



# ADMINISTRATIVE REGISTER OF KENTUCKY

The submission deadline for this edition of the *Administrative Register of Kentucky* was noon, June 13, 2025

## MEETING NOTICES

The **Administrative Regulation Review Subcommittee** is tentatively scheduled to meet on July 14, 2025, at 3:00 p.m. in room 154 Capitol Annex.  
ARRS Tentative Agenda – 1 [Online agenda updated as needed](#)

## INDEXES & OTHER INFORMATION

Regulation Review Procedure .....	3
ARRS Report.....	130
Other Committee Reports .....	133
Locator Index - Effective Dates.....	A - 2

KRS Index.....	A - 5
Certifications .....	A - 7
Technical Amendments .....	A - 10
Subject Index.....	A - 11

## EMERGENCIES

### Board of Licensure for Occupational Therapy

201 KAR 028:240E. Occupational Therapy Licensure Compact .....	5
--	---

### Occupational Safety and Health

803 KAR 002:404E. Personal protective and lifesaving equipment .....	7
--	---

### Cabinet for Health and Family Services

900 KAR 005:020E. State Health Plan for facilities and services .....	9
900 KAR 006:075E. Certificate of need nonsubstantive review .....	11

## AMENDED IN-PROCESS EMERGENCIES

None

## AS AMENDED

### Personnel

101 KAR 002:034. Classified compensation administrative regulations .....	17
101 KAR 002:102. Classified leave general requirements.....	22
101 KAR 003:015. Leave requirements for unclassified service .....	27
101 KAR 003:045. Compensation plan and pay incentives for unclassified service .....	32

### Board of Nursing

201 KAR 020:600. Standards for training programs for licensed certified professional midwives .....	36
---	----

### Department for Medicaid Services

907 KAR 001:039. Hearing Program reimbursement provisions and requirements .....	37
907 KAR 003:100. Reimbursement for acquired brain injury waiver services.....	39
907 KAR 003:210. Acquired brain injury long-term care waiver services and reimbursement.....	40

907 KAR 007:015. Reimbursement for home and community based waiver services version 2 .....	58
907 KAR 010:840. Hospital Rate Improvement Program ...	59
907 KAR 016:005. Definitions for 907 KAR Chapter 16.....	61
907 KAR 016:010. 1915(i) RISE Initiative Home and Community-Based Services (HCBS); Participant Eligibility.....	63
907 KAR 016:015. Recovery, Independence, Support and Engagement (RISE) Initiative 1915(i) Home and Community-Based Services (HCBS); Provider Participation and Enrollment.....	64
907 KAR 016:020. 1915(i) Home and Community-Based Services (HCBS) Recovery, Independence, Support and Engagement (RISE) Initiative; Covered services.....	72
907 KAR 016:025. Recovery, Independence, Support and Engagement (RISE) Initiative reimbursement provisions and requirements .....	81

## AMENDED AFTER COMMENTS

### Department of Veterans' Affairs

017 KAR 003:042. Eligibility requirements to state veterans' nursing homes.....	82
---	----

## PROPOSED AMENDMENTS

### Board of Licensure for Long-Term Care Administrators

201 KAR 006:030. Temporary permits .....	84
--	----

### Board of Licensure for Occupational Therapy

201 KAR 028:240. Occupational Therapy Licensure Compact.....	86
--	----

### Board of Emergency Medical Services

202 KAR 007:501. Ambulance agency licensure.....	87
202 KAR 007:545. License classifications.....	90
202 KAR 007:565. Clinical pilot programs .....	94

**Board of Education, Department of Education**

702 KAR 005:130. Non-school bus passenger vehicles ....	96
702 KAR 007:065. Designation of agent to manage middle and high school interscholastic athletics .....	99
704 KAR 004:010. Physical education.....	104
704 KAR 008:030. Required Academic Standards for Health Education .....	106
704 KAR 008:050. Required Academic Standards for Physical Education.....	108
704 KAR 008:080. Required academic standards in career studies and financial literacy ...	110

**Occupational Safety and Health**

803 KAR 002:404. Personal protective and lifesaving equipment.....	113
---	-----

**Horse Racing Commission**

810 KAR 006:001. Definitions for 810 KAR Chapter 6.....	115
---	-----

**Cabinet for Health and Family Services**

900 KAR 005:020. State Health Plan for facilities and services .....	119
900 KAR 006:075. Certificate of need nonsubstantive review .....	120

**NEW ADMINISTRATIVE REGULATIONS****Board of Licensure for Long-Term Care Administrators**

201 KAR 006:071. Continuing education requirements ...	125
--	-----

**Department of Fish and Wildlife Resources**

301 KAR 003:160. Reciprocal agreements regarding fishing and hunting.....	127
--	-----

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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 806	KAR	Chapter 050:	Regulation 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 regulations that may be added for informational review of regulations, removed to either complete the public comment process, or are deferred or withdrawn by promulgating agencies.



**Administrative Regulation Review Subcommittee**  
**TENTATIVE Meeting Agenda**  
**Tuesday, July 13, 2025 at 1:00 p.m.**  
**Annex Room 154**



- 1. CALL TO ORDER AND ROLL CALL**
- 2. REGULATIONS FOR INFORMATIONAL REVIEW**
- 3. REGULATIONS FOR FULL REVIEW**

**AGRICULTURAL EXPERIMENT STATION**

**Seed**

012 KAR 001:134. Tags available for purchase from the director.

012 KAR 001:144. Registration of agricultural seed dealers, noncertified custom seed conditioners, certified seed growers, and certified seed conditioners.

012 KAR 001:149. Stop sale orders.

012 KAR 001:164. Germination standards for vegetable seed.

**OFFICE OF THE GOVERNOR**

**Department of Veterans' Affairs**

**State Veteran's Nursing Home**

017 KAR 003:042. Eligibility requirements to state veterans' nursing homes. (Amended After Comments)

**FINANCE AND ADMINISTRATION CABINET**

**Kentucky Public Pensions Authority**

**General Rules**

105 KAR 001:200. Retirement procedures.

105 KAR 001:202. Notification of retirement.

**BOARDS AND COMMISSIONS**

**Board of Pharmacy**

201 KAR 002:416. Pharmacy annual reporting of cost of dispensing data. (Filed with Emergency; "E" expires 09-13-2025) (Amended After Comments) (Deferred from May)

201 KAR 002:480. Telework and electronic supervision for remote prescription processing.

**Board of Cosmetology**

201 KAR 012:010. Executive director's duties.

201 KAR 012:030. Licensing and examinations.

201 KAR 012:060. Inspections.

201 KAR 012:082. Education requirements and school administration.

201 KAR 012:100. Infection control, health, and safety.

201 KAR 012:190. Complaint and disciplinary process.

201 KAR 012:260. Fees.

201 KAR 012:280. Esthetic practices restrictions.

201 KAR 012:290. Permits.

**Board of Social Work**

201 KAR 023:012. Social Work Licensure Compact. (Filed with Emergency; "E" expires 01-10-2026)

201 KAR 023:025. Application for licensure.

201 KAR 023:075. Continuing education for renewal.

**CABINET FOR ECONOMIC DEVELOPMENT**

**Economic Development Finance Authority**

307 KAR 001:070E. Kentucky Entertainment Incentive Program. ("E" expires 02-09-2026)

- 4. REGULATIONS REMOVED FROM FULL REVIEW**

**BOARDS AND COMMISSIONS**

**Board of Pharmacy**

201 KAR 002:045. Technicians. (Comments Received; SOC ext., due 07-15-2025)

201 KAR 002:165. Transfer of prescription information. (Comments Received; SOC ext., due 07-15-2025)

**Board of Medical Licensure**

201 KAR 009:270. Professional standards for prescribing, dispensing, or administering Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone. (Comments Received; SOC due 07-15-2025)

**PUBLIC PROTECTION CABINET**

**Department of Insurance**

**Agents, Consultants, Solicitors and Adjusters**

806 KAR 009:360. Pharmacy Benefit Manager License. (Deferred from February)

**ENERGY AND ENVIRONMENT CABINET**

**Public Service Commission**

**Utilities**

807 KAR 005:015. Access and attachments to utility poles and facilities. (Filed with Emergency; "E" expires 11-22-2025) (Comments Received; SOC ext., due 07-15-2025)

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*\*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 impact statement; 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 of Kentucky*. 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 that follows 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 comments were received during the public hearing or written comment period. If 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. An agency may submit a one-time, one-month extension for filing a statement of consideration for an ordinary regulation.

**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 upon expiration of the review period, 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.

**COMPILER'S NOTE: 2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency:**

**STATEMENT OF EMERGENCY  
201 KAR 28:240E.**

Pursuant to KRS 13A.190(1)(a)3 and KRS 319A.310 Section 15.B.1., this emergency amendment to the administrative regulation is being promulgated to comply with the statutory requirements of the Board of Licensure for Occupational Therapy to review any rule adopted by the Occupational Therapy Compact pursuant to Section 10 of KRS 319A.310 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 amendment incorporates by reference the rules adopted by the Occupational Therapy Compact. KRS 319A.310 Section 15.B.1. requires that this emergency amendment be promulgated, and therefore the filing of the 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.

ANDY BESHEAR, Governor  
SCOTT DEBURGER, Vice Chair

**BOARDS AND COMMISSIONS  
Board of Licensure for Occupational Therapy  
(Emergency Amendment)**

**201 KAR 28:240E. Occupational Therapy Licensure Compact.**

EFFECTIVE: June 13, 2025  
RELATES TO: KRS 319A.310  
STATUTORY AUTHORITY: KRS 319A.070(1), (3), 319A.310  
CERTIFICATION STATEMENT:  
NECESSITY, FUNCTION, AND CONFORMITY: KRS 319A.310, Section 15.B.1. requires the Board of Licensure for Occupational Therapy to review any rule adopted by the Occupational Therapy Compact Commission pursuant to Section 10 of the Compact 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 Occupational Therapy Compact Commission.

Section 1. The Board of Licensure for Occupational Therapy shall comply with all rules of the Occupational Therapy Compact, which includes the Occupational Therapy Compact Rules as of March 20, 2024.

Section 2. Incorporation by Reference.

(1) The following material is incorporated by reference: "The Occupational Therapy Compact Rules", March 20, 2024, and as revised.

(a) [Chapter 1–]Rule on Definitions, adopted March 20, 2024; and  
(b) Rule on[Chapter 2–] Data System Reporting Requirements, adopted March 20, 2024.

(c) Rule on FBI Criminal Background Checks, adopted April 16, 2025.

(d) Rule on Member State Implementation, adopted April 16,

2025.

(e) Rule on OTC Fees: Administrative & State adopted April 16, 2025.

(f) Rule on National Exam Definition, adopted April 16, 2025.  
(2)

(a) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Licensure for Occupational Therapy, 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 Licensure for Occupational Therapy Web site at <https://bot.ky.gov/>.

(3) This material may also be obtained at:

(a) The Occupational Therapy Compact Commission, 201 Park Washington Court, Falls Church, Virginia 22046; or

(b) <https://otcompact.org/ot-compact-commission/governance-documents/>.

SCOTT DEBURGER, Vice Chair

APPROVED BY AGENCY: April 10, 2025

FILED WITH LRC: June 13, 2025 at 10:10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 28, 2025 at 10:00 a.m., at 500 Mero Street, PPC Conference Room 259SW, 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 July 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.

CONTACT PERSON: Lilly Jean Coiner, Executive Advisor, Department of Professional Licensing, Office of Legal Services, 500 Mero Street, 2 NC WK#4, phone (502) 262-5065 (office), fax (502) 564-4818, email [Lilly.Coiner@ky.gov](mailto:Lilly.Coiner@ky.gov). Link to public comment portal: [https://ppc.ky.gov/reg\\_comment.aspx](https://ppc.ky.gov/reg_comment.aspx).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lilly Jean Coiner

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation implements KRS 319A.310, the Occupational Therapy Licensure Compact.

(b) The necessity of this administrative regulation: This administrative regulation is necessary because KRS 319A.310, Section 15.B.1. requires rules adopted by the Occupational Therapy Compact Commission 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 319A.310, Section 15.B.1. which requires rules adopted by the Occupational Therapy Licensure 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 319A.310 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 the four (4) new compact rules adopted April 16, 2025.

## VOLUME 52, NUMBER 1– JULY 1, 2025

(b) The necessity of the amendment to this administrative regulation: This administrative regulation is necessary because KRS 319A.310, Section 15.B.1. requires rules adopted by the Occupational Therapy Compact Commission to be promulgated as administrative regulations pursuant to KRS Chapter 13A.

(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 Occupational Therapy Licensure Compact.

(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 4,227 licensees, 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): As a result of compliance, they will be in compliance with the statute. (5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(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.

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding 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 319A.070(1), (3) and KRS 319A.310. Additionally, 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) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: This administrative regulation is not expressly authorized by an act of the General Assembly.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Board of Licensure for Occupational Therapy is the promulgating agency and the only other affected state unit, part or division.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year: The compact will likely become operational in 2025,

however, the expenditures needed for 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 other states.

For subsequent years: It will likely take more than one year for the data system and compact to become operational. There will likely be some state expenditures necessary for administering applications for compact privileges within and without the Commonwealth and which may require imposition of a fee to cover the cost of administration. However, expenditures, revenue and cost savings in subsequent years, if any, are currently indeterminable.

2. Revenues:

For the first year: 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 the potential revenues are undeterminable.

For subsequent years: It will likely take more than one year for the data system and compact to become operational. There will likely be some state expenditures necessary for administering applications for compact privileges within and without the Commonwealth and which may require imposition of a fee to cover the cost of administration. However, expenditures, revenue and cost savings in subsequent years, if any, are currently indeterminable.

3. Cost Savings:

For the first year: Indeterminable

For subsequent years: Indeterminable

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): None anticipated. (b) Estimate the following for each affected local entity identified in 4(a):

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year: N/A.

For subsequent years: N/A.

2. Revenues:

For the first year: N/A.

For subsequent years: N/A.

3. Cost Savings:

For the first year: N/A.

For subsequent years: N/A.

(5)(a) Identify any affected regulated entities not listed in (3)(a) or

(4)(a): There are no other affected regulated entities not otherwise listed. (b) Estimate the following for each regulated entity identified in 5(a):

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year: N/A.

For subsequent years: N/A.

2. Revenues:

For the first year: N/A.

For subsequent years: N/A.

3. Cost Savings:

For the first year: N/A.

For subsequent years: N/A.

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation: 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 is 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 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.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and

(5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(13): 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.

**COMPILER'S NOTE: 2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency:**

**STATEMENT OF EMERGENCY  
803 KAR 2:404E.**

This emergency amendment to an existing administrative regulation amends 803 KAR 2:404, Personal protective and lifesaving equipment, to adopt the United States Department of Labor, Occupational Safety and Health Administration ("OSHA") final rule, Personal Protective Equipment in Construction, published in the December 12, 2024, Federal Register, codified in 29 Code of Federal Regulations ("CFR") Part 1926, as required by federal law. The final rule states that personal protective equipment ("PPE") worn by employees in the construction industry must properly fit. The final rule requires employers ensure all PPE equipment is: (1) of safe design and construction for the work performed; and (2) selected to ensure it properly fits each affected employee. It is necessary to promulgate this emergency amendment to an existing regulation to meet the requirements established in Public Law 91-596 84 STAT. 1590 Section 18 of the Occupational Safety and Health ("OSH") Act of 1970, 29 CFR 1902.3(c)(1), 29 CFR 1902.3(d)(1), 29 CFR 1902.3(d)(2), 29 CFR 1902.37(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), which all require Kentucky OSH regulations to be as effective as the federal requirements. Furthermore, 29 CFR 1953.5 mandates adoption of the final rule within six (6) months of the date of the promulgation. Therefore, Kentucky must adopt the rule no later than June 12, 2025. This emergency amendment to an existing administrative regulation will be replaced by an ordinary amendment to the existing administrative regulation, which is being filed simultaneously with the Regulations Compiler. The ordinary amendment to the existing administrative regulation is identical to this emergency amendment.

ANDY BESHEAR, Governor  
JAMIE LINK, Chair

**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 2:404E. Personal protective and lifesaving equipment.**

EFFECTIVE: June 12, 2025

RELATES TO: KRS 338.051(3), 338.061, 29 C.F.R. 1926.95-1926.107  
STATUTORY AUTHORITY: KRS 338.051(3), 338.061

CERTIFICATION STATEMENT:

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. 1926.95 to 1926.107 establish the federal requirements relating to personal protective and lifesaving equipment. This administrative regulation establishes personal protective and lifesaving equipment standards enforced by the Department of Workplace Standards in the construction industry.

**Section 1. Definitions.**

(1) "Assistant secretary" means Secretary, Kentucky Education and Labor Cabinet or Commissioner of the Department of Workplace Standards.

(2) "C.F.R." means Code of Federal Regulations.

(3) "Employee" is defined in KRS 338.015(2).

(4) "Employer" is defined in KRS 338.015(1).

(5) "OSHA" means the Occupational Safety and Health Administration or the Kentucky Division of Occupational Safety and Health.

**Section 2. Except as modified in Section 1 of this administrative regulation, the [The] construction industry shall comply with 29 C.F.R. 1926, Subpart E, Personal Protective and Life Saving Equipment, [the following federal regulations] published by the Office of the Federal Register, National Archives and [Records] Services, General Services Administration [except as modified by the definitions in Section 1 of this administrative regulation:]**

**[(1)] [29 C.F.R. 1926.95 through 29 C.F.R. 1926.107; and]**

**[(2)] [The amendments to 29 C.F.R. 1926.102 as published in the March 25, 2016 Federal Register, Volume 81, Number 58.]**

**[(3)] [The amendments to 29 C.F.R. 1926.104 as published in the May 14, 2019 Federal Register, Volume 84, Number 93].**

JAMIE LINK, Secretary

APPROVED BY AGENCY: June 11, 2025

FILED WITH LRC: June 12, 2025 at 2:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held July 21, 2025, at 11:00 a.m. EDT via Zoom. Public access to the meeting is available at: <https://us06web.zoom.us/j/87069584882>. 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 July 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.

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](mailto: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 requires employers to comply with the requirements established in 29 CFR 1926.95-107.

(b) The necessity of this administrative regulation: 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 CFR 1902.3(c)(1), 29 CFR 1902.3(d)(1), 29 CFR 1902.3(d)(2), 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), which 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 OSH

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 Section 18 (OSA Act of 1970), 29 CFR 1902.3(c)(1), 29 CFR 1902.3(d)(1), 29 CFR 1902.3(d)(2), 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), 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 emergency 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 of the OSH Act of 1970, 29 CFR 1902.3(c)(1), 29 CFR 1902.3(d)(1), 29 CFR 1902.3(d)(2), 29 CFR 1902.37(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), which all 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: This amendment explicitly requires PPE worn by employees in the construction industry properly fit. Employers must ensure all PPE is: (1) of safe design and construction for the work to be performed; and (2) selected to ensure that it properly fits each affected employee.

(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 (OSH Act of 1970), 29 CFR 1902.3(c)(1), 29 CFR 1902.3(d)(1), 29 CFR 1902.3(d)(2), 29 CFR 1902.37(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), 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 OSH 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 CFR 1902.3(c)(1), 29 CFR 1902.3(d)(1), 29 CFR 1902.3(d)(2), 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), 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 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 engaged in construction activities 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 emergency administrative regulation.

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

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

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

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

(b) On a continuing basis: There are no continuing cost to the OSH Program to implement this emergency 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 CFR 1902.3(c)(1), 29 CFR 1902.3(d)(1), 29 CFR 1902.3(d)(2), 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 whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: This administrative regulation is not expressly authorized by an act of the General Assembly.

(3)(a) 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.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year: None

For subsequent years: None

2. Revenues:

For the first year: None

For subsequent years: None

3. Cost Savings:

For the first year: None

For subsequent years: None

(4)(a) 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.

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year: None

For subsequent years: None

2. Revenues:

For the first year: None

For subsequent years: None

3. Cost Savings:

For the first year: None  
 For subsequent years: None  
 (5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): None  
 (b) Estimate the following for each regulated entity identified in (5)(a):  
 1. Expenditures:  
 For the first year: None  
 For subsequent years: None  
 2. Revenues:  
 For the first year: None  
 For subsequent years: None  
 3. Cost Savings:  
 For the first year: None  
 For subsequent years: None  
 (6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)  
 (a) Fiscal impact of this administrative regulation: This administrative regulation imposes no new direct cost burden on employers and does not require them to take any action to comply.  
 (b) Methodology and resources used to reach this conclusion: Federal Register, Volume 89, Number 63, V. Final Economic Analysis and Regulatory Flexibility Act Certification.  
 (7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):  
 (a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(13): This administrative regulation will not have a "major economic impact" as defined by KRS 13A.010(14).  
 (b) The methodology and resources used to reach this conclusion: This administrative regulation imposes no new direct cost burden on employers and does not require them to take any action to comply. 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 CFR 1902.3(c)(1), 29 CFR 1902.3(d)(1), 29 CFR 1902.3(d)(2), 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 CFR 1902.3(c)(1), 29 CFR 1902.3(d)(1), 29 CFR 1902.3(d)(2), 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).  
 (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. This amendment does not impose stricter requirements.

**COMPILER'S NOTE: 2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency:**

#### STATEMENT OF EMERGENCY 900 KAR 5:020E.

This emergency administrative regulation is necessary to update the State Health Plan to increase access to all levels of pediatric healthcare including psychiatric care by allowing the construction of

a pediatric teaching hospital. This emergency regulation is also necessary to increase access to Level II Special Care Neonatal beds, and increased access to NICU services, and grant nonsubstantive review status to certificate of need applications submitted by licensed health facilities by creating neonatal beds. This emergency administrative regulation is deemed to be an emergency pursuant to KRS 13A.190(1)(a)1. in order to ensure access to care for all citizens of the commonwealth. Updated changes to the State Health Plan are needed to immediately help promote access to healthcare across the state and to maintain consistency with the companion administrative regulation filed concurrently, 900 KAR 6:075E, addressing nonsubstantive review of certificate of need applications. This emergency administrative regulation will be replaced by an ordinary administrative regulation in an effort to promote greater access to care across Kentucky, help provide relief to the commonwealth's overburdened healthcare systems, and help prevent ongoing delays in healthcare delivery. The ordinary administrative regulation will not be identical to the emergency administrative regulation.

ANDY BESHEAR, Governor  
 ERIC C. FRIEDLANDER, Secretary

#### CABINET FOR HEALTH AND FAMILY SERVICES Office of Inspector General Division of Certificate of Need (Emergency Amendment)

#### 900 KAR 5:020E. State Health Plan for facilities and services.

EFFECTIVE: June 9, 2025  
 RELATES TO: KRS 216B.010-216B.130, 216B.178  
 STATUTORY AUTHORITY: KRS 194A.030, 194A.050(1), 216B.010, 216B.015(28), 216B.040(2)(a)2.a  
 CERTIFICATION STATEMENT:  
 NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.040(2)(a)2.a requires the cabinet to promulgate an administrative regulation, updated annually, to establish the State Health Plan. The State Health Plan is a critical element of the certificate of need process for which the cabinet is given responsibility in KRS Chapter 216B. This administrative regulation establishes the State Health Plan for facilities and services.

Section 1. The State Health Plan shall be used to:  
 (1) Review a certificate of need application pursuant to KRS 216B.040; and  
 (2) Determine whether a substantial change to a health service has occurred pursuant to KRS 216B.015(29)(a) and 216B.061(1)(d).

Section 2. Incorporation by Reference.  
 (1) The "2025[2023] Update to the State Health Plan", June 2025[March 2024], is incorporated by reference.  
 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Inspector General, Division of Certificate of Need, 275 East Main Street, 5E-A, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be viewed on the Office of Inspector General's Web site at: <https://chfs.ky.gov/agencies/os/oig/dcn/Pages/cn.aspx>.

TRICIA STEWARD, Acting Inspector General  
 ERIC C. FRIEDLANDER, Secretary  
 APPROVED BY AGENCY: June 9, 2025  
 FILED WITH LRC: June 9, 2025 at 2:55 p.m.  
 PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on July 21, 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 July 14, 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 July 31, 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; email CHFSregs@ky.gov.

#### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles or Valerie Moore

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation incorporates by reference the current State Health Plan as defined by KRS 216B.015(28) and as required by KRS 216B.040(2)(a).

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with the content of the authorizing statutes, specifically KRS 216B.010, 216B.015(28), and 216B.040(2)(a)2.a.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes, KRS 216B.010, 216B.015(28), and 216B.040(2)(a)2.a., by establishing the State Health Plan's review criteria used for determinations regarding the issuance and denial of certificates of need.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing the review criteria for certificate of need determinations.

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

(a) How the amendment will change this existing administrative regulation: In response to suggestions and comments submitted to the cabinet by interested groups, the amendment to this administrative regulation makes the following changes to the State Health Plan (SHP): Updates the title and edition date of the SHP on page i of the Plan; Updates page numbers on Table of Contents section on page ii; Updates the title of the SHP on page iii of the Plan under the heading "Purpose"; Adds new definition under Section A: Acute Care Hospital for "Pediatric Teaching Hospital"; Adds new language on page 3 to establish criteria for new "acute care hospitals" that are "pediatric teaching hospitals"; Establishes that a "pediatric teaching hospital" shall not be considered a "specialized hospital"; Adds language to permit a Level II PRTF with four (4) Level II Special Care Neonatal beds. These changes align with the proposed amendment of 900 KAR 6:075& 900 KAR 6:075E, Section 2(3)(k), filed concurrently with this administrative regulation to grant nonsubstantive review status to certificate of need applications for acute care hospitals that wish to convert existing acute care beds to pediatric psychiatric beds at pediatric teaching hospitals as described above.

(b) The necessity of the amendment to this administrative regulation: This amendment is needed to expand inpatient pediatric behavioral health services throughout the state, including rural areas, to enhance immediate access to resources for at-risk pediatric mental health patients of such acuity that they need inpatient services and stabilization.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes because it incorporates by reference the State Health Plan.

(d) How the amendment will assist in the effective administration of the statutes: This amendment assists in the effective administration of the statutes by establishing the review criteria for certificate of need determinations.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects entities that submit certificate of need applications and affected persons as defined by KRS 216B.015(3). A total of 60 certificate of need applications were submitted to the cabinet in calendar year 2020; 70 certificate of need applications were submitted in calendar year 2021; 81 applications submitted in calendar year 2022; 60 applications submitted in calendar year 2023; and 67 applications submitted in calendar year 2024.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Entities that submit a certificate of need application are subject to the criteria set forth in the State Health Plan.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): . The certificate of need application filing fee for nonsubstantive review and formal review is established in a separate administrative regulation, 900 KAR 6:020.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Entities subject to certificate of need approval must demonstrate that their proposal is consistent with the State Health Plan pursuant to KRS 216B.040(2)(a)2.a.

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

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

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

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

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

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

(9) TIERING: Is tiering applied? Yes, tiering is used as there are different certificate of need review criteria for each licensure category addressed in the State Health Plan.

#### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 216B.010, 216B.015(28), and 216B.040(2)(a)2.a.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: This administrative regulation impacts the Cabinet for Health and Family Services, Office of Inspector General, and may impact any government owned or controlled health care facility.

(a) Estimate the following for the first year:

Expenditures: This amendment will not cause additional expenditures.

Revenues: This amendment will not generate additional revenue.

Cost Savings: This amendment will not generate any cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? This amendment will not generate additional expenditures, revenue or cost savings for state or local government during subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): This amendment should have no additional effect on local entities.

(a) Estimate the following for the first year:

Expenditures: No additional expenditures are expected from this amendment.

Revenues: No additional revenues are expected as a result of this amendment.

Cost Savings: No additional cost savings is expected as a result of this

amendment.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? No additional budgetary impact is expected as a result of this amendment in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3): All affected entities are listed in questions (2) and (3).

(a) Estimate the following for the first year:

Expenditures: No additional expenditures are expected from this amendment.

Revenues: No additional revenues are expected as a result of this amendment.

Cost Savings: No additional cost savings are expected as a result of this amendment.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? No additional budgetary impact is expected as a result of this amendment in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: There is no anticipated fiscal impact as a result of the amendment to this regulation.

(b) Methodology and resources used to determine the fiscal impact: No money spent; no money gained equals no 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 is not expected to have a major economic impact on the regulated entities.

(b) The methodology and resources used to reach this conclusion: No money spent; no money gained equals no fiscal impact.

**COMPILER'S NOTE: 2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency:**

#### STATEMENT OF EMERGENCY 900 KAR 6:075E.

This emergency administrative regulation is necessary to align with updates to the State Health Plan to increase access to pediatric acute care beds, increase access to Level II Special Care Neonatal beds, and grant nonsubstantive review status to certificate of need applications submitted by licensed health facilities, establishing creating special care neonatal beds. This emergency administrative regulation is deemed to be an emergency pursuant to KRS 13A.190(1)(a)1. in order to ensure access to care for all citizens of the commonwealth. Updated changes to the State Health Plan are needed to immediately help promote access to healthcare across the state and to maintain consistency with the companion administrative regulation filed concurrently. This emergency administrative regulation will be replaced by a non-identical ordinary administrative regulation.

ANDY BESHEAR, Governor  
ERIC C. FRIEDLANDER, Secretary

#### CABINET FOR HEALTH AND FAMILY SERVICES Office of Inspector General Division of Certificate of Need (Emergency Amendment)

#### 900 KAR 6:075E. Certificate of need nonsubstantive review.

EFFECTIVE: June 9, 2025

RELATES TO: KRS 216B.010, 216B.015, 216B.020, 216B.040, 216B.062, 216B.090, 216B.095, 216B.115, 216B.450(5), 216B.455, 216B.990, 311A.025(4)

STATUTORY AUTHORITY: KRS 216B.040(2)(a)1., 216B.095

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS

216B.040(2)(a)1. requires the Cabinet for Health and Family Services to administer Kentucky's Certificate of Need Program and to promulgate administrative regulations as necessary for the program. KRS 216B.095 authorizes the review of certificate of need applications that are granted nonsubstantive status. This administrative regulation establishes the requirements necessary for consideration for nonsubstantive review of applications for the orderly administration of the Certificate of Need Program.

#### Section 1. Definitions.

(1) "Ambulatory surgical center" is defined by KRS 216B.015(4).

(2) "Cabinet" is defined by KRS 216B.015(6).

(3) "Certificate of Need Newsletter" means the monthly newsletter that is published by the cabinet regarding certificate of need matters and is available on the Certificate of Need Web site at <https://chfs.ky.gov/agencies/os/oig/dcn/Pages/cn.aspx>.

(4) "Days" means calendar days, unless otherwise specified.

(5) "Formal review" means the review of an application for certificate of need that is reviewed within ninety (90) days from the commencement of the review as provided by KRS 216B.062(1) and that is reviewed for compliance with the review criteria set forth at KRS 216B.040 and 900 KAR 6:070.

(6) "Nonsubstantive review" is defined by KRS 216B.015(18).

(7) "Public notice" means notice given through the cabinet's Certificate of Need Newsletter.

(8) "Psychiatric residential treatment facility" or "PRTF" is defined in KRS 216B.450(5) as a Level I facility or a Level II facility.

#### Section 2. Nonsubstantive Review.

(1) The cabinet shall grant nonsubstantive review status to an application to change the location of a proposed health facility or to relocate a licensed health facility only if:

(a) There is no substantial change in health services or bed capacity; and

(b)

1. The change of location or relocation is within the same county; or

2. The change of location or relocation is for a psychiatric residential treatment facility.

(2) The cabinet shall grant nonsubstantive review status to an application that proposes to establish an ambulatory surgical center pursuant to the conditions specified in KRS 216B.095(7).

(3) In addition to the projects specified in KRS 216B.095(3)(a) through (e), pursuant to KRS 216B.095(3)(f), the Office of Inspector General shall grant nonsubstantive review status to an application for which a certificate of need is required if:

(a) The proposal involves the establishment or expansion of a health facility or health service for which there is not a component in the State Health Plan;

(b) The proposal involves an application to re-establish a licensed healthcare facility or service that was provided at a hospital and was voluntarily discontinued by the applicant under the following circumstances:

1. The termination or voluntary closure of the hospital:

a. Was not the result of an order or directive by the cabinet, governmental agency, judicial body, or other regulatory authority;

b. Did not occur during or after an investigation by the cabinet, governmental agency, or other regulatory authority;

c. Did occur while the facility was in substantial compliance with applicable administrative regulations and was otherwise eligible for re-licensure; and

d. Was not an express condition of any subsequent certificate of need approval;

2. The application to re-establish the healthcare facility or service that was voluntarily discontinued is filed no more than one (1) year from the date the hospital last provided the service that the applicant is seeking to re-establish;

3. A proposed healthcare facility shall be located within the same county as the former healthcare facility and at a single location; and

4. The application shall not seek to re-establish any type of bed utilized in the care and treatment of patients for more than twenty-three (23) consecutive hours;

(c)

1. The proposal involves an application to establish an ambulatory surgical center that does not charge its patients and does not seek or accept commercial insurance, Medicare, Medicaid, or other financial support from the federal government; and

2. The proposed ambulatory surgical center shall utilize the surgical facilities of an existing licensed ambulatory surgical center during times the host ambulatory surgical center is not in operation;

(d) The proposal involves an application to establish an industrial ambulance service;

(e) Prior to July 1, 2026, the proposal involves an application by:

1. An ambulance service that is owned by a city or county government seeking to provide ambulance transport services pursuant to KRS 216B.020(9)(a)1. or 2.; or

2. A licensed hospital seeking to provide transport from a location that is not a ~~healthcare~~~~[health care]~~ facility pursuant to KRS 216B.020(9)(a)3. and (b);

(f) The proposal involves an application to transfer acute care beds from one (1) or more existing Kentucky-licensed hospitals to establish a new hospital under the following circumstances:

1. The existing hospital and new facility shall be under common ownership and located in the same county;

2. No more than fifty (50) percent of the existing hospital's acute care beds shall be transferred to the new facility; and

3.

a. If the existing hospital is a state university teaching hospital, the existing hospital exceeded, by at least one (1), the minimum number of quality measures required to receive supplemental university directed payments from Kentucky Medicaid for the state fiscal year preceding the date the application was filed; or

b. If the existing hospital is not a state university teaching hospital, the existing hospital's overall rating by the Centers for Medicare and Medicaid Services Hospital Compare was three (3) stars or higher on the most recent annual update to the overall star ratings preceding the date the application was filed;

(g)

1. The proposal involves an application from a Program of All-Inclusive Care for the Elderly (PACE) program that:

a. Has met the requirements of the State Readiness Review (SRR) according to a report submitted by the Department for Medicaid Services (DMS) to the Centers for Medicare and Medicaid Services (CMS);

b. Seeks to provide, directly to its members, a health service that is not exempt from certificate of need (CON) under KRS 216B.020(1); and

c. Ensures that all services authorized under the PACE agreement are provided exclusively to its members who reside within the service area. The service area shall be:

(i) Located within the Commonwealth of Kentucky; and

(ii) Approved by both CMS and DMS.

2. Only an approved PACE program operating within the applicant's service area shall qualify as an affected person for the purpose of opposing a PACE program application.

3. A PACE program shall not be required to obtain certificate of need (CON) approval if the program:

a. Provides direct patient health services that are exempt from CON under KRS 216B.020(1) and provides other services subject to CON approval through contracts with licensed providers; or

b. Has already obtained CON approval within the approved PACE service area to provide a health service that is not exempt from CON;

(h) The proposal involves an application to establish an inpatient psychiatric unit in an existing licensed acute care hospital under the following conditions:

1. The hospital is located in a county that has no existing, freestanding psychiatric hospital;

2. The occupancy of acute care beds in the applicant's facility is less than seventy (70) percent according to the most recent edition of the Kentucky Annual Hospital Utilization and Services Report;

3.

a. All of the proposed psychiatric beds are being converted from licensed acute care beds; and

b. No more than twenty (20) percent of the facility's acute care beds up to a maximum of twenty-five (25) beds will be converted to psychiatric beds;

4. All of the psychiatric beds will be implemented onsite~~[on-site]~~ at the applicant's existing licensed facility; and

5. All of the psychiatric beds shall be dedicated exclusively to the treatment of adult patients, aged eighteen (18) to sixty-four (64);

(i) The proposal involves an application by a Kentucky-licensed acute care hospital, critical access hospital, or nursing facility proposing to expand a home health service to provide services exclusively to patients discharged from its facility who require home health services at the time of discharge and no existing, licensed home health agency is available and willing to accept the referral. The hospital or nursing facility shall document its efforts to find a Home Health Agency. A license issued under this subsection shall contain the limitation set forth herein;[.]

(j) Level II PRTFs shall be subject to the nonsubstantive review process;[.]

(k) The proposal involves an application to establish a new pediatric teaching hospital under the following circumstances:

1. No less than one hundred fifty (150) pediatric acute care beds of the new pediatric teaching hospital are transferred from an existing pediatric teaching hospital that is a Kentucky-licensed hospital;

2. The existing pediatric teaching hospital is under common ownership with the new pediatric teaching hospital;

3. The existing pediatric teaching hospital is located within the same county as the new pediatric teaching hospital;

4. The new pediatric teaching hospital may include the same types of pediatric services and diagnostic equipment as currently provided at the existing pediatric teaching hospital, including pediatric acute care, Level II, III, and IV special neonatal beds, pediatric open heart surgery and cardiac catheterization, pediatric organ and tissue transplant program, pediatric psychiatric beds, and pediatric megavoltage radiation, positron emission tomography, and magnetic resonance imaging equipment, with no additional certificate of need application required for establishing any of these specific pediatric services and diagnostic equipment at the new pediatric teaching hospital;

5. The total number of pediatric acute care beds at the new pediatric teaching hospital shall not exceed 140% of the total number of pediatric beds at the existing pediatric teaching hospital at the time of application, and the pediatric acute care beds remaining at the existing pediatric teaching hospital shall not be designated as adult beds; and

6. The applicant certifies that the new pediatric teaching hospital will continuously operate as a pediatric teaching hospital, as that term is currently defined; or

(l) The proposal involves an application by an existing provider of a Level II service within the same area development district to establish a Level II program with four (4) Level II Special Care Neonatal beds consistent with this plan if the applicant is under common ownership.

(4) A certificate of need approved for an application submitted under subsection (3)(c) of this section shall state the limitations specified under subsection (3)(c)1. and 2. of this section.

(5) If an application is denied nonsubstantive review status by the Office of Inspector General, the application shall automatically be placed in the formal review process.

(6) If an application is granted nonsubstantive review status by the Office of Inspector General, notice of the decision to grant nonsubstantive review status shall be given to the applicant and all known affected persons.

(7)

(a) If an application is granted nonsubstantive review status by the Office of Inspector General, any affected person who believes that the application is not entitled to nonsubstantive review status or who believes that the application should not be approved may request a hearing by filing a request for a hearing within ten (10) days of the notice of the decision to conduct nonsubstantive review.

(b) The provisions of 900 KAR 6:090 shall govern the conduct of all nonsubstantive review hearings.

(c)



## VOLUME 52, NUMBER 1– JULY 1, 2025

1. Except as provided in subparagraph 2. of this paragraph, nonsubstantive review applications shall not be comparatively reviewed.

2. If the capital expenditure proposed involves the establishment or expansion of a health facility or health service for which there is a component in the State Health Plan, the nonsubstantive review applications shall be comparatively reviewed.

(d) Nonsubstantive review applications may be consolidated for hearing purposes.

(8) If an application for certificate of need is granted nonsubstantive review status by the Office of Inspector General, there shall be a presumption that the facility or service is needed and a presumption that the facility or service is consistent with the State Health Plan.

(9) If each applicable review criterion in the State Health Plan has been met, there shall be a presumption that the facility or service is needed unless the presumption of need has been rebutted by clear and convincing evidence by an affected party.

(10) Unless a hearing is requested pursuant to 900 KAR 6:090, the Office of Inspector General shall approve each application for a certificate of need that has been granted nonsubstantive review status if the exception established in subsection (11)(a) of this section does not apply.

(11) The cabinet shall disapprove an application for a certificate of need that has been granted nonsubstantive review if the cabinet finds that the:

(a) Application is not entitled to nonsubstantive review status; or

(b) Presumption of need or presumption that the facility or service is consistent with the State Health Plan provided for in subsection (8) of this section has been rebutted by clear and convincing evidence by an affected party.

(12) In determining whether an application is consistent with the State Health Plan, the cabinet, in making a final decision on an application, shall apply the latest criteria, inventories, and need analysis figures maintained by the cabinet and the version of the State Health Plan in effect at the time of the public notice of the application.

(13) In determining whether an application is consistent with the State Health Plan following a reconsideration hearing pursuant to KRS 216B.090 or a reconsideration hearing that is held by virtue of a court ruling, the cabinet shall apply the latest criteria, inventories, and need analysis figures maintained by the cabinet and the version of the State Health Plan in effect at the time of the reconsideration decision or decision following a court ruling.

(14) A decision to approve or disapprove an application that has been granted nonsubstantive review status shall be rendered within thirty-five (35) days of the date that nonsubstantive review status has been granted, as required by KRS 216B.095(1). A hearing officer shall prioritize rendering decisions regarding applications granted nonsubstantive review status pursuant to Section 2(3)(g) of this administrative regulation.

(15) If a certificate of need is disapproved following nonsubstantive review, the applicant may:

(a) Request that the cabinet reconsider its decision pursuant to KRS 216B.090 and 900 KAR 6:065;

(b) Request that the application be placed in the next cycle of the formal review process; or

(c) Seek judicial review pursuant to KRS 216B.115.

### Section 3. Exemption from Certificate of Need.

(1) A city or county government-owned ambulance service that meets the criteria established by KRS 216B.020(8) shall not be required to obtain a certificate of need to provide emergency ambulance transport services.

(2) A hospital-owned ambulance service shall not be required to obtain a certificate of need to provide non-emergency or emergency transport that originates from its hospital pursuant to KRS 216B.020(7).

(3)

(a) If a hospital-owned ambulance service has certificate of need approval prior to the most recent effective date of this administrative regulation to provide transport services from another health facility

to its hospital, the service shall not be required to obtain authorization in accordance with paragraph (b) of this subsection.

(b) A hospital-owned ambulance service that is exempt from certificate of need under KRS 216B.020(7) may provide transport services from another health facility to its hospital if authorized as ~~established~~[set-out] in KRS 311A.025(4).

(c)

1. As used in paragraph (b) of this subsection, a hospital is authorized to provide inter-facility transport of a patient if:

a. The hospital contacts by phone at least one (1) ground ambulance provider with jurisdiction in the territory in which the other health facility is located, using contact information from the most recent edition of the agency directory maintained by the Kentucky Board of Emergency Medical Services at the following link (<https://kbems.ky.gov/Legal/Pages/EMS-Directory.aspx>); and

b. The ground ambulance provider:

(i) Declines the hospital's request for patient transport; or

(ii) Is not able to initiate the patient's transport within four (4) hours of receiving the hospital's request.

2. For purposes of this paragraph, a provider initiates transport when it arrives at the hospital to transport the patient.

3. The hospital shall document the ambulance service contacted and the reason for authorization to provide transport from another health facility to its hospital.

(4)

(a) In accordance with KRS 216B.020(12)(a), the provisions of this section and Section 2(3)(e) of this administrative regulation shall expire on July 1, 2026.

(b) In accordance with KRS 216B.020(12)(b), a certificate of need exemption granted to an ambulance service under this section of this administrative regulation shall remain in effect on and after July 1, 2026.

TRICIA STEWARD, Acting Inspector General

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: June 9, 2025

FILED WITH LRC: June 9, 2025 at 2:55 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on July 21, 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 July 14, 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 through July 31, 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; email [CHFSregs@ky.gov](mailto:CHFSregs@ky.gov).

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles or Valerie Moore

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes procedures for the nonsubstantive review of certificate of need applications. Nonsubstantive review is an expedited review process granted to certain applications pursuant to KRS

216B.095. This administrative regulation expands upon the types of applications that qualify for nonsubstantive review per the statute.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with the content of the authorizing statutes, specifically KRS 216B.010, 216B.015(18), 216B.040, and 216B.095.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by adding types of certificate of need applications that qualify for nonsubstantive review status, setting forth the procedure for granting nonsubstantive review status, and setting forth the procedure for affected parties to request a hearing to dispute the review status or application.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by adding types of certificate of need applications that qualify for nonsubstantive review status, setting forth the procedure for granting nonsubstantive review status, and setting forth the procedure for affected parties to request a hearing to dispute the review status or application.

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

(a) How the amendment will change this existing administrative regulation: This amendment maintains consistency with the most recent update to the State Health Plan to increase access to pediatric acute care beds, Level II Special Care Neonatal beds, and to grant nonsubstantive review status to certificate of need applications submitted by licensed health facilities.

(b) The necessity of the amendment to this administrative regulation: This amendment is being proposed pursuant to KRS 216B.095(3), which permits the cabinet to grant nonsubstantive review status to a certificate of need application in accordance with circumstances prescribed by the cabinet via administrative regulation. These changes were requested by providers to allow them to add needed healthcare services more quickly and efficiently in response to their patient's changing needs. This amendment is needed to expand access to health services throughout the state, including in rural areas, to enhance immediate access to resources.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to KRS 216B.095(3), which permits the cabinet to grant nonsubstantive review status to a certificate of need application in accordance with circumstances prescribed by the cabinet via administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the statutes by establishing the procedures for review of certificate of need applications granted nonsubstantive review status.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects entities that submit certificate of need applications subject to the nonsubstantive review process. The number of entities that submit certificate of need applications subject to nonsubstantive review varies.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This amendment will require eligible providers that choose to do so to take steps to invest resources to establish a NICU unit in areas of the state that do not have convenient access to one, therefore reducing travel time for expectant and postpartum mothers.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The certificate of need application filing fee is the same for nonsubstantive review and formal review and is established in a separate administrative regulation, 900 KAR 6:020.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The proposed amendment will help improve access to healthcare services by making it easier to obtain a certificate of need to provide these services. This will increase access to services

that are closer to home for many patients, particularly in rural areas of the state.

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

(a) Initially: There are no initial costs for implementation of this amendment.

(b) On a continuing basis: There are no continuing costs for implementation of this amendment on a continuing basis.

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

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

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

(9) TIERING: Is tiering applied? Tiering is used as certificate of need applications are reviewed under a formal review process (900 KAR 6:070) or nonsubstantive review process (this administrative regulation). The list of applications granted nonsubstantive review is being amended to add two (2) new categories.

#### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. This administrative regulation is necessary to comply with the content of the authorizing statutes, specifically KRS 216B.010, 216B.015(18), 216B.040, and 216B.095.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The promulgating agency is the Office of Inspector General within the Cabinet for Health and Family Services. This administrative regulation affects entities that submit certificate of need applications subject to the nonsubstantive review process.

(a) Estimate the following for the first year:

Expenditures: There are no additional costs for implementation of this amendment.

Revenues: Revenue increases would be dependent on how many facilities applied for nonsubstantive review and is not able to be predicted.

Cost Savings: There are no anticipated cost savings as a result of this amendment.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There is no anticipated expenditure, revenue, or cost savings difference from subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): This amendment should have no additional effect on local entities.

(a) Estimate the following for the first year:

Expenditures: There are no additional expenditures anticipated from this administrative regulation

Revenues: No additional revenue is anticipated from this amendment.

Cost Savings: No cost savings are anticipated from this amendment.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? No changes are anticipated as a result of this amendment.

(4) Identify additional regulated entities not listed in questions (2) or (3): This administrative regulation affects entities that submit certificate of need applications subject to the nonsubstantive review process.

The number of entities that submit certificate of need applications subject to nonsubstantive review varies.

(a) Estimate the following for the first year:

Expenditures: The certificate of need application filing fee is the same for nonsubstantive review and formal review and is established in a separate administrative regulation, 900 KAR 6:020.

Revenues: No additional revenue is anticipated from this amendment.

Cost Savings: No cost savings are anticipated from this amendment.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? No changes are anticipated as a result of this amendment.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The certificate of need application filing fee is the same for nonsubstantive review and formal review and is established in a separate administrative regulation, 900 KAR 6:020.

(b) Methodology and resources used to determine the fiscal impact: The fees for licensure are established in 900 KAR 6:020 fees for licensure.

(6) Explain:

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

(b) The methodology and resources used to reach this conclusion: The fees are the same whether a facility applies for substantive or nonsubstantive review.

**VOLUME 52, NUMBER 1– JULY 1, 2025**

**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

PERSONNEL CABINET  
(As Amended at ARRS, June 10, 2025)

101 KAR 2:034. Classified compensation administrative regulations.

RELATES TO: KRS 18A.020(2)(a), 18A.030(2), 18A.110, 18A.165, 29 U.S.C. sec. 201, et seq.

STATUTORY AUTHORITY: KRS 18A.030(2), 18A.110(1)(c), (d), (g), (7)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.110(1)(c) requires the Secretary of the Personnel Cabinet to promulgate administrative regulations to[which] govern the pay plan for all employees in the classified service. This administrative regulation establishes requirements to assure uniformity and equity in administration of the pay plan in accordance with statutory requirements.

Section 1. New Appointments.

(1) An appointing authority shall appoint a new employee at a salary not to exceed the midpoint of the pay grade.

(2) The appointing authority shall adjust to that salary, an employee who is not on initial or promotional probation and is earning less than the new appointee's salary, if the appointing authority determines that the incumbent employee:

(a) Is in the same job classification;

(b) Is in the same department or office;

(c) Is in the same work county; and

(d) Has a similar combination of education and experience relating to the relevant job class specification.

(3) The appointing authority shall adjust to five (5) percent above that salary, an employee who is not on initial or promotional probation and whose salary is the same or less than five (5) percent above the appointment salary assigned to the new employee, if the appointing authority determines that the incumbent employee:

(a) Is in the same job classification;

(b) Is in the same department or office;

(c) Is in the same work county; and

(d) Has a similar combination of education and experience relating to the relevant job class specification. [If sufficient funds are available, the appointing authority may identify each incumbent employee affected by subsection (2) of this section whose salary is less than five (5) percent above the appointment salary assigned to the new employee. The appointing authority may adjust all affected incumbent employees' salaries to five (5) percent above the new appointee's salary].

Section 2. Reentrance to Classified Service.

(1) Returning retirees. An employee who was formerly employed under KRS Chapter 18A and who is appointed to a position covered by the provisions of KRS Chapter 18A while receiving retirement payments through the Kentucky Public Pensions Authority or Kentucky Teachers Retirement System, shall be appointed in accordance with the provisions for new appointments as established in this administrative regulation.

(2) Other reentering employees.

(a) Former classified employees. An appointing authority shall set the salary of a former classified employee, other than a returning retiree, who is being reemployed, reinstated after a break in continuous employment in the classified service, or probationarily appointed [in one (1) of the following ways]:

1.

[a.] In accordance with the standards used for making new appointments in this administrative regulation;

2.[b.] Up to the same hourly rate[salary] as that paid at the time of separation from the classified service, if that hourly rate[salary] does not exceed the midpoint hourly rate[salary] plus the difference,

in dollars, between the job class entry level hourly rate[salary] and the pay grade midpoint hourly rate[salary]; or

3.[c.] At the same hourly rate[salary] as that paid at the time of separation from the classified service if the employee is returning to the same pay grade or same job classification held at the time of separation from the classified service.

[2.] [If sufficient funds are available, the appointing authority may identify each incumbent employee affected by Section 1(2) of this administrative regulation who is not on initial or promotional probation at the time the salary adjustment becomes effective. For all affected incumbent employees whose salary is less than five (5) percent above the appointment salary assigned to the new employee, the appointing authority may adjust all affected incumbent employees' salaries to five (5) percent above the new appointee's salary on that same effective date. An adjustment made pursuant to this subparagraph shall not exceed the midpoint salary plus the difference, in dollars, between the job class entry level salary and the pay grade midpoint salary.]

(b) Former unclassified employees with prior classified service. An appointing authority shall set the salary of a former classified employee who moved to the unclassified service and who is reinstated, reemployed, or probationarily appointed to a position in the classified service [in one (1) of the following ways]:

1.

[a.] In accordance with the standards for making new appointments as established in this administrative regulation;

2.[b.] Up to the same hourly rate[salary] as that paid at the time of separation from the classified service, if that hourly rate[salary] does not exceed the pay grade midpoint hourly rate[salary] plus the difference, in dollars, between the job class entry level hourly rate[salary] and the pay grade midpoint hourly rate[salary]; or

3.[c.] At an hourly rate[salary] that is the same as the hourly rate[salary] the employee last received in the classified service with adjustments for increases that would have been received if the employee had remained in the classified service prior to resignation if the hourly rate[salary] does not exceed the pay grade midpoint hourly rate[salary] plus the difference, in dollars, between the job class entry level hourly rate[salary] and the pay grade midpoint hourly rate[salary]; or

4.[d.] At a salary up to five (5) percent above the pay grade entry level wage for each year of service in the KRS Chapter 18A system, if the salary does not exceed the pay grade midpoint salary plus the difference, in dollars, between the job class entry level salary and the pay grade midpoint salary. Salary shall be calculated using whole percentages.

[2.] [If sufficient funds are available, the appointing authority may identify each incumbent employee affected by Section 1(2) of this administrative regulation who is not on initial or promotional probation at the time the salary adjustment becomes effective. For all affected incumbent employees whose salary is less than five (5) percent above the appointment salary assigned to the new employee, the appointing authority may adjust all affected incumbent employees' salaries to five (5) percent above the new appointee's salary on that same effective date. An adjustment made pursuant to this subparagraph shall not exceed the midpoint salary plus the difference, in dollars, between the job class entry level salary and the pay grade midpoint salary.]

(c) Former unclassified employees with no previous classified service. An appointing authority shall set the salary of a former unclassified employee with no previous classified service, who is probationarily appointed or reemployed [in one (1) of the following ways]:

1.

[a.] In accordance with the standards for making new appointments as established in this administrative regulation;

2.[b.] At a salary up to five (5) percent above the minimum salary for each year of service in the unclassified service, if the salary does

not exceed the pay grade midpoint salary plus the difference, in dollars, between the job class entry level salary and the pay grade midpoint salary. Salary shall be calculated using whole percentages.

[2.] [If sufficient funds are available, the appointing authority may identify each incumbent employee affected by Section 1(2) of this administrative regulation who is not on initial or promotional probation at the time the salary adjustment becomes effective. For all affected incumbent employees whose salary is less than five (5) percent above the appointment salary assigned to the new employee, the appointing authority may adjust all affected incumbent employees' salaries to five (5) percent above the new appointee's salary on that same effective date. An adjustment made pursuant to this subparagraph shall not exceed the midpoint salary plus the difference, in dollars, between the job class entry level salary and the pay grade midpoint salary.]

(d) Laid off employees. A former employee, separated from the classified service by layoff and reinstated or reemployed in the same [or similar] job classification within two (2)[~~five (5)~~] years from the date of layoff, may receive the salary the employee was receiving at the time of layoff, even if the salary is above the maximum of the pay grade.

(3) Probationary increments upon reentrance to state service. A former employee who is probationarily appointed at a salary at or below the midpoint of the pay grade shall receive a probationary increment upon successful completion of the probationary period.

### Section 3. Salary Adjustments.

#### (1) Promotion.

(a) An employee who is promoted shall receive the greater of five (5) percent for each grade, or an increase to the minimum of the new grade except as established[provided] under subsection (2)(b), (3)(b), or subsections (2)(b), (3)(b), and (4)(b) of this section; or

(b) If sufficient funds are available, an appointing authority may adjust the employee's salary up to the midpoint of the pay grade if the increase is greater than the increase established[specified] in paragraph (a) of this subsection.

#### (2) Demotion.

(a) If an employee is demoted, [the appointing authority shall determine] the salary shall be determined in one (1) of the following ways:

1. The employee's salary shall be reduced by five (5) percent for each grade the employee is reduced; or

2. If requested in writing by the appointing authority and approved by the secretary, the employee shall retain the salary received prior to demotion. If approved by the secretary, the written request and notice of approval shall be placed in the employee's agency and Personnel Cabinet files maintained in accordance with KRS 18A.020(2)(a) [If the employee's salary is not reduced upon demotion, the appointing authority shall explain the reason in writing and place the explanation in the employee's personnel files].

(b) An employee whose salary is not reduced by five (5) percent per grade upon demotion shall not be eligible for a salary increase upon promotion, reclassification, detail to special duty, reallocation, pay grade change, or successful completion of promotional probation until the employee is moved to a job classification with a higher pay grade than that from which he or she was demoted. If a promotion, reclassification, detail to special duty, reallocation, or pay grade change occurs, it shall be deemed as having been made from the grade from which the employee had been demoted.

(c) Upon the salary schedule adjustment of an entry level wage of a pay grade, if an employee demoted to a lower pay grade, retained his or her salary, and was subsequently promoted and on promotional probation on the effective date of the new salary schedule, if the employee's salary is less than five (5) percent above the new entry level salary of the pay grade assigned to that employee on the effective date, the Personnel Cabinet shall adjust that employee's salary to five (5) percent above the new entry level wage.

#### (3) Reclassification.

(a) An appointing authority shall adjust the salary of an employee who is advanced to a higher pay grade through reclassification in one (1) of the following ways:

1. The greater of five (5) percent for each grade or the new grade minimum, except as established[provided] under subsection (2)(b) or subsections (2)(b) and (4)(b) of this section or, and paragraph (b) of this subsection; or

2. If sufficient funds are available, up to the midpoint of the pay grade if the increase is greater than the increase established[specified] in subparagraph 1. of this paragraph.

(b) An employee who is placed in a lower pay grade through reclassification shall receive the same salary received prior to reclassification, but shall not be eligible for a salary increase upon promotion, reclassification, detail to special duty, reallocation, pay grade change, or successful completion of promotional probation until the employee is moved to a job classification with a higher pay grade than that from which he or she was reclassified. If a promotion, reclassification, detail to special duty, reallocation, or pay grade change occurs, it shall be deemed as having been made from the grade from which the employee had been reclassified.

(c) If sufficient funds are available, an appointing authority may adjust up to the midpoint of the pay grade the salary of an employee who is placed in the same pay grade through reclassification.

(d) An employee shall not be reclassified from a job classification that does not require the supervision of employees to a job classification that requires the supervision of employees as mandated within the job class specification.

#### (4) Reallocation.

(a) An employee who is advanced to a higher pay grade through reallocation shall receive the greater of five (5) percent for each grade or the new grade minimum, except as established[provided] under subsection (2)(b) or subsections (2)(b) and (3)(b) of this section or, and paragraph (b) of this subsection.

(b) An employee who is placed in a lower pay grade through reallocation shall receive the same salary received prior to reallocation, but shall not be eligible for a salary increase upon promotion, reclassification, detail to special duty, reallocation, pay grade change, or successful completion of promotional probation until he or she is moved to a job classification with a higher pay grade than that from which he or she was reallocated. If a promotion, reclassification, detail to special duty, reallocation, or pay grade change occurs, it shall be deemed as having been made from the grade from which the employee had been reallocated.

#### (5) Detail to special duty.

(a) An employee who is approved for detail to special duty shall receive, during the period of detail, the greater of five (5) percent for each grade or the new grade minimum except as established[provided] under subsection (2)(b), (3)(b), or subsections (2)(b), (3)(b), and (4)(b) of this section.

(b) If sufficient funds are available, an appointing authority may adjust the salary of an employee who is placed in the same pay grade or higher pay grade through detail to special duty, up to the midpoint of the pay grade, if the increase is greater than the increase established[specified] in paragraph (a) of this subsection.

(c) An employee who is approved for detail to the same or lower pay grade shall receive the same salary received prior to detail except as provided under paragraph (b) of this subsection.

#### (6) Reversion.

(a) The salary of an employee who is reverted while serving a promotional probationary period, or following detail to special duty in a higher pay grade, shall be adjusted to:

1. The salary received prior to the promotion or detail; and  
2. All salary advancements and adjustments that[which] would have been awarded if the promotion or detail had not occurred.

(b) The salary of an employee who is reverted from a position in the unclassified service to a position in the classified service shall be adjusted to:

1. The salary received prior to leaving the classified service; and  
2. All salary advancements and adjustments which would have been awarded if the individual had remained in the classified service.

(c) The increment date of an employee who is reverted from a position in the unclassified service to a position in the classified service shall be restored to the increment date set prior to leaving the classified service.

#### (7) Pay grade changes.

(a) If a job classification is assigned to a higher pay grade,

## VOLUME 52, NUMBER 1– JULY 1, 2025

except as established[provided] under subsection (2)(b), (3)(b), or[subsection (2)(b), (3)(b), and] (4)(b) of this section, the appointing authority shall raise the salary of an employee below the new grade minimum to the new grade minimum. If sufficient funds are available, an appointing authority may uniformly adjust the salary of all employees in that agency in that job classification to:

1. The greater of the new grade minimum or five (5) percent per pay grade;

2. The greater of the new grade minimum or ten (10) percent per pay grade; or

3. At a percentage determined by the Personnel Cabinet.

(b) If a job classification is assigned to a lower pay grade, an employee in that job classification shall retain his or her current salary.

(8) Special entrance rates. If a special entrance rate is established for a job classification, an appointing authority shall adjust the salary of an employee in that job classification if the employee's compensation[who] is below the special entrance rate to the new rate. If sufficient funds are available, on the same date as the establishment of the special entrance rate, an appointing authority may uniformly grant to all employees in that job classification, except those employees who are on initial probation, a salary adjustment equal to the difference between the entrance of the pay grade and the new entrance rate.

(9) Other salary adjustments.

(a) On the 16th of a month, an appointing authority may grant a salary adjustment to all employees in a job classification within an agency who were eligible for, but did not receive, a five (5) percent per pay grade increase or ten (10) percent per pay grade increase as a result of a grade change applicable to the job classification, on or after January 1, 1999. The total adjustment granted at the time of the grade change and under this paragraph shall equal a five (5) percent per pay grade increase or ten (10) percent per pay grade increase to the employee's salary immediately prior to the grade change. The adjustment shall not be retroactive.

(b) If sufficient funds are available, an appointing authority may adjust the salary of one (1) or more employees with status in an office or department due to internal pay equity issues within a job classification or sustained retention issues impacting the mission of the agency.

1. The appointing authority shall substantiate in writing to the secretary the need for adjustment and include the proposed adjustment for each employee.

2.

a. An adjustment [shall be any amount] that does not cause an employee's hourly rate to exceed the midpoint of the pay grade may be any amount; or

b. An adjustment that causes an employee's hourly rate to exceed the midpoint of the pay grade shall not exceed twenty-five (25) percent of the employee's hourly pay rate.

(10) Conversion rule. The salary of an employee whose position changes from a thirty-seven and one-half (37.5) hour workweek to a forty (40) hour workweek, or vice versa, shall be converted to accurately reflect the employee's hourly rate of base pay. This conversion shall be applied before applying any other salary adjustment to which the employee is entitled pursuant to this section.

### Section 4. Salary Advancements.

(1) Initial probation increase. A full-time or part-time employee who completes an initial probationary period shall be granted a five (5) percent salary advancement on the first of the month following completion of the probationary period.

(2) Promotional probation increase. An employee shall receive a five (5) percent salary advancement on the first of the month following completion of the promotional probationary period except as established[provided] under Section[Sections] 3(2)(b), 3(3)(b), or[and] 3(4)(b) of this administrative regulation.

(3) An employee who separates prior to the first of the month following completion of a probationary period shall forfeit the five (5) percent salary advancement.

(4) Annual increment dates shall be established[as follows]:

(a) Upon completion of an initial probationary period;

(b) When a former employee has been probationarily appointed

and has received compensation in any twelve (12) months without receiving an increment; or

(c) When an employee returns from leave without pay under the provisions of subsection (6) of this section.

(5) Annual increment dates shall not change if an employee:

(a) Is in a position that[which] is assigned a new or different pay grade;

(b) Receives a salary adjustment as a result of a reallocation;

(c) Is promoted;

(d) Is transferred;

(e) Is demoted;

(f) Is detailed to special duty;

(g) Receives an educational achievement award;

(h) Returns from military leave;

(i) Is reclassified;

(j) Receives a promotional increase after completion of a promotional probationary period; or

(k) Is reemployed after layoff.

(6) Return from leave without pay. An employee returning to duty from leave without pay shall receive an annual increment on the first of the month after receiving compensation in any twelve (12) months since the last increment was received.

(7) Service computation. Full-time and part-time service shall be counted in computing service for the purpose of determining increment eligibility.

(8) Order of calculating increments and other salary increases that[which] occur at the same time. If an employee's increment date occurs on the same date that a salary adjustment or advancement is granted, the increment shall be applied before the adjustment or advancement is added to the employee's salary, except if the adjustment is based on a reversion, pay grade change, a salary schedule change, or establishment of a special entrance rate.

### Section 5. Educational Achievement Award.

(1) On the 16th of a month, an appointing authority may grant a five (5) percent increase to an employee's base salary based on educational achievement as established[specified] in this section.

(2) An agency may elect not to participate in the educational achievement program if sufficient funds are not available.

(3) An employee shall not receive more than one (1) educational achievement award in a fiscal year.

(4) An employee shall not receive an educational achievement award and an adjustment for continuing excellence (ACE) based on the same training.

(5) By submitting a personnel action to grant an educational achievement award, the appointing authority shall certify that all of the qualifying conditions established by this section for the appropriate type of educational achievement award have been met.

(a) For a high school diploma, high school equivalency certificate, or a passing score on the GED test, the qualifying conditions shall be met if:

1. The employee has obtained the high school diploma, equivalency certificate, or passing score on the GED test:

a. Outside of work hours;

b. While in state service; and

c. After establishing an increment date;

2. The employee has not previously attained a high school diploma, equivalency certificate, or passing score on the GED test; and

3. The employee has not completed college coursework on the undergraduate or graduate level prior to obtaining the high school diploma, equivalency certificate, or a passing score on the GED test.

(b) For postsecondary education or training, the qualifying conditions shall be met if:

1. The employee has completed 260 hours of job-related instruction, or the equivalent;

2. The employee began the course work after becoming a state employee and completed the course work after establishing an increment date;

3. The employee has completed the course work within five (5) years of the date on which the course work[it] was begun;

4. The course work has not previously been applied toward an educational achievement award;

5. The agency has not paid for the course work or costs associated with the course work~~it~~, in whole or in part; and

6. The employee was not on educational or extended sick leave when the courses were taken.

Section 6. Salary Schedule Adjustment.

(1) If the secretary authorizes an adjustment of a salary schedule, an appointing authority shall adjust the salaries of all employees below the new schedule entry level wage for the pay grade to the new schedule entry level wage for the pay grade. If sufficient funds are available, the secretary may authorize an appointing authority to grant a salary increase for all employees equal to the difference in the old schedule entry level wage for the grade and the new schedule entry level wage for the grade.

(2) After consultation with the state budget director, if sufficient funds are available~~;~~ and the Secretary of Personnel determines that an increase in the entry level wage of one (1) or more pay grades is warranted, the Personnel Cabinet shall identify each currently active employee in the pay grade or grades~~grade(s)~~, other than an interim employee, who is not on initial or promotional probation at the time the revised salary schedule becomes effective. For an employee whose salary is less than five (5) percent above the new entry level wage of the pay grade assigned to that employee on the effective date, the Personnel Cabinet shall adjust that employee's salary to five (5) percent above the new entry level wage.

Section 7. Paid Overtime.

(1) Overtime for which pay is authorized shall be in accordance with 101 KAR 2:102, Section 6~~5~~, and the Fair Labor Standards Act, 29 U.S.C. Section 201, et seq., as amended.

(2) Eligibility for overtime pay shall be approved by the appointing authority, and may be reviewed~~shall be subject to review~~ by the Secretary of Personnel.

(3) An employee who is eligible for overtime shall request permission from<sub>1</sub> or be directed in advance<sub>1</sub> by the supervisor to work overtime.

(4) An overtime payment shall not be added to base salary or wages.

Section 8. Maintenance and Maintenance Allowance. If an employee, or the employee and family, is provided with full or partial maintenance, consisting of one (1) or more meals per day, lodging or living quarters, and domestic or other personal services, the maintenance shall be treated as partial payment of wages. The value of those services shall be deducted from the employee's salary in accordance with a maintenance schedule developed by the appropriate appointing authority after consultation with the Secretary of the Finance and Administration Cabinet.

Section 9. Supplemental Premiums.

(1) Locality premium.

(a)

1. Upon request by an appointing authority, the secretary may authorize and establish the amount of the payment of a locality premium for an employee who is regularly, temporarily, or intermittently assigned to work in a job classification, work county, and organizational unit if the agency can demonstrate sustained recruitment and retention issues impacting the mission of the agency; or

2. The secretary may direct the payment of a locality premium for an employee who is regularly, temporarily, or intermittently assigned to work in a job classification, work county, and organizational unit if there are demonstrated sustained recruitment and retention issues impacting the mission of the agency.

(b) Once authorized or directed, this premium shall apply to all employees in that organizational unit who are regularly or temporarily assigned to work in the job classification and work county for which the locality premium is approved.

(c) An employee shall not receive a locality premium after transfer, reclassification, reallocation, detail to special duty, promotion<sub>1</sub> or demotion to a position in a job classification, organizational unit, or work county that is ineligible for a locality premium.

(d) The secretary may rescind authorization to pay a locality

premium for a job classification at any time.

(e) Locality premium pay shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

(2) Shift premium.

(a) Upon request by an appointing authority, the secretary may authorize the payment of a supplemental premium for an employee who is regularly assigned to work an evening or night shift in that agency.

(b) Once authorized, this premium shall apply to all employees in that agency who are regularly assigned to work an evening or night shift in a job classification for which the shift premium is approved.

(c) An employee shall not receive a shift premium after shift reassignment, transfer, promotion<sub>1</sub> or demotion to a position that is ineligible for a shift differential premium.

(d) The secretary may rescind authorization to pay shift premium for a job classification at any time.

(e) Shift differential pay shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

(3) Weekend premium.

(a) Upon request by an appointing authority, the secretary may~~shall~~ authorize the payment of a weekend premium for an employee in a specific job classification who is regularly assigned to work on Saturdays, Sundays, or state holidays as part of the usual work week.

(b) Once authorized, the premium shall apply to all employees in the specified job classifications in that agency who are regularly assigned to work Saturdays, Sundays, or state holidays as part of those employees~~their~~ usual work week.

(c) An employee shall not receive a weekend premium after reassignment, transfer, promotion, or demotion to a position that is ineligible for weekend premium.

(d) The secretary may rescind authorization to pay weekend premium at any time.

(e) Weekend premium pay shall not be considered part of the employee's base salary or wages and shall not be applied to any leave time usage.

(f) An agency may request, and be authorized for, both shift premium and weekend premium for the same job classifications.

(4) Multilingual hourly premium.

(a) Upon request by an appointing authority, the secretary may authorize the payment of a supplemental multilingual hourly premium for an employee who is assigned to complete work duties in a specified foreign language. An employee completing work duties in a specified foreign language shall receive a multilingual hourly premium based on the percentage of time multilingual skills are performed. An employee in a job classification that includes interpreting services as a characteristic of the job on the job class specification shall not be eligible for this premium.

(b) Language proficiency testing shall be completed prior to an employee receiving the multilingual hourly premium. Testing shall indicate a standard level of multilingual proficiency as required by the appointing authority.

(c) An appointing authority shall submit the multilingual premium request to the Personnel Cabinet in writing. The request shall contain, at a minimum:

1. An explanation of the reason or reasons for granting the multilingual premium;

2. The percentage of time the employee will use multilingual skills; and

3. Certification by the appointing authority that the employee has completed multilingual testing and received a standard level of multilingual proficiency rating. This certification shall include the name of the testing facility or organization, the format of the test taken (oral, written, or a combination of oral and written), and the level of proficiency granted in the request for the multilingual premium.

(d) Once authorized and once the employees are individually approved in accordance with this subsection, the multilingual hourly premium shall apply to all employees in that agency who are regularly assigned to complete work in a specified foreign language~~once the employees are individually approved in accordance with this subsection~~.



## VOLUME 52, NUMBER 1– JULY 1, 2025

(e) An employee shall not receive a multilingual hourly premium after reassignment, reclassification, transfer, promotion, reallocation, or demotion to a position which no longer requires work in a specified foreign language.

(f) An employee who ceases to perform work duties in a specified foreign language shall not be eligible to receive a multilingual hourly premium.

(g) The secretary may rescind the multilingual hourly premium authorization provided to an agency or individual employee at any time.

(h) The multilingual hourly premium shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

(5) Critical position premium.

(a) Upon request by an appointing authority, the secretary may authorize the payment of a premium for a position held by an employee who has established an annual increment date and is regularly assigned to perform job duties that are deemed critical to the operation of the agency.

(b) A critical position premium may be authorized for at least ~~three (3)~~~~one (1)]~~ full-time filled positions~~[position]~~ in an office or department. The premium may be authorized for additional full-time filled positions if the total number of premiums does not exceed one (1) percent of the total number of full-time filled positions in an office or department.

(c) The premium shall not exceed twenty-five (25) percent of the employee's hourly rate.

(d) The critical position designation shall expire ~~if~~~~when~~ the position becomes vacant.

(e) An employee shall not receive a critical position premium after transfer, reclassification, reallocation, detail to special duty, promotion, or demotion to a position in a different job classification, organizational unit, or work county, unless the appointing authority submits a new request, for approval by the secretary, to designate the position in the different job classification, organizational unit, or work county as critical prior to the personnel action at issue.

(f) The appointing authority or the secretary may rescind authorization to pay a critical position premium at any time.

(g) A critical position premium shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

(6) Sign-on bonus.

(a) Upon written request by an appointing authority, the secretary may prospectively authorize a sign-on bonus for full-time or part time classified positions if:

1. The positions are in the same job classification, work county, and department or office if the appointing authority can substantiate sustained recruitment and retention issues impacting the mission of the agency;

2. The total amount of the sign-on bonus is uniform and does not exceed \$5,000 for the job classification; and

3. Eligibility for the sign-on bonus is limited to a probationarily appointed, rehired, or reinstated employee who:

a. Has not been employed in a KRS Chapter 18A classified position within ninety (90) calendar days preceding the effective date of appointment, rehire, or reinstatement;

b. Has not previously received any amount of sign-on bonus pursuant to this subsection; and

c. Is working or on approved leave at the time payment is scheduled to be issued.

(b) Once a sign-on bonus is authorized by the secretary, an eligible employee shall receive:

1. Twenty-five (25) percent of the total sign-on bonus on the first day of the month after appointment, rehire, or reinstatement;

2. Twenty-five (25) percent of the total sign-on bonus on the first day of the month after completion of six (6) months of active service in the position into which the employee was appointed, rehired, or reinstated; and

3. Fifty (50) percent of the total sign-on bonus on the first day of the month after completion of twelve (12) months of active service in the position into which the employee was appointed, rehired, or reinstated.

