pursuant to KRS 13A.290(6):

922 KAR 001:350E

Committee activity regarding the review of the above-referenced administrative regulations is reflected in the minutes of the October 23, 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 December 10, 2024**

The Interim Joint Committee on Education met on December 10, 2024 and a quorum was present. The following administrative regulations were available for consideration having been referred to the Committee on December 4, 2024, pursuant to KRS 13A.290(6):

102 KAR 001:320
702 KAR 001:116
702 KAR 004:090
703 KAR 005:080
703 KAR 005:240
704 KAR 003:305
780 KAR 003:072
780 KAR 003:080

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

CUMULATIVE SUPPLEMENT

Unless otherwise noted, information contained in these indexes relates only to administrative regulations printed in this, the 49th year of the *Administrative Register of Kentucky*, from July 2022 through June 2023.

Locator Index - Effective Dates

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Lists all administrative regulations published or continuing through the KRS Chapter 13A review process during this Register year. It also lists the page number on which each regulation is published, the effective date of the regulation after it has completed the review process, and other actions that may affect the regulation.

NOTE: Regulations listed with a “47 Ky.R.” or “48 Ky.R.” notation are regulations that were originally published in previous years’ issues of the *Administrative Register of Kentucky* but had not yet gone into effect when the last *Register* year ended.

KRS Index

G - 11

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

G - 19

A list of administrative regulations for which certification letters have been filed pursuant to KRS 13A.3104 during this *Register* year.

Technical Amendment Index

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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

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A general index of administrative regulations published during this *Register* year, and is mainly broken down by agency.

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	Ky.R. Page No.	Effective Date	Regulation Number	Ky.R. Page No.	Effective Date
Administrative regulations published in previous Register years may appear in this index if a regulation had not completed the KRS Chapter 13A review process by the beginning of Register year 49. The "Register number" or "Ky.R. number" is listed the first time a regulation is published during that Register year. Once the regulation has been published in another 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.				