(c) An employee shall not receive future payment of any portion of a sign-on bonus after transfer, promotion, or demotion to a

position in a job classification, department or office, or work county other than the position into which the employee was appointed, rehired, or reinstated.

(d) An employee who is detailed to special duty or whose position is reclassified or reallocated shall remain eligible for future payment of the original sign-on bonus amount.

(e) The secretary may rescind authorization to pay a sign-on bonus at any time prior to the effective date of appointment, rehire, or reinstatement.

(f) A sign-on bonus shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

### Section 10. Employee Recognition Award (ERA).

(1) On the 16th day of a month, an appointing authority may grant an employee an ERA in the form of a lump sum payment of any whole percentage from one (1) to ten (10) percent of the grade midpoint ~~if~~~~under the following conditions~~:

(a) The employee has not received an ERA in the preceding twenty four (24) months, nor an Adjustment for Continuing Excellence (ACE) award in the preceding twelve (12) months; and

(b)

1. The appointing authority determines that the employee's acts or ideas have resulted in significant financial savings or improvements in services to the Commonwealth and ~~the~~ Commonwealth's~~[its]~~ citizens;

2. The employee has exhibited distinguished performance during participation in special projects that have had a significant beneficial impact on the department, office, or governmental operations; or

3. The employee has demonstrated a sustained level of exceptional job performance.

(2) An employee shall not be eligible for an ERA under this section for an act or idea that has been approved or submitted for consideration as an Employee Suggestion System Award. An employee who has received an ERA shall not be eligible to be considered for an Employee Suggestion System Award for those acts or ideas upon which the ERA is based.

(3) The granting of an ERA shall be within the sole discretion of the appointing authority.

(4) If an appointing authority grants an ERA, the justification for the award shall be stated in writing~~[,]~~ and placed in the employee's personnel files.

(5) An appointing authority shall submit a written justification to the Personnel Cabinet to award an ERA. The justification shall:

(a) Explain the reason or reasons for the granting of the award; and

(b) Include a certification by the appointing authority that:

1. Sufficient funds are available within the department or office; and

2. The criteria and limitations established in this section have been met.

### Section 11. Adjustment for Continuing Excellence (ACE) Award.

(1) On the 16th day of a month, an appointing authority may grant a salary adjustment of any whole percentage from one (1) to ten (10) percent of the grade midpoint of the position in which the employee holds status to a full-time employee's base pay as an ACE award ~~if the employee has~~~~under the following conditions~~:

(a) ~~[The employee has]~~An established annual increment date;

(b) ~~[The employee has]~~Worked at least ~~the immediately preceding twenty-four (24) consecutive months in KRS Chapter 18A state service, twelve (12) consecutive months of which shall have been served in the department or office granting the award;~~

(c) ~~[The employee has]~~Not received an ACE award in the preceding twenty-four (24) months or an ERA in the preceding twelve (12) months; and

(d)

1. ~~[The employee has]~~Demonstrated a sustained level of exceptional job performance;

2. ~~[The employee has]~~Assumed a significant level of additional job responsibilities or duties consistent with the assigned job classification~~[,]~~ and has performed them in an exceptional manner; or

3. ~~[The employee has]~~Acquired professional or technical skills or knowledge through department or office directed or authorized

## VOLUME 52, NUMBER 1– JULY 1, 2025

attainment of a job related licensure, certification, or formal training that will substantially improve job performance.

(2) An employee shall not be eligible for an ACE award under this section if:

(a) An educational achievement award has been granted for the same training; or

(b) The employee received either of the two (2) lowest possible evaluation ratings on the most recent performance evaluation.

(3) The granting of an ACE award shall be within the sole discretion of the appointing authority.

(4) An appointing authority shall submit a written justification to the Personnel Cabinet to grant an ACE award. The justification shall:

(a) Explain the reason or reasons for the granting of the award; and

(b) Include a certification by the appointing authority that:

1. The criteria and limitations established in this section have been met; and

2. Sufficient funds are available within the department's or office's current recurring base budget to support the award.

Section 12. Voluntary Actions. An employee request for transfer, demotion, or promotion shall be documented on the Voluntary Transfer/Demotion/Promotion Employee Agreement Form in Accordance with 101 KAR 1:335 and 101 KAR 1:400.

### Section 13. Incorporation by Reference.

(1) "Voluntary Transfer/Demotion/Promotion Employee Agreement Form", November 2024~~[September—2017]~~, is incorporated by reference.

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

FILED WITH LRC: June 10, 2025

CONTACT PERSON: Rosemary Holbrook, Executive Director, Office of Legal Services, 501 High Street, 3rd floor, Frankfort, Kentucky 40601, phone (502) 564-7430, fax (502) 564-0224, email [RosemaryG.Holbrook@ky.gov](mailto:RosemaryG.Holbrook@ky.gov).

### PERSONNEL CABINET

(As Amended at ARRS, June 10, 2025)

#### 101 KAR 2:102. Classified leave general requirements.

RELATES TO: KRS 18A.020, 18A.030, 18A.095, 18A.110, 18A.140, 18A.145, 18A.195, 18A.990, 61.373, 61.394, 118.035, 344.030, **337**, 29 C.F.R. 825, 29 U.S.C. [~~8, 29 U.S.C.~~] 201 – 219, 2601 – 2654  
STATUTORY AUTHORITY: KRS 18A.030(2)(b), 18A.110, 29 U.S.C. 201 – 219, 2601 – 2654

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.030(2)(b) requires the Secretary of the Personnel **Cabinet** to promulgate administrative regulations, consistent with KRS Chapter 18A and federal standards, for the administration of a personnel system. KRS 18A.110(7)(~~f~~)(**g**) requires the secretary, with the approval of the Governor, to promulgate administrative regulations that govern annual leave, sick leave, special leaves of absence, and other conditions of leave. This administrative regulation establishes the leave requirements for classified employees.

#### Section 1. Annual Leave.

(1) Accrual of annual leave.

(a) Each full-time employee shall accumulate annual leave at the following rate:

Months of Service	Annual Leave Days
0-59 months	1 leave day per month; 12 per year
60-119 months	1 1/4 leave days per month; 15 per year
120-179 months	1 1/2 leave days per month; 18 per year
180-239 months	1 3/4 days per month; 21 per year
240 months & over	2 leave days per month; 24 per year

(b) A full-time employee shall have worked, or been on paid

leave, other than educational leave with pay, for 100 or more regular hours per month to accrue annual leave. This shall not include hours worked in excess of the prescribed hours of duty.

(c) Accrued leave shall be credited on the first day of the month following the month in which the annual leave is earned.

(d) In computing months of total service for the purpose of earning annual leave, only the months for which an employee earned annual leave shall be counted.

(e) A former employee who has been rehired shall receive credit for months of prior service, unless the employee had been dismissed for cause or has retired from a position covered by a state retirement system.

(f) A part-time employee shall not be entitled to accrue annual leave.

(2) Use and retention of annual leave.

(a) Annual leave shall be used in increments of one-quarter (1/4) hours.

(b) Except as established~~provided~~ in paragraph (c) of this subsection, an employee who makes a timely request for annual leave shall be granted annual leave by the appointing authority, during the calendar year, up to at least the amount of time earned that year, if the operating requirements of the agency allow~~permit~~.

(c) An appointing authority may require an employee who has a balance of at least 100 hours of compensatory leave to use compensatory leave before the employee's request to use annual leave is granted, unless the employee's annual leave balance exceeds the maximum number of hours that may be carried forward pursuant to this administrative regulation.

(d) Absence due to sickness, injury, or disability in excess of the amount available for those purposes shall, at the request of the employee, be charged against annual leave.

(e) An employee shall be able to use annual leave for an absence on a regularly scheduled workday.

(f) An employee who is transferred or otherwise moved from the jurisdiction of one (1) agency to another shall retain accumulated annual leave in the receiving agency.

(g) An employee who is eligible for state contributions for life insurance pursuant to KRS Chapter 18A shall have worked or been on paid leave, other than holiday or educational leave, during any part of the previous month.

(h) An employee who is eligible for state contributions for health benefits pursuant to KRS Chapter 18A shall have worked or been on paid leave, other than holiday or educational leave, during any part of the previous pay period.

(i) Annual leave may be carried from one (1) calendar year to the next. If annual leave is carried from one (1) calendar year to the next, the leave shall be calculated as established in the following table:

Months of Service	Maximum Amount	37.5 Hour Week Equivalent	40 Hour Week Equivalent
0-59	30 work-days	225 hours	240 hours
60-119 months	37 work-days	277.50 hours	296 hours
120-179 months	45 work-days	337.50 hours	360 hours
180-239 months	52 work-days	390 hours	416 hours
240 months and over	60 work-days	450 hours	480 hours

(j) Leave in excess of the maximum amounts established~~specified~~ in paragraph (i) of this subsection shall be converted to sick leave at the end of the calendar year or upon retirement.

(k) The amount of annual leave that may be carried forward and the amount of annual leave that may be converted to sick leave shall be determined by computing months of service as provided by subsection (1)(d) of this section.

(3) Annual leave on separation.

(a)

1. If an employee is separated by proper resignation or retirement, or terminated from initial probation other than for cause, the employee shall be paid in a lump sum for accumulated annual leave.

2. The accumulated annual leave for which the employee is paid shall not exceed the amounts established by subsection (2)(i) of this section.

3. Following payment of annual leave at resignation, any remaining annual leave after the payment of the maximum shall:

- a. Not be paid to the employee or converted to sick leave; and
- b. Be removed from the balance.

(b) If an employee is laid off, the employee shall be paid in a lump sum for all accumulated annual leave.

(c) An employee in the unclassified service who reverts to the classified service, or an employee who resigns one (1) day and is employed the next workday, shall retain the accumulated leave in the receiving agency.

(d) An employee who has been dismissed for cause shall not be paid for accumulated annual leave.

(e) An appointing authority may withhold payment of accumulated annual leave for an employee who has failed to give proper notice of resignation or retirement as established[described] in 101 KAR 2:095 Section 4, or who has submitted notice of resignation or retirement after receiving an intent to dismiss letter. Annual leave withheld pursuant to this paragraph shall result in a determination that the employee resigned not in good standing.

(f) Upon the death of an employee, the employee's estate shall be entitled to receive pay for the unused portion of the employee's accumulated annual leave.

(g) An employee may request in writing that accumulated annual leave not be paid upon resignation, and that all or part of the amount of accumulated annual leave that does not exceed the amount established by this section be waived, if:

1. The employee resigns, or is laid off, because of an approved plan of privatization of the services performed; and
2. The successor employer has agreed to credit the employee with an equal amount of annual leave.

#### Section 2. Sick Leave.

##### (1) Accrual of sick leave.

(a) An employee, except a part-time employee, shall accumulate sick leave with pay at the rate of one (1) working day per month.

(b) An employee shall have worked or been on paid leave, other than educational leave, for 100 or more regular hours in a month to accrue sick leave. This shall not include hours worked in excess of the prescribed hours of duty.

(c) An employee shall be credited with additional sick leave upon the first day of the month following the month in which the sick leave is earned.

(d) A full-time employee who completes 120 months of total service with the state shall be credited with ten (10) additional days of sick leave upon the first day of the month following the completion of 120 months of service.

(e) A full-time employee who completes 240 months of total service with the state shall be credited with another ten (10) additional days of sick leave upon the first day of the month following the completion of 240 months of service.

(f) In computing months of total service for the purpose of crediting sick leave, only the months for which an employee earned sick leave shall be counted.

(g) A former employee who has been rehired shall receive credit for months of prior service[,] and shall be credited with the unused sick leave balance that existed at the time of the previous separation, unless the employee had been dismissed for cause or has retired from a position covered by a state retirement system.

(h) The total service shall be verified by the Personnel Cabinet before the leave is credited to the employee's record.

(i) Sick leave may be accumulated with no maximum.

##### (2) Use and retention of sick leave.

(a) An appointing authority shall grant or may require the use of sick leave with or without pay if an employee:

1. Is unable to work due to medical, dental, or optical examination or treatment;
2. Is disabled by illness or injury. If requested by the appointing authority, the employee shall provide a statement from an appropriate medical health professional certifying the employee's inability to perform the employee's duties for the days or hours sick leave is requested. Before an employee may[is permitted to] return to work, if requested by the appointing authority, the employee shall

obtain and present a fitness-for-duty certification from an appropriate medical health care professional indicating the employee is able to resume work;

3. Is required to care for or transport a member of the employee's immediate family in need of medical attention for a reasonable period of time. If requested by the appointing authority, the employee shall provide a statement from an appropriate medical health professional certifying the employee's need to care for a family member;

4. Would jeopardize the health of the employee or others at the employee's work station because of a contagious disease or communicable condition. Before an employee may[is permitted to] return to work, if requested by the appointing authority, the employee shall obtain and present a fitness-for-duty certification from an appropriate medical health care professional indicating the employee is able to resume work; or

5. Demonstrates behavior that might endanger the employee or others. Before an employee may[is permitted to] return to work, if requested by the appointing authority, the employee shall obtain and present a fitness-for-duty certification from an appropriate medical health care professional indicating the employee is able to resume work.

(b) At the termination of sick leave with pay, the appointing authority shall return the employee to the employee's former position.

(c) An employee eligible for state contributions for life insurance pursuant to the provisions of KRS Chapter 18A shall have worked or been on paid leave, other than holiday or education leave, during any part of the previous month.

(d) An employee who is eligible for state contributions for health benefits pursuant to the provisions of KRS Chapter 18A shall have worked or been on paid leave, other than holiday or educational leave, during any part of the previous pay period.

(e) Sick leave shall be used in increments of one-quarter (1/4) hours.

(f) An employee who is transferred or otherwise moved from the jurisdiction of one (1) agency to another shall retain accumulated sick leave in the receiving agency.

(g) An employee shall be credited for accumulated sick leave if separated by proper resignation, layoff, or retirement.

##### (3) Sick leave without pay.

(a) An appointing authority shall grant sick leave without pay, without a change in the employee's personnel status, for the duration of an employee's impairment by injury or illness, if:

1. The leave does not exceed thirty (30) continuous calendar days; and

2. The employee has used or been paid for all accumulated annual, sick, and compensatory leave unless the employee has requested to retain up to ten (10) days of accumulated sick leave.

(b) Within an employee's first twelve (12) months of employment after initial appointment, an appointing authority shall grant sick leave without pay to an employee who does not qualify for family and medical leave due to lack of service time and who has exhausted all accumulated paid leave if the employee is required to care for an immediate family member[a member of the immediate family], or for the duration of the employee's impairment by illness or injury, for a period not to exceed thirty (30) working days in a calendar year.

##### (4) Sick leave by personnel action.

(a) If the duration of an employee's impairment by illness or injury exceeds the sick leave without pay allotment of thirty (30) continuous calendar days, including holidays, the appointing authority shall place the employee on sick leave without pay by personnel action.

(b) The appointing authority shall notify the employee in writing that the employee is being placed on sick leave by personnel action.

(c) Sick leave by personnel action shall not exceed one (1) year.

(d) If requested by the appointing authority, the employee shall provide statements during the year from an appropriate medical health professional attesting to the employee's continued inability to perform the essential functions of the employee's duties with or without reasonable accommodation.

(e) If an employee has given notice of the employee's ability to

## VOLUME 52, NUMBER 1– JULY 1, 2025

resume duties following sick leave by personnel action, the appointing authority shall return the employee to the original position or to a position for which the employee is qualified and ~~that[which]~~ resembles the former position as closely as circumstances ~~allow[permit]~~. The appointing authority shall notify the employee in writing of the ~~following~~:

1. ~~The~~ Effective date of the employee's return;
  2. ~~The~~ Position to which the employee is being returned;
  3. ~~The~~ Employee's salary upon return to work; and
  4. ~~The~~ Employee's new annual increment date, if applicable.
- (f) If reasonable accommodation is requested, the employee shall:

1. Inform the employer; and
2. Upon request, provide supportive documentation from a certified professional.

(g) An employee shall be deemed resigned if the employee:

1. Has been on one (1) year continuous sick leave by personnel action;
2. Has been requested by the appointing authority in writing to return to work at least ten (10) days prior to the expiration of leave;
3. Is unable to return to the employee's former position or to a position for which the employee is qualified and ~~that[which]~~ resembles the former position as closely as circumstances ~~allow[permit]~~;
4. Has been given priority consideration by the appointing authority for a vacant, budgeted position with the same agency, for which the employee is qualified and is capable of performing its essential functions with or without reasonable accommodation; and
5. Has not been placed by the appointing authority in a vacant position.

(h) Sick leave granted pursuant to this subsection shall not be renewable after the employee has been medically certified as able to return to work.

(i) An employee with status who is deemed resigned pursuant to paragraph (g) of this subsection shall retain reinstatement privileges that were accrued during service in the classified service.

(5) Application for sick leave and supporting documentation.

(a) An employee shall file a written application for sick leave with or without pay within a reasonable time.

(b) Except for an emergency illness, an employee shall request advance approval for sick leave for medical, dental, or optical examinations, and for sick leave without pay.

(c) If the employee is too ill to work, the employee shall notify the immediate supervisor or other designated person. Failure, without good cause, to do so in a reasonable period of time shall be cause for denial of sick leave for the period of absence.

(d) An appointing authority may, for good cause and on notice, require an employee to supply supporting evidence in order to receive sick leave.

(e) If requested by the appointing authority, the employee shall submit a medical certificate ~~[may be required,]~~ signed by a licensed medical provider[practitioner] and certifying to the employee's incapacity, examination, or treatment.

(f) An appointing authority shall grant sick leave if the application is supported by acceptable evidence, but may require confirmation if there is reasonable cause to question the authenticity of the certificate or its contents.

### Section 3. Family and Medical Leave.

(1) An appointing authority shall comply with the requirements of the Family and Medical Leave Act (FMLA) of 1993, 29 U.S.C. 2601 – 2654, and the federal regulations implementing the Act, 29 C.F.R. Part 825.

(2) An employee in state service shall qualify for up to twelve (12) weeks of unpaid family leave if the employee has:

- (a) Completed twelve (12) months of service; and
- (b) Worked or been on paid leave at least 1,250 hours in the twelve (12) months immediately preceding the first day of family and medical leave.

(3) Family and medical leave shall be awarded on a calendar year basis.

(4) An employee shall be entitled to a maximum of twelve (12) weeks of unpaid family and medical leave for the birth, placement,

or adoption of the employee's child.

(5) While an employee is on unpaid family and medical leave, the state contribution for health and life insurance shall be maintained by the employer.

(6) Except as established in[provided by] Section 4 of this administrative regulation, an employee shall use accrued paid leave concurrently with FMLA leave, except an employee may reserve up to ten (10) days of accumulated sick leave while on FMLA leave.

(a) If an employee reserves accumulated sick leave, the remaining FMLA leave shall be unpaid.

(b) The employee shall satisfy all[any procedural] requirements of this administrative regulation for use of accrued paid leave only in connection with the receipt of ~~[such-]~~ payment.

### Section 4. Employer Paid Leave.

(1) [Notwithstanding the eligibility requirements of the FMLA,] A full-time employee shall be entitled to a maximum of six (6) weeks of continuous employer paid leave for one (1) or more of the following reasons:

(a) For the birth of a child[,] and to care for the newborn child if the leave is taken within one (1) year of the child's birth;

(b) For placement with the employee of a child for adoption or foster care if the leave is taken within one (1) year of the child's placement; or

(c) Because of a serious health condition that makes an employee unable to perform the functions of the employee's job.

(2) Employer paid leave shall comply with the requirements of the FMLA of 1993, 29 U.S.C. 2601 – 2654, and the federal regulations implementing the Act, 29 C.F.R. Part 825. Any leave entitlements provided by the FMLA that are not specifically listed in this section shall not qualify for employer paid leave.

(3) Leave that qualifies as employer paid leave shall be so designated and shall be exhausted prior to the employee's use of other accrued leave for an employer paid leave qualifying condition.

(4) Upon exhaustion of employer paid leave, additional leave usage shall comply with the other provisions of this administrative regulation, including the requirement for[to include provision of] medical documentation signed by a licensed medical provider[practitioner] certifying the employee's continued need for leave.

(5) Employer paid leave shall be used only on a continuous basis for absences of three (3) or more consecutive days.

(6) An employee shall be eligible for six (6) weeks of employer paid leave upon appointment.

(7) An employee shall request advance approval to use employer paid leave.

(8) Employer paid leave shall renew for a new six (6) week period following the completion of 120 months of service and following the completion of 240 months of service. Renewal shall void the remaining employer paid leave allotment so that the maximum amount of leave available pursuant to this section shall not exceed six (6) weeks.

(9) If an employee returns to work from employer paid leave but does not use the entire six (6) weeks of continuous employer paid leave, the remaining leave allotment may be utilized by the employee until renewal at 120 months of service or 240 months of service as established[described] in subsection (8) of this section.

(10) If an employee returns to state service following a break in service, the leave allotment authorized in subsection (6) of this section shall not renew. The allotment schedule established[outlined] in subsection (8) of this section shall not reset after a break in service.

(11) Upon separation from state service, an employee shall not be paid for any unused employer paid leave, and the unused balance of leave shall not be converted to any other type of leave or transfer to the employee's retirement account.

(12) If[When] FMLA is applicable, an employee shall use employer paid leave concurrently with FMLA leave.

(13) [On the effective date of this administrative regulation,] An incumbent full-time employee shall be granted six (6) weeks of employer paid leave, which shall[that may] be used in accordance with this section.

Section 5.~~[Section 4.]~~ Court Leave.

(1) With prior notification to his or her~~their~~ supervisor, an employee shall be entitled to court leave during the employee's scheduled working hours without loss of time or pay for the amount of time necessary to:

(a) Comply with a subpoena by a court, administrative agency, or body of the federal or state government or any political subdivision thereof; or

(b) Serve as a juror.

(2) Court leave shall include necessary travel time.

(3) If relieved from duty as a juror or released from subpoena during the employee's normal working hours, the employee shall return to work or use annual or compensatory leave.

(4) An employee shall not be required to report as court leave attendance at a proceeding that is part of the employee's assigned duties.

(5) An employee shall not be eligible for court leave to comply with a subpoena if the employee or a member of the employee's family is a party to the proceeding.

Section 6.~~[Section 5.]~~ Compensatory Leave and Overtime.

(1) Accrual of compensatory leave and overtime.

(a) An appointing authority shall comply with the overtime and compensatory leave provisions of the Fair Labor Standards Act (FLSA), 29 U.S.C. Chapter 8.

(b) An employee who is directed to work, or who requests and is authorized to work, in excess of the prescribed hours of duty, shall be granted compensatory leave and paid overtime in accordance with subject to the provisions of the Fair Labor Standards Act, 29 U.S.C. Chapter 8, KRS Chapter 337~~the Kentucky Revised Statutes~~, and this administrative regulation.

(c) An employee deemed to be "nonexempt" by the provisions of the FLSA shall be compensated for hours worked in excess of forty (40) per week as established~~provided~~ by subparagraphs 1 through 3 of this paragraph.

1. An employee who has not accumulated the maximum amount of compensatory leave shall have the option to accumulate compensatory leave at the rate of an hour and one-half (1 1/2) for each hour worked in excess of forty (40) per week in lieu of paid overtime.

2. An employee's election to receive compensatory leave in lieu of paid overtime shall be in writing on the Overtime Compensation Form and shall remain in force for a minimum of three (3) months.

a. The employee's election shall be changed by the submission of a new form.

b. The effective date of a change shall be the first day of the next work week following receipt of the election.

c. The employing agency shall not mandate an employee's election of compensatory leave or paid overtime.

3. An employee who does not elect compensatory leave in lieu of paid overtime shall be paid one and one-half (1 1/2) times the regular hourly rate of pay for all hours worked in excess of forty (40) hours per week.

(d) An employee deemed to be "exempt" pursuant to the provisions of the FLSA shall accumulate compensatory time on an hour-for-hour basis for hours worked in excess of the regular work schedule.

(e) Compensatory leave shall be accumulated or used in increments of one-quarter (1/4) hours.

(f) The maximum amount of compensatory leave that may be carried forward from one (1) pay period to another shall be:

1. 239.99 hours by an employee in a nonpolicy-making position;

or

2. 240 hours by an employee in a policy-making position.

(g) An employee who is transferred or otherwise moved from the jurisdiction of one (1) agency to another shall retain the compensatory leave in the receiving agency.

(2) Reductions in compensatory leave balances.

(a) An appointing authority may require an employee who has accrued at least 100 hours compensatory leave to use compensatory leave before annual leave and shall otherwise allow the use of compensatory leave if it will not unduly disrupt the operations of the agency.

(b) An appointing authority may require an employee who has accrued 200 hours of compensatory leave to take off work using compensatory leave in an amount sufficient to reduce the compensatory leave balance below 200 hours.

(c) An employee who is not in a policy-making position may, after accumulating 151 hours of compensatory leave, request payment for fifty (50) hours at the regular rate of pay. If the appointing authority or the designee approves the payment, an employee's leave balance shall be reduced accordingly.

(d) An employee who is not in a policy-making position shall be paid for fifty (50) hours at the regular hourly rate of pay upon accumulation of 240 hours of compensatory leave at the end of a pay period. If a work week is split between pay periods, then the 240 hours of compensatory leave required for payment shall be accrued at the end of the pay period following the split pay period week. The employee's leave balance shall be reduced accordingly.

(e) If an employee's prescribed hours of duty are normally less than forty (40) hours per week, the employee shall receive compensatory leave for the number of hours worked that:

1. Exceed the number of normally prescribed hours of duty; and

2. Do not exceed the maximum amount of compensatory time that is permitted.

(f) Only hours actually worked shall be used for computing paid overtime or time and one-half (1 1/2) compensatory time.

(g) Upon separation from state service, an employee shall be paid for all unused compensatory leave at the greater of the employee's:

1. Regular hourly rate of pay; or

2. Average regular rate of pay for the final three (3) years of employment.

Section 7.~~[Section 6.]~~ Military Leave.

(1) Upon request, an employee who is an active member of the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Public Health Service Reserve, or the National Guard shall be relieved from the civil duties, to serve under order or training duty without loss of the regular compensation for a period not to exceed the number of working days established~~specified~~ in KRS 61.394 for a federal fiscal year.

(2) The absence shall not be charged to leave.

(3) Absence that exceeds the number of working days established~~specified~~ in KRS 61.394 for a federal fiscal year shall be charged to annual leave, compensatory leave, or leave without pay.

(4) If requested by the appointing authority, the employee shall provide a copy of the orders requiring the attendance of the employee before military leave is granted.

(5) An appointing authority shall grant an employee entering military duty a leave of absence without pay for the period of duty in accordance with KRS 61.373. Upon receiving military duty leave of absence, all accumulated annual and compensatory leave shall be paid in a lump sum, if requested by the employee.

Section 8.~~[Section 7.]~~ Voting and Election Leave.

(1) An employee who is eligible and registered to vote shall be allowed, upon prior request and approval, leave up to four (4) hours for the purpose of voting or to appear before the county clerk to request an application for or to execute an absentee ballot. A supervisor, manager, or appointing authority may specify the hours an employee may be absent.

(2) An employee casting an absentee ballot shall record the leave on the day the employee's vote is cast by mail or in-person submission. An employee shall be regularly scheduled to work on the day the vote is cast in order to receive the leave.

(3) An election officer shall receive additional leave if the total leave for election day does not exceed a regular workday.

(4) The absence shall not be charged against leave.

(5) An employee who is allowed~~permitted~~ or required to work during the employee's regular work hours, in lieu of voting leave, shall be granted compensatory leave on an hour-for-hour basis for the hours during the times the polls are open, up to a maximum of four (4) hours.

## VOLUME 52, NUMBER 1– JULY 1, 2025

### Section 9.[Section-8:] Funeral and Bereavement Leave.

(1) Upon the approval of the appointing authority, an employee who has lost an immediate family member by death may utilize five (5) days of accrued sick leave, compensatory leave, annual leave, or leave without pay if the employee does not have accrued leave, or a combination thereof.

(2) An appointing authority may approve the use of additional sick leave, compensatory leave, annual leave, or leave without pay if the employee does not have accrued leave, or a combination thereof, at the request of the employee following the loss of an immediate family member.

(3) For purposes of funeral and bereavement leave, an immediate family member shall include the employee's spouse, parent, grandparent, child, brother, or sister, or the spouse of any of them, and may include other relatives of close association if approved by the appointing authority.

### Section 10.[Section-9:] Special Leave of Absence.

(1) If approved by the secretary, an appointing authority may grant a leave of absence for continuing education or training.

(a) Leave may be granted for a period not to exceed twenty-four (24) months.

(b) If granted, leave shall be granted either with pay (if the employee contractually agrees to a service commitment) or without pay.

(c) Leave shall be restricted to attendance at a college, university, vocational, or business school for training in subjects that relate to the employee's work and will benefit the state.

(2) An appointing authority, with approval of the secretary, may grant an employee a leave of absence without pay for a period not to exceed one (1) year for purposes other than established[specified] in this administrative regulation that are of tangible benefit to the state.

(3) If approved by the secretary, an appointing authority may place an employee on special leave with pay for investigative purposes pending an investigation of a work-related incident, or pending an investigation of an allegation of employee misconduct, lack of good behavior, or unsatisfactory performance of duties.

(a) Leave shall not exceed sixty (60) working days.

(b) The employee shall be notified in writing by the appointing authority that the employee is being placed on special leave for investigative purposes, and the reasons for being placed on leave.

(c) If the investigation reveals no misconduct by the employee, records relating to the investigation shall be purged from agency and Personnel Cabinet files maintained in accordance with KRS 18A.020(2)(a).

(d) The appointing authority shall notify a current employee, in writing, of the completion of the investigation and the action taken.

(4) An appointing authority may place an employee on administrative leave with pay upon the employee's receipt of an intent to dismiss letter as authorized by KRS 18A.095(2)(c).

(5) Discretionary leave with pay.

(a) An appointing authority may grant, or the secretary may direct, discretionary leave with pay to an employee for a period not to exceed ten (10) working days in a calendar year when it is considered necessary for the welfare of the employee.

(b) Reasons for discretionary leave with pay shall be[are] limited to work-related events.

(c) An appointing authority, with approval of the secretary, may renew discretionary leave with pay, not to exceed an additional twenty (20) working days.

(d) Leave granted pursuant to this subsection may be taken intermittently if authorized by the appointing authority.

### Section 11.[Section-10:] Absence Without Leave.

(1) An employee who is absent from duty without prior approval shall report the reason for the absence to the supervisor immediately.

(2) Unauthorized or unreported absence shall:

(a) Be considered absence without leave;

(b) Be treated as leave without pay for an employee covered by the provisions of the Fair Labor Standards Act, 29 U.S.C. Chapter 8; and

(c) Constitute grounds for disciplinary action.

(3) An employee who has been absent without leave or notice to the supervisor for a period of five (5) working days shall be deemed resigned.

### Section 12.[Section-11:] Absences Due to Adverse Weather.

(1) With supervisor approval, an employee who is unable, ~~who is not designated for mandatory operations and chooses not~~ to report to work or chooses to leave early if there are adverse weather conditions, such as tornado, flood, blizzard, or ice storm, shall have the time of the absence reported as:

(a) Charged to annual or compensatory leave;

(b) Taken as leave without pay, if annual and compensatory leave has been exhausted; or

(c) Charged to paid adverse weather leave in accordance with subsection (4) of this section~~[Deferred in accordance with subsections (4) and (5) of this section]~~.

(2) An employee who is on prearranged annual, compensatory, or sick leave shall charge leave as originally requested.

(3) An employee who is approved to telecommute shall not be eligible for adverse weather leave unless his or her telecommuting equipment is not operational or cannot be accessed during scheduled telecommuting hours due to adverse weather conditions.

(4) An employee, including an employee in a mandatory operation, who has supervisor approval, shall be eligible to use paid adverse weather leave if subject to the following conditions:

(a) The amount of adverse weather leave shall not exceed one (1) working day in a calendar year based on the employee's weekly work schedule;

(b) The leave shall be used in increments of one-quarter (1/4) hours; and

(c) The unused portion of the one (1) day[one-day] allotment for paid adverse weather leave shall expire upon separation from employment or at the end of the calendar year, whichever comes first.~~[If operational needs allow, except for an employee in mandatory operations, management shall make every reasonable effort to arrange schedules whereby an employee shall be given an opportunity to make up time not worked rather than charging it to leave.]~~

~~[(5)] [An employee shall not make up work if the work would result in the employee working more than forty (40) hours in a workweek.]~~

~~[(a)] [Time lost shall be made up within 123 calendar days of the occurrence of the absence. If it is not made up within 123 calendar days, leave shall be deducted from compensatory leave, followed by annual leave, and if no compensatory or annual leave is available, time lost shall be charged to leave without pay and deducted from an employee's wages.]~~

~~[(b)] [If an employee transfers or separates from employment before the leave is made up, the leave shall be charged to annual or compensatory leave or deducted from the final paycheck.]~~

~~[(5)][(6)] If catastrophic, life-threatening weather conditions occur, as created by a tornado, flood, ice storm, or blizzard, and it becomes necessary for authorities to order evacuation or shut-down of the place of employment, the provisions established in paragraphs (a) and (b) of this subsection shall apply.~~

(a) An employee who is required to evacuate or who would report to a location that has been shut down shall not be required to make up the time that is lost from work during the period officially declared hazardous to life and safety.

(b) An employee who is required to work in an emergency situation shall be compensated pursuant to the provisions of Section 6[5] of this administrative regulation and the Fair Labor Standards Act, 29 U.S.C. Chapter 8.

### Section 13.[Section-12:] Blood Donation Leave.

(1) An employee who, during scheduled work hours, donates whole blood at a licensed blood center certified by the Food and Drug Administration shall receive four (4) hours leave time, with pay, for the purpose of donating and recuperating from the donation.

(2) Leave granted pursuant to this section shall be used if[when] the blood is donated unless circumstances as established[specified] by the supervisor required the employee to return to work. If the employee returns to work, the unused portion of the leave time shall be credited as compensatory leave.

## VOLUME 52, NUMBER 1– JULY 1, 2025

(3) An employee shall request leave in advance to qualify for blood donation leave.

(4) An employee who is deferred from donating blood shall not:

(a) Be charged leave time for the time spent in the attempted donation; and

(b) Qualify for the remainder of the blood donation leave.

(5) A donation initiated or attempted during an employee's lunch period is outside of scheduled work hours and shall not qualify for any amount of blood donation leave.

### Section 14.[Section 13.] Incorporation by Reference.

(1) "Overtime Compensation Form", May 2013, is incorporated by reference.

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

FILED WITH LRC: June 10, 2025

CONTACT PERSON: Rosemary Holbrook, Executive Director, Office of Legal Services, 501 High Street, 3rd floor, Frankfort, Kentucky 40601, phone (502) 564-7430, fax (502) 564-0224, email [RosemaryG.Holbrook@ky.gov](mailto:RosemaryG.Holbrook@ky.gov).

### PERSONNEL CABINET (As Amended at ARRS, June 10, 2025)

#### 101 KAR 3:015. Leave requirements for unclassified service.

RELATES TO: KRS 18A.020, 18A.030, 18A.110, 18A.140, 18A.145, 18A.195, 18A.990, 61.373, 61.394, 118.035, **Chapter 337**, 344.030, 29 C.F.R. 825, 29 U.S.C. [8, **29 U.S.C. 201 – 219, 2601 – 2654**]  
STATUTORY AUTHORITY: KRS 18A.030(2)(b), 18A.110(2), (7)(f)(g), 18A.155, **29 U.S.C. 201 – 219, 2601 – 2654**  
NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.030(2)(b) requires the Secretary of the Personnel Cabinet to promulgate administrative regulations, consistent with KRS Chapter 18A and federal standards, for the administration of a personnel system. KRS 18A.110(2) and 18A.155 require the secretary to promulgate administrative regulations for the unclassified service. KRS 18A.110(7)(f)(g) requires the secretary, with the approval of the Governor, to promulgate administrative regulations to govern annual leave, sick leave, special leaves of absence, and other conditions of leave. This administrative regulation establishes the leave requirements for unclassified employees.

#### Section 1. Annual Leave.

(1) Accrual of annual leave.

(a) Each full-time employee shall accumulate annual leave at the following rate:

Months of Service	Annual Leave Days
0-59 months	1 leave day per month; 12 per year
60-119 months	1 1/4 leave days per month; 15 per year
120-179 months	1 1/2 leave days per month; 18 per year
180-239 months	1 3/4 days per month; 21 per year
240 months & over	2 leave days per month; 24 per year

(b) A full-time employee shall have worked, or been on paid leave, other than educational leave with pay, for 100 or more regular hours per month to accrue annual leave. This shall not include hours worked in excess of the prescribed hours of duty.

(c) Accrued leave shall be credited on the first day of the month following the month in which the annual leave is earned.

(d) In computing months of total service for the purpose of earning annual leave, only the months for which an employee earned annual leave shall be counted.

(e) A former employee who has been rehired shall receive credit for months of prior service, unless the employee had been dismissed for cause or has retired from a position covered by a state retirement system.

(f) A part-time employee shall not be entitled to accrue annual

leave.

(2) Use and retention of annual leave.

(a) Annual leave shall be used in increments of one-quarter (1/4) hours.

(b) Except as **established[provided]** in paragraph (c) of this subsection, an employee who makes a timely request for annual leave shall be granted annual leave by the appointing authority, during the calendar year, up to at least the amount of time earned that year, if the operating requirements of the agency **allow[permit]**.

(c) An appointing authority may require an employee who has a balance of at least 100 hours of compensatory leave to use compensatory leave before the employee's request to use annual leave is granted, unless the employee's annual leave balance exceeds the maximum number of hours that may be carried forward pursuant to this administrative regulation.

(d) Absence due to sickness, injury, or disability in excess of the amount available for those purposes shall, at the request of the employee, be charged against annual leave.

(e) An employee shall be able to use annual leave for an absence on a regularly scheduled workday.

(f) An employee who is transferred or otherwise moved from the jurisdiction of one (1) agency to another shall retain accumulated annual leave in the receiving agency.

(g) An employee who is eligible for state contributions for life insurance pursuant to KRS Chapter 18A shall have worked or been on paid leave, other than holiday or educational leave, during any part of the previous month.

(h) An employee who is eligible for state contributions for health benefits pursuant to KRS Chapter 18A shall have worked or been on paid leave, other than holiday or educational leave, during any part of the previous pay period.

(i) Annual leave may be carried from one (1) calendar year to the next. If annual leave is carried from one (1) calendar year to the next, leave shall be calculated as established in the following table:

Months of Service	Maximum Amount	37.5 Hour Week Equivalent	40 Hour Week Equivalent
0-59	30 work-days	225 hours	240 hours
60-119 months	37 work- days	277.50 hours	296 hours
120-179 months	45 work- days	337.50 hours	360 hours
180-239 months	52 work- days	390 hours	416 hours
240 months and over	60 work- days	450 hours	480 hours

(j) Leave in excess of the maximum amounts **established[specified]** in paragraph (i) of this subsection shall be converted to sick leave at the end of the calendar year or upon retirement.

(k) The amount of annual leave that may be carried forward and the amount of annual leave that may be converted to sick leave shall be determined by computing months of service as provided by subsection (1)(d) of this section.

(3) Annual leave on separation.

(a)

1. If an employee is separated by proper resignation or retirement, or terminated other than for cause, the employee shall be paid in a lump sum for accumulated annual leave.

2. The accumulated annual leave for which the employee is paid shall not exceed the amounts established by subsection (2)(i) of this section.

3. Following payment of annual leave at resignation, any remaining annual leave after the payment of the maximum shall:

a. Not be paid to the employee or converted to sick leave; and  
b. Be removed from the balance.

(b) If an employee is laid off, the employee shall be paid in a lump sum for all accumulated annual leave.

(c) An employee in the unclassified service who reverts to the classified service, or an employee who resigns one (1) day and is employed the next workday, shall retain the accumulated leave in the receiving agency.

(d) An employee who has been dismissed for cause shall not be

paid for accumulated annual leave.

(e) An appointing authority may withhold payment of accumulated annual leave for an employee who has failed to give proper notice of resignation or retirement as established[described] in 101 KAR 3:050, Section 8, or who has submitted notice of resignation or retirement after receiving an intent to dismiss letter. Annual leave withheld pursuant to this paragraph shall result in a determination that the employee resigned not in good standing.

(f) Upon the death of an employee, the employee's estate shall be entitled to receive pay for the unused portion of the employee's accumulated annual leave.

(g) An employee may request in writing that accumulated annual leave not be paid upon resignation, and that all or part of the amount of accumulated annual leave that does not exceed the amount established by this section be waived, if:

1. The employee resigns, or is laid off, because of an approved plan of privatization of the services performed; and
2. The successor employer has agreed to credit the employee with an equal amount of annual leave.

## Section 2. Sick Leave.

### (1) Accrual of sick leave.

(a) An employee, except a part-time employee, shall accumulate sick leave with pay at the rate of one (1) working day per month.

(b) An employee shall have worked or been on paid leave, other than educational leave, for 100 or more regular hours in a month to accrue sick leave. This shall not include hours worked in excess of the prescribed hours of duty.

(c) An employee shall be credited with additional sick leave upon the first day of the month following the month in which the sick leave is earned.

(d) A full-time employee who completes 120 months of total service with the state shall be credited with ten (10) additional days of sick leave upon the first day of the month following the completion of 120 months of service.

(e) A full-time employee who completes 240 months of total service with the state shall be credited with another ten (10) additional days of sick leave upon the first day of the month following the completion of 240 months of service.

(f) In computing months of total service for the purpose of crediting sick leave, only the months for which an employee earned sick leave shall be counted.

(g) A former employee who has been rehired shall receive credit for months of prior service[,] and shall be credited with the unused sick leave balance that existed at the time of the previous separation, unless the employee had been dismissed for cause or has retired from a position covered by a state retirement system.

(h) The total service shall be verified by the Personnel Cabinet before the leave is credited to the employee's record.

(i) Sick leave may be accumulated with no maximum.

### (2) Use and retention of sick leave.

(a) An appointing authority shall grant or may require the use of sick leave with or without pay if an employee:

1. Is unable to work due to medical, dental, or optical examination or treatment;
2. Is disabled by illness or injury. If requested by the appointing authority, the employee shall provide a statement from an appropriate medical health professional certifying the employee's inability to perform the employee's duties for the days or hours sick leave is requested. Before an employee may[is permitted to] return to work, if requested by the appointing authority, the employee shall obtain and present a fitness-for-duty certification from an appropriate medical health care professional indicating the employee is able to resume work;
3. Is required to care for or transport a member of the employee's immediate family in need of medical attention for a reasonable period of time. If requested by the appointing authority, the employee shall provide a statement from an appropriate medical health professional certifying the employee's need to care for a family member;
4. Would jeopardize the health of the employee or others at the employee's work station because of a contagious disease or

communicable condition. Before an employee may[is permitted to] return to work, if requested by the appointing authority, the employee shall obtain and present a fitness-for-duty certification from an appropriate medical health care professional indicating the employee is able to resume work; or

5. Demonstrates behavior that might endanger the employee or others. Before an employee may[is permitted to] return to work, if requested by the appointing authority, the employee shall obtain and present a fitness-for-duty certification from an appropriate medical health care professional indicating the employee is able to resume work.

(b) At the termination of sick leave with pay, the appointing authority shall return the employee to the employee's former position.

(c) An employee eligible for state contributions for life insurance pursuant to the provisions of KRS Chapter 18A shall have worked or been on paid leave, other than holiday or education leave, during any part of the previous month.

(d) An employee who is eligible for state contributions for health benefits pursuant to the provisions of KRS Chapter 18A shall have worked or been on paid leave, other than holiday or educational leave, during any part of the previous pay period.

(e) Sick leave shall be used in increments of one-quarter (1/4) hours.

(f) An employee who is transferred or otherwise moved from the jurisdiction of one (1) agency to another shall retain accumulated sick leave in the receiving agency.

(g) An employee shall be credited for accumulated sick leave if separated by proper resignation, layoff, or retirement.

(h) The duration of an interim employee's appointment shall not be extended by the use or approval for sick leave with or without pay.

### (3) Sick leave without pay.

(a) An appointing authority shall grant sick leave without pay, without a change in the employee's personnel status, for the duration of an employee's impairment by injury or illness, if:

1. The leave does not exceed thirty (30) continuous calendar days; and
2. The employee has used or been paid for all accumulated annual, sick, and compensatory leave unless the employee has requested to retain up to ten (10) days of accumulated sick leave.

(b) Within an employee's first twelve (12) months of employment after initial appointment, an appointing authority shall grant sick leave without pay to an employee who does not qualify for family and medical leave due to lack of service time and who has exhausted all accumulated paid leave if the employee is required to care for an immediate family member[a member of the immediate family], or for the duration of the employee's impairment by illness or injury, for a period not to exceed thirty (30) working days in a calendar year.

### (4) Sick leave by personnel action.

(a) If the duration of an employee's impairment by illness or injury exceeds the sick leave without pay allotment of thirty (30) continuous calendar days, including holidays, the appointing authority shall place the employee on sick leave without pay by personnel action.

(b) The appointing authority shall notify the employee in writing that the employee is being placed on sick leave by personnel action.

(c) Sick leave by personnel action shall not exceed one (1) year.

(d) If requested by the appointing authority, the employee shall provide statements during the year from an appropriate medical health professional attesting to the employee's continued inability to perform the essential functions of the employee's duties with or without reasonable accommodation.

(e) If an employee has given notice of the employee's ability to resume duties following sick leave by personnel action, the appointing authority shall return the employee to the original position or to a position for which the employee is qualified and that[which] resembles the former position as closely as circumstances allow[permit]. The appointing authority shall notify the employee in writing of the following:

1. The Effective date of the employee's return;
2. The Position to which the employee is being returned;



## VOLUME 52, NUMBER 1– JULY 1, 2025

3. ~~The~~ Employee's salary upon return to work; and
4. ~~The~~ Employee's new annual increment date, if applicable.
- (f) If reasonable accommodation is requested, the employee shall:
  1. Inform the employer; and
  2. Upon request, provide supportive documentation from a certified professional.
- (g) An employee shall be deemed resigned if the employee:
  1. Has been on one (1) year continuous sick leave by personnel action;
  2. Has been requested by the appointing authority in writing to return to work at least ten (10) days prior to the expiration of leave;
  3. Is unable to return to the employee's former position or to a position for which the employee is qualified and ~~that~~which resembles the former position as closely as circumstances ~~allow~~permit;
  4. Has been given priority consideration by the appointing authority for a vacant, budgeted position with the same agency, for which the employee is qualified and is capable of performing its essential functions with or without reasonable accommodation; and
  5. Has not been placed by the appointing authority in a vacant position.
- (h) Sick leave granted pursuant to this subsection shall not be renewable after the employee has been medically certified as able to return to work.
- (i) An employee who is deemed resigned pursuant to paragraph (g) of this subsection shall retain reinstatement privileges that were accrued during service in the classified service.
- (5) Application for sick leave and supporting documentation.
  - (a) An employee shall file a written application for sick leave with or without pay within a reasonable time.
  - (b) Except for an emergency illness, an employee shall request advance approval for sick leave for medical, dental, or optical examinations, and for sick leave without pay.
  - (c) If the employee is too ill to work, an employee shall notify the immediate supervisor or other designated person. Failure, without good cause, to do so in a reasonable period of time shall be cause for denial of sick leave for the period of absence.
  - (d) An appointing authority may, for good cause and on notice, require an employee to supply supporting evidence in order to receive sick leave.
- (e) If requested by the appointing authority, the employee shall submit a medical certificate ~~[may be required,]~~ signed by a licensed medical provider~~[practitioner]~~ and certifying to the employee's incapacity, examination, or treatment.
- (f) An appointing authority shall grant sick leave if the application is supported by acceptable evidence but may require confirmation if there is reasonable cause to question the authenticity of the certificate or its contents.

### Section 3. Family and Medical Leave.

- (1) An appointing authority shall comply with the requirements of the Family and Medical Leave Act (FMLA) of 1993, 29 U.S.C. 2601 – 2654, and the federal regulations implementing the Act, 29 C.F.R. Part 825.
- (2) An employee in state service shall qualify for up to twelve (12) weeks of unpaid family leave if the employee has:
  - (a) Completed twelve (12) months of service; and
  - (b) Worked or been on paid leave at least 1,250 hours in the twelve (12) months immediately preceding the first day of family and medical leave.
- (3) Family and medical leave shall be awarded on a calendar year basis.
- (4) An employee shall be entitled to a maximum of twelve (12) weeks of unpaid family and medical leave for the birth, placement, or adoption of the employee's child.
- (5) While an employee is on unpaid family and medical leave, the state contribution for health and life insurance shall be maintained by the employer.
- (6) Except as established in~~[provided by]~~ Section 4 of this administrative regulation, an employee shall use accrued paid leave concurrently with FMLA leave, except an employee may reserve up to ten (10) days of accumulated sick leave while on FMLA leave.

(a) If an employee reserves accumulated sick leave, the remaining FMLA leave shall be unpaid.

(b) The employee shall satisfy ~~all~~[any procedural] requirements of this administrative regulation for use of accrued paid leave only in connection with the receipt of ~~[such]~~ payment.

### Section 4. Employer Paid Leave.

(1) ~~Notwithstanding the eligibility requirements of the FMLA,~~ A full-time employee shall be entitled to a maximum of six (6) weeks of continuous employer paid leave for one (1) or more of the following reasons:

(a) For the birth of a child~~[,]~~ and to care for the newborn child if the leave is taken within one (1) year of the child's birth;

(b) For placement with the employee of a child for adoption or foster care if the leave is taken within one (1) year of the child's placement; or

(c) Because of a serious health condition that makes an employee unable to perform the functions of the employee's job.

(2) Employer paid leave shall comply with the requirements of the FMLA of 1993, 29 U.S.C. 2601 – 2654, and the federal regulations implementing the Act, 29 C.F.R. Part 825. Any leave entitlements provided by the FMLA that are not specifically listed in this section shall not qualify for employer paid leave.

(3) Leave that qualifies as employer paid leave shall be so designated and shall be exhausted prior to the employee's use of other accrued leave for an employer paid leave qualifying condition.

(4) Upon exhaustion of employer paid leave, additional leave usage shall comply with the other provisions of this administrative regulation, including the requirement for~~to include provision of~~ medical documentation signed by a licensed medical provider~~[practitioner]~~ certifying the employee's continued need for leave.

(5) Employer paid leave shall be used only on a continuous basis for absences of three (3) or more consecutive days.

(6) An employee shall be eligible for six (6) weeks of employer paid leave upon appointment.

(7) An employee shall request advance approval to use employer paid leave.

(8) Employer paid leave shall renew for a new six (6) week period following the completion of 120 months of service and following the completion of 240 months of service. Renewal shall void the remaining employer paid leave allotment so that the maximum amount of leave available pursuant to this section shall not exceed six (6) weeks.

(9) If an employee returns to work from employer paid leave, but does not use the entire six (6) weeks of continuous employer paid leave, the remaining leave allotment may be utilized by the employee until renewal at 120 months of service or 240 months of service as established~~[described]~~ in subsection (8) of this section.

(10) If an employee returns to state service following a break in service, the leave allotment authorized in subsection (6) of this section shall not renew. The allotment schedule established~~[outlined]~~ in subsection (8) of this section shall not reset after a break in service.

(11) Upon separation from state service, an employee shall not be paid for any unused employer paid leave, and the unused balance of leave shall not be converted to any other type of leave or transfer to the employee's retirement account.

(12) ~~If/When~~ FMLA is applicable, an employee shall use employer paid leave concurrently with FMLA leave.

(13) [On the effective date of this administrative regulation, ~~An incumbent full-time employee shall be granted six (6) weeks of employer paid leave, which shall~~ [that may] be used in accordance with this section.

### Section 5. ~~[Section 4.]~~ Court Leave.

(1) With prior notice to ~~his or her~~their supervisor, an employee shall be entitled to court leave during the employee's scheduled working hours without loss of time or pay for the amount of time necessary to:

(a) Comply with a subpoena by a court, administrative agency, or body of the federal or state government or any political subdivision thereof; or

(b) Serve as a juror.

(2) Court leave shall include necessary travel time.

(3) If relieved from duty as a juror or released from subpoena during the employee's normal working hours, the employee shall return to work or use annual or compensatory leave.

(4) An employee shall not be required to report as court leave attendance at a proceeding that is part of the employee's assigned duties.

(5) An employee shall not be eligible for court leave to comply with a subpoena if the employee or a member of the employee's family is a party to the proceeding.

**Section 6. [Section 5.] Compensatory Leave and Overtime.**

(1) Accrual of compensatory leave and overtime.

(a) An appointing authority shall comply with the overtime and compensatory leave provisions of the Fair Labor Standards Act (FLSA), 29 U.S.C. Chapter 8.

(b) An employee who is directed to work, or who requests and is authorized to work, in excess of the prescribed hours of duty, shall be granted compensatory leave and paid overtime in accordance with subject to the provisions of the Fair Labor Standards Act, 29 U.S.C. Chapter 8, KRS Chapter 337, and this administrative regulation.

(c) An employee deemed to be "nonexempt" by the provisions of the FLSA shall be compensated for hours worked in excess of forty (40) per week as established in provided by subparagraphs 1 through 3 of this paragraph.

1. An employee who has not accumulated the maximum amount of compensatory leave shall have the option to accumulate compensatory leave at the rate of an hour and one-half (1 1/2) for each hour worked in excess of forty (40) per week in lieu of paid overtime.

2. An employee's election to receive compensatory leave in lieu of paid overtime shall be in writing on the Overtime Compensation Form and shall remain in force for a minimum of three (3) months.

a. The employee's election shall be changed by the submission of a new form.

b. The effective date of a change shall be the first day of the next workweek following receipt of the election.

c. The employing agency shall not mandate an employee's election of compensatory leave or paid overtime.

3. An employee who does not elect compensatory leave in lieu of paid overtime shall be paid one and one-half (1 1/2) times the regular hourly rate of pay for all hours worked in excess of forty (40) hours per week.

(d) An employee deemed to be "exempt" pursuant to the provisions of the FLSA shall accumulate compensatory time on an hour-for-hour basis for hours worked in excess of the regular work schedule.

(e) Compensatory leave shall be accumulated or used in increments of one-quarter (1/4) hours.

(f) The maximum amount of compensatory leave that may be carried forward from one (1) pay period to another shall be:

1. 239.99 hours by an employee in a nonpolicy-making position;

or

2. 480 hours by an employee in a policy-making position.

(g) An employee who is transferred or otherwise moved from the jurisdiction of one (1) agency to another shall retain the compensatory leave in the receiving agency.

(2) Reductions in compensatory leave balances.

(a) An appointing authority may require an employee who has accrued at least 100 hours compensatory leave to use compensatory leave before annual leave and shall otherwise allow the use of compensatory leave if it will not unduly disrupt the operations of the agency.

(b) An appointing authority may require an employee who is not in a policy-making position and has accrued 200 hours of compensatory leave to take off work using compensatory leave in an amount sufficient to reduce the compensatory leave balance below 200 hours.

(c) An employee who is not in a policy-making position may, after accumulating 151 hours of compensatory leave, request payment for fifty (50) hours at the regular rate of pay. If the

appointing authority or the designee approves the payment, an employee's leave balance shall be reduced accordingly.

(d) An employee who is not in a policy-making position shall be paid for fifty (50) hours at the regular hourly rate of pay upon accumulation of 240 hours of compensatory leave at the end of a pay period. If a work week is split between pay periods, then the 240 hours of compensatory leave required for payment shall be accrued at the end of the pay period following the split pay period week. The employee's leave balance shall be reduced accordingly.

(e) If an employee's prescribed hours of duty are normally less than forty (40) hours per week, the employee shall receive compensatory leave for the number of hours worked that:

1. Exceed the number of normally prescribed hours of duty; and

2. Do not exceed the maximum amount of compensatory time that is permitted.

(f) Only hours actually worked shall be used for computing paid overtime or time and one-half (1 1/2) compensatory time.

(g) Upon separation from state service, an employee shall be paid for all unused compensatory leave at the greater of the employee's:

1. Regular hourly rate of pay; or

2. Average regular rate of pay for the final three (3) years of employment.

**Section 7. [Section 6.] Military Leave.**

(1) Upon request, an employee who is an active member of the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Public Health Service Reserve, or the National Guard shall be relieved from the civil duties, to serve under order or training duty without loss of the regular compensation for a period not to exceed the number of working days established specified in KRS 61.394 for a federal fiscal year.

(2) The absence shall not be charged to leave.

(3) Absence that exceeds the number of working days established specified in KRS 61.394 for a federal fiscal year shall be charged to annual leave, compensatory leave, or leave without pay.

(4) If requested by the appointing authority, the employee shall provide a copy of the orders requiring the attendance of the employee before military leave is granted.

(5) An appointing authority shall grant an employee entering military duty a leave of absence without pay for the period of duty in accordance with KRS 61.373. Upon receiving military duty leave of absence, all accumulated annual and compensatory leave shall be paid in a lump sum, if requested by the employee.

**Section 8. [Section 7.] Voting and Election Leave.**

(1) An employee who is eligible and registered to vote shall be allowed, upon prior request and approval, leave up to four (4) hours for the purpose of voting or to appear before the county clerk to request an application for or to execute an absentee ballot. A supervisor, manager, or appointing authority may specify the hours an employee may be absent.

(2) An employee casting an absentee ballot shall record the leave on the day the employee's vote is cast by mail or in-person submission. An employee shall be regularly scheduled to work on the day the vote is cast in order to receive the leave.

(3) An election officer shall receive additional leave if the total leave for Election Day does not exceed a regular workday.

(4) The absence shall not be charged against leave.

(5) An employee who is allowed permitted or required to work during the employee's regular work hours, in lieu of voting leave, shall be granted compensatory leave on an hour-for-hour basis for the hours during the times the polls are open, up to a maximum of four (4) hours.

**Section 9. [Section 8.] Funeral and Bereavement Leave.**

(1) Upon the approval of the appointing authority, an employee who has lost an immediate family member by death may utilize five (5) days of accrued sick leave, compensatory leave, annual leave, or leave without pay if the employee does not have accrued leave, or a combination thereof.

## VOLUME 52, NUMBER 1– JULY 1, 2025

(2) An appointing authority may approve the use of additional sick leave, compensatory leave, annual leave, or leave without pay if the employee does not have accrued leave, or a combination thereof, at the request of the employee following the loss of an immediate family member.

(3) For purposes of funeral and bereavement leave, an immediate family member shall include the employee's spouse, parent, grandparent, child, brother, or sister, or the spouse of any of them, and may include other relatives of close association if approved by the appointing authority.

### Section 10.[Section 9:] Special Leave of Absence.

(1) If approved by the secretary, an appointing authority may grant a leave of absence for continuing education or training.

(a) Leave may be granted for a period not to exceed twenty-four (24) months or the conclusion of the administration in which the employee is serving, whichever comes first.

(b) If granted, leave shall be granted either with pay (if the employee contractually agrees to a service commitment) or without pay.

(c) Leave shall be restricted to attendance at a college, university, vocational, or business school for training in subjects that relate to the employee's work and will benefit the state.

(2) An appointing authority, with approval of the secretary, may grant an employee a leave of absence without pay for a period not to exceed one (1) year for purposes other than **established[specified]** in this administrative regulation that are of tangible benefit to the state.

(3) If approved by the secretary, an appointing authority may place an employee on special leave with pay for investigative purposes pending an investigation of a work-related incident, or pending an investigation of an allegation of employee misconduct, lack of good behavior, or unsatisfactory performance of duties.

(a) Leave shall not exceed sixty (60) working days.

(b) The employee shall be notified in writing by the appointing authority that the employee is being placed on special leave for investigative purposes, and the reasons for being placed on leave.

(c) If the investigation reveals no misconduct by the employee, records relating to the investigation shall be purged from agency and Personnel Cabinet files maintained in accordance with KRS 18A.020(2)(a).

(d) The appointing authority shall notify a current employee, in writing, of the completion of the investigation and the action taken.

(4) An appointing authority may place a career unclassified employee on administrative leave with pay upon the employee's receipt of an intent to dismiss for cause letter.

(5) Discretionary leave with pay.

(a) An appointing authority may grant, or the secretary may direct, discretionary leave with pay to an employee for a period not to exceed ten (10) working days in a calendar year when it is considered necessary for the welfare of the employee.

(b) Reasons for discretionary leave with pay **shall be[are]** limited to work-related events.

(c) An appointing authority, with approval of the secretary, may renew discretionary leave with pay, not to exceed an additional twenty (20) working days.

(d) Leave granted pursuant to this subsection may be taken intermittently if authorized by the appointing authority.

### Section 11.[Section 10:] Absence Without Leave.

(1) An employee who is absent from duty without prior approval shall report the reason for the absence to the supervisor immediately.

(2) Unauthorized or unreported absence shall:

(a) Be considered absence without leave;

(b) Be treated as leave without pay for an employee covered by the provisions of the Fair Labor Standards Act, 29 U.S.C. Chapter 8; and

(c) Constitute grounds for disciplinary action.

(3) An employee who has been absent without leave or notice to the supervisor for a period of five (5) working days shall be deemed resigned.

### Section 12.[Section 11:] Absences Due to Adverse Weather.

(1) ~~With supervisor approval, an employee who is unable[; who is not designated for mandatory operations and chooses not] to report to work or chooses to leave early if there are adverse weather conditions, such as tornado, flood, blizzard, or ice storm, shall have the time of the absence reported as:~~

~~(a) Charged to annual or compensatory leave;~~

~~(b) Taken as leave without pay, if annual and compensatory leave has been exhausted; or~~

~~(c) Charged to paid adverse weather leave in accordance with subsection (4) of this section[Deferred in accordance with subsections (4) and (5) of this section].~~

~~(2) An employee who is on prearranged annual, compensatory, or sick leave shall charge leave as originally requested.~~

~~(3) An employee who is approved to telecommute shall not be eligible for adverse weather leave unless his or her telecommuting equipment is not operational or cannot be accessed during scheduled telecommuting hours due to adverse weather conditions.~~

~~(4) An employee, including an employee in a mandatory operation, who has supervisor approval, shall be eligible to use paid adverse weather leave if subject to the following conditions:~~

~~(a) The amount of adverse weather leave shall not exceed one (1) working day in a calendar year based on the employee's weekly work schedule;~~

~~(b) The leave shall be used in increments of one-quarter (1/4) hours; and~~

~~(c) The unused portion of the one (1) [-]day allotment for paid adverse weather leave shall expire upon separation from employment or at the end of the calendar year, whichever comes first.[If operational needs allow, except for an employee in mandatory operations, management shall make every reasonable effort to arrange schedules whereby an employee shall be given an opportunity to make up time not worked rather than charging it to leave.]~~

~~[(5)] [An employee shall not make up work if the work would result in the employee working more than forty (40) hours in a workweek.]~~

~~[(a)] [Time lost shall be made up within 123 calendar days of the occurrence of the absence. If it is not made up within 123 calendar days, leave shall be deducted from compensatory leave, followed by annual leave, and if no compensatory or annual leave is available, time lost shall be charged to leave without pay and deducted from an employee's wages.]~~

~~[(b)] [If an employee transfers or separates from employment before the leave is made up, the leave shall be charged to annual or compensatory leave or deducted from the final paycheck.]~~

~~[(5)][(6)] If catastrophic, life-threatening weather conditions occur, as created by a tornado, flood, ice storm, or blizzard, and it becomes necessary for authorities to order evacuation or shut-down of the place of employment, the provisions established in paragraphs (a) and (b) of this subsection shall apply.~~

~~(a) An employee who is required to evacuate or who would report to a location that has been shut down shall not be required to make up the time that is lost from work during the period officially declared hazardous to life and safety.~~

~~(b) An employee who is required to work in an emergency situation shall be compensated pursuant to the provisions of Section 6[5] of this administrative regulation and the Fair Labor Standards Act, 29 U.S.C. Chapter 8.~~

### Section 13.[Section 12:] Blood Donation Leave.

(1) An employee who, during scheduled work hours, donates whole blood at a licensed blood center certified by the Food and Drug Administration shall receive four (4) hours leave time, with pay, for the purpose of donating and recuperating from the donation.

(2) Leave granted pursuant to this section shall be used **if[when]** the blood is donated, unless circumstances as **established[specified]** by the supervisor required the employee to return to work. If the employee returns to work, the unused portion of the leave time shall be credited as compensatory leave.

(3) An employee shall request leave in advance to qualify for blood donation leave.

(4) An employee who is deferred from donating blood shall not:

(a) Be charged leave time for the time spent in the attempted

donation; and

(b) Qualify for the remainder of the blood donation leave.

(5) A donation initiated or attempted during an employee's lunch period is outside of scheduled work hours and shall not qualify for any amount of blood donation leave.

Section 14.[Section 13.] Incorporation by Reference.

(1) "Overtime Compensation Form", May 2013, is incorporated by reference.

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

FILED WITH LRC: June 17, 2025

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**PERSONNEL CABINET  
(As Amended at ARRS, June 10, 2025)**

**101 KAR 3:045. Compensation plan and pay incentives for unclassified service.**

RELATES TO: KRS 18A.020, 18A.110, 18A.155, 18A.202, 199.555  
STATUTORY AUTHORITY: KRS 18A.030(2), 18A.110(2), 18A.155(1)(b), (e), 18A.202(1)  
NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.155 requires the Secretary of the Personnel Cabinet to promulgate administrative regulations for persons in positions enumerated in KRS 18A.115(1)(g), (h), (i), (j), (k), (p), (t), and (u). KRS 18A.110(2) requires the secretary to promulgate comprehensive administrative regulations for the unclassified service. KRS 18A.202 authorizes the secretary to implement work-related incentive programs for state employees. This administrative regulation establishes the compensation plan and pay incentives for employees in unclassified service.

Section 1. New Appointments. An appointing authority shall appoint a new employee at a salary not to exceed the midpoint of the pay grade.

Section 2. Reentrance to State Service.

(1) Returning retirees. An employee who was formerly employed under KRS Chapter 18A and who is appointed to a position covered by the provisions of KRS Chapter 18A, while receiving retirement payments through the Kentucky Public Pensions Authority or Kentucky Teachers Retirement System, shall be appointed in accordance with the provisions for new appointments in this administrative regulation.

(2) Other reentering employees. An appointing authority shall set the salary of a former classified or unclassified employee, other than a returning retiree:

(a) In accordance with the standards used for making new appointments in this administrative regulation; or

(b) Up to an hourly rate[a salary] formerly paid in the classified or unclassified service.

Section 3. Salary Adjustments.

(1) Promotion.

(a)

1. An employee who is promoted shall receive a five (5) percent increase or an increase to the minimum of the new grade, whichever is greater; or

2. An appointing authority may grant a salary increase of five (5) percent per grade upon promotion.

(b) If sufficient funds are available, an appointing authority may adjust the employee's salary up to the midpoint of the pay grade as long as the increase is greater than the increase

established[specified] in subparagraph 1. of subsection (1)(a) of this section.

(2) Demotion. If an employee is demoted, [~~the appointing authority shall determine~~] the salary shall be determined in one (1) of the following ways:

(a) The employee's salary shall be reduced by five (5) percent for each grade the employee is reduced[~~to a rate that is not below the minimum for the job classification to which the demotion is made~~];

(b) If requested in writing by the appointing authority and approved by the secretary, the employee shall retain the salary received prior to the demotion. If approved by the secretary, the written request and notice of approval shall be placed in the employee's agency and Personnel Cabinet files maintained in accordance with KRS 18A.020(2)(a) [~~If the employee's salary is not reduced upon demotion, the appointing authority shall explain the reason in writing and place the explanation in the employee's personnel files~~]; or

(c) In the event of a salary schedule adjustment of an entry level wage of a pay grade, if an employee demoted to a lower pay grade, retained his or her salary, and was subsequently promoted and on promotional probation on the effective date of the new salary schedule, if the employee's salary is less than five (5) percent above the new entry level salary of the pay grade assigned to that employee on the effective date, the Personnel Cabinet shall adjust that employee's salary to five (5) percent above the new entry level wage.

(3) Reclassification.

(a) An appointing authority shall adjust the salary of an employee who is advanced to a higher pay grade through reclassification in one (1) of the following ways:

1. The greater of five (5) percent or the new grade minimum;

2. The greater of five (5) percent for each grade or the new grade minimum; or

3. If sufficient funds are available, up to the midpoint of the pay grade as long as the increase is greater than the increase established[specified] in subparagraph 1. of this paragraph.

(b) An employee who is placed in a lower pay grade through reclassification shall receive the same salary received prior to reclassification.

(c) If sufficient funds are available, an appointing authority may adjust up to the midpoint of the pay grade the salary of an employee who is placed in the same pay grade through reclassification.

(d) An employee shall not be reclassified from a job classification that does not require the supervision of employees to a job classification that requires the supervision of employees as mandated within the job class specification.

(4) Reallocation.

(a) An employee who is advanced to a higher pay grade through reallocation shall receive a five (5) percent increase or an increase to the new grade minimum, whichever is greater. An appointing authority may grant a five (5) percent increase per grade upon reallocation to a higher grade.

(b) An employee who is placed in a lower pay grade through reallocation shall receive the same salary received prior to reallocation.

(5) Detail to special duty.

(a) An employee who is detailed to special duty in a higher grade shall receive a five (5) percent increase or an increase to the minimum of the grade, whichever is greater, for the duration of the period of the detail. An appointing authority may grant a salary increase of five (5) percent per grade for the duration of the detail.

(b) If sufficient funds are available, an appointing authority may adjust the salary of an employee who is placed in the same pay grade or higher pay grade through detail to special duty, up to the midpoint of the pay grade, as long as the increase is greater than the increase established[specified] in paragraph (a) of this subsection.

(c) An employee who is detailed to special duty to the same or lower grade shall continue to receive the same salary except as provided under paragraph (b) of this subsection.

(6) Reversion.

(a) The salary of an employee who is reverted following detail to

special duty in a higher pay grade shall be adjusted to:

1. The salary received prior to the detail; and
2. All salary advancements and adjustments that[which] would have been awarded if the detail had not occurred.

(b) The salary of an employee who is reverted from a position in the unclassified service to a position in the classified service shall be adjusted to:

1. The salary received prior to leaving the classified service; and
2. All salary advancements and adjustments that[which] would have been awarded if the individual had remained in the classified service.

(7) Pay grade changes.

(a) If a job classification is assigned to a higher pay grade, the appointing authority shall raise the salary of an employee below the new grade minimum to the new grade minimum. If sufficient funds are available, an appointing authority may uniformly adjust the salary of all employees in that agency in that job classification to:

1. The greater of the new grade minimum or five (5) percent per pay grade;
2. The greater of the new grade minimum or ten (10) percent per pay grade; or
3. At a percentage determined by the Personnel Cabinet.

(b) If a job classification is assigned to a lower pay grade, an employee in that job classification shall retain his or her current salary.

(8) Special entrance rates. If a special entrance rate is established for a job classification, an appointing authority shall adjust the salary of an employee in that job classification, who is below the special entrance rate, to the new rate. If sufficient funds are available, on the same date as the establishment of the special entrance rate, an appointing authority may also grant a salary adjustment equal to the difference between the entrance of the pay grade and the new special entrance rate to other employees in that job classification, except those employees who are on initial probation.

(9) Other salary adjustments.

(a) On the 16th of a month, an appointing authority may grant a five (5) percent salary adjustment to an employee who was eligible for, but did not receive, an increase upon the completion of six (6) months service following promotion.

(b) On the 16th of a month, an appointing authority may grant a salary adjustment to an employee within an agency who was eligible for, but did not receive, at least a five (5) percent per pay grade increase or ten (10) percent per pay grade increase as a result of a grade change on or after January 1, 1999. The total adjustment under this provision when combined with an increase at the time of the grade change shall equal a five (5) percent per pay grade increase or ten (10) percent per pay grade increase to the employee's salary immediately prior to the grade change. The adjustment shall not be retroactive.

(c) If sufficient funds are available, an appointing authority may adjust the salary of one (1) or more unclassified employees in an office or department due to internal pay equity issues within a job classification or sustained retention issues impacting the mission of the agency.

1. The appointing authority shall substantiate in writing to the secretary the need for adjustment and include the proposed adjustment for each employee.

2.

a. An adjustment [~~shall be any amount~~] that does not cause an employee's hourly rate to exceed the midpoint of the pay grade may be any amount; or

b. An adjustment that causes an employee's hourly rate to exceed the midpoint of the pay grade shall not exceed twenty-five (25) percent of the employee's hourly pay rate.

(10) Conversion rule. The salary of an employee whose position changes from a thirty-seven and one-half (37.5) hour workweek to a forty (40) hour workweek, or vice versa, shall be converted to accurately reflect the employee's hourly rate of base pay. This conversion shall be applied before applying any other salary adjustment to which the employee is entitled pursuant to this section.

#### Section 4. Salary Advancements.

(1) Initial appointment increase. An appointing authority may grant a five (5) percent increase to an employee, except an interim employee, on the first day of the month following completion of the greater of six (6) months of service or the months of service required by 101 KAR 1:325, Section 1(2).

(2) Six (6) month promotional increase. An employee may receive a five (5) percent increase following the completion of the greater of six (6) months service after promotion or the months of service required by 101 KAR 1:325 Section 1(2).

(3) Annual increment dates shall be established[~~as follows~~]:

(a) On the first day of the month following completion of the initial probation period; or

(b) On the first day of the month following completion of twelve (12) months service since receiving the last annual increment for an employee, other than an interim employee, who returns from leave without pay.

(4) Annual increment dates shall not change if an employee:

(a) Is in a position that[which] is assigned a new or different pay grade;

(b) Receives a salary adjustment as a result of his or her position being reallocated;

(c) Is promoted;

(d) Is transferred;

(e) Is demoted;

(f) Is detailed to special duty;

(g) Receives an educational achievement award;

(h) Returns from military leave;

(i) Is reclassified; or

(j) Receives an increase six (6) months following promotion.

(5) Return from leave without pay. An employee, other than an interim employee, returning to duty from leave without pay shall receive an annual increment on the first of the month after receiving compensation in any twelve (12) months since the last increment was received.

(6) Service computation. Full-time and part-time service shall be counted when computing service for purposes of determining increment eligibility. Service as an interim employee, or in the former seasonal, temporary, or emergency categories shall not be considered.

(7) Order of calculating increments and other salary increases that[which] occur at the same time. If an employee's increment date occurs on the same date that a salary adjustment or advancement is granted, the increment shall be applied before the adjustment or advancement is added to the employee's salary, except if the adjustment is based on a reversion, pay grade change, a salary schedule change, or establishment of a special entrance rate.

#### Section 5. Educational Achievement Award.

(1) On the 16th of a month, an appointing authority may grant a five (5) percent increase to an employee's base salary based on educational achievement as established[specified] in this section.

(2) An agency may elect not to participate in the educational achievement program if sufficient funds are not available.

(3) An employee shall not receive more than one (1) educational achievement award in a fiscal year.

(4) An employee shall not receive an educational achievement award and an adjustment for continuing excellence (ACE) based on the same training.

(5) By submitting a personnel action to grant an educational achievement award, the appointing authority shall certify that all of the qualifying conditions established in subsection (5) of this section for the appropriate type of educational achievement award have been met.

(a) For a high school diploma, high school equivalency certificate, or a passing score on the GED test, the qualifying conditions shall be met if:

1. The employee has obtained the high school diploma, equivalency certificate, or passing score on the GED test:

a. Outside of work hours;

b. While in state service; and

c. After establishing an increment date.

2. The employee has not previously attained a high school diploma, equivalency certificate, or passing score on the GED test;

and

3. The employee has not completed college coursework on the undergraduate or graduate level prior to obtaining the high school diploma, equivalency certificate, or a passing score on the GED test.

(b) For postsecondary education or training, the qualifying conditions shall be met if:

1. The employee has completed 260 hours of job-related instruction, or the equivalent;

2. The employee began the course work after becoming a state employee and completed the course work after establishing an increment date;

3. The employee has completed the course work within five (5) years of the date on which the course work was begun;

4. The course work has not previously been applied toward an educational achievement award;

5. The agency has not paid for the course work or costs associated with the course work, in whole or in part; and

6. The employee was not on educational or extended sick leave when the courses were taken.

#### Section 6. Salary Schedule Adjustment.

(1) If the secretary authorizes an adjustment of a salary schedule, an appointing authority shall adjust the salaries of all employees below the new schedule entry level wage for the pay grade to the new schedule entry level wage for the pay grade. If sufficient funds are available, the secretary may authorize an appointing authority to grant a salary increase for all employees equal to the difference in the old schedule entry level wage for the grade and the new schedule entry level wage for the grade.

(2) After consultation with the state budget director, if sufficient funds are available, and the Secretary of the Personnel Cabinet determines that an increase in the entry level wage of one (1) or more pay grades is warranted, the Personnel Cabinet shall identify each currently active employee in the pay grade or grades, other than an interim employee, who is not on initial or promotional probation at the time the revised salary schedule becomes effective. For an employee whose salary is less than five (5) percent above the new entry level salary of the pay grade assigned to that employee on the effective date, the Personnel Cabinet shall adjust that employee's salary to five (5) percent above the new entry level wage.

Section 7. Maintenance and Maintenance Allowance. If an employee, or the employee and family, is provided with full or partial maintenance, consisting of one (1) or more meals per day, lodging or living quarters, and domestic or other personal services, the maintenance shall be treated as partial payment of wages. The value of those services shall be deducted from the employee's salary in accordance with a maintenance schedule developed by the appropriate appointing authority after consultation with the Secretary of the Finance and Administration Cabinet.

#### Section 8. Supplemental Premiums.

(1) Locality premium.

(a)

1. Upon request by an appointing authority, the secretary may authorize and establish the amount of the payment of a locality premium for an employee who is regularly, temporarily, or intermittently assigned to work in a job classification, work county, and organizational unit where the agency can demonstrate sustained recruitment and retention issues impacting the mission of the agency; or

2. The secretary may direct the payment of a locality premium for an employee who is regularly, temporarily, or intermittently assigned to work in a job classification, work county, and organizational unit where there are demonstrated sustained recruitment and retention issues impacting the mission of the agency.

(b) Once authorized or directed, this premium shall apply to all employees in that organizational unit who are regularly or temporarily assigned to work in the job classification and work county for which the locality premium is approved.

(c) An employee shall not receive a locality premium after transfer, reclassification, reallocation, detail to special duty,

promotion, or demotion to a position in a job classification, organizational unit, or work county that is ineligible for a locality premium.

(d) The secretary may rescind authorization to pay a locality premium for a job classification at any time.

(e) Locality premium pay shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

(2) Shift premium.

(a) Upon request by an appointing authority, the secretary may authorize the payment of a supplemental premium for an employee who is regularly assigned to work an evening or night shift in that agency.

(b) Once authorized, this premium shall apply to all employees in that agency who are regularly assigned to work an evening or night shift in a job classification for which the shift premium is approved.

(c) An employee shall not receive a shift premium after shift reassignment, transfer, promotion, or demotion to a position that is ineligible for a shift differential premium.

(d) The secretary may rescind authorization to pay shift premium for a job classification at any time.

(e) Shift differential pay shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

(3) Weekend premium.

(a) Upon request by an appointing authority, the secretary may authorize the payment of a weekend premium for an employee in a specific job classification who is regularly assigned to work on Saturdays, Sundays, or state holidays as part of the usual work week.

(b) Once authorized, the premium shall apply to all employees in the specified job classifications in that agency who are regularly assigned to work Saturdays, Sundays, or state holidays as part of those employees usual work week.

(c) An employee shall not receive a weekend premium after reassignment, transfer, promotion, or demotion to a position that is ineligible for weekend premium.

(d) The secretary may rescind authorization to pay weekend premium at any time.

(e) Weekend premium pay shall not be considered part of the employee's base salary or wages and shall not be applied to any leave time usage.

(f) An agency may request, and be authorized for, both shift premium and weekend premium for the same job classifications.

(4) Multilingual hourly premium.

(a) Upon request by an appointing authority, the secretary may authorize the payment of a supplemental multilingual hourly premium for an employee who is assigned to complete work duties in a specified foreign language. An employee completing work duties in a specified foreign language shall receive a multilingual hourly premium based on the percentage of time multilingual skills are performed. An employee in a job classification that includes interpreting services as a characteristic of the job on the job class specification shall not be eligible for this premium.

(b) Language proficiency testing shall be completed prior to an employee receiving the multilingual hourly premium. Testing shall indicate a standard level of multilingual proficiency as required by the appointing authority.

(c) An appointing authority shall submit the multilingual premium request to the Personnel Cabinet in writing. The request shall contain, at a minimum:

1. An explanation of the reason or reasons for granting the multilingual premium;

2. The percentage of time the employee will use multilingual skills; and

3. Certification by the appointing authority that the employee has completed multilingual testing and received a standard level of multilingual proficiency rating. This certification shall include the name of the testing facility or organization, the format of the test taken (oral, written, or a combination of oral and written), and the level of proficiency granted in the request for the multilingual premium.

(d) Once authorized and once the employees are individually approved in accordance with this subsection, the multilingual

hourly premium shall apply to all employees in that agency who are regularly assigned to complete work in a specified foreign language[ ~~once the employees are individually approved in accordance with this subsection~~].

(e) An employee shall not receive a multilingual hourly premium after reassignment, reclassification, transfer, promotion, reallocation, or demotion to a position ~~that~~which no longer requires work in a specified foreign language.

(f) An employee who ceases to perform work duties in a specified foreign language shall not be eligible to receive a multilingual hourly premium.

(g) The secretary may rescind the multilingual hourly premium authorization provided to an agency or individual employee at any time.

(h) The multilingual hourly premium shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

(5) Critical position premium.

(a) Upon request by an appointing authority, the secretary may authorize the payment of a premium for a position held by an employee who has established an annual increment date and is regularly assigned to perform job duties that are deemed critical to the operation of the agency.

(b) A critical position premium may be authorized for at least ~~three (3)~~one (1) full-time filled ~~positions~~position in an office or department. The premium may be authorized for additional full-time filled positions if the total number of premiums does not exceed one (1) percent of the total number of full-time filled positions in an office or department.

(c) The premium shall not exceed twenty-five (25) percent of the employee's hourly rate.

(d) The critical position designation shall expire ~~if~~when the position becomes vacant.

(e) An employee shall not receive a critical position premium after transfer, reclassification, reallocation, detail to special duty, promotion, or demotion to a position in a different job classification, organizational unit, or work county, unless the appointing authority submits a new request, for approval by the secretary, to designate the position in the different job classification, organizational unit, or work county as critical prior to the personnel action at issue.

(f) The appointing authority or the secretary may rescind authorization to pay a critical position premium at any time.

(g) A critical position premium shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

(6) Sign-on bonus.

(a) Upon written request by an appointing authority, the secretary may prospectively authorize a sign-on bonus for full-time or part time unclassified positions if:

1. The positions are in the same job classification, work county, and department or office where the appointing authority can substantiate sustained recruitment and retention issues impacting the mission of the agency;

2. The total amount of the sign-on bonus is uniform and does not exceed \$5,000 for the job classification; and

3. Eligibility for the sign-on bonus is limited to a newly appointed or rehired employee who:

a. Has not been employed in a KRS Chapter 18A classified position within ninety (90) calendar days preceding the effective date of appointment or rehire;

b. Has not previously received any amount of sign-on bonus pursuant to this subsection; and

c. Is working or on approved leave at the time payment is scheduled to be issued.

(b) Once a sign-on bonus is authorized by the secretary, an eligible employee shall receive:

1. Twenty-five (25) percent of the total sign-on bonus on the first day of the month after appointment or rehire;

2. Twenty-five (25) percent of the total sign-on bonus on the first day of the month after completion of six (6) months of active service in the position into which the employee was appointed or rehired; and

3. Fifty (50) percent of the total sign-on bonus on the first day of the month after completion of twelve (12) months of active service

in the position into which the employee was appointed or rehired.

(c) An employee shall not receive future payment of any portion of a sign-on bonus after transfer, promotion, or demotion to a position in a job classification, department or office, or work county other than the position into which the employee was appointed or rehired.

(d) An employee who is detailed to special duty or whose position is reclassified or reallocated shall remain eligible for future payment of the original sign-on bonus amount.

(e) The secretary may rescind authorization to pay a sign-on bonus at any time prior to the effective date of appointment or rehire.

(f) A sign-on bonus shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

#### Section 9. Employee Recognition Award (ERA).

(1) On the 16th day of a month, an appointing authority may grant an employee an ERA in the form of a lump sum payment of any whole percentage from one (1) to ten (10) percent of the employee's annual salary ~~if~~under the following conditions:

(a) The employee has not received an ERA in the preceding twenty four (24) months, nor an Adjustment for Continuing Excellence (ACE) award in the preceding twelve (12) months; and

(b)

1. The appointing authority determines that the employee's acts or ideas have resulted in significant financial savings or improvements in services to the Commonwealth and its citizens;

2. The employee has exhibited distinguished performance during participation in special projects that have had a significant beneficial impact on the department, office, or governmental operations; or

3. The employee has demonstrated a sustained level of exceptional job performance.

(2) An employee shall not be eligible for an ERA under this section for an act or idea that has been approved or submitted for consideration as an Employee Suggestion System Award. An employee who has received an ERA shall not be eligible to be considered for an Employee Suggestion System Award for those acts or ideas upon which the ERA is based.

(3) The granting of an ERA shall be within the sole discretion of the appointing authority.

(4) If an appointing authority grants an ERA, the justification for the award shall be stated in writing~~;~~ and placed in the employee's personnel files.

(5) An appointing authority shall submit a written justification to the Personnel Cabinet to award an ERA. The justification shall:

(a) Explain the reason or reasons for the granting of the award; and

(b) Include a certification by the appointing authority that:

1. Sufficient funds are available within the department or office; and

2. The criteria and limitations established in this section have been met.

#### Section 10. Adjustment for Continuing Excellence (ACE) Award.

(1) On the 16th day of a month, an appointing authority may grant a salary adjustment of any whole percentage from one (1) to ten (10) percent of the employee's annual salary to a full-time employee's base pay as an ACE award ~~if the employee has~~under the following conditions:

(a) ~~[The employee has]~~An established annual increment date;

(b) ~~[The employee has]~~Worked at least the immediately preceding twenty-four (24) consecutive months in KRS Chapter 18A state service, twelve (12) consecutive months of which shall have been served in the department or office granting the award;

(c) ~~[The employee has]~~Not received an ACE award in the preceding twenty-four (24) months or an ERA in the preceding twelve (12) months; and

(d)

1. ~~[The employee has]~~Demonstrated a sustained level of exceptional job performance;

2. ~~[The employee has]~~Assumed a significant level of additional job responsibilities or duties consistent with the assigned job classification~~;~~ and has performed them in an exceptional manner; or

3. ~~[The employee has-]~~Acquired professional or technical skills or knowledge through department or office directed or authorized attainment of a job related licensure, certification, or formal training that will substantially improve job performance.

(2) An employee shall not be eligible for an ACE award under this section if an educational achievement award has been granted for the same training.

(3) The granting of an ACE award shall be within the sole discretion of the appointing authority.

(4) An appointing authority shall submit a written justification to the Personnel Cabinet to grant an ACE award. The justification shall:

(a) Explain the reason or reasons for the granting of the award; and

(b) Include a certification by the appointing authority that:

1. The criteria and limitations established in this section have been met; and

2. Sufficient funds are available within the department's or office's current recurring base budget to support the award.

Section 11. Adoption Benefit Program. The provisions of the Adoption Benefit Program established in 101 KAR 2:120 shall apply to an employee in the unclassified service.

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## BOARDS AND COMMISSIONS

### Board of Nursing

(As Amended at ARRS, June 10, 2025)

#### 201 KAR 20:600. Standards for training programs for licensed certified professional midwives.

RELATES TO: KRS 314.400 – 314.414

STATUTORY AUTHORITY: KRS 314.131(1), 314.404

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations as may be necessary to enable it to carry into effect the provisions of KRS Chapter 314. KRS 314.404(1) requires the board to promulgate an administrative regulation to establish required standards for training programs for licensed certified professional midwives. This administrative regulation establishes the required standards for training programs for licensed certified professional midwives.

Section 1. Definition. "Preceptor" means a licensed certified professional midwife (LCPM), an APRN designated Certified Nurse Midwife, or a physician, who serves as a role model and mentor to assist in the development and validation of the competencies of a student.

#### Section 2.

(1) A training program that prepares an individual to become a licensed certified professional midwife (LCPM)~~[which is]~~ located in this state shall be accredited by the Midwifery Education Accreditation Council (MEAC).

(2) The board shall retain jurisdiction over accredited programs and may conduct a site visit or other investigation into any allegation that may constitute a violation of this administrative regulation and 201 KAR 20:610. The board may also conduct a site visit when an accreditation visit is scheduled.

(3) The training program shall submit all correspondence and reports to and from MEAC to the board within thirty (30) days of submission or receipt.

Section 3. A training program that prepares an individual to become ~~an~~[a] LCPM~~[which is]~~ located in this state shall meet the standards established by this administrative regulation.

#### Section 4. Program Administrator.

(1)

(a) There shall be a program administrator who is administratively responsible for overseeing the program.

(b) The program administrator shall be appointed by and be responsible to the governing institution.

(2) A program shall develop and implement a plan of organization and administration that clearly establishes the lines of authority, accountability, and responsibility for each program location.

(3) The program administrator shall have the following qualifications:

(a) A minimum of a master's degree from an accredited college or university;

(b) A minimum of the equivalent of two (2) years of full time teaching experience in midwifery;

(c) Have at least two (2) years of experience in the independent practice of midwifery, nurse-midwifery, or obstetrics;

(d) Demonstrated experience or preparation in education that includes teaching adults, adult learning theory teaching methods, curriculum development, and curriculum evaluation;

(e) Have been the primary care giver for at least seventy-five (75) births including provision of prenatal, intrapartum, and postpartum care; and

(f) Hold a license as an LCPM.

(4) An APRN or physician may be appointed as a program administrator if they meet the requirements of this section other than holding a license as an LCPM if, in the opinion of the governing institution, the individual being considered has a sufficient understanding of the LCPM scope of practice.

(5) A program administrator without previous program administrator experience shall have a mentor assigned by the governing institution and an educational development plan implemented. The mentor shall have documented experience in program administration.

#### Section 5. Faculty.

(1) There shall be at least one (1) faculty member besides the program administrator.

(2) The faculty shall be adequate in number to implement the curriculum as determined by program outcomes, course objectives, the level of the student, the number of students and classes admitted annually, and the educational technology utilized.

(3) The faculty shall be approved by the administrator and shall include didactic and clinical faculty.

(4) Didactic faculty.

(a) Didactic faculty shall have a minimum of a baccalaureate degree from an accredited college or university.

(b) Didactic faculty licensed as an LCPM shall document a minimum of two (2) years full time or equivalent experience as an LCPM.

(c) Didactic faculty who hold a license other than as an LCPM shall document a minimum of two (2) years full time or equivalent experience in their profession.

(d) Didactic faculty shall document preparation in educational activities ~~regarding~~~~[in the area of]~~ teaching and learning principles for adult education, including curriculum development and implementation. The preparation shall be acquired through planned faculty in-service learning activities, continuing education offerings, or academic courses.

(e) Didactic faculty hired without prior teaching experience shall have a mentor assigned and an educational development plan implemented.

(5) Clinical faculty and preceptors.

(a) Clinical faculty or a preceptor shall hold a current, unencumbered license as a certified professional midwife or related profession.

(b) Clinical faculty or a preceptor shall have evidence of clinical competencies related to midwifery.

(6) There shall be documentation of orientation to the course, program outcomes, student learning objectives, evaluation methods to be used by the faculty, and documented role expectations.

#### Section 6. Standards for Curriculum.

(1) Philosophy, mission, and outcomes.



## VOLUME 52, NUMBER 1– JULY 1, 2025

(a) The philosophy, mission, and outcomes of the training program shall be clearly defined in writing by the faculty and shall be consistent with those of the governing institution.

(b) The program outcomes shall encompass the standards for accreditation set forth by MEAC, including the standards established in the Midwifery Education Accreditation Council Standards for Accreditation Handbook, Section B: Standards for Accreditation Version 2~~(The Midwives Alliance of North America Core Competencies, and the Standards and Qualifications for the Art and Practice of Midwifery of the Midwives Alliance of North America and describe the expected competencies of the graduate).~~

(c) The program shall conduct an evaluation to validate that identified program outcomes have been achieved and provide evidence of improvement based on an analysis of those results.

(d) The training program shall be an accredited midwifery education program that meets the requirements of Section 7 of this administrative regulation~~[include a minimum of 900 contact hours of didactic course work].~~

(2) Organization of the curriculum.

(a) There shall be a written plan, including supporting rationale, which describes the organization and development of the curriculum.

(b) The curriculum plan shall reflect the philosophy, mission, and outcomes of the program and prepare the student to meet the qualifications for certification by the North American Registry of Midwives.

(c) A course syllabus shall be developed for each course to include outcomes, planned instruction, learning activities, and method of evaluation.

1. Each course shall be implemented in accordance with the established course syllabus.

2. A copy of each course syllabus shall be on file in the program office and shall be available to the board upon request.

(d) The curriculum plan shall be logical and sequential, and it shall demonstrate an increase in difficulty and complexity as the student progresses through the program.

(e) A course may be offered as a distance learning course. A distance learning course shall meet the same standards as established in this administrative regulation.

(f) The curriculum shall have written measurable program outcomes that reflect the role of the graduate.

(3) The curriculum shall require that the student hold a current American Heart Association Basic Life Support (BLS) certificate for health care providers and include instruction in neonatal resuscitation resulting in a Neonatal Resuscitation Program (NRP) certificate.

### Section 7. Clinical Experience or Preceptorship.

~~[(1)]~~ The training program shall include a clinical experience determined by North American Registry of Midwives (NARM), including the standards established in the North American Registry of Midwives (NARM) Certified Professional Midwife (CPM) Candidate Information Booklet (CIB)~~[or preceptorship of at least two (2) years but no more than five (5) years and is equivalent to 1350 clinical contact hours. The training program shall maintain a log of clinical hours for each student.]~~

~~[(2)]~~ [The clinical experience or preceptorship shall include:]

~~[(a)]~~ [Serving as an active participant in attending twenty (20) births;]

~~[(b)]~~ [Serving as the primary midwife, under supervision, in attending twenty (20) additional births, at least ten (10) of which shall be out of hospital births. A minimum of three (3) of the twenty (20) births attended as primary midwife under supervision shall be with women for whom the student has provided primary care during at least four (4) prenatal visits, births, newborn exams, and one (1) postpartum exam;]

~~[(c)]~~ [Serving as the primary midwife, under supervision, in performing:]

~~[1.]~~ [Seventy-five (75) prenatal exams, including at least twenty (20) initial history and physical exams;]

~~[2.]~~ [Twenty (20) newborn exams; and]

~~[3.]~~ [Forty (40) postpartum exams].

### Section 8. Students.

(1) A student enrolled in the training program shall have a high school diploma or its equivalent.

(2) The training program shall maintain in the student's file evidence of compliance with the requirements in Section 6(3) of this administrative regulation, in Section 7 of this administrative regulation, and in subsection (1) of this section.

(3) Admission requirements shall be stated and published in the governing institution's publications.

(4) Program information communicated by the training program shall be accurate, complete, consistent, and publicly available.

### Section 9. Student Policies.

(1) Written LCPM student policies shall be accurate, clear, and consistently applied.

(2) Upon admission to the training program, each student shall be advised in electronic or written format of policies pertaining to:

(a) Evaluation methods to include the grading system;

(b) Tuition, fees, and expenses associated with the training program and refund policies;

(c) Availability of counseling resources;

(d) Health requirements and other standards as required for the protection of student health;

(e) Grievance procedures;

(f) Financial aid information;

(g) Student responsibilities; and

(h) A plan for emergency care on campus or in clinical settings.

### Section 10. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Midwifery Education Accreditation Council Standards for Accreditation Handbook, Section B: Standards for Accreditation Version 2", Midwifery Education Accreditation Council, (1MM/2020)~~["The Midwives Alliance of North America Core Competencies", (December 2014); and~~

(b) "Certified Professional Midwife (CPM) Candidate Information Booklet (CIB)", North American Registry of Midwives, (01/2025)~~["Standards and Qualifications for the Art and Practice of Midwifery", Midwives Alliance of North America, (October 2005)].~~

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Monday through Friday, 8:00 am 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>.

FILED WITH LRC: June 10, 2025

CONTACT PERSON: Jeffrey R. Prather, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222; phone (502) 338-2851, email [Jeffrey.Prather@ky.gov](mailto:Jeffrey.Prather@ky.gov).

### CABINET FOR HEALTH AND FAMILY SERVICES Department for Medicaid Services Division of Health Care Policy (As Amended at ARRS, June 10, 2025)

#### 907 KAR 1:039. Hearing Program reimbursement provisions and requirements.

RELATES TO: KRS 205.520, 205.8451, 334.010, 334.040, 334.200, 334A.020~~(2)](5)~~, 42 C.F.R. 400.203, Part 414, 438.2, 440.110, 447.200, 447.204, 42 U.S.C. 1395m, 1395w-4(204]

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

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

## VOLUME 52, NUMBER 1– JULY 1, 2025

and related items provided to a Medicaid recipient who is not enrolled with a managed care organization.

### Section 1. Definitions.

- (1) "Audiologist" is defined by KRS 334A.020(2)(5).
- (2) "CPT code" means a code used for reporting procedures and services performed by medical practitioners and published annually by the American Medical Association in Current Procedural Terminology.
- (3) "Department" means the Department for Medicaid Services or its designee.
- (4) "Federal financial participation" is defined by 42 C.F.R. 400.203.
- (5) "Healthcare Common Procedure Coding System" or "HCPCS" means a collection of codes acknowledged by the Centers for Medicare and Medicaid Services (CMS) that represents procedures or time.
- (6) "Kentucky Medicaid Audiology Fee Schedule" means a list, located at <https://chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>, that:
  - (a) Contains the current reimbursement rates for audiology services established by the department in accordance with 907 KAR 1:038 and this administrative regulation; and
  - (b) Is updated at least annually to coincide with the quarterly updates made by the Centers for Medicare and Medicaid Services as required by 42 U.S.C. 1395m and 1395w-4 and 42 C.F.R. Part 414["Hearing instrument" is defined by KRS 334.010(4)].
- (7) "Managed care organization" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined in 42 C.F.R. 438.2.
- (8) "Medically necessary" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.
- (9) "Participating audiologist" means an audiologist who:
  - (a) Is enrolled in the Medicaid Program pursuant to 907 KAR 1:672;
  - (b) Is currently participating in the Medicaid Program pursuant to 907 KAR 1:671; and
  - (c) Meets the audiologist requirements established in 907 KAR 1:038.
- (10) "Participating specialist in hearing instruments" means a specialist in hearing instruments who:
  - (a) Is enrolled in the Medicaid Program pursuant to 907 KAR 1:672;
  - (b) Is currently participating in the Medicaid Program pursuant to 907 KAR 1:671; and
  - (c) Meets the specialist in hearing instruments requirements established in 907 KAR 1:038.
- (11) "Recipient" is defined by KRS 205.8451(9).
- (12) "Specialist in hearing instruments" is defined by KRS 334.010(11)(9).
- (13) "Usual and customary charge" means the uniform amount that a provider bills to the general public for a specific covered benefit.

### Section 2. General Reimbursement Requirements.

- (1) For the department to reimburse for a service or item, the requirements of 907 KAR 1:038, Section 2, including that the service be medically necessary, shall be met.
- (2) The department shall not reimburse for:
  - (a) A service with a CPT code that is not listed on the Kentucky Medicaid Audiology[Department for Medicaid Services Hearing Program] Fee Schedule as available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>; or
  - (b) An item with an HCPCS code that is not listed on the Kentucky Medicaid Audiology[Department for Medicaid Services Hearing Program] Fee Schedule as available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>.

Section 3. Audiology Service Reimbursement. The department shall reimburse a participating audiologist for an audiology service at the lesser of the:

- (1) Audiologist's usual and customary charge for the service; or
- (2) Reimbursement established on the Kentucky Medicaid Audiology[Department for Medicaid Services Hearing Program] Fee

Schedule as available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx> for the service.

### Section 4. Hearing Instrument Reimbursement.

- (1) The department shall reimburse a participating specialist in hearing instruments or participating audiologist for a hearing instrument at the lesser of the:
  - (a) Provider's usual and customary charge for the hearing instrument; or
  - (b) Reimbursement established on the Kentucky Medicaid Audiology[Department for Medicaid Services Hearing Program] Fee Schedule as available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx> for the hearing instrument.
- (2) A hearing examination of a recipient by a physician and a recommendation for a hearing instrument for the recipient by an audiologist shall:
  - (a) Be required for the department to cover a hearing instrument; and
  - (b) Occur prior to the fitting of a hearing instrument.
- (3)
  - (a) Except for an ear mold, an invoice for a hearing instrument, related supply, or accessory shall be submitted with the corresponding claim:
    1. To the department; and
    2. By the participating audiologist or participating specialist in hearing instruments who supplied the hearing instrument, related supply, or accessory.
  - (b) The department shall not require a participating audiologist or participating specialist in hearing instruments to submit an invoice for an ear mold.

### Section 5. Ear Mold Reimbursement.

- (1) The department shall reimburse a participating audiologist or participating specialist in hearing instruments for an ear mold at the lesser of the:
  - (a) Provider's usual and customary charge for the ear mold; or
  - (b) Reimbursement established on the Kentucky Medicaid Audiology[Department for Medicaid Services Hearing Program] Fee Schedule as available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx> for the ear mold.
- (2) The department shall limit reimbursement for an ear mold as consistent with the Kentucky Medicaid Audiology Fee Schedule, in conjunction with an ear examination, to:
  - [(a)] [One (1) ear mold per six (6) month period for a child aged three (3) years or under; or]
  - [(b)] [One (1) ear mold per twelve (12) month period for a child who is at least four (4) years of age].

### Section 6. Reimbursement for Hearing Instrument Batteries.

- (1) The department shall reimburse a participating audiologist or participating specialist in hearing instruments for a hearing instrument battery at the lesser of the:
  - (a) Provider's usual and customary charge for the hearing instrument battery; or
  - (b) Reimbursement established on the Kentucky Medicaid Audiology[Department for Medicaid Services Hearing Program] Fee Schedule as available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx> for the hearing instrument battery.
- (2)
  - (a) The department shall reimburse[s] reimbursement for hearing instrument batteries [shall be limited to fifty-two (52) batteries per hearing instrument][when dispensed with a:]
    - [(a)] [New hearing instrument; or]
    - [(b)] [Replacement hearing instrument].
  - (b) The department's reimbursement for hearing instrument batteries shall be consistent with manufacturer's recommendations and at regular intervals as necessary to ensure optimal functioning of the hearing instrument.

### Section 7. Replacement Cord Reimbursement. The department

## VOLUME 52, NUMBER 1– JULY 1, 2025

shall reimburse a participating audiologist or participating specialist in hearing instruments for a replacement cord at the lesser of the:

(1) Provider's usual and customary charge for the replacement cord; or

(2) Reimbursement established on the Kentucky Medicaid Audiology[Department for Medicaid Services-Hearing Program] Fee Schedule as available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx> for the replacement cord.

Section 8. Hearing Instrument Repair Reimbursement. The department shall reimburse a participating audiologist or participating specialist in hearing instruments for hearing instrument repair at the lesser of the:

(1) Provider's usual and customary charge for the hearing instrument repair; or

(2) Reimbursement established on the Kentucky Medicaid Audiology[Department for Medicaid Services-Hearing Program] Fee Schedule as available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx> for the hearing instrument repair.

Section 9. Not Applicable to Managed Care Organizations. A managed care organization shall not be required to reimburse the same amount as established in this administrative regulation for a service or item covered pursuant to 907 KAR 1:038 and this administrative regulation.

Section 10. Federal Approval and Federal Financial Participation. The department's reimbursement for services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the reimbursement; and

(2) Centers for Medicare and Medicaid Services' approval for the reimbursement.

Section 11. Appeals. A provider may appeal a department decision as to the application of this administrative regulation in accordance with 907 KAR 1:671.

[Section 12.] [Incorporation by Reference.]

[(1)] [The "Department for Medicaid Services-Hearing Program Fee Schedule", December 2013, is incorporated by reference.]

[(2)] [This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m. or online at the department's Web site at <http://www.chfs.ky.gov/dms/incorporated.htm>.]

FILED WITH LRC: June 10, 2025

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email [CHFSregs@ky.gov](mailto:CHFSregs@ky.gov).

### CABINET FOR HEALTH AND FAMILY SERVICES Department for Medicaid Services (As Amended at ARRS, June 10, 2025)

**907 KAR 3:100. Reimbursement for acquired brain injury waiver services.**

RELATES TO: KRS 205.5605(2), **205.5606**, 34 C.F.R. Subtitle B, Chapter III, 42 C.F.R. 441.300 - 310, 29 U.S.C. Chapter 16, 42 U.S.C. 1396a, b, d, n

STATUTORY AUTHORITY: KRS 194A.010(1), 194A.030(2)(3), 194A.050(1), 205.520(3)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, has the responsibility to administer the Medicaid program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's

indigent citizenry. This administrative regulation establishes the payment provisions relating to home - and community -based waiver services provided to an individual with an acquired brain injury as an alternative to nursing facility services for the purpose of rehabilitation and retraining for reentry into the community with existing resources.

#### Section 1. Definitions.

(1) "ABI" means an acquired brain injury.

(2) "ABI provider" means an entity that meets the provider criteria established in 907 KAR 3:090, Section 2.

(3) "ABI recipient" means an individual who meets the ABI recipient criteria established in 907 KAR 3:090, Section 3.

(4) "Acquired brain injury waiver service" or "ABI waiver service" means a home and community based waiver service provided to a Medicaid eligible individual who has acquired a brain injury.

(5) "Consumer" is defined by KRS 205.5605(2).

(6) "Consumer directed option" or "CDO" means an option established by KRS 205.5606 within the home and community based services waiver that allows recipients to:

(a) Assist with the design of their programs;

(b) Choose their providers of services; and

(c) Direct the delivery of services to meet their needs.

(7) "Department" means the Department for Medicaid Services or its designated agent.

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

Section 2. Coverage. The department shall reimburse a participating provider for an ABI waiver service if the service is:

(1) Provided to an ABI recipient;

(2) Prior authorized;

(3) Included in the recipient's plan of care;

(4) Medically necessary; and

(5) Essential for the rehabilitation and retraining of the recipient.

Section 3. Exclusions to Acquired Brain Injury Waiver Program. Under the ABI waiver program, the department shall not reimburse a provider for a service provided:

(1) To an individual who has a condition identified in 907 KAR 3:090, Section 5; or

(2) ~~That~~ Which has not been prior authorized as a part of the recipient's plan of care.

#### Section 4. Payment Amounts.

(1) A participating ABI waiver service provider shall be reimbursed a fixed rate for reasonable and medically necessary services for a prior-authorized unit of service provided to a recipient.

(2) A participating ABI waiver service provider certified in accordance with 907 KAR 3:090 shall be reimbursed at the lesser of:

(a) The provider's usual and customary charge; or

(b) The Medicaid ~~fixed upper payment limit~~ per unit of service as established in Section 5 of this administrative regulation.

#### Section 5. Base Payment Rate Table and Reimbursement Requirements. ~~[Fixed Upper Payment Limits.]~~

(1) The rates established in the following table shall establish the base payment rate for ABI waiver services:

[(1)] [Except as provided by subsection (2) of this section, the following respective rates shall be the fixed upper payment limits for the corresponding respective ABI waiver services in conjunction with the corresponding units of service and unit of service limits:]

Service	Unit	Base Rate Effective January 1, 2025
Adult Day Training	15-minute	\$4.88
Assessment & Reassessment	Per assessment	\$121.00
Behavior Programming	15-minute	\$40.67
Case Management	Per month	\$525.14
Companion	15-minute	\$6.73
Companion - PDS	15-minute	\$6.73
Counseling, Individual	15-minute	\$28.85

## VOLUME 52, NUMBER 1– JULY 1, 2025

<u>Counseling, Group</u>	<u>15-minute</u>	<u>\$6.96</u>
<u>Environmental <del>and/or</del> Minor Home Adaptation</u>	<u>Per year</u>	<u>Up to \$2,420.00</u>
<u>Financial Management Services</u>	<u>Per month</u>	<u>\$121.00</u>
<u>Occupational Therapy</u>	<u>15-minute</u>	<u>\$31.34</u>
<u>Personal Care</u>	<u>15-minute</u>	<u>\$6.73</u>
<u>Personal Care - PDS</u>	<u>15-minute</u>	<u>\$6.73</u>
<u>Respite</u>	<u>15-minute</u>	<u>\$5.92</u>
<u>Respite - PDS</u>	<u>15-minute</u>	<u>\$5.92</u>
<u>Speech Therapy</u>	<u>15-minute</u>	<u>\$34.38</u>
<u>Supervised Residential Care - Level I</u>	<u>Per day</u>	<u>\$300.00</u>
<u>Supervised Residential Care - Level II</u>	<u>Per day</u>	<u>\$225.00</u>
<u>Supervised Residential Care - Level III</u>	<u>Per day</u>	<u>\$112.50</u>
<u>Supported Employment</u>	<u>15-minute</u>	<u>\$10.54</u>
<u>Supported Employment - PDS</u>	<u>15-minute</u>	<u>\$10.54</u>

(2) Specialized medical equipment and supplies shall be reimbursed on a per-item basis based on a reasonable cost as negotiated by the department if the equipment or supply is:

(a) Not covered through the Medicaid durable medical equipment program established in 907 KAR 1:479; and

(b) Provided to an individual participating in the ABI waiver program.

(3) Respite care may exceed 336 hours in a twelve (12) month period if an individual's normal caregiver~~[care-giver]~~ is unable to provide care due to a death in the family, serious illness, or hospitalization.

(4) If an ABI recipient is placed in a nursing facility to receive respite care, the department shall pay the nursing facility its per diem rate for that individual.

(5) If supported employment services are provided at a work site in which persons without disabilities are employed, payment shall:

(a) Be made only for the supervision and training required as the result of the ABI recipient's disabilities; and

(b) Not include payment for supervisory activities normally rendered.

(6)

(a) The department shall only pay for supported employment services for an individual if supported employment services are unavailable under a program funded by either the Rehabilitation Act of 1973 (29 U.S.C. Chapter 16) or Pub.L. 94-142 (34 C.F.R. Subtitle B, Chapter III).

(b) For an individual receiving supported employment services, documentation shall be maintained in his or her record demonstrating that the services are not otherwise available under a program funded by either the Rehabilitation Act of 1973 (29 U.S.C. Chapter 16) or Pub.L. 94-142 (34 C.F.R. Subtitle B, Chapter III).

Section 6. Payment Exclusions. Payment shall not include:

(1) The cost of room and board, unless provided as part of respite care in a Medicaid certified nursing facility;

(2) The cost of maintenance, upkeep, an improvement, or an environmental modification to a group home or other licensed facility;

(3) Excluding an environmental modification, the cost of maintenance, upkeep, or an improvement to a recipient's place of residence;

(4) The cost of a service that is not listed in the recipient's approved plan of care; or

(5) A service provided by a family member.

Section 7. Records Maintenance. A participating provider shall:

(1) Maintain fiscal and service records for at least six (6) years;

(2) Provide, as requested by the department, a copy of, and access to, each record of the ABI waiver program retained by the provider pursuant to:

(a) Subsection (1) of this section; or

(b) 907 KAR 1:672; and

(3) Upon request, make available service and financial records

to a representative or designee of:

(a) The Commonwealth of Kentucky, Cabinet for Health and Family Services;

(b) The United States Department for Health and Human Services, Comptroller General;

(c) The United States Department for Health and Human Services, the Centers for Medicare and Medicaid Services (CMS);

(d) The General Accounting Office;

(e) The Commonwealth of Kentucky, Office of the Auditor of Public Accounts; or

(f) The Commonwealth of Kentucky, Office of the Attorney General.

Section 8. Appeal Rights. An ABI waiver~~[wavier]~~ provider may appeal department decisions as to the application of this administrative regulation as it impacts the provider's reimbursement in accordance with 907 KAR 1:671, Sections 8 and 9.

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

(1) Receipt of federal financial participation for the coverage; and

(2) Centers for Medicare and Medicaid Services' approval for the coverage.

FILED WITH LRC: June 10, 2025

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### CABINET FOR HEALTH AND FAMILY SERVICES Department for Medicaid Services (As Amended at ARRS, June 10, 2025)

#### 907 KAR 3:210. Acquired brain injury long-term care waiver services and reimbursement.

RELATES TO: KRS 17.165, 202A.011, 205.5605, 205.5607, 205.8451, 205.8477, 209.030, 314.011, 319.010~~(9)~~~~(8)~~, 319A.010, 319.056, 327.010, 334A.020, 335.300(2), 335.500(3), Chapter 369, 620.030, 42 C.F.R. 431.17, 435.905(b), 441 Subpart G, 455 Subpart B, 45 C.F.R. Parts 160, 161, 164, 42 U.S.C. 1396a, 1396b, 1396d, 1396n, 1320d-2

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.5606(1)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has the responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with a requirement that may be imposed, or opportunity presented, by federal law to qualify for federal Medicaid funds. KRS 205.5606(1) requires the cabinet to promulgate administrative regulations to establish a participant-directed services program to provide an option for the home and community-based services waivers. This administrative regulation establishes the coverage provisions relating to home- and community- based waiver services provided to an individual with an acquired brain injury as an alternative to nursing facility services and including a participant-directed services program pursuant to KRS 205.5606. The purpose of acquired brain injury long term care waiver services is to provide an alternative to institutional care to individuals with an acquired brain injury who require maintenance services.

Section 1. Definitions.

(1) "1915(c) home and community based services waiver program" means a Kentucky Medicaid program established pursuant to and in accordance with 42 U.S.C. 1396n(c).

(2) "ABI" means an acquired brain injury.

(3) "ABI provider" means an entity that meets the criteria established in Section 2 of this administrative regulation.

(4) "ABIB" means the Acquired Brain Injury Branch in the

Division of Community Alternatives, in the Cabinet for Health and Family Services.

(5) "Acquired brain injury long term care waiver service" means a home and community based waiver service for an individual who requires long term maintenance and has acquired a brain injury involving the central nervous system that resulted from:

- (a) An injury from a physical trauma;
- (b) Anoxia or a hypoxic episode; or
- (c) Allergic condition, toxic substance, or another acute medical incident.

(6) "ADHC services" means adult day health care services provided on a regularly scheduled basis that ensure optimal functioning of a participant who does not require twenty-four (24) hour care in an institutional setting.

(7) "Assessment" or "reassessment" means a comprehensive evaluation of abilities, needs, and services that:

- (a) Serves as the basis for a level of care determination;
- (b) Is completed on a MAP 351, Medicaid Waiver Assessment that is uploaded into the MWMA; and
- (c) Occurs at least once every twelve (12) months thereafter.

(8) "Axis I diagnosis" means a clinical disorder or other condition that[which] may be a focus of clinical attention.

(9) "Behavior intervention committee" or "BIC" means a group of individuals established to evaluate the technical adequacy of a proposed behavior intervention for a participant.

(10) "Blended services" means a nonduplicative combination of ABI waiver services identified in Section 6 of this administrative regulation and participant-directed services identified in Section 10 of this administrative regulation provided in accordance with the participant's approved person-centered service plan.

(11) "Board certified behavior analyst" means an independent practitioner who is certified by the Behavior Analyst Certification Board, Inc.

(12) "Case manager" means an individual who manages the overall development and monitoring of a participant's person-centered service plan.

(13) "Covered services and supports" is defined by KRS 205.5605(3).

(14) "Crisis prevention and response plan" means a plan developed to identify any potential risk to a participant and to detail a strategy to minimize the risk.

(15) "DCBS" means the Department for Community Based Services.

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

(17) "Family training" means providing to the family or other responsible person:

- (a) Interpretation or explanation of medical examinations and procedures;
- (b) Treatment regimens;
- (c) Use of equipment specified in the person-centered service plan; or
- (d) **Advice in [Advising the family]** how to assist the participant.

(18) "Good cause" means a circumstance beyond the control of an individual that[which] affects the individual's ability to access funding or services, including:

- (a) Illness or hospitalization of the individual that[which] is expected to last sixty (60) days or less;
- (b) Death or incapacitation of the primary caregiver;
- (c) Required paperwork and documentation for processing in accordance with Section 3 of this administrative regulation that has not been completed but is expected to be completed in two (2) weeks or less; or
- (d) The individual not having been accepted for services or placement by a potential provider despite the individual or individual's legal representative having made diligent contact with the potential provider to secure placement or access services within sixty (60) days.

(19) "Human rights committee" means a group of individuals established to protect the rights and welfare of a participant.

(20) "Human rights restriction" means the denial of a basic right or freedom to which all humans are entitled, including the right to life and physical safety, civil and political rights, freedom of expression,

equality before the law, social and cultural justice, the right to participate in culture, the right to food and water, the right to work, and the right to education.

(21) "Licensed marriage and family therapist" or "LMFT" is defined by KRS 335.300(2).

(22) "Licensed medical professional" means:

- (a) A physician;
- (b) An advanced practice registered nurse;
- (c) A physician assistant;
- (d) A registered nurse;
- (e) A licensed practical nurse; or
- (f) A pharmacist.

(23) "Licensed practical nurse" or "LPN" means a person who:

- (a) Meets the definition of KRS 314.011(9); and
- (b) Works under the supervision of a registered nurse.

(24) "Licensed professional clinical counselor" or "LPCC" is defined by KRS 335.500(3).

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

(26) "MWMA" means the Kentucky Medicaid Waiver Management Application internet portal located at <https://www.chfs.ky.gov/agencies/dms/dca/Pages/mwma.aspx> [<http://chfs.ky.gov/dms/mwma.htm>].

(27) "Nursing supports" means training and monitoring of services by a registered nurse or a licensed practical nurse.

(28) "Occupational therapist" is defined by KRS 319A.010(3).

(29) "Occupational therapy assistant" is defined by KRS 319A.010(4).

(30) "Participant" means an individual who meets the criteria established in Section 3 of this administrative regulation.

(31) "Participant-directed services" or "PDS" means an option established by KRS 205.5606 within the 1915(c) home and community based service waiver programs that[which] allows participants to receive non-medical services in which the individual:

- (a) Assists with the design of the program;
- (b) Chooses the providers of services; and
- (c) Directs the delivery of services to meet their needs.

(32) "Person-centered service plan" means a written individualized plan of services for a participant that meets the requirements established in Section 4 of this administrative regulation.

(33) "Person-centered team" means the participant, the participant's guardian or representative, and other individuals who are natural or paid supports, and who:

(a) Recognize that evidenced based decisions are determined within the basic framework of what is important for the participant and within the context of what is important to the participant based on informed choice;

(b) Work together to identify what roles they will assume to assist the participant in becoming as independent as possible in meeting the participant's needs; and

(c) Include providers who receive payment for services who shall:

1. Be active contributing members of the person centered team meetings;
2. Base their input upon evidence-based information; and
3. Not request reimbursement for person centered team meetings.

(34) "Physical therapist" is defined by KRS 327.010(2).

(35) "Physical therapist assistant" means a skilled health care worker who:

- (a) Is certified by the Kentucky Board of Physical Therapy; and
- (b) Performs physical therapy and related duties as assigned by the supervising physical therapist

(36) "Pro re nata" or "PRN" means as needed.

(37) "Psychologist" is defined by KRS 319.010(9)(8).

(38) "Psychologist with autonomous functioning" means an individual who is licensed in accordance with KRS 319.056.

(39) "Qualified mental health professional" is defined by KRS 202A.011(13)(42).

(40) "Registered nurse" or "RN" means a person who:

- (a) Meets the definition established in KRS 314.011(5); and

- (b) Has one (1) year or more experience as a professional nurse.
- (41) "Representative" is defined by KRS 205.5605(6).
- (42) "Speech-language pathologist" is defined by KRS 334A.020(9)[(3)].
- (43) "Support broker" means an individual designated by the department to:
  - (a) Provide training, technical assistance, and support to a participant; and
  - (b) Assist a participant in any other aspects of participant-directed services.

Section 2. Non-PDS Provider Participation Requirements.

(1) In order to provide an ABI waiver service in accordance with Section 4 of this administrative regulation, excluding a participant-directed service, an ABI provider shall:

- (a) Be enrolled as a Medicaid provider in accordance with 907 KAR 1:671;
- (b) Be located within an office in the Commonwealth of Kentucky; and
- (c)
  - 1. Be a licensed provider in accordance with:
    - a. 902 KAR 20:066, if an adult day health care provider;
    - b. 902 KAR 20:081, if a home health service provider; or
    - c. 902 KAR 20:091, if a community mental health center; or
  - 2. Be certified by the department in accordance with 907 KAR 12:010, Section 3, or 907 KAR 3:090, Section 2, if a provider type is not listed in subparagraph 1. of this paragraph; and
- (d) Complete and submit a MAP-4100a to the department.
- (2) An ABI provider shall comply with:
  - (a) 907 KAR 1:671;
  - (b) 907 KAR 1:672;
  - (c) 907 KAR 1:673;
  - (d) 907 KAR 7:005;
- (e) The Health Insurance Portability and Accountability Act, 42 U.S.C. 1320d-2, and 45 C.F.R. Parts 160, 162, and 164; and
- (f) 42 U.S.C. 1320d to 1320d-8.
- (3) An ABI provider shall have a governing body that shall be:
  - (a) A legally-constituted entity within the Commonwealth of Kentucky; and
  - (b) Responsible for the overall operation of the organization including establishing policy that complies with this administrative regulation concerning the operation of the agency and the health, safety, and welfare of a participant served by the agency.
- (4) An ABI provider shall:
  - (a) Unless providing participant-directed services, ensure that an ABI waiver service is not provided to a participant by a staff member of the ABI provider who has one (1) of the following blood relationships to the participant:
    - 1. Child;
    - 2. Parent;
    - 3. Sibling; or
    - 4. Spouse;
  - (b) Not enroll a participant for whom the ABI provider cannot meet the service needs; and
  - (c) Have and follow written criteria in accordance with this administrative regulation for determining the eligibility of an individual for admission to services.
- (5) An ABI provider shall meet the following requirements if responsible for the management of a participant's funds:
  - (a) Separate accounting shall be maintained for each participant or for the participant's interest in a common trust or special account;
  - (b) Account balance and records of transactions shall be provided to the participant or legal representative on a quarterly basis; and
  - (c) The participant or legal representative shall be notified if a large balance is accrued that may affect Medicaid eligibility.
- (6) An ABI provider shall have a written statement of its mission and values.
- (7) An ABI provider shall have written policies and procedures for communication and interaction with a family and legal representative of a participant that/which shall:
  - (a) Require a timely response to an inquiry;
  - (b) Require the opportunity for interaction with direct care staff;

- (c) Require prompt notification of any unusual incident;
- (d) Permit visitation with the participant at a reasonable time and with due regard for the participant's right of privacy;
- (e) Require involvement of the legal representative in decision-making regarding the selection and direction of the service provided; and
- (f) Consider the cultural, educational, language, and socioeconomic characteristics of the participant.
- (8)
  - (a) An ABI provider shall have written policies and procedures for all settings that assure the participant has:
    - 1. Rights of privacy, dignity, respect, and freedom from coercion and restraint; and
    - 2. Freedom of choice:
      - a. As defined by the experience of independence, individual initiative, or autonomy in making life choices, both in small everyday matters (what to eat or what to wear), and in large, life-defining matters (where and with whom to live and work); and
      - b. Including the freedom to choose:
        - (i) Services;
        - (ii) Providers;
        - (iii) Settings from among setting options including non-disability specific settings; and
        - (iv) Where to live with as much independence as possible and in the most community-integrated environment.
  - (b) The setting options and choices shall be:
    - 1. Identified and documented in the person-centered service plan; and
    - 2. Based on the participant's needs and preferences.
  - (c) For a residential setting, the resources available for room and board shall be documented in the person-centered service plan.
- (9) An ABI provider shall have written policies and procedures for residential settings that assure the participant has:
  - (a) Privacy in the sleeping unit and living unit in a residential setting;
  - (b) An option for a private unit in a residential setting;
  - (c) A unit with lockable entrance doors and with only the participant and appropriate staff having keys to those doors;
  - (d) A choice of roommate or housemate;
  - (e) The freedom to furnish or decorate the sleeping or living units within the lease or other agreement;
  - (f) Visitors of the participant's choosing at any time and access to a private area for visitors; and
  - (g) Physical accessibility, defined as being easy to approach, enter, operate, or participate in a safe manner and with dignity by a person with or without a disability.
    - 1. Settings considered to be physically accessible shall also meet the Americans with Disabilities Act standards of accessibility for all participants served in the setting.
    - 2. All communal areas shall be accessible to all participants as well as have a means to enter the building (i.e. keys, security codes, etc.).
    - 3. Bedrooms shall be accessible to the appropriate persons.
    - 4.
      - a. Any modification of an additional residential condition except for the setting being physically accessible requirement shall be supported by a specific assessed need and justified in the participant's person-centered service plan.
      - b. Regarding a modification, the following shall be documented in a participant's person-centered service plan:
        - (i) That the modification is the result of an identified specific and individualized assessed need;
        - (ii) Any positive intervention or support used prior to the modification;
        - (iii) Any less intrusive method of meeting the participant's need that was tried but failed;
        - (iv) A clear description of the condition that is directly proportionate to the specific assessed need;
        - (v) Regular collection and review of data used to measure the ongoing effectiveness of the modification;
        - (vi) Time limits established for periodic reviews to determine if the modification remains necessary or should be terminated;
        - (vii) Informed consent by the participant or participant's

representative for the modification; and

(viii) An assurance that interventions and supports will cause no harm to the participant.

(10) An ABI provider shall cooperate with monitoring visits from monitoring agents.

(11) An ABI provider shall maintain a record for each participant served that shall:

(a) Be recorded in permanent ink;

(b) Be free from correction fluid;

(c) Have a strike through for each error that[which] is initiated and dated; and

(d) Contain no blank lines between each entry.

(12) A record of each participant who is served shall:

(a) Be cumulative;

(b) Be readily available;

(c) Contain a legend that identifies any symbol or abbreviation used in making a record entry;

(d) Contain the following specific information:

1. The participant's name and Medical Assistance Identification Number (MAID);

2. An assessment summary relevant to the service area;

3. The person-centered service plan;

4. The crisis prevention and response plan that shall include:

a. A list containing emergency contact telephone numbers; and

b. The participant's history of any allergies with appropriate allergy alerts for severe allergies;

5. The training objective for any service that[which] provides skills training to the participant;

6. The participant's medication record, including a copy of the prescription or the signed physician's order and the medication log if medication is administered at the service site;

7. Legally-adequate consent for the provision of services or other treatment including consent for emergency attention that[which] shall be located at each service site;

8. The MAP-350, Long Term Care Facilities and Home and Community Based Program Certification Form updated at recertification; and

9. Current level of care certification;

(e) Be maintained by the provider in a manner to ensure the confidentiality of the participant's record and other personal information and to allow the participant or legal representative to determine when to share the information;

(f) Be secured against loss, destruction, or use by an unauthorized person ensured by the provider; and

(g) Be available to the participant or legal guardian according to the provider's written policy and procedures that[which] shall address the availability of the record.

(13) An ABI provider:

(a) Shall ensure that each new staff person or volunteer performing direct care or a supervisory function has had a tuberculosis (TB) risk assessment performed by a licensed medical professional and, if indicated, a TB skin test with a negative result within the past twelve (12) months as documented on test results received by the provider;

(b) Shall maintain documentation of the annual TB risk assessment or negative TB test result described in paragraph (a) of this subsection for:

1. Existing staff; or

2. A volunteer, if the volunteer performs direct care or a supervisory function;

(c) Shall ensure that an employee or volunteer who tests positive for TB, or has a history of a positive TB skin test, shall be assessed annually by a licensed medical professional for signs or symptoms of active disease;

(d) Shall if it is determined that signs and symptoms of active TB are present, ensure that the employee or volunteer has follow-up testing administered by the employee's or volunteer's physician and that the follow-up test results indicate the employee or volunteer does not have active TB disease;

(e) Shall not permit an individual to work for or volunteer for the provider if the individual has TB or symptoms of active TB;

(f) Shall maintain documentation for an employee or volunteer with a positive TB test to ensure that active disease or symptoms of

active disease are not present;

(g)

1. Shall:

a. Prior to the employee's date of hire or the volunteer's date of service, obtain the results of:

(i) A criminal record check from the Administrative Office of the Courts or the equivalent out-of-state agency if the individual resided, worked, or volunteered outside Kentucky during the year prior to employment or volunteer service in Kentucky;

(ii) A Nurse Aide Abuse Registry check as established[described] in 906 KAR 1:100; and

(iii) A Vulnerable Adult Maltreatment[Caregiver Misconduct] Registry check as established[described] in 922 KAR 5:120; and

b. Within thirty (30) days of the date of hire or service as a volunteer, obtain the results of a Central Registry check as established[described] in 922 KAR 1:470; or

2. May use Kentucky's national background check program established by 906 KAR 1:190 to satisfy the background check requirements of subparagraph 1 of this paragraph;

(h) Shall annually, for twenty-five (25) percent of employees randomly selected, obtain the results of a criminal record check from:

1. The Kentucky Administrative Office of the Courts; or

2. The equivalent out-of-state agency, if the individual resided or worked outside of Kentucky during the year prior to employment;

(i) Shall evaluate and document the performance of each employee upon completion of the agency's designated probationary period, and at a minimum, annually thereafter;

(j) Conduct and document periodic and regularly scheduled supervisory visits of all professional and paraprofessional direct service staff at the service site in order to ensure that high quality, appropriate services are provided to the participant;

(k) Not employ or permit an individual to serve as a volunteer performing direct care or a supervisory function, if the individual has a prior conviction of an offense established[delineated] in KRS 17.165(1) through (3) or prior felony conviction;

(l) Not permit an employee or volunteer to transport a participant, if the employee or volunteer has a conviction of Driving under the Influence (DUI) during the past year;

(m) Not employ or permit an individual to serve as a volunteer performing direct care or a supervisory function, if the individual has a conviction of abuse or sale of illegal drugs during the past five (5) years;

(n) Not employ or permit an individual to serve as a volunteer performing direct care or a supervisory function, if the individual has a conviction of abuse, neglect, or exploitation;

(o) Not employ or permit an individual to serve as a volunteer performing direct care or a supervisory function, if the individual has a Cabinet for Health and Family Services finding of:

1. Child abuse or neglect pursuant to the Central Registry; or

2. Adult abuse, neglect, or exploitation pursuant to the Vulnerable Adult Maltreatment[Caregiver Misconduct] Registry; and

(p) Not employ or permit an individual to serve as a volunteer performing direct care or a supervisory function, if the individual is listed on the:

1. Nurse Aide Abuse Registry pursuant to 906 KAR 1:100; or

2. Vulnerable Adult Maltreatment[Kentucky Caregiver Misconduct] Registry pursuant to 922 KAR 5:120.

(14) An ABI provider shall:

(a) Have an executive director who:

1. Is qualified with a bachelor's degree from an accredited institution in administration or a human services field; and

2. Has a minimum of one (1) year of administrative responsibility in an organization that[which] served an individual with a disability; and

(b) Have adequate direct contact staff who:

1. Is eighteen (18) years of age or older and has a high school diploma or GED; and

2. Has a minimum of two (2) years of experience in providing a service to an individual with a disability or has successfully completed a formalized training program approved by the department.

## VOLUME 52, NUMBER 1– JULY 1, 2025

(15) An ABI provider shall establish written guidelines that[which]:

- (a) Ensure the health, safety, and welfare of the participant;
- (b) Address maintenance of sanitary conditions;
- (c) Ensure each site operated by the provider is equipped with:
  1. Operational smoke detectors placed in strategic locations;

and

2. A minimum of two (2) correctly charged fire extinguishers placed in strategic locations, one (1) of which shall be capable of extinguishing a grease fire and with a rating of 1A10BC;

(d) Ensure the availability of a supply of hot and cold running water with the water temperature at a tap, for water used by the participant, not exceeding 120 degrees Fahrenheit, for a Supervised Residential Care, Adult Day Training, or Adult Day Health provider;

(e) Ensure that the nutritional needs of the participant are met in accordance with the current recommended dietary allowance of the Food and Nutrition Board of the National Research Council or as specified by a physician;

(f) Ensure that staff who supervise waiver participants in medication administration:

1. Unless the employee is a licensed or registered nurse, have been provided specific training by a licensed medical professional and competency has been documented on cause and effect and proper administration and storage of medication; and

2. Document on a medication log all medication administered, including:

- a. Self-administered and over-the-counter drugs; and
- b. The date, time, and initials of the person who administered the medication;

(g) Ensure that the medication shall be:

1. Kept in a locked container;
2. Kept under double lock if it is a controlled substance;
3. Carried in a proper container labeled with medication, dosage, and time of administration, if administered to the participant or self-administered at a program site other than the participant's residence;
4. Documented on a medication administration form; and
5. Properly disposed of if it is discontinued; and

(h) Establish policy and procedures for monitoring of medication administration, which shall be approved by the department before services begin to ensure that medication administration will be properly monitored under the policies and procedures as approved by the department.

(16) An ABI provider shall establish and follow written guidelines for handling an emergency or a disaster that[which] shall:

- (a) Be readily accessible on site;
- (b) Include an evacuation drill:
  1. To be conducted and documented at least quarterly; and
  2. For a residential setting, scheduled to include a time when a participant is asleep;

(c) Mandate:

1. That the result of an evacuation drill be evaluated and modified as needed; and

2. That results of the prior years' evacuation drills be maintained on site.

(17) An ABI provider shall:

(a) Provide orientation for each new employee that[which] shall include the agency's:

1. Mission;
2. Goals;
3. Organization; and
4. Policies and procedures;

(b) Require documentation of all training provided, which shall include the:

1. Type of training;
2. Name and title of the trainer;
3. Length of the training;
4. Date of completion; and
5. Signature of the trainee verifying completion;

(c) Ensure that each employee completes ABI training consistent with the curriculum that has been approved by the department, prior to working independently with a participant, which shall include:

1. Required orientation in brain injury;
2. Identifying and reporting:
  - a. Abuse;
  - b. Neglect; and
  - c. Exploitation;
3. Unless the employee is a licensed or registered nurse, first aid provided by an individual certified as a trainer by:
  - a. The American Red Cross; or
  - b. Other nationally accredited organization; and
4. Coronary pulmonary resuscitation provided by an individual certified as a trainer by:
  - a. The American Red Cross; or
  - b. Other nationally accredited organization;
- (d) Ensure that each employee completes six (6) hours of continuing education in brain injury annually, following the first year of service;
- (e) Not be required to receive the training specified in paragraph (c)1 of this subsection if the provider is a professional who has, within the prior five (5) years, attained 2,000 hours of experience providing services to a person with a primary diagnosis of a brain injury including:

1. An occupational therapist or occupational therapy assistant providing occupational therapy;
2. A psychologist or psychologist with autonomous functioning providing psychological services;
3. A speech-language pathologist providing speech therapy;
4. A board certified behavior analyst; or
5. A physical therapist or physical therapist assistant providing physical therapy; and

(f) Ensure that prior to the date of service as a volunteer, an individual receives training that[which] shall include:

1. Required orientation in brain injury as specified in paragraph (c)1, 2, 3, and 4 of this subsection;
2. Orientation to the agency;
3. A confidentiality statement; and
4. Individualized instruction on the needs of the participant to whom the volunteer shall provide services.

(18) An ABI provider shall provide information to a case manager necessary for completion of a Mayo-Portland Adaptability Inventory-4 for each participant served by the provider.

### Section 3. Participant Eligibility, Enrollment, and Termination.

(1)

(a) To be eligible to receive a service in the ABI long term care waiver program, an individual shall:

1. Be at least eighteen (18) years of age;
2. Have an ABI that[which] necessitates:
  - a. Supervision;
  - b. Rehabilitative services; and
  - c. Long term supports;
3. Have an ABI that involves:
  - a. Cognition;
  - b. Behavior; or
  - c. Physical function; and
4. Be screened by the department for the purpose of making a preliminary determination of whether the individual might qualify for ABI waiver services.

(b) In addition to the individual meeting the requirements established in paragraph (a) of this subsection, the individual or a representative on behalf of the individual shall:

1. Apply for 1915(c) home and community based waiver services via the MWMA; and
2. Complete and upload into the MWMA a MAP - 115 Application Intake - Participant Authorization.

(2) The department shall utilize a first come, first serve priority basis to enroll an individual who meets the eligibility criteria established in this section.

(3) If funding is not available, an individual shall be placed on the ABI long term care waiver waiting list in accordance with Section 9 of this administrative regulation.

(4)

(a) A certification packet shall be entered into the MWMA by a case manager or support broker on behalf of the applicant.



(b) The packet shall contain:

1. A copy of the allocation letter sent to the applicant at the time funding was allocated for the applicant's participation in the ABI Long Term Care Waiver program;
2. A MAP-351, Medicaid Waiver Assessment;
3. A statement of the need for ABI long term care waiver services ~~that~~*which* shall be signed and dated by a physician on a MAP 10, Waiver Services Physician's Recommendation form;
4. A MAP-350, Long Term Care Facilities and Home and Community Based Program Certification Form; and
5. A person-centered service plan.

(5) An individual shall receive notification of potential funding allocated for the ABI long term care waiver services for the individual in accordance with this section.

(6) An individual shall meet the patient status criteria for nursing facility services established in 907 KAR 1:022, including nursing facility services for a brain injury.

(7) An individual shall:

- (a) Have a primary diagnosis that indicates an ABI with structural, non-degenerative brain injury;
- (b) Be medically stable;
- (c) Meet Medicaid eligibility requirements established in 907 KAR 20:010;
- (d) Exhibit:
  1. Cognitive damage;
  2. Behavioral damage;
  3. Motor damage; or
  4. Sensory damage;
- (e) Have a rating of at least four (4) or above on the Family Guide to the Rancho Levels of Cognitive Functioning; and
- (f) Receive notification of approval from the department.

(8) The basis of an eligibility determination for participation in the ABI long term care waiver program shall be the:

- (a) Presenting problem;
- (b) Person-centered service plan;
- (c) Expected benefit of the admission;
- (d) Expected outcome;
- (e) Service required; and
- (f) Cost effectiveness of service delivery as an alternative to nursing facility and nursing facility brain injury services.

(9) An ABI long term care waiver service shall not be furnished to an individual if the individual is:

- (a) An inpatient of a hospital, nursing facility, or an intermediate care facility for individuals with an intellectual disability; or
- (b) Receiving a service in another 1915(c) home and community based services waiver program.

(10) The department shall make:

- (a) An initial evaluation to determine if an individual meets the nursing facility level of care criteria established in 907 KAR 1:022; and
- (b) A determination of whether to admit an individual into the ABI long term care waiver program.

(11) To maintain eligibility as a participant:

- (a) An individual shall maintain Medicaid eligibility requirements established in 907 KAR 20:010;
- (b) A reevaluation shall be conducted at least once every twelve (12) months to determine if the individual continues to meet the patient status criteria for nursing facility services established in 907 KAR 1:022; and
- (c) Progress toward outcomes identified in the approved person-centered service plan shall not be required.

(12) The department shall exclude an individual from receiving an ABI long term care waiver service for whom the average cost of ABI waiver service is reasonably expected to exceed the cost of a nursing facility service.

(13) Involuntary termination and loss of an ABI long term care waiver program placement shall be in accordance with 907 KAR 1:563 and shall be initiated if:

- (a) An individual fails to initiate an ABI long term care waiver service within sixty (60) days of notification of potential funding without good cause shown. The individual or legal representative shall have the burden of providing documentation of good cause, including:

1. A statement signed by the participant or legal representative;
2. Copies of letters to providers; and
3. Copies of letters from providers;

(b) A participant or legal representative fails to access the required service as outlined in the person-centered service plan for a period greater than sixty (60) consecutive days without good cause shown.

1. The participant or legal representative shall have the burden of providing documentation of good cause including:
  - a. A statement signed by the participant or legal representative;
  - b. Copies of letters to providers; and
  - c. Copies of letters from providers.
2. Upon receipt of documentation of good cause, the department shall grant one (1) extension period, which shall not exceed sixty (60) days, to the participant during which time period the participant shall initiate the ABI long term care waiver services or access the required services as outlined in the person-centered service plan. The extension shall be in writing;
- (c) A participant changes residence outside the Commonwealth of Kentucky;
- (d) A participant does not meet the patient status criteria for nursing facility services established in 907 KAR 1:022;
- (e) A participant is no longer able to be safely served in the community; or
- (f) A participant is no longer actively participating in services within the approved person-centered service plan as determined by the person-centered team.

(14) Involuntary termination of a service to a participant by an ABI provider shall require:

- (a) Simultaneous notice, which shall:
  1. Be sent at least thirty (30) days prior to the effective date of the action, to the:
    - a. Department;
    - b. Participant or legal representative; and
    - c. Case manager; and
  2. Include:
    - a. A statement of the intended action;
    - b. The basis for the intended action;
    - c. The authority by which the action is taken; and
    - d. The participant's right to appeal the intended action through the provider's appeal or grievance process; and
- (b) The case manager in conjunction with the provider to:
  1. Provide the participant with the name, address, and telephone number of each current ABI provider in the state;
  2. Provide assistance to the participant in making contact with another ABI provider;
  3. Arrange transportation for a requested visit to an ABI provider site;
  4. Provide a copy of pertinent information to the participant or legal representative;
  5. Ensure the health, safety, and welfare of the participant until an appropriate placement is secured;
  6. Continue to provide supports until alternative services or another placement is secured; and
  7. Provide assistance to ensure a safe and effective service transition.

(15) Voluntary termination and loss of an ABI long term care waiver program placement shall be initiated if a participant or legal representative submits a written notice of intent to discontinue services to the service provider and to the department.

- (a) An action to terminate services shall not be initiated until thirty (30) calendar days from the date of the notice.
- (b) The participant or legal representative may reconsider and revoke the notice in writing during the thirty (30) calendar day period.

#### Section 4. Person-centered Service Plan Requirements.

- (1) A person-centered service plan shall be established:
  - (a) For each participant; and
  - (b) By the participant's person-centered service plan team.
- (2) A participant's person-centered service plan shall:
  - (a) Be developed by:
    1. The participant, the participant's guardian, or the participant's representative;

2. The participant's case manager;
3. The participant's person-centered team; and
4. Any other individual chosen by the participant if the participant chooses any other individual to participate in developing the person-centered service plan;
- (b) Use a process that:
  1. Provides the necessary information and support to empower the participant, the participant's guardian, or participant's legal representative to direct the planning process in a way that empowers the participant to have the freedom and support to control the participant's schedules and activities without coercion or restraint;
  2. Is timely and occurs at times and locations convenient for the participant;
  3. Reflects cultural considerations of the participant;
  4. Provides information:
    - a. Using plain language in accordance with 42 C.F.R. 435.905(b); and
    - b. In a way that is accessible to an individual with a disability or who has limited English proficiency;
  5. Offers an informed choice defined as a choice from options based on accurate and thorough knowledge and understanding to the participant regarding the services and supports to be received and from whom;
  6. Includes a method for the participant to request updates to the person-centered service plan as needed;
  7. Enables all parties to understand how the participant:
    - a. Learns;
    - b. Makes decisions; and
    - c. Chooses to live and work in the participant's community;
  8. Discovers the participant's needs, likes, and dislikes;
  9. Empowers the participant's person-centered team to create a person-centered service plan that:
    - a. Is based on the participant's:
      - (i) Assessed clinical and support needs;
      - (ii) Strengths;
      - (iii) Preferences; and
      - (iv) Ideas;
    - b. Encourages and supports the participant's:
      - (i) Rehabilitative needs;
      - (ii) Habilitative needs; and
      - (iii) Long term satisfaction;
    - c. Is based on reasonable costs given the participant's support needs;
    - d. Includes:
      - (i) The participant's goals;
      - (ii) The participant's desired outcomes; and
      - (iii) Matters important to the participant;
    - e. Includes a range of supports including funded, community, and natural supports that shall assist the participant in achieving identified goals;
    - f. Includes:
      - (i) Information necessary to support the participant during times of crisis; and
      - (ii) Risk factors and measures in place to prevent crises from occurring;
    - g. Assists the participant in making informed choices by facilitating knowledge of and access to services and supports;
    - h. Records the alternative home and community-based settings that were considered by the participant;
    - i. Reflects that the setting in which the participant resides was chosen by the participant;
    - j. Is understandable to the participant and to the individuals who are important in supporting the participant;
    - k. Identifies the individual or entity responsible for monitoring the person-centered service plan;
    - l. Is finalized and agreed to with the informed consent of the participant or participant's legal representative in writing with signatures by each individual who will be involved in implementing the person-centered service plan;
    - m. Shall be distributed to the individual and other people involved in implementing the person-centered service plan;
    - n. Includes those services that[which] the individual elects to self-direct; and

- o. Prevents the provision of unnecessary or inappropriate services and supports; and
- (c) Includes in all settings the ability for the participant to:
  1. Have access to make private phone calls, texts, or emails at the participant's preference or convenience; and
  2.
    - a. Choose when and what to eat;
    - b. Have access to food at any time;
    - c. Choose with whom to eat or whether to eat alone; and
    - d. Choose appropriating clothing according to the:
      - (i) Participant's preference;
      - (ii) Weather; and
      - (iii) Activities to be performed.
  - (3) If a participant's person-centered service plan includes ADHC services, the ADHC services plan of treatment shall be addressed in the person-centered service plan.
  - (4)
    1. A participant's person-centered service plan shall be:
      - a. Entered into the MWMA by the participant's case manager; and
      2. Updated in the MWMA by the participant's case manager.
    - (b) A participant or participant's authorized representative shall complete and upload into the MWMA a MAP - 116 Service Plan – Participant Authorization prior to or at the time the person-centered service plan is uploaded into the MWMA.

#### Section 5. Case Management Requirements.

- (1) A case manager shall:
  - (a)
    1. Be a registered nurse;
    2. Be a licensed practical nurse; or
    3. Be an individual with a bachelor's degree or master's degree in a human services field who meets all applicable requirements of his or her particular field including a degree in:
      - a. Psychology;
      - b. Sociology;
      - c. Social work;
      - d. Rehabilitation counseling; or
      - e. Occupational therapy;
  - (b)
    1. Be independent as defined as not being employed by an agency that is providing ABI waiver services to the participant; or
    2. Be employed by or work under contract with a free-standing case management agency; and
    - (c) Have completed case management training that is consistent with the curriculum that has been approved by the department prior to providing case management services.
- (2) A case manager shall:
  - (a) Communicate in a way that ensures the best interest of the participant;
  - (b) Be able to identify and meet the needs of the participant;
  - (c)
    1. Be competent in the participant's language either through personal knowledge of the language or through interpretation; and
    2. Demonstrate a heightened awareness of the unique way in which the participant interacts with the world around the participant;
  - (d) Ensure that:
    1. The participant is educated in a way that addresses the participant's:
      - a. Need for knowledge of the case management process;
      - b. Personal rights; and
      - c. Risks and responsibilities as well as awareness of available services; and
    2. All individuals involved in implementing the participant's person-centered service plan are informed of changes in the scope of work related to the person-centered service plan as applicable;
  - (e) Have a code of ethics to guide the case manager in providing case management that[which] shall address:
    1. Advocating for standards that promote outcomes of quality;
    2. Ensuring that no harm is done;
    3. Respecting the rights of others to make their own decisions;
    4. Treating others fairly; and
    5. Being faithful and following through on promises and

commitments;

(f)

1. Lead the person-centered service planning team; and
2. Take charge of coordinating services through team meetings with representatives of all agencies involved in implementing a participant's person-centered service plan;

(g)

1. Include the participant's participation or legal representative's participation in the case management process; and
2. Make the participant's preferences and participation in decision making a priority;

(h) Document:

1. A participant's interactions and communications with other agencies involved in implementing the participant's person-centered service plan; and
2. Personal observations;

- (i) Advocate for a participant with service providers to ensure that services are delivered as established in the participant's person-centered service plan;
- (j) Be accountable to:

1. A participant to whom the case manager provides case management in ensuring that the participant's needs are met;
2. A participant's person-centered service plan team and provide leadership to the team and follow through on commitments made; and
3. The case manager's employer by following the employer's policies and procedures;

- (k) Stay current regarding the practice of case management and case management research;
- (l) Assess the quality of services, safety of services, and cost effectiveness of services being provided to a participant in order to ensure that implementation of the participant's person-centered service plan is successful and done so in a way that is efficient regarding the participant's financial assets and benefits;

- (m) Document services provided to a participant by entering the following into the MWMA:

1. A monthly department-approved person centered monitoring tool; and
2. A monthly entry that[which] shall include:
  - a. The month and year for the time period the note covers;
  - b. An analysis of progress toward the participant's outcome or outcomes;
  - c. Identification of barriers to achievement of outcomes;
  - d. A projected plan to achieve the next step in achievement of outcomes;
  - e. The signature and title of the case manager completing the note; and
  - f. The date the note was generated;

(n) Document via an entry into the MWMA if a participant is:

1. Admitted to the ABI long term care waiver program;
2. Terminated from the ABI long-term care waiver program;
3. Temporarily discharged from the ABI long term care waiver program;
4. Admitted to a hospital;
5. Admitted to a nursing facility;
6. Changing the primary ABI provider;
7. Changing the case management agency;
8. Transferred to another Medicaid 1915(c) home and community based waiver service program; or
9. Relocated to a different address; and

- (o) Provide information about participant-directed services to the participant or the participant's guardian:

1. At the time the initial person-centered service plan is developed; and
2. At least annually thereafter and upon inquiry from the participant or participant's guardian.