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	202 KAR 007:401E	51 Ky.R. 634	9-3-2024
013 KAR 002:130E	50 Ky.R. 2352	4-30-2024	202 KAR 007:560E	51 Ky.R. 640	9-3-2024
016 KAR 001:030E	51 Ky.R. 191	7-15-2024	501 KAR 006:330E	50 Ky.R. 2356	5-15-2024
Replaced	329	11-8-2024	Expired; Ordinary SOC not filed by deadline		9-13-2024
016 KAR 002:030E	51 Ky.R. 195	7-15-2024	501 KAR 006:430E	50 Ky.R. 2358	5-15-2024
Replaced	333	11-8-2024	502 KAR 010:120E	51 Ky.R. 1067	10-30-2024
016 KAR 009:010E	51 Ky.R. 197	7-8-2024	601 KAR 012:120E	51 Ky.R. 1240	12-6-2024
As Amended	645	9-10-2024	803 KAR 002:110E	51 Ky.R. 847	9-30-2024
Replaced	851	11-8-2024	803 KAR 002:320E	51 Ky.R. 1244	11-26-2024
016 KAR 009:030E	51 Ky.R. 10	5-31-2024	803 KAR 025:089E	50 Ky.R. 2360	5-14-2024
016 KAR 009:080E	51 Ky.R. 200	7-8-2024	Replaced	2478	12-3-2024
Replaced	851	11-8-2024	807 KAR 005:015E	51 Ky.R. 14	5-31-2024
016 KAR 009:100E	51 Ky.R. 204	7-8-2024	Am Comments	474	8-15-2024
031 KAR 002:010E	50 Ky.R. 2147	4-15-2024	As Amended	646	9-10-2024
As Amended	51 Ky.R. 218	7-9-2024	902 KAR 045:001E	50 Ky.R. 2362	4-24-2024
Replaced	239	11-5-2024	Replaced	51 Ky.R. 1118	11-18-2024
031 KAR 003:041E	50 Ky.R. 2150	4-15-2024	902 KAR 045:012E	50 Ky.R. 2364	4-24-2024
As Amended	51 Ky.R. 219	7-9-2024	902 KAR 045:021E	50 Ky.R. 2368	4-24-2024
Replaced	240	11-5-2024	Replaced	51 Ky.R. 1121	11-18-2024
031 KAR 004:031E	50 Ky.R. 2152	4-15-2024	902 KAR 045:031E	50 Ky.R. 2373	4-24-2024
Am Comments	51 Ky.R. 220	7-9-2024	Replaced	51 Ky.R. 912	11-18-2024
As Amended	645	9-10-2024	915 KAR 001:010E	50 Ky.R. 2378	4-18-2024
031 KAR 004:220E	50 Ky.R. 2154	4-15-2024	Am Comments	51 Ky.R. 226	7-15-2024
As Amended	51 Ky.R. 221	7-9-2024	Replaced	51 Ky.R. 922	11-18-2024
Replaced	220	11-5-2024	915 KAR 001:020E	50 Ky.R. 2383	4-18-2024
031 KAR 005:026E	50 Ky.R. 2158	4-15-2024	Am Comments	51 Ky.R. 230	7-15-2024
As Amended	51 Ky.R. 223	7-9-2024	Replaced	51 Ky.R. 925	11-18-2024
Replaced	492	8-22-2024	922 KAR 001:350E	51 Ky.R. 207	7-1-2024
031 KAR 005:040E	50 Ky.R. 2161	4-15-2024	Replaced	51 Ky.R. 932	11-18-2024
As Amended	51 Ky.R. 224	7-9-2024	922 KAR 002:090E	51 Ky.R. 22	5-20-2024
101 KAR 002:210E	51 Ky.R. 620	9-13-2024	-----		
200 KAR 005:021E	51 Ky.R. 12	5-16-2024	ORDINARY ADMINISTRATIVE REGULATIONS		
As Amended	474	8-13-2024	011 KAR 004:080		
201 KAR 017:120E	51 Ky.R. 1237	11-26-2024	Amended	50 Ky.R. 2238	
201 KAR 028:240E	50 Ky.R. 2354	5-14-2024	As Amended	51 Ky.R. 483	9-17-2024
As Amended	51 Ky.R. 225	7-9-2024	011 KAR 015:090		
Replaced	499	9-25-2024	Amended	50 Ky.R. 2240	
201 KAR 036:100E	50 Ky.R. 1649	9-14-2024	As Amended	51 Ky.R. 483	9-17-2024
Am Comments	2002	3-5-2024	011 KAR 015:110		
Replaced	51 Ky.R. 105	6-18-2024	Amended	50 Ky.R. 2245	
Resubmitted	51 Ky.R. 1238	11-26-2024	As Amended	51 Ky.R. 488	9-17-2024
202 KAR 002:020E	51 Ky.R. 471	8-6-2024	013 KAR 002:120	50 Ky.R. 2459	
202 KAR 007:201E	51 Ky.R. 622	9-3-2024	013 KAR 002:130	50 Ky.R. 2461	
202 KAR 007:301E	51 Ky.R. 626	9-3-2024	013 KAR 006:010	51 Ky.R. 596	
202 KAR 007:330E	51 Ky.R. 630	9-3-2024	As Amended	1252	
			013 KAR 006:020	51 Ky.R. 598	
			As Amended	1253	
			016 KAR 001:030		
			Amended	51 Ky.R. 329	11-8-2024
			016 KAR 002:030		
			Amended	51 Ky.R. 333	11-8-2024
			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
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			As Amended	51 Ky.R. 492	9-17-2024

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016 KAR 004:020			101 KAR 001:396(r)	50 Ky.R. 2328	12-3-2024
Amended	50 Ky.R. 1557		101 KAR 002:086	51 Ky.R. 601	
As Amended	2004	7-2-2024	As Amended	1071	
016 KAR 004:030			101 KAR 002:210		
Amended	50 Ky.R. 1937	7-16-2024	Amended	51 Ky.R. 709	
016 KAR 007:010			102 KAR 001:138	51 Ky.R. 430	11-8-2024
Repealed	51 Ky.R. 170	10-15-2024	102 KAR 001:195		
016 KAR 007:011(r)	51 Ky.R. 170	10-15-2024	Amended	51 Ky.R. 961	
016 KAR 009:010			102 KAR 001:320		
Amended	51 Ky.R. 335		Amended	51 Ky.R. 511	
As Amended	851	11-8-2024	As Amended	1071	12-10-2024
016 KAR 009:030			102 KAR 001:340		
Amended	51 Ky.R. 77		Amended	51 Ky.R. 962	
As Amended	654	10-15-2024	102 KAR 001:350		
016 KAR 009:080			Amended	51 Ky.R. 344	
Amended	51 Ky.R. 337		As Amended	855	11-8-2024
As Amended	851	11-8-2024	102 KAR 001:370	51 Ky.R. 431	
016 KAR 009:100			As Amended	855	11-8-2024
Amended	51 Ky.R. 341		102 KAR 001:380	51 Ky.R. 820	
As Amended	853	11-8-2024	As Amended	1254	
017 KAR 004:030			103 KAR 005:200	51 Ky.R. 603	
Amended	51 Ky.R. 79		Withdrawn	*	12-15-2024
As Amended	654		104 KAR 001:010		
017 KAR 006:020	50 Ky.R. 984		Amended	50 Ky.R. 78	
Am Comments	1700		As Amended	51 Ky.R. 37	10-1-2024
As Amended	51 Ky.R. 35		104 KAR 001:040		
As Amended at IJC	655	8-28-2024	Amended	50 Ky.R. 80	
017 KAR 006:030	50 Ky.R. 986		As Amended	51 Ky.R. 38	10-1-2024
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030 KAR 007:011	50 Ky.R. 2110	10-1-2024	Amended	50 Ky.R. 84	
031 KAR 002:010			As Amended	51 Ky.R. 40	10-1-2024
Amended	50 Ky.R. 2247		104 KAR 001:100		
As Amended	51 Ky.R. 239	11-5-2024	Amended	50 Ky.R. 86	10-1-2024
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031 KAR 004:031	50 Ky.R. 2321		As Amended	51 Ky.R. 247	11-5-2024
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031 KAR 004:220	50 Ky.R. 2323		As Amended	51 Ky.R. 249	11-5-2024
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031 KAR 005:026			Amended	51 Ky.R. 346	
Amended	50 Ky.R. 2250		As Amended	856	
As Amended	51 Ky.R. 244		105 KAR 001:142	51 Ky.R. 432	
As Amended IJC	492	8-22-2024	As Amended	864	
031 KAR 005:040	50 Ky.R. 2326		105 KAR 001:190		
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040 KAR 005:010			As Amended	51 Ky.R. 251	11-5-2024
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040 KAR 010:010	50 Ky.R. 2111		Amended	50 Ky.R. 1168	
As Amended	51 Ky.R. 246		Am Comments	1704	
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040 KAR 012:010	51 Ky.R. 600		105 KAR 001:390		
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101 KAR 001:345			As Amended at IJC	867	10-22-2024
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101 KAR 001:375			Amended	51 Ky.R. 967	
Amended	50 Ky.R. 2257		105 KAR 001:451		
As Amended	51 Ky.R. 496	12-3-2024	Amended	51 Ky.R. 356	
101 KAR 001:395			Withdrawn	*	10-15-2024
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			105 KAR 001:455	50 Ky.R. 1614	

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As Amended	2008	7-2-2024	Amended	50 Ky.R. 1748	7-30-2024
105 KAR 001:470	50 Ky.R. 1622		201 KAR 010:070		
As Amended	2015	7-2-2024	Amended	50 Ky.R. 1749	7-30-2024
106 KAR 001:131			201 KAR 010:080		
Amended	50 Ky.R. 1563		Amended	50 Ky.R. 1750	7-30-2024
As Amended	2017	7-2-2024	201 KAR 015:030		
200 KAR 005:021			Amended	51 Ky.R. 715	
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200 KAR 014:011			Amended	51 Ky.R. 717	
Amended	51 Ky.R. 515		As Amended	1265	
As Amended	1074		201 KAR 015:110		
200 KAR 014:081			Amended	51 Ky.R. 721	
Amended	51 Ky.R. 518		As Amended	1267	
As Amended	1076		201 KAR 015:120		
200 KAR 014:091			Amended	51 Ky.R. 725	
Amended	51 Ky.R. 520		As Amended	1270	
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200 KAR 015:010			Amended	51 Ky.R. 727	
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201 KAR 001:190			Amended	51 Ky.R. 729	
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Amended	50 Ky.R. 2284		201 KAR 016:562		
As Amended	51 Ky.R. 1257		Amended	51 Ky.R. 734	
201 KAR 002:050			As Amended	1271	
Amended	50 Ky.R. 2287		201 KAR 016:590		
As Amended	1259		Amended	51 Ky.R. 736	
201 KAR 002:210			201 KAR 016:612	51 Ky.R. 824	
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Amended	50 Ky.R. 2091	10-23-2024	201 KAR 016:731	51 Ky.R. 1020	
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SYMBOL KEY:

- * Statement of Consideration not filed by deadline
- ** Withdrawn, deferred more than twelve months (KRS 13A.300(2)(e) and 13A.315(1)(d))
- *** Withdrawn before being printed in Register
- IJC Interim Joint Committee
- (r) Repealer regulation: KRS 13A.310(3)-on the effective date of an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.