(3) A case management provider shall:

(a) Establish a human rights committee that[which] shall:

1. Include an:

- a. Individual with a brain injury or a family member of an individual with a brain injury;
- b. Individual not affiliated with the ABI provider; and
- c. Individual who has knowledge and experience in human rights

issues;

2. Review and approve each person-centered service plan with human rights restrictions at a minimum of every six (6) months;
3. Review and approve, in conjunction with the participant's team, behavior intervention plans that contain human rights restrictions; and

4. Review the use of a psychotropic medication by a participant without an Axis I diagnosis; and

(b) Establish a behavior intervention committee that[which] shall:

1. Include one (1) individual who has expertise in behavior intervention and is not the behavior specialist who wrote the behavior intervention plan;
2. Be separate from the human rights committee; and

3. Review and approve, prior to implementation and at a minimum of every six (6) months in conjunction with the participant's team, an intervention plan that includes highly restrictive procedures or contain human rights restrictions; and

(c) Complete and submit a Mayo-Portland Adaptability Inventory-4 to the department for each participant:

1. Within thirty (30) days of the participant's admission into the ABI program;
2. Annually thereafter; and

3. Upon discharge from the ABI waiver program.

(4)

(a) Case management for any participant who begins receiving ABI waiver services after the effective date of this administrative regulation shall be conflict free.

(b)

1. Conflict free case management shall be a scenario in which a provider including any subsidiary, partnership, not-for-profit, or for-profit business entity that has a business interest in the provider who renders case management to a participant shall not also provide another 1915(c) home and community based waiver service to that same participant unless the provider is the only willing and qualified ABI waiver services provider within thirty (30) miles of the participant's residence.
2. An exemption to the conflict free case management requirement shall be granted if:

- a. A participant requests the exemption;
- b. The participant's case manager provides documentation of evidence to the department, that there is a lack of a qualified case manager within thirty (30) miles of the participant's residence;
- c. The participant or participant's representative and case manager signs a completed MAP - 531 Conflict-Free Case Management Exemption; and
- d. The participant, participant's representative, or case manager uploads the completed MAP - 531 Conflict-Free Case Management Exemption into the MWMA.

3. If a case management service is approved to be provided despite not being conflict free, the case management provider shall document conflict of interest protections, separating case management and service provision functions within the provider entity and demonstrate that the participant is provided with a clear and accessible alternative dispute resolution process.
4. An exemption to the conflict free case management requirement shall be requested upon reassessment or at least annually.

(c) A participant who receives ABI waiver services prior to the effective date of this administrative regulation shall transition to conflict free case management when the participant's next level of care determination occurs.

(d) During the transition to conflict free case management, any case manager providing case management to a participant shall educate the participant and members of the participant's person-centered team of the conflict free case management requirement in order to prepare the participant to decide, if necessary, to change the participant's:

1. Case manager; or
2. Provider of non-case management ABI waiver services.

(5) Case management shall:

- (a) Include initiation, coordination, implementation, and monitoring of the assessment or reassessment, evaluation, intake,

and eligibility process;

(b) Assist a participant in the identification, coordination, and facilitation of the person centered team and person centered team meetings;

(c) Assist a participant and the person centered team to develop an individualized person-centered service plan and update it as necessary based on changes in the participant's medical condition and supports;

(d) Include monitoring of the delivery of services and the effectiveness of the person-centered service plan, which shall:

1. Be initially developed with the participant and legal representative if appointed prior to the level of care determination;

2. Be updated within the first thirty (30) days of service and as changes or recertification occurs; and

3. Include the person-centered service plan being sent to the department or its designee prior to the implementation of the effective date the change occurs with the participant;

(e) Include a transition plan that shall:

1. Be:

a. Developed within the first thirty (30) days of service;

b. Updated as changes or recertification occurs; and

c. Updated thirty (30) days prior to discharge; and

2. Include:

a. The skills or service obtained from the ABI waiver program upon transition into the community; and

b. A listing of the community supports available upon the transition;

(f) Assist a participant in obtaining a needed service outside those available by the ABI waiver;

(g) Be provided by a case manager who:

1. Meets the requirements of subsection (1) of this section;

2. Shall provide a participant and legal representative with a listing of each available ABI provider in the service area;

3. Shall maintain documentation signed by a participant or legal representative of informed choice of an ABI provider and of any change to the selection of an ABI provider and the reason for the change;

4. Shall provide a distribution of the crisis prevention and response plan, transition plan, person-centered service plan, and other documents within the first thirty (30) days of the service to the chosen ABI service provider and as information is updated;

5. Shall provide twenty-four (24) hour telephone access to a participant and chosen ABI provider;

6. Shall work in conjunction with an ABI provider selected by a participant to develop a crisis prevention and response plan that[which] shall be:

a. Individual-specific; and

b. Updated as a change occurs and at each recertification;

7. Shall assist a participant in planning resource use and assuring protection of resources;

8. Shall conduct one (1) face-to-face meeting with a participant within a calendar month occurring at a covered service site with one (1) visit quarterly at the participant's residence;

9. Shall ensure twenty-four (24) hour availability of services; and

10. Shall ensure that the participant's health, welfare, and safety needs are met; and

(h) Be documented by a detailed staff note in the MWMA that[which] shall include:

1. The participant's health, safety and welfare;

2. Progress toward outcomes identified in the approved person-centered service plan;

3. The date of the service;

4. Beginning and ending time;

5. The signature and title of the individual providing the service;

and

6. A quarterly summary that[which] shall include:

a. Documentation of monthly contact with each chosen ABI provider; and

b. Evidence of monitoring of the delivery of services approved in the participant's person-centered service plan and of the effectiveness of the person-centered service plan.

(6) Case management shall involve:

(a) A constant recognition of what is and is not working regarding

a participant; and

(b) Changing what is not working.

#### Section 6. Covered Services.

(1) An ABI waiver service shall:

(a) Not be covered unless it has been prior-authorized by the department; and

(b) Be provided pursuant to the participant's person-centered service plan.

(2) An ABI waiver provider shall provide the following services to a participant:

(a) Case management services in accordance with Section 4 of this administrative regulation;

(b) Behavioral services, which shall:

1. Be a systematic application of techniques and methods to influence or change a behavior in a desired way;

2. Include a functional analysis of the participant's behavior including:

a. An evaluation of the impact of an ABI on:

(i) Cognition; and

(ii) Behavior;

b. An analysis of potential communicative intent of the behavior;

c. The history of reinforcement for the behavior;

d. Critical variables that precede the behavior;

e. Effects of different situations on the behavior; and

f. A hypothesis regarding the:

(i) Motivation behind the behavior;

(ii) Purpose of the behavior; and

(iii) Factors that maintain the behavior;

3. Include the development of a behavioral support plan, which shall:

a. Be developed by the behavioral specialist;

b. Not be implemented by the behavior specialist who wrote the plan;

c. Be revised as necessary;

d. Define the techniques and procedures used;

e. Include the hierarchy of behavior interventions ranging from the least to the most restrictive;

f. Reflect the use of positive approaches; and

g. Prohibit the use of:

(i) Prone or supine restraint;

(ii) Corporal punishment;

(iii) Seclusion;

(iv) Verbal abuse; and

(v) Any procedure that[which] denies private communication, requisite sleep, shelter, bedding, food, drink, or use of a bathroom facility;

4. Include the provision of training to other ABI providers concerning implementation of the behavioral intervention plan;

5. Include the monitoring of a participant's progress, which shall be accomplished through:

a. The analysis of data concerning the behavior's:

(i) Frequency;

(ii) Intensity; and

(iii) Duration; and

b. Reports involved in implementing the behavioral service plan;

6. Be provided by a behavior specialist who shall:

a. Be:

(i) A psychologist;

(ii) A psychologist with autonomous functioning;

(iii) A licensed psychological associate;

(iv) A psychiatrist;

(v) A licensed clinical social worker;

(vi) A clinical nurse specialist with a master's degree in psychiatric nursing or rehabilitation nursing;

(vii) An advanced practice registered nurse;

(viii) A board certified behavior analyst; or

(ix) A licensed professional clinical counselor; and

b. Have at least one (1) year of behavior specialist experience or provide documentation of completed coursework regarding learning and behavior principles and techniques; and

7. Be documented by a detailed staff note in the MWMA that[which] shall include:

- a. The date of the service;
- b. The beginning and ending time;
- c. The signature and title of the behavioral specialist; and
- d. A summary of data analysis and progress of the individual related to the approved person-centered service plan;
- (c) Community living supports, which shall:
  1. Be provided in accordance with the participant's person-centered service plan, including:
    - a. A nonmedical service;
    - b. Supervision; or
    - c. Socialization;
  2. Include assistance, prompting, observing, or training in activities of daily living;
  3. Include activities of daily living, which shall include:
    - a. Bathing;
    - b. Eating;
    - c. Dressing;
    - d. Personal hygiene;
    - e. Shopping; and
    - f. Money management;
  4. Include prompting, observing, and monitoring of medications and nonmedical care not requiring a nurse or physician intervention;
  5. Include socialization, relationship building, and participation in community activities according to the approved person-centered service plan that[which] are therapeutic and not diversional in nature;
  6. Accompany and assist a participant while utilizing transportation services;
  7. Include documentation in a detailed staff note in the MWMA that[which] shall include the:
    - a. Progress toward goals and objectives identified in the approved person-centered service plan;
    - b. Date of the service;
    - c. Beginning and ending time; and
    - d. Signature and title of the individual providing the service;
  8. Not be provided to a participant who receives community residential services; and
  9. Be provided by a:
    - a. Home health agency licensed and operating in accordance with 902 KAR 20:081;
    - b. Community mental health center licensed and operating in accordance with 902 KAR 20:091;
    - c. Community habilitation program certified at least annually by the department; or
    - d. Supervised residential care setting certified at least annually by the department;
  - (d) Supervised residential care level I, which:
    1. Shall be provided by:
      - a. A community mental health center licensed and operating in accordance with 902 KAR 20:091 and certified at least annually by the department; or
      - b. An approved waiver provider certified at least annually by the department;
    2. Shall not be provided to a participant unless the participant has been authorized to receive residential care by the department's residential review committee, which shall:
      - a. Consider applications for residential care in the order in which the applications are received;
      - b. Base residential care decisions on the following factors:
        - (i) Whether the applicant resides with a caregiver or not;
        - (ii) Whether the applicant resides with a caregiver but demonstrates maladaptive behavior that[which] places the applicant at significant risk of injury or jeopardy if the caregiver is unable to effectively manage the applicant's behavior or the risk it poses, resulting in the need for removal from the home to a more structured setting; or
        - (iii) Whether the applicant demonstrates behavior that[which] may result in potential legal problems if not ameliorated;
      - c. Be comprised of three (3) Cabinet for Health and Family Services employees:
        - (i) With professional or personal experience with brain injury or other cognitive disabilities; and
        - (ii) Two (2) of whom shall not be supervised by the manager of

- the acquired brain injury branch; and
- d. Only consider applications for a monthly committee meeting that[which] were received no later than the close of business the day before the committee convenes;
3. Shall not have more than three (3) participants simultaneously in a home rented or owned by the ABI provider;
4. Shall provide twenty-four (24) hours of supervision daily unless the provider implements, pursuant to subparagraph 5. of this paragraph, an individualized plan allowing for up to five (5) unsupervised hours per day;
5. May include the provision of up to five (5) unsupervised hours per day per participant if the provider develops an individualized plan for the participant to promote increased independence that[which] shall:
  - a. Contain provisions necessary to ensure the participant's health, safety, and welfare;
  - b. Be approved by the participant's treatment team, with the approval documented by the provider; and
  - c. Contain periodic reviews and updates based on changes, if any, in the participant's status;
6. Shall include assistance and training with daily living skills including:
  - a. Ambulating;
  - b. Dressing;
  - c. Grooming;
  - d. Eating;
  - e. Toileting;
  - f. Bathing;
  - g. Meal planning;
  - h. Grocery shopping;
  - i. Meal preparation;
  - j. Laundry;
  - k. Budgeting and financial matters;
  - l. Home care and cleaning;
  - m. Leisure skill instruction; or
  - n. Self-medication instruction;
7. Shall include social skills training including the reduction or elimination of maladaptive behaviors in accordance with the individual's person-centered service plan;
8. Shall include provision or arrangement of transportation to services, activities, or medical appointments as needed;
9. Shall include accompanying or assisting a participant while the participant utilizes transportation services as specified in the participant's person-centered service plan;
10. Shall include participation in medical appointments or follow-up care as directed by the medical staff;
11. Shall be documented by a detailed staff note in the MWMA, which shall document:
  - a. Progress toward goals and objectives identified in the approved person-centered service plan;
  - b. The date of the service;
  - c. The beginning and ending time of the service; and
  - d. The signature and title of the individual providing the service;
12. Shall not include the cost of room and board;
13. Shall be provided to a participant who:
  - a. Does not reside with a caregiver;
  - b. Is residing with a caregiver but demonstrates maladaptive behavior that places him or her at significant risk of injury or jeopardy if the caregiver is unable to effectively manage the behavior or the risk it presents, resulting in the need for removal from the home to a more structured setting; or
  - c. Demonstrates behavior that may result in potential legal problems if not ameliorated;
14. May utilize a modular home only if the:
  - a. Wheels are removed;
  - b. Home is anchored to a permanent foundation; and
  - c. Windows are of adequate size for an adult to use as an exit in an emergency;
15. Shall not utilize a motor home;
16. Shall provide a sleeping room that[which] ensures that a participant:
  - a. Does not share a room with an individual of the opposite gender who is not the participant's spouse;

## VOLUME 52, NUMBER 1– JULY 1, 2025

b. Does not share a room with an individual who presents a potential threat; and

c. Has a separate bed equipped with substantial springs, a clean and comfortable mattress, and clean bed linens as required for the participant's health and comfort; and

17. Shall provide service and training to obtain the outcomes for the participant as identified in the approved person-centered service plan;

(e) Supervised residential care level II, which shall:

1. Meet the requirements established in paragraph (d) of this subsection except for the requirements established in paragraph (d)4 and 5;

2. Provide twelve (12) to eighteen (18) hours of daily supervision, the amount of which shall:

a. Be based on the participant's needs;

b. Be approved by the participant's treatment team; and

c. Be documented in the participant's person-centered service plan that[which] shall also contain periodic reviews and updates based on changes, if any, in the participant's status; and

3. Include provision of twenty-four (24) hour on-call support;

(f) Supervised residential care level III, which shall:

1. Meet the requirements established in paragraph (d) of this subsection except for the requirements established in paragraph (d)4 and 5;

2. Be provided in a single family home, duplex, or apartment building to a participant who lives alone or with an unrelated roommate;

3. Not be provided to more than two (2) participants simultaneously in one (1) apartment or home;

4. Not be provided in more than two (2) apartments in one (1) building;

5. If provided in an apartment building, have staff:

a. Available twenty-four (24) hours per day and seven (7) days per week; and

b. Who do not reside in a dwelling occupied by a participant; and

6. Provide less than twelve (12) hours of supervision or support in the home based on an individualized plan developed by the provider to promote increased independence that[which] shall:

a. Contain provisions necessary to ensure the participant's health, safety, and welfare;

b. Be approved by the participant's treatment team, with the approval documented by the provider; and

c. Contain periodic reviews and updates based on changes, if any, in the participant's status;

(g) Counseling services, which:

1. Shall be designed to help a participant resolve personal issues or interpersonal problems resulting from the participant's ABI;

2. Shall assist a family member in implementing a participant's approved person-centered service plan;

3. In a severe case, shall be provided as an adjunct to behavioral programming;

4. Shall include substance use or chemical dependency treatment, if needed;

5. Shall include building and maintaining healthy relationships;

6. Shall develop social skills or the skills to cope with and adjust to the brain injury;

7. Shall increase knowledge and awareness of the effects of an ABI;

8. May include group counseling if the service is:

a. Provided to a maximum of twelve (12) participants; and

b. Included in the participant's approved person-centered service plan for:

(i) Substance use or chemical dependency treatment;

(ii) Building and maintaining healthy relationships;

(iii) Developing social skills;

(iv) Developing skills to cope with and adjust to a brain injury, including the use of cognitive remediation strategies consisting of the development of compensatory memory and problem solving strategies, and the management of impulsivity; and

(v) Increasing knowledge and awareness of the effects of the acquired brain injury upon the participant's functioning and social interactions;

9. Shall be provided by:

a. A psychiatrist;

b. A psychologist;

c. A psychologist with autonomous functioning;

d. A licensed psychological associate;

e. A licensed clinical social worker;

f. A clinical nurse specialist with a master's degree in psychiatric nursing;

g. An advanced practice registered nurse;

h. A certified alcohol and drug counselor;

i. A licensed marriage and family therapist;

j. A licensed professional clinical counselor;

k. A licensed clinical alcohol and drug counselor associate effective and contingent upon approval by the Centers for Medicare and Medicaid Services; or

l. A licensed clinical alcohol and drug counselor effective and contingent upon approval by the Centers for Medicare and Medicaid Services; and

10. Shall be documented by a detailed staff note in the MWMA that[which] shall include:

a. Progress toward the goals and objectives established in the person-centered service plan;

b. The date of the service;

c. The beginning and ending time; and

d. The signature and title of the individual providing the service;

(h) Family training, which shall:

1. Provide training and counseling services for the families of individuals served in the ABI long term care waiver. Training to family or other responsible persons shall include:

a. Interpretation or explanation of medical examinations and procedures;

b. Treatment regimens;

c. Use of equipment specified in the person-centered service plan; or

d. Advising how to assist the participant;

2. Include updates as needed to safely maintain the participant at home;

3. Include specified goals in the participant's person-centered service plan;

4. Be training provided to family that may include a person who:

a. Lives with, or provides care to, a participant; and

b. Is a:

(i) Parent;

(ii) Spouse;

(iii) Child;

(iv) Relative;

(v) Foster family; or

(vi) In-law;

5. Not include an individual who is employed to care for the participant;

6. Be provided by an approved ABI waiver provider that is certified at least annually and that[which] may include:

a. An occupational therapist;

b. A certified occupational therapy assistant;

c. A licensed practical nurse;

d. A physical therapist;

e. A physical therapist assistant;

f. A registered nurse;

g. A speech-language pathologist;

h. A psychiatrist;

i. A psychologist;

j. A psychologist with autonomous functioning;

k. A licensed psychological associate;

l. A clinical nurse specialist with a master's degree in:

(i) Psychiatric nursing; or

(ii) Rehabilitative nursing;

m. An advanced practice registered nurse;

n. A certified alcohol and drug counselor;

o. A licensed professional clinical counselor;

p. A board certified behavior analyst;

q. A licensed clinical social worker;

r. A licensed marriage and family therapist;

s. A licensed clinical alcohol and drug counselor associate effective and contingent upon approval by the Centers for Medicare

and Medicaid Services; or

t. A licensed clinical alcohol and drug counselor effective and contingent upon approval by the Centers for Medicare and Medicaid Services; and

7. Be documented by a detailed staff note in the MWMA<sub>1</sub> which shall include:

a. Progress toward the goals and objectives established in the person-centered service plan;

b. The date of the service;

c. The beginning and ending time; and

d. The signature and title of the individual providing the service;

(i) Nursing supports, which shall include:

1.

a. A physician order to monitor medical conditions; or

b. A physician order for training and oversight of medical procedures;

2. The monitoring of specific medical conditions;

3. Services that shall be provided by:

a. A registered nurse who meets the definition established in KRS 314.011(5); or

b. A licensed practical nurse as defined by KRS 314.011(9) who works under the supervision of a registered nurse; and

4. Documentation by a detailed staff note in the MWMA<sub>1</sub> which shall include:

a. Progress toward the goals and objectives established in the person-centered service plan;

b. The date of the service;

c. The beginning and ending time; and

d. The signature and title of the individual providing the service;

(j) Occupational therapy, which shall be:

1. A physician-ordered evaluation of a participant's level of functioning by applying diagnostic and prognostic tests;

2. Physician-ordered services in a specified amount and duration to guide a participant in the use of therapeutic, creative, and self-care activities to assist the participant in obtaining the highest possible level of functioning;

3. Provided by an occupational therapist or an occupational therapy assistant if supervised by an occupational therapist in accordance with 201 KAR 28:130; and

4. Documented by a detailed staff note in the MWMA<sub>1</sub> which shall include:

a. Progress toward goals and objectives identified in the approved person-centered service plan;

b. The date of the service;

c. The beginning and ending time; and

d. The signature and title of the individual providing the service;

(k) A physical therapy service, which shall be:

1. A physician-ordered evaluation of a participant by applying muscle, joint, and functional ability tests;

2. Physician-ordered treatment in a specified amount and duration to assist a participant in obtaining the highest possible level of functioning;

3. Training of another ABI provider to improve the level of functioning of the participant in that provider's service setting;

4. Provided by a physical therapist or a physical therapist assistant supervised by a physical therapist in accordance with 201 KAR 22:001 and 201 KAR 22:020; and

5. Documented by a detailed staff note in the MWMA<sub>1</sub> which shall include:

a. Progress made toward outcomes identified in the person-centered service plan;

b. The date of the service;

c. The beginning and ending time of the service; and

d. The signature and title of the individual providing the service;

(l) A respite service, which shall:

1. Be provided only to a participant unable to administer self-care;

2. Be provided by a:

a. Nursing facility;

b. Community mental health center;

c. Home health agency;

d. Supervised residential care provider;

e. Adult day training provider; or

f. Adult day health care provider;

3. Be provided on a short-term basis due to the absence or need for relief of a non-paid primary caregiver;

4. Be limited to 5,760 fifteen (15) minute units per one (1) year authorized person-centered service plan period unless an individual's non-paid primary caregiver is unable to provide care due to a:

a. Death in the family;

b. Serious illness; or

c. Hospitalization;

5. Not be provided to a participant who receives supervised residential care;

6. Not include the cost of room and board if provided in a nursing facility; and

7. Be documented by a detailed staff note in the MWMA<sub>1</sub> which shall include:

a. Progress toward goals and objectives identified in the approved person-centered service plan;

b. The date of the service;

c. The beginning and ending time; and

d. The signature and title of the individual providing the service;

(m) Speech-language pathology services, which shall be:

1. A physician-ordered evaluation of a participant with a speech, hearing, or language disorder;

2. A physician-ordered habilitative service in a specified amount and duration to assist a participant with a speech and language disability in obtaining the highest possible level of functioning;

3. Provided by a speech-language pathologist; and

4. Documented by a detailed staff note in the MWMA<sub>1</sub> which shall include:

a. Progress toward goals and objectives identified in the approved person-centered service plan;

b. The date of the service;

c. The beginning and ending time; and

d. The signature and title of the individual providing the service;

(n) Adult day training services, which shall:

1. Be provided by:

a. An adult day training center that is certified at least annually by the department;

b. An outpatient rehabilitation facility that is licensed and operating in accordance with 902 KAR 20:190; or

c. A community mental health center licensed and operating in accordance with 902 KAR 20:091;

2. Focus on enabling the participant to attain or maintain the participant's maximum functional level and reintegrate the participant into the community;

3. Not exceed a staffing ratio of five (5) participants per one (1) staff person;

4. Include the following services:

a. Social skills training related to problematic behaviors identified in the participant's person-centered service plan;

b. Sensory or motor development;

c. Reduction or elimination of a maladaptive behavior;

d. Prevocational; or

e. Teaching concepts and skills to promote independence including:

(i) Following instructions;

(ii) Attendance and punctuality;

(iii) Task completion;

(iv) Budgeting and money management;

(v) Problem solving; or

(vi) Safety;

5. Be provided in a nonresidential setting;

6. Be developed in accordance with a participant's overall approved person-centered service plan;

7. Reflect the recommendations of a participant's person-centered team;

8. Be appropriate:

a. Given a participant's:

(i) Age;

(ii) Level of cognitive and behavioral function; and

(iii) Interest;

b. Given a participant's ability prior to and after the participant's

injury; and

c. According to the approved person-centered service plan and be therapeutic in nature and not diversional;

9. Be coordinated with the occupational, speech, or other rehabilitation therapy included in a participant's person-centered service plan;

10. Provide a participant with an organized framework within which to function in the participant's daily activities;

11. Entail frequent assessments of a participant's progress and be appropriately revised as necessary; and

12. Be documented by a detailed staff note in the MWMA, which shall include:

a. Progress toward goals and objectives identified in the approved person-centered service plan;

b. The date of the service;

c. The beginning and ending time; and

d. The signature and title of the individual providing the service;

(o) Adult day health care services, which shall:

1. Be provided by an adult day health care center that is licensed and operating in accordance with 902 KAR 20:066; and

2. Include the following basic services and necessities provided to a participant during the posted hours of operation:

a. Skilled nursing services provided by a registered nurse or licensed practical nurse, including:

(i) Ostomy care;

(ii) Urinary catheter care;

(iii) Decubitus care;

(iv) Tube feeding;

(v) Venipuncture;

(vi) Insulin injections;

(vii) Tracheotomy care; or

(viii) Medical monitoring;

b. Meal service corresponding with hours of operation with a minimum of one (1) meal per day and therapeutic diets as required;

c. Snacks;

d. Supervision by a registered nurse;

e. Daily activities that are appropriate, given a participant's:

(i) Age;

(ii) Level of cognitive and behavioral function; and

(iii) Interest; and

f. Routine services that meet the daily personal and health care needs of a participant, including:

(i) Monitoring of vital signs;

(ii) Assistance with activities of daily living; and

(iii) Monitoring and supervision of self-administered medications, therapeutic programs, and incidental supplies and equipment needed for use by a participant;

3. Include developing, implementing, and maintaining nursing policies for nursing or medical procedures performed in the adult day health care center;

4. Focus on enabling the participant to attain or maintain the participant's maximum functional level and reintegrate a participant into the community by providing the following training:

a. Social skills training related to problematic behaviors identified in the participant's person-centered service plan;

b. Sensory or motor development;

c. Reduction or elimination of a maladaptive behavior per the participant's person-centered service plan;

d. Prevocational services; or

e. Teaching concepts and skills to promote independence including:

(i) Following instructions;

(ii) Attendance and punctuality;

(iii) Task completion;

(iv) Budgeting and money management;

(v) Problem solving; or

(vi) Safety;

5. Be provided in a nonresidential setting;

6. Be developed in accordance with a participant's overall approved person-centered service plan, therapeutic in nature, and not diversional;

7. Reflect the recommendations of a participant's person-centered team;

8. Include ancillary services in accordance with 907 KAR 1:023 if ordered by a physician, physician assistant, or advanced practice registered nurse in a participant's adult day health care plan of treatment. Ancillary services shall:

a. Consist of evaluations or reevaluations for the purpose of developing a plan that shall be carried out by the participant or adult day health care center staff;

b. Be reasonable and necessary for the participant's condition;

c. Be rehabilitative in nature;

d. Include:

(i) Physical therapy provided by a physical therapist or physical therapist assistant;

(ii) Occupational therapy provided by an occupational therapist or occupational therapy assistant; or

(iii) Speech-language pathology services provided by a speech-language pathologist; and

e. Comply with the physical, occupational, and speech-language pathology service requirements established in 907 KAR 1:030, Section 3;

9. Be provided to a participant by the health team in an adult day health care center, which may include:

a. A physician;

b. A physician assistant;

c. An advanced practice registered nurse;

d. A registered nurse;

e. A licensed practical nurse;

f. An activities director;

g. A physical therapist;

h. A physical therapist assistant;

i. An occupational therapist;

j. An occupational therapy assistant;

k. A speech-language pathologist;

l. A social worker;

m. A nutritionist;

n. A health aide;

o. An LPCC;

p. A licensed marriage and family therapist;

q. A certified psychologist with autonomous functioning; or

r. A licensed psychological associate;

10. Be provided pursuant to a plan of treatment and developed annually in accordance with 902 KAR 20:066 and from information in the MAP 351, Medicaid Waiver Assessment and revised as needed; and

11. Be documented by a detailed staff note in the MWMA, which shall include:

a. Progress toward goals and objectives identified in the approved person-centered service plan;

b. The date of the service;

c. The beginning and ending time;

d. The signature and title of the individual providing the service; and

e. A monthly summary that assesses the participant's status related to the approved person-centered service plan;

(p) Supported employment, which shall be:

1. Intensive, ongoing services for a participant to maintain paid employment in an environment in which an individual without a disability is employed;

2. Provided by a:

a. Supported employment provider;

b. Sheltered employment provider; or

c. Structured day program provider;

3. Provided one-on-one;

4. Unavailable under a program funded by either the Rehabilitation Act of 1973 (29 U.S.C. Chapter 16) or Pub.L. 99-457 (34 C.F.R. Parts 300 to 399), proof of which shall be documented in the participant's file;

5. Limited to forty (40) hours per week alone or in combination with adult day training or adult day health services;

6. An activity needed to sustain paid work by a participant receiving waiver services, including:

a. Supervision; and

b. Training;

7. Exclusive of work performed directly for the supported



employment provider; and

8. Documented by a time and attendance record, which shall include:

- a. Progress toward the goals and objectives identified in the person-centered service plan;
- b. The date of service;
- c. The beginning and ending time; and
- d. The signature and title of the individual providing the service;
- (q) Specialized medical equipment and supplies, which shall:

1. Include durable and nondurable medical equipment, devices, controls, appliances, or ancillary supplies;

2. Enable a participant to increase his or her ability to perform daily living activities or to perceive, control, or communicate with the environment;

3. Be ordered by a physician, documented in a participant's person-centered service plan, entered into the MWMA by the participant's case manager or support broker, and include three (3) estimates if the equipment is needed for vision or hearing;

4. Include equipment necessary for the proper functioning of specialized items;

5. Not be available through the department's durable medical equipment, vision, or hearing programs;

6. Not be necessary for life support;

7. Meet applicable standards of manufacture, design, and installation; and

8. Exclude those items **that[which]** are not of direct medical or remedial benefit to a participant;

(r) Environmental and minor home adaptations, which shall:

1. Be provided in accordance with applicable state and local building codes;

2. Be provided to a participant if:

a. Ordered by a physician;

b. Prior-authorized by the ABIB;

c. Specified in the participant's approved person-centered service plan and entered into the MWMA, by the participant's case manager or support broker;

d. Necessary to enable the participant to function with greater independence within the participant's home; and

e. Without the modification, the participant requires institutionalization;

3. Not include a vehicle modification;

4. Be limited to no more than \$2,000 for a participant in a twelve (12) month period; and

5. If entailing:

a. Electrical work, be provided by a licensed electrician; or

b. Plumbing work, be provided by a licensed plumber;

(s) Assessment services, which shall:

1. Be a comprehensive assessment that shall identify a participant's needs and the services that the participant's family cannot manage or arrange for the participant;

2. Evaluate a participant's physical health, mental health, social supports, and environment;

3. Be requested by an individual requesting ABI services or a family or legal representative of the individual;

4. Be conducted by an ABI case manager or support broker;

5. Be conducted within seven (7) calendar days of receipt of the request for assessment;

6. Include at least one (1) face-to-face contact with the participant and, if appropriate, the participant's family by the assessor in the participant's home; and

7. Not be reimbursable if the individual does not receive a level of care certification; or

(t) Reassessment services, which shall:

1. Be performed at least every twelve (12) months;

2. Be conducted using the same procedures as for an assessment service;

3. Be conducted by an ABI case manager or support broker and submitted to the department no more than three (3) weeks prior to the expiration of the current level of care certification to ensure that certification is consecutive;

4. Not be reimbursable if conducted during a period that the participant is not covered by a valid level of care certification; and

5. Not be retroactive.

Section 7. Exclusions of the Acquired Brain Injury Waiver Program. A condition included in the following list shall not be considered an acquired brain injury requiring specialized rehabilitation:

(1) A stroke treatable in a nursing facility providing routine rehabilitation services;

(2) A spinal cord injury for which there is no known or obvious injury to the intracranial central nervous system;

(3) Progressive dementia or another condition related to mental impairment that is of a chronic degenerative nature, including:

(a) Senile dementia;

(b) Organic brain disorder;

(c) Alzheimer's disease;

(d) Alcoholism; or

(e) Another addiction;

(4) A depression or a psychiatric disorder in which there is no known or obvious central nervous system damage;

(5) A birth defect;

(6) An intellectual disability without an etiology to an acquired brain injury; or

(7) A condition **that[which]** causes an individual to pose a level of danger or an aggression that is unable to be managed and treated in a community.

#### Section 8. Incident Reporting Process.

(1)

(a) There shall be two (2) classes of incidents.

(b) The following shall be the two (2) classes of incidents:

1. An incident; or

2. A critical incident.

(2) An incident shall be any occurrence that impacts the health, safety, welfare, or lifestyle choice of a participant and includes:

(a) A minor injury;

(b) A medication error without a serious outcome; or

(c) A behavior or situation that is not a critical incident.

(3) A critical incident shall be an alleged, suspected, or actual occurrence of an incident that:

(a) Can reasonably be expected to result in harm to a participant; and

(b) Shall include:

1. Abuse, neglect, or exploitation;

2. A serious medication error;

3. Death;

4. A homicidal or suicidal ideation;

5. A missing person; or

6. Other action or event that the provider determines may result in harm to the participant.

(4)

(a) If an incident occurs, the ABI provider shall:

1. Report the incident by making an entry into the MWMA that includes details regarding the incident; and

2. Be immediately assessed for potential abuse, neglect, or exploitation.

(b) If an assessment of an incident indicates that the potential for abuse, neglect, or exploitation exists:

1. The incident shall immediately be considered a critical incident;

2. The critical incident procedures established in subsection (5) of this section shall be followed; and

3. The ABI provider shall report the incident to the participant's case manager and participant's guardian, if the participant has a guardian, within twenty-four (24) hours of discovery of the incident.

(5)

(a) If a critical incident occurs, the individual who witnessed the critical incident or discovered the critical incident shall immediately act to ensure the health, safety, and welfare of the at-risk participant.

(b) If the critical incident:

1. Requires reporting of abuse, neglect, or exploitation, the critical incident shall be immediately reported via the MWMA by the individual who witnessed or discovered the critical incident; or

2. Does not require reporting of abuse, neglect, or exploitation, the critical incident shall be reported via the MWMA by the individual who witnessed or discovered the critical incident within eight (8)

hours of discovery.

(c) The ABI provider shall:

1. Conduct an immediate investigation and involve the participant's case manager in the investigation; and
2. Prepare a report of the investigation, which shall be recorded in the MWMA and shall include:

- a. Identifying information of the participant involved in the critical incident and the person reporting the critical incident;
- b. Details of the critical incident; and
- c. Relevant participant information including:
  - (i) Axis I diagnosis or diagnoses;
  - (ii) Axis II diagnosis or diagnoses;
  - (iii) Axis III diagnosis or diagnoses;
  - (iv) A listing of recent medical concerns;
  - (v) An analysis of causal factors; and
  - (vi) Recommendations for preventing future occurrences.

(6)

(a) Following a death of a participant receiving ABI services from an ABI provider, the ABI provider shall enter mortality data documentation into the MWMA within fourteen (14) days of the death.

(b) Mortality data documentation shall include:

1. The participant's person-centered service plan at the time of death;
2. Any current assessment forms regarding the participant;
3. The participant's medication administration records from all service sites for the past three (3) months along with a copy of each prescription;
4. Progress notes regarding the participant from all service elements for the past thirty (30) days;
5. The results of the participant's most recent physical exam;
6. All incident reports, if any exist, regarding the participant for the past six (6) months;
7. Any medication error report, if any exists, related to the participant for the past six (6) months;
8. The most recent psychological evaluation of the participant;
9. A full life history of the participant including any update from the last version of the life history;
10. Names and contact information for all staff members who provided direct care to the participant during the last thirty (30) days of the participant's life;
11. Emergency medical services notes regarding the participant if available;
12. The police report if available;
13. A copy of:
  - a. The participant's advance directive, medical order for scope of treatment, living will, or health care directive if applicable;
  - b. Any functional assessment of behavior or positive behavior support plan regarding the participant that has been in place over any part of the past twelve (12) months; and
  - c. The cardiopulmonary resuscitation and first aid card for any ABI provider's staff member who was present at the time of the incident that resulted in the participant's death;
14. A record of all medical appointments or emergency room visits by the participant within the past twelve (12) months; and
15. A record of any crisis training for any staff member present at the time of the incident that[which] resulted in the participant's death.

(7)

(a) An ABI provider shall report a medication error to the MWMA.

(b) An ABI provider shall document all medication error details on a medication error log retained on file at the ABI provider site.

#### Section 9. ABI Long Term Care Waiver Waiting List.

(1) An individual eighteen (18) years of age or older applying for an ABI long term care waiver service shall be placed on a statewide ABI long term care waiver waiting list that shall be maintained by the department.

(2) In order to be placed on the ABI long term care waiver waiting list, an individual or the individual's representative shall:

- (a) Apply for 1915(c) home and community based waiver services via the MWMA;
- (b) Complete and upload into the MWMA a MAP – 115

Application Intake – Participant Authorization; and

(c) Upload into the MWMA a completed MAP 10, Waiver Services Physician's Recommendation form that has been signed by a physician.

(3) The order of placement on the ABI long term care waiver waiting list shall be determined by the:

(a) Chronological date of complete application information regarding the individual being entered into the MWMA;

(b) Category of need of the individual as follows:

1. Emergency. An emergency shall exist if an immediate service is indicated as determined by:

a. The individual currently is demonstrating behavior related to the individual's acquired brain injury that places the participant, caregiver, or others at risk of significant harm; or

b. The individual is demonstrating behavior related to the individual's acquired brain injury that[which] has resulted in the individual's arrest; or

2. Nonemergency; and

(c) Emergency Committee, which shall consider applications for the Acquired Brain Injury long term care waiver program for emergency placement.

1. The Emergency Committee meetings shall regularly occur during the fourth week of each month. To be considered at the monthly committee meeting, an application shall be received by the department no later than three (3) business days before the scheduled committee meeting.

2. The Emergency Review Committee shall be comprised of three (3) program staff of the cabinet.

a. Each member shall have professional or personal experience with brain injuries or other cognitive disabilities.

b. At least two (2) members shall not be supervised by the branch manager of the Acquired Brain Injury Branch.

(4) In determining chronological status, the original date of the individual's complete application information being entered into the MWMA shall:

(a) Be maintained; and

(b) Not change if an individual is moved from one (1) category of need to another.

(5) A written statement by a physician or other qualified mental health professional shall be required to support the validation of risk of significant harm to an individual or caregiver, or the nature of the individual's medical need.

(6) Written documentation by law enforcement or court personnel shall be required to support the validation of a history of arrest.

(7) A written notification of placement on the waiting list shall be mailed to the individual or the individual's legal representative and case management provider if identified.

(8) Maintenance of the ABI long term care waiver waiting list shall occur as follows:

(a) The department shall, at a minimum, update the waiting list annually; and

(b) If an individual is removed from the ABI long term care waiver waiting list, written notification shall be mailed by the department to the:

1. Individual;
2. Individual's legal representative; and
3. ABI case manager.

(9) Reassignment of category of need shall be completed based on the updated information and validation process.

(10) An individual or legal representative may submit a request for consideration of movement from one (1) category of need to another at any time an individual's status changes.

(11) An individual shall be removed from the ABI long term care waiver waiting list if:

(a) After a documented attempt, the department is unable to locate the individual or the individual's legal representative;

(b) The individual is deceased;

(c) The individual or individual's legal representative refuses the offer of ABI long term care waiver services and does not request to be maintained on the ABI long term care waiver waiting list; or

(d) The individual does not access services without demonstration of good cause within sixty (60) days of the placement

allocation date.

1. The individual or individual's legal representative shall have the burden of providing documentation of good cause including:

- a. A signed statement by the individual or the legal representative;
- b. Copies of letters to providers; and
- c. Copies of letters from providers.

2. Upon receipt of documentation of good cause, the department shall grant one (1) sixty (60) day extension in writing.

(12) The removal of an individual from the ABI long term care waiver waiting list shall not prevent the submittal of a new application at a later date.

(13) Potential funding allocated for services for an individual shall be based upon:

- (a) The individual's category of need; and
- (b) The individual's chronological date of placement on the ABI long term care waiver waiting list.

#### Section 10. Participant-Directed Services.

(1) Covered services and supports provided to a participant receiving PDS shall include:

(a) A home and community support service, which shall:

1. Be available only as a participant-directed service;
2. Be provided in the participant's home or in the community;
3. Be based upon therapeutic goals and not be diversional in nature;
4. Not be provided to an individual if the same or similar service is being provided to the individual by a non-PDS acquired brain injury service; and

5.

- a. Be respite for the primary caregiver; or
- b. Be supports and assistance related to chosen outcomes to facilitate independence and promote integration into the community for an individual residing in the individual's own home or the home of a family member and may include:

- (i) Routine household tasks and maintenance;
- (ii) Activities of daily living;
- (iii) Personal hygiene;
- (iv) Shopping;
- (v) Money management;
- (vi) Medication management;
- (vii) Socialization;
- (viii) Relationship building;
- (ix) Meal planning;
- (x) Meal preparation;
- (xi) Grocery shopping; or
- (xii) Participation in community activities;

(b) Goods and services, which shall:

1. Be individualized;
2. Be utilized to reduce the need for personal care or to enhance independence within the home or community of the participant;

3. Not include experimental goods or services; and

4. Not include chemical or physical restraints; and

(c) A community day support service, which shall:

1. Be available only as a participant-directed service;
2. Be provided in a community setting;
3. Be tailored to the participant's specific personal outcomes related to the acquisition, improvement, and retention of skills and abilities to prepare and support the participant for:

- a. Work or community activities;
- b. Socialization; and
- c. Leisure or retirement activities;

4. Be based upon therapeutic goals and not be diversional in nature; and

5. Not be provided to an individual if the same or similar service is being provided to the individual by a non-PDS acquired brain injury service.

(2) To be covered, a PDS shall be specified in a participant's person-centered service plan.

(3) Reimbursement for a PDS shall not exceed the department's allowed reimbursement for the same or a similar service provided in a non-PDS ABI setting.

(4) A participant, including a married participant, shall choose a

provider and the choice of PDS provider shall be documented in the participant's person-centered service plan.

(5)

(a) A participant may designate a representative to act on the participant's behalf.

(b) The PDS representative shall:

1. Be twenty-one (21) years of age or older;
2. Not be monetarily compensated for acting as the PDS representative or providing a PDS; and
3. Be appointed by the participant on a MAP-2000, Initiation/Termination of Participant-Directed Services.

(6) A participant may voluntarily terminate PDS by completing a MAP-2000, Initiation/Termination of Participant-Directed Services and submitting it to the support broker.

(7) The department shall immediately terminate a participant from receiving PDS if:

(a) Imminent danger to the participant's health, safety, or welfare exists;

(b) The participant fails to pay patient liability;

(c) The participant's person-centered service plan indicates the participant requires more hours of service than the program can provide, jeopardizing the participant's safety and welfare due to being left alone without a caregiver present; or

(d) The participant, caregiver, family, or guardian threatens or intimidates a support broker or other PDS staff.

(8) The department may terminate a participant from receiving PDS if the department determines that the participant's PDS provider has not adhered to the person-centered service plan.

(9) Except as provided in subsection (7) of this section, prior to a participant's termination from receiving PDS, the support broker shall:

(a) Notify the assessment or reassessment service provider of potential termination;

(b) Assist the participant in developing a resolution and prevention plan;

(c) Allow at least thirty (30), but no more than ninety (90), days for the participant to resolve the issue, develop and implement a prevention plan, or designate a PDS representative;

(d) Complete and submit to the department a MAP-2000, Initiation/Termination of Participant-Directed Services terminating the participant from receiving PDS if the participant fails to meet the requirements in paragraph (c) of this subsection; and

(e) Assist the participant in transitioning back to traditional ABI services.

(10) Upon an involuntary termination of PDS, the department shall:

(a) Notify a participant in writing of its decision to terminate the participant's PDS participation; and

(b) Except if the participant failed to pay patient liability, inform the participant of the right to appeal the department's decision in accordance with Section 13 of this administrative regulation.

(11) A PDS provider shall:

(a) Be selected by the participant;

(b) Submit a completed Kentucky Participant-Directed Services Employee Provider Contract to the support broker;

(c) Be eighteen (18) years of age or older;

(d) Be a citizen of the United States with a valid Social Security number or possess a valid work permit if not a U.S. citizen;

(e) Be able to communicate effectively with the participant, participant representative, or family;

(f) Be able to understand and carry out instructions;

(g) Be able to keep records as required by the participant;

(h) Submit to a criminal background check conducted by:

1. The Administrative Office of the Courts if the individual is a Kentucky resident; or

2. An equivalent out-of-state agency if the individual resided or worked outside Kentucky during the year prior to selection as a provider of PDS;

(i) Submit to a check of the Central Registry maintained in accordance with 922 KAR 1:470 and not be found on the registry.

1. A participant may employ a provider prior to a Central Registry check result being obtained for up to thirty (30) days.

2. If a participant does not obtain a Central Registry check result

## VOLUME 52, NUMBER 1– JULY 1, 2025

within thirty (30) days of employing a provider, the participant shall cease employment of the provider until a favorable result is obtained;

(j) Submit to a check of the:

1. Nurse Aide Abuse Registry maintained in accordance with 906 KAR 1:100 and not be found on the registry; and

2. ~~Vulnerable Adult Maltreatment Caregiver Misconduct~~

Registry in accordance with 922 KAR 5:120 and not be found on the registry;

(k) Not have pled guilty or been convicted of committing a sex crime or violent crime as defined in KRS 17.165(1) through (3);

(l) Complete training on the reporting of abuse, neglect, or exploitation in accordance with KRS 209.030 or 620.030 and on the needs of the participant;

(m) Be approved by the department;

(n) Maintain and submit timesheets documenting hours worked; and

(o) Be a friend, spouse, parent, family member, other relative, employee of a provider agency, or other person hired by the participant.

(12) A parent, parents combined, or a spouse shall not provide more than forty (40) hours of services in a calendar week (Sunday through Saturday) regardless of the number of family members who receive waiver services.

(13)

(a) The department shall establish a budget for a participant based on the individual's historical costs in any Medicaid waiver program minus five (5) percent to cover costs associated with administering participant-directed services.

(b) If no historical cost exists for the participant, the participant's budget shall equal the average per capita historical costs of a participant participating in the ABI waiver program established by 907 KAR 3:090 minus five (5) percent.

(c) Cost of services authorized by the department for the participant's prior year person-centered service plan but not utilized may be added to the budget if necessary to meet the individual's needs.

(d) The department may adjust a participant's budget based on the participant's needs and in accordance with paragraphs (e) and (f) of this subsection.

(e) A participant's budget shall not be adjusted to a level higher than established in paragraph (a) of this subsection unless:

1. The participant's support broker requests an adjustment to a level higher than established in paragraph (a) of this subsection; and

2. The department approves the adjustment.

(f) The department shall consider the following factors in determining whether to allow for a budget adjustment:

1. If the proposed services are necessary to prevent imminent institutionalization;

2. The cost effectiveness of the proposed services;

3. Protection of the participant's health, safety, and welfare; or

4. If a significant change has occurred in the participant's:

a. Physical condition resulting in additional loss of function or limitations to activities of daily living and instrumental activities of daily living;

b. Natural support system; or

c. Environmental living arrangement resulting in the participant's relocation.

(g) A participant's budget shall not exceed the average per capita cost of services provided to individuals with a brain injury in a nursing facility.

(14) Unless approved by the department pursuant to subsection (13)(c) through (f) of this section, if a PDS is expanded to a point in which expansion necessitates a budget allowance increase, the entire service shall only be covered via a traditional (non-PDS) waiver service provider.

(15) A support broker shall:

(a) Provide needed assistance to a participant with any aspect of PDS or blended services;

(b) Be available by phone or in person to a participant twenty-four (24) hours per day, seven (7) days per week to assist the participant in obtaining community resources as needed;

(c) Comply with applicable federal and state laws and

requirements;

(d) Continually monitor a participant's health, safety, and welfare; and

(e) Complete or revise a person-centered service plan using person-centered planning principles.

(16) For a participant receiving PDS, a support broker may conduct an assessment or reassessment.

(17) Services provided by a support broker shall meet the conflict free requirements established for case management in Section 5(4) of this administrative regulation.

(18) Financial management services shall:

(a) Include managing, directing, or dispersing a participant's funds identified in the participant's approved PDS budget;

(b) Include payroll processing associated with an individual hired by a participant or the participant's representative;

(c) Include withholding local, state, and federal taxes and making payments to appropriate tax authorities on behalf of a participant;

(d) Be performed by an entity:

1. Enrolled as a Medicaid provider in accordance with 907 KAR 1:672; and

2. With at least two (2) years of experience working with acquired brain injury; and

(e) Include preparing fiscal accounting and expenditure reports for:

1. A participant or participant's representative; and

2. The department.

### Section 11. Reimbursement and Coverage.

(1) The department shall reimburse a participating provider for a service provided to a Medicaid eligible person who meets the ABI long term care waiver program requirements as established in this administrative regulation.

(2) The department shall reimburse an ABI participating long term waiver provider for a prior-authorized ABI long term waiver service if the service is:

(a) Included in the person-centered service plan;

(b) Medically necessary; and

(c) Essential to provide an alternative to institutional care to an individual with an acquired brain injury who requires maintenance services.

(3) Under the ABI long term care waiver program, the department shall not reimburse a provider for a service provided:

(a) To an individual who does not meet the criteria established in Section 3 of this administrative regulation; or

(b) ~~That~~ Which has not been prior authorized as a part of the person-centered service plan.

(4)

(a) A participating ABI long term care waiver service provider shall be reimbursed a fixed rate for reasonable and medically necessary services for a prior-authorized unit of service provided to a participant.

(b) A participating ABI long term care waiver service provider certified in accordance with this administrative regulation shall be reimbursed at the lesser of:

1. The provider's usual and customary charge; or

2. The Medicaid fixed upper payment limit per unit of service as established in subsection (5) of this section.

(5)

(a) The unit amounts and base rate payment shall be reimbursed as ~~fixed upper payment limits, and other limits~~ established in the following table ~~shall apply~~:

Service	Unit	Base Rate Effective January 1, 2025
Adult Day Health Care	15-minute	\$3.86
Adult Day Training	15-minute	\$4.88
Assessment & Reassessment	Per Assessment	\$121.00
Behavior Programming Services	15-minute	\$40.67
Case Management	Per Month	\$453.75
Community Living Supports	15-minute	\$6.73

# VOLUME 52, NUMBER 1– JULY 1, 2025

Community Living Supports - PDS	15-minute	\$6.73
Counseling, Individual	15-minute	\$28.85
Counseling, Group	15-minute	\$6.96
Environmental and Minor Home Modifications	Per Year	Up to \$2,420.00
Family Training	15-minute	\$30.25
Financial Management Services	Per month	\$121.00
Nursing Supports	15-minute	\$30.25
Occupational Therapy	15-minute	\$31.34
Physical Therapy	15-minute	\$30.25
Respite	15-minute	\$5.92
Respite - PDS	15-minute	\$5.92
Speech Therapy	15-minute	\$34.38
Supervised Residential Care - Level I	Per Day	\$300.00
Supervised Residential Care - Level II	Per Day	\$225.00
Supervised Residential Care - Level III	Per Day	\$112.50
Supported Employment	15-minute	\$10.54
Supported Employment - PDS	15-minute	\$10.54

(b) Specialized medical equipment and supplies shall be reimbursed on a per item basis based on a reasonable cost as negotiated by the department if they meet the following criteria:

1. They are not covered through the Medicaid durable medical equipment program established in 907 KAR 1:479; and
2. They are provided to an individual participating in the ABI waiver program.

(c) Respite care may exceed 1,440 hours in a twelve (12) month period if an individual's usual caregiver is unable to provide care due to a:

1. Death in the family;
2. Serious illness; or
3. Hospitalization.

(d) If supported employment services are provided at a work site in which persons without disabilities are employed, payment shall be made only for the supervision and training required as the result of the participant's disabilities and shall not include payment for supervisory activities normally rendered.

(e)

1. The department shall only pay for supported employment services for an individual if supported employment services are unavailable under a program funded by either the Rehabilitation Act of 1973 (29 U.S.C. Chapter 16) or Pub.L. 94-142 (34 C.F.R. Subtitle B, Chapter III).

2. For an individual receiving supported employment services, documentation shall be maintained in the individual's record demonstrating that the services are not currently available under a program funded by either the Rehabilitation Act of 1973 (29 U.S.C. Chapter 16) or Pub.L. 94-142 (34 C.F.R. Subtitle B, Chapter III).

(6) Payment shall not include:

(a) The cost of room and board unless provided as part of respite care in a Medicaid certified nursing facility. If a participant is placed in a nursing facility to receive respite care, the department shall pay the nursing facility its per diem rate for that individual;

(b) The cost of maintenance, upkeep, an improvement, or an environmental modification to a group home or other licensed facility;

(c) The cost of a service that is not listed in the approved person-centered service plan; or

(d) A service provided by a family member unless provided as an approved participant-directed service.

(7) A participating provider shall:

(a) Maintain fiscal and service records for a period of at least six (6) years. If the Secretary of the United States Department of Health and Human Services requires a longer document retention period, pursuant to 42 C.F.R. 431.17, the period established by the secretary shall be the required period;

(b) Provide, as requested by the department, a copy of, and

access to, each record of the ABI Waiver Program retained by the provider pursuant to paragraph (a) of this subsection or 907 KAR 1:672; and

(c) Upon request, make available service and financial records to a representative or designee of the:

1. Commonwealth of Kentucky, Cabinet for Health and Family Services;
2. United States Department for Health and Human Services, Comptroller General;
3. United States Department for Health and Human Services, Centers for Medicare and Medicaid Services (CMS);
4. General Accounting Office;
5. Commonwealth of Kentucky, Office of the Auditor of Public Accounts; or
6. Commonwealth of Kentucky, Office of the Attorney General.

Section 12. Electronic Signature Usage. The creation, transmission, storage, and other use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 to 369.120.

Section 13. Appeal Rights.

(1) An appeal of a department decision regarding a Medicaid beneficiary based upon an application of this administrative regulation shall be in accordance with 907 KAR 1:563.

(2) An appeal of a department decision regarding Medicaid eligibility of an individual based upon an application of this administrative regulation shall be in accordance with 907 KAR 1:560.

(3) An appeal of a department decision regarding a provider based upon an application of this administrative regulation:

- (a) Regarding a provider's reimbursement shall be in accordance with 907 KAR 1:671, Sections 8 and 9; or
- (b) Not regarding a provider's reimbursement shall be in accordance with 907 KAR 1:671.

Section 14. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "MAP 10, Waiver Services Physician's Recommendation", June 2015;
  - (b) "MAP – 115 Application Intake – Participant Authorization", May 2015;
  - (c) "MAP – 116 Service Plan – Participant Authorization", May 2015;
  - (d) "MAP – 531 Conflict-Free Case Management Exemption", October 2015;
  - (e) "MAP-350, Long Term Care Facilities and Home and Community Based Program Certification Form", June 2015;
  - (f) "MAP 351, Medicaid Waiver Assessment", July 2015;
  - (g) "MAP-2000, Initiation/Termination of Participant-Directed Services (CDO)", June 2015;
  - (h) "Mayo-Portland Adaptability Inventory-4", March 2003;
  - (i) "Family Guide to the Rancho Levels of Cognitive Functioning", August 2006;
  - (j) "Kentucky Participant-Directed Services Employee Provider Contract", June 2015; and
  - (k) "MAP 4100a Acquired Brain Injury Waiver Program Provider Information and Services", September 2009.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law:
- (a) At the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.; or
  - (b) Online at the department's Web site at <https://www.chfs.ky.gov/agencies/dms/dca/Pages/abi.aspx> [<http://www.chfs.ky.gov/dms/incorporated.htm>].

FILED WITH LRC: June 10, 2025

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email [CHFSregs@ky.gov](mailto:CHFSregs@ky.gov).

# VOLUME 52, NUMBER 1– JULY 1, 2025

## CABINET FOR HEALTH AND FAMILY SERVICES Department for Medicaid Services Division of Fiscal Management (As Amended at ARRS, June 10, 2025)

### 907 KAR 7:015. Reimbursement for home and community based waiver services version 2.

RELATES TO: 42 C.F.R. 441 Subparts B, G, 42 U.S.C. 1396a, 1396b, 1396d, 1396n

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

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, is required to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the Medicaid Program reimbursement requirements and provisions for home and community based waiver services version 2.

#### Section 1. Definitions.

(1) "ADHC" means adult day health care.

(2) "ADHC center" means an adult day health care center that is:

- (a) Licensed in accordance with 902 KAR 20:066; and
  - (b) Certified for Medicaid participation by the department.
- (3) "Department" means the Department for Medicaid Services or its designee.
- (4) "Fixed upper payment limit" means the maximum amount the department shall reimburse per unit.
- (5) "HCB" means home and community based waiver.
- (6) "Participant" means a recipient who:
- (a) Meets the nursing facility level of care criteria established in 907 KAR 1:022; and
  - (b) Meets the eligibility criteria for HCB services established in 907 KAR 7:010.
- (7) "Recipient" is defined by KRS 205.8451(9).

#### Section 2. HCB Service Reimbursement.

(1)

(a) Except as established~~provided~~ in Section 3, 4, or 5 of this administrative regulation, the department shall reimburse for a home and community based waiver service or item at the lesser of the billed charges or the fixed upper payment limit for each unit.

(b) The base payment rate~~fixed upper payment limits~~, unit amounts, and reimbursement maximums established in the following table shall apply:

Service	Unit	Base Rate Effective January 1, 2025
Adult Day Health Care - Level I	15-Minute	\$3.82
Adult Day Health Care - Level II	15-Minute	\$4.15
Attendant Care - Traditional	15-Minute	\$7.26
Attendant Care - PDS	15-Minute	\$7.26
Conflict Free Case Management	Per Month	\$425.92
Environmental and Minor Home Modifications	Per Year	Up to \$3,025
Financial Management	Per Month	\$196.63
Goods and Services - Traditional	Per Year	Up to \$4,235
Goods and Services - PDS	Per Year	Up to \$4,235
Home Delivered Meals	Per Meal	\$9.08
Non-Specialized Respite - Traditional	15-Minute	\$5.92
Non-Specialized Respite - PDS	15-Minute	\$5.92
Specialized Respite - Level I	15-Minute	\$5.92
Specialized Respite - Level II	15-Minute	\$12.10

Specialized Respite - Level I (Congregate Setting)	15-Minute	\$5.92
Specialized Respite - Level II (Congregate Setting)	15-Minute	\$12.10

(2)

(a) Reimbursement for a service provided as a PDS shall not exceed the department's allowed reimbursement for the same service as established in the table in subsection (1) of this section.

(b) Participants receiving services through the PDS option shall have three (3) months from the date of level of care recertification to comply with the reimbursement limit established in paragraph (a) of this subsection.

(3)

(a) Three (3) quotes from a prospective provider shall be required for:

1. An environmental or minor home adaptation; or
2. Goods and services.

(b) Documentation justifying the need for the following shall be uploaded into the MWMA:

1. An environmental or minor home adaptation; or
2. Goods and services.

(4) A service listed in subsection (1) of this section shall not be subject to cost settlement by the department unless the service is provided by a local health department.

#### Section 3. Local Health Department HCB Service Reimbursement.

(1) The department shall reimburse a local health department for HCB services:

- (a) Pursuant to Section 2 of this administrative regulation; and
- (b) Equivalent to the local health department's HCB services cost for a fiscal year.

(2) A local health department shall:

- (a) Each year complete a Home Health and Home and Community Based Cost Report completed in accordance with the Home Health and Home and Community Based Cost Reporting Instructions; and
- (b) Submit the Home Health and Home and Community Based Cost Report to the department at fiscal year's end.

(3) The department shall determine, based on a local health department's most recently submitted annual Home Health and Home and Community Based Cost Report, the local health department's estimated costs of providing HCB services by multiplying the cost per unit by the number of units provided during the period.

(4) If a local health department's HCB service reimbursement for a fiscal year is less than its cost, the department shall make supplemental payment to the local health department equal to the difference between:

- (a) Payments received for HCB services provided during a fiscal year; and
- (b) The estimated cost of providing HCB services during the same time period.

(5) If a local health department's HCB service cost as estimated from its most recently submitted annual Home Health and Home and Community Based Cost Report is less than the payments received pursuant to Section 2 of this administrative regulation, the department shall recoup any excess payments.

(6) The department shall audit a local health department's Home Health and Home and Community Based Cost Report if the department~~it~~ determines an audit is necessary.

#### Section 4. Reimbursement for an ADHC Service.

(1) Reimbursement for an ADHC service shall:

(a) Be made:

1. Directly to an ADHC center; and
2. For a service only if the service was provided on site and during an ADHC center's posted hours of operation;

(b) If made to an ADHC center for a service not provided during the center's posted hours of operation, be recouped by the department; and

(c) Be limited to 200 units per calendar week per participant.

(2) Level I reimbursement shall be the lesser of:

- (a) The provider's usual and customary charges; or

## VOLUME 52, NUMBER 1– JULY 1, 2025

(b) The base payment rate established for this service in the table established in Section 2[3] [Two (2) dollars and eighty-three (83) cents per unit of service].

(3)

(a) Except as established in paragraph (b) of this subsection, Level II reimbursement shall be the lesser of:

1. The provider's usual and customary charges; or

2. The base payment rate established for this service in the table established in Section 3[Three (3) dollars and forty-three (43) cents per unit of service].

(b)

1. The department shall pay a Level II reimbursement for specialized respite provided by a:

a. Registered nurse; or

b. Licensed practical nurse under the supervision of a registered nurse.

2. The Level II reimbursement for specialized respite shall be the lesser of:

a. The ADHC center's usual and customary charges; or

b. The base payment rate established for this service in the table established in Section 3[Ten (10) dollars per unit of service].

(c) An ADHC center's reimbursement for Level II services shall be:

1. Per participant; and

2. Based upon the participant's assessed level of care and most recent person-centered service plan.

(4) An ADHC basic daily service shall constitute care for one (1) participant.

(5) One (1) unit of ADHC basic daily service shall equal fifteen (15) minutes.

(6) The level of and reimbursement rate for any ADHC service provided to a participant shall be determined by an assessment of the participant using the Kentucky Home Assessment Tool (K-HAT).

Section 5. Criteria for High Intensity Level II Reimbursement and Home Health Level II Reimbursement.

(1) Any ADHC service provided to a participant by an ADHC center shall qualify for Level II reimbursement if the participant meets the Level II High Intensity criteria established in the Kentucky Home Assessment Tool (K-HAT).

(2)

(a) Specialized respite care provided to a participant by a home health agency shall qualify for Level II reimbursement if:

1. The participant meets the Level II High Intensity criteria established in the Kentucky Home Assessment Tool (K-HAT); and

2. Provided by a:

a. Registered nurse; or

b. Licensed practical nurse under the supervision of a registered nurse.

(b) The Level II reimbursement for specialized respite provided by a home health agency shall be the reimbursement established in Section 4(3)(b) of this administrative regulation.

(3) If a participant's assessment determines that:

(a) ADHC services to the participant do not qualify for Level II reimbursement, the department shall reimburse the Level I rate to the ADHC center for services provided to the participant; or

(b) Specialized respite care to the participant does not qualify for Level II reimbursement, the department shall reimburse the Level I rate to the ADHC center or home health agency for the specialized respite care service.

Section 6. Applicability. The reimbursement provisions and requirements established in this administrative regulation shall:

(1) Apply to services or items provided to individuals who receive home and community based services version 2 pursuant to 907 KAR 7:010; and

(2) Not apply to services or items provided to individuals receiving home and community based services version 1 pursuant to 907 KAR 1:160.

Section 7. Appeal Rights. An HCB service provider may appeal a department decision as to the application of this administrative regulation as it impacts the provider's reimbursement in accordance with 907 KAR 1:671, Sections 8 and 9.

Section 8. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Kentucky Home Assessment Tool (K-HAT)", July 1, 2015;

(b) "The Home Health and Home and Community Based Cost Report", November 2007; and

(c) "The Home Health and Home and Community Based Cost Report Instructions", November 2007.

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

(a) At the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.; or

(b) Online at the department's Web site at <https://www.chfs.ky.gov/agencies/dms/dca/Pages/hcb-waiver.aspx> [<http://www.chfs.ky.gov/dms/incorporated.htm>].

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### CABINET FOR HEALTH AND FAMILY SERVICES

#### Department for Medicaid Services

#### Division of Fiscal Management

(As Amended at ARRS, June 10, 2025)

#### 907 KAR 10:840. Hospital Rate Improvement Program.

RELATES TO: KRS [~~45.229, 142.303, 205.565, 205.637, 205.638, 205.639, 205.640,~~ 205.6405, 205.6406, 205.6407, 205.6408, 205.6411, 216.380, 42 C.F.R. 413.17, 433.51, 438.340, 438.6, 440.140, 447.271, 447.272, 42 U.S.C. 1396a, 1395ww

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560, 205.6406(13), [~~205.6411,~~ 205.6412(3), 42 C.F.R. 447.252, 447.253, 42 U.S.C. 1396a

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has the responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with a requirement that may be imposed, or opportunity presented, by federal law to qualify for federal funds. KRS 205.6406(13) requires the department to promulgate an administrative regulation to implement the Hospital Rate Improvement Program, established in KRS 205.6405 to 205.6408. This administrative regulation establishes the requirements for implementing the Hospital Rate Improvement Program for qualifying hospitals.

Section 1. Definitions.

(1) "Assessment" is defined by KRS 205.6405(1).

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

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

(4) "Program year" is defined by KRS 205.6405(14).

(5) "Qualifying hospital" is defined by KRS 205.6405(16) or 205.6411(4), as appropriate.

(6) "Received date" means the date a claim is accepted and approved into the Medicaid Management Information System and does not mean the date a claim is actually paid.

(7) "Upper payment limit" or "UPL" is defined by KRS 205.6405(19).

Section 2. Hospital Rate Improvement Program.

(1) Prior to the start of each program year and in accordance with the payment methodology required by KRS 205.6406(2), the department shall calculate for each qualifying hospital:

(a) A per-discharge uniform add-on amount that the qualifying hospital is eligible to receive as a supplemental payment for the program year for Medicaid fee-for-service discharges; and

(b) A per discharge uniform add-on amount that the qualifying hospital is eligible to receive as a supplemental payment for the

## VOLUME 52, NUMBER 1– JULY 1, 2025

program year for Medicaid managed care discharges.

(2) With the exception of the initial implementation year, not less than thirty (30) days prior to the beginning of each program year, the department shall provide each qualifying hospital written notice of the total per-discharge uniform add-on amounts for both Medicaid fee-for-service and Medicaid managed care discharges. The notice shall include the data sources and methodologies used to arrive at the value for each variable upon which the qualifying hospital's per-discharge uniform add-on amounts shall be calculated for the program year.

(3) For each quarter in a program year, the department shall:

(a) Calculate each qualifying hospital's supplemental payments for Medicaid fee-for-service and Medicaid managed care in accordance with KRS 205.6406(3) through (11) by:

1. Excluding all inpatient claims with discharge dates preceding October 1, 2018, from enhanced payment calculations;

2. Reducing the number of inpatient claims eligible for enhanced reimbursement by the number of previously enhanced claims that have been voided in the Medicaid Management Information System; and

3. Excluding from enhanced payment calculations partial or adjusted inpatient claims that have previously received an enhanced payment;

(b) Make a quarterly Medicaid fee-for-service supplemental payment to each qualifying hospital, or its designee acting as a fiscal intermediary, in accordance with the methodology established in KRS 205.6406(3)(a) and (c); and

(c) Make a quarterly Medicaid managed care supplemental payment to each qualifying hospital, or its designee acting as a fiscal intermediary, in accordance with the methodology established in KRS 205.6406(3)(b), (d), and (e).

(4) Payment of the quarterly Medicaid managed care supplemental payment shall be made by distribution to each Medicaid managed care organization through a quarterly supplemental capitation payment.

(5) The department shall submit with, or prior to, the quarterly supplemental capitation payment directions to the Medicaid managed care organization for the payment of the quarterly Medicaid managed care supplemental payments to qualifying hospitals.

(6) In accordance with KRS 205.6406(6), each Medicaid managed care organization shall remit to each qualifying hospital, or its designee, as directed by the department the quarterly Medicaid managed care supplemental payment within five (5) business days of receipt of the quarterly supplemental capitation payment. The department shall establish contractual penalty provisions to require that each Medicaid managed care organization remit the required amounts within five (5) business days.

(7) In accordance with KRS 205.6406(9), a qualifying hospital may seek review by the department of any quarterly supplemental payment that the qualifying hospital suspects is in error.

(a) The qualifying hospital shall submit a detailed listing of any disputed claim or claims for department consideration and potential updates to the Medicaid Management Information System.

(b) Once each claim is received and validated in the Medicaid Management Information System, the department shall adjust the qualifying hospital's future quarterly supplemental payment to account for any warranted correction.

(c) If the department determines that a correction is not warranted, the hospital may request an administrative appeal pursuant to 907 KAR 1:671.

(8) In order to receive a supplemental payment and to pay the assessment for that quarter, an entity shall be a qualifying hospital each day of a quarter for the program year.

(9) Medicaid Management Information System (MMIS) fee-for-service and managed care encounter data, queried by the claim received date, shall be utilized to calculate the quarterly payments.

(10) For each quarter in a program year, the department shall:

(a) Calculate each qualifying hospital's per-discharge hospital assessment in accordance with the methodology in KRS 205.6406(3)(g), (i), and (k) ~~and (h)~~; and

(b) Provide notice to each qualifying hospital in accordance with KRS 205.6406(3) (j) ~~(h)~~.

(11) A qualifying hospital's per-discharge hospital assessment shall be calculated using the Medicare cost report period ending in

the calendar year that is two (2) calendar years prior to the first day of a program year. For example, for the program year beginning July 1, 2019, cost report periods ending in calendar year 2017 shall be utilized.

(a) If a qualifying hospital's cost report period referenced in this subsection is greater than or less than a normal calendar year of 365 days, the total discharges used in accordance with KRS 205.6406(3)(g) shall be annualized to a 365-day period.

(b) If a qualifying hospital is newly enrolled in the Medicaid program and does not have cost report information available for the period established in this subsection, the department may utilize the cost report information of a comparable hospital to approximate the newly enrolled hospital's utilization.

(12) A qualifying hospital shall pay its calculated per-discharge hospital assessment in accordance with KRS 205.6406(7).

(13) If a hospital assessment is not received in a timely manner, the department may deny or withhold future quarterly supplemental payments until the assessment is submitted.

(14) A qualifying hospital may authorize a third-party entity to serve as a fiscal intermediary to facilitate the implementation of this administrative regulation by providing letter notice to the department.

### Section 3. Reporting Requirements.

(1) Throughout a program year, a qualifying hospital shall submit any documentation or information to the department that the department requests in a timely manner as designated by the department. This request may include any documentation pertaining to:

(a) Resolution of a quarterly supplemental payment that the qualifying hospital suspects is in error; or

(b) Quality metrics set forth in the department's Quality Strategy filed with the Centers for Medicare and Medicaid Services pursuant to 42 C.F.R. 438.340.

(2) If a qualifying hospital fails to provide the department with any requested documentation in a timely manner, the department may deny or withhold future quarterly supplemental payments, until the documentation is submitted.

### Section 4. Kentucky Trauma Hospital Rate Improvement (K-THRI).

(1) If consistent with federal approval, the department shall operate K-THRI as a supplemental payment arrangement that provides an average commercial rate reimbursement for inpatient hospital services, outpatient hospital services, and professional services.

(a) The methodology for determining a rate increase shall be applied equally to all providers within K-THRI.

(b) Adjustments to payments shall be made as necessary to ensure that aggregate hospital rate improvement program payments and K-THRI payments do not exceed the statewide average commercial rate limit.

(c) K-THRI payments shall be made by distribution to each Medicaid managed care organization through a quarterly supplemental capitation payment.

(d) The department shall submit with, or prior to, the K-THRI payment directions to the Medicaid managed care organization for the payment of the quarterly K-THRI payment to qualifying hospitals.

(e) In accordance with KRS 205.6406(6), each Medicaid managed care organization shall remit to each qualifying hospital, or its designee, as directed by the department the K-THRI supplemental payment within five (5) business days of receipt of the quarterly K-THRI supplemental capitation payment. The department shall establish contractual penalty provisions to require that each Medicaid managed care organization remit the required amounts within five (5) business days.

(f) The payments received by the K-THRI providers shall be reconciled to actual utilization on a quarterly basis after a reasonable claims runout period. Future payments shall be withheld or increased in order to reconcile K-THRI hospitals to the amount of the enhanced payment.

(2)

(a) Twenty (20) percent of the amount calculated shall be determined by the department and withheld by the managed care organization.



VOLUME 52, NUMBER 1– JULY 1, 2025

(b) The amount withheld shall be subject to the qualifying hospital meeting the same requirements established pursuant to the separate university directed payment program established pursuant to 42 C.F.R. 438.6[an annual listing of twenty-one (21) performance quality measures established by the department]. The quality measures shall be identical to the performance measures that academic hospitals meet under the separate university directed payment program for academic hospitals.

(c) In order to be eligible for a quality performance payment, a K-THRI provider shall meet the same number of performance targets[~~target~~] on ~~the~~at least seven (7) of the twenty-one (21)] annual metrics listed pursuant to paragraph (b) of this section.

(d) If less than the established performance target[seven (7) of the twenty-one (21)] metrics are met, there shall be no partial payment of the quality performance payment. [For illustrative purposes only, a K-THRI provider meeting criteria for five (5) of the twenty-one (21) metrics would not receive any partial or pro-rated quality withhold payment.]