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224.40-315	401 KAR 047:110	258.015	922 KAR 001:350
	401 KAR 048:320	258.035	922 KAR 001:350
224.40-320	401 KAR 047:110	258.043	201 KAR 016:762
	401 KAR 047:320	258.065	301 KAR 002:081
224.40-325	401 KAR 047:110		301 KAR 002:082
	401 KAR 048:320		902 KAR 002:020
224.40-330	401 KAR 047:110	258.085	301 KAR 002:081
	401 KAR 048:320		301 KAR 002:082
224.40-340	401 KAR 047:110		902 KAR 002:020
	401 KAR 048:320	258.990	807 KAR 005:015E
224.40-605	401 KAR 047:110	278.030	807 KAR 005:015E
	401 KAR 048:320	278.040	807 KAR 005:015E
224.40-650	401 KAR 047:110	278.5464	807 KAR 005:015E
	401 KAR 048:320	281A.120	502 KAR 010:120
224.43-010	401 KAR 048:320	281A.130	502 KAR 010:120
224.43-020	401 KAR 048:320	281A.150	502 KAR 010:120
224.43-040	401 KAR 047:110	281A.160	502 KAR 010:120
224.43-020	401 KAR 047:110	281A.170	502 KAR 010:120
224.43-070	401 KAR 047:110	286.3-146	808 KAR 015:050
	401 KAR 047:110	286.6-095	808 KAR 003:050
	401 KAR 048:320	286.6-100	808 KAR 003:050

KRS SECTION	REGULATION	KRS SECTION	REGULATION
286.6-225	808 KAR 003:050		202 KAR 007:301
286.6-585	808 KAR 003:050		202 KAR 007:330
286.6-715	808 KAR 003:050		202 KAR 007:596
286.9-010	808 KAR 009:010		902 KAR 028:010
286.9-075	808 KAR 009:010	311A.020	202 KAR 007:330
286.9-100	808 KAR 009:010		202 KAR 007:596
286.9-140	808 KAR 009:010	311A.025	202 KAR 007:201
304.1-050	806 KAR 009:360		202 KAR 007:301
304.2-290	806 KAR 009:360		202 KAR 007:330
304.2-310	806 KAR 009:360		202 KAR 007:401
	806 KAR 017:570		202 KAR 007:596
304.2-320	806 KAR 017:570	311A.030	202 KAR 007:201
304.3-240	806 KAR 017:570		202 KAR 007:401
304.9-020	806 KAR 009:360		202 KAR 007:560
304.9-053	806 KAR 009:360		202 KAR 007:596
304.9-054	806 KAR 009:360	311A.050-090	202 KAR 007:201
304.9-055	806 KAR 009:360		202 KAR 007:301
304.9-133	806 KAR 009:360		202 KAR 007:330
304.10-030	806 KAR 009:360	311A.050-100	202 KAR 007:401
304.10-040	806 KAR 009:360	311A.095	202 KAR 007:201
304.12-020	806 KAR 017:570		202 KAR 007:301
304.14-120	806 KAR 017:570		202 KAR 007:330
304.14-640	907 KAR 020:035	311A.100	202 KAR 007:201
301.14-642	907 KAR 020:035		202 KAR 007:301
304.14-500 - 3014.14-550	806 KAR 017:570		202 KAR 007:330
304.17-311	806 KAR 017:570	311A.120	202 KAR 007:201
304.17A-005	806 KAR 009:360		202 KAR 007:301
	806 KAR 017:570		202 KAR 007:330
304.17A-162	806 KAR 009:360		202 KAR 007:401
304.17A-163	806 KAR 009:360	311A.130	202 KAR 007:301
304.17A-165	806 KAR 009:360	311A.135	202 KAR 007:401
304.17A-535	806 KAR 009:360	311A.140	202 KAR 007:201
304.17A-607	806 KAR 009:360		202 KAR 007:301
304.17A-617	806 KAR 009:360		202 KAR 007:330
304.17A-633	806 KAR 009:360	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
304.99-020	806 KAR 009:360	311A.170	202 KAR 007:401
309.300	201 KAR 039:001		202 KAR 007:596
309.301	201 KAR 039:001	311A.190	202 KAR 007:401
	201 KAR 039:130		202 KAR 007:560
309.304	201 KAR 039:001		202 KAR 007:596
	201 KAR 039:030	311A.195	202 KAR 007:330
	201 KAR 039:050	311B.020	201 KAR 046:040
	201 KAR 039:075	311B.050	201 KAR 046:040
	201 KAR 039:090		201 KAR 046:060
	201 KAR 039:100		201 KAR 046:100
	201 KAR 039:120	311B.080	201 KAR 046:035
309.306	201 KAR 039:040	311B.100	201 KAR 046:040
309.312	201 KAR 039:030	311B.110	201 KAR 046:040
	201 KAR 039:040		201 KAR 046:060
	201 KAR 039:050	311B.120	201 KAR 046:040
	201 KAR 039:070	311B.130	201 KAR 046:060
	201 KAR 039:075	311B.180	201 KAR 046:040
309.314	201 KAR 039:040	311B.190	201 KAR 046:040
	201 KAR 039:050	313.021	201 KAR 007:610
309.316	201 KAR 039:100	313.030	201 KAR 008:563
309.318	201 KAR 039:060	313.040	201 KAR 008:563
	201 KAR 039:100	313.060	201 KAR 008:563
	201 KAR 039:120	313.080	201 KAR 008:563
309.460	201 KAR 008:610	313.130	201 KAR 008:563
309.462	201 KAR 008:610	313.254	201 KAR 008:563
309.464	201 KAR 008:610	314.011	201 KAR 020:056
311.282	902 KAR 002:020		201 KAR 020:057
311.571	902 KAR 002:020		201 KAR 020:215
311.646	922 KAR 002:120		201 KAR 020:390
311.720	922 KAR 001:350		502 KAR 012:010
311.840	922 KAR 001:350		922 KAR 001:350
311-314	902 KAR 002:040		922 KAR 002:090
311A.010	202 KAR 007:201		922 KAR 002:120

KRS SECTION	REGULATION	KRS SECTION	REGULATION
	922 KAR 002:160		201 KAR 016:735
314.025	201 KAR 020:390		201 KAR 016:737
314.026	201 KAR 020:390		201 KAR 016:772
314.027	201 KAR 020:390		201 KAR 016:775
314.039	201 KAR 020:057		902 KAR 002:020
314.041	201 KAR 020:230	321.187	201 KAR 016:612
314.042	201 KAR 020:056	321.190	201 KAR 016:510
	201 KAR 020:057		201 KAR 016:590
314.04	201 KAR 020:215		201 KAR 016:612
314.051	201 KAR 020:230	321.193	201 KAR 016:510
314.071	201 KAR 030:230		201 KAR 016:520
314.073	201 KAR 020:215		201 KAR 016:530
	201 KAR 020:230	321.201	201 KAR 016:510
314.091	201 KAR 020:056	321.203	201 KAR 016:515
	201 KAR 020:057		201 KAR 016:517
314.103	201 KAR 020:056		201 KAR 016:612
314.109	201 KAR 020:056		201 KAR 016:737
314.161	201 KAR 020:056		201 KAR 016:762
314.193	201 KAR 020:057		201 KAR 016:765
314.195	201 KAR 020:057		201 KAR 016:767
314.475	201 KAR 020:056		201 KAR 016:772
	201 KAR 020:057		201 KAR 016:775
314.991	201 KAR 020:215		201 KAR 016:777
315.010	201 KAR 002:210	321.205	201 KAR 016:517
	201 KAR 002:370		201 KAR 016:612
	902 KAR 002:020		201 KAR 016:737
315.020	201 KAR 002:210		201 KAR 016:765
	201 KAR 002:370		201 KAR 016:767
	201 KAR 002:480		201 KAR 016:772
315.030	201 KAR 002:370		201 KAR 016:775
315.035	201 KAR 002:470		201 KAR 016:777
315.036	201 KAR 002:470	321.207	201 KAR 016:562
315.121	201 KAR 002:370		201 KAR 016:612
315.191	201 KAR 002:210	321.208	201 KAR 016:612
315.310	201 KAR 002:480	321.211	201 KAR 016:510
315.340	201 KAR 002:470		201 KAR 016:590
315.350	201 KAR 002:470		201 KAR 016:612
315.405	201 KAR 002:470	321.221	201 KAR 016:510
315.4104	201 KAR 002:470		201 KAR 016:590
316.010	201 KAR 015:110		201 KAR 016:612
316.030	201 KAR 015:050	321.235	201 KAR 016:510
	201 KAR 015:110		201 KAR 016:513
316.125	201 KAR 015:030		201 KAR 016:515
	201 KAR 015:110		201 KAR 016:517
316.127	201 KAR 015:110		201 KAR 016:562
316.130	201 KAR 015:030		201 KAR 016:590
	201 KAR 015:110		201 KAR 016:612
316.132	201 KAR 015:030		201 KAR 016:730
316.140	201 KAR 015:030		201 KAR 016:731
	201 KAR 015:120		201 KAR 016:732
316.165	201 KAR 015:125		201 KAR 016:735
316.260	201 KAR 015:110		201 KAR 016:737
318	922 KAR 002:120		201 KAR 016:765
320.220	201 KAR 005:005		201 KAR 016:767
	201 KAR 005:010		201 KAR 016:772
320.250	201 KAR 005:005		201 KAR 016:775
	201 KAR 005:010		201 KAR 016:777
320.270	201 KAR 005:005	321.236	201 KAR 016:612
	201 KAR 005:010		201 KAR 016:762
320.280	201 KAR 005:090		201 KAR 016:767
320.310	201 KAR 005:005		201 KAR 016:777
321.175	201 KAR 016:513	321.320	201 KAR 016:510
	201 KAR 016:730		201 KAR 016:515
	201 KAR 016:731		201 KAR 016:517
	201 KAR 016:732	321.352	201 KAR 016:614
	201 KAR 016:735	321.356	201 KAR 016:612
	201 KAR 016:737	321.441	201 KAR 016:520
	201 KAR 016:772		201 KAR 016:530
	201 KAR 016:775		201 KAR 016:590
321.181	201 KAR 016:513		201 KAR 016:612
	201 KAR 016:562	321.442	201 KAR 016:590
	201 KAR 016:730		201 KAR 016:612
	201 KAR 016:731	321.443	201 KAR 016:612
	201 KAR 016:732	321.351	201 KAR 016:562