(e) The initial performance targets shall be a two (2) percent improvement over the most recent program year's established targets.

(f) In order to qualify for evaluation pursuant to this subsection a measure shall have at least twenty (20) cases in the K-THRI hospital during the evaluation period. A measure that does not meet the twenty (20) case threshold shall be considered as a reporting-only measure and shall not be included in determining the value-based payments.

(3) Consistent with KRS 205.6412, in order to be eligible for the K-THRI portion of the HRIP program, a provider shall:

(a) Have a trauma center that has received a designation as of Level II, III, or IV;

(b) Be located in a county with a higher proportion of residents enrolled in Medicaid than the statewide median; and

(c) Have an agreement with a university-affiliated graduate medical education program or a pediatric teaching hospital to host and provide clinical rotations at that facility to train providers.

(4) The methodology for determining a rate increase pursuant to[under] this section shall be applied to all qualifying hospitals equally as a uniform dollar increase.

Section 5. Upper Payment Limit. A supplemental payment referenced in this administrative regulation is not intended to cause aggregate Medicaid hospital reimbursement to exceed the aggregate statewide upper payment limit for privately-owned and non-state government-owned hospitals established in:

(1) 42 C.F.R. 447.271;

(2) 42 C.F.R. 447.272; or

(3) Any other applicable statute or administrative regulation.

Section 6.[~~Section 5.~~] Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the coverage; and

(2) Centers for Medicare and Medicaid Services' approval for the coverage.

FILED WITH LRC: June 10, 2025

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.

CABINET FOR HEALTH AND FAMILY SERVICES  
Department for Medicaid Services  
(As Amended at ARRS, June 10, 2025)

907 KAR 16:005. Definitions for 907 KAR Chapter 16[1915(i) Recovery, Independence, Support & Engagement (RISE) Initiative].

RELATES TO: KRS 205.520, 210.005, [28 C.F.R. Part 35,]24 C.F.R. 578.3, 29 U.S.C. 206(a)(1), 42 U.S.C. 12101

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

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has the responsibility to administer the Medicaid program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the definitions for terms utilized within 907 KAR Chapter 16.

Section 1. Definitions.

(1) "ACT" means American College Test.

(2) "Allied health care professional" or "AHCP" means an individual who provides support in a residential setting, including a:

(a) Certified nursing assistant;

(b) Medication aide;

(c) Licensed practical nurse; or

(d) Registered nurse.

(3) "Americans with Disabilities Act" or "ADA" is[as] defined by 42 U.S.C. 12101[in 28 C.F.R. Part 35].

(4) "Assessment" means the process that authorizes DBHDID to determine applicant service needs that can be met safely in a community-based setting and determine if the participant is eligible for 1915(i) RISE Initiative services.

(5) "Assistive technology" or "AT" means any item, piece of equipment, software program, or product system that is used to increase, maintain, or improve the independence and functional capabilities of persons with disabilities in education, employment, recreation, and daily living activities. AT is intended to augment strengths and provide an alternative mode of performing tasks. AT is designed to enhance all aspects of a participant's life and may[can] also be used to ensure the health, welfare, and safety of the participant.

(6) "At risk of homelessness" is [as-]defined by 24 C.F.R. [§]578.3.

(7) "Behavioral health condition" means serious mental illness (SMI) as consistent with KRS 210.005 or[r] a co-occurring SMI[serious mental illness] and substance use disorder (SUD).

(8) "Behavioral health professional" means:

(a) An advanced practice registered nurse (APRN);

(b) A licensed clinical social worker (LCSW);

(c) A licensed marriage and family therapist (LMFT);

(d) A licensed professional clinical counselor (LPCC);

(e) A licensed psychological practitioner;

(f) A licensed psychologist;

(g) A licensed professional art therapist;

(h) A physician;

(i) A psychiatrist; or

(j) A licensed professional clinical counselor (LPCC).

(9) "Case management" means services furnished to assist participants in gaining access to needed medical, social, educational, and other recovery support services that do not conflict or are not duplicative of case management services that a participant already receives within the Medicaid program.

(10) "Case manager" means a qualified professional who:

(a) Meets the requirements established in 907 KAR 16:010;

(b) Assists a 1915(i) RISE Initiative participant in any aspect of participant services established pursuant to this chapter; and

(c) [Who-]Manages the overall development and monitoring of a participant's PCSP.

(11) "Certification" or "recertification" means the authorization received by a Medicaid-enrolled provider who:

(a) Has been determined to meet the requirements of the Centers for Medicare and Medicaid Services (CMS) approved 1915(i) state plan application and 907 KAR 16:010; and

(b) Is approved by the department to provide one (1) or more services to 1915(i) RISE Initiative participants.

(12) "Certification period" means a period of time that a 1915(i) RISE Initiative provider has been certified or approved by DBHDID and may[can] be reimbursed for 1915(i) RISE Initiative home and community-based services.

(13) "Community mental health center" or "CMHC" means a

facility that meets the community mental health center requirements established in 902 KAR 20:091.

(14) "Competitive integrated employment" or "CIE" means work that is performed on a full-time or part-time basis, including self-employment:

(a) For which a participant:

1. Is compensated at a rate that:

a. Is not less than the highest rate specified in Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the rate specified in the applicable minimum wage law; and

b. Is not less than the customary rate paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities, and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills; or

c. In the case of a participant who is self-employed, yields an income that is comparable to the income received by other individuals who are not individuals with disabilities, and who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills; and

2. Is eligible for the level of benefits provided to other employees;

(b) That is at a location where the employee interacts with other persons who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that individuals who are not individuals with disabilities and who are in comparable positions interact with other persons; and

(c) That, as appropriate, presents opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.

(15) "Corrective action plan" means a document submitted by a 1915(i) RISE Initiative provider to the department that:

(a) States the system changes, processes, or other actions that the provider is required to take to prevent a future occurrence of a found violation stated in a citation or findings report;

(b) States the timeframe in which the provider shall successfully implement or perform a system change, process, or other action required by the corrective action plan; and

(c) Is not valid or effective until approved by the department.

(16) "Critical incident or event" means an incident that is serious in nature and poses an immediate risk to the health, safety, or welfare of a participant.

(17) "DBHDID" means the Kentucky Department for Behavioral Health, Developmental and Intellectual Disabilities.

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

(19) "Early and Periodic Screening, Diagnostic and Treatment" or "EPSDT" means a service authorized pursuant to 907 KAR 11:034 or 11:035.

(20) "Exceptional supports" means authorization for services beyond the service definition limit.

(21) "Exceptions process" means a service:

(a) [~~A service~~] Requested by a participant and the participant's team; and

(b) That, due to an extraordinary circumstance related to a participant's physical health, psychiatric issue, or behavioral health issue, is necessary to:

1. Be provided in excess of the benefit limit for the service for a specified amount of time; and

2. Meet the assessed needs of the participant.

(22) "FFP" means federal financial participation.

(23) "HCBS" means home and community-based services.

(24) "Homeless" is defined by 24 C.F.R. [~~§~~]578.3.

(25) "HUD" means the federal Department of Housing and Urban Development.

(26) "Human services related experience" means professional experience that includes[may include]:

(a) Experience as a case manager in a related human services field;

(b) Certified nursing assistant experience;

(c) Certified medical assistant experience;

(d) Certified home health aide experience;

(e) Personal care assistant experience;

(f) Paid professional experience with aging or disabled populations or programs as a case manager, a rehabilitation specialist or health specialist, or a social services coordinator;

(g) Assessment and care planning experience with clients;

(h) Experience in working directly with persons with serious mental illness or substance use disorder; or

(i) Work providing assistance to individuals and groups with [~~issues such as~~]economically disadvantaged, employment, abuse and neglect, substance abuse, aging, disabilities, prevention, health, or[and] cultural issues.

(27) "Incident" means any occurrence that impacts the health, safety, welfare, or lifestyle choice of a participant and includes a:

(a) Minor injury;

(b) Medication error without a serious outcome; or

(c) Behavior or situation that is not a critical incident.

(28) "Independent living" means a participant in their own private housing unit or in a housing unit the participant shares with others, including a single-family home, duplex, or apartment building, in a community setting of the participant's choosing.

(29) "Individual Placement and Support – Supported Employment" or "IPS-SE" means an evidence-based practice designed to assist individuals with serious mental illness (SMI) or co-occurring serious mental illness and substance use disorder to obtain and maintain employment in competitive integrated employment (CIE) using the supports of his or her[their] behavioral health treatment team, an employment specialist, and benefits counselor. The Practice Principles of IPS-SE are [~~as follows~~]:

(a) Focus on Competitive Integrated Employment: Agencies providing IPS services are committed to competitive employment as an attainable goal for people with behavioral health conditions seeking employment. Mainstream education and specialized training may enhance career paths[.];

(b) Eligibility Based on Client Choice: People are not excluded based on readiness, diagnoses, symptoms, substance use history, psychiatric hospitalizations, homelessness, level of disability, or legal system involvement[.];

(c) Integration of Rehabilitation and Mental Health Services: IPS programs are closely integrated with behavioral health treatment teams[.];

(d) Attention to Worker Preferences: Services are based on each person's preferences and choices, rather than providers' judgments[.];

(e) Personalized Benefits Counseling: Employment specialists help people obtain personalized, understandable, and accurate information about their Social Security, Medicaid, and other government entitlements[.];

(f) Rapid Job Search: IPS programs use a rapid job search approach to help job seekers obtain jobs directly, rather than providing lengthy pre-employment assessment, training, and counseling. If further education is part of the[their] plan, IPS specialists assist in these activities as needed[.];

(g) Systematic Job Development: Employment specialists systematically visit employers[.], who are selected based on job seeker preferences[.], to learn about their business needs and hiring preferences; and[.];

(h) Time-Unlimited and Individualized Support: Job supports are individualized and continue for as long as each worker wants and needs the support[.];

(30) "InterRAI Community Mental Health" or "InterRAI CMH" functional assessment instrument means the most recent version of the standardized assessment system developed by InterRAI and intended for use by clinicians in community mental health settings.

(31) "Job-seeking skills training" or "JSST" means instruction that assists a participant in obtaining employment. Examples of JSST include:

(a) Writing and development of a resume;

(b) How to use a resume;

(c) Completing applications;

(d) Networking;

(e) Interviewing;

(f) Job searching;

(g) Follow-up techniques following a contact, interview, or application; and

(h) Work habits.

(32) "KRS" means Kentucky Revised Statutes.

(33) "Legally responsible individual" means an individual who has a duty under state law to care for another person and includes:

(a) A parent, whether biological, step, adoptive, or foster, who provides care to the parent's minor child;

(b) A legal guardian who is a court-appointed person who has the authority to make decisions for the participant; or

(c) A spouse of a participant.

(34) "Level of care determination" means a determination by the department that an individual meets the level of care criteria for 1915(i) RISE Initiative services established pursuant to Title 907 KAR **Chapter 16**.

(35) "Medicaid Partner Portal Application" or "MPPA" means the Web-based Kentucky Medicaid portal for the department.

(36) **"Medicaid Waiver Management Application" or "MWMA" means the Web-based Kentucky Medicaid portal.**

(37) "Medication management" means a service that is intended to support program participants' adherence to and implementation of medication regimens.

(38)(37) "Moratorium" means the department prohibition against a 1915(i) RISE Initiative provider providing services to a new 1915(i) RISE Initiative participant.

(39)(38) **"MWMA" means Medicaid Waiver Management Application, the Web-based Kentucky Medicaid portal.**

(39) "OIG" means the Kentucky Office of Inspector General.

(40) "Permanent supportive housing" or "PSH" means principles that include ~~the following~~:

(a) Choice. This concept means that participants ~~should~~ have self-determination in all aspects of their lives, including the planning and delivery of services, and housing and living support arrangements. Participants ~~shall~~~~should~~ be free to choose housing from the same living environments available to the general public;[.]

(b) Safety. This concept is that participants ~~shall~~~~should~~ have the opportunity to live in housing that is decent and safe, and in neighborhoods free from problems of drugs and crime. A secure environment includes:

1. The development and implementation of clear administrative procedures for rent collection;
2. Building maintenance;
3. Monitoring visitors;
4. Enforcement of house rules; and
5. Opportunities for tenants to provide input on the safety and comfort of their living environment;[.]

(c) Affordable. This concept is that participants ~~should~~ have the opportunity to live in housing wherein no more than thirty ~~(30)~~ percent of the participant's income pays for a rent or mortgage and utilities;[.]

(d) Integrated. This concept is that participants ~~shall be~~~~are~~ entitled to housing options that are integrated into neighborhoods and are typical of the housing in the neighborhood;[.]

(e) Consumer and Family Involvement. This concept is that participants and their family members ~~should~~ play a role in the development of new housing and support opportunities and in promoting the availability of housing alternatives for people with disabilities;[.]

(f) Permanent. This concept is that participants ~~are~~~~should be~~ provided with needed support in obtaining housing where the participant leases, owns, or otherwise controls the housing. In addition, decisions regarding housing tenure ~~are~~~~should~~~~be~~ separate from decisions about needed supports and services;[.]

(g) Accessible. This concept is that participants ~~shall~~ have access to housing with needed physical modifications or other reasonable accommodations to support them in daily living. Participants ~~are expected to~~~~should~~ receive necessary assistance in requesting and accessing ~~such~~ housing and supports; ~~and~~.[.]

(h) Flexible and Individualized Services and Supports. This concept is that participants ~~should~~ have support services available to them regardless of where they choose to live. Services and supports ~~shall~~~~should~~ be person-centered and ~~should~~ enable people to live in their own homes. Supports ~~should~~ include community supports (for example, congregations or schools) and natural supports (for example, family, friends, and neighbors).

(41) "Person-centered service plan" or "PCSP" means a written individualized plan of 1915(i) RISE Initiative services developed in accordance with the participant's wants, assessed needs, and preferences that may include a transition plan to more intense or less intense level of services.

(42) "Planned respite for caregivers" or "respite" means a service that provides temporary relief from caregiving to the primary caregiver of a participant during times when the participant's primary caregiver would normally provide care.

(43) "Related fields of study" means:

- (a) Social work;
- (b) Psychology;
- (c) Rehabilitation;
- (d) Nursing;
- (e) Counseling;
- (f) Education;
- (g) Gerontology;
- (h) Human services; and
- (i) Sociology.

(44) "RISE" means the Kentucky Recovery, Independence, Support, and Engagement Initiative.

(45) "Serious mental illness" or "SMI" means:

(a) An individual ~~eighteen~~ (18) years ~~of age~~ or over, who has: one (1) or more mental health diagnoses specifically listed in the following sections of the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders:

1. Schizophrenia spectrum and other psychotic disorders;
2. Bipolar and related disorders;
3. Depressive disorders; or
4. Trauma and stressor related disorders;

(b) Clear evidence of functional impairment in two ~~(2)~~ or more of the following:

1. Societal or role functioning;
2. Interpersonal functioning;
3. Daily living and personal care functioning;
4. Physical functioning; or
5. Cognitive or intellectual functioning; and

(c) The participant has experienced one (1) or more of these conditions of duration:

1. Clinically significant symptoms of mental illness have persisted in the participant for a continuous period of at least 2 (two) years;
2. The participant has been hospitalized for mental illness more than once in the past 2 (two) years; or
3. There is a history of one ~~(1)~~ or more episodes with marked disability and the illness is expected to continue for a two ~~(2)~~[-]year period of time.

(46) "SOAR" means Supplemental Security Income/Social Security Disability Insurance (SSI/SSDI) Outreach, Access, and Recovery.

(47) "SPA" means state plan amendment.

(48) "Substance use disorder" or "SUD" means individuals with a diagnosis designated in the latest edition of the Diagnostic and Statistical Manual of Mental Disorders.

(49) "TABE" means the Test of Adult Basic Education.

(50) "Tenancy supports" means services that include both pre-tenancy supports and tenancy-sustaining supports.

FILED WITH LRC: June 10, 2025

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.

**CABINET FOR HEALTH AND FAMILY SERVICES  
Department for Medicaid Services  
(As Amended at ARRS, June 10, 2025)**

**907 KAR 16:010. 1915(i) RISE Initiative Home and Community-Based Services (HCBS); Participant Eligibility.**

RELATES TO: KRS 205.520

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

## VOLUME 52, NUMBER 1– JULY 1, 2025

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has the responsibility to administer the Medicaid program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the policies and operational requirements to provide expanded services to individuals who have a primary diagnosis of serious mental illness or substance use disorder.

### Section 1. 1915(i) RISE Initiative HCBS Participant Eligibility.

(1) To be eligible to receive a service in the 1915(i) RISE Initiative HCBS, an individual or an individual's representative shall:

- (a) Apply for 1915(i) RISE Initiative home and community-based services via the department approved system;
- (b) Complete application in the department approved system;
- (c) Meet Medicaid eligibility requirements established in 907 KAR 20:010; and
- (d) Meet participant eligibility requirements:
  1. Be eighteen (18) years of age or older;
  2. Have a primary diagnosis of Severe Mental Illness (SMI) or co-occurring SMI and Substance Use Disorder (SUD); and
  3. Meet criteria per the InterRAI CMH functional assessment tool.

(2) To maintain eligibility as a participant, the participant shall:

(a) Maintain Medicaid eligibility requirements established in 907 KAR 20:010; and;

(b) Be reassessed and meet criteria annually utilizing the InterRAI CMH functional assessment tool ~~and meet eligibility requirements~~.

(3) 1915(i) HCBS services shall not be provided to an individual who is:

- (a) Receiving a service in a 1915(c) Home and Community-Based program; ~~and~~
  - (b) Receiving a duplicate service provided through another funding source; or
  - (c) An inpatient of a hospital or other facility.
- (4) Involuntary termination and loss of a 1915(i) RISE Initiative HCBS service shall be:

(a) Subject to an appeal or hearing in accordance with 907 KAR 1:563; and

(b)

1. Initiated when an applicant moves to a residence outside of the Commonwealth of Kentucky; or

2. If initiated by a 1915(i) RISE Initiative provider:

a. The 1915(i) Rise Initiative provider shall simultaneously notify electronically or in writing the participant or the participant's guardian, the participant's case manager, the department, and DBHDID at least thirty (30) days prior to the effective date of the termination; ~~and~~

b. The participant's case manager, in conjunction with the 1915(i) RISE Initiative provider, shall immediately act to:

- (i) Provide the participant or participant's guardian with the name, address, and telephone number of each current 1915(i) RISE Initiative provider in Kentucky;
- (ii) Provide assistance to the participant or participant's guardian in making contact with another 1915(i) RISE Initiative provider;
- (iii) Arrange or provide transportation for a requested visit to a 1915(i) RISE Initiative provider site;
- (iv) Provide a copy of pertinent information to the participant or participant's guardian;
- (v) Ensure the health, safety, and welfare of the participant until an appropriate placement is secured;
- (vi) Continue to provide supports until alternative services or another placement is secured; and
- (vii) Provide assistance to ensure a safe and effective service transition; and;

c. The notice referenced in subparagraph 2.a ~~paragraph (c)~~ 1. of this paragraph ~~subsection~~ shall include:

- (i) A statement of the intended action;
- (ii) The basis for the intended action;
- (iii) The authority by which the intended action is taken; and

(iv) The participant's right to appeal the intended action through the provider's appeal or grievance process.

(5) In the instance of a voluntary termination and loss of a 1915(i) RISE Initiative HCBS service:

(a) DBHDID shall initiate an intent to discontinue a participant's participation in the 1915(i) RISE Initiative HBCS services if the participant or participant's guardian submits a written notice of intent to discontinue services to:

1. The 1915(i) RISE Initiative HCBS provider; and
2. DBHDID.

(b) An action to terminate 1915(i) RISE Initiative HCBS participation shall not be initiated until thirty (30) calendar days from the date of the notice referenced in paragraph (a) of this subsection.

(c) A participant or guardian may reconsider and revoke the notice referenced in paragraph (a) of this subsection in writing during the thirty (30) calendar day period.

### Section 2. 1915(i) RISE Initiative HCBS Participant Appeal Rights.

(1) An appeal of a department decision regarding a Medicaid beneficiary made pursuant to ~~based upon an application of~~ this administrative regulation shall be in accordance with 907 KAR 1:563.

(2) An appeal of a department decision regarding Medicaid eligibility of an individual made pursuant to ~~based upon an application of~~ this administrative regulation shall be in accordance with 907 KAR 1:560.

Section 3. Federal Approval and Federal Financial Participation. The department's reimbursement for services pursuant to this administrative regulation shall be contingent upon:

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

FILED WITH LRC: June 10, 2025

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.

### CABINET FOR HEALTH AND FAMILY SERVICES Department for Medicaid Services Division of Quality and Population Health (As Amended at ARRS, June 10, 2025)

### 907 KAR 16:015. Recovery, Independence, Support & Engagement (RISE) Initiative 1915(i) Home and Community-Based Services (HCBS); Provider Participation and Enrollment.

RELATES TO: KRS 205.520, 273.182, 45 C.F.R. Parts 160, 162, 164

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

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has the responsibility to administer the Medicaid program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the policies and operational requirements to provide expanded services to individuals who have serious mental illness.

### Section 1. General Requirements ~~Requirement~~.

(1) A 1915(i) RISE Initiative provider shall comply with:

- (a) 907 KAR 1:671;
- (b) 907 KAR 1:672;
- (c) The Health Insurance Portability and Accountability Act, 42 U.S.C. 1320d-2, and 45 C.F.R. Parts 160, 162, and 164;
- (d) 42 U.S.C. 1320d to 1320d-8; and
- (e) Local laws and ordinances governing smoke-free

environments, as relevant.

(2) ~~In order~~ To provide a 1915(i) RISE Initiative service in accordance with 907 KAR 16:020, a 1915(i) RISE Initiative provider shall:

(a) Be certified by the department prior to the initiation of a service;

(b) Be recertified at least biennially by the department;

(c) In accordance with KRS 273.182, maintain a registered agent and a registered office in Kentucky with the Office of the Secretary of State and file appropriate statement of change documentation with the filing fee with the Office of Secretary of State if the registered office or agent changes;

(d) Be in good standing with the Office of the Secretary of State of the Commonwealth of Kentucky pursuant to 30 KAR 1:010 and 30 KAR 1:020;

(e) Abide by the laws that govern the chosen business or tax structure of the 1915(i) RISE Initiative provider;

(f) Maintain policy that complies with this administrative regulation concerning the operation of the 1915(i) RISE Initiative provider and the health, safety, and welfare of all people supported or served by the 1915(i) RISE Initiative provider;

(g) Maintain administrative oversight, which shall include management by a director with at least a bachelor's degree in a human service field and two (2) years of documented experience with the target population, and two (2) years of management experience, the director shall assume authority and responsibility for the management of the affairs of the 1915(i) RISE Initiative provider in accordance with written policy and procedures that comply with this administrative regulation; and

(h) Participate in all department directed survey initiatives.

(3) A 1915(i) RISE Initiative provider:

(a) Shall ensure that 1915(i) RISE Initiative services are not provided to a participant by a staff person of the 1915(i) RISE Initiative provider who is a guardian, legally responsible individual, or immediate family member of the participant;[.]

(b) Shall not enroll a participant whose needs the 1915(i) RISE Initiative provider is unable to meet;

(c) Shall have and follow written criteria that comply with this administrative regulation for determining the appropriateness of a participant for admission to services;

(d) Shall document:

1. Each denial by the provider for a service requested or necessary for the 1915(i) RISE Initiative participant; and

2. The reason for the denial;

(e) Shall maintain documentation of its operations including:

1. A written description of available 1915(i) RISE Initiative services;

2. A current table of organizational structure;

3. Any memorandum of understanding between a participant's case management agency and the participant's service providers;

4. Information regarding participants' satisfaction with services and the utilization of that information;

5. A quality improvement plan that:

a. Includes updated findings and corrective actions as a result of department and case management quality assurance monitoring; and

b. Addresses how the provider shall **~~accomplish the following goals~~**;

(i) Ensure that the participant receives person-centered 1915(i) RISE Initiative services;

(ii) Enable the participant to be safe, healthy, and respected in the participant's chosen community;

(iii) Enable the participant to live in the community with effective, individualized assistance; and

(iv) Enable the participant to enjoy living and working in the participant's community; **~~and~~**

6. A written plan of how the 1915(i) RISE Initiative provider shall participate in the human rights committee in the area the 1915(i) RISE Initiative provider is located;

(f) Shall maintain accurate fiscal information including documentation of revenues and expenses;

(g) Shall meet the following requirements, if responsible, for the management of a participant's funds:

1. Separate accounting shall be maintained for each participant or for the participant's interest in a common trust or special account;

2. Account balance and records of transactions shall be provided to the participant or the participant's guardian on a quarterly basis; and

3. The participant or the participant's guardian shall be notified if a balance is accrued that may affect Medicaid eligibility;

(h) Shall have a written statement of its mission and values, related to the 1915(i) RISE Initiative, which shall include:

1. Support participant empowerment and informed decision-making;

2. Support and assist participants to form and remain connected to natural support networks;

3. Promote participant dignity and self-worth;

4. Support team meetings that help ensure and promote the participant's right to choice, inclusion, employment, growth, and privacy;

5. Foster a restraint-free environment where the use of physical restraints, seclusion, chemical restraints, or aversive techniques shall be prohibited; and

6. Support the 1915(i) RISE Initiative goal that all participants:

a. Receive person-centered 1915(i) HCBS services;

b. Are safe, healthy, and respected in the participant's community;

c. Live in the community with effective, individualized assistance;[.] and

d. Enjoy living and working in the participant's community;[.]

(i) Shall have written policy and procedures for communication and interaction with a participant, family, or participant's guardian, which shall include:

1. A response within seventy-two (72) hours of an inquiry;

2. The opportunity for interaction by direct support professionals;

3. Prompt notification of any unusual occurrence;

4. Visitation with the participant at any reasonable time, without prior notice, and with due regard for the participant's right to privacy;

5. Involvement in decision making regarding the selection and direction of the person-centered service provided; and

6. Consideration of the cultural, educational, language, and socioeconomic characteristics of the participant and family being supported;[.]

(j) Shall ensure the rights of a participant by:

1. Providing conflict-free services and supports that are person-centered; **~~and~~**

2. Making available a description of the rights and means by which the rights may be exercised and supported including the right to:

a. Live and work in an integrated setting;

b. Time, space, and opportunity for personal privacy;

c. Communicate, associate, and meet privately with the person of choice;

d. Send and receive unopened mail;

e. Retain and use personal possessions including clothing and personal articles;

f. Private, accessible use of a telephone or cell phone;

g. Access accurate and easy-to-read information;

h. Be treated with dignity and respect and to maintain one's dignity and individuality;

i. Voice grievances and complaints regarding services and supports that are furnished without fear of retaliation, discrimination, coercion, or reprisal;

j. Choose among service providers;

k. Accept or refuse services;

l. Be informed of and participate in preparing the PCSP and any changes in the PCSP;

m. Be advised in advance of the:

(i) Provider or providers who will furnish services; and

(ii) Frequency and duration of services;

n. Confidential treatment of all information, including information in the participant's records;

o. Receive services in accordance with the current PCSP;

p. Be informed of the name, business, telephone number, and business address of the person supervising the services and how to contact the person;

## VOLUME 52, NUMBER 1– JULY 1, 2025

q. Have the participant's property and residence treated with respect;

r. Be fully informed of any cost sharing liability and the consequences if any cost sharing is not paid;

s. Review the participant's records upon request;

t. Receive adequate and appropriate services without discrimination;

u. Be free from and educated on mental, verbal, sexual, and physical abuse, neglect, exploitation, isolation, and corporal or unusual punishment, including interference with daily functions of living; and

v. Be free from mechanical, chemical, or physical restraints;[;]

3. Having a grievance and appeals system that includes an external mechanism for review of complaints; and

4. Ensuring access to participation in the local human rights committee in accordance with the human rights committee requirements established in Section 5 of this administrative regulation;[and]

(k) Shall maintain, as applicable, fiscal records, service records, investigations, medication error logs, and incident reports for five (5) years from the date of final payment for services;[;]

(l) Shall make available all records, internal investigations, and incident reports:

1. To the:
  - a. Department;
  - b. DBHDID;
  - c. Office of Inspector General or its designee;
  - d. Office of the State Budget Director or its designee;
  - e. Office of the Auditor of Public Accounts or its designee;
  - f. Office of the Attorney General or its designee;
  - g. Department for Community Based Services (DCBS); and
  - h. Centers for Medicare and Medicaid Services; or
2. Pertaining to a participant to:
  - a. The participant, the participant's guardian, or the participant's case manager upon request; or
  - b. Protection and Advocacy upon written request;

(m) Shall cooperate with monitoring visits from monitoring agents;

(n) Shall maintain a record in the department approved system or provider health record system for each participant served that shall:

1. Contain all information necessary to support person-centered practices;
2. Be cumulative;
3. Be readily available;
4. Contain documentation that meets the requirements of 907 KAR 16:020;
5. Contain the following:
  - a. The participant's name, Social Security number, and Medicaid identification number;
  - b. The results of a department approved functional assessment;
  - c. The current PCSP;
  - d. The goals and objectives identified by the participant and the participant's person-centered team that facilitates achievement of the participant's chosen outcomes as identified in the participant's PCSP;
  - e. A list containing emergency contact telephone numbers;
  - f. The participant's history of allergies with appropriate allergy alerts;
  - g. The participant's medication record, including a copy of the signed or authorized current prescription or medical orders and the medication administration record if medication is administered at the service site;
  - h. A recognizable photograph of the participant;
  - i. Legally adequate consent, updated annually, and a copy of which is located at each service site for the provision of services or other treatment requiring emergency attention;
  - j. The prior authorization notifications; and
  - k. Incident reports, if any exist;

6. Be maintained by the provider in a manner that:

- a. Ensures the confidentiality of the participant's record and other personal information; and
- b. Allows the participant or guardian to determine when to share

the information in accordance with law; and

7. Be safe from loss, destruction, or use by an unauthorized person;

(o) Shall ensure that an employee or volunteer:

1. Behaves in a legal and ethical manner in providing a service;
2. Has a valid Social Security number or valid work permit if not a citizen of the United States of America; and

3. If responsible for driving a participant during a service delivery, has a valid driver's license with proof of current mandatory liability insurance for the vehicle used to transport the participant;

(p) Shall ensure that an employee or volunteer:

1. Completes a tuberculosis (TB) risk assessment performed by a licensed medical professional and, if indicated, a TB skin test with a negative result within the past twelve (12) months as documented on test results received by the provider within thirty (30) days of the date of hire or date the individual began serving as a volunteer; or
2. Who tests positive for TB or has a history of positive TB skin tests:

- a. Shall be assessed annually by a licensed medical professional for signs or symptoms of active disease; and

- b. If it is determined that signs or symptoms of active disease are present, in order for the person to be allowed to work or volunteer, is administered follow-up testing by his or her physician with the testing indicating the person does not have active TB disease;

(q) Shall maintain documentation:

1. Of an annual TB risk assessment or negative TB test for each employee who performs direct support or a supervisory function; or

2. Annually for each employee with a positive TB test that ensures no active disease symptoms are present;

(r) Shall provide a written job description for each staff person that describes the required qualifications, duties, and responsibilities for the person's job;

(s) Shall maintain an employee record for each employee that includes:

1. The employee's experience;
2. The employee's training;
3. Documented competency of the employee;
4. Evidence of the employee's current licensure or registration if required by law; and

5. An annual evaluation of the employee's performance;

(t) Shall require a background check:

1. And drug testing for each employee who is paid with funds administered by the department and who:

- a. Provides support to a participant who utilizes 1915(i) RISE Initiative services; or

- b. Manages funds or services on behalf of a participant who utilizes 1915(i) HCBS services; or

2. For a volunteer recruited and placed by an agency or provider who has the potential to interact with a participant;

(u)

1. Shall for a potential employee or volunteer obtain:

- a. The results of a criminal record check from the Kentucky Administrative Office of the Courts and equivalent out-of-state agency if the individual resided or worked outside of Kentucky during the twelve (12) months prior to employment or volunteerism;

- b. The results of a nurse aide abuse registry check as described in 906 KAR 1:100 and an equivalent out-of-state agency if the individual resided or worked outside of Kentucky during the twelve (12) months prior to employment or volunteerism;

- c. The results of the Kentucky Adult Caregiver Misconduct Registry check as described in 922 KAR 5:120 and an equivalent out-of-state agency if the individual resided or worked outside of Kentucky during the twelve (12) months prior to employment or volunteerism; and

- d. Within thirty (30) days of the date of hire or initial date of volunteerism, the results of a central registry check as described in 922 KAR 1:470 and an equivalent out-of-state agency if the individual resided or worked outside of Kentucky during the twelve (12) months prior to employment or volunteerism; or

2. May use Kentucky's Applicant Registry and Employment Screening program established by 906 KAR 1:190 to satisfy the background check requirements of subparagraph 1 of this

paragraph;

(v) Shall for each potential employee obtain negative results of drug testing for illicit or prohibited drugs;

(w) Shall on an annual basis:

1. Randomly select and perform criminal history background checks, nurse aide abuse registry checks, central registry checks, and caregiver misconduct registry checks of at least twenty-five (25) percent of employees; and

2. Conduct drug testing of at least five (5) percent of employees;

(x) Shall not use an employee or volunteer to provide 1915(i) RISE Initiative services if the employee or volunteer:

1. Has a prior conviction of an offense delineated in KRS 17.165(1) through (3);

2. Has a prior felony conviction or diversion program that has not been completed;

3. Has a drug related conviction within the past two (2) years;

4. Has a positive drug test conducted by the employer within the previous six (6) months for prohibited drugs;

5. Has a conviction of abuse, neglect, or exploitation;

6. Has a Cabinet for Health and Family Services finding of:

a. Child abuse or neglect pursuant to the central registry; or

b. Adult abuse, neglect, or exploitation pursuant to the Caregiver

Misconduct Registry; or

7. Is listed on the nurse aide abuse registry;

(y) Shall not permit an employee to transport a participant if the employee has a driving under the influence conviction, amended plea bargain, or diversion during the past year;

(z) Shall maintain adequate staffing and supervision to implement services being billed;

(aa) Shall establish written guidelines that address and ensure the health, safety, and welfare of a participant, which shall include:

1. A basic infection control plan that includes:

a. Universal precautions;

b. Hand washing;

c. Proper disposal of biohazards and sharp instruments; and

d. Management of common illness likely to be emergent in the particular service setting;

2. Effective cleaning and maintenance procedures sufficient to maintain a sanitary and comfortable environment that prevents the development and transmission of infection;

3. Ensuring that each site operated by the provider is equipped with:

a. An operational smoke detector placed in all bedrooms and other strategic locations; and

b. At least two (2) correctly charged fire extinguishers placed in strategic locations, at least one (1) of which shall be capable of extinguishing a grease fire and have a rating of 1A10BC;

4. For a site operated by a provider, ensuring the availability of an ample supply of hot and cold running water with the water temperature complying with the safety limits established in the participant's PCSP;

5. Establishing written procedures concerning the presence of deadly weapons as defined in KRS 500.080, which shall ensure:

a. Safe storage and use; and

b. That firearms and ammunition are permitted:

(i) Only in non-provider owned or leased residences; and

(ii) Only if stored separately and under double lock;

6. Establishing written procedures concerning the safe storage of common household items;

7. Ensuring that the nutritional needs of a participant are met in accordance with the current recommended dietary allowance of the Food and Nutrition Board of the National Research Council or as specified by a physician;

8. Ensuring that an adequate and nutritious food supply is maintained as needed by the participant;

9. Ensuring a smoke-free environment for any participant who chooses a smoke-free environment, including settings in which the participant is expected to spend any amount of time, including home, a day training site, a meeting site, or any other location;

10. Ensuring that:

a. Every case manager and any employee who will be administering medication, unless the employee is a currently licensed or registered nurse, has:

(i) Specific training provided by a registered nurse per a DBHDD medication administration approved curriculum; and

(ii) Documented competency on medication administration, medication cause and effect, and proper administration and storage of medication; and

b. An individual administering medication documents all medication administered, including self-administered and over-the-counter drugs, on a medication administration record, with the date, time, and initials of the person who administered the medication and ensure that the medication shall:

(i) Be kept in a locked container;

(ii) If a controlled substance, be kept under double lock with a documented medication count performed every shift;

(iii) Be carried in a proper container labeled with medication and dosage pursuant to KRS 315.010(8) and 217.182(6);

(iv) Accompany and be administered to a participant at a program site other than the participant's residence if necessary; and

(v) Be documented on a medication administration record and properly disposed of, if discontinued; and

11. Adhering to policies and procedures for ongoing monitoring of medication administration;

(bb) Shall establish and follow written guidelines for handling an emergency or a disaster, which shall:

1. Be readily accessible on site;

2. Include instruction for notification procedures and the use of alarm and signal systems to alert a participant according to the participant's disability;

3. Include documentation of training and competency of staff and training of participants on emergency disaster drills;

4. Include an evacuation drill to be conducted in three (3) minutes or less, documented at least quarterly and, for a participant who receives residential support services, is scheduled to include a time when the participant is asleep; and

5. Mandate that the result of an evacuation drill be evaluated and if not successfully completed within three (3) minutes shall modify staffing support as necessary and repeat the evacuation drill within seven (7) days;

(cc) Shall provide orientation for each new employee, which shall include the mission, goals, organization, and practices, policies, and procedures of the agency;

(dd) Shall require documentation of all face-to-face training, which shall include:

1. The type of training provided;[;]

2. The name and title of the trainer;

3. The training objectives;

4. The length of the training;

5. The date of completion;

6. The signature of the trainee verifying completion; and

7. Verification of competency of the trainee as demonstrated by post-training assessments, competency checklists, or post-training observations and evaluations;

(ee) Shall require documentation of web-based training, which shall include transcripts verifying successful completion of training objectives; and

(ff) Shall ensure that each case manager or employee prior to independent functioning and no later than six (6) months from the date of employment successfully completes training that shall include:

1. First aid and cardiopulmonary resuscitation certification by a nationally accredited entity;

2. Situational de-escalation;

3. Abuse, neglect, and exploitation;

4. Incident reporting;

5. Medication administration;

6. Professional boundaries;

7. Trauma-informed care;

8. Person-centered principles; and

9. Any additional trainings required by the state behavioral health authority.

(4) A 1915(i) RISE Initiative provider, employee, or volunteer shall:

(a) Not manufacture, distribute, dispense, be under the influence of, purchase, possess, use, or attempt to purchase or obtain, sell, or

transfer any of the following in the workplace or while performing work duties:

1. An alcoholic beverage;
  2. A controlled substance except a 1915(i) HCBS provider, employee, or volunteer may use or possess a medically necessary and legally prescribed controlled substance;
  3. An illicit drug;
  4. A prohibited drug or prohibited substance;
  5. Drug paraphernalia; or
  6. A substance that resembles a controlled substance, if there is evidence that the individual intended to pass off the item as a controlled substance; and
- (b) Not possess a prescription drug for the purpose of selling or distributing it.

#### Section 2. Case Management.

(1) An 1915(i) HCBS RISE Initiative Case Manager provider shall comply with the following personnel requirements of having or attaining experience or licensure: ~~[-as:]~~

- (a) A bachelor's degree in behavioral health or human services;
- (b) A bachelor's degree in any field not closely related and one (1) year of human services related experience;
- (c) An associate degree in a behavioral science, social science, or a closely related field of study and two (2) years human services related experience;

- (d) Three (3) years of human services related experience;
- (e) A registered nurse; or
- (f) A behavioral health professional.

(2) A case manager shall:

(a) Communicate in a way that ensures the best interest of the participant;

(b) Be able to identify and meet the needs of the participant through coordination of Medicaid and non-Medicaid services within the participant's home and community to align with the participant's goals as identified in the functional assessment and documented in the PCSP;

(c) Be competent in the participant's language either through possessing linguistic proficiency, fluency of the language, or through interpretation: ~~[-and]~~

(d) Demonstrate a heightened awareness of the unique way in which the participant interacts with the world around the participant;

(e) Ensure that:

1. The participant is educated in a way that addresses the participant's:

- a. Need for knowledge of the case management process;
- b. Personal rights; and
- c. Risks and responsibilities as well as awareness of available services; and

2. All individuals involved in implementing the participant's PCSP are informed of changes in the scope of work related to the PCSP as applicable;

3. The participant is educated on how case management services support 1915(i) HCBS;

4. Case management services are available to a participant by phone or in person:

- a. Twenty-four (24) hours per day, seven (7) days per week; ~~and~~
- b. To assist the participant in obtaining community resources as needed to:

(i) Comply with applicable federal and state laws and requirements;

(ii) Continually monitor a participant's health, safety, and welfare; and

(iii) Complete or revise a PCSP;

(f) Have a code of ethics to guide the case manager in providing case management, which shall address:

1. Advocating for standards that promote outcomes of quality;
2. Ensuring that no harm is done;
3. Respecting the rights of others to make their own decisions;
4. Treating others fairly; and
5. Being faithful and following through on promises and commitments;

(g) Assist the participant to lead the person-centered service planning team to: ~~[-:]~~

1. Take charge of coordinating services through team meetings with representatives of all agencies involved in implementing a participant's PCSP;

2. Include the participant's participation and legal guardian participation, if applicable, in the case management process; and

3. Make the participant's preferences and participation in decision making a priority;

(h) Document a participant's:

1. Interactions and communications with other agencies involved in implementing the participant's PCSP; and

2. Personal observations;

(i) Advocate for a participant with service providers to ensure that services are delivered as established in the participant's PCSP;

(j) Be accountable to:

1. A participant to whom the case manager provides case management in ensuring that the participant's needs are met;

2. A participant's PCSP team and provide leadership to the team and follow through on commitments made; and

3. The case manager's employer by following the employer's policies and procedures;

(k) Stay current regarding the practice of case management and case management research;

(l)

1. Assess the quality of services, safety of services, and cost effectiveness of services being provided to a participant to ensure that implementation of the participant's PCSP is successful and done so in a way that is efficient regarding the participant's financial assets and benefits;

2. Utilize department approved system to fulfill case management responsibilities, including:

a. Documenting that the participant's health, safety, and welfare are not at risk;

b. Gathering data regarding the participant's satisfaction with the services for use in guiding the person-centered planning process;

~~and~~

c. Recording how the person-centered team will address the following:

~~(i) [(m)]~~ Expanding and deepening the participant's relationships;

~~(ii) [(1-)]~~ Increasing the participant's presence in local community life: ~~[-and]~~

~~(iii) [(2-)]~~ Helping the participant have more choice and control;

and

~~(iv) [(3-)]~~ Record using the inability to access services functionality

when a person is unable to access 1915(i) RISE Initiative services and when the person returns to services or is not going to return to services: ~~[-:]~~

~~(m) [(n)]~~ Present to or engage with a human rights committee on the participant's behalf as needed; ~~and~~

~~(n) [(o)]~~ Review and approve each PCSP with human rights restrictions at a minimum of every six (6) months.

(3) Case management for any participant who begins receiving 1915(i) RISE Initiative services after the effective date of this administrative regulation shall be conflict free except as allowed in paragraph (b) of this subsection.

(a) Conflict free case management shall be a scenario in which a provider, including any subsidiary, partnership, not-for-profit, or for-profit business entity that has a business interest in the provider who renders case management to a participant, shall not also provide another 1915(i) HCBS service to that same participant unless the provider is the only willing and qualified 1915(i) RISE Initiative provider within thirty (30) miles of the participant's residence.

(b) An exemption to the conflict free case management requirement shall be granted if:

1. The participant's case manager provides documentation of evidence to the department or its designee that there is a lack of a qualified case manager within thirty (30) miles of the participant's residence;

2. The participant or participant's representative and case manager signs a completed MAP – 531 Conflict-Free Case Management Exemption; and

3. The participant, participant's representative, or case manager uploads the completed MAP – 531 Conflict-Free Case Management



Exemption into the department approved system.

(c) If a case management service is approved to be provided despite not being conflict free, the case management provider shall document conflict of interest protections, separating case management and service provision functions within the provider entity, and demonstrate that the participant is provided with a clear and accessible alternative dispute resolution process.

(d) An exemption to the conflict free case management requirement shall be requested upon re-evaluation or at least annually.

(4) A case management agency providing case management to a 1915(i) RISE Initiative participant shall not make a referral to any 1915(i) RISE Initiative services provider to provide services for the same participant if the provider agency has an individual with an ownership interest who is an immediate family member of an individual with an ownership interest in the referring case management agency.

(5) Case management shall:

(a) Assist a participant in the identification, coordination, arrangement, and facilitation of the person-centered team and person-centered team meetings;

(b) Assist a participant and the person-centered team to develop an individualized PCSP and update it as necessary based on changes in the participant's medical condition and supports;

(c) Assist a participant to gain access to and maintain employment, membership in community clubs and groups, activities, and opportunities at the times, frequencies, and with the people the participant chooses;

(d) Include coordinating and monitoring of the delivery of services and the effectiveness of the PCSP, which shall:

1. Be initially developed with the participant and legal representative (~~the~~, parent, guardian, legally responsible individual) if appointed prior to the level of care determination;

2. Be updated within the first thirty (30) days of service and as changes or recertification occurs; and

3. Include the PCSP being sent to the department or its designee prior to the implementation of the effective date the change occurs with the participant;

(e) Be provided by a case manager who:

1. Meets the requirements of subsection (1) of this section;

2. Shall provide a participant and legal representative with a listing of each available 1915(i) RISE Initiative provider in the service area;

3. Shall maintain documentation signed by a participant or legal representative of informed choice of a 1915(i) RISE Initiative provider and of any change to the selection of a Rise Initiative provider and the reason for the change;

4. Shall provide a distribution of the crisis prevention and response plan, transition plan, PCSP, and other documents within the first thirty (30) days of the service to the chosen 1915(i) RISE Initiative service provider and as information is updated;

5. Shall provide twenty-four (24) hour telephone access to a participant and chosen 1915(i) RISE Initiative provider;

6. Shall work in conjunction with a 1915(i) RISE Initiative provider selected by a participant to develop a crisis prevention and response plan, which shall be:

a. Individual-specific and person-centered; ~~and~~

b. Updated as a change occurs; and

c. Reviewed and updated as necessary at each recertification;

7. Shall assist a participant in planning resource use and assuring protection of resources;

8. Shall conduct an in-person meeting at minimum every other month with a participant occurring either at a covered service site or the participant's residence. However, one (1) visit every three (3) months shall be conducted at the participant's residence; ~~and~~

9. Shall conduct meetings at a location where the participant is engaged in services; ~~and~~

a. For a participant receiving supervised residential care, ~~shall conduct~~ at least one (1) quarterly visit at the participant's supervised residential care provider site; ~~and~~

b. Telehealth is allowed in all other instances outside of the minimum face-to-face requirements established in subparagraph 8. of this paragraph according to 907 KAR 3:170;

10. Shall ensure twenty-four (24) hour availability of services; and

11. Shall ensure that the participant's health, welfare, and safety needs are met; and

(f) Assist a participant in obtaining a needed service outside those available by 1915(i) HCBS.

### Section 3. Person Centered Service Planning Process.

(1) After an initial functional assessment is performed, a participant shall choose a case manager.

(2) The case manager shall assist the participant and the participant's legal guardian, if applicable in developing the PCSP.

(3) Upon acceptance of a new participant, the case manager shall conduct an initial home visit to begin the person-centered planning process no later than forty-five (45) days from the case manager's acceptance.

(4) The person-centered service plan shall:

(a) Be created by using a person-centered team composed of a team of individuals designated by the participant, including any family member, friends, and other paid or unpaid caregivers. The participant and the participant's legal guardian, if applicable, may remove any individuals at their discretion;

(b) Be created by a case manager who shall document the individuals included in the person-centered team on the department approved form and upload it to the department approved system;

(c) Be updated when a support is disinvited or removed from the person-centered planning team;

(d) Require participation of the full person-centered planning team established in paragraph (a) of this subsection;

(e) Be redetermined annually;

(f) Require final approval by the participant and the participant's guardian or authorized representative, if applicable, as to whether there is satisfactory team participation to conduct the PCSP annual review meeting; and

(g) Require documentation by the case manager:

1. Relating to how information about the meeting was provided to absent members; and

2. Of a written attestation by members of the person-centered planning team who do not attend the annual review meeting, or who attend by phone, that they understand the contents of the PCSP and can support the participant's service needs at the requested amount, frequency, duration.

(5) The person-centered service planning team shall:

(a) Collectively review the findings of the participant's functional assessment, including documenting any non-Medicaid paid or unpaid supports including information on the access and limitations of these supports and Medicaid State Plan services; ~~and~~

(b) Work collectively under the leadership of the participant or the participant's legal guardian, if applicable, to complete an additional review of the participant's person-centered planning needs and wishes to establish goals and objectives that enhance:

1. Health;

2. Safety;

3. Welfare;

4. Community-based independence; ~~and~~

5. Community participation; and

6. Quality of life; ~~and~~

(c) Not require that all goals and objectives be accomplished using 1915(i) RISE Initiative funded services.

(6) Goals and objectives as communicated by the person-centered team and PCSP shall include education and team support for the participant and the participant's legal guardian, if applicable.

(7) Goals and objectives for all services on the PCSP shall utilize the SMART format.

(8) The case manager shall provide detailed information to participants about available non-1915(i) RISE Initiative services that may assist in reaching their goals and objectives; ~~and~~

(9)

(a) Goals and objectives placed in a PCSP shall be documented, along with an inventory of:

1. A participant's personal preferences;

2. Individualized considerations for service delivery; and

3. Information about the participant's needs, wants, and future

aspirations;

(b) The results of the inventory shall be:

1. Included in the PCSP and housed in a department approved system; **and**

2. Signed by the participant and the participant's legal guardian, if applicable, the case manager, and all other individuals responsible for the implementation of services.

(10) The case manager shall provide counseling and education on available service options to meet a participant's person-centered goals and objectives.

(11) After a participant and the participant's legal guardian, if applicable, selects providers to deliver services pursuant to the frequency and amount, the case manager shall facilitate the referral process including attaining providers' signatures on the PCSP.

(12) The case manager shall be responsible to ensure that the scope, frequency, amount and duration of services falls within the allowable utilization criteria and limitations set by the department and shall clearly document any planned changes in utilization anticipated over the course of the year.

(13) The case manager shall maintain documentation showing that all needs identified through the functional assessment are addressed **by/via** unpaid supports or paid supports – such as Medicaid state plan services - and that all paid services are appropriate in amount, duration, frequency as identified by the functional assessment.

(14)

(a) Once signatures have been secured from all required person-centered team members, including the participant and the participant's legal guardian, if applicable, the case manager, and all 1915(i) RISE Initiative funded service providers delivering PCSP included services, services may be initiated.

(b) The signatures shall not be obtained until the person-centered planning process and the PCSP are complete.

(15) A service rendered prior to the completed signed attestation of understanding of the contents of the PCSP by these parties shall not be reimbursed.

(16) The participant's signature serves only as acknowledgement and understanding of the PCSP's contents, and signing the PCSP does not preclude the participant from grievance or appeal.

(17) A participant's PCSP shall be recertified on an annual basis. Prior to the reviewing and modifying of the PCSP, the following activities shall occur:

(a) An annual functional assessment; **and**

(b)

1. The case manager shall review the annual functional assessment; and

2. The case manager is encouraged to co-attend the performance of the functional assessment. If a case manager chooses to attend the functional assessment, the following requirements shall apply:

a. The case manager shall support the participant in answering questions and not answer questions on the participant's behalf;

b. The case manager shall not influence the participant's response or lack of response; and

c. The functional assessor shall not use information provided by a case manager that directly conflicts with assessment feedback provided by the participant.

(18) The person-centered service planning shall begin forty-five (45) calendar days prior to the end of the current period.

(19) The PCSP shall be completed and uploaded to department approved system seven (7) calendar days prior to the end of the period spanning 364 calendar days from the date a participant is enrolled in the department approved system.

#### Section 4. Ongoing Management and Use of the PCSP.

(1) A participant and a participant's legal guardian, if applicable, may request a modification to their PCSP due to changes in their condition or service needs at any time.

(2) Throughout the course of plan monitoring, the case manager shall address instances when a modification to the PCSP may be appropriate.

(3)

(a) The case manager shall not initiate any modification to the PCSP without the consent of the participant and the participant's legal guardian if applicable.

(b) The service providers affected by an event-based modification to the PCSP shall be involved in the modification process as well.

(4) Certain modifications or event-based circumstances may require the completion of an updated functional assessment of the participant's needs and make necessary adjustments to the participant's PCSP. The following are examples, but not an exhaustive list, of circumstances that could merit completion of a functional assessment outside of the annual assessment cycle:

(a) Inpatient admission to an institutional care setting with changes at discharge in functional ability from previous assessment;

(b) Change in care setting that increases the participant's level of care, including transitions between community-based settings such as moving from a participant's own home to a residential setting;

(c) Long-term change in access to or ability of an unpaid caregiver; **and**

(d) Observed or reported changes that result in the inability of the participant to meet goals and objectives based on the current PCSP.[i]

(5) If an event-based assessment is initiated pursuant to subsection (4) of this section, the case manager shall:

(a) Initiate in the department approved system;

(b) Review the updated assessment and share information about the assessment outcomes with the participant and the participant's legal guardian, if applicable; **and**[-]

(c) Work with the participant, and any members of the participant's person-centered team as requested by the participant, to modify the PCSP to address any requested or necessary modifications.

(6) An updated PCSP shall be signed by the participant and the participant's legal guardian, if applicable, the case manager, and any new service providers or providers for whom the scope, amount, or duration of service has been adjusted from what was previously consented to or for whom services have been impacted. The signatures shall not be obtained until the person-centered planning process and the PCSP are complete.

(7) The modified PCSP shall remain in effect until the end of the participant's original enrollment year.

(8) An event-based functional assessment shall not eliminate the need for a participant's annual PCSP redetermination.

(9) All providers delivering services shall be:

(a) Notified **through/via** the department approved system when a participant's PCSP has changed; and

(b) Responsible for reviewing changes and working with the participant's case manager and person-centered team to make any adjustments or deploy mitigation strategies to ensure continuity of care.

(10) A case manager shall not maintain a case load of more than thirty (30) participants during any monthly period.

#### Section 5. Documentation Requirements for 1915(i) RISE Initiative Providers.

(1) Documentation shall be maintained in the participant's record for all services provided.

(2)

(a) A note shall be entered for each service provided within seventy-two (72) hours from the date of the service being rendered.

(b) Each service shall be documented in the department approved system by a detailed staff note, which shall include:

1. The participant's health, safety, and welfare;

2. Progress toward outcomes identified in the approved PCSP;

3. The date of the service;

4. The beginning and ending times of service provision; and

5. The signature and title of the individual providing the service.

(3) Documentation shall be person centered and reflect the support provided to the participant, including:

(a) The goal from the PCSP addressed by the service;

(b) The activity completed to meet the goal and the outcome;

(c) How the participant responded to the service; and

(d) Any progress or lack thereof toward the goals and objectives reflected on the PCSP.

(4) All service notes shall also include:

- (a) The participant's name;
- (b) The date of service;
- (c) The time of service, including the beginning and end times;
- (d) Type of service;
- (e) Mode of contact, for example whether the service was in-person, by[via] telephone, or telehealth;

(f) Location of service;

(g) Narrative summary of the service provided and relating what was provided to the goal and objectives on the PCSP; and

(h) Signature, date, and title of the person providing the service.

(5) Each note entered pursuant to this section shall be unique and not duplicative of other notes.

(6) Supported Employment shall have these additional documentation requirements:

(a) Documentation that states when Office of Vocational Rehabilitation funding has been exhausted;

(b) A Person-Centered Employment Plan (PCEP) that is executed and implemented when a participant enters into supported employment;

(c) A long-term employment support plan (LTSEP) shall be developed and documented through the PCSP; and

(d) The PCEP and LTSEP shall include service notes completed each time that a supported employment specialist meets with or conducts an action on behalf of the participant.

(7) Residential Services shall have the following additional documentation requirements:

(a) A daily note describing relevant services and activities in which the participant participated; and

(b) Relevant services and activities shall include:

- 1. Skills training, including adaptive skill development;
- 2. Assistance with ADLs;
- 3. Community inclusion;
- 4. Social and leisure development;
- 5. Protective oversight or supervision;
- 6. Transportation;
- 7. Personal assistance provided; and
- 8. The provision of medical or health care services.

(8) Case management shall have these additional documentation requirements:

(a) Case management notes shall reflect the monitoring of the services;

(b) Documentation of all contacts and communication conducted with or on behalf of the participants on their caseload;

(c) The documentation shall include, at minimum, one (1) contact with the client conducted in-person or by[via] telehealth;

(d) The monthly contact shall document how the monitoring of services for the participant's PCSP is occurring. For example, whether a phone call with the provider occurred, or if a face-to-face visit occurred during the conduct of a service; and

(e) If the participant has a guardian, regular check-ins with the guardian to determine if the guardian has any relevant information or concerns to share.[;]

(9) The case manager shall have these additional PCSP monitoring requirements:

(a) All service documentation shall be reviewed by the case manager to assist with monitoring services for each participant;[;]

(b) A case manager shall address concerns with the quality of services or documentation with a provider as part of managing the PCSP;[;]

(c) A case manager shall ensure that documentation thoroughly addresses:

- 1. The current status of the client;
- 2. The services utilized to address specific goals established in the PCSP; and
- 3. Resolution of any concern expressed by the client or provider; and[;]

(d) As services are provided to a participant, all indirect and direct contacts shall be documented, including, as appropriate, contacts with:

- 1. Members of the participant's person-centered team;

2. Primary care providers;

3. Additional service providers; and

4. The participant's caregiver or guardian, as relevant.

#### Section 6. Human Rights Committee.

(1) A human rights committee shall meet on a routine, scheduled basis, no less than quarterly to ensure that the rights of participants utilizing 1915(i) RISE Initiative services are respected and protected through due process.

(2) A human rights committee shall include at least:

- (a) One (1) self-advocate;
- (b) One (1) member from the community at large with experience in human rights issues or in the field of SMI or co-occurring SMI and SUD;
- (c) One (1) appointed guardian or family member of a 1915(i) RISE Initiative participant;
- (d) One (1) professional in the medical field; and
- (e) One (1) professional with:

1. A bachelor's degree from an accredited college or university; and

2. Three (3) years of experience in the field of behavioral health.

(3) Each 1915(i) RISE Initiative provider shall:

(a) Actively participate in the human rights committee process of the local human rights committee; and

(b) Provide the necessary documentation to the local human rights committee for review and approval prior to implementation of any rights restrictions or positive behavior support plans involving rights restrictions.

(4) A human rights committee meeting shall have a quorum of at least three (3) members, including at least one (1) self-advocate and one (1) community at large member.

(5) A human rights committee shall:

- (a) Maintain a record of each meeting; and
- (b) Send a summary of each PCSP reviewed to the:

- 1. Relevant participant; or
- 2. Participant's guardian and case manager.

(6) Each member of a human rights committee shall:

- (a) Complete an orientation approved by DBHDID;
- (b) Sign a confidentiality agreement; and
- (c) Function in accordance with the Health Insurance Portability and Accountability Act codified as 45 C.F.R. Parts 160, 162, and 164.

(7)

(a) A human rights committee shall ensure that any restriction imposed on a participant is:

- 1. Temporary in nature;
- 2. Defined with specific criteria outlining how the restriction is to be imposed;
- 3. Paired with learning or training components to assist the participant in eventual reduction or elimination of the restriction;
- 4. Removed upon reaching clearly defined objectives; and
- 5. Reviewed by the human rights committee at least once every six (6) months if the restriction remains in place for at least six (6) months.

(b) In an emergency where there is imminent danger or potential harm to a participant or other individuals, the participant's 1915(i) RISE Initiative service provider, in consultation with the case manager and participant's guardian, as appropriate, may limit or restrict the participant's rights for a maximum of one (1) week.

(c) If a participant is under the care of a psychologist, counselor, psychiatrist, or behavior support specialist, a restriction plan:

- 1. Shall be developed with the input of the psychologist, counselor, psychiatrist, or behavior support specialist; and
- 2. May be implemented for up to two (2) weeks.

(d) A proposed continuation of a restriction shall be immediately reviewed and approved by three (3) members of the local human rights committee while alternative strategies are being developed.

(e) If a rights restriction needs to be continued and addressed in the participant's PCSP, the restriction shall be submitted to the local human rights committee at the next regularly scheduled meeting.

#### Section 7. Other Assurances Required by Provider.

(1) For each participant to whom it provides services, a 1915(i) RISE Initiative provider shall ensure:

## VOLUME 52, NUMBER 1– JULY 1, 2025

- (a) The participant's:
  - 1. Right to privacy, dignity, and respect; and
  - 2. Freedom from coercion or restraint;

(b) The participant's freedom of choice as defined by the experience of independence, individual initiative, or autonomy in making life choices in all matters;

(c) That the participant or participant's representative chooses services, providers, and any service settings;

(d) That the participant is provided with a choice of where to live with as much independence as possible and in the most community-integrated environment; and

- (e) That the service setting options are:
  - 1. Identified and documented in the participant's PCSP; and
  - 2. Based on the participant's needs and preferences.

(2) A 1915(i) RISE Initiative provider shall not use an aversive technique with a participant.

(3) Any right restriction imposed by a 1915(i) RISE Initiative provider shall:

- (a) Be bi-annually reviewed by a human rights committee;
- (b) Be subject to approval by a human rights committee; and
- (c) Include a plan to restore the participant's rights.

### Section 8. Incident Reporting Process.

(1) The incident reporting process shall follow the processes outlined in the "Incident Reporting Instructional Guide for 1915(c) HCBS Waiver Services". Available at: <https://www.chfs.ky.gov/agencies/dms/dca/Documents/irinstructionalguid.pdf>.

(2) The department or its designee shall continually monitor incident trends and patterns and may require additional incident types beyond those listed above as needed.

(3) A provider shall identify individuals and entities that are required to report critical events and incidents, including:

(a) That any individual who witnesses or discovers a critical or non-critical incident is responsible to report it; and

(b) All persons as defined in KRS 209.030(2) and KRS 620.030.

(4) A provider shall:

**(a)** Notify all pertinent entities including ~~the~~**but not limited to** case manager or service advisor, law enforcement, and protective services;~~[-and]~~

**(b)(a)** Ensure that any employee or agent who witnesses or discovers a critical incident shall immediately take steps to ensure the participant's health, safety, and welfare, and notify the necessary authorities, including calling law enforcement and reporting any suspected abuse, neglect, or exploitation;~~and~~

**(c)(b)** Comply with existing requirements for reporting of critical and non-critical incidents[;]

**(c)** [~~Contact all pertinent entities including, as appropriate, the case manager or service advisor, law enforcement, and protective services.~~]

(5) The department or its designee shall regularly review critical and non-critical incident summary data generated by the department approved system to identify systemic issues and conduct follow-up activities as warranted.

Section 9. Use of Electronic Signatures. The creation, transmission, storage, or other use of electronic signatures and documents shall comply with:

(1) The requirements established in KRS 369.101 to 369.120; and

(2) All applicable state and federal statutes and regulations.

Section 10. Employee Policies and Requirements Apply to Subcontractors. Any policy or requirement established in this administrative regulation regarding an employee shall apply to a subcontractor.

### Section 11. Appeal Rights.

(1) An appeal of a department decision regarding a Medicaid beneficiary based upon an application of this administrative regulation shall be in accordance with 907 KAR 1:563.

(2) An appeal of a department decision regarding Medicaid eligibility of a participant based upon an application of this administrative regulation shall be in accordance with 907 KAR

1:560.

(3) An appeal of a department decision regarding a provider based upon an application of this administrative regulation shall be in accordance with 907 KAR 1:671.

Section 12. Federal Approval and Federal Financial Participation. The department's reimbursement for services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the reimbursement; and

(2) Centers for Medicare and Medicaid Services approval for the reimbursement.

FILED WITH LRC: June 10, 2025

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email [CHFSregs@ky.gov](mailto:CHFSregs@ky.gov).

### CABINET FOR HEALTH AND FAMILY SERVICES Department for Medicaid Services Division of Quality and Population Health (As Amended at ARRS, June 10, 2025)

**907 KAR 16:020. 1915(i) Home and Community-Based Services (HCBS) Recovery, Independence, Support & Engagement (RISE) Initiative; Covered services.**

RELATES TO: KRS 205.520, 314.011, 42 C.F.R. 431.53, 440.170, 441.530, 20 U.S.C. 1400, **29 U.S.C. 730, 794**, 42 U.S.C. 1396a, **12101**

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

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has **the** responsibility to administer the Medicaid program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the policies and operational requirements to provide expanded services to individuals who have a primary diagnosis of serious mental illness or co-occurring serious mental illness and substance use disorder.

### Section 1. General Coverage Requirements.

(1) For the department to reimburse for a service covered under this administrative regulation, the service shall:

(a) Be provided for a primary diagnosis of serious mental illness (SMI) or co-occurring **SMI[serious mental illness]** and substance use disorder (SUD);

(b) Be **designated as[deemed]** eligible, based on the interRAI Community Mental Health Functional Assessment;

(c) Be provided to a participant pursuant to the participant's person-centered service plan (PCSP) by an individual who meets the requirements established in 907 KAR 16:015;

(d) Meet the coverage requirements established in Section 2 of this administrative regulation; and

(e) Be provided to a participant by a provider who is enrolled in accordance with:

- 1. 907 KAR 1:~~671~~**[672]**;
- 2. 907 KAR 1:~~672~~**[674]**; and
- 3. 907 KAR 16:015.

(2) The department shall ensure that duplication of services does not occur by prohibiting payment for services without authorization.

Section 2. Covered Services. Services shall be covered under this administrative regulation in accordance with the requirements established in this section.

(1) Assistive Technology.

(a) Assistive Technology (AT) shall be provided to individuals who are at least twenty-one (21) years of age and who have a primary diagnosis of SMI or co-occurring SMI and SUD.

(b) AT may include low tech to high tech devices, solutions, or equipment and shall include the services necessary to get and use the devices, including assessment, customization, repair, and training.

(c) AT services and supports may include ~~the following~~:

1. Consultation and assessment to identify and address the participant's needs as specified in the PCSP and other supporting documentation, as applicable;

2. Individual and small group demonstration and exploration of devices to increase awareness and knowledge of what is available;

3. Individual consultations to support device trials and assist in selection of a[appropriate] device ~~that is appropriate consistent with this paragraph~~[selection];

4. Individual and small group training on a specific device to support proper use;

5. Education and training for the participant and family, guardian, or provider staff to aid the participant in the use of the AT as needed;

6. Maintenance and repair of the AT; and

7. A one-time implementation training per order if needed and not provided by the vendor as part of delivery and installation. Additional therapy-related training may be recommended by the provider as appropriate.

(d) All items shall:

1. Meet applicable standards of manufacture, design, and installation; and

2. Be of direct benefit to the participant.

(e) The need for AT shall be documented in the participant's PCSP.

(f) A recommendation of AT, for services or goods, that exceeds ~~three-hundred dollars~~ [\$300] or more shall be ordered by ~~one of the following~~:

1. A behavioral health professional;

2. A Rehabilitation[.] Engineering and Assistive Technology Society of North America assistive technology professional (RESNA ATP);

3. A physical therapist;

4. An occupational therapist;

5. A speech language pathologist; or

6. An audiologist.

(g)

1. AT shall be subject to an annual cap of \$10,000 per participant, per year; and

2. If a participant requires AT after the cost limit has been reached, the participant's case manager shall assist them with accessing other resources or alternate funding sources that may be available.

(2) Case Management.[.]

(a) Case management shall be delivered to individuals eighteen (18) years of age and older.

(b) A case manager shall adhere to person-centered principles during all planning, coordination, and monitoring activities.[.]

(c) Case management shall include working with the participant, the participant's legal guardian, legal representative, and others who the participant identifies, such as immediate family members, in developing and documenting a PCSP.

(d) The case manager shall use a person-centered planning process and assist in identifying and implementing support strategies to enable the PCSP to advance the participant's identified goals while meeting assessed community-based needs. Support strategies shall incorporate the principles of empowerment, community inclusion, health and safety assurances, and the use of paid, unpaid, and community supports.

(e) Case managers shall work closely with the participant to assess and document the participant's needs, desired outcomes, services, available resources, and overall satisfaction with services and processes.

(f) Case managers shall ensure that participants have freedom of choice of providers.

(g) Case management activities shall include quarterly in-person communication and if chosen by the participant, at least quarterly, virtual, [per participant's choice, telephonic, or] and other methods of communication that provide coordination and

oversight[.] which ensure ~~the following~~:

1. Ongoing access to conflict-free options guidance to select appropriate services to meet identified needs and goals, along with education about available service providers;

2. The desires and needs of the participant are determined through a person-centered planning process;

3. The development or review of the PCSP, including monitoring of the effectiveness of the PCSP to advance person-centered goals and objectives and respond to changes in participant goals and objectives;

4. The coordination of multiple services and among multiple providers, to include other service-specific plans, such as a housing supports plan, as appropriate;

5. Linking 1915(i) RISE Initiative service participants to services that support the participant's home and community-based needs;

6. Addressing problems in and barriers to service provision;

7. Implementing participant crisis mitigation plans and making appropriate referrals to address active or potential crises;

8. Detecting, reporting, and mitigating suspected abuse, neglect, and exploitation of participants, including adherence to mandatory reporter laws, and monitoring the quality of the supports and services;

9. Assisting the participant in developing and coordinating access to social networks to promote community inclusion as requested by the participant;

10. Assessing the quality of services, safety of services, and cost effectiveness of services being provided to a participant to ensure that implementation of the participant's PCSP is successful and efficient regarding the participant's financial assets and benefits;

11. Routinely assessing the participant's progress towards achieving the goals identified in the PCSP as well as the participant's readiness to transition to a lower level of care or less restrictive residential setting[.]

12. Performing advocacy activities on behalf of the client; and

13. Providing SSI/SSDI Outreach, Access, and Recovery (SOAR) to assist participants with accessing Social Security disability benefits, if[when] applicable.

(h) Case management activities shall be documented consistent with 907 KAR 16:015.[.]

(i) Plans for supports and services shall be reviewed and updated by the case manager and the participant's team at least annually and more often as needed.[.]

(j)

1. The provision of case management services shall facilitate free choice of providers as required by Title XIX[per section 1902(a)–(23)] of the Social Security Act, under 42 U.S.C. 1396a(a)(23)–(Title XIX) Act; and

2. Participants shall[will] have free choice of case management service providers.[.]

(k) Participants shall have free choice of the providers of other behavioral health care and medical care under the plan.[.]

(l) This service shall be limited to one (1) unit per participant, per calendar month.[.]

(m) ~~The following~~ Activities ~~shall be~~ excluded from case management as a billable 1915(i) RISE Initiative service shall include:

1. Travel time incurred by the case manager as a discrete unit of service;

2. Representative payee functions; and

3. Other activities identified by DMS.

(3) In-home independent living supports.

(a) In-home independent living supports shall be:

1. Targeted to individuals eighteen (18) years of age and older[.]

2. Routine services provided to participants to support:

a. The participant's ability to live independently; and

b. The development of the requisite skills to support independent living; and[.]

3.

a. Intended to support the participant to maximize the participant's own independence in self-managing independent living; and

b. Provided in their own private housing unit or in a housing unit

the participant shares with others, including a single-family home, duplex, or apartment building.

(b) In-home independent living supports may be reduced over time as a participant becomes more self-sufficient.

(c) No more than two (2) 1915(i) RISE Initiative service participants shall be supported in one (1) home or apartment unit.

(d) In-home independent living supports shall provide a range of assistance and training based on the assessed need to identify and complete activities of daily living (ADLs) or instrumental activities of daily living (IADLs).

(e) In-home independent living supports shall include assistance such as:

1. Hands-on assistance;
2. Supervision; or
3. Cueing with the goal of offering participant direction opportunities.

(f) ADLs or IADLs provided pursuant to this subsection shall include activities such as:

1. ~~if~~**When** detailed in a participant's PCSP goals, assistance with:

- a. Bathing;
- b. Grooming;
- c. Dressing;
- d. Financial management;
- e. Meal preparation;
- f. Grocery shopping;
- g. Preparing and storing food safely;
- h. Shopping;
- i. Cleaning; or
- j. Telephonic communication.

2. Assistance with medication education and adherence based on the PCSP goals.

3. Social skills training, including developing interpersonal effectiveness skills, and reduction or elimination of barriers to recovery.

4. Providing or arranging transportation to services, activities, and behavioral health and medical appointments as needed, as well as accompanying and assisting a participant ~~if~~**while** utilizing transportation services, including supporting the participant to navigate public transportation systems and other community transit options independently; ~~and~~.

5. Participation in behavioral health and medical appointments and follow-up care as directed by the medical staff.

(g) ADL and IADL support shall vary based on the assessed the needs of the participant.

(h)

1. Services shall be furnished in a way that fosters the independence of each participant to facilitate autonomy, self-sufficiency, or recovery.

2. Providers shall be expected to support participants in learning coping skills to navigate their chosen independent living environment.

3. Routines of service delivery shall be person-centric and participant-driven, to the maximum extent possible, and each participant shall be treated with dignity and respect and have full freedom of choice and self-determination.

4. The PCSP shall document any planned intervention that ~~may~~**could** potentially impinge on participant autonomy. Documentation shall include:

- a. Informed consent of the participant to the intervention;
- b. The specific need for the intervention in supporting the participant to achieve the participant's goals;
- c. Assurance that the intervention is the most inclusive and person-centered option;
- d. Time limits for the intervention;
- e. Periodic reviews of the intervention to determine if it is still needed; and
- f. Assurance that the intervention ~~shall not~~**will** cause ~~no~~ harm to the participant.

(i) **In-home independent living supports** shall involve meeting a homelessness risk factor, and shall include at least one (1) of the following criteria **for a participant**:

1. Homeless;

2. At risk of homelessness;

3. History of frequent –more than one (1) ~~time~~ per year in the previous two (2) years – stays in a nursing home or inpatient settings;

4. Was homeless in the prior **twenty-four (24)** months; or

5. Formerly homeless and is now residing in HUD or other subsidized assisted housing.

(j) **In-home independent living supports shall be** limited to one (1) unit per participant per calendar day.

(k) Payments for In-home Independent Living Supports shall not be made for:

1. Room and board;
2. Items of comfort or convenience; or
3. The costs of facility maintenance, upkeep, and improvement.

(l)

1. Separate payments shall not be made for:

- a. Medication management services;
- b. Transportation services; or
- c. Any other service that is provided to a participant under in-home independent living supports, but listed as a separate service pursuant to this section.

2. To prevent duplication of services, the department shall prohibit payment for:

- a. Services provided pursuant to this paragraph without authorization; and
- b. Providing the same service to the same participant during the same time.

(4) Medication Management.

(a) Medication management shall be targeted to individuals eighteen (18) ~~years of age~~ and older.

(b) Medication management services shall be intended to support program participants' adherence to and implementation of medication regimens with the participant in a person-centered manner.

(c) Medication management shall be provided by a pharmacist, medical doctor, physician assistant, advanced practice registered nurse, a registered nurse as defined in KRS 314.011(5), or a licensed practical nurse as defined in KRS 314.011(9) under the supervision of a registered nurse, and includes:

1. In-person contact with the participant, in an individual setting, for the purpose of monitoring a participant's medication adherence;
2. Providing education and training about medications;
3. Offering support to assist a participant experiencing medication side effects; or
4. Providing other nursing or behavioral health and medical assessments.

(d) The goal of this service shall be to provide the information, training, and empowerment necessary for a participant to make an informed decision about the participant's medication regimen.

(e)

1. Identified barriers and challenges to medication autonomy shall be reflected in the participant's PCSP by the case manager and may be amended as situations change.

2. Changes to the PCSP shall reflect the progression of a participant to less restrictive service delivery to promote progress towards self-identified goals.

(f) Medication management services shall be determined by a participant's PCSP, and, at a minimum, ~~shall~~ include:

1. Medication training and support that demonstrate movement toward or achievement of participant-driven treatment goals identified in the PCSP;
2. Medication training and support goals that are habilitative in nature; and
3. Documentation **that supports**~~(shall support)~~ how the service benefits the participant or addresses individualized risks for ongoing health and safety that are linked to the participant's medication.

(g) Medication training and support may also include the following services that are not required to be provided in-person with the participant:

1. Setting or filling medication boxes;
2. Consulting with the attending physician or AHCP regarding medication-related issues;

3. Ensuring lab or other prescribed clinical orders are sent;
4. Ensuring that the participant follows through and receives lab work and services pursuant to other clinical orders; or
5. Follow up reporting of lab and clinical test results to the participant and physician.

(h) Medication training and support services may be provided for a maximum of ~~[one hundred and eighty-two {182}]~~ hours, billed as ~~[seven hundred and twenty-eight {728}]~~ fifteen (15) minute units per year. The maximum shall include all subtypes of the service identified within this paragraph, such as:

1. Individual;
2. Group;
3. Family or couple<sub>2</sub>; and
4. Services provided with or without the participant present.

(i) Exclusions for medication management. If a participant receives medication management ~~by~~[via] in-home independent living supports or supervised residential care, then medication management services shall not be billed separately for the same visit by the same provider.

(5) Respite or planned respite for caregivers<sub>2</sub>;

(a) Planned respite for caregivers shall be targeted to individuals eighteen (18) years of age and older.

(b) Planned respite for caregivers shall be designed to provide temporary relief from caregiving~~[care-giving]~~ to the primary caregiver of a participant during times when the participant's primary caregiver would normally provide care.

(c) Respite shall be provided to assist the participant and the participant's family in preventing~~[prevent]~~ institutionalization.

(d) Respite services shall be intended to assist in maintaining a goal of living in a natural community home and shall be provided on a short-term, intermittent basis to relieve the participant's family or other primary caregivers from daily stress and care demands during times when they are providing unpaid care.

(e) Respite services shall not be provided on a continuous, long-term basis if~~[where]~~ those services are a part of daily services that would enable an unpaid caregiver to work elsewhere full time.

(f) Routine respite services may include hourly, daily, or overnight support.

(g) Decisions about the methods and amounts of respite shall be decided during the development of the PCSP to ensure the health, welfare, and safety of the participant.

(h) The department shall prior authorize respite services, and case managers shall be responsible for assisting participants in identifying and accessing other natural supports or supports available through other available funding streams if the participant's needs exceed the service limit.

(i) Respite shall be offered contingent upon the willingness of the participant to engage in the respite activity and shall not be offered as a service against a participant's will or under duress that would impede the participant's autonomy in personal decision-making.

(j) Respite may be provided in~~[the following settings]~~:

1. A participant's home or place of residence;
2. A provider owned or controlled facility approved by the State that is not a private residence (e.g., supervised residential home or licensed respite care facility);
3. Home of a friend or relative chosen by the participant and members of the planning team; or
4. ~~[In]~~A social or recreational community setting.

(k) Respite services shall not be provided by the participant's:

1. Primary caregiver or
2. Legal guardian.

(l) Cost of room and board shall not be included as part of the respite service unless provided as part of the respite care in a facility that is not a private residence.

(m) Transportation costs associated with the respite service are included in the respite rate. Providers shall not bill for transportation to a respite service site.

(n) Respite service activities may include:

1. Assistance with daily living skills;
2. Assistance with accessing or transporting to or from community activities;
3. Assistance with grooming and personal hygiene;

4. Assistance with meal preparation, serving, and cleanup;
5. Administration of medications as needed;
6. Supervision as needed to ensure the participant's health and safety; or
7. Recreational and leisure activities.

(o) Respite shall be provided for the planned or emergency short-term relief for natural, unpaid caregivers.

(p) Respite shall be provided intermittently if~~[when]~~ the natural caregiver is temporarily unavailable to provide supports based on routine or typical patterns of caregiving timing, duration, and scope of support, as recorded by the participant's case manager in his or her PCSP.

(q) Respite services shall not exceed twenty-one (21) hours per month or 200 hours annually without authorization.

(r) Respite shall not be a stand-alone service and shall be provided in conjunction with other treatment services.

(6) Supervised Residential Care<sub>2</sub>;

(a) Supervised Residential Care shall be targeted to individuals eighteen (18) years of age and older.

(b) Supervised Residential Care shall consist of supportive and health-related residential services provided to individuals in Medicaid enrolled and certified settings per 907 KAR 16:015.

(c) This service shall not have greater than three (3) service participants in a home leased or owned by the service provider.

(d) The supervised residential care setting shall include:

1. One (1) unit of staff supervision that~~[which]~~ shall consist of up to twenty-four (24) hours per day; and
2. As indicated per PCSP, skills training, recreational opportunities, emergency services, and referrals for behavioral health care and medical care.

(e) Supervised residential care shall be based on the individual needs of a participant per the PCSP.

(f) This setting may include unsupervised time per day for a participant to work towards increased independence. If this option is utilized, a participant shall work with their case manager to develop a PCSP for the participant to work towards increased independence. The portion of the PCSP that establishes an increased independence plan shall include:

1. Necessary provisions to ensure~~[assure]~~ the participant's health, safety, and welfare;
2. Documented approval by the participant's person-centered planning team, including the participant being served; and
3. Periodic review and updates, based on changes in the participant's status.

(g) Staff providing supervised residential care shall be expected to provide assistance and training to identify and complete ADLs and IADLs, including activities such as:

1. Personalized support with:
  - a. Assisting residents with ADLs per PCSP goals;
  - b. Meal preparation;
  - c. Shopping;
  - d. Cleaning;
  - e. Financial management or bill paying for the resident's personal expenses; or
  - f. Executing telephonic, e-mail, or other communication with formal and informal supports<sub>2</sub>;
2. Assistance with medications<sub>2</sub>, education<sub>2</sub>, and adherence based upon the results of a registered nurse assessment per the PCSP<sub>2</sub>;
3. Social skills training including developing interpersonal effectiveness skills, and reduction or elimination of barriers to recovery<sub>2</sub>;
4. Providing or arranging transportation to services, activities, and medical appointments as needed as well as accompanying and assisting a participant while utilizing transportation services; and;
5. Supporting a participant to arrange, attend, communicate, and manage their post-appointment follow up treatment and care activities, as recommended by the provider.

(h) Participants shall work with the case manager to develop PCSPs that include the utilization of community residential supports specifically supporting the development of natural supports, as well as community integration and participation.

(i) Participants shall be routinely engaged by the case manager

to:

1. Identify the participant's preparedness or desire to transition to a more community-integrated residential setting that is non-congregate;[.] and

2. Promote timely and appropriate movement to a participant's preferred residential arrangement.

(j) During the movement phase from a supervised care setting to a more community-integrated residential setting, eligible participants shall receive evidence-based programming to promote the furtherance of the goals in the participant's PCSP and establish community integration and participation foundations.

(k) Providers of supervised residential care services shall collaborate with other members of the participant's person-centered team to promote successful preparation and transition if[when] a move-out occurs.

(l) Additional needs-based criteria for the provision of the supervised residential care service include an assessment of homelessness Risk Factors, which shall include meeting at least one (1) of the following criteria for a participant:

1. Homeless;

2. At risk of homelessness;

3. History of frequent –more than one (1) time per year in the previous two (2) years – stays in a nursing home or inpatient settings;

4. Was homeless in the prior twenty-four (24) months; or

5. Formerly homeless and is now residing in HUD or other subsidized assisted housing.

(m) Supervised residential care shall be limited to one (1) unit per participant per calendar day.

(n) Payments for supervised residential care shall not be made for:

1. Room and board;

2. Items of comfort or convenience;[.] or

3. The costs of facility maintenance, upkeep, and improvement.

(o)

1. Separate payments shall not be made for:

a. Medication management services;

b. Transportation services;[.] or

c. Any other service that is provided to a participant as supervised residential care, but listed as a separate service pursuant to this administrative regulation.

2. To prevent duplication of services, the department shall prohibit payment for:

a. Services provided pursuant to this paragraph without authorization; and

b. Providing the same service to the same participant during the same time.

(7) Supported Education;[.]

(a)

1. Supported Education (SEd) shall be targeted to individuals eighteen (18) years of age and older.

2. Supported Education providers shall exhaust all other available resources available through state and federal agencies prior to utilizing the 1915(i) RISE Initiative services established pursuant to this chapter.

(b) SEd[Supported Education-]([Sed]) services shall:

1. Be individualized;

2. Promote engagement;

3. Sustain participation by the participant within the educational setting; and

4. Be delivered with the goal of restoring a participant's ability to function in the learning environment.

(c) The educational environments in which SEd may be delivered include college, technical college, proprietary, distance learning, and short-term learning.

(d) A service shall:

1. Be specified in the PCSP[(PCSP)] to enable the participant to integrate more fully into the community or educational setting; and

2. Ensure the health, welfare, and safety of the participant.

(e) The goals of SEd as reflected in the PCSP shall be for participants to:

1. Engage and navigate the learning environment;

2. Support and enhance attitude and motivation;

3. Develop skills to improve educational competencies, including social skills, social-emotional learning skills, literacy, study skills, and time management;

4. Promote self-advocacy, self-efficacy, and empowerment, including disclosure, reasonable accommodations, and advancing educational opportunities; and

5. Build community connections and natural supports as needed to adapt to and thrive within the educational program or setting of the participant's choosing.

(f) Supported Education providers shall provide individualized services utilizing an engage, bridge, and transition model, which shall include any combination of ~~the following~~:

1. Acting as a liaison or support in the educational learning environment;[.]

2. Facilitating outreach and coordination of learning opportunities;[.]

3. Familiarizing the participant and caregiver (if applicable) to educational settings, to help navigate the school system and student services;[.]

4. Assisting with admission applications and registration;[.]

5. Assisting with transitions or withdrawals from programs, such as those resulting from behavioral health challenges, medical conditions, and other co-occurring disorders;[.]

6. Improving access for a participant by effectively linking consumers of mental health services to educational programs within the school, college, or university of their choice;[.]

7. Coordinating with the 1915(i) RISE Initiative Case Manager who shall oversee the needs of the participant and act as a liaison between the participant and the case manager; and.[.]

8. Assisting with advancing education opportunities for the participant, including applying for work experience, employment training programs, apprenticeships, and colleges.

(g) A training facility shall be accredited or licensed by appropriate accrediting or licensing bodies and comply with all state and federal requirements applicable to their use by the Office of Vocational Rehabilitation and 1915(i) RISE Initiative approved provider types.

(h) Supported education shall include a supported training component for specific participants in need of intensive job-related training. The goal of sponsored training is not education alone, but employment.

1. Supported training shall include:

a. Developing an education or career plan and revising as needed in response to the participant's needs and recovery process;[.]

b. Assisting in training to enhance interpersonal skills and social-emotional learning skills, including:

(i) Effective problem solving;

(ii) Self-discipline;

(iii) Impulse control;

(iv) Increased social engagement;

(v) Emotion management; and

(vi) Coping skills; and.[.]

c. Working collaboratively with the case manager to assist the participant in conducting a need assessment or educational assessment based on established goals in the PCSP to identify education or training requirements, personal strengths, and necessary support services.

2. Supported training may include individualized supports in all educational environments. Individualized supports may include:

a. Classroom;

b. Dining facilities; or

c. Test-taking environments.

3. Before utilizing supported training, all resources available through the Office of Vocational Rehabilitation shall first be exhausted.

4. This service may support training required to achieve an agreed upon vocational goal in the PCSP.

5. If[When] making decisions related to supported training, these areas shall be considered and documented:

a. Informed choice of the participant;

b. Benefit to the participant in terms of employment outcome; and



c. Expenditure of time and resources of the participant.

**6.[d.]** A thorough career exploration shall occur, which may include interest inventories, visits to job sites and training institutions, job shadowing, or volunteer opportunities. The career exploration shall include a counselor associated with the participant's case explaining labor market trends for the planned occupation.[7]

**7.[e.]** The associated counselor shall assess transferable skills, interests, and capacities to determine if training is needed to obtain suitable employment.[7]

**8.[f.]** The associated counselor shall discuss all situations, obligations, history, and attendant factors that may affect successful completion of training and explore comparable training options prior to finalizing a plan.

**9.[6.]**

a. Documentation shall support the participant's ability, aptitude, and interest to complete the training, with or without reasonable accommodations.

b. Documentation may include performance measures, such as academic records, American College Test (ACT), or Test of Adult Basic Education (TABE) scores.[7] **and**

(i) Supported education shall develop skills to improve educational competencies, including:

1. Working with participants to develop the skills needed to remain in the learning environment, which may include:

- a. Effective problem solving;
- b. Self-discipline;
- c. Impulse control;
- d. Emotion management;
- e. Coping skills;
- f. Literacy;
- g. English as a second language;
- h. Study skills;
- i. Note taking;
- j. Time and stress management; or
- k. Social skills; or

2. Providing opportunities to explore individual interests related to career development and vocational choice.

(j)

1. Supported education shall include improving a participant's skills relating to self-advocacy, self-efficacy, and empowerment.

2. To ensure duplication of related services does not occur providers shall coordinate efforts with the Department of Education and the local vocational rehabilitation agency.

(k) A supported education provider may:

1. Act as a liaison to assist with attaining alternative outcomes, for example, completing the process to request an incomplete rather than failing grades if the student needs medical leave or withdrawal from the educational institution;

2. Have or promote individualized and ongoing discussions with involved parties regarding the disclosure of disability;

3. Provide advocacy support to obtain accommodations, including requesting extensions for assignments and different test-taking settings if needed for a documented disability;

4. Conduct advocacy and coaching on reasonable accommodations as defined by the Individuals with Disabilities Education Act (IDEA), **20 U.S.C. 1400 et seq.**, Section 504 of the Rehabilitation Act of 1973, **29 U.S.C. 794**, and **the Americans with Disabilities Act (ADA), 42 U.S.C. 12101 et seq.**, which may include:

- a. Note-taking services;
- b. Additional time to complete work in class and on tests;
- c. Modifications in the learning environment;
- d. Test reading;
- e. Taking breaks during class **if[when]** needed;
- f. Changes in document and assignment format; or
- g. Other common reasonable accommodations provided pursuant to the federal laws listed in **this** subparagraph[ 4.]; or

5. Provide instruction on self-advocacy skills in relation to independent functioning in the educational environment.

(l) A supported education provider shall assist with establishing and developing community connections and natural supports, including:

1. Serving as a resource clearinghouse for educational

opportunities, tutoring, financial aid, and other relevant educational supports and resources;

2. Providing access to recovery supports, including cultural, recreational, and spiritual resources;

3. Providing linkages to education-related community resources, including supports for learning and cognitive disabilities;

4. Identifying financial aid resources and assisting with applications for financial aid; or

5. Assisting in applying for student loan forgiveness on previous loans for reasons including disability status.

(m) Ongoing SED service components may be conducted after a participant is successfully admitted to an educational program.

(n) SED services shall be designed to be delivered in and outside of the classroom setting and may be provided by schools or agencies enrolled as approved providers of 1915(i) RISE Initiative SED services that specialize in providing educational support services.

(o) To be a SED qualified provider, the provider shall be an approved vendor through the Office of Vocational Rehabilitation.

(p)

1. The person-centered individualized care plan shall be developed based on the participant's needs with respect to remote services to ensure proper monitoring of the health and safety of the participant.

2. Remote support **by[via]** telehealth shall be real-time, two-way communication between the service provider and the participant.

Within the scope of SED services, remote support shall be limited to:

- a. Check-ins, such as reminders, verbal cues, or prompts; or
- b. Consultations, such as counseling or problem solving.

(q) Remote services **by[via]** telehealth shall be utilized for the benefit and at the option of the participant. Telehealth shall be utilized, as feasible, on an agreed-upon schedule, and shall ensure protection of the participant's personal space and activities.

(r) The remote service may be rendered in:

1. Tandem with a caregiver, personal assistant, or other support person **if[when]** physical assistance is required; or

2. The absence of a support person **if[when]** appropriately utilizing assistive technology tools to deliver services.

(s) Individuals who require assistance utilizing technology necessary for telehealth delivery of service shall be considered for eligibility for **[assistive technology- (AT)]**. Education and training for the participant and family, guardian, or provider staff to aid the participant in the use of the AT shall be incorporated as a service of AT.

(t) Additional remote support requirements include:

1. Use of any appropriate telehealth option pursuant to 907 KAR 3:170; **and**;

2. That remote support shall:

- a. Be elected by the participant receiving services;
- b. Not block the participant's access to the community;
- c. Not prohibit needed in-person services for the participant;
- d. Utilize a HIPAA-compliant platform; and
- e. Prioritize the integration of the participant into the community.

(u) Providers shall document that the remote support option complies with paragraph (t)2. of this **subsection[section]**.

(v) Supported education shall be limited to **[four hundred and eighty- (480)]** fifteen (15) units per **[one hundred and eighty (180)]** day authorization period. Any additional time within that **[one hundred and eighty- (180)]** day period shall require an exception pursuant to Section 3(3) **of this administrative regulation**.

(w)

1. This service shall not be provided to a participant at the same time as another service that is the same in nature and scope regardless of source, including federal, state, local, and private entities.

2. Participants eligible for multiple Medicaid funded services for supported education shall not access this service in more than one **(1)** authority and shall be required to utilize the alternate service first.

3. Services furnished through this section shall not be duplicated by services funded under Section 110 of the Rehabilitation Act of 1973, **29 U.S.C. 730**, or **[the IDEA- (20 U.S.C. 1400 et seq.)]**.

4. To ensure duplication does not occur, providers shall

coordinate efforts with the Department of Education or the local vocational rehabilitation agency.

5. Justification that services are not otherwise available to the participant through these agencies under **29 U.S.C. 730[~~section 110 of the Rehabilitation Act of 1973~~]** or **[~~the IDEA~~] (20 U.S.C. 1400 et seq.)** shall be documented in the participant's record and kept on file.

(8) Supported Employment or Individual Placement and Support – Supported Employment (IPS-SE) shall be targeted to individuals **18 years of age** and older.

(a) IPS-SE shall be an evidence-based practice designed to assist participants with **[~~(S)MI~~]** or co-occurring SMI and SUDs **to** obtain and maintain employment in competitive integrated employment using the supports of:

1. The participant's behavioral health treatment team;
2. An employment specialist; and
3. A benefits counselor.

(b) IPS-SE shall use IPS-SE principles that shall be planned and implemented through a coordinated and integrated partnership with the participant and the participant's person-centered team members, including the employment specialist, to assist the participant in achieving the participant's specific employment goals as defined by the PCSP.

(c) All supported employment services shall be prior authorized through submission of the Coordination of Funding for Employment Services.

(d) IPS-SE **employment activities** shall include **[~~the following employment activities~~]**:

1. A vocational assessment or career profile;
2. The development of a vocational plan;
3. On-the-job training and skill development;
4. Job-seeking skills training;
5. Job development and placement;
6. Job coaching;
7. Individualized job supports, which may include regular contact with the employers, family members, guardians, advocates, treatment providers, and other community supports;
8. Benefits planning;
9. General consultation, advocacy, building and maintaining relationships with employers; and
10. Time unlimited individualized vocational support.

(e) IPS-SE shall comply with competitive integrated employment, including:

1. Compensating at or above minimum wage and comparable to the customary rate paid by the employer to employees without disabilities performing similar duties and with similar training and experience;
2. Receiving the same level of benefits provided to other employees without disabilities in similar positions;
3. Located where the participant interacts with other individuals without disabilities; and
4. Presenting opportunities for advancement similar to other employees without disabilities in similar positions.

(f) To be an IPS-SE 1915(i) RISE Initiative qualified provider, the provider shall:

1. Be an approved vendor through Office of Vocational Rehabilitation;
2. Provide the evidence-based practice of IPS-SE through training and technical assistance provided by state **IPS-SE[IPS-SE]** trainers;
3. Participate in fidelity reviews required by the developer of the practice; and
4. Complete supported employment core training offered through the University of Kentucky Human Development Institute.

(g) IPS-SE shall establish:

1. Competitive integrated employment job options with permanent status rather than temporary or time-limited status; and
2. Jobs that anyone **may[can]** apply for and that are not set aside for people with disabilities.**[;]**

(h) IPS-SE payments shall:

1. Be made only for the adaptations, supervision, and training required by participants receiving IPS-SE services; and
2. Not include payment for the supervisory activities rendered as

a normal part of the business setting.

(i)

1. IPS-SE services furnished under the 1915(i) RISE Initiative service shall not be available under a program funded by either the Rehabilitation Act of 1973 or IDEA, **20 U.S.C. 1400 et seq.**

2. Documentation shall be maintained in the file of each participant receiving this service that the service is not otherwise available under a program funded under the Rehabilitation Act of 1973 or IDEA, **20 U.S.C. 1400 et seq.**

(j) **Federal Financial Participation (FFP)** shall not be claimed for incentive payments, subsidies, or unrelated vocational training expenses including:

1. Incentive payments made to an employer to encourage or subsidize the employer's participation in a supported employment program;

2. Payments that are passed through to users of supported employment programs; or

3. Payments for vocational training that are not directly related to a participant's supported employment program.

(k)

1. Extended services shall be available to participants once they are employed and are provided periodically to address work-related issues as they arise. For example, this **may[could]** include assistance with understanding employer leave policies, scheduling, time sheets, or tax withholding processes.

2. Ongoing follow-along support may also involve assistance to address issues in the work environment, including accessibility, career advancement, and employee - employer relations.

(l)

1. Extended services shall be designed to identify any problems or concerns early and to provide the best opportunity for long lasting work opportunities.

2. Extended services may include supports to address any barriers that interfere with employment success or maintaining employment, which may include providing support to the employer.

(m)

1. The person-centered individualized care plan shall be developed based on the participant's needs with respect to remote services to ensure proper monitoring of the health and safety of the participant.

2. Remote support **by[via]** telehealth shall be real-time, two-way communication between the service provider and the participant. Within the scope of IPS-SE services, remote support shall be limited to:

- a. Check-ins, such as reminders, verbal cues, or prompts; or
- b. Consultations, such as counseling or problem solving.

(n) Remote services **by[via]** telehealth shall be utilized for the benefit and at the option of the participant. Telehealth shall be utilized, as feasible, on an agreed-upon schedule, and shall ensure protection of the participant's personal space and activities.

(o) The remote service may be rendered in:

1. Tandem with a caregiver, personal assistant, or other support person **if[when]** physical assistance is required; or

2. The absence of a support person **if[when]** appropriately utilizing assistive technology tools to deliver services.

(p) Participants who require assistance utilizing technology necessary for telehealth delivery of service shall be considered for eligibility for **[~~assistive technology~~ - (AT)]**. Education and training for the participant and family, guardian, or provider staff to aid the participant in the use of the AT shall be incorporated as a service of AT.

(q) Additional remote support requirements include:

1. Use of any appropriate telehealth option pursuant to 907 KAR 3:170; **and[;]**

2. That remote support shall:

- a. Be elected by the participant receiving services;
- b. Not block the participant's access to the community;
- c. Not prohibit needed in-person services for the participant;
- d. Utilize a HIPAA-compliant platform; and
- e. Prioritize the integration of the participant into the community.

(r) Providers shall document that the remote support option complies with paragraph (q)2. of this **subsection[~~section~~]**.

(s) IPS-SE shall be limited to **[~~four hundred and eighty~~] [480]]**

fifteen (15) minute units per ~~[one-hundred and eighty-]~~180[j] day authorization period. Any additional time within that ~~[one-hundred and eighty-]~~180[j] day period shall require an exception, pursuant to Section 3(3) of this administrative regulation.

(t) IPS-SE services are to be rendered consistent with the frequency, duration, and scope recommended by the participant's PCSP. IPS-SE may be a standalone service provided in conjunction with case management services.

(u) Supported Employment Services shall not:

1. Be provided in a group setting; and[j]

2. Be duplicated by any other services provided through 907 KAR Chapter 16.

(v) Services shall not include payment for the supervisory activities rendered as a normal part of the business setting.

(w) Services shall not include payment for supervision, training, support, and adaptations typically available to other non-disabled workers filling similar positions in the business.

(x) Services shall not include adaptations, assistance, and training used to meet an employer's responsibility to fulfill requirements for reasonable accommodations under the Americans with Disabilities Act.

(y) Transportation to and from the work site may be a component of the rate paid to providers. This service shall only be available if the participant cannot access public transportation or does not have other means of transportation available to the participant. The cost of transportation shall be included in the rate paid to providers.

(z) Documentation shall be maintained for each participant receiving this service that the service is not available under a program funded under Section 110 of the Rehabilitation Act of 1973or IDEA.

(aa) Services shall not be reimbursed for job placements paying below minimum wage.

(bb) Services shall be delivered in a manner that supports and respects the participant's communication needs including:

1. Translation services; and

2. Assistance with and use of communication devices.

(cc) Services shall be provided in regular integrated settings and shall not include sheltered work or other types of vocational services in specialized facilities or incentive payments, subsidies, or unrelated vocational training expenses, including~~[the following]~~:

1. Incentive payments made to an employer to encourage hiring the participant; or

2. Payments that are passed through to the participant;

a. Payments for supervision, training, support, and adaptations typically available to other workers without disabilities filling similar positions in the business; or

b. Payments used to defray the expenses associated with starting up or operating a business.

(9) Tenancy supports, including pre-tenancy supports and tenancy-sustaining supports.

(a) Tenancy supports shall be targeted to individuals eighteen (18) years of age and older.

(b) Tenancy supports shall include both pre-tenancy supports and tenancy-sustaining supports.

(c) Pre-tenancy support services shall:

1. Be available if determined to be necessary for a participant to identify, select, and enter into a lease agreement resulting in the participant moving into an independent housing unit;

2. Be tailored to person-centered goals, as stated in the participant's PCSP; and

3. Assist the participant in identifying and leasing a housing unit that is expected to promote the participant's personal health and welfare in a housing arrangement that is not provider-owned or controlled and is instead governed by a lease that is entered into with the owner or landlord of the housing unit.

(d) Pre-tenancy supports shall follow evidence-based practices and may include addressing the following components, as relevant, if/when these services are not otherwise available in other services pursuant to 907 KAR Chapter 16:

1. Identify the participant's needs and preferences related to:

a. Housing, including type of housing;

b. Location;

c. Living alone or with someone else;

d. Identifying a roommate;[;]

e. Accommodations needed;[;]

f. Community integration; or

g. Other related preferences;

2. Assisting in budgeting for housing or living expenses, including financial literacy education on budget basics based upon anticipated housing, utility, and other known budget components;

3. Assisting participants with finding and applying for housing, including:

a. Filling out housing, utility, or rental assistance applications;

b. Remitting necessary fees; or

c. Obtaining and submitting appropriate documentation required for tenancy approval;

4. Reviewing and understanding the terms of and assisting the participant with consenting to the terms of a rental agreement or lease;

5. Assisting participants with completing reasonable accommodation requests and obtaining disability verifications as needed to secure an appropriate housing arrangement. This type of assistance shall include:

a. Identifying verbal requests for a reasonable accommodation; and

b. Supporting and conducting written documentation of the request with the prospective landlord;

6. Coordinating with the 1915(i) RISE initiative case manager to develop goals and objectives relating to the participant's housing supports plan, which shall:

a. Include a community integration plan;

b.

(i) Identify short and long-term measurable goals;

(ii) Address process for achievement of identified[How the] goals[will be achieved]; and

(iii) Include process for addressing[How] barriers to achieving identified goals[will be addressed]; and

c. Include plans for:

(i) Housing maintenance;

(ii) Lease adherence; and

(iii) Facilitation of tenant-landlord communications;

7. Assisting with identifying and securing resources to obtain housing, including community-based resources to assist with securing documentation, related fees needed, and transportation needs;

8. Ensuring that the living environment is safe and accessible for move-in, including an assessment of health risks to ensure the living environment is not adversely affecting the occupants' health; or

9. Assisting in arranging for and supporting the details and activities of the move-in. This assistance shall include:

a. Assisting the participant with identifying the date and time that the move-in will take place; and

b. Providing the participant with assistance to arrange necessary transportation for the move-in.

(e)

1. Participants enrolling in tenancy supports may currently be residing in any living environment, up to and including those exiting institutional settings.

2. Prior to being enrolled in this benefit, participants shall meet at least one (1) of the at-risk homelessness risk factors.

(f)

1. Tenancy-sustaining supports shall be made available to support service participants to maintain tenancy once housing is secured.

2. The availability of ongoing housing-related services in addition to other long-term services and supports shall be intended to:

a. Promote housing success;

b. Foster community integration and inclusion; and

c. Develop natural support networks.

(g) Tenancy-sustaining supports shall follow evidence-based practices and may include the~~[following]~~ components of:

1. Working collaboratively with the 1915(i) RISE Initiative case manager to:

a. Assist the participant with maintaining entitlements and

benefits, including rental assistance, necessary to maintain community integration and housing stability. This type of assistance may include:

- (i) Assisting participants in obtaining documentation;
- (ii) Assistance with completing documentation;
- (iii) Navigating the process to secure and maintain benefits; or
- (iv) Coordinating with the entitlement or benefit assistance agency;[.]

b. **Assisting**[**Assist**] the participant with securing supports to preserve and maximize independent living;[.]

c. **Collaborating**[**Collaborate**] with the 1915(i) RISE Initiative case manager to ensure that referrals are made to services that are needed to:

- (i) Promote housing stabilization;
- (ii) Adaptation to surrounding neighborhood conditions;
- (iii) Lease adherence;
- (iv) Sustained landlord-tenant communications; and
- (v) Problem-solving;[.]

d. **Allowing** examples of types of referrals [**allowed**] pursuant to clause c. **that** include:

- (i) Substance use treatment providers;
- (ii) Mental health providers;
- (iii) Medical;
- (iv) Vision, nutritional, and dental providers;
- (v) Vocational, education, employment, and volunteer supports;[.]
- (vi) Hospital care, including utilization of the emergency department;
- (vii) Probation and parole crisis services;
- (viii) End of life planning; or
- (ix) Other support groups and natural supports; **and**.[.]

e. **Coordinating**[**Coordinate**] with the participant as needed to plan, participate in, review, update, and modify the participant's goals and objectives related to the participant's housing support to reflect current needs and preferences and address existing or recurring housing retention barriers;[.]

2. Providing supports to assist the participant in the development of independent living skills to remain in the most integrated setting. Supports may include:

- a. Skills coaching to maintain a healthy living environment;
- b. Developing and managing a household budget;
- c. Interacting appropriately with neighbors or roommates;
- d. Reducing social isolation; and
- e. Utilizing local transportation;

3. Providing supports to assist the participant in communicating with the landlord or property manager. These supports may include:

- a. Educating and training the participant on the role, rights, and responsibilities of the tenant and landlord; or
- b. Providing training and resources to assist the participant with complying with the participant's lease;[.]

4. Assisting in reducing the risk of eviction by providing services to prevent eviction, this may include:

- a. Improvement of conflict resolution skills to include;[.]

(i) Coaching; **and**

(ii) Role-playing and communication strategies targeted towards resolving disputes with landlords and neighbors;

b. Communicating with landlords and neighbors to reduce the risk of eviction;

c. Addressing biopsychosocial behaviors that put housing at risk;

d. Providing ongoing support with activities related to household management; or

e. Linking the participant to community resources to prevent eviction, including expert resources to address legal issues; **and**.[.]

5. Supporting the participant with unanticipated threats to housing stability, including man-made and natural disasters and **any** other imminent jeopardy to health and or safety. This support shall include, as necessary;[.]

a.

(i) Planning; and

(ii) **[b.]** Referral to temporary housing arrangements; or

**b.**[**6.**] Providing early identification, risk management, and proactive intervention for actions or behaviors that may jeopardize

housing.

(h) Pre-tenancy and tenancy-sustaining supports services shall adhere to the SAMHSA permanent supportive housing (PSH) principles.

(i) Participants receiving pre-tenancy and tenancy sustaining supports shall be included in the search, choice, and any significant decisions regarding the establishment of the participant's housing arrangement.

(j) Housing selected **by**[**via**] this subsection shall be guided by and support the goals for social inclusion and community integration as defined by the participant in their PCSP.

(k) Tenancy Support Services shall:

- 1. Include direct contact with the participant;
- 2. Be reimbursed as a daily rate with a benefit limitation of thirty (30) days over a [~~one-hundred and eighty~~] 180[.] day authorization period; and
- 3. For any additional time beyond the thirty (30) day initial authorization, be authorized as an exception;[.]

(l) Tenancy support services shall not include:

- 1. Payment of rent or other room and board costs;
- 2. Payment of any costs or fees associated with a tenancy application or lease-up;
- 3. Capital costs related to the development or modification of housing, including implementation of physical reasonable accommodations, which are the responsibility of the property owner;
- 4. Expenses for utilities or other regularly occurring bills;
- 5. Goods or services intended for leisure or recreation;
- 6. Payment of emergency-based or temporary housing arrangements during emergencies or gaps in **a** permanent housing arrangement;
- 7. Transportation costs and fees incurred during the delivery of pre-tenancy services;
- 8. Duplicative services from other state or federal programs; or
- 9. Services to participants in a correctional institution or an Institution of Mental Disease (IMD) other than services that meet the exception of IMD exclusion.

(10) Transportation.

(a) Transportation shall be:

- 1. Available to participants eighteen (18) years **of age**[**old**] and older with a primary diagnosis of SMI or SMI co-occurring with SUD;
- 2. Offered to aid participants in gaining access to 1915(i) RISE Initiative services and other community services, activities, and resources, as specified by the participant's PCSP;

3. Offered in addition to, and not as a replacement for, other transportation services available within the Medicaid program, including:

- a. Medical transportation required under 42 C.F.R. [**Sec.** 431.53];
- b. Ambulance transportation required pursuant to 907 KAR 1:060;
- c. Nonemergency transportation provided pursuant to 907 KAR 3:066; and
- d. Any other transportation services under the state plan, **as** defined **by**[**af**] 42 C.F.R. [**§**]440.170(a);

4. Offered in accordance with the participant's care plan and shall support the participant with PCSP goal advancement or attainment; and

5. Separate from any transportation component of any other service established in this section.

(b) If possible, natural supports that can provide transportation without charge shall be exhausted, with 1915(i) RISE Initiative funded transportation being accessed as a last resort.

(c) A provider of a transportation service shall provide and document service provision in accordance with this subsection, program policies and procedures, and billing guidelines. Documentation requirements for transportation shall include:

- 1. Date of contact;
- 2. Mileage log with start and stop time;
- 3. Printed name of service provider;
- 4. Location of origination and destination; and
- 5. Signature and title of the person providing the service.

(d) Transportation shall be limited to \$2,500 per year, which may be exceeded based on medical necessity.

VOLUME 52, NUMBER 1– JULY 1, 2025

(e) The participant's service limit of \$2,500 is not Medicaid reimbursable for ride sharing applications.

Section 3. Exception Process.

(1) A service listed in Section 2 of this administrative regulation that includes benefit limitations, regardless of delivery method, shall qualify for review as an exception to the benefit limitations:

(a) Based on the needs of the participant for whom the exception is requested;

(b) For a limited period of time not to exceed a full PSCP year;

(c) If the service meets the requirements for an exception in accordance with the Kentucky 1915(i) RISE initiative Exception Process entered within the department-approved system; and

(d) If approved by the department or designee to be an exception.

(2) An exception granted pursuant to this section shall be for the sole purpose of ensuring the health, safety, and welfare of the 1915(i) RISE initiative participant.

(3) Each exception request shall be approved by a consensus vote of the person-centered team by[via] a person-centered team meeting.

(4) Within one (1) day of the person-centered team meeting in which an exception request is approved, the case manager shall submit the exception request through the department-approved system, including:

(a) The name and identifying information of the participant;

(b) A description of the exception being requested;

(c) Specific challenges presented by the participant and interventions provided that have resulted in the request, including dates, times, and locations of occurrences;

(d) Summary notes of the person-centered team meeting held to determine if the request for the requested exception was appropriate, including signatures of the team members and date, time, and location of the meeting;

(e) Documentation of any intervention attempted to stabilize the challenges and the resulting outcomes for any repeat exception requests; and

(f) An updated PSCP with the service exception documented.

(5) Once submitted within the department-approved system, the case manager shall send written notification of the date and time of submission to the service provider who will potentially be providing the extended service.

(6) The department or designee shall:

(a) Review the exception request submission within three (3) business days; and

(b) Either deny or approve the request.

(7) An approved exception request shall be prior authorized for a period of six (6) months or until the end of their eligibility year, whichever is shorter.

(8) The prior authorization shall follow the participant if a transition to another provider occurs through an amendment to the prior authorization.

(9) A new exception request that will continue an existing exception shall be submitted no later than fifteen (15) days prior to the end of a prior authorization period.

Section 4. Federal Approval and Federal Financial Participation.

The department's reimbursement for services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the reimbursement; and

(2) Centers for Medicare and Medicaid Services' approval for the reimbursement.

FILED WITH LRC: June 10, 2025

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.

CABINET FOR HEALTH AND FAMILY SERVICES  
Department for Medicaid Services  
(As Amended at ARRS, June 10, 2025)

**907 KAR 16:025. Recovery, Independence, Support & Engagement (RISE) Initiative [~~(RISE) Program~~]reimbursement provisions and requirements.**

RELATES TO: KRS 205.520

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

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has the responsibility to administer the Medicaid program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the reimbursement provisions of the RISE Program for individuals with serious mental illness or substance use disorder.

Section 1. General Reimbursement Requirements.

(1) For the department to reimburse for a service or item, the requirements of 907 KAR Chapter 16 shall be met.

(2) The department shall reimburse a participating provider for a covered service as established pursuant to the 1915(i) Fee Schedule as available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>.

Section 2. Federal Approval and Federal Financial Participation. The department's reimbursement for services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the reimbursement; and

(2) Centers for Medicare and Medicaid Services' approval for the reimbursement.

Section 3. Appeals. A provider may appeal a department decision made pursuant to~~as to the application of~~ this administrative regulation in accordance with 907 KAR 1:671.

FILED WITH LRC: June 10, 2025

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

**COMPILER'S NOTE: 2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency:**

OFFICE OF THE GOVERNOR  
Department of Veterans Affairs  
Office of Kentucky Veterans Centers  
(Amended After Comments)

**17 KAR 3:042. Eligibility requirements to state veterans' nursing homes.**

RELATES TO: KRS 40.320, 40.325, 38 U.S.C 1745(a)  
STATUTORY AUTHORITY: KRS 40.325(2)

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 40.320 authorizes state veterans' nursing homes. KRS 40.325(2) authorizes the Department of Veterans' Affairs to promulgate any administrative regulations necessary to operate the homes in compliance with applicable state and federal statutes and regulations. This administrative regulation establishes the eligibility requirements and monthly charges for admission into state veterans' nursing homes.

Section 1. Eligibility Requirements.

(1) Except as provided in subsection (2) of this section, to be admitted to a Kentucky Veterans' Center, the person shall:

- (a) Be a veteran;
- (b) Be disabled by reason of disease, wounds, age, or otherwise be in need of nursing care;
- (c) Be a Kentucky resident as of the date of admission to a Kentucky Veterans' Center; and
- (d) Have a military discharge that is not of a dishonorable nature.

(2) A person shall not be eligible for admission if the person[:]

~~[(a)] [Has been diagnosed by a qualified health care professional as acutely mentally ill, as an acute alcoholic, as addicted to drugs, as continuously disruptive, or as dangerous to self or others;]~~

~~[(b)] [Is ventilator dependent; or]~~

~~[(c)] has needs that cannot be met by the Veterans' Center.~~

MARK BOWMAN, Executive Director

WHITNEY ALLEN, Commissioner

LILY CHAN PATTESON, Executive Director and General Counsel

APPROVED BY AGENCY: June 11, 2025

FILED WITH LRC: June 12, 2025 at 3:38 p.m.

CONTACT PERSON: Juan Renaud, Deputy Commissioner, Office of the Commissioner, or Mark Bowman, Executive Director, 1111 Louisville Rd., Suite B, Frankfort, Kentucky 40601; phone (502) 782.5721 or (502) 564.9203; fax (502) 564.9240; email Juan.Renaud@ky.gov or Mark.Bowman@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Juan Renaud or Mark Bowman

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation clarifies who is eligible for admission to the Commonwealth's Veteran Centers.

(b) The necessity of this administrative regulation: The administrative regulation ensures that veterans of the Commonwealth understand eligibility requirements when they seek admissions to one of the Commonwealth's Veteran Centers.

(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 acknowledging KDVA's responsibility to operate the Commonwealth's five Veteran Centers and determine which veterans are eligible for admission to those

Centers.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by continuing to clarify the Commonwealth's Veteran Centers policies for admission.

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

(a) How the amendment will change this existing administrative regulation: NA

(b) The necessity of the amendment to this administrative regulation: NA

(c) How the amendment conforms to the content of the authorizing statutes: NA

(d) How the amendment will assist in the effective administration of the statutes: NA

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation include: (1) Most recent estimations suggest that there are 216,667 veterans residing in the Commonwealth; those who personal and financial circumstances make them eligible for admission to one of the Commonwealth's Veteran Centers will be positively affected by this administrative regulation; and (2) The families of the veterans listed in (1).

(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: KDVA does not foresee a change in the quality of care to the veteran residents of the Commonwealth's Veterans Centers.

(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.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The Commonwealth's veterans and their families will have clearly defined admission requirements. There are no additional costs.

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

(a) Initially: There are no additional costs.

(b) On a continuing basis: There are no additional costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There are no additional costs.

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: KDVA does not anticipate an increase in fees or funding.

(9) TIERING: Is tiering applied? Tiering is not appropriate in assessments undertaken with this administrative regulation because the requirements will be equally applied to all individuals or entities subject to the regulation. Disparate treatment of persons or entities subject to this administrative regulation would undoubtedly raise Constitutional inquiries of KDVA's arbitrariness based on the Fourteenth Amendment to the U.S. Constitution (i.e., the Equal Protection or Due Process clauses).

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 state statutes, federal statutes, or federal regulations that require or authorize the action taken by the administrative

regulation include KRS 40.325, which authorizes KDVA to promulgate regulations to operate the Commonwealth's five Veteran Centers and to seek private or federal funding for those Centers.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 40.320 authorizes state veterans' nursing homes. KRS 40.325(2) authorizes the Department of Veterans' Affairs to promulgate any administrative regulations necessary to operate the homes in compliance with applicable state and federal statutes and regulations.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The affected state units, parts, or divisions include the Commonwealth's five Veteran Centers: (1) Carl M. Brashear Radcliff Veterans Center in Radcliff, Kentucky; (2) Paul E. Patton Eastern Kentucky Veterans Center in Hazard, Kentucky; (3) Joseph Eddie Ballard Western Kentucky Veterans Center in Hanson, Kentucky; (4) Thomson-Hood Veterans Center in Wilmore, Kentucky; and (5) Robert E. Spiller Bowling Green Veterans Center (expected to start in September 2025) in Bowling Green, Kentucky.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year: NA

For subsequent years: NA

2. Revenues:

For the first year: NA

For subsequent years: NA

3. Cost Savings:

For the first year: NA

For subsequent years: NA

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): NA

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year: NA

For subsequent years: NA

2. Revenues:

For the first year: NA

For subsequent years: NA

3. Cost Savings:

For the first year: NA

For subsequent years: NA

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): NA

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year: NA

For subsequent years: NA

2. Revenues:

For the first year: NA

For subsequent years: NA

3. Cost Savings:

For the first year: NA

For subsequent years: NA

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation: There are no fiscal impacts.

(b) Methodology and resources used to reach this conclusion: There are no fiscal impacts because the administrative regulation defines eligibility for admissions only.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(13): NA

(b) The methodology and resources used to reach this conclusion: As there are no major economic impacts incurred with this regulation, no methodology was necessary.

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](#).

**COMPILER'S NOTE: 2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency:**

**BOARDS AND COMMISSIONS**

**Board of Licensure for Long-term Care Administrators  
(Amendment)**

**201 KAR 6:030. Temporary permits.**

RELATES TO: KRS 12.357, 216A.070(4)

STATUTORY AUTHORITY: KRS 12.357, 216A.070(3), (4)

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216A.070(3) authorizes the Board of Licensure for Long-term Care Administrators to promulgate administrative regulations necessary for the proper performance of its duties. KRS 216A.070(4) authorizes the board to promulgate administrative regulations concerning the issuance of a temporary permit to an individual to practice the art of long-term care administration. KRS 12.357 requires administrative bodies who issue licenses to issue temporary licenses or certificates to the spouses of active-duty military members of the Armed Services of the United States within thirty (30) days if the spouse meets the statutory requirements and applies in a format promulgated in administrative regulation. This administrative regulation establishes the requirements for issuance of a temporary permit for Long-term Care Administrators.

Section 1. Temporary Permits Issued to Fill Emergency Vacancies.

(1) The Department of Professional Licensing may, following consultation with a board member, issue a temporary permit to practice as a long-term care administrator to an applicant if:

(a) The applicant has submitted an Application for Licensure, form KBLTCA-1, incorporated by reference in 201 KAR 6:040;

(b) The applicant has completed all of the requirements established in 201 KAR 6:020 except the examination required pursuant to 201 KAR 6:020, Section 2(2), and the management experience required by 201 KAR 6:020, Section 2(3);

(c) The facility where the applicant is to be employed as the administrator is without a licensed administrator; and

(d) The facility owner, or a duly authorized representative of the facility, provides a written request and supporting information to the board indicating that an emergency situation exists.

(2) An emergency situation shall exist if:

(a) The facility is without a licensed long-term care administrator; and

(b) A licensed long-term care administrator is not available to fill the position.

(3) The request for temporary permit shall include payment of the temporary permit fee established in 201 KAR 6:060, Section 3.

Section 2. Temporary Permits Issued to Spouses of Active Military Members.

(1) The spouse of an active-duty military member of the Armed Forces of the United States may apply for a temporary permit at any time.

(2) The Department of Professional Licensing shall, following consultation with a board member, issue a temporary permit to practice as a long-term care administrator to the spouse of an active-duty military member within thirty (30) days of receipt of the Application for Licensure, form KBLTCA-1, incorporated by reference in 201 KAR 6:040, requesting a temporary permit if:

(a) The applicant has completed all of the requirements established in 201 KAR 6:020 except the examination required pursuant to 201 KAR 6:020, Section 2(2), and the management experience required by 201 KAR 6:020, Section 21(3);

(b) The applicant has provided proof they are married to an active-duty member of the Armed Services of the United States;

(c) The applicant has provided proof that the applicant holds a valid license or certificate for the profession issued by another state, the District of Columbia, or any possession or territory of the United States;

(d) The applicant has provided proof that the applicant's spouse is assigned to a duty station in this Commonwealth pursuant to the spouse's official active-duty military orders; and

(e) The applicant has paid the temporary permit fee established in 201 KAR 6:060, Section 3.

Section 3. Restrictions on Temporary Permits.

(1) A temporary permit shall not be transferred to another individual.

(2) A temporary permit shall, in accordance with KRS 216A.070(4) or KRS 12.357:

(a) Be effective for no longer than nine (9)~~six (6)~~ months from the date it was granted; and

(b) Not be renewed by the permit holder.

(3) The holder of a temporary permit issued pursuant to Section 1 of this administrative regulation may be relocated to another location if an emergency exists at that location during the period in which the permit is effective and a separate request for a declaration of emergency is filed and approved by the board pursuant to Section 1(1)(d) of this administrative regulation.

(4) An individual shall not be granted a temporary permit more than once during a five (5) year period.

(5) A temporary permit shall not authorize the individual to whom the permit was issued to manage more than one (1) facility at the same time.

(6) All temporary permits shall be subject to review by the board at the meeting immediately following issuance of the permit. The board shall revoke a temporary permit that does not satisfy the requirements of KRS 216A.070(4), KRS 12.357, or this administrative regulation.

DAVID MCKENZIE, Chair

APPROVED BY AGENCY: June 12, 2025

FILED WITH LRC: June 13, 2025 at 10:10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 26, 2025 at 10:00 a.m., at 500 Mero Street, PPC Conference Room 259SW, 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 August 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.

CONTACT PERSON: Lilly Jean Coiner Executive Advisor, Department of Professional Licensing, Office of Legal Services, 500 Mero Street, 2 NC WK#4, phone (502) 262-5065 (office), fax (502) 564-4818, email [Lilly.coiner@ky.gov](mailto:Lilly.coiner@ky.gov). Link to public comment portal: [https://ppc.ky.gov/reg\\_comment.aspx](https://ppc.ky.gov/reg_comment.aspx).



REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lilly Coiner

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation authorizes the Department of Professional Licensing, following consultation with a board member, to issue a temporary permit in two situations. The temporary permit may be issued in response to an emergency situation in which a long-term care facility currently does not have a licensed long-term care administrator and is unable to locate a licensed long-term care administrator to fill the vacancy, or it may be issued to the spouse of an active military member of the United States Armed Forces notwithstanding the absence of an emergency situation.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with the provisions of KRS 216A.070(4) and KRS 12.357.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation is authorized by KRS 216A.070(4) and KRS 12.357

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist with the issuance of temporary permits which are authorized to be issued pursuant to KRS 216A.070(4) and KRS 12.357.

(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 extends the time limit for holding a temporary permit from six (6) months to nine (9) months.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to allow temporary permits to extend through the full length of the statutorily permitted period.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 216A.070(4) authorizes a temporary permit to be valid for a period not to exceed nine (9) months.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist the board in issuing temporary permits that extend through the full length of the statutorily permitted period.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 720 individuals are licensed by the Board. This regulation primarily relates to future unidentified applicants for temporary permits.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Individuals applying for a temporary permit must fill out the Application and Checklist for Licensure and pay the temporary permit fee of \$175. This process is not altered from previous regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Individuals seeking a temporary permit must pay \$175. This fee is not increased from previous regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance, temporary permits will last nine (9) months.

(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 associated with implementing this administrative regulation.

(b) On a continuing basis: There will be no continuing cost associated with implementing this administrative regulation.

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

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

funding will not be necessary to implement the change to this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering is not applied to this administrative regulation because the administrative regulation applies equally to all licensees.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 12.357, 216A.070(3), (4)

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: This administrative regulation is not expressly authorized by an act of the General Assembly.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Board of Licensure for Long-Term Care Administrators is the promulgating agency and the only other affected state unit, part or division.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year: None

For subsequent years: None.

2. Revenues:

For the first year: None.

For subsequent years: None.

3. Cost Savings:

For the first year: None.

For subsequent years: None.

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): None anticipated. (b) Estimate the following for each affected local entity identified in 4(a):

(b) Estimate the following for each affected local entity identified in 4(a):

1. Expenditures:

For the first year: None

For subsequent years: None.

2. Revenues:

For the first year: None.

For subsequent years: None.

3. Cost Savings:

For the first year: None.

For subsequent years: None.

(5)(a) Identify any affected regulated entities not listed in (3)(a) or

(4)(a): There are no other affected regulated entities not otherwise listed. (b) Estimate the following for each regulated identified in 5(a):

(b) Estimate the following for each regulated entity identified in 5(a):

1. Expenditures:

For the first year: N/A.

For subsequent years: N/A.

2. Revenues:

For the first year: N/A.

For subsequent years: N/A.

3. Cost Savings:

For the first year: N/A.

For subsequent years: N/A.

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation: There is no fiscal impact of this administrative regulation.

(b) Methodology and resources used to reach this conclusion: No methodology and resources were necessary because there is no fiscal impact.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(13): 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: No methodology and resources were necessary because there is no "major economic impact."

**COMPILER'S NOTE: 2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency:**

**BOARDS AND COMMISSIONS**  
**Board of Licensure for Occupational Therapy**  
**(Amendment)**

**201 KAR 28:240. Occupational Therapy Licensure Compact.**

RELATES TO: KRS 319A.310

STATUTORY AUTHORITY: KRS 319A.070(1), (3), 319A.310

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319A.310, Section 15.B.1. requires the Board of Licensure for Occupational Therapy to review any rule adopted by the Occupational Therapy Compact Commission pursuant to Section 10 of the Compact 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 Occupational Therapy Compact Commission.

Section 1. The Board of Licensure for Occupational Therapy shall comply with all rules of the Occupational Therapy Compact, which includes the Occupational Therapy Compact Rules as of March 20, 2024.

Section 2. Incorporation by Reference.

(1) The following material is incorporated by reference: "The Occupational Therapy Compact Rules", March 20, 2024, and as revised.

(a) ~~[Chapter 1.]~~Rule on Definitions, adopted March 20, 2024; and

(b) ~~Rule on~~[Chapter 2.] Data System Reporting Requirements, adopted March 20, 2024.

(c) Rule on FBI Criminal Background Checks, adopted April 16, 2025.

(d) Rule on Member State Implementation, adopted April 16, 2025.

(e) Rule on OTC Fees: Administrative & State adopted April 16, 2025.

(f) Rule on National Exam Definition, adopted April 16, 2025.

(2)

(a) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Licensure for Occupational Therapy, 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 Licensure for Occupational Therapy Web site at <https://bot.ky.gov/>.

(3) This material may also be obtained at:

(a) The Occupational Therapy Compact Commission, 201 Park Washington Court, Falls Church, Virginia 22046; or

(b) <https://otcompact.org/ot-compact-commission/governance-documents/>.

SCOTT DEBURGER, Chair

APPROVED BY AGENCY: April 10, 2025

FILED WITH LRC: June 13, 2025 at 10:10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 21, 2025 at 10:00 a.m., at 500 Mero Street, PPC Conference Room 259SW, 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 August 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.

CONTACT PERSON: Lilly Jean Coiner, Executive Advisor, Department of Professional Licensing, Office of Legal Services, 500 Mero Street, 2 NC WK#4, phone (502) 262-5065 (office), fax (502) 564-4818, email [Lilly.Coiner@ky.gov](mailto:Lilly.Coiner@ky.gov). Link to public comment portal: [https://ppc.ky.gov/reg\\_comment.aspx](https://ppc.ky.gov/reg_comment.aspx).

**REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT**

Contact Person: Lilly Jean Coiner

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation implements KRS 319A.310, the Occupational Therapy Licensure Compact.

(b) The necessity of this administrative regulation: This administrative regulation is necessary because KRS 319A.310, Section 15.B.1. requires rules adopted by the Occupational Therapy Compact Commission 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 319A.310, Section 15.B.1. which requires rules adopted by the Occupational Therapy Licensure 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 319A.310 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 the four (4) new compact rules adopted April 16, 2025.

(b) The necessity of the amendment to this administrative regulation: This administrative regulation is necessary because KRS 319A.310, Section 15.B.1. requires rules adopted by the Occupational Therapy Compact Commission to be promulgated as administrative regulations pursuant to KRS Chapter 13A.

(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 Occupational Therapy Licensure Compact.

(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 4,227 licensees 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): As a result of compliance, they will be in

compliance with the statute.

(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.

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding 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 319A.070(1), (3) and KRS 319A.310. Additionally, 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) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: This administrative regulation is not expressly authorized by an act of the General Assembly.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Board of Licensure for Occupational Therapy is the promulgating agency and the only other affected state unit, part or division.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year: The compact will likely become operational in 2025, however, the expenditures needed for 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 other states.

For subsequent years: It will likely take more than one year for the data system and compact to become operational. There will likely be some state expenditures necessary for administering applications for compact privileges within and without the Commonwealth and which may require imposition of a fee to cover the cost of administration. However, expenditures, revenue and cost savings in subsequent years, if any, are currently indeterminable.

2. Revenues:

For the first year: 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 the potential revenues are undeterminable.

For subsequent years: It will likely take more than one year for the data system and compact to become operational. There will likely be some state expenditures necessary for administering applications for compact privileges within and without the Commonwealth and which may require imposition of a fee to cover the cost of administration. However, expenditures, revenue and cost savings in subsequent years, if any, are currently indeterminable.

3. Cost Savings:

For the first year: Indeterminable

For subsequent years: Indeterminable

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): None anticipated. (b) Estimate the following for each affected local entity identified in 4(a):

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year: N/A.

For subsequent years: N/A.

2. Revenues:

For the first year: N/A.

For subsequent years: N/A.

3. Cost Savings:

For the first year: N/A.

For subsequent years: N/A.

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): There are no other affected regulated entities not otherwise listed. (b) Estimate the following for each regulated identified in 5(a):

(1) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year: N/A.

For subsequent years: N/A.

2. Revenues:

For the first year: N/A.

For subsequent years: N/A.

3. Cost Savings:

For the first year: N/A.

For subsequent years: N/A.

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation: 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 is 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 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.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(13): 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.

#### KENTUCKY BOARD OF EMERGENCY MEDICAL SERVICES (Amendment)

##### 202 KAR 7:501. Ambulance agency licensure.

RELATES TO: KRS 216B.020(2)(f), 311A.030, 311A.060, 311A.190  
STATUTORY AUTHORITY: KRS 311A.020, 311A.025, 311A.030, 311A.060, 311A.190

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311A.020 requires the Board of Emergency Medical Services to exercise all administrative functions in the regulation of the EMS system and the licensing of ambulance services and medical first response agencies, except those regulated by the Board of Medical Licensure[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 minimum ambulance agency licensing requirements.

#### Section 1. Applying for Licensure.

(1) An applicant shall submit:

(a) A completed Initial Ground~~[Ambulance]~~ Agency License Application;

(b) An application fee as established in 202 KAR 7:030; and

~~[(c)] [A current map of the agency's intended service area; and]~~

~~(c) [(d)]~~ A written description of the ambulance agency's geographic service area within the Commonwealth, which shall identify with specificity the complete boundary of the area served by the provider upon applying for initial licensure or if the service area has changed since the last written description~~[map]~~ was provided to the KBEMS office. The written description~~[map]~~ shall accurately reflect the service area as identified by the provider's~~[providers]~~ Certificate of Need, if appropriate.

(2) The board shall conduct a physical inspection of an agency's premises prior to granting a license or license renewal.

(3) A license to operate shall be issued only for the person, service area, and premises, including the number of ambulances, named in the application, and shall not be transferable.

(4) An agency shall display its license in a prominent public area at the service base station and at any fixed satellite location.

(5) The following information shall be included on the license issued by the office of the board:

(a) Operating name of the provider;

(b) Physical location of the base station;

(c) The number and physical location of satellite stations, if any, operated by the licensee;

(d) The license classification;

(e) The level of service provided; and

~~[(f)] [The number of vehicles operated by the provider; and]~~

~~(f) [(g)]~~ The specific geographic area to be served by the licensee.

(6) A license shall expire on December 31 following the original date of issue and shall subsequently expire annually on December 31 of each year.

Section 2. License Renewal. To renew a license, the holder shall:

(1) Submit a completed Renewal Application for Class I, II, III, and IV Agencies~~[Ground Agency Renewal Application]~~;

(2) Pass inspection conducted by the board of the agency's premises, equipment, supplies, vehicles, and records; and

(3) Submit a fee in the amount established in 202 KAR 7:030.

#### Section 3. Agency Changes.

(1) A new application shall be filed if a change of ownership occurs. A change of ownership for licenses shall be deemed to occur if more than fifty (50) percent of the assets, capital stock, or voting rights of a corporation or agency is purchased, transferred, leased, or acquired by comparable arrangement by one (1) person or entity from another.

(2) A new license application filed due to a change of ownership shall be filed, at minimum, ten (10) days prior to the change of ownership. The new license shall be issued for the remainder of the previous licensure period.

(3) There shall be full disclosure to the board of the changes, such as name and address, of:

(a) Each person having direct or indirect ownership interest of ten (10) percent or more in the agency;

(b) Officers and directors of the corporation, if an agency is organized as a corporation; or

(c) Partners, if an agency is organized as a partnership.

#### Section 4. Inspections.

(1) Compliance with licensing pursuant to this administrative regulation shall be validated through on-site inspections of the agency by representatives or employees of the KBEMS Office. The inspection shall include a:

(a) Safety and maintenance check of all vehicles in operation;

(b) Review of all equipment and supplies stocked on vehicles;

and

(c) 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 service during hours that the agency operates.

(3) A regulatory violation identified during an inspection shall be transmitted in writing to the agency by the KBEMS office.

(4) Within ten (10) business days of receipt of the statement of violation, the agency shall submit a written plan for the elimination or correction of a regulatory violation to the KBEMS office.

(5) The plan shall specify the date by which the violations shall be corrected.

(6) Within ten (10) business days following receipt of the plan, the KBEMS office shall notify the agency in writing whether or not the plan is accepted as providing for the elimination or correction of the violation.

(7) The KBEMS office may conduct a follow-up visit to verify compliance with the plan.

(8) If a portion or all of the plan is unacceptable:

(a) The KBEMS office shall specify why the plan cannot be accepted; 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 may be conducted for a:

(a) Complaint allegation;

(b) Follow-up visit; ~~[-or]~~

(c) Relicensing inspection; or

(d) Random compliance audit.

#### Section 5. Unethical Conduct.

(1) The following acts shall be considered unethical conduct in the practice of providing emergency medical services and may be subject to the sanctions established in KRS 311A.060:

(a) Failure to submit, amend, or modify a plan of correction in order to eliminate or correct regulatory violations;

(b) Failure to eliminate or correct regulatory violations;

(c) Falsifying an application for licensing;

(d) Changing a license issued by the board;

(e) Attempting to obtain or obtaining a license by:

1. Fraud;

2. Forgery;

3. Deception;

4. Misrepresentation; or

5. 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) Failure to comply with local ordinances, federal statutes, KRS Chapter 311A, or 202 KAR Chapter 7.

(2) Unless the agency receives prior approval from the board, an~~[An]~~ agency whose license is currently under disciplinary review shall not be eligible to sell the license to another entity until all fines or fees owed to the board are satisfied and any associated legal action has been fully resolved.

(3) A licensed agency shall not be disciplined for responding to calls outside of its geographic service area if the agency is providing:

(a) Mutual aid at the request of and under an existing agreement with another licensed agency whose geographic service area includes the area in which the emergency or non-emergency call originates;

(b) Disaster assistance;

(c) Interfacility medical transfer from damaged or closed health facilities; ~~[-or]~~

(d) Interfacility medical transfer to residents of its service area, who are patients in facilities outside of its service area, for the purpose of returning the patients to their home service area or transporting them to another health facility;[.]

(e) A response authorized by 202 KAR 7:555; or

(f) Scheduled and non-scheduled medically necessary ambulance transportation within another service area where the licensed agency or agencies within the service area have denied response.

#### Section 6. Exemptions from Administrative Regulations.

(1) The following situations shall be exempt from the provisions of this administrative regulation:

(a) First aid or transportation provided in accordance with KRS 216B.020(2)(f);

(b) A vehicle serving as an ambulance during a disaster or major catastrophe; or

(c) A vehicle operated by the U.S. government on property owned by the U.S. government.

(2) Out-of-state agencies licensed by and in good standing with another state shall be exempt from the provisions of this administrative regulation unless the agency:

(a) Transports a patient from a Kentucky location to another Kentucky location; or

(b) Transports a Kentucky resident from Kentucky to another state more than six (6) times during a calendar year.

(3) In addition to the exemption set forth in subsection (2) of this section, out-of-state agencies licensed by and in good standing with a state contiguous to Kentucky shall be exempt from the provisions of this administrative regulation when the agency is responding

~~[(2)] [The following out-of-state agencies shall be exempt from the provisions of this administrative regulation:]~~

~~[(a)] [A vehicle licensed by another state that is transporting a patient from out of state to a Kentucky medical facility or other location in Kentucky;]~~

~~[(b)] [A vehicle licensed by another state that is transporting a patient from out of state through Kentucky to another location out of state;]~~

~~[(c)] [A vehicle licensed in an adjoining state that responds] to a mutual aid request from a Kentucky licensed provider for emergency assistance if the out-of-state agency[out of state service] is the closest service appropriately capable of responding to the request or if Kentucky licensed providers:~~

~~(a)[1-] Are unavailable;~~

~~(b)[2-] Have already responded; or~~

~~(c)[3-] Are physically unable to reach the incident.[- and]~~

~~[(d)] [A vehicle licensed by another state that is providing nonemergency transportation from a Kentucky health care facility for a patient who is not a Kentucky resident back to their state of residence.]~~

Section 7. Public Notice of Negative Action. The board office shall publish, on the KBEMS website[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.

#### Section 8. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Initial Ground Agency License Application", (5/2025)[Ambulance Agency License Application", (12/2017)]; and

(b) "Renewal Application for Class I, II, III, and IV Agencies", (5/2025)[Ground Agency Renewal Application", (12/2017)].

(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[448 James Court, Suite 50, Lexington, Kentucky 40505], Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material is also available on the board's website at: kbems.ky.gov

JOHN R. HOLDER, Chair

APPROVED BY AGENCY: April 30, 2025

FILED WITH LRC: May 21, 2025 at 2:36 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 22, 2025, at 1:00 p.m. ET at the Kentucky Board of Emergency Medical Services, 500 Mero Street, 5th Floor 5SE32, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 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.

CONTACT PERSON: John K. Wood, Counsel for the Kentucky Board of Emergency Medical Services, 163 East Main Street, Suite 200, Lexington, Kentucky 40507, phone (859) 225-4714, email [administrativeregulations@wgmfirm.com](mailto:administrativeregulations@wgmfirm.com).

#### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John K. Wood

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 311A.030 requires the board to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers and medical first response agencies. This administrative regulation establishes minimum ambulance agency licensing requirements.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the minimum ambulance agency licensing requirements.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 311A.030 requires the board to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers and medical first response agencies. This administrative regulation conforms to the content of KRS 311A.030 by establishing the minimum ambulance agency licensing requirements.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 311A.030 requires the board to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers and medical first response agencies. This administrative regulation assists in the effective administration of KRS 311A.030 by establishing the minimum ambulance agency licensing requirements.

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

(a) How the amendment will change this existing administrative regulation: This amendment removes unnecessary application requirements, expressly allows unannounced random compliance audits, allows the Board to approve the sale of an agency that is subject to disciplinary action, allows agencies to provide scheduled and non-scheduled medically necessary ambulance transportation within another service area when the licensed agency or agencies within that service area have denied response, and clarifies and expands the exemptions applicable to out-of-state agencies.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to remove unnecessary requirements, to allow the sale of agencies subject to disciplinary action when such sale is in the best interest of the public, to provide faster response times for scheduled and non-scheduled medically necessary transports, and to clarify and update the exemptions applicable to out-of-state agencies.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of KRS 311A.030 by establishing the minimum ambulance agency licensing requirements.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of KRS 311A.030 by clarifying and updating the minimum ambulance

agency licensing requirements.

(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 ground ambulance services.

(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: Ground ambulance services will be required to satisfy the licensing requirements established by this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No costs are directly established by this administrative regulation. However, agencies are required to pay the initial license application and renewal fees established in 202 KAR 7:030.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Ground ambulance services will benefit from the clarified licensing requirements of this amendment and will benefit from being able to provide scheduled and non-scheduled medically necessary ambulance transportation within another service area when the licensed agency or agencies within that service area have denied response.

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

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

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

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

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

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

(9) TIERING: Is tiering applied? Tiering is not applied to this administrative regulation because the amendment applies to all ground ambulance agencies.

#### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 311A.030 requires the board to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers and medical first response agencies. This administrative regulation establishes minimum ambulance agency licensing requirements.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 311A.030, last amended by 2024 Ky. Acts ch. 94, sec. 1, 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 minimum ambulance agency licensing requirements.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: This amendment is promulgated by the Kentucky Board of Emergency Medical Services.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year: None

For subsequent years: None

2. Revenues:

For the first year: None

For subsequent years: None

3. Cost Savings:

For the first year: None

For subsequent years: None

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): All cities and counties operating or seeking to operate an ambulance agency.

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year: None

For subsequent years: None

2. Revenues:

For the first year: None

For subsequent years: None

3. Cost Savings:

For the first year: None

For subsequent years: None

(5)(a) Identify any affected regulated entities not listed in (3)(a) or

(4)(a): All ambulance agencies and entities seeking licensure as an ambulance agency.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year: None

For subsequent years: None

2. Revenues:

For the first year: None

For subsequent years: None

3. Cost Savings:

For the first year: None

For subsequent years: None

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation: No fiscal impact is anticipated as a result of this administrative regulation.

(b) Methodology and resources used to reach this conclusion: This amendment does not increase any fees and is not otherwise expected to have a fiscal impact.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(13): This administrative regulation will not have a major economic impact.

(b) The methodology and resources used to reach this conclusion: This amendment does not increase any fees and is not otherwise expected to have a fiscal impact.

#### KENTUCKY BOARD OF EMERGENCY MEDICAL SERVICES (Amendment)

##### 202 KAR 7:545. License classifications.

RELATES TO: KRS 311A.030, 311A.190, 216B.020

STATUTORY AUTHORITY: KRS 311A.020, 311A.025, 311A.030, 311A.190

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311A.020 requires the Board of Emergency Medical Services to exercise all administrative functions in the regulation of the emergency medical services system. [~~ambulance services and medical first response agencies.~~] except those functions regulated by the Board of Medical Licensure or the Cabinet for Health and Family Services. KRS 311A.030 requires the board to promulgate administrative regulations establishing the license classifications of ambulance services, mobile integrated healthcare programs, and medical first response providers. [~~to establish requirements for various classes of ambulance and emergency medical service agencies.~~] This administrative regulation establishes the classes of ambulance services, mobile integrated healthcare programs, and medical first response providers. [~~requirements for each class of ambulance service and medical first response agencies.~~]

Section 1. Definitions.

(1) "911 scene response" means a response:

(a) Resulting from a 911 call or other call to a dispatch center or public safety answering point for assistance;

(b) Where an ambulance provider is dispatched to, responds to, provides an assessment to, provides care to, or transports a person reporting a medical condition or injury; and

(c) Where transportation of the patient will terminate in an emergency room or other location for immediate assessment or treatment.

(d) "911 scene response" shall not include response to a call where a patient is receiving care at a hospital.

(2) "Agency" means an individual or private or public organization, except the United States government, seeking or holding a license from the board to provide emergency medical services under KRS Chapter 311A and 202 KAR Chapter 7.

(3) "ALS first response" means 911 scene response to provide ALS emergency care or treatment to an ill or injured person by emergency medical services personnel.

(4) "BLS first response" means 911 scene response to provide BLS emergency care or treatment to an ill or injured person by emergency medical services personnel.

(5) "Medical first response" means 911 scene response to provide ALS or BLS emergency care or treatment to an ill or injured person by emergency medical services personnel before the arrival of an ambulance.

(6) "Mobile integrated healthcare" or "MIH" is defined by KRS 311A.010(18).

(7) "Nonemergency" means any scheduled, non-scheduled, or interfacility medically necessary ambulance transportation that is not a 911 scene response.

Section 2. License Classifications.

(1) Beginning on January 1, 2026, license[In accordance with KRS 311A.030(1), license] classifications for ambulance providers, mobile integrated healthcare programs, and medical first response agencies shall include:

(a) [A-]Class I ground ambulance providers, which shall be classified as:[agency operating at the Advanced Life Support (ALS), Basic Life Support (BLS), or Adult Critical Care Transport level to provide emergency and nonemergency care and transportation;]

1. Class Ia – (911 Services) – A ground ambulance provider operating at the ALS or BLS level, or both, and which shall provide 911 scene response and may provide emergency, nonemergency, or interfacility care and transportation; or

2. Class Ib – (CON-Exempt City and County Services) – A ground ambulance provider operating pursuant to KRS 216B.020(8) at the ALS or BLS level, or both.

(b) [A-]Class II ground ambulance providers, which shall be classified as:[agency operating at the BLS level only to provide nonemergency care and transportation;]

1. Class IIa – (Non-911 Services) – A ground ambulance provider operating at the ALS or BLS level, or both, to provide interfacility care and nonemergency care and transportation; or

2. Class IIb – (CON-Exempt Hospital Services) – A ground ambulance provider operating pursuant to KRS 216B.020(7) at the ALS or BLS level, or both.

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

1. Class IIIa – (Adult Critical Care Services) – A ground ambulance provider operating at the ALS level as an adult critical care agency providing critical care interfacility transport services to patients ages twelve (12) and above;

2. Class IIIb – (Pediatric Specialty Care Services) – A ground ambulance provider operating at the ALS level as a pediatric specialty care agency providing critical care interfacility and specialty care transport services to patients under the age of twenty-

one (21); or

3. Class IIIc – (Neonatal Specialty Care Services) – A ground ambulance provider operating at the ALS level as a neonatal specialty care agency providing critical care interfacility and specialty care transport services to patients less than twenty-nine (29) days of age.

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

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

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

(d) [A-]Class IV – (Restricted Location Services) – A ground ambulance provider[agency] operating at the ALS or BLS level to provide emergency and nonemergency care with or without[and] transportation for restricted locations, such as industrial sites or other sites that do not provide services outside the designated geographic service area.

(e) Class V – (Mobile Integrated Health Care Programs) – A mobile integrated health care program operating at the ALS and BLS level.

(f)[(e)] [A] Class VI – (Medical First Response Agencies) – An agency providing medical first response without patient transport at the ALS or BLS[BLS or ALS] level.

1. Each ALS first response agency shall be licensed separately as a Class VI ALS agency.

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

3.[2.] A licensed Class I agency[nonlicensed BLS First Response Agency] may execute a memorandum of understanding[mutual aid agreement] with multiple nonlicensed BLS first response agencies[First Response Agencies] that serve the same geographic service area.