KRS SECTION	REGULATION	KRS SECTION	REGULATION
321.990	201 KAR 016:612	439.310 - 439.440	501 KAR 001:080
	201 KAR 016:614	439.3401	910 KAR 001:210
322.010	201 KAR 018:010	446.010	500 KAR 001:021
	201 KAR 018:030	446.400	202 KAR 007:401
322.040	201 KAR 018:010	454.220	921 KAR 001:400
	201 KAR 018:030	510.010 - 510.040	502 KAR 012:010
322.040-050	201 KAR 018:115	524.140	502 KAR 012:010
322.045	201 KAR 018:010	527.070	922 KAR 002:120
	201 KAR 018:030	527.100	922 KAR 001:350
322.120	201 KAR 018:010	527.110	922 KAR 001:350
	201 KAR 018:030	529.010	502 KAR 012:010
322.160	201 KAR 018:115	529.100	502 KAR 012:010
322.180	201 KAR 018:115	530.020	502 KAR 012:010
	201 KAR 018:192	530.064	502 KAR 012:010
	201 KAR 018:196	531.310	502 KAR 012:010
322.190	201 KAR 018:192	532.040 - 532.060	501 KAR 001:080
	201 KAR 018:196	532.400	501 KAR 001:080
322.220	201 KAR 018:115	600.020	502 KAR 012:010
322.290	201 KAR 018:192		922 KAR 001:350
	201 KAR 018:196		922 KAR 001:470
333.020	902 KAR 002:020		922 KAR 001:490
333.090	907 KAR 001:028		922 KAR 002:160
333.130	902 KAR 002:020	600.030	502 KAR 012:010
334A.188	201 KAR 017:120	605.090	922 KAR 001:350
335.540	201 KAR 036:050		922 KAR 001:490
335.545	201 KAR 036:050	610.110	922 KAR 001:350
335.560	201 KAR 036:100	605.120	922 KAR 001:490
335B.010	900 KAR 001:009		922 KAR 002:160
335B.020	900 KAR 001:009	605.130	922 KAR 001:490
336.242	787 KAR 001:370	620.020	201 KAR 020:215
336.248	787 KAR 001:010		922 KAR 002:090
	787 KAR 001:370	620.030	922 KAR 001:350
337	780 KAR 003:072		922 KAR 002:090
337.275	922 KAR 002:160		922 KAR 002:120
338.015	803 KAR 002:300	620.020	922 KAR 002:160
	803 KAR 002:320	620.050	922 KAR 001:350
338.031	803 KAR 002:320		922 KAR 001:470
338.111	803 KAR 002:110		922 KAR 001:490
339.230	815 KAR 035:060	620.050 - 620.120	922 KAR 001:470
341.070	787 KAR 001:010	620.051	922 KAR 001:470
341.115	787 KAR 001:370	620.140	922 KAR 001:350
341.190	787 KAR 001:010	620.360	922 KAR 001:350
341.243	787 KAR 001:010	620.363	922 KAR 001:350
341.250	787 KAR 001:010	625	922 KAR 001:050
341.262	787 KAR 001:010		922 KAR 001:060
341.413	787 KAR 001:360		922 KAR 001:490
344.010	920 KAR 001:090	655.601-603	603 KAR 005:050
344.015	920 KAR 001:090	2 C.F.R.	702 KAR 004:090
344.020	920 KAR 001:090	7 C.F.R.	405 KAR 010:001
350	405 KAR 010:001		920 KAR 001:090
350.020	405 KAR 010:015		921 KAR 003:030
350.060	405 KAR 010:015		922 KAR 002:160
350.062	405 KAR 010:015	12 C.F.R.	808 KAR 003:050
350.064	405 KAR 010:015	16 C.F.R.	201 KAR 015:110
350.093	405 KAR 010:015		603 KAR 005:350
350.095	405 KAR 010:015		922 KAR 001:350
350.100	405 KAR 010:015		922 KAR 002:120
350.151	405 KAR 010:015	17 C.F.R.	200 KAR 014:011
350.465	405 KAR 010:015	20 C.F.R.	922 KAR 002:160
350.503	405 KAR 010:015	23 C.F.R.	603 KAR 005:050
403.160	921 KAR 001:400		603 KAR 005:066
403.190	102 KAR 001:320	26 C.F.R.	900 KAR 001:090
	102 KAR 001:380	28 C.F.R.	920 KAR 001:090
403.210 - 403.240	921 KAR 001:400	29 C.F.R.	202 KAR 007:596
403.352	922 KAR 001:470		780 KAR 003:072
403.707	502 KAR 012:010		803 KAR 002:300
405.430	921 KAR 001:400		803 KAR 002:320
405.440	921 KAR 001:400		815 KAR 035:060
405.450	921 KAR 001:400		902 KAR 010:123
405.991	921 KAR 001:400	30 C.F.R.	405 KAR 010:001
406.021	921 KAR 001:400	30 C.F.R.	405 KAR 010:015
406.025	921 KAR 001:400	34 C.F.R.	016 KAR 009:080
421.570	502 KAR 012:010		016 KAR 009:100
424.170	702 KAR 004:090		902 KAR 030:200