4.[3.] A memorandum of understanding[mutual aid agreement] shall automatically renew at the conclusion of a calendar year.

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

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

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

7.[6.] A nonlicensed BLS first response[First Response] agency shall not provide BLS care outside of its[the] geographic service area unless responding through an executed mutual aid agreement.[of the Class I ALS agency;]

8.[7.] A nonlicensed BLS first response[First Response] agency unable to secure a written memorandum of understanding[mutual aid agreement] with a Class I [ALS] agency within its geographic service area[;] may operate within the jurisdiction as a nonlicensed BLS first response[First Response] agency if:

a. The[the] agency has written correspondence from at least one (1) Class I [911] agency within its geographic service area denying the nonlicensed BLS first response agency's request to enter into a memorandum of understanding[mutual aid agreement]; and

b. The agency maintains[;]

(i) The correspondence denying the memorandum of

## VOLUME 52, NUMBER 1– JULY 1, 2025

understanding request on file at the agency;[mutual aid request shall be maintained on file at the agency.]

(ii) Board-approved medical direction;

(iii) Board-approved BLS first response agency protocols; and

(iv) Written policies addressing each of the issues listed in subsections (1)(f)(6)(c) through (h) of this section.

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

(g)[(f)] [A] Class VII – (Air Ambulance Services) – A rotor or fixed wing air ambulance service providing ALS and BLS 911 scene response or emergency, interfacility, or nonemergency care and air transportation;

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

(h) [A] Class VIII – (Event Medicine Providers) – An agency utilizing emergency medical services personnel to provide ALS or BLS care[providing BLS or ALS pre-hospital care above the first-aid level] at special events, sports events, concerts, or other large social gatherings.

1. A Class VIII agency shall be licensed separately as a Class VIII ALS or BLS agency.[A Class VIII agency shall not transport patients beyond the grounds of an event and shall be bound by the geographic service area of its Certificate of Need.]

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

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

4. Upon request, a Class VIII agency shall make available to any Class I agency within its geographic service area its protocols, treatment capabilities, and updated contact information.

(i) Class IX – (State Special Response Agencies) – An agency providing emergency and nonemergency care as part of a state-sponsored specialty team, such as Kentucky Urban Search and Rescue or other state special response agency, and that provides services and conducts trainings throughout the Commonwealth.

1. A Class IX agency shall be licensed separately as a Class IX ALS or BLS agency.

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

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

(j) Class X – (Nonemergency Out-of-State Reciprocity License) – An out-of-state agency providing nonemergency response and that is licensed by and in good standing with another state and holds a Certificate of Need to operate a Class III agency in Kentucky.

1. An out-of-state agency shall be eligible for a reciprocal Kentucky license if the agency:

a. Provides only nonemergency response;

b. Is licensed by and in good standing with another state EMS regulatory body; and

c. Holds a Certificate of Need to operate a Class III agency in Kentucky.

2. An out-of-state agency may apply for a Class X license by submitting a valid agency license from another state to the KBEMS office.

3. A Class X agency shall be exempt from all administrative regulations promulgated by the board except 202 KAR 7:030, 202 KAR 7:501, and 202 KAR 7:540.

4. A Class X agency shall satisfy all requirements for maintaining its license issued by another state EMS regulatory body, including but not limited to all staffing, equipment, medical director, and inspection requirements of the state of original licensure.

5. A Class X license shall not require an initial or annual inspection by the KBEMS office, but a Class X agency shall be subject to random inspections by the KBEMS office.

6. If a Class X agency fails to maintain its license issued by another state EMS regulatory body, the agency shall be deemed to have surrendered its Class X license.

7. If a Class X agency's license issued by another state EMS

regulatory body is revoked, suspended, lapses, or placed on probationary status, the agency shall notify the KBEMS office within five (5) days of such action.

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

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

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

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

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

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

Section 3.[Section 2.] Public Notice of Negative Action. The board office shall publish on the KBEMS website[Web site] or similar publication of the board, the name of any licensed agency that is fined, placed on probationary status, placed on restricted status, suspended, or had a license revoked.

JOHN R. HOLDER, Chair

APPROVED BY AGENCY: April 30, 2025

FILED WITH LRC: May 21, 2025 at 2:36 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 22, 2025, at 1:00 p.m. ET at the Kentucky Board of Emergency Medical Services, 500 Mero Street, 5th Floor 5SE32, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 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.

CONTACT PERSON: John K. Wood, Counsel for the Kentucky Board of Emergency Medical Services, 163 East Main Street, Suite 200, Lexington, Kentucky 40507, phone (859) 225-4714, email [administrativeregulations@wgmfirm.com](mailto:administrativeregulations@wgmfirm.com).

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John K. Wood

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 311A.030 requires the board to promulgate administrative regulations establishing the license classifications of ambulance services, mobile integrated healthcare programs, and medical first response providers. This administrative regulation establishes the classes of ambulance services, mobile integrated healthcare programs, and medical first response providers.

(b) The necessity of this administrative regulation: House Bill 57 (2024 Regular Session) amended KRS 311A.030 to permit the Board to classify ambulance services, mobile integrated healthcare programs, and medical first response providers. This administrative regulation is necessary to update the classifications of agencies, as authorized by HB 57.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 311A.030 by establishing the license classifications of



ambulance services, mobile integrated healthcare programs, and medical first response providers.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 311A.030 requires the board to promulgate administrative regulations establishing the license classifications of ambulance services, mobile integrated healthcare programs, and medical first response providers. This administrative regulation will assist in the effective administration of KRS 311A.030 by classifying EMS agencies.

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

(a) How the amendment will change this existing administrative regulation: This amendment establishes new classes of EMS agencies and modifies existing classes. Specifically, this amendment: Separates Class I agencies into two classes: Class Ia and Class Ib. Class Ia services will be required to provide 911 scene response, which is defined in this amendment, and will be permitted to provide other emergency, nonemergency, or interfacility care and transportation. Class Ib services will be the Certificate of Need-exempt city and county services operating pursuant to KRS 216B.020(8). Separates Class II services into two classes: Class IIa and Class IIb. Class IIa services will be permitted to provide interfacility and nonemergency care at the ALS or BLS level, or both. Class IIb services will be the Certificate of Need-exempt hospital services operating pursuant to KRS 216B.020(7). Clarifies that the three types of Class III agencies must operate at the ALS level and may provide interfacility care and transportation. Establishes a class of license for mobile integrated health care programs. Clarifies that Class VI medical first response agencies may operate without a license if they have a memorandum of understanding with the Class I agency that services their geographic service area. If such agencies cannot secure a memorandum of understanding, they must maintain board-approved medical direction and protocols. Clarifies that Class VII air ambulance services may provide both ALS and BLS 911 scene response and emergency, interfacility, or nonemergency care and air transportation. Clarifies that Class VIII event medicine providers are those agencies that utilize EMS personnel to provide ALS or BLS care at special events, sports events, concerts, or other large social gatherings. Upon request, Class VIII event medicine providers must make their protocol, treatment capabilities, and contact information available to any Class I agency in their geographic service area. Creates a new class of license, Class IX, for state special response agencies. Those agencies may provide emergency and nonemergency care as part of a state-sponsored specialty team, such as Kentucky Urban Search and Rescue. Class IX agencies must be licensed at either the ALS or BLS level and may not transport patients independently to a hospital. Creates a new class of license, Class X, for out-of-state nonemergency agencies holding a Certificate of Need to operate a Class III agency in Kentucky. Clarifies the requirement to timely apply for a license after obtaining a Certificate of Need. Agencies will be required to submit an initial license application to the Board within 90 days after being issued a CON. Changes the requirement to request a final inspection after obtaining a Certificate of Need. Agencies will be required to request a final inspection within one (1) year after submitting a completed initial license application. Under the current version of this administrative regulation, agencies must request a final inspection within 180 days after applying for a license from the Board. Grants agencies an automatic 180-day extension to the deadline to request a final inspection upon written request. No additional extensions of time are available. In accordance with House Bill 305 (2025 Regular Session), deletes deadlines to apply for a license and request a final inspection after receiving a Certificate of Need.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update the license classifications of ambulance services, mobile integrated healthcare programs, and medical first response providers. Before House Bill 57 (2024 Regular Session) became law, the classifications of EMS agencies were established by KRS 311A.030.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of KRS 311A.030 by establishing the license classifications of ambulance services, mobile integrated healthcare programs, and medical first response providers.

(d) How the amendment will assist in the effective administration of the statutes: Before House Bill 57 (2024 Regular Session) became law, the classifications of EMS agencies were established by KRS 311A.030. The current version of this administrative regulation mirrors those previous statutory classifications. House Bill 57 amended KRS 311A.030 to grant the Board the authority to classify ambulance services, mobile integrated healthcare programs, and medical first response providers. This amendment will assist in the effective administration of KRS 311A.030 by updating the license classifications of ambulance services, mobile integrated healthcare programs, and medical first response providers.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect all ambulance services, mobile integrated healthcare programs, and medical first response providers.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Ambulance service, mobile integrated healthcare program, or medical first response provider will be required to operate within the scope of their defined license classification. Agencies currently licensed as a Class I, for example, will be reclassified as a Class I A or Class I B agency.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to any entity identified in question (3), other than the costs of operating within the scope of the agency's license classification.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Ambulance service, mobile integrated healthcare program, or medical first response providers will benefit from the clarifications to each type of EMS agency license class provided in this amendment.

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

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

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

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

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

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

(9) TIERING: Is tiering applied? Tiering is not applied to this administrative regulation because the amendment applies to all ambulance services, mobile integrated healthcare programs, and medical first response providers.

#### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 311A.030 requires the board to promulgate administrative regulations establishing the license classifications of ambulance services, mobile integrated healthcare programs, and medical first response providers.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: This administrative regulation is expressly authorized by House Bill 57 (2024 Regular Session), 2024 Ky. Acts ch. 94, sec. 1.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: This amendment is promulgated by the Kentucky Board of Emergency Medical Services.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year: None

For subsequent years: None

2. Revenues:

For the first year: None

For subsequent years: None

3. Cost Savings:

For the first year: None

For subsequent years: None

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

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year: None

For subsequent years: None

2. Revenues:

For the first year: None

For subsequent years: None

3. Cost Savings:

For the first year: None

For subsequent years: None

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): All emergency medical services, first response agencies, and mobile integrated health care programs.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year: None

For subsequent years: None

2. Revenues:

For the first year: None

For subsequent years: None

3. Cost Savings:

For the first year: None

For subsequent years: None

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation: No fiscal impact is anticipated as a result of this administrative regulation, other than the existing costs of operating within the entity's license classification.

(b) Methodology and resources used to reach this conclusion: This amendment does not increase any fees and is not otherwise expected to have a fiscal impact.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(13): This administrative regulation will not have a major economic impact.

(b) The methodology and resources used to reach this conclusion: This amendment does not increase any fees and is not otherwise expected to have a fiscal impact.

## KENTUCKY BOARD OF EMERGENCY MEDICAL SERVICES (Amendment)

### 202 KAR 7:565. Clinical pilot programs.

RELATES TO: KRS 216B.020(2)(f), 311A.030, 311A.060, 311A.180, 311A.190

STATUTORY AUTHORITY: KRS 311A.020, 311A.025, 311A.030, 311A.035, 311A.165, 311A.170, 311A.175, 311A.190

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311A.020 requires the board to exercise all administrative functions in the regulation of the EMS system and the licensing of ambulance services and medical first response agencies, except those regulated by the Board of Medical Licensure or Cabinet for Health and Family Services. KRS 311A.035 authorizes the board to develop, monitor, and encourage other projects and programs that

may be of benefit to emergency medical services in the Commonwealth. This administrative regulation establishes the process for agencies to submit clinical pilot programs and the standards for approval by the board.

#### Section 1.

(1) A clinical pilot program shall allow for the use of assessment techniques or clinical procedures beyond the regular scope of practice of emergency medical responders established in 202 KAR 7:701.

#### (2)

(a) A licensed agency seeking authorization for a clinical pilot program shall submit a Clinical Pilot Program Application [written proposal] that includes a:

1. Letter of intent;

2. Description of the type of pilot project;

3. General project description;

4. Patient Interaction Plan;

5. Staffing Plan;

6. Training and Education Plan;

7. Medical Direction and Quality of Improvement Plan;

8. Data Collection and Quantitative Reporting;

9. Written confirmation of research approval from an Institutional Review Board (IRB) within the Commonwealth [Completed "Request for Expedited or Full Review" form located on pages 42 through 45 of the "Kentucky Community and Technical College System Human Subjects Review Board Handbook for Investigators: For the Protection of Human Subjects in Research," (6/2015)], if applicable; and

10. Nonrefundable application fee of \$500.

(b) The applicant agency's administrator and medical director shall appear before the Medical Oversight Committee and subsequent meeting of the board to present the applicant agency's proposed pilot program for review or additional information.

(c) The Medical Oversight Committee shall review the applicant's proposal and assess on its individual merits if the project or program to be developed or implemented by the applicant is likely to benefit patients and providers of emergency medical services. The Medical Oversight Committee shall present its recommendation of approval or denial to the board at the next regularly scheduled board meeting.

(d) Upon approval of a clinical pilot program, the board shall develop quarterly report deadlines and data points for quarterly review by the Medical Oversight Committee.

1. The data points shall relate to the specific methods and goals identified in the applicant's proposal.

2. The reporting deadlines and data points shall be incorporated into a Memorandum of Understanding between the board and the applicant.

(3) An individual certified or licensed by the board who successfully completes an approved educational pilot program in accordance with 202 KAR 7:601 shall perform the procedures relevant to the training and education received in the pilot program subject to protocols established by the medical director and approved by the board in accordance with KRS 311A.180.

(4) The board may limit:

(a) The geographic area or service location where the procedure is performed; and

(b) The performance of the procedure subject to a:

1. Specific and defined event;

2. Disaster; or

3. Designated directive.

(5) The board shall authorize the use of physicians or other medical professionals to supervise and monitor the training and education of providers involved in a pilot program.

(6) The board may restrict actions that involve the performance of an invasive procedure or the administration of medication subject to:

(a) Physician or medical director oversight; or

(b) The use of protocols that have been submitted to the board for review and approved by the state medical advisor and the board in accordance with KRS 311A.180.

(7) The office of the board shall retract the approval of any

Clinical Pilot Program immediately if:

- (a) The agency is in violation of any provisions approved by the board, including data submission requirements; or
- (b) There is evidence the assessment technique or procedure has caused physical or psychological harm to a patient.
- (8) Violation of any provision of a Clinical Pilot Program shall be grounds for discipline in accordance with KRS Chapter 311A.060.

Section 2. Public Notice of Negative Action. The board office shall publish on the KBEMS web site or similar publication of the board the name of any licensed agency that is fined, placed on probationary status, placed on restricted status, suspended, or had a license revoked.

Section 3. Incorporation by Reference.

(1) "Clinical Pilot Program Application", (5/2025), is incorporated by reference. ["Kentucky Community and Technical College System Human Subjects Review Board Handbook for Investigators: For the Protection of Human Subjects in Research", (6/2015), is incorporated by reference.]

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Emergency Medical Services, 500 Mero Street, 5th Floor, 5SE32, Frankfort, Kentucky 40601[118 James Court, Suite 50, Lexington, Kentucky 40505], Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material is also available on the board website at: kbems.ky.gov.

JOHN R. HOLDER, Chair

APPROVED BY AGENCY: April 30, 2025

FILED WITH LRC: May 21, 2025 at 2:36 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 22, 2025, at 1:00 p.m. ET at the Kentucky Board of Emergency Medical Services, 500 Mero Street, 5th Floor 5SE32, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 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.

CONTACT PERSON: John K. Wood, counsel for the Kentucky Board of Emergency Medical Services, 163 East Main Street, Suite 200, Lexington, Kentucky 40507, phone (859) 225-4714, email [administrativeregulations@wgmfirm.com](mailto:administrativeregulations@wgmfirm.com).

#### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John K. Wood

(1) Provide a brief summary of:

- (a) What this administrative regulation does: KRS 311A.035 authorizes the board to develop, monitor, and encourage other projects and programs that may be of benefit to emergency medical services in the Commonwealth. This administrative regulation establishes the process for agencies to submit clinical pilot programs and the standards for approval by the board.
- (b) The necessity of this administrative regulation: This administrative regulation is necessary to establish processes and standards for clinical pilot programs.
- (c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 311A.035(5) by establishing processes and standards for clinical pilot programs and to develop, monitor, and encourage the same.
- (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 KRS 311A.035(5) by establishing the process for agencies to submit clinical pilot programs and the standards for approval by the board.

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

(a) How the amendment will change this existing administrative regulation: This amendment removes outdated references to the Kentucky Community and Technical College.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary because the Board is no longer attached to the Kentucky Community and Technical College System.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of KRS 311A.035(5) by revising the process for agencies to submit clinical pilot programs.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of KRS 311A.035(5) by removing outdated provisions.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect any EMS agency wishing to create a clinical pilot program.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Agencies wishing to create a clinical pilot program will be required to submit the new Pilot Program Application and comply with the remaining processes and requirements established in this amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This administrative regulation establishes a \$500 fee for applying for a clinical pilot program.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Affected entities will benefit from the removal of outdated provisions in this administrative regulation.

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

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

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

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

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation establishes a \$500 application fee, which has not been changed in this proposed amendment.

(9) TIERING: Is tiering applied? Tiering is not applied to this administrative regulation because the amendment applies to all agencies seeking to create a clinical pilot program.

#### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 311A.035 authorizes the board to develop, monitor, and encourage other projects and programs that may be

of benefit to emergency medical services in the Commonwealth. This administrative regulation establishes the process for agencies to submit clinical pilot programs and the standards for approval by the board.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 311A.035, last amended by 2022 Ky. Acts ch. 126, sec. 5, authorizes the board to develop, monitor, and encourage other projects and programs that may be of benefit to emergency medical services in the Commonwealth. This administrative regulation establishes the process for agencies to submit clinical pilot programs and the standards for approval by the board.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: This amendment is promulgated by the Kentucky Board of Emergency Medical Services.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year: None

For subsequent years: None

2. Revenues:

For the first year: None

For subsequent years: None

3. Cost Savings:

For the first year: None

For subsequent years: None

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): Any city or county emergency ambulance service seeking to operate a clinical pilot program.

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year: None

For subsequent years: None

2. Revenues:

For the first year: None

For subsequent years: None

3. Cost Savings:

For the first year: None

For subsequent years: None

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): Any emergency medical services, first response agencies, or mobile integrated health care programs seeking to operate a clinical pilot program.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year: None

For subsequent years: None

2. Revenues:

For the first year: None

For subsequent years: None

3. Cost Savings:

For the first year: None

For subsequent years: None

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation: No fiscal impact is anticipated as a result of this administrative regulation, other than the existing costs of operating a clinical pilot program.

(b) Methodology and resources used to reach this conclusion: This amendment does not increase any fees and is not otherwise expected to have a fiscal impact.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(13): This administrative regulation will not have a major economic impact.

(b) The methodology and resources used to reach this conclusion: This amendment does not increase any fees and is not otherwise expected to have a fiscal impact.

**COMPILER'S NOTE: 2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency:**

**EDUCATION AND LABOR CABINET  
Kentucky Board of Education  
Department of Education  
(Amendment)**

**702 KAR 5:130. Non-school bus passenger vehicles~~[Vehicles designed to carry nine (9) passengers or less, standards for].~~**

RELATES TO: KRS 156.153(3), 156.160, 156.990, 158.110, 158.148, 160.310, 160.380, 189.540, 189.550, 49 C.F.R. pt. 40

STATUTORY AUTHORITY: KRS 156.070, 156.153, 156.160, 189.540

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.070 authorizes the Kentucky Board of Education to have the management and control of the common schools and all programs operated in those schools. KRS 156.160 requires the Kentucky Board of Education to promulgate administrative regulations relating to the transportation of children to and from school and those deemed necessary or advisable for the protection of the physical welfare and safety of public school children. KRS 189.540 requires the Kentucky Board of Education to promulgate an administrative regulation to govern the operation of [district-owned-]passenger vehicles owned, leased, or privately contracted by the district that transport students[designed to carry nine (9) passengers or less, including the driver, and used for approved school activities] under KRS 156.153(3). KRS 156.153(3)(d) requires the Kentucky Board of Education to promulgate administrative regulations establishing the minimum standards and specifications for non-school bus passenger vehicles: minimum route safety standards and pick-up and drop-off protocols; and minimum qualifications, training, and drug testing requirements for an individual to be authorized to transport any student to and from school using a non-school bus passenger vehicle. This administrative regulation establishes the requirements relative to the transportation of students[pupils] by local school districts in non-school bus passenger vehicles[designed to carry nine (9) passengers or less and which are not classified as school buses].

Section 1. Definition. "Non-school bus passenger vehicle" or "vehicle[Vehicle]" means a vehicle owned, leased, or contracted by a school district[board]that is designed and built by the manufacturer for passenger transportation of nine (9) or fewer passengers, including the driver, and used for transporting students[or contracted to the board which is significantly used to transport pupils] to and from school and approved school activities under an alternative transportation plan approved by the Kentucky Department of Education[which is designed by the manufacturer to carry fewer than ten (10) passengers].

Section 2. Alternative Transportation Plan.

(1) A district shall submit an alternative transportation plan to the Kentucky Department of Education for approval each school year prior to transporting any student in a non-school bus passenger vehicle.[A vehicle may be used for the transportation of pupils:]

(2) The alternative transportation plan shall include:

(a) The number of vehicles being used to transport students; and

(b) Information regarding why a school bus is not being used.

[(a)] [From areas not accessible by a regular school bus to the nearest road available for the safe transfer of pupils to a regular school bus or vice versa;]

[(b)] [For emergency transportation of students;]

[(c)] [For approved school activities; or]

[(d)] [For qualified special needs pupils;]

[(2)] [A vehicle driver shall be a school district employee or a person contracted by the district.]

Section 3. Vehicle Requirements.

(1) A vehicle shall not be used to carry more students[pupils] than the manufacturer's designed passenger capacity for that particular vehicle.

(2)[Section 4.-] A vehicle shall have occupant restraint systems equal in number to the manufacturer's designed passenger capacity and installed in accordance with the [original—equipment ]manufacturer's specifications.

(3) A vehicle shall display a sign in clear view in the rear of the vehicle stating:

- (a) "This vehicle is being used to transport school children"; and
- (b) "This vehicle stops at railroad crossings".

(4) A district shall remove all district identification lettering from a non-school bus passenger vehicle before transferring title to another party other than a Kentucky school district. A contract issued by the local board for a non-school bus passenger vehicle shall contain a clause requiring the contractor to remove all district identification lettering when the vehicle is no longer under contract to the local board of education.

(5) The vehicle shall be equipped with:

- (a) A fire extinguisher with a rating of A, B, and C;
- (b) A first aid kit;
- (c) A seatbelt cutter; and
- (d) A body fluid clean up kit.

Section 4. Route Safety Standards and Pick-up and Drop-off Protocols.

(1) The driver shall stop in a location that does not obstruct traffic while picking up or dropping off any student.

(2) Pursuant to KRS 156.153(3)(d)2, the driver shall not deposit a student at a location that would require the student to cross a road or intersection to reach the student's destination.

(3) The driver shall not use a personal communication device while operating a vehicle with students on board except during an emergency.

Section 5. Driver Qualifications.[Liability or indemnity insurance shall be purchased for each vehicle. The coverage limits shall be at least these amounts:]

(1) A local board of education operating under an approved alternative transportation plan shall adopt a policy that establishes the qualifications for drivers regarding:

- (a) Drug test results;
- (b) Driving history record;
- (c) Convictions for a violation under KRS Chapter 189 for which penalty points are assessed; and
- (d) Any citation or arrest for a violation of any provision of KRS Chapter 189A.

(2) A person shall not operate a non-school bus passenger vehicle if convicted within the past five (5) years of driving under the influence (DUI) or driving while intoxicated (DWI).

(3) A driver taking medication either by prescription or without prescription shall not drive if that medication affects the driver's ability to safely drive the vehicle or perform other driver responsibilities.

(4) A local board of education shall require a medical examination of each driver at least once every twenty-four (24) months. The medical examination shall be reported on the form Medical Examination of School Employees, KDESHS001, incorporated by reference in 702 KAR 1:160, Section 6(1)(a), or an electronic medical record that includes all of the data equivalent to that on the Medical Examination of School Employees form.

Section 6. Driver Drug Testing Requirements.[Before a vehicle is initially used to transport pupils, a safety inspection shall be made on the vehicle by an approved school bus inspector to certify the vehicle is in safe operating condition. If the vehicle is found to be in unsafe operating condition, it shall not be used to transport pupils until necessary repairs are made.]

(1) Pursuant to KRS 156.153(3)(d)3 and KRS 160.380(6)(e)2, all drivers transporting any student in a non-school bus passenger vehicle shall submit to drug testing consistent with the requirements of 49 C.F.R. pt. 40.

(2) A driver shall be subject to the following:

- (a) Controlled substance testing prior to initially transporting students;
- (b) Post-accident testing for controlled substances and alcohol;
- (c) Random testing for controlled substances and alcohol; and
- (d) Reasonable suspicion testing for controlled substances and alcohol.

(3) A driver having a confirmed positive test for a controlled substance shall not be permitted to transport any student in a non-school bus passenger vehicle for five (5) years from the date of the positive test. A driver subject to this subsection shall undergo controlled substance testing prior to operating a non-school bus passenger vehicle again and shall undergo a minimum of six (6) unannounced follow-up tests in the first twelve (12) months.

(4) A driver who tests at 0.02 percent or higher on the confirmation alcohol test immediately before, during, or immediately following operating a non-school bus passenger vehicle shall be relieved of these duties immediately and shall not be eligible to operate a non-school bus passenger vehicle for five (5) years. A driver subject to this subsection shall undergo controlled substance and alcohol use testing prior to operating a non-school bus passenger vehicle again and shall undergo a minimum of six (6) unannounced follow-up tests in the first twelve (12) months.

Section 7. Driver Training.[A vehicle shall be inspected at least once each month that the vehicle is used to transport pupils, utilizing the same criteria for inspection as for school buses on the "Preventive Management Inspection" Form as found in the "Pupil Transportation Management Manual, April 1998".]

(1) A driver shall successfully complete an initial three (3) hour training curriculum developed by the Kentucky Department of Education and delivered by a school bus driver trainer certified in accordance with 702 KAR 5:080, Section 4(2).

(2) A driver shall successfully complete a district specific minimum three (3) hour training each school year delivered by a school bus driver trainer certified in accordance with 702 KAR 5:080, Section 4(2). The minimum three (3) hour training shall include information on the local board's transportation services policy and code of acceptable behavior and discipline.

(3) A driver shall successfully complete basic first aid and cardiopulmonary resuscitation training in accordance with 702 KAR 5:080, Section 5. A driver shall be subject to this training every two (2) years.

(4) A district shall not permit an individual to transport students until the individual has successfully completed the training in this section.

Section 8. Insurance.[If being used to transport pupils, a vehicle shall display a sign in clear view in the rear of the vehicle stating: "This vehicle is being used to transport school children."]

(1) A local board of education shall obtain indemnity or liability insurance against negligence with a coverage limit of at least 1,500,000 dollars per occurrence for all non-school bus passenger vehicles owned or leased by the district.

(2) For vehicles contracted by the district, the local board shall require the contractor to carry indemnity or liability insurance against negligence with a coverage limit of at least 1,500,000 dollars per occurrence.

Section 9. Vehicle Inspections.[Incorporation by Reference.]

(1) The driver shall conduct and document a pre-trip inspection using the Non-school Bus Passenger Vehicle Pre-trip Inspection form prior to each time the vehicle is used to transport any student. If the driver determines that the vehicle is not safe to drive, the vehicle shall not be used to transport students until it is inspected and approved by a Kentucky Department of Education approved school bus or vehicle inspector, or a certified Automotive Service Excellence master technician.

(2) The safety inspection required by KRS 156.153(3)(b) shall be performed by a Kentucky Department of Education approved school bus or vehicle inspector, or a certified Automotive Service Excellence master technician. The Preventative Maintenance Inspection Report For Non-school Bus Passenger Vehicle form shall

be used to perform the safety inspection. If the vehicle is found to be in an unsafe operating condition, it shall not be used to transport students until necessary repairs are made.["Pupil Transportation Management Manual", April 1998, is incorporated by reference.]

[(2)] [This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of District Support Services, Department of Education, 15th Floor, Capitol Plaza Tower, 500 Mero Street, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.]

#### Section 10. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Non-school Bus Passenger Vehicle Pre-trip Inspection", April 2025; and

(b) "Preventative Maintenance Inspection Report For Non-school Bus Passenger Vehicle", April 2025.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Education, 300 Sower Blvd., Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material may also be viewed at: <https://www.education.ky.gov/districts/legal/Pages/Kentucky-Revised-Statutes.aspx>.

DR. ROBBIE FLETCHER, Commissioner  
SHARON PORTER ROBINSON, Chair

APPROVED BY AGENCY: June 10, 2025

FILED WITH LRC: June 11, 2025 at 3:39 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 27, 2025, at 10 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 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 August 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:

CONTACT PERSON: Todd G. Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321, email [regcomments@education.ky.gov](mailto: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 administrative regulation establishes the requirements relative to the transportation of students by local school districts in non-school bus passenger vehicles.

(b) The necessity of this administrative regulation: KRS 156.160 requires the Kentucky Board of Education to promulgate administrative regulations relating to the transportation of children to and from school and those deemed necessary or advisable for the protection of the physical welfare and safety of public school children. KRS 189.540 requires the Kentucky Board of Education to promulgate an administrative regulation to govern the operation of passenger vehicles owned, leased, or privately contracted by the district that transport students under KRS 156.153(3). KRS 156.153(3)(d) requires the Kentucky Board of Education to promulgate administrative regulations establishing the minimum standards and specifications for non-school bus passenger vehicles; minimum route safety standards and pick-up and drop-off protocols; and minimum qualifications, training, and drug testing requirements for an individual to be authorized to transport any student to and from school using a non-school bus passenger vehicle. This administrative regulation is necessary to establish the requirements relative to the transportation of students by local school districts in

non-school bus passenger vehicles.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation establishes the requirements relative to the transportation of students by local school districts in non-school bus passenger vehicles. The regulation establishes the requirements for an alternative transportation plan; vehicle requirements; route safety standards and pick-up and drop-off protocols; driver qualifications; driver drug testing and training requirements; insurance requirements; and requirements for vehicle inspections.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the requirements relative to the transportation of students by local school districts in non-school bus passenger vehicles as required by KRS 156.160, 189.540, and 156.153.

(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 regulation amendment updates the definition for non-school bus passenger vehicle; establishes the requirements for an alternative transportation plan; deletes language regarding the type of transportation the non-school bus passenger vehicle may be used for; updates vehicle requirements; inserts route safety standards and pick-up and drop-off protocols, driver qualifications, driver drug testing requirements, and driver training requirements; and updates the requirements for insurance and vehicle inspections.

(b) The necessity of the amendment to this administrative regulation: KRS 156.153 was amended in 2024 to require the Kentucky Board of Education to promulgate administrative regulations establishing the minimum standards and specifications for non-school bus passenger vehicles; minimum route safety standards and pick-up and drop-off protocols; and minimum qualifications, training, and drug testing requirements for an individual to be authorized to transport any student to and from school using a non-school bus passenger vehicle. KRS 189.540 was amended in 2025 to require the Kentucky Board of Education to promulgate administrative regulations to govern the operation of passenger vehicles owned, leased, or privately contracted by the district that transport students under KRS 156.153(3). This amendment is necessary to comply with these statutory requirements.

(c) How the amendment conforms to the content of the authorizing statutes: The regulation amendment establishes the requirements for an alternative transportation plan, route safety standards and pick-up and drop-off protocols, driver qualifications, driver drug testing requirements, and driver training requirements. The regulation amendment also updates the requirements for vehicles, insurance, and vehicle inspections.

(d) How the amendment will assist in the effective administration of the statutes: This regulation amendment establishes the requirements relative to the transportation of students by local school districts in non-school bus passenger vehicles as required by KRS 156.160, 189.540, and 156.153.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Local school districts and the Kentucky Department of Education.

(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: Local school districts will have to submit an alternative transportation plan to the Kentucky Department of Education for approval each school year; add additional signage to vehicles and remove district identification lettering when title transfers to a party other than a Kentucky school district or when a vehicle is no longer under contract; equip vehicles with a fire extinguisher, first aid kit, seatbelt cutter, and a body fluid clean up kit; adopt a policy regarding the qualifications for drivers; require a medical examination of each driver at least once every twenty-four (24) months; require drivers to undergo drug testing; provide training to drivers; obtain insurance; and conduct vehicle inspections.

(b) In complying with this administrative regulation or amendment,

how much will it cost each of the entities identified in question (3): The cost to the Kentucky Department of Education is expected to be minimal. The cost to local school districts is unknown and dependent upon the extent a district chooses to utilize non-school bus passenger vehicles to transport students.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): School districts will be able to transport students in non-school bus passenger vehicles.

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

(a) Initially: There will be minimal cost to the Kentucky Department of Education.

(b) On a continuing basis: The ongoing cost to the Kentucky Department of Education will be minimal.

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: None.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees associated with this administrative regulation.

(9) TIERING: Is tiering applied? Tiering is not applied. The regulation applies uniformly.

#### 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 156.070, 156.153, 156.160, and 189.540.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 156.070 authorizes the Kentucky Board of Education to have the management and control of the common schools and all programs operated in those schools. KRS 156.160 requires the Kentucky Board of Education to promulgate administrative regulations relating to the transportation of children to and from school and those deemed necessary or advisable for the protection of the physical welfare and safety of public school children. See KRS 156.160(1)(h) and (k). KRS 189.540(1)(a) requires the Kentucky Board of Education to promulgate an administrative regulation to govern the operation of passenger vehicles owned, leased, or privately contracted by the district that transport students under KRS 156.153(3). KRS 156.153(3)(d) requires the Kentucky Board of Education to promulgate administrative regulations establishing the minimum standards and specifications for non-school bus passenger vehicles; minimum route safety standards and pick-up and drop-off protocols; and minimum qualifications, training, and drug testing requirements for an individual to be authorized to transport any student to and from school using a non-school bus passenger vehicle.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Education and Kentucky Department of Education.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year: Any expenditures are expected to be minimal.

For subsequent years: Any expenditures are expected to be minimal.

2. Revenues:

For the first year: This regulation is not expected to generate revenue.

For subsequent years: This regulation is not expected to generate revenue.

3. Cost Savings:

For the first year: No cost savings are anticipated.

For subsequent years: No cost savings are anticipated.

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): Local school districts

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year: The cost to local school districts is unknown and dependent upon the extent a district chooses to utilize non-school bus passenger vehicles to transport students. Local school districts will receive state transportation funding for transporting students to and from school.

For subsequent years: The cost to local school districts in subsequent years is unknown and dependent upon the extent a district chooses to utilize non-school bus passenger vehicles to transport students. Local school districts will receive state transportation funding for transporting students to and from school.

2. Revenues:

For the first year: This regulation is not expected to generate revenue.

For subsequent years: This regulation is not expected to generate revenue.

3. Cost Savings:

For the first year: No cost savings are anticipated.

For subsequent years: No cost savings are anticipated.

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): None.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year: Not applicable.

For subsequent years: Not applicable.

2. Revenues:

For the first year: Not applicable.

For subsequent years: Not applicable.

3. Cost Savings:

For the first year: Not applicable.

For subsequent years: Not applicable.

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation: For the Kentucky Department of Education, any expenditures are expected to be minimal. The regulation is not expected to generate revenue and no cost savings are anticipated. For local school districts, the cost is unknown and dependent upon the extent a district chooses to utilize non-school bus passenger vehicles to transport students. Local school districts will receive state transportation funding for transporting students to and from school. The regulation is not expected to generate revenue and no cost savings are anticipated.

(b) Methodology and resources used to reach this conclusion: For the Kentucky Department of Education and local school districts, the estimates herein are based on prior program operations.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(13): The administrative regulation is not expected to have a major economic impact on the Kentucky Department of Education or local school districts. Local school districts may choose whether to utilize non-school bus passenger vehicles to transport students.

(b) The methodology and resources used to reach this conclusion: For the Kentucky Department of Education and local school districts, the estimates herein are based on prior program operations and the fact that districts are not required to utilize non-school bus passenger vehicles to transport students.

**COMPILER'S NOTE: 2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency:**

**EDUCATION AND LABOR CABINET  
Kentucky Board of Education  
Department of Education  
(Amendment)**

**702 KAR 7:065. Designation of agent to manage middle and high school interscholastic athletics.**

RELATES TO: KRS 61.805 - 61.850, 156.070(2), 158.162, 160.380,

160.445, 20 U.S.C. 1681

STATUTORY AUTHORITY: KRS 156.070(1), (2)

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.070(1) requires the Kentucky Board of Education to manage and control the common schools, including interscholastic athletics in the schools. KRS 156.070(2) authorizes the board to designate an agency to manage athletics. This administrative regulation designates an agent for middle and high school athletics; establishes the financial planning and review processes for the agent; and incorporates by reference the bylaws, procedures, and rules of the agent.

Section 1. Definitions.

(1) "Contact Drill" means that drills are run at Level 3, Level 4, or Level 5.

(2) "KBE" means Kentucky Board of Education.

(3) "KHSAA" means Kentucky High School Athletics Association.

(4) "Level 0" or "air" means that players run a drill unopposed without contact.

(5) "Level 1" or "bags" means that a drill is run with a bag or against another soft contact surface.

(6) "Level 2" or "control" means that:

(a) A drill is run at an assigned speed until the moment of contact;

(b) One (1) player is predetermined the winner by the coach;

(c) Contact remains above the waist; and

(d) Players stay on their feet.

(7) "Level 3" or "Control to Ground" means that:

(a) A drill is run at an assigned non-competitive speed or with players pre-engaged;

(b) There is a pre-determined winner; and

(c) Players are allowed to take their opponent to the ground in a controlled manner.

(8) "Level 4" or "thud" means that:

(a) A drill is run at a competitive speed through the moment of contact;

(b) There is no predetermined winner;

(c) Contact is above the waist;

(d) Players stay on their feet; and

(e) A quick whistle ends the drill.

(9) "Level 5" or "live" means that a drill is run at a competitive speed in game-like conditions.

(10) "Non-Contact Drill" means that drills are run at Level 0, Level 1, or Level 2.

(11) "OCR" means the United States Department of Education, Office for Civil Rights.

Section 2. The KHSAA shall be the Kentucky Board of Education's agent to manage interscholastic athletics at the middle and high school level in the common schools and private schools desiring to associate with KHSAA or to compete with a common school.

Section 3. To remain eligible to maintain the designation as the agent to manage interscholastic high school athletics, the KHSAA shall:

(1) Accept four (4) at-large members appointed by the Kentucky Board of Education to its high school Board of Control;

(2) Sponsor an annual meeting of its member high schools;

(3) Provide for each member high school to have a vote on the KHSAA Constitution and bylaw changes submitted for consideration;

(4) Provide for high school regional postseason tournament net revenues to be distributed to the member high schools in that region participating in that sport, utilizing a share approach determined by the high schools within that region playing that sport;

(5) Provide for students desiring to participate at the high school level (regardless of the level of play) to be enrolled in at least grade seven (7);

(6) Require its governing body to annually establish goals and objectives for its commissioner and perform a self-assessment and submit the results annually to the KBE by December 31;

(7) Advise the Department of Education of all legal action brought against the KHSAA;

(8) Permit a board of control member to serve a maximum of two (2) consecutive four (4) year terms with no region represented for more than eight (8) consecutive years;

(9) Employ a commissioner and evaluate that person's performance annually by October 31, and establish all staff positions upon recommendation of the commissioner;

(10) Permit the commissioner to employ other personnel necessary to perform the staff responsibilities;

(11) Permit the Board of Control to assess fines on a member high school;

(12) Utilize a trained independent hearing officer instead of an eligibility committee for a high school athletic eligibility appeal;

(13) Establish a philosophical statement of principles to use as a guide in a high school eligibility case;

(14) Conduct continual cycles of field audits of the association's entire high school membership, which provides that each high school is audited regarding each school's compliance with 20 U.S.C. Section 1681 (Title IX) and submit annual summary reports, including the highlighting of any potential deficiencies in OCR compliance to the Kentucky Board of Education;

(15) As a condition precedent to high school membership, require each member high school and superintendent to annually submit a written certification of compliance with 20 U.S.C. Section 1681 (Title IX);

(16) Conduct all meetings related to high school athletics in accordance with KRS 61.805 through 61.850;

(17) Provide written reports of any investigations into possible violations of statute, administrative regulation, KHSAA Constitution, KHSAA Bylaws, or other rules governing the conduct of high school interscholastic athletics conducted by KHSAA or their designees to the superintendent and principal of the involved school district and school before being made public;

(18) Not punish or sanction, in any manner, a school, student, coach, or administrator for allowing a student to play in an athletic contest or practice with the team during a time when an order of a court of competent jurisdiction permits the student to participate or otherwise stays or enjoins enforcement of a KHSAA final decision on eligibility;

(19) Require any student enrolled initially in grade seven (7) through twelve (12) who is repeating a grade for any reason, to be ineligible, during the school year that the grade is repeated, to compete in an interscholastic athletics competition at any level; and

(20) Produce a public report or reports of member schools' compliance with submitting the required member school application and the required training aspects of KRS 158.162 and KRS 160.445 regarding emergency and cardiac action plans related to interscholastic athletics.

Section 4. To remain eligible to maintain the designation as the agent to manage interscholastic athletics at the middle school level, the KHSAA shall implement the following requirements for all participants in middle school interscholastic athletics, distribute these requirements to all middle schools, and publish via the KHSAA Web site:

(1) Require that these provisions apply to all middle school interscholastic athletics. The following indicates that a team is representative of a school and classified as middle school athletics:

(a) The contest, event, or tournament is sponsored by a school or combined group of schools;

(b) Competitors wear a school-issued uniform;

(c) The contest, event, or tournament is sponsored by an outside entity as a school entry event, which is advertised or promoted as a school event, whether or not an entry fee is required;

(d) A school entity pays an entry fee, for the student or team, including payment by booster organizations;

(e) A school representative accompanies the student-athlete or transports the student-athlete to the contest, event, or tournament;

(f) A designated or hired member of a school coaching staff, whether paid or unpaid, is present and offering instruction, advice, evaluation, or refinement of skills or exercising other duties defined as coaching within the sport rules;



(g) Transportation to or from the contest, event, or tournament utilizes school provided or approved transportation;

(h) Competitors in the contest, event, or tournament wear apparel identifying them by the name of the school, including the formal name, informal name, or team nickname;

(i) Competitors in the contest, event, or tournament are provided promotional or other resources by the school including school media recognition, signage, and items indicative of school representation;

(j) Competition in a contest, event, or tournament has, in any form, jurisdiction of the local school board or school-based decision-making body, including financial or other approval control; or

(k) Competition in a contest, event, or tournament is covered by any school or school system provided or procured insurance policy;

(2) Require that any head or assistant coach, whether paid or unpaid, desiring to coach interscholastic athletics at the middle school level:

(a) Meet the requirements of KRS 156.070(2)(h)2;

(b) Meet the requirements of KRS 160.380(5) and (6); and

(c) Provide to the school documentation of successful completion of a C.P.R. course including the use of an automatic external defibrillator and the first aid training, conducted by an instructor or program approved by a college or university, the American Red Cross, the American Heart Association, or other bona fide accrediting agency that is approved by the KHSAA based upon industry standards. The certification shall be updated as required by the approving agency;

(3) Require adherence to the following items regarding safety, sports medicine, and risk minimization for all interscholastic athletics at the middle school level:

(a) Each student, before trying for a place on a middle school athletic team, shall provide an annual medical examination, in accordance with KRS 156.070(2)(e), and shall use the KHSAA form ~~MS-01[PPE01, with PPE02 being optional for the health care provider]~~;

(b) All participants at the middle school level shall adhere to all sports medicine and risk minimization policies in use at the high school level that may be supplemented by the school, school district, conference, or association including:

1. Heat index and heat illness programs;

2. Wrestling weight management programs;

3. Concussion and other head injury policies including policies for minimizing impact exposure and concussion risks;

4. The following football equipment drill work and practice activity limitations:

a. Football contact and non-contact practice shall use the appropriate clothing and equipment for the level of drill, including:

(i) A drill conducted in helmets-only shall be a Level 0, or Level 1;

(ii) A drill conducted in shells (shorts, shoulder pads, and helmets) shall be a non-contact drill; and

(iii) A contact drill shall be conducted in full equipment;

b. Middle school football shall practice a minimum of eleven (11) days before engaging another group or opponent in full contact, using the following minimum schedule:

(i) Five (5) days in helmets;

(ii) Followed by three (3) days in helmets and shoulder pads; and

(iii) Concluding with three (3) days in full equipment practice; and

c. Contact drills shall not be conducted more than twenty-one (21) days before the first regular-season contest;

d. The first regular season interscholastic contest shall not be played before the Saturday preceding week seven (7) of the National Federation of High Schools Standardized Procedure for Numbering Calendar Weeks; and

e. All middle schools shall maintain protective helmets in accordance with manufacturer's warranty guidelines for recertification;

5. The following baseball pitching limitations shall apply to all interscholastic play at the middle school level including scrimmages, regular season, and post season games:

a. The pitch count shall be based on pitches thrown for strikes (including foul balls), balls, balls in play, and outs;

b. Warm-up pitches allowed before each inning, warm-up

pitches allowed by the umpire in case of injury or game delay, and plays attempted against the batter-runner or any runner at first, second, or third base shall not count against this limit;

c. A pitcher at any level who reaches the pitch count limit in the middle of an at-bat shall be allowed to finish that hitter;

d. The required calendar rest shall begin on the day following the date on which the game began, or a resumed game began regardless of the conclusion time of the game; and

e. The rest periods shall be based on the following total pitches:

(i) Maximum pitches - eighty-five (85);

(ii) Fifty-six (56) pitches or more - three (3) calendar days rest;

(iii) Thirty-six (36) to fifty-five (55) pitches - two (2) calendar days rest;

(iv) Twenty (20) to thirty-five (35) pitches - one (1) calendar day rest; and

(v) One (1) to nineteen (19) pitches - no mandated rest;

6. Students seeking to play or practice, including scrimmages, regular season, and post season games, in the sport of fastpitch softball, shall be required to wear face protection, commercially manufactured for softball facial protection and worn as intended by the manufacturer, when playing the positions of first base, third base, and pitcher; and

7. Teams participating in middle school athletics as defined by subsection (1) of this section shall use KHSAA licensed officials in the sports of baseball, basketball, field hockey, football, soccer, softball, and volleyball;

(4) Create a permanent Middle School Athletics Advisory Committee. This committee shall:

(a) Report regularly, not less than annually to the Board of Control of the KHSAA with the Board of Control obligated to make a recommendation to the Kentucky Board of Education with respect to annually proposed regulatory changes;

(b) Be composed of no less than three (3) middle school representatives from each Supreme Court district as well as no less than three (3) at large representatives from throughout the state;

(c) Provide an opportunity for nonprofit athletic groups, parents, and others to participate and provide input on the sport, athletic event, or athletes involved in interscholastic activities through local school districts;

(d) Meet not less than twice annually to review current programs and policies, make recommendations for improvements to and participation in middle school interscholastic activities, as well as any changes in statute, administrative regulation, or policy related to middle school interscholastic athletics, and assist in the development of model guidelines for schools, districts, conferences, and associations to be used in implementing a middle school athletic program; and

(e) Report regularly, not less than annually, to the commissioner of the KHSAA and issue, in conjunction with the commissioner, a formal written report annually to the KBE with recommendations for changes in statute, administrative regulation, or policy;

(5) Require any organization conducting a school-based event at the middle school level to submit the following, which shall be published and listed on the KHSAA Web site:

(a) Annual financial reports of all sanctioned and approved events sponsored by the organization; and

(b) Documentation of financial accountability including verification of federal status and tax documents including an annual IRS Form 990;

(6) Provide notice to the middle schools related to any program conducted by KHSAA related to educating school administrators about the provisions of 20 U.S.C. 1681, Title IX;

(7) Provide educational materials and a mechanism to facilitate the monitoring and tracking capabilities for the middle schools to ensure compliance with the provisions of KRS 160.445 and other requirements for coaches at the middle school level;

(8) Require that any student who turns:

(a) Fifteen (15) years of age before August 1 of the current school year shall not be eligible for interscholastic athletics in Kentucky in competition against students exclusively enrolled in grades eight (8) and below;

(b) Fourteen (14) years of age before August 1 of the current year shall not be eligible for interscholastic athletics in Kentucky in

competition against students exclusively enrolled in grades seven (7) and below; and

(c) Thirteen (13) years of age before August 1 of the current school year shall not be eligible for interscholastic athletics in Kentucky in competition against students exclusively enrolled in grades six (6) and below;

(9) Require each school, school district, conference, or association of schools to develop rules and limitations regarding student participation at the middle school level to include:

(a) A defined age limitation for participating students;

(b) A policy regarding the participation of students below grade six (6);

(c) A limitation on practice time before the season in any sport or sport activity which shall not exceed the practice time adopted for play at the high school level;

(d) A limitation on the number of school-based scrimmages and regular season, school based contests in each sport or sport-activity, which shall not include post season contests and shall not exceed the allowable number of contests for that sport or sport-activity at the high school level; and

(e) A limitation on the length of the regular competitive season in each sport or sport-activity, not including any post season activities, which shall not exceed the length for that sport or sport-activity at the high school level;

(10) Conduct all meetings related to middle school athletics in accordance with KRS 61.805 through 61.850;

(11) Issue an annual report to the KBE on the status of interscholastic athletics at the middle school level, including any recommendations for changes in statute, administrative regulation, or policy;

(12) Allow a school or school district to join a conference or association that has developed rules for any particular sport or sport-activity to satisfy the requirements of this administrative regulation; and

(13) The period of June 25 to July 9, inclusive, shall be a dead period for middle school athletics. During the dead period:

(a) Students shall not receive coaching or training from school personnel, whether salaried or non-salaried;

(b) School facilities, uniforms, nicknames, transportation, or equipment shall not be used;

(c) School funds shall not be expended in support of interscholastic athletics; and

(d) A postseason wrap-up activity, celebration, or recognition event relating to a spring sports team at a school may be held.

#### Section 5. Financial Planning and Review Requirements.

(1) KHSAA shall annually submit the following documents to the KBE by October 31:

(a) Draft budget for the next two (2) fiscal years, including the current year;

(b) End-of-year budget status report for the previous fiscal year;

(c) Revisions to the KHSAA Strategic Plan as a result of an annual review of the plan by the KHSAA governing body;

(d) A summary report of operations including summaries of financial, legal, and administrative actions taken and other items ongoing within KHSAA. This report shall also include a summary of items affecting:

1. Athletic appeals and their disposition, including the name of the individual, grade, school, and the action taken by KHSAA;

2. Eligibility rules;

3. Duties of school officials;

4. Contests and contest limitations;

5. Requirements for officials and coaches; and

6. Results of a biennial review of its bylaws that results in a recommendation for a change, directing any proposals for change in association rules to be considered for a vote by the member schools at the next legislative opportunity; and

(e) A review of all items which have been submitted to the membership for approval through the processes established in the KHSAA Constitution and the result of the voting on those issues.

(2) The KHSAA shall annually submit at the next meeting of the Kentucky Board of Education following receipt and adoption by the Board of Control, audited financial statements with the KHSAA

Commissioner's letter addressing exceptions or notes contained in management correspondence if any.

Section 6. Forms. The forms incorporated by reference in this administrative regulation shall be filed:

(1) Using the paper form; or

(2) Using the electronic forms found on the Kentucky High School Athletic Association Web site at [www.khsaa.org](http://www.khsaa.org).

#### Section 7. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "KHSAA Constitution", 5/2025[7/2024];

(b) "KHSAA Bylaws", 5/2025[7/2023];

(c) "KHSAA Due Process Procedure", 5/2025[7/2023];

(d) "KHSAA Board of Control Adopted Policies", 5/2025[9/2023];

(e) KHSAA Form BA101- Baseball Pitching Limitation", 6/2016;

(f) KHSAA Form GE01, "Application for Membership", 7/2023;

(g) KHSAA Form GE04, "Athletic Participation Form, Parental and Student Consent and Release for High School Level (grades 9 - 12) Participation", 5/2025[5/2023];

(h) KHSAA Form DP02, "Request for Statutory Waiver of Bylaw 2", 6/2018;

(i) KHSAA Form DP06, "Application for Athletic Eligibility for Domestic Students", 5/2025[7/2023];

(j) KHSAA Form DP07, "Application for Athletic Eligibility for Non-Domestic Students", 5/2025[07/2023];

(k) KHSAA Form DP16, "Request for Waiver of 20 Day Notice", 6/2018;

(l) KHSAA Form DP17, "Add. Info for Appeal", 6/2018;

(m) KHSAA Form DP18 "Waiver – 15 Day Exceptions", 6/2018;

(n) "KHSAA Form GE14- Contract for Athletic Contests", 5/2025[7/2020]; [and]

(o) "KHSAA Form GE19-Title IX Procedures Verification", 5/2011;

(p) KHSAA Form GE110, "Wet Bulb Globe[GE20, "Heat Index] Measurement and Record", 6/2023; and[4/2014].

(q) "KHSAA Form MS01- Athletic Participation Parental and Student Consent and Release for Middle School (grades 5-8) Participation", 5/2025.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Legal Services, Department of Education, 5th Floor, 300 Sower Blvd, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

DR. ROBBIE FLETCHER, Commissioner

SHARON PORTER ROBINSON, Chairperson

APPROVED BY AGENCY: June 10, 2025

FILED WITH LRC: June 11, 2025 at 3:39 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on August 27, 2025, at 10am in the State Board Room, 5th Floor, 300 Sower Blvd, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. 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 August 31, 2025.

CONTACT PERSON: Todd Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321; email [regcomments@education.ky.gov](mailto:regcomments@education.ky.gov)

#### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Todd G. Allen

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 156.070 requires the Kentucky Board of Education (KBE) to manage and control the common schools, including interscholastic athletics in the schools, and

authorizes the KBE to designate an agency to manage athletics. This regulation designates the Kentucky High School Athletic Association (KHSAA) as the agent to manage high school and middle school interscholastic athletics, and incorporates by reference the bylaws, procedures and rules governing interscholastic sports.

(b) The necessity of this administrative regulation: This regulation is necessary to designate the agency to provide the day-to-day management activities of interscholastic athletics in Kentucky; to set forth the financial, planning and review processes governing the agent; and to incorporate by reference the bylaws, procedures and rules of the agency.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation designates the agency to manage interscholastic athletics, as authorized by the authorizing statute, and outlines the conditions under which this authority is granted.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It designates the KHSAA as the agent to manage interscholastic athletics in the schools and districts at the high school and middle school levels, and publishes changes in bylaws, procedures and rules for affected schools and districts.

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

(a) How the amendment will change this existing administrative regulation: These amendments make changes to the documents incorporated by reference, including the bylaws, to make the rule compliant with the provisions of recent legislation. Finally, additional changes were made to update policies and other documents according to recent board action.

(b) The necessity of the amendment to this administrative regulation: Pursuant to the KHSAA Constitution, which is incorporated by reference in this regulation, the members are required to have an annual meeting to discuss and recommend any needed changes to the Constitution and Bylaws. While they are not required to make changes to the Constitution and Bylaws, substantive changes must be made through this process. This amendment incorporates changes approved at the annual meeting of the Delegate Assembly. This amendment also is necessary to designate the KHSAA as the agent to manage interscholastic athletics at the high school and middle school level.

(c) How the amendment conforms to the content of the authorizing statutes: The statute authorizes the KBE to designate an agency to manage interscholastic athletics in the common schools. The regulation designates the KHSAA as that agent at both the high school and middle school levels, and incorporates by reference the KHSAA Handbook, which consists of the KHSAA Constitution, Bylaws, Due Process Procedure, and Board of Control Policies to provide rules and guidance to the member schools and districts governing sporting events. The amendments in the Bylaws are made annually, according to the process outlined in the Constitution, and reflect input given by member schools and districts on changes that need to be made to provide a sounder structure of governance.

(d) How the amendment will assist in the effective administration of the statutes: See (c) above.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 171 School Districts; students participating in interscholastic athletics

(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:

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): There will be minimal impact because of the nature of the changes to the regulation. There are requirements that continue to be placed on schools and coaching personnel. However, the training required to meet these requirements will be provided at no costs to the schools, administrators, or the coaching personnel resulting in a safer and more complete education-based athletic

experience for the Commonwealth's student-athletes.

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

(a) Initially: Minimal

(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: KHSAA is funded through membership dues, as well as from gate receipts and sponsorships related to the various state championships.

(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: None

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: None

(9) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all school districts.

#### 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 156.070; KRS 160.380; and KRS 160.445.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 156.070 (2) authorizes the promulgation of administrative regulations to implement the provisions of this statute.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: School districts, the Department of Education, and the Kentucky High School Athletic Association.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year: Minimal

For subsequent years: Minimal

2. Revenues:

For the first year: None

For subsequent years: None

3. Cost Savings:

For the first year: Neutral

For subsequent years: Neutral

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): School Districts with member schools.

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year: Minimal

For subsequent years: Minimal

2. Revenues:

For the first year: None

For subsequent years: None

3. Cost Savings:

For the first year: Neutral

For subsequent years: Neutral

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): Non-public Schools who are members

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year: Minimal

For subsequent years: Minimal

2. Revenues:

For the first year: None

For subsequent years: None

3. Cost Savings:

For the first year: Neutral

For subsequent years: Neutral

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation: The fiscal impact of this administrative regulation is minimal as the schools (districts) impacted are already expending their resources in this regard. These costs would generally remain in place regardless of this administrative regulation.

(b) Methodology and resources used to reach this conclusion: This information is based on a review of current systems and processes to see if any additional expenditures are necessary to carry on these amendments. This review shows little no impact.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(13): This administrative regulation will not have a major impact as defined above.

(b) The methodology and resources used to reach this conclusion: This information is based on a review of current systems and processes to see if any additional expenditures are necessary to carry on these amendments. This review shows this will not have a major impact as defined above.

**COMPILER'S NOTE: 2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency:**

**EDUCATION AND LABOR CABINET  
Kentucky Board of Education  
Department of Education  
(Amendment)**

**704 KAR 4:010. Physical education.**

RELATES TO: KRS [456.034,]156.160(1)

STATUTORY AUTHORITY: KRS 156.070, 156.160

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: ~~[KRS 156.034 requires that administrative regulations relating to statutes amended by the 1990 Kentucky Education Reform Act be reviewed, amended if necessary and resubmitted to the Legislative Research Commission prior to December 30, 1990; and] KRS 156.160(1)(h) requires the Kentucky Board of Education [State Board for Elementary and Secondary Education] to adopt administrative regulations governing [course of study,] medical inspection, physical and health education and recreation, and other [rules and administrative] regulations [deemed] necessary or advisable for the protection of the physical welfare and safety of the public school children. This administrative regulation implements that duty relative to health and physical education instruction.~~

Section 1. Elementary and secondary physical education programs or courses shall follow the descriptions and requirements as adopted in 704 KAR 8:050 [recorded in the physical education section of the "Program of Studies for Kentucky Schools, Grades K-12," as adopted in 704 KAR 3:304.] and in the minimum [unit] requirements for high school graduation set forth in 704 KAR 3:305.

Section 2.

(1) A local board of education may authorize a child whose parents or guardian present a certificate from a licensed physician to the effect that because of the child's physical condition, participation in the required one-half (1/2) credit[unit] physical education course in high school is not in the best interest of the child, to substitute a physical education course which is within the capabilities of the child as specified by the child's physician.

(2)

(a) A local board of education is authorized to exempt any child from the graduation requirements for physical education when the local board receives an affidavit from the parents of the child and the leader of a church certifying that the child is a member of the church or religious denomination, the teachings of which are opposed to the physical education curriculum or attire. The affidavit shall identify the church tenet giving rise to such conscientiously held opposition, and any exemption hereunder shall not reduce the total number of credits necessary for graduation under 704 KAR 3:305.

(b) The local school district may, in the alternative, maintain the requirement of physical education for graduation, by allowing for

more modest dress or classes segregated by sex for those students having conscientious religious objections if such will reasonably accommodate such objections.

DR. ROBBIE FLETCHER, Commissioner

SHARON PORTER ROBINSON, Chair

APPROVED BY AGENCY: June 10, 2025

FILED WITH LRC: June 11, 2025 at 3:39 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held August 27, 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 August 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.

CONTACT PERSON: Todd G. Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, KY 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: 704 KAR 4:010 provides requirements for local boards of education in authorizing substitutions or exemptions to the requirements provided in 704 KAR 8:050, Kentucky Academic Standards for Physical Education and the half-credit physical education requirement for high school graduation pursuant to 704 KAR 3:305 in cases of health conditions or religious objection.

(b) The necessity of this administrative regulation: KRS 156.160(1)(h) requires the Kentucky Board of Education (KBE) to promulgate an administrative regulation establishing standards and governing medical inspection, physical and health education and recreation, and for the protection of the physical welfare and safety of the public school children.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 156.160(1)(h) requires the Kentucky Board of Education (KBE) to promulgate an administrative regulation establishing standards and governing medical inspection, physical and health education and recreation, and for the protection of the physical welfare and safety of the public school children. This administrative regulation implements that duty relative to the requirements of local boards of education in allowing for substitutions or exemptions for students with physical conditions or religious objections related to physical education instruction.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: To ensure the protection of the physical welfare and safety of public school students as provided in KRS 156.160(1)(h), 704 KAR 4:010 provides requirements for local boards of education in authorizing substitutions or exemptions to the requirements provided in 704 KAR 8:050, Kentucky Academic Standards for Physical Education and the half- credit physical education requirement for high school graduation pursuant to 704 KAR 3:305 in cases of physical conditions or religious objection.

(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: 704 KAR 4:010 requires technical amendments to conform to current statutory language provided in KRS 156.160(1). Amendments to Section 1 removes an outdated reference to 704

KAR 3:304 “Program of Studies for Kentucky Schools, Grades K-12,” which is no longer in law. Language under Section 1 has been updated to reference current regulatory requirements provided in 704 KAR 8:050, Kentucky Academic Standards for Physical Education. All proposed amendments to 704 KAR 4:010 are non-substantive in nature and provide technical changes to reflect accurate statutory and regulatory language and references as currently provided in law.

(b) The necessity of the amendment to this administrative regulation: The regulation requires technical, non-substantive updates to reflect the most current language provided in law.

(c) How the amendment conforms to the content of the authorizing statutes: The language has been updated to be consistent with the language provided in KRS 156.160(1)(h).

(d) How the amendment will assist in the effective administration of the statutes: The amendments allow schools and districts to reference language provided within that is current and accurate.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Local boards of education, schools and districts are affected by this administrative regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The entities identified above in question (3) are not required to take any further action. The amendments are technical in nature to conform to the most current language provided in statute and regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Local boards of education, schools and districts will not be impacted by any additional costs as a result of the amendments to the regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Local boards of education, schools and districts benefit from 704 KAR 4:010 as it provides requirements for local boards of education in authorizing substitutions or exemptions to the requirements provided in 704 KAR 8:050, Kentucky Academic Standards for Physical Education and the half-credit physical education requirement for high school graduation pursuant to 704 KAR 3:305 in cases of physical conditions or religious objection.

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

(a) Initially: There are no initial costs anticipated to the Kentucky Department of Education in implementing the administrative regulation except in cases where assistance is requested to support voluntary revisions to local policies.

(b) On a continuing basis: There are no continuing costs anticipated to the Kentucky Department of Education in implementing the administrative regulation except in cases where assistance is requested to support voluntary revisions to local policies.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State and district 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 will be no increase in fees and additional funding will not be necessary to implement the technical amendments to the administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering was not appropriate as the administrative regulation applies equally to all schools and districts.

#### 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(1)(h) requires the Kentucky Board of Education to promulgate an administrative regulation establishing

standards and governing medical inspection, physical and health education and recreation, and for the protection of the physical welfare and safety of the public school children.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: Yes, this authority is provided in KRS 156.160.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: KRS 156.160(1)(h) requires the Kentucky Board of Education (KBE) to promulgate an administrative regulation establishing standards and governing course of study, medical inspection, and physical and health education and recreation for the protection of the physical welfare and safety of the public school children.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year: The cost to the Kentucky Department of Education for the first year is minimal and may include staff time should assistance be requested to support voluntary revisions to local policies. The amendments are technical in nature do not require any further action.

For subsequent years: The cost to the Kentucky Department of Education for subsequent years is minimal and may include staff time should assistance be requested to support voluntary revisions to local policies. The amendments are technical in nature do not require any further action.

2. Revenues:

For the first year: No revenue in the first year.

For subsequent years: No revenue in subsequent years.

3. Cost Savings:

For the first year: The administrative regulation will not generate cost savings in the first year.

For subsequent years: The administrative regulation will not generate cost saving in subsequent years.

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): Local school districts

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year: There are no anticipated costs to local boards of education, schools or districts in the first year unless these entities voluntarily choose to modify their local policies. The amendments to the regulation are technical in nature and do not require any further action.

For subsequent years: There are no anticipated costs to local boards of education, schools or districts in subsequent years unless these entities voluntarily choose to modify their local policies. The amendments to the regulation are technical in nature and do not require any further action.

2. Revenues:

For the first year: No revenue in the first year.

For subsequent years: No revenue in subsequent years.

3. Cost Savings:

For the first year: No cost savings in the first year.

For subsequent years: No cost savings in subsequent years.

(5)(a) Identify any affected regulated entities not listed in (3)(a) or

(4)(a): There are no additional regulated entities.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year: Not applicable.

For subsequent years: Not applicable.

2. Revenues:

For the first year: Not applicable.

For subsequent years: Not applicable.

3. Cost Savings:

For the first year: Not applicable.

For subsequent years: Not applicable.

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation: There is no anticipated fiscal impact as a result of the administrative regulation unless local boards of education choose to voluntarily modify its

local policy.

(b) Methodology and resources used to reach this conclusion: The regulation has been in place since 1974. The amendments are technical and non-substantive in nature and do not require any further action. Therefore, there is no anticipated fiscal impact unless local boards of education choose to voluntarily modify their local policies.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(13): There is no major economic impact anticipated as a result of the proposed amendments to the regulation.

(b) The methodology and resources used to reach this conclusion: The regulation has been in place since 1974. The amendments are technical and non-substantive in nature and do not require any further action. Therefore, there is no anticipated fiscal impact unless local boards of education choose to voluntarily modify their local policies.

**COMPILER'S NOTE: 2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency:**

**EDUCATION AND LABOR CABINET  
Kentucky Board of Education  
Department of Education  
(Amendment)**

**704 KAR 8:030. Required Academic Standards for Health Education.**

RELATES TO: KRS 156.070, 156.160, 158.645, 158.6451, 158.6453, 160.290

STATUTORY AUTHORITY: 156.070(1), 156.160(1), 158.6453(18)(2)(a)

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160(1)(a) [156.070] requires the Kentucky Board of Education to establish courses of study for the different grades and kinds of common schools, with the courses of study to comply with the expected goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451, and 158.6453. KRS 156.160(1)(h) requires the Kentucky Board of Education to adopt administrative regulations governing medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children including requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. KRS 156.070(1) requires the Kentucky Board of Education to manage and control the common schools and all programs operated in the schools. KRS 160.290 authorizes local boards of education to provide for courses and other services for students consistent with the administrative regulations of the Kentucky Board of Education. KRS 158.6453(18)(a) requires the Kentucky Department of Education to implement a comprehensive process for reviewing and revising the academic standards in practical living skills for all levels. [KRS 158.6453(2)(a) requires the Kentucky Department of Education to implement a process for the review of academic standards and the alignment of corresponding assessments.] This administrative regulation incorporates by reference the Kentucky Academic Standards for Health Education, which contain the general courses of study and academic content standards of health education for use in Kentucky's common schools.

Section 1. Before graduating from a Kentucky public high school, a student shall meet the minimum content requirements established in the Kentucky Academic Standards for Health Education.

Section 2. Incorporation by Reference.

(1) The "Kentucky Academic Standards for Health Education", June 2025[October 2018], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Education, 5th floor, 300 Sower Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material may be viewed at: <https://www.education.ky.gov/districts/legal/Pages/Kentucky-Revised-Statutes.aspx>.

DR. ROBBIE FLETCHER, Commissioner

SHARON PORTER ROBINSON, Chair

APPROVED BY AGENCY: June 10, 2025

FILED WITH LRC: June 11, 2025 at 3:39 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 27, 2025 at 10am, in the State Board Room, Fifth Floor, 300 Sower Boulevard, 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 August 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.

CONTACT PERSON: Todd G. Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321, email [regcomments@education.ky.gov](mailto: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 administrative regulation incorporates by reference the Kentucky Academic Standards (KAS) for Health Education, which contain the general courses of study and academic content standards of health education, for use in Kentucky's common schools.

(b) The necessity of this administrative regulation: KRS 156.160(1) requires the Kentucky Board of Education (KBE) to establish courses of study for the different grades and kinds of common schools, with the courses of study to comply with the expected goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451, and 158.6453. This administrative regulation incorporates by reference the KAS for Health Education, which contain the general courses of study and academic content standards of health education, for use in Kentucky's common schools.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation conforms to KRS 158.6453(18)(a) which requires the Kentucky Department of Education (KDE) to implement a comprehensive process for reviewing and revising the academic standards in practical living skills for all levels. KRS 156.070(1) requires the KBE to manage and control the common schools and all programs operated in the schools. KRS 156.160(1)(a) requires the KBE to establish courses of study for the different grades and kinds of common schools, with the courses of study to comply with the expected goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451, and 158.6453. KRS 156.160(1)(h) requires the KBE to adopt administrative regulations governing medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children, including requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. This administrative regulation incorporates by reference the KAS for Health Education, which contain the general

courses of study and academic content standards of health education, for use in Kentucky's common schools.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation incorporates by reference the KAS for Health Education, which contain the general courses of study and academic content standards of health education, for use in Kentucky's common schools. KRS 156.160(1)(a) requires the KBE to establish courses of study for the different grades and kinds of common schools, with the courses of study to comply with the expected goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451, and 158.6453. KRS 156.160(1)(h) further requires the KBE to adopt administrative regulations governing medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children, including requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. This regulation also conforms to KRS 158.6453(18)(a) which requires the Kentucky Department of Education (KDE) to implement a comprehensive process for reviewing and revising the academic standards in practical living skills for all levels.

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

(a) How the amendment will change this existing administrative regulation: Regulatory amendments conform to current statutory language and provide a new version of the KAS for Health Education as the material incorporated by reference.

(b) The necessity of the amendment to this administrative regulation: KRS 158.6453(18)(a) which requires the Kentucky Department of Education (KDE) to implement a comprehensive process for reviewing and revising the academic standards in practical living skills for all levels every six years. 704 KAR 8:030 was last approved by the KBE in October 2018. Therefore, in order to conform to statutory requirements, the KDE implemented the standards review process for health education which resulted in a new material incorporated by reference.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 158.6453(18)(a) which requires the Kentucky Department of Education (KDE) to implement a comprehensive process for reviewing and revising the academic standards in practical living skills for all levels every six years. 704 KAR 8:030 was last approved by the KBE in October 2018. Therefore, in order to conform to statutory requirements, the KDE implemented the standards review process for health education which resulted in a new material incorporated by reference.

(d) How the amendment will assist in the effective administration of the statutes: The amendments allow schools and districts to access and implement the most current KAS for Health Education following the completion of the required standards review process provided in KRS 158.6453(18).

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Local schools and districts are affected by this administrative regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The standards outlined in 704 KAR 8:030 are the standards for health education. The regulated entities must use these outlined standards when making local choices regarding curriculum and instruction.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The cost to local schools and districts during the first year is unknown and dependent upon the size, needs and materials available which varies among the 171 school districts.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The compliance of local schools and school districts ensure that each student is qualified for graduation as they

will have met the minimum content requirements for health education as provided in 704 KAR 3:305.

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

(a) Initially: The KDE spent approximately \$51,594.00 in administrative costs for the development of both the health and physical education (PE) standards that are incorporated by reference in 704 KAR 8:030 and 704 KAR 8:050, respectively, in addition to staff time to oversee its administration. KDE anticipates some initial staff costs to support schools and districts in the implementation of the KAS for Health Education.

(b) On a continuing basis: KDE anticipates some ongoing staff costs to support schools and districts in the implementation of the KAS for Health Education.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State 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: The KDE will not be able to use the research-based model of leadership networks to provide support to districts as they implement new standards without an increase in funding.

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

(9) TIERING: Is tiering applied? Tiering was not appropriate as the administrative regulation applies equally to all schools and districts.

#### 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(1) requires the Kentucky Board of Education (KBE) to establish courses of study for the different grades and kinds of common schools, with the courses of study to comply with the expected goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451 and 158.6453. KRS 156.070(1) requires the KBE to manage and control the common schools and all programs operated in the schools.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: Yes. KRS 156.160 establishes authority of the Kentucky Board of Education to promulgate this administrative regulation.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Department of Education (KDE) will support local schools and districts in implementing the Kentucky Academic Standards (KAS) for Health Education incorporated by reference in 704 KAR 8:030.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year: No revenue in the first year.

For subsequent years: The KDE anticipates some staff administrative costs in subsequent years to support schools and districts in implementing the KAS for Health Education.

2. Revenues:

For the first year: The administrative regulation will not generate cost savings in the first year.

For subsequent years: No revenue in subsequent years.

3. Cost Savings:

For the first year: The cost to local schools and districts during the first year is unknown and dependent upon the size, needs and materials available which varies among the 171 school districts.

For subsequent years: The administrative regulation will not generate cost savings in subsequent years.

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): Local schools and districts.

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year: No revenue in the first year.

For subsequent years: The KDE anticipates some staff

administrative costs in subsequent years to support schools and districts in implementing the KAS for Health Education.

2. Revenues:

For the first year: The administrative regulation will not generate cost savings in the first year.

For subsequent years: No revenue in subsequent years.

3. Cost Savings:

For the first year: Not applicable as no additional regulated entities have been identified.

For subsequent years: The administrative regulation will not generate cost savings in subsequent years.

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): There are no additional regulated entities.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year: Not applicable as no additional regulated entities have been identified.

For subsequent years: Not applicable as no additional regulated entities have been identified.

2. Revenues:

For the first year: Not applicable as no additional regulated entities have been identified.

For subsequent years: Not applicable as no additional regulated entities have been identified.