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40 C.F.R.	922 KAR 002:160		922 KAR 001:470
41 C.F.R.	405 KAR 010:001		922 KAR 001:490
42 C.F.R.	105 KAR 001:140		922 KAR 002:020
	105 KAR 001:140		922 KAR 002:090
	201 KAR 002:210		922 KAR 002:160
	806 KAR 017:570		922 KAR 005:120
	907 KAR 001:082	49 U.S.C.	502 KAR 010:120
	907 KAR 010:015		600 KAR 004:010
45 C.F.R.	922 KAR 001:350	52 U.S.C.	921 KAR 003:030
	105 KAR 001:140	EO 2016-270	201 KAR 027:006
	502 KAR 012:010	Ky. Acts 2022 Ch. 199	787 KAR 001:360
	806 KAR 009:360	Ky. Const. 172, 174	103 KAR 005:200
	806 KAR 017:570	Pub. L. 108-173	806 KAR 017:570
	902 KAR 028:010	Pub. L. 109-171	920 KAR 001:090
	910 KAR 001:210	Pub. L. 110-246	920 KAR 001:090
	920 KAR 001:090	Pub. L. 110-325	920 KAR 001:090
	921 KAR 001:400	Pub. L. 111-5	200 KAR 015:010
	922 KAR 001:060	Pub. L. 114-10	806 KAR 017:570
	922 KAR 001:350	Pub. L. 114-94	600 KAR 004:010
	922 KAR 001:490	Pub. L. 116-127	806 KAR 017:570
	922 KAR 002:020	Pub. L. 117-328	806 KAR 017:570
	922 KAR 002:090	Pres. EO 13166	920 KAR 001:090
	922 KAR 002:120		
	922 KAR 002:160		
49 C.F.R.	502 KAR 010:120		
	600 KAR 004:010		
	922 KAR 002:120		
74 F.R. 18808	806 KAR 017:570		
5 U.S.C.	920 KAR 001:090		
7 U.S.C.	920 KAR 001:090		
	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 010:120		
	902 KAR 010:123		
20 U.S.C.	704 KAR 003:365		
	808 KAR 003:050		
	920 KAR 001:090		
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		
	908 KAR 001:410		
29 U.S.C.	201 KAR 015:110		
	780 KAR 003:072		
	806 KAR 017:570		
	920 KAR 001:090		
	922 KAR 002:160		
30 U.S.C.	405 KAR 010:001		
	405 KAR 010:015		
34 U.S.C.	502 KAR 012:010		
	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 001:028		
	907 KAR 010:015		
	908 KAR 001:410		
	910 KAR 001:210		
	920 KAR 001:090		
	921 KAR 001:400		
	921 KAR 003:030		
	922 KAR 001:060		
	922 KAR 001:350		

CERTIFICATION LETTER SUMMARIES

The certification process is established in KRS 13A.3104. If the certification letter states the regulation shall be amended, the administrative body shall file an amendment to the regulation within 18 months of the date the certification letter was filed. If the certification letter states that the regulation shall remain in effect without amendment, the last effective date of the regulation is changed to the date the regulations compiler received the letter.

* KRS 13A.010(6) - "Effective" or "eff." means that an administrative regulation has completed the legislative review process established by KRS 13A.290, 13A.330, and 13A.331.

Regulation Number	Letter Filed Date	Action
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
011 KAR 017:010	10-01-2024	Remain in Effect without Amendment
011 KAR 017:040	10-01-2024	Remain in Effect without Amendment
011 KAR 017:050	10-01-2024	Remain in Effect without Amendment
011 KAR 017:060	10-01-2024	Remain in Effect without Amendment
011 KAR 017:070	10-01-2024	Remain in Effect without Amendment
011 KAR 017:080	10-01-2024	Remain in Effect without Amendment
011 KAR 017:090	10-01-2024	Remain in Effect without Amendment
011 KAR 017:100	10-01-2024	Remain in Effect without Amendment
011 KAR 017:110	10-01-2024	Remain in Effect without Amendment
016 KAR 002:020	10-02-2024	Remain in Effect without Amendment
016 KAR 002:090	06-25-2024	Remain in Effect without Amendment
016 KAR 008:040	10-02-2024	Remain in Effect without Amendment
031 KAR 006:020	10-04-2024	To be amended; filing deadline 4-4-2026
040 KAR 002:145	07-23-2024	Remain in Effect without Amendment
040 KAR 002:345	12-02-2024	Remain in Effect without Amendment
103 KAR 028:150	12-06-2024	Remain in Effect without Amendment
106 KAR 002:040	11-22-2024	Remain in Effect without Amendment
103 KAR 044:060	12-12-2024	Shall be amended; Filing deadline 06-12-2026
201 KAR 002:400	12-02-2024	Remain in Effect without Amendment
201 KAR 028:200	11-22-2024	Remain in Effect without Amendment
201 KAR 028:235	11-22-2024	Shall be Amended; Filing deadline 1-5-2018
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

Regulation Number	Letter Filed Date	Action
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
501 KAR 006:230	10-29-2024	To be amended, filing deadline 04-29-2026
601 KAR 023:020	12-12-2024	Remain in Effect without Amendment
603 KAR 005:025	12-22-2024	Remain in Effect without Amendment
704 KAR 003:540	08-08-2024	Remain in Effect without Amendment
704 KAR 008:070	12-06-2024	Remain in Effect without Amendment
780 KAR 003:072	11-25-2024	To be amended, Going through process now 11-25-2024
780 KAR 003:080	11-25-2024	To be amended, Going through process now 11-25-2024
803 KAR 001:100	11-21-2024	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 004:390	10-30-2024	Remain in Effect without Amendment
804 KAR 004:400	10-30-2024	To be amended, filing deadline 04-30-2026
804 KAR 004:410	10-30-2024	To be amended, filing deadline 04-30-2026
804 KAR 005:070	10-30-2024	Remain in Effect without Amendment
804 KAR 006:020	10-30-2024	Remain in Effect without Amendment
804 KAR 010:010	09-25-2024	Remain in Effect without Amendment
815 KAR 015:010	12-02-2024	To be amended, filing deadline 6-2-2026
815 KAR 015:025	12-02-2024	To be amended, filing deadline 6-2-2026
815 KAR 015:026	12-02-2024	To be amended, filing deadline 6-2-2026
815 KAR 015:027	12-02-2024	To be amended, filing deadline 6-2-2026
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
902 KAR 100:180	10-09-2024	Remain in Effect without Amendment
907 KAR 001:045	10-21-2024	Remain in Effect without Amendment
907 KAR 001:047	10-21-2024	Remain in Effect without Amendment

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907 KAR 001:102	10-21-2024	Remain in Effect without Amendment
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
911 KAR 003:020	10-08-2024	Remain in Effect without Amendment
921 KAR 001:430	12-09-2024	Remain in Effect without Amendment
921 KAR 001:480	12-09-2024	Remain in Effect without Amendment
921 KAR 003:090	12-12-2024	Remain in Effect without Amendment
922 KAR 005:040	12-09-2024	Remain in Effect without Amendment
922 KAR 005:090	12-09-2024	Remain in Effect without Amendment
922 KAR 005:550	12-09-2024	Remain in Effect without Amendment

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The Technical Amendment Index is a list of administrative regulations that have had technical, nonsubstantive amendments made during the 49th year of the *Administrative Register of Kentucky*. These technical changes have been made by the Regulations Compiler pursuant to KRS 13A.040(9) and (10), 13A.2255(2), 13A.312(2), or 13A.320(1)(d). Since these changes were not substantive in nature, administrative regulations appearing in this index will NOT be published to show the technical corrections in the *Register*. NOTE: Technical amendments may be available online for a short period of time before finalized versions of the technically amended regulations are available. To view regulations on the Legislative Research Commission Web site go to <https://apps.legislature.ky.gov/law/kar/titles.htm>.

‡ - A technical change was made to this administrative regulation during the promulgation process, pursuant to KRS 13A.320(1)(e).
 † - A nonsubstantive change was made by the Compiler pursuant to KRS 13A.040(9).

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806 KAR 039:030	11-12-2024	810 KAR 008:040	7-1-2024
808 KAR 015:030	12-9-2024	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
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809 KAR 010:004	7-1-2024		
809 KAR 010:005	7-1-2024		
809 KAR 010:006	7-1-2024		
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810 KAR 002:080	7-1-2024		
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