3. Cost Savings:

For the first year: Not applicable as no additional regulated entities have been identified.

For subsequent years: Not applicable as no additional regulated entities have been identified.

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation: The fiscal impact to local schools and districts is unknown and depends on the size, needs and materials available to individual schools and districts. The KDE spent approximately \$51,594.00 in administrative costs for the development of both the health education and physical education (PE) standards that are incorporated by reference in 704 KAR 8:030 and 704 KAR 8:050, respectively, in addition to staff time to oversee its administration. The KDE anticipates some administrative staff costs in the first year and subsequent years to support schools and districts in the implementation of the KAS for Health Education.

(b) Methodology and resources used to reach this conclusion: The KDE has already spent approximately \$51,594.00 in administrative costs for the development of the health education and PE standards that are incorporated by reference in 704 KAR 8:030 and 704 KAR 8:050, respectively, in addition to staff time to oversee its administration. The KDE anticipates some staff costs in the first year and subsequent years to support schools and districts in the implementation of the health education standards. For local schools and districts, the costs are dependent upon the size, needs, and materials of the individual 171 school districts which varies thereby making the fiscal impact difficult to estimate.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(13): It is unknown whether this administrative regulation will have a major economic impact to the entities identified.

(b) The methodology and resources used to reach this conclusion: The KDE spent approximately \$51,594.00 in administrative costs for the development of both the health education and physical education (PE) standards that are incorporated by reference in 704 KAR 8:030 and 704 KAR 8:050, respectively, in addition to staff time to oversee its administration. The KDE anticipates some staff costs in the first year and subsequent years to support schools and districts in the implementation of the KAS for Health Education. For local schools and districts, the costs are dependent upon the size, needs, and materials of the individual 171 school districts which varies thereby making the health cost to schools and districts difficult to estimate.

**COMPILER'S NOTE: 2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency:**

**EDUCATION AND LABOR CABINET  
Kentucky Board of Education  
Department of Education  
(Amendment)**

**704 KAR 8:050. Required Academic Standards for Physical Education.**

RELATES TO: KRS 156.070, 156.160, 158.645, 158.6451, 158.6453, 160.290

STATUTORY AUTHORITY: 156.070(1), 156.160(1), 158.6453(18)[(2)(a)]

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160(1)(a)[156.070] requires the Kentucky Board of Education to establish courses of study for the different grades and kinds of common schools, with the courses of study to comply with the expected goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451, and 158.6453. KRS 156.160(1)(h) requires the Kentucky Board of Education to adopt administrative regulations governing medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. KRS 156.070(1) requires the Kentucky Board of Education to manage and control the common schools and all programs operated in the schools. KRS 160.290 authorizes local boards of education to provide for courses and other services for students consistent with the administrative regulations of the Kentucky Board of Education. KRS 158.6453(18)(a) requires the Kentucky Department of Education to implement a comprehensive process for reviewing and revising the academic standards in practical living skills for all levels.[KRS 158.6453(2)(a) requires the Kentucky Department of Education to implement a process for the review of academic standards and the alignment of corresponding assessments.] This administrative regulation incorporates by reference the Kentucky Academic Standards for Physical Education, which contain the general courses of study and academic content standards of physical education for use in Kentucky's common schools.

Section 1. Before graduating from a Kentucky public high school, a student shall meet the minimum content requirements established in the Kentucky Academic Standards for Physical Education.

Section 2. Incorporation by Reference.

(1) The "Kentucky Academic Standards for Physical Education", June 2025[October 2018], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Education, 5th floor, 300 Sower Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material may be viewed at: <https://www.education.ky.gov/districts/legal/Pages/Kentucky-Revised-Statutes.aspx>.

DR. ROBBIE FLETCHER, Commissioner  
SHARON PORTER ROBINSON, Chair

APPROVED BY AGENCY: June 10, 2025

FILED WITH LRC: June 11, 2025 at 3:39 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held August 27, 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 August 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.

CONTACT PERSON: Todd G. Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, KY 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 administrative regulation incorporates by reference the Kentucky Academic Standards (KAS) for Physical Education (PE), which contain the general courses of study and academic content standards of physical education, for use in Kentucky's common schools.

(b) The necessity of this administrative regulation: KRS 156.160(1) requires the Kentucky Board of Education (KBE) to establish courses of study for the different grades and kinds of common schools, with the courses of study to comply with the expected goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451, and 158.6453. This administrative regulation incorporates by reference the KAS for PE, which contain the general courses of study and academic content standards of physical education, for use in Kentucky's common schools.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation conforms to KRS 158.6453(18)(a) which requires the Kentucky Department of Education (KDE) to implement a comprehensive process for reviewing and revising the academic standards in practical living skills for all levels. KRS 156.070(1) requires the KBE to manage and control the common schools and all programs operated in the schools. KRS 156.160(1)(a) requires the KBE to establish courses of study for the different grades and kinds of common schools, with the courses of study to comply with the expected goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451, and 158.6453. KRS 156.160(1)(h) requires the KBE to adopt administrative regulations governing medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. This administrative regulation incorporates by reference the KAS for PE, which contain the general courses of study and academic content standards of physical education, for use in Kentucky's common schools.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation incorporates by reference the KAS for PE, which contain the general courses of study and academic content standards of physical education, for use in Kentucky's common schools. KRS 156.160(1)(a) requires the KBE to establish courses of study for the different grades and kinds of common schools, with the courses of study to comply with the expected goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451 and 158.6453. KRS 156.160(1)(h) further requires the KBE to adopt administrative regulations governing medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. This regulation also conforms to KRS 158.6453(18)(a) which requires the Kentucky Department of Education (KDE) to implement a comprehensive process for reviewing and revising the academic standards in practical living skills for all levels.

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

(a) How the amendment will change this existing administrative regulation: Regulatory amendments conform to current statutory

language and provide an updated version of the KAS for PE as the material incorporated by reference.

(b) The necessity of the amendment to this administrative regulation: KRS 158.6453(18)(a) which requires the Kentucky Department of Education (KDE) to implement a comprehensive process for reviewing and revising the academic standards in practical living skills for all levels every six years. The KAS for PE was last approved in October 2018. Therefore, in order to conform to statutory requirements, the KDE implemented the standards review process for physical education which resulted in a new material incorporated by reference.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 158.6453(18)(a) which requires the Kentucky Department of Education (KDE) to implement a comprehensive process for reviewing and revising the academic standards in practical living skills for all levels every six years. The KAS for PE was last approved in October 2018. Therefore, in order to conform to statutory requirements, the KDE implemented the standards review process for physical education which resulted in a new material incorporated by reference.

(d) How the amendment will assist in the effective administration of the statutes: The amendments allow schools and districts to access and implement the most current KAS for PE following the completion of the required standards review process provided in KRS 158.6453(18).

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Local schools and districts are affected by this administrative regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The standards outlined in 704 KAR 8:050 are the standards for physical education. The regulated entities must use these outlined standards when making local choices regarding curriculum and instruction.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The cost to local schools and districts during the first year is unknown and dependent upon the size, needs and materials available which varies among Kentucky's 171 school districts.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The compliance of local schools and school districts ensure that each student is qualified for graduation as they will have met the minimum content requirements for physical education as provided in 704 KAR 3:305.

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

(a) Initially: The KDE spent approximately \$51,594.00 in administrative costs for the development of both the physical education and health education standards that are incorporated by reference in 704 KAR 8:050 and 704 KAR 8:030, respectively, in addition to staff time to oversee its administration. KDE anticipates some initial staff costs to support schools and districts in the implementation of the KAS for PE.

(b) On a continuing basis: KDE anticipates some ongoing staff costs to support schools and districts in the implementation of the KAS for PE.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State 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: The KDE will not be able to use the research-based model of leadership networks to provide support to districts as they implement new standards without an increase in funding.

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

(9) TIERING: Is tiering applied? Tiering was not appropriate as the administrative regulation applies equally to all schools and districts.

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(1) requires the Kentucky Board of Education (KBE) to establish courses of study for the different grades and kinds of common schools, with the courses of study to comply with the expected goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451 and 158.6453. KRS 156.070(1) requires the KBE to manage and control the common schools and all programs operated in the schools.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: Yes. KRS 156.160 establishes authority of the KBE to promulgate regulations and was recodified in 1942 in Ky Acts ch. 208, sec. 1.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Department of Education (KDE) will support local schools and districts in implementing the Kentucky Academic Standards (KAS) for Physical Education (PE) incorporated by reference in 704 KAR 8:050.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year: The KDE spent approximately \$51,594.00 in administrative costs for the development of both the physical education and health education standards that are incorporated by reference in 704 KAR 8:050 and 704 KAR 8:030, respectively, in addition to staff time to oversee its administration. The KDE anticipates some staff costs in the first year to support schools and districts in the implementation of the KAS for PE.

For subsequent years: The KDE anticipates some staff administrative costs in subsequent years to support schools and districts in implementing the KAS for PE.

2. Revenues:

For the first year: No revenue in the first year.

For subsequent years: No revenue in subsequent years.

3. Cost Savings:

For the first year: The administrative regulation will not generate cost savings in the first year.

For subsequent years: The administrative regulation will not generate cost savings in subsequent years.

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): Local schools and districts.

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year: The cost to local schools and districts during the first year is unknown and dependent upon the size, needs and materials available which varies among Kentucky's 171 school districts.

For subsequent years: Once curriculum documents are revised, the cost for local schools and districts in subsequent years will decrease.

2. Revenues:

For the first year: No revenue in the first year.

For subsequent years: No revenue in the subsequent years.

3. Cost Savings:

For the first year: No cost savings in the first year.

For subsequent years: No cost savings in the subsequent years.

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): There are no additional regulated entities.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year: Not applicable as no additional regulated entities have been identified.

For subsequent years: Not applicable as no additional regulated entities have been identified.

2. Revenues:

For the first year: Not applicable as no additional regulated entities have been identified.

For subsequent years: Not applicable as no additional regulated entities have been identified.

3. Cost Savings:

For the first year: Not applicable as no additional regulated entities have been identified.

For subsequent years: Not applicable as no additional regulated entities have been identified.

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation: The fiscal impact to local schools and districts is unknown and depends on the size, needs and materials available to individual schools and districts. The KDE spent approximately \$51,594.00 in administrative costs for the development of both the physical education and health education standards that are incorporated by reference in 704 KAR 8:050 and 704 KAR 8:030, respectively, in addition to staff time to oversee its administration. The KDE anticipates some administrative staff costs in the first year and subsequent years to support schools and districts in the implementation of the KAS for PE.

(b) Methodology and resources used to reach this conclusion: The KDE has already spent approximately \$51,594.00 in administrative costs for the development of both the physical education and health education standards that are incorporated by reference in 704 KAR 8:050 and 704 KAR 8:030, respectively, in addition to staff time to oversee its administration. The KDE anticipates some staff costs in the first year and subsequent years to support schools and districts in the implementation of the KAS for PE. For local schools and districts, the costs are dependent upon the size, needs, and materials of the individual 171 school districts which varies thereby making the fiscal impact difficult to estimate.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(13): It is unknown whether this administrative regulation will have a major economic impact to the entities identified.

(b) The methodology and resources used to reach this conclusion: The KDE spent approximately \$51,594.00 in administrative costs for the development of both the physical education and health education standards that are incorporated by reference in 704 KAR 8:050 and 704 KAR 8:030, respectively, in addition to staff time to oversee its administration. The KDE anticipates some staff costs in the first year and subsequent years to support schools and districts in the implementation of the KAS for PE. For local schools and districts, the costs are dependent upon the size, needs, and materials of the individual 171 school districts which varies thereby making the cost to schools and districts difficult to estimate.

**COMPILER'S NOTE: 2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency:**

**EDUCATION AND LABOR CABINET  
Kentucky Board of Education  
Department of Education  
(Amendment)**

**704 KAR 8:080. Required academic standards in career studies and financial literacy.**

RELATES TO: KRS 156.070(1), 156.160, 158.645, 158.1411, 158.1413, 158.6451, 158.6453, 160.290

STATUTORY AUTHORITY: KRS 156.070(1), 156.160, 158.1411, 158.1413, 158.6453(18)(a)

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160 requires the Kentucky Board of Education to establish courses of study for the different grades and kinds of common schools, with the courses of study to comply with the expected goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451 and 158.6453. KRS 156.070(1) requires the Kentucky Board of Education to manage and control the common schools and all

programs operated in the schools. KRS 160.290 authorizes local boards of education to provide for courses and other services for students consistent with the administrative regulations of the Kentucky Board of Education. Beginning with the 2019-2020 school year, KRS 158.1413 requires each school district to implement essential workplace ethics programs that promote characteristics that are critical to success in the workplace. KRS 158.1411 requires that students entering grade nine (9) on or before June 30, 2025, [the ninth-grade class of the 2020-2021 school year and each year thereafter,] successfully complete one (1) or more courses or programs that meet the financial literacy standards as a Kentucky public high school graduation requirement. For students entering grade nine (9) on or after July 1, 2025, successful completion of a one (1) credit course in financial literacy shall be a Kentucky public high school graduation requirement. KRS 158.6453(18)(a) provides that the Kentucky Department of Education shall implement a comprehensive process for reviewing and revising the academic standards for career studies for all levels every six (6) years. This administrative regulation establishes [incorporates by reference the Kentucky Academic Standards for Career Studies, which contain] the academic content standards of essential skills, career exploration, and financial literacy for use in Kentucky's common schools.

#### Section 1.

(1) The academic standards for career studies and financial literacy outline the minimum content standards that Kentucky students shall learn within each respective grade band. The standards are organized by three (3) domains: essential skills, careers, and financial literacy.

(2) Kentucky schools shall utilize the financial literacy domain standards for grades nine (9) through twelve (12) to design courses and programs that meet the Kentucky high school graduation requirement established in KRS 158.1411.

(3) Pursuant to KRS 158.1413, the essential skills domain standards for all grade bands shall be utilized to design and implement essential workplace ethics programs and to ensure that all students in elementary, middle, and high school receive essential workplace ethics instruction.

#### Section 2. Incorporation by Reference.

(1) The "Kentucky Academic Standards for Career Studies and Financial Literacy", June 2025[August–2049], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Education, 5th floor, 300 Sower Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.

DR. ROBBIE FLETCHER, Commissioner  
SHARON PORTER ROBINSON, Chair

APPROVED BY AGENCY: June 10, 2025

FILED WITH LRC: June 11, 2025 at 3:39 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 27, 2025 at 10am, in the State Board Room, Fifth Floor, 300 Sower Boulevard, 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 August 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.

CONTACT PERSON: Todd G. Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321, email regcomments@education.ky.gov.

#### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Todd Allen

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation incorporates by reference the Kentucky Academic Standards (KAS) for Career Studies and Financial Literacy, which contain the academic content standards of essential skills, career exploration, and financial literacy for use in Kentucky's common schools.

(b) The necessity of this administrative regulation: KRS 156.160 requires the Kentucky Board of Education to establish courses of study for the different grades and kinds of common schools, with the courses of study to comply with the expected goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451 and 158.6453. KRS 156.070(1) requires the Kentucky Board of Education to manage and control the common schools and all programs operated in the schools. KRS 160.290 authorizes local boards of education to provide for courses and other services for students consistent with the administrative regulations of the Kentucky Board of Education. Beginning with the 2019-2020 school year, KRS 158.1413 requires each school district to implement essential workplace ethics programs that promote characteristics that are critical to success in the workplace. KRS 158.1411 requires that students entering grade nine (9) on or after July 1, 2025, successfully complete a one (1) credit course that meets the financial literacy standards as a Kentucky public high school graduation requirement. KRS 158.6453(18)(a) provides that the Kentucky Department of Education shall implement a comprehensive process for reviewing and revising the academic standards for career studies for all levels every six (6) years.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to KRS 158.6453(18)(a) which requires the Kentucky Department of Education to implement a comprehensive process for reviewing and revising the academic standards for career studies for all levels every six (6) years. KRS 156.070(1) requires the Kentucky Board of Education to manage and control the common schools and all programs operated in the schools. KRS 160.290 authorizes local boards of education to provide for courses and other services for students consistent with the administrative regulations of the Kentucky Board of Education. Beginning with the 2019-2020 school year, KRS 158.1413 requires each school district to implement essential workplace ethics programs that promote characteristics that are critical to success in the workplace. KRS 158.1411 requires that students entering grade nine (9) on or after July 1, 2025, successfully complete a one (1) credit course that meets the financial literacy standards as a Kentucky public high school graduation requirement. This administrative regulation incorporates by reference the Kentucky Academic Standards for Career Studies and Financial Literacy, which contain the academic content standards of essential skills, career exploration, and financial literacy for use in Kentucky's common schools.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation incorporates by reference the Kentucky Academic Standards for Career Studies and Financial Literacy, which contain the academic content standards of essential skills, career exploration, and financial literacy for use in Kentucky's common schools. KRS 156.070(1) requires the Kentucky Board of Education to manage and control the common schools and all programs operated in the schools. KRS 160.290 authorizes local boards of education to provide for courses and other services for students consistent with the administrative regulations of the Kentucky Board of Education. Beginning with the 2019-2020 school year, KRS 158.1413 requires each school district to implement essential workplace ethics programs that promote characteristics that are critical to success in the workplace. KRS 158.1411 requires that students entering grade nine (9) on or after July 1, 2025, successfully complete a one (1) credit course that meets the financial literacy standards as a Kentucky public high school graduation requirement. KRS 158.6453(18)(a) requires the Kentucky Department of Education to implement a comprehensive process for reviewing and revising the academic standards for career

studies for all levels every six (6) years.

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

(a) How the amendment will change this existing administrative regulation: This amendment will update the existing regulation to parallel changes to KRS 158.1411 as a result of 25 RS HB 342 and incorporate by reference the revised career studies and financial literacy standards.

(b) The necessity of the amendment to this administrative regulation: Changes were made to KRS 156.1411 as a result of 25 RS HB 342 and the career studies and financial literacy standards were revised.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment provides conformity with the authorizing statute, KRS 156.1411 by amending language to align with statutory changes, and KRS 158.6453(18)(a) by incorporating by reference the revised standards.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation amendment aligns details in the regulation to statutory language.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Kentucky Department of Education Office of Career and Technical Education, state-operated Area Technology Centers (ATCs), and local school districts will be affected by this administrative regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: 704 KAR 8:080 incorporates by reference the career studies and financial literacy standards that the Kentucky Department of Education Office of Career and Technical Education, state-operated Area Technology Centers (ATCs), and local school districts must utilize when making local decisions regarding curriculum and instruction.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The cost is unknown as it is dependent upon the size, needs, and materials available in each school district and ATC.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The compliance of the Kentucky Department of Education Office of Career and Technical Education, state-operated Area Technology Centers (ATCs), and local school districts will ensure that each student will be given the opportunity to meet the minimum requirements for graduation as they will have been provided the minimum content requirements for career studies and financial literacy as provided in 704 KAR 8:080.

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

(a) Initially: The Kentucky Department of Education (KDE) spent approximately \$5,600 in administrative costs for the revisions to the career studies and financial literacy standards as incorporated by reference in 704 KAR 8:080, in addition to staff time to oversee the process. KDE anticipates spending approximately \$12,000 in the first year on staff costs to support schools, districts, and ATCs in the implementation of the Kentucky Academic Standards for Career Studies and Financial Literacy.

(b) On a continuing basis: KDE anticipates spending approximately \$10,000 each year on staff costs to support schools, districts, and ATCs in the implementation of the Kentucky Academic Standards for Career Studies and Financial Literacy.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State generated 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 increased fees or funding are anticipated as a result of this regulation amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No increased fees or funding are anticipated as a result of this regulation amendment.

(9) TIERING: Is tiering applied? Tiering was not appropriate in this

administrative regulation because the administrative regulation applies equally to all schools, districts, and all state-operated area technology centers (ATCs).

#### 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 156.802, 156.029, 156.070

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 156.802, 156.029, 156.070

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Department of Education, the Office of Career and Technical Education.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year: \$12,000

For subsequent years: \$10,000

2. Revenues:

For the first year: \$0

For subsequent years: \$0

3. Cost Savings:

For the first year: \$0

For subsequent years: \$0

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): local school districts and state-operated Area Technology Centers (ATCs)

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year: The cost is unknown as it is dependent upon the size, needs, and materials available in each school district and ATC.

For subsequent years: Once curriculum documents are revised, the cost for local school districts and ATCs in subsequent years will decrease.

2. Revenues:

For the first year: \$0

For subsequent years: \$0

3. Cost Savings:

For the first year: \$0

For subsequent years: \$0

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No additional regulated entities.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year: Not applicable as no additional regulated entities have been identified.

For subsequent years: Not applicable as no additional regulated entities have been identified.

2. Revenues:

For the first year: Not applicable as no additional regulated entities have been identified.

For subsequent years: Not applicable as no additional regulated entities have been identified.

3. Cost Savings:

For the first year: Not applicable as no additional regulated entities have been identified.

For subsequent years: Not applicable as no additional regulated entities have been identified.

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation: The fiscal impact is unknown as it is dependent upon the size, needs, and materials available in each school district and ATC. The KDE spent approximately \$5,600 in administrative costs for the revisions to the career studies and financial literacy standards as incorporated by reference in 704 KAR 8:080, in addition to staff time to oversee the process. The KDE anticipates spending \$10,000-\$12,000 each year on staff costs to support schools and districts in the implementation of the KAS for career studies and financial literacy.

(b) Methodology and resources used to reach this conclusion: For

local school districts and ATCs, it is dependent upon the size, needs, and materials available. The KDE spent approximately \$5,600 in administrative costs for the revisions to the career studies and financial literacy standards as incorporated by reference in 704 KAR 8:080, in addition to staff time to oversee the process. The KDE anticipates spending each \$10,000-\$12,000 year on staff costs to support schools, districts, and ATCs in the implementation of the KAS for career studies and financial literacy.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(13): The amendment to this regulation will not have a major economic impact on any identified entities.

(b) The methodology and resources used to reach this conclusion: The amendment to this regulation will not have a major economic impact on any identified entities.

**COMPILER'S NOTE: 2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency:**

**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 2:404. Personal protective and lifesaving equipment.**

RELATES TO: KRS 338.051(3), 338.061, 29 C.F.R. 1926.95-1926.107

STATUTORY AUTHORITY: KRS 338.051(3), 338.061

CERTIFICATION STATEMENT:

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. 1926.95 to 1926.107 establish the federal requirements relating to personal protective and lifesaving equipment. This administrative regulation establishes personal protective and lifesaving equipment standards enforced by the Department of Workplace Standards in the construction industry.

Section 1. Definitions.

(1) "Assistant secretary" means Secretary, Kentucky Education and Labor Cabinet or Commissioner of the Department of Workplace Standards.

(2) "C.F.R." means Code of Federal Regulations.

(3) "Employee" is defined in KRS 338.015(2).

(4) "Employer" is defined in KRS 338.015(1).

(5) "OSHA" means the Occupational Safety and Health Administration or the Kentucky Division of Occupational Safety and Health.

Section 2. Except as modified in Section 1 of this administrative regulation, the[The] construction industry shall comply with 29 C.F.R. 1926, Subpart E, Personal Protective and Life Saving Equipment, [the following federal regulations] published by the Office of the Federal Register, National Archives and Records Services, General Services Administration[except as modified by the definitions in Section 1 of this administrative regulation:]

[(1)] [29 C.F.R. 1926.95 through 29 C.F.R. 1926.107; and]

[(2)] [The amendments to 29 C.F.R. 1926.102 as published in the March 25, 2016 Federal Register, Volume 81, Number 58.]

[(3)] [The amendments to 29 C.F.R. 1926.104 as published in the May 14, 2019 Federal Register, Volume 84, Number 93].

JAMIE LINK, Secretary

APPROVED BY AGENCY: June 11, 2025

FILED WITH LRC: June 12, 2025 at 2:30 p.m.

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held August 21, 2025, at 10:00 a.m. EDST via Zoom. Public access to the meeting is available at: <https://us06web.zoom.us/j/85365100652>. 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 August 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.

**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](mailto: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 requires employers to comply with the requirements of 29 CFR 1926.95-107.

(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 CFR 1902.3(c)(1), 29 CFR 1902.3(d)(1), 29 CFR 1902.3(d)(2), 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), which 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 administrative regulation is necessary to meet the requirements established in Public Law 91-596 84 STAT. 1590, 29 CFR 1902.3(c)(1), 29 CFR 1902.3(d)(1), 29 CFR 1902.3(d)(2), 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), 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 CFR 1902.3(c)(1), 29 CFR 1902.3(d)(1), 29 CFR 1902.3(d)(2), 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), which all 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: This amendment explicitly requires personal protective

equipment ("PPE") worn by employees in the construction industry properly fit. Employers must ensure all PPE is: (1) of safe design and construction for the work to be performed; and (2) selected to ensure that it properly fits each affected employee.

(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 (OSH Act of 1970), 29 CFR 1902.3(c)(1), 29 CFR 1902.3(d)(1), 29 CFR 1902.3(d)(2), 29 CFR 1902.37(b)(3), 29 CFR 1953.1(a), 29 CFR 1953.1(b), 29 CFR 1953.5(a)(1), 29 CFR 1953(a)(2), 29 CFR 1956.2(a), and 29 CFR 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 OSH 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 CFR 1902.3(c)(1), 29 CFR 1902.3(d)(1), 29 CFR 1902.3(d)(2), 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(a)(2), 29 CFR 1956.2(a), and 29 CFR 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 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 engaged in construction activities 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 employee health and safety throughout Kentucky and ensures the state requirement is as effective as the federal program. (5) Provide an estimate of how much it will cost to implement this administrative regulation:

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

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

(b) On a continuing basis: There are no new costs associated with this 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 CFR 1902.3(c)(1), 29 CFR 1902.3(d)(1), 29 CFR 1902.3(d)(2), 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(a)(2), 29 CFR 1956.2(a), and 29 CFR 1956.10(d)(1)

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: This administrative regulation is not expressly authorized by an act of the General Assembly.

(3)(a) 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.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year: None

For subsequent years: None

2. Revenues:

For the first year: None

For subsequent years: None

3. Cost Savings:

For the first year: None

For subsequent years: None

(4)(a) 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.

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year: None

For subsequent years: None

2. Revenues:

For the first year: None

For subsequent years: None

3. Cost Savings:

For the first year: None

For subsequent years: None

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): None

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year: None

For subsequent years: None

2. Revenues:

For the first year: None

For subsequent years: None

3. Cost Savings:

For the first year: None

For subsequent years: None

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation: This administrative regulation imposes no new direct cost burden on employers and does not require them to take any action to comply.

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

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(13): This administrative regulation will not have a "major economic impact" as defined by KRS 13A.010(14).

(b) The methodology and resources used to reach this conclusion: This administrative regulation imposes no new direct cost burden on employers and does not require them to take any action to comply. 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 CFR 1902.3(c)(1), 29 CFR 1902.3(d)(1), 29 CFR 1902.3(d)(2), 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 CFR 1902.3(c)(1), 29 CFR 1902.3(d)(1), 29 CFR 1902.3(d)(2), 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).
- (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. This amendment does not impose stricter requirements.

#### KENTUCKY HORSE RACING AND GAMING CORPORATION (Amendment)

##### 810 KAR 6:001. Definitions for 810 KAR Chapter 6.

RELATES TO: KRS Chapter 230

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(8), 230.361(1), 230.370

CERTIFICATION STATEMENT: This certifies that this administration regulation complies with the requirements of 2025 RS HB6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) authorizes the Kentucky Horse Racing and Gaming Corporation to regulate conditions under which horse racing shall be conducted in Kentucky. KRS 230.260(8) authorizes the corporation to prescribe necessary and reasonable administrative regulations and conditions under which horse racing at a horse race meeting shall be conducted in Kentucky. KRS 230.361(1) requires the corporation to promulgate administrative regulations governing and regulating pari-mutuel wagering on horse races under the pari-mutuel system of wagering. This administrative regulation defines the terms used in 810 KAR Chapter 6.

##### Section 1. Definitions.

(1) "Added money" means:

- (a) Cash, exclusive of trophy or other award, added by the association to stakes fees paid by subscribers to form the total purse for a stakes race; or
- (b) In the context of pari-mutuel wagering, any amounts provided by an association in addition to the amounts wagered by patrons and any carryover amounts.

(2) "Age" means the number of years since a horse was foaled, reckoned as if the horse was foaled on January 1 of the year in which the horse was foaled.

(3) "Appaloosa horse" means a horse duly registered with the Appaloosa Horse Club, Inc., Moscow, Idaho.

(4) "Appaloosa racing" is defined by KRS 230.210(3).

(5) "Arabian horse" means "arabian" as defined by KRS 230.210.

(6) "Arrears" means all sums due by a licensee as reflected by

his or her account with the horsemen's bookkeeper, including subscriptions, jockey fees, forfeitures, and any default incident to 810 KAR Chapter 6.

(7) "Association" is defined by KRS 230.210(5).

(8) "Authorized agent" means any person currently licensed as an agent for a licensed owner or jockey by virtue of notarized appointment of agency filed with the corporation.

(9) "Betting interest" means a single horse, or more than one (1) horse joined as a mutuel entry or joined in a mutuel field, on which a single pari-mutuel wager can be placed.

(10) "Bleeder" means any horse known to have bled internally or from its nostrils during a workout or race.

(11) "Breakage" means the net pool minus payout.

(12) "Breeder" means the owner of the dam of a horse when the horse was foaled. A horse is "bred" at the place of its foaling.

(13) "Calendar days" means consecutive days counted irrespective of number of racing days.

(14) "Carryover" means nondistributed pool monies that are retained and added to a corresponding pool in accordance with 810 KAR 6:020.

(15) "Claiming race" means any race in which every horse running in the race can be transferred in conformity with 810 KAR 4:050.

(16) "Closing" means the time published by the association after which entries for a race will not be accepted by the racing secretary.

(17) "Commission" means, if used in the context of pari-mutuel wagering, the amount an association is authorized to withhold from a pari-mutuel wager pursuant to KRS 230.3615, KRS 230.750, and KAR Title 810. This meaning can also refer to "takeout" as defined by subsection (83) of this section.

(18) "Communications Technology" means the methods used and the components employed to facilitate the transmission of information, such as electronic communications, and transmission and reception systems based on wire, cable, radio, microwave, light, optics, or computer data networks or any similar electronic agent.

(19) "Control Program" means any software, source language, or executable code that controls the entertaining award display, such as software, source language, or executable code associated with:

- (a) Race selection or related events;
- (b) Accounting and reporting meter and log information;
- (c) Operation of totalizators; and
- (d) Any other processes established in the internal controls or as approved by the corporation.

(20) "Corporation" means "Kentucky Horse Racing and Gaming Corporation".

(21) "Day" means any twenty-four (24) hour period beginning at 12:01 a.m. and ending at midnight.

(22) "Dead heat" means a finish of a race in which the noses of two (2) or more horses reach the finish line at the same time.

(23) "Declaration" means the withdrawal of a horse entered in a race prior to time of closing of entries for the race in conformance with 810 KAR Chapter 6.

(24) "Designated area" means any enclosed area that the corporation has approved for the location of terminals used for wagering on historical horse races.

(25) "Disciplinary action" means action taken by the stewards or the corporation for a violation of KRS Chapter 230 or KAR Title 810 and can include:

- (a) Refusal to issue or renew a license;
- (b) Revocation or suspension of a license;
- (c) Imposition of probationary conditions on a license;
- (d) Issuance of a written reprimand or admonishment;
- (e) Imposition of fines or penalties;
- (f) Denial of purse money;
- (g) Forfeiture of purse money; or
- (h) Any combination of paragraphs (a) through (g) of this subsection.

(26) "Disqualification" means a ruling of the stewards or the corporation revising the order of finish of a race.

(27) "Driver" means a person who is licensed to drive a horse in a harness race.

(28) "Entertaining Award Display" or "Interactive Award Display" means an entertaining system utilizing mechanical or digital

components to display the outcome of a pari-mutuel wager through the use of spinning reels, wheels, games, or other types of interactive components that are represented by animations or audio cues. An Entertaining or Interactive Award Display is connected to a totalizer approved by the corporation. Entertaining or interactive displays are only used in conjunction with pari-mutuel wagering on a historical horse race or races.

(29) "Entry" means the act of nominating a horse for a race in conformance with KAR Title 810.

(30) "Equipment" means:

(a) Accoutrements other than ordinary saddle, girth, pad, saddle cloth, and bridle carried by a horse, and includes whip, blinkers, tongue strap, muzzle, hood, noseband, bit, shadow roll, martingale, breast plate, bandages, boots, and racing plates or shoes; or

(b) Racing, system components or other equipment found suitable by the corporation or its designee that is required to operate entertaining or interactive award displays and interactive terminals.

(31) "Exhibition race" means a race between horses of diverse ownership for which a purse is offered by the association, but on which pari-mutuel wagering is not permitted.

(32) "Exotic wager" means any pari-mutuel wager placed on a live or historical horse race or races other than a win, place, or show wager placed on a live horse race.

(33) "Field" or "mutuel field" means a single betting interest involving more than one (1) horse that is not a mutuel entry.

(34) "Forfeit" means money due by a licensee because of an error, fault, neglect of duty, breach of contract, or alternative ruling of the stewards or the corporation.

(35) "Free handicap" means a handicap for which a nominating fee is not required to be weighted, but an entrance or starting fee can be required for starting in the race.

(36) "Handicap race" means a race in which the weights to be carried by the horses are assigned by the association handicapper with the intent of equalizing the chances of winning for all horses entered in the race.

(37) "Handle" means the aggregate of all pari-mutuel pools, excluding refundable wagers.

(38) "Historical horse race" means any horse race that:

(a) Was previously run at a licensed pari-mutuel facility located in the United States or a pari-mutuel facility approved by the KHRGC located outside the United States;

(b) Concluded with official results; and

(c) Concluded without scratches, disqualifications, or dead-heat finishes.

(39) "Horse" means any equine (including and designated as a mare, filly, stallion, colt, ridgeling, or gelding).

(40) "Ineligible" means a horse or person not qualified under 810 KAR Chapter 6 or conditions of a race to participate in a specified racing activity.

~~[(44)] "Initial seed pool" means a nonrefundable pool of money that can be funded by an association in order to ensure that a patron will be paid the minimum amount required on a winning wager on an historical horse race in the event of a minus pool.]~~

(41)[(42)] "Interactive terminal" or "HHR terminal" means "terminal" as defined by subsection (89)(b) of this section.

(42)[(43)] "Internal controls," "minimum internal control standards," or "control standards" means the system of internal procedures, as well as administrative and accounting controls related to the integrity of pari-mutuel wagering. This type of system can be required by the corporation as a condition to conduct live horse racing, simulcasting, and pari-mutuel wagering.

(43)[(44)] "Jockey" means a rider currently licensed to ride in races other than harness races as a jockey, apprentice jockey, amateur jockey, or a provisional jockey permitted by the stewards to ride in three (3) races prior to applying for a license.

(44)[(45)] "Judge" means a duly appointed racing official with powers and duties established in 810 KAR 2:050 serving at a current meeting in the Commonwealth.

(45)[(46)] "Lessee" means a licensed owner whose interest in a horse is a leasehold.

(46)[(47)] "Licensed premises" is defined by KRS 230.210.

(47)[(48)] "Licensee" means an individual, firm, association, partnership, corporation, trustee, or legal representative that has

been duly issued a currently valid license to participate in racing in the Commonwealth.

(48)[(49)] "Maiden" means a horse that has never won a race on the flat at a recognized meeting in any country. A maiden that was disqualified after finishing first remains a maiden. Race conditions referring to maidens are interpreted as meaning maidens at the time of starting.

(49)[(50)] "Match race" means a race that is between two (2) horses and for which other horses are not eligible.

(50)[(54)] "Meeting" means the entire period of consecutive days, exclusive of dark days, granted by the corporation to a licensed association for the conduct of live horse racing that:

(a) Begins at 10 a.m. of the first racing day; and

(b) Extends through a period ending one (1) hour after the last scheduled race of the last day.

(51)[(52)] "Minus pool" means a pari-mutuel pool in which the amount of money to be distributed on winning wagers exceeds the amount of money contained in that pari-mutuel pool.

(52)[(53)] "Month" means calendar month.

(53)[(54)] "Mutuel entry" means a single betting interest involving two (2) or more horses entered in the same race and joined for pari-mutuel purposes because of common ties as to ownership or training so that a wager on one (1) horse joined in a mutuel entry is a wager on all horses joined in the same mutuel entry.

(54)[(55)] "Net pool" means the total amount wagered less refundable wagers and takeout.

(55)[(56)] "Nomination" means a subscription or entry of a horse in a stakes or early closing race.

(56)[(57)] "Nominator" means the person in whose name a horse is entered for a race.

(57)[(58)] "Owner" means any person who holds, in whole or in part, any right, title, or interest in a horse, or any lessee of a horse, who has been duly issued a currently valid owner's license as a person responsible for the horse.

(58)[(59)] "Pari-mutuel wagering," "mutuel wagering," or "pari-mutuel system of wagering" is defined by KRS 230.210.

(59)[(60)] "Pari-mutuel pool" means any pool into which pari-mutuel wagers made by patrons are placed. For every wager placed into a pari-mutuel pool by a patron, that patron is eligible to receive at least a minimum payout on a winning wager.

(60)[(64)] "Patron" means an individual present at a track, licensed premises, or a simulcast facility who observes or wagers on live or historical horse races.

(61)[(62)] "Payout" means the amount of the net pool payable to an individual patron on his or her winning wager.

(62)[(63)] "Place," if used in the context of a single position in the order of finish in a race, means second; if used in the context of pari-mutuel wagering, a "place" wager means one involving a payoff on a betting interest that finished first or second in a race; or if used in the context of multiple positions in the order of finish in a race, "place or placing" means finishing first or second.

(63)[(64)] "Player-funded pool" means a pool of money funded by patrons wagering on a live or historical horse race or races that is only used to ensure that a patron will receive a payout on a winning wager in the event of a "minus pool" as defined in this administrative regulation.

(64)[(65)] "Post" means the starting point of a race.

(65)[(66)] "Post position" means the relative place assigned to each horse, numbered from the inner rail across the track at the starting line, from which each horse is to start a race.

(66)[(67)] "Post time" means the advertised moment scheduled for the arrival of all horses at the starting point for a race.

(67)[(68)] "Prize" means the combined total of any cash, premium, trophy, and object of value awarded to the owners of horses according to order of finish in a race.

(68)[(69)] "Purse" means the gross cash portion of the prize for which a race is run.

(69)[(70)] "Quarter horse" is defined by KRS 230.210.

(70)[(74)] "Purse race" means any race for which entries close at a time designated by the racing secretary, and for which owners of horses entered are not required by its conditions to contribute money toward its purse.

(71)[(72)] "Race" means a running contest between horses,



ridden by jockeys or driven by drivers, over a prescribed course free of obstacles or jumps, at a recognized meeting, during regular racing hours, for a prize.

(72)({73}) "Race day" means any period of twenty-four (24) hours beginning at 12:01 a.m. and ending at midnight in which live racing is conducted by an association.

(73)({74}) "Racing official" means a corporation member, corporation staff as duties require, and all association racing department employees, as duties require.

(74)({75}) "Recognized meeting" means any meeting with regularly scheduled live horse races for thoroughbreds on the flat, licensed by and conducted under administrative regulations promulgated by a governmental regulatory body, to include foreign countries that are regulated by a racing authority that has reciprocal relations with The Jockey Club and whose race records can be provided to an association by The Jockey Club.

(75)({76}) "Registration certificate" means, with respect to thoroughbreds:

(a) The document issued by The Jockey Club certifying the name, age, color, sex, pedigree, and breeder of a horse as registered by number with The Jockey Club; or

(b) The document known as a "racing permit" issued by The Jockey Club in lieu of a registration certificate if a horse is recognized as a thoroughbred for racing purposes in the United States, but is not recognized as a thoroughbred for breeding purposes insofar as registering its progeny with the Jockey Club.

(76)({77}) "Result" means the part of the official order of finish in a race used to determine the pari-mutuel payoff of pari-mutuel pools.

(77)({78}) "Rulings" means all determinations, decisions, or orders of the stewards or of the corporation duly issued in writing and posted.

(78)({79}) "Scratch" means the withdrawal of a horse entered for a race after the time of closing of entries for the race in conformance with KAR Title 810.

(79)({80}) "Scratch time" means the time set by the racing secretary as a deadline for horsemen to indicate their desire to scratch out of a race.

(80)({81}) "Secretary" means the duly appointed and currently serving secretary of the corporation.

(81)({82}) "Simulcasting" is defined by KRS 230.210.

(82)({83}) "Specimen" means a sample of blood, urine, or other biologic sample taken or drawn from a horse for chemical testing.

(83)({84}) "Stakes" means all fees:

(a) Paid by subscribers to an added-money or stakes race for nominating, eligibility, entrance, or starting, as required by the conditions of the race; and

(b) Included in the purse.

(84)({85}) "Stakes race" means a race that closes more than seventy-two (72) hours in advance of its running and for which subscribers contribute money towards its purse, or a race for which horses are invited by an association to run for a guaranteed purse of \$50,000 or more without payment of stakes. With the exception of stakes races in North America, "stakes race" excludes races not listed by The Jockey Club Information System International Cataloguing Standards, Part One (1).

(85)({86}) "Starter" means a horse in a race when the starting-gate doors open in front of it at the moment the starter dispatches the horses for a race.

(86)({87}) "Steward" means a duly appointed racing official with powers and duties specified in 810 KAR 2:040 serving at a current meeting in the Commonwealth.

(87)({88}) "Subscription" means nomination or entry of a horse in a stakes race.

(88)({89}) "Takeout" means "commission" as defined by subsection (17)(b) of this section

(89)({90}) "Terminal" means:

(a) Any corporation approved self-service device or other totalizator-based peripheral equipment used by a patron to place a pari-mutuel wager on a live or historical horse race or races; or

(b) Any corporation approved mechanical, electrical, or other device, contrivance, or machine that, upon funding of any pari-mutuel wager on a historical horse race or races, is capable of placing a pari-mutuel wager on that historical horse race or races.

These devices can provide handicapping methods approved by the corporation, in addition to manual handicapping. In the event of a winning wager, a terminal displays and either delivers or entitles the patron to receive a payout pursuant to 810 KAR 6:030. Payouts are issued by the terminal itself or by the licensed association approved to operate the interactive terminal and related pari-mutuel pool.

(90)({91}) "Thoroughbred racing" is defined by KRS 230.210.

(91)({92}) "Totalizator" means the system, including hardware, software, communications equipment, and electronic devices that accepts and processes the cashing of wagers, calculates the odds and prices of the wagers, and records, displays, and stores pari-mutuel wagering information.

(92)({93}) "Unplaced" means a horse that finishes a race outside the pari-mutuel payoff.

(93)({94}) "Wagering pool" means "pari-mutuel pool" as defined by this administrative regulation.

(94)({95}) "Walkover" means a race in which the only starter or all starters represent single ownership.

(95)({96}) "Weigh in" means the presentation of a jockey to the clerk of scales for weighing after a race.

(96)({97}) "Weigh out" means the presentation of a jockey to the clerk of scales for weighing prior to a race.

(97)({98}) "Weight for age" means the standard assignment of pounds to be carried by horses in races at specified distances during specified months of the year, scaled according to the age of the horse as established in 810 KAR 4:020.

(98)({99}) "Workout" means the training exercise of a horse on the training track or main track of an association during which the horse is timed for speed over a specified distance.

(99)({100}) "Year" means twelve (12) consecutive months beginning with January and ending with December.

Section 2. Severability. If any provision or administrative regulation of this chapter is found to be invalid, the remaining provisions of this chapter shall not be affected nor diminished thereby.

JONATHAN RABINOWITZ, Chair

APPROVED BY AGENCY: June 12, 2025

FILED WITH LRC: June 12, 2025 at 3:00 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 26, 2025, at 9:00 a.m. at Kentucky Horse Racing & Gaming Corporation, 4047 Iron Works Parkway, Lexington, Kentucky 40511. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 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.

CONTACT PERSON: Ashleigh Bailey, General Counsel, Kentucky Horse Racing & Gaming Corporation, 4047 Iron Works Parkway, Lexington, Kentucky 40511 phone (859) 246-2040, fax (859) 246-2039, email Ashleigh.Bailey@ky.gov.

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Ashleigh Bailey

(1) Provide a brief summary of:

(a) What this administrative regulation does: The administrative regulation defines the terms used in 810 KAR Chapter 6, which Chapter governs and regulates pari-mutuel wagering on horse races.

(b) The necessity of this administrative regulation: This regulation is necessary to ensure that regulations relating to pari-mutuel wagering in Kentucky are clear, accurate, and fair.

(c) How this administrative regulation conforms to the content of the authorizing statutes: It is the intent of the Commonwealth to foster and encourage the business of legitimate horse racing with pari-

mutuel wagering thereon in the Commonwealth on the highest possible plane KRS 230.215(1)(b). The Kentucky Horse Racing and Gaming Corporation ("KHRGC") is vested with jurisdiction and supervision over all live horse racing and pari-mutuel wagering in the state. KRS 230.260(1).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists with the effective administrative of the statutes by streamlining and clarifying the definitions used in 810 KAR Chapter 6, which governs and regulates pari-mutuel wagering on live and historical horse races.

(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 eliminates the definition of "Initial seed pool," a term that is not thereafter referenced in the regulations. It also modifies the definition of "Historical horse race" to allow for the possibility of inclusion of pari-mutuel races from outside of the United States if approved by KHRGC.

(b) The necessity of the amendment to this administrative regulation: With regards to the elimination of "Initial seed pool," this amendment reduces unnecessary definitions from the regulation. With regards to the modification of "Historical horse race," this amendment provides an opportunity for the pool of races available for Historical horse racing to be expanded if requested and approved by the KHRGC.

(c) How the amendment conforms to the content of the authorizing statutes: It is the intent of the Commonwealth to foster and encourage the business of legitimate horse racing with pari-mutuel wagering thereon in the Commonwealth on the highest possible plane. KRS 230.215(1)(b). The KHRGC is vested with jurisdiction and supervision over all live horse racing and pari-mutuel wagering in the state. KRS 230.260(1). This amendment is tailored to encourage and improve pari-mutuel wagering in historical horse racing in the state.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the statutes by streamlining the regulations and by providing an opportunity for the pool of races available for Historical horse racing to be expanded if requested and approved by the KHRGC.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The KHRGC is affected by this administrative regulation. Licensed associations offering wagering on Historical horse races may be affected by this administrative regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: With regards to the removal of Initial seed pool, there are no actions to be taken by any party. With regards to the amendment of the definition of Historical horse race, there would be no impact to the KHRGC or any association unless or until an association requests approval of a pari-mutuel facility outside the U.S.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The KHRGC will benefit from more streamlined and accurate regulations because the regulations will be easier, more flexible, and more effective to use. Licensed associations who offer wagering on Historical horse racing may benefit from larger and more diverse pools of Historical horse races in the future if those facilities are approved by the KHRGC.

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

(a) Initially: There is no anticipated continuing cost to administer the amendments to this administrative regulation.

(b) On a continuing basis: There is no anticipated continuing cost to administer the amendments to this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There is no additional funding needed to implement and enforce the amendments in this administrative regulation.

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The amendments to this administrative regulation do not establish or increase any fees.

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

#### 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 statutory authority for this administrative regulation is KRS 230.215(2), KRS 230.240(2), and KRS 230.260(1).

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: Not applicable; this regulation is authorized by statutory guidelines by KRS 230.260.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The promulgating agency is the Kentucky Horse Racing and Gaming Corporation ("KHRGC").

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year: No additional expenditures are anticipated.

For subsequent years: No additional expenditures for subsequent years are anticipated.

2. Revenues:

For the first year: No additional revenue is anticipated.

For subsequent years: No additional revenue for subsequent years is anticipated.

3. Cost Savings:

For the first year: No cost savings are anticipated.

For subsequent years: No cost savings for subsequent years are anticipated.

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): N/A

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year: N/A

For subsequent years: N/A

2. Revenues:

For the first year: N/A

For subsequent years: N/A

3. Cost Savings:

For the first year: N/A

For subsequent years: N/A

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): Licensed associations offering wagering on Historical horse racing may be affected by this administrative regulation.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year: No additional expenditures are required. Licensed associations may incur testing and development costs if they seek KHRGC approval of pari-mutuel facilities located outside the United States, but an estimate cannot be provided at this time

For subsequent years: No additional expenditures are required. Licensed associations may incur testing and development costs if they seek KHRGC approval of pari-mutuel facilities located outside the United States, but an estimate cannot be provided at this time.

2. Revenues:

For the first year: There may be additional revenue from the

development of new HHR games using a pool of Historical horse races that includes approved locations outside the United States, but an estimate cannot be provided at this time.

For subsequent years: There may be additional revenue from the development of new HHR games using a pool of Historical horse races that includes approved locations outside the United States, but an estimate cannot be provided at this time.

### 3. Cost Savings:

For the first year: No cost savings are anticipated.

For subsequent years: No cost savings for subsequent years are anticipated

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation: There is no direct fiscal impact as a result of the amendments to this administrative regulation. Licensed associations that offer wagering on Historical horse racing may incur costs and/or may receive additional revenue as a result of seeking KHRGC approval of pari-mutuel facilities located outside the United States, an action made possible but not required by this amendment.

(b) Methodology and resources used to reach this conclusion: No new fees are created, and it will not directly increase costs for individuals, businesses, organizations, or governments nor generate additional revenue for the KHRGC. Any economic impact will affect licensed HHR associations only if they seek KHRGC approval of pari-mutuel facilities located outside the United States.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(13): These amendments are not expected to have a major economic impact as defined by KRS 13A.010(14).

(b) The methodology and resources used to reach this conclusion: No new fees are created, and it will not increase costs for individuals, businesses, organizations, or governments nor generate additional revenue for the KHRGC. Any economic impact to licensed associations will be optional and unlikely to amount to a major economic impact as defined in the code.

**COMPILER'S NOTE: 2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency:**

**CABINET FOR HEALTH AND FAMILY SERVICES  
Office of Inspector General  
Division of Certificate of Need  
(Amendment)**

### 900 KAR 5:020. State Health Plan for facilities and services.

RELATES TO: KRS 216B.010-216B.130, 216B.178

STATUTORY AUTHORITY: KRS 194A.030, 194A.050(1), 216B.010, 216B.015(28), 216B.040(2)(a)2.a

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.040(2)(a)2.a requires the cabinet to promulgate an administrative regulation, updated annually, to establish the State Health Plan. The State Health Plan is a critical element of the certificate of need process for which the cabinet is given responsibility in KRS Chapter 216B. This administrative regulation establishes the State Health Plan for facilities and services.

Section 1. The State Health Plan shall be used to:

(1) Review a certificate of need application pursuant to KRS 216B.040; and

(2) Determine whether a substantial change to a health service has occurred pursuant to KRS 216B.015(29)(a) and 216B.061(1)(d).

Section 2. Incorporation by Reference.

(1) The "2025[2023] Update to the State Health Plan", June

2025[March 2024], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Inspector General, Division of Certificate of Need, 275 East Main Street, 5E-A, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be viewed on the Office of Inspector General's Web site at: <https://chfs.ky.gov/agencies/os/oig/dcn/Pages/cn.aspx>.

TRICIA STEWARD, Acting Inspector General

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: June 9, 2025

FILED WITH LRC: June 9, 2025 at 2:55 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on August 25, 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 August 18, 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 August 31, 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; email [CHFSregs@ky.gov](mailto:CHFSregs@ky.gov).

### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles or Valerie Moore

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation incorporates by reference the current State Health Plan as defined by KRS 216B.015(28) and as required by KRS 216B.040(2)(a).

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with the content of the authorizing statutes, specifically KRS 216B.010, 216B.015(28), and 216B.040(2)(a)2.a.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes, KRS 216B.010, 216B.015(28), and 216B.040(2)(a)2.a., by establishing the State Health Plan's review criteria used for determinations regarding the issuance and denial of certificates of need.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing the review criteria for certificate of need determinations.

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

(a) How the amendment will change this existing administrative regulation: In response to suggestions and comments submitted to the cabinet by interested groups, the amendment to this administrative regulation makes the following changes to the State Health Plan (SHP): Updates the title and edition date of the SHP on page i of the Plan; Updates page numbers on Table of Contents section on page ii; Updates the title of the SHP on page iii of the Plan under the heading "Purpose"; Adds new definition under Section A: Acute Care Hospital for "Pediatric Teaching Hospital"; Adds new language on page 3 to establish criteria for new "acute care hospitals" that are "pediatric

teaching hospitals”; Establishes that a “pediatric teaching hospital” shall not be considered a “specialized hospital”; Adds language to permit a Level II PRTF with four (4) Level II Special Care Neonatal beds; Makes changes to Ambulatory Surgical Centers in regards to ownership of Ambulatory Surgical Centers that perform “cornea transplants” and “glaucoma fistulizing surgery”; These changes align with the proposed amendment of 900 KAR 6:075 and 900 KAR 6:075E, Section 2(3)(k)-(l), filed concurrently with this administrative regulation to grant nonsubstantive review status to certificate of need applications for acute care hospitals that wish to convert existing acute care beds to pediatric psychiatric beds at pediatric teaching hospitals as described above.

(b) The necessity of the amendment to this administrative regulation: This amendment is needed to expand inpatient pediatric behavioral health services throughout the state, including rural areas, to enhance immediate access to resources for at-risk pediatric mental health patients of such acuity that they need inpatient services and stabilization.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes because it incorporates by reference the State Health Plan.

(d) How the amendment will assist in the effective administration of the statutes: This amendment assists in the effective administration of the statutes by establishing the review criteria for certificate of need determinations.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects entities that submit certificate of need applications and affected persons as defined by KRS 216B.015(3). A total of 60 certificate of need applications were submitted to the cabinet in calendar year 2020; 70 certificate of need applications were submitted in calendar year 2021; 81 applications submitted in calendar year 2022; 60 applications submitted in calendar year 2023; and 67 applications submitted in calendar year 2024.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Entities that submit a certificate of need application are subject to the criteria set forth in the State Health Plan.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The certificate of need application filing fee for nonsubstantive review and formal review is established in a separate administrative regulation, 900 KAR 6:020.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Entities subject to certificate of need approval must demonstrate that their proposal is consistent with the State Health Plan pursuant to KRS 216B.040(2)(a)2.a.

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

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

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

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

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

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

(9) TIERING: Is tiering applied? Yes, tiering is used as there are different certificate of need review criteria for each licensure category addressed in the State Health Plan.

## FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 216B.010, 216B.015(28), and 216B.040(2)(a)2.a.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: This administrative regulation impacts the Cabinet for Health and Family Services, Office of Inspector General, and may impact any government owned or controlled health care facility.

(a) Estimate the following for the first year:

Expenditures: This amendment will not cause additional expenditures.

Revenues: This amendment will not generate additional revenue.

Cost Savings: This amendment will not generate any cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? This amendment will not generate additional expenditures, revenue or cost savings for state or local government during subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): This amendment should have no additional effect on local entities.

(a) Estimate the following for the first year:

Expenditures: No additional expenditures are expected from this amendment.

Revenues: No additional revenues are expected as a result of this amendment.

Cost Savings: No additional cost savings is expected as a result of this amendment.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? No additional budgetary impact is expected as a result of this amendment in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3): All affected entities are listed in questions (2) and (3).

(a) Estimate the following for the first year:

Expenditures: No additional expenditures are expected from this amendment.

Revenues: No additional revenues are expected as a result of this amendment.

Cost Savings: No additional cost savings are expected as a result of this amendment.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? No additional budgetary impact is expected as a result of this amendment in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: There is no anticipated fiscal impact as a result of the amendment to this regulation.

(b) Methodology and resources used to determine the fiscal impact: No money spent; no money gained equals no 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 is not expected to have a major economic impact on the regulated entities.

(b) The methodology and resources used to reach this conclusion: No money spent; no money gained equals no fiscal impact.

**COMPILER'S NOTE: 2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency:**

**CABINET FOR HEALTH AND FAMILY SERVICES  
Office of Inspector General  
Division of Certificate of Need  
(Amendment)**

**900 KAR 6:075. Certificate of need nonsubstantive review.**

RELATES TO: KRS 216B.010, 216B.015, 216B.020, 216B.040,

## VOLUME 52, NUMBER 1– JULY 1, 2025

216B.062, 216B.090, 216B.095, 216B.115, 216B.450(5), 216B.455, 216B.990, 311A.025(4)

STATUTORY AUTHORITY: KRS 216B.040(2)(a)1., 216B.095

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.040(2)(a)1. requires the Cabinet for Health and Family Services to administer Kentucky's Certificate of Need Program and to promulgate administrative regulations as necessary for the program. KRS 216B.095 authorizes the review of certificate of need applications that are granted nonsubstantive status. This administrative regulation establishes the requirements necessary for consideration for nonsubstantive review of applications for the orderly administration of the Certificate of Need Program.

### Section 1. Definitions.

- (1) "Ambulatory surgical center" is defined by KRS 216B.015(4).
- (2) "Cabinet" is defined by KRS 216B.015(6).
- (3) "Certificate of Need Newsletter" means the monthly newsletter that is published by the cabinet regarding certificate of need matters and is available on the Certificate of Need Web site at <https://chfs.ky.gov/agencies/os/oig/dcn/Pages/cn.aspx>.
- (4) "Days" means calendar days, unless otherwise specified.
- (5) "Formal review" means the review of an application for certificate of need that is reviewed within ninety (90) days from the commencement of the review as provided by KRS 216B.062(1) and that is reviewed for compliance with the review criteria set forth at KRS 216B.040 and 900 KAR 6:070.
- (6) "Nonsubstantive review" is defined by KRS 216B.015(18).
- (7) "Public notice" means notice given through the cabinet's Certificate of Need Newsletter.
- (8) "Psychiatric residential treatment facility" or "PRTF" is defined in KRS 216B.450(5) as a Level I facility or a Level II facility.

### Section 2. Nonsubstantive Review.

- (1) The cabinet shall grant nonsubstantive review status to an application to change the location of a proposed health facility or to relocate a licensed health facility only if:
  - (a) There is no substantial change in health services or bed capacity; and
  - (b)
    1. The change of location or relocation is within the same county; or
    2. The change of location or relocation is for a psychiatric residential treatment facility.
- (2) The cabinet shall grant nonsubstantive review status to an application that proposes to establish an ambulatory surgical center pursuant to the conditions specified in KRS 216B.095(7).
- (3) In addition to the projects specified in KRS 216B.095(3)(a) through (e), pursuant to KRS 216B.095(3)(f), the Office of Inspector General shall grant nonsubstantive review status to an application for which a certificate of need is required if:
  - (a) The proposal involves the establishment or expansion of a health facility or health service for which there is not a component in the State Health Plan;
  - (b) The proposal involves an application to re-establish a licensed healthcare facility or service that was provided at a hospital and was voluntarily discontinued by the applicant under the following circumstances:
    1. The termination or voluntary closure of the hospital:
      - a. Was not the result of an order or directive by the cabinet, governmental agency, judicial body, or other regulatory authority;
      - b. Did not occur during or after an investigation by the cabinet, governmental agency, or other regulatory authority;
      - c. Did occur while the facility was in substantial compliance with applicable administrative regulations and was otherwise eligible for re-licensure; and
      - d. Was not an express condition of any subsequent certificate of need approval;
    2. The application to re-establish the healthcare facility or service that was voluntarily discontinued is filed no more than one (1) year from the date the hospital last provided the service that the applicant is seeking to re-establish;
    3. A proposed healthcare facility shall be located within the

same county as the former healthcare facility and at a single location; and

4. The application shall not seek to re-establish any type of bed utilized in the care and treatment of patients for more than twenty-three (23) consecutive hours;

(c)

1. The proposal involves an application to establish an ambulatory surgical center that does not charge its patients and does not seek or accept commercial insurance, Medicare, Medicaid, or other financial support from the federal government; and

2. The proposed ambulatory surgical center shall utilize the surgical facilities of an existing licensed ambulatory surgical center during times the host ambulatory surgical center is not in operation;

(d) The proposal involves an application to establish an industrial ambulance service;

(e) Prior to July 1, 2026, the proposal involves an application by:

1. An ambulance service that is owned by a city or county government seeking to provide ambulance transport services pursuant to KRS 216B.020(9)(a)1. or 2.; or

2. A licensed hospital seeking to provide transport from a location that is not a healthcare[health-care] facility pursuant to KRS 216B.020(9)(a)3. and (b);

(f) The proposal involves an application to transfer acute care beds from one (1) or more existing Kentucky-licensed hospitals to establish a new hospital under the following circumstances:

1. The existing hospital and new facility shall be under common ownership and located in the same county;

2. No more than fifty (50) percent of the existing hospital's acute care beds shall be transferred to the new facility; and

3.

- a. If the existing hospital is a state university teaching hospital, the existing hospital exceeded, by at least one (1), the minimum number of quality measures required to receive supplemental university directed payments from Kentucky Medicaid for the state fiscal year preceding the date the application was filed; or

- b. If the existing hospital is not a state university teaching hospital, the existing hospital's overall rating by the Centers for Medicare and Medicaid Services Hospital Compare was three (3) stars or higher on the most recent annual update to the overall star ratings preceding the date the application was filed;

(g)

1. The proposal involves an application from a Program of All-Inclusive Care for the Elderly (PACE) program that:

- a. Has met the requirements of the State Readiness Review (SRR) according to a report submitted by the Department for Medicaid Services (DMS) to the Centers for Medicare and Medicaid Services (CMS);

- b. Seeks to provide, directly to its members, a health service that is not exempt from certificate of need (CON) under KRS 216B.020(1); and

- c. Ensures that all services authorized under the PACE agreement are provided exclusively to its members who reside within the service area. The service area shall be:

- (i) Located within the Commonwealth of Kentucky; and
- (ii) Approved by both CMS and DMS.

2. Only an approved PACE program operating within the applicant's service area shall qualify as an affected person for the purpose of opposing a PACE program application.

3. A PACE program shall not be required to obtain certificate of need (CON) approval if the program:

- a. Provides direct patient health services that are exempt from CON under KRS 216B.020(1) and provides other services subject to CON approval through contracts with licensed providers; or

- b. Has already obtained CON approval within the approved PACE service area to provide a health service that is not exempt from CON;

(h) The proposal involves an application to establish an inpatient psychiatric unit in an existing licensed acute care hospital under the following conditions:

1. The hospital is located in a county that has no existing, freestanding psychiatric hospital;

2. The occupancy of acute care beds in the applicant's facility is less than seventy (70) percent according to the most recent edition

of the Kentucky Annual Hospital Utilization and Services Report;

3.

a. All of the proposed psychiatric beds are being converted from licensed acute care beds; and

b. No more than twenty (20) percent of the facility's acute care beds up to a maximum of twenty-five (25) beds will be converted to psychiatric beds;

4. All of the psychiatric beds will be implemented onsite[on-site] at the applicant's existing licensed facility; and

5. All of the psychiatric beds shall be dedicated exclusively to the treatment of adult patients, aged eighteen (18) to sixty-four (64);

(i) The proposal involves an application by a Kentucky-licensed acute care hospital, critical access hospital, or nursing facility proposing to expand a home health service to provide services exclusively to patients discharged from its facility who require home health services at the time of discharge and no existing, licensed home health agency is available and willing to accept the referral. The hospital or nursing facility shall document its efforts to find a Home Health Agency. A license issued under this subsection shall contain the limitation set forth herein;[-]

(j) Level II PRTFs shall be subject to the nonsubstantive review process;[-]

(k) The proposal involves an application to establish a new pediatric teaching hospital under the following circumstances:

1. No less than one hundred fifty (150) pediatric acute care beds of the new pediatric teaching hospital are transferred from an existing pediatric teaching hospital that is a Kentucky-licensed hospital;

2. The existing pediatric teaching hospital is under common ownership with the new pediatric teaching hospital;

3. The existing pediatric teaching hospital is located within the same county as the new pediatric teaching hospital;

4. The new pediatric teaching hospital may include the same types of pediatric services and diagnostic equipment as currently provided at the existing pediatric teaching hospital, including pediatric acute care, Level II, III, and IV special neonatal beds, pediatric open heart surgery and cardiac catheterization, pediatric organ and tissue transplant program, pediatric psychiatric beds, and pediatric megavoltage radiation, positron emission tomography, and magnetic resonance imaging equipment, with no additional certificate of need application required for establishing any of these specific pediatric services and diagnostic equipment at the new pediatric teaching hospital;

5. The total number of pediatric acute care beds at the new pediatric teaching hospital shall not exceed 140% of the total number of pediatric beds at the existing pediatric teaching hospital at the time of application, and the pediatric acute care beds remaining at the existing pediatric teaching hospital shall not be designated as adult beds; and

6. The applicant certifies that the new pediatric teaching hospital will continuously operate as a pediatric teaching hospital, as that term is currently defined;

(l) The proposal involves an application by an existing provider of a Level II service within the same area development district to establish a Level II program with four (4) Level II Special Care Neonatal beds consistent with this plan if the applicant is under common ownership; or

(m) The proposal involves an application to establish a comprehensive (diagnostic and therapeutic) cardiac catheterization service, and the applicant is under common ownership with an existing provider of comprehensive (diagnostic and therapeutic) cardiac catheterization within the same county.

(4) A certificate of need approved for an application submitted under subsection (3)(c) of this section shall state the limitations specified under subsection (3)(c)1. and 2. of this section.

(5) If an application is denied nonsubstantive review status by the Office of Inspector General, the application shall automatically be placed in the formal review process.

(6) If an application is granted nonsubstantive review status by the Office of Inspector General, notice of the decision to grant nonsubstantive review status shall be given to the applicant and all known affected persons.

(7)

(a) If an application is granted nonsubstantive review status by the Office of Inspector General, any affected person who believes that the application is not entitled to nonsubstantive review status or who believes that the application should not be approved may request a hearing by filing a request for a hearing within ten (10) days of the notice of the decision to conduct nonsubstantive review.

(b) The provisions of 900 KAR 6:090 shall govern the conduct of all nonsubstantive review hearings.

(c)

1. Except as provided in subparagraph 2. of this paragraph, nonsubstantive review applications shall not be comparatively reviewed.

2. If the capital expenditure proposed involves the establishment or expansion of a health facility or health service for which there is a component in the State Health Plan, the nonsubstantive review applications shall be comparatively reviewed.

(d) Nonsubstantive review applications may be consolidated for hearing purposes.

(8) If an application for certificate of need is granted nonsubstantive review status by the Office of Inspector General, there shall be a presumption that the facility or service is needed and a presumption that the facility or service is consistent with the State Health Plan.

(9) If each applicable review criterion in the State Health Plan has been met, there shall be a presumption that the facility or service is needed unless the presumption of need has been rebutted by clear and convincing evidence by an affected party.

(10) Unless a hearing is requested pursuant to 900 KAR 6:090, the Office of Inspector General shall approve each application for a certificate of need that has been granted nonsubstantive review status if the exception established in subsection (11)(a) of this section does not apply.

(11) The cabinet shall disapprove an application for a certificate of need that has been granted nonsubstantive review if the cabinet finds that the:

(a) Application is not entitled to nonsubstantive review status; or

(b) Presumption of need or presumption that the facility or service is consistent with the State Health Plan provided for in subsection (8) of this section has been rebutted by clear and convincing evidence by an affected party.

(12) In determining whether an application is consistent with the State Health Plan, the cabinet, in making a final decision on an application, shall apply the latest criteria, inventories, and need analysis figures maintained by the cabinet and the version of the State Health Plan in effect at the time of the public notice of the application.

(13) In determining whether an application is consistent with the State Health Plan following a reconsideration hearing pursuant to KRS 216B.090 or a reconsideration hearing that is held by virtue of a court ruling, the cabinet shall apply the latest criteria, inventories, and need analysis figures maintained by the cabinet and the version of the State Health Plan in effect at the time of the reconsideration decision or decision following a court ruling.

(14) A decision to approve or disapprove an application that has been granted nonsubstantive review status shall be rendered within thirty-five (35) days of the date that nonsubstantive review status has been granted, as required by KRS 216B.095(1). A hearing officer shall prioritize rendering decisions regarding applications granted nonsubstantive review status pursuant to Section 2(3)(g) of this administrative regulation.

(15) If a certificate of need is disapproved following nonsubstantive review, the applicant may:

(a) Request that the cabinet reconsider its decision pursuant to KRS 216B.090 and 900 KAR 6:065;

(b) Request that the application be placed in the next cycle of the formal review process; or

(c) Seek judicial review pursuant to KRS 216B.115.

Section 3. Exemption from Certificate of Need.

(1) A city or county government-owned ambulance service that meets the criteria established by KRS 216B.020(8) shall not be required to obtain a certificate of need to provide emergency ambulance transport services.

(2) A hospital-owned ambulance service shall not be required to obtain a certificate of need to provide non-emergency or emergency transport that originates from its hospital pursuant to KRS 216B.020(7).

(3)

(a) If a hospital-owned ambulance service has certificate of need approval prior to the most recent effective date of this administrative regulation to provide transport services from another health facility to its hospital, the service shall not be required to obtain authorization in accordance with paragraph (b) of this subsection.

(b) A hospital-owned ambulance service that is exempt from certificate of need under KRS 216B.020(7) may provide transport services from another health facility to its hospital if authorized as established~~[set-out]~~ in KRS 311A.025(4).

(c)

1. As used in paragraph (b) of this subsection, a hospital is authorized to provide inter-facility transport of a patient if:

a. The hospital contacts by phone at least one (1) ground ambulance provider with jurisdiction in the territory in which the other health facility is located, using contact information from the most recent edition of the agency directory maintained by the Kentucky Board of Emergency Medical Services at the following link (<https://kbems.ky.gov/Legal/Pages/EMS-Directory.aspx>)~~((https://kbems.kctcs.edu/legal/EMS%20Directory.aspx))~~; and

b. The ground ambulance provider:

(i) Declines the hospital's request for patient transport; or

(ii) Is not able to initiate the patient's transport within four (4) hours of receiving the hospital's request.

2. For purposes of this paragraph, a provider initiates transport when it arrives at the hospital to transport the patient.

3. The hospital shall document the ambulance service contacted and the reason for authorization to provide transport from another health facility to its hospital.

(4)

(a) In accordance with KRS 216B.020(12)(a), the provisions of this section and Section 2(3)(e) of this administrative regulation shall expire on July 1, 2026.

(b) In accordance with KRS 216B.020(12)(b), a certificate of need exemption granted to an ambulance service under this section of this administrative regulation shall remain in effect on and after July 1, 2026.

TRICIA STEWARD, Acting Inspector General  
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: June 9, 2025

FILED WITH LRC: June 9, 2025 at 2:55 p.m.

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall, if requested, be held on August 25, 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 August 18, 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 through August 31, 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; email [CHFSregs@ky.gov](mailto:CHFSregs@ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles or Valerie Moore

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes procedures for the nonsubstantive review of certificate of need applications. Nonsubstantive review is an expedited review process granted to certain applications pursuant to KRS 216B.095. This administrative regulation expands upon the types of applications that qualify for nonsubstantive review per the statute.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with the content of the authorizing statutes, specifically KRS 216B.010, 216B.015(18), 216B.040, and 216B.095.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by adding types of certificate of need applications that qualify for nonsubstantive review status, setting forth the procedure for granting nonsubstantive review status, and setting forth the procedure for affected parties to request a hearing to dispute the review status or application.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by adding types of certificate of need applications that qualify for nonsubstantive review status, setting forth the procedure for granting nonsubstantive review status, and setting forth the procedure for affected parties to request a hearing to dispute the review status or application.

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

(a) How the amendment will change this existing administrative regulation: This amendment maintains consistency with the most recent update to the State Health Plan to increase access to pediatric acute care beds, Level II Special Care Neonatal beds, and to grant nonsubstantive review status to certificate of need applications submitted by licensed health facilities.

(b) The necessity of the amendment to this administrative regulation: This amendment is being proposed pursuant to KRS 216B.095(3), which permits the cabinet to grant nonsubstantive review status to a certificate of need application in accordance with circumstances prescribed by the cabinet via administrative regulation. These changes were requested by providers to allow them to add needed healthcare services more quickly and efficiently in response to their patient's changing needs. This amendment is needed to expand access to health services throughout the state, including in rural areas, to enhance immediate access to resources.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to KRS 216B.095(3), which permits the cabinet to grant nonsubstantive review status to a certificate of need application in accordance with circumstances prescribed by the cabinet via administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the statutes by establishing the procedures for review of certificate of need applications granted nonsubstantive review status.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects entities that submit certificate of need applications subject to the nonsubstantive review process. The number of entities that submit certificate of need applications subject to nonsubstantive review varies.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This amendment will require eligible providers that choose to do so to take steps to invest resources to establish a NICU unit in areas of the state that do not have

convenient access to one, therefore reducing travel time for expectant and postpartum mothers.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The certificate of need application filing fee is the same for nonsubstantive review and formal review and is established in a separate administrative regulation, 900 KAR 6:020.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The proposed amendment will help improve access to healthcare services by making it easier to obtain a certificate of need to provide these services. This will increase access to services that are closer to home for many patients, particularly in rural areas of the state.

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

(a) Initially: There are no initial costs for implementation of this amendment.

(b) On a continuing basis: There are no continuing costs for implementation of this amendment on a continuing basis.

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

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

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

(9) TIERING: Is tiering applied? Tiering is used as certificate of need applications are reviewed under a formal review process (900 KAR 6:070) or nonsubstantive review process (this administrative regulation). The list of applications granted nonsubstantive review is being amended to add two (2) new categories.

#### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. This administrative regulation is necessary to comply with the content of the authorizing statutes, specifically KRS 216B.010, 216B.015(18), 216B.040, and 216B.095.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The promulgating agency is the Office of Inspector General within the Cabinet for Health and Family Services. This administrative regulation affects entities that submit certificate of need applications subject to the nonsubstantive review process.

(a) Estimate the following for the first year:

Expenditures: There are no additional costs for implementation of this amendment.

Revenues: Revenue increases would be dependent on how many facilities applied for nonsubstantive review and is not able to be predicted.

Cost Savings: There are no anticipated cost savings as a result of this amendment.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There is no anticipated expenditure, revenue, or cost savings difference from subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): This amendment should have no additional effect on local entities.

(a) Estimate the following for the first year:

Expenditures: There are no additional expenditures anticipated from this administrative regulation

Revenues: No additional revenue is anticipated from this amendment.

Cost Savings: No cost savings are anticipated from this amendment.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? No changes are anticipated as a result of this amendment.

(4) Identify additional regulated entities not listed in questions (2) or (3): This administrative regulation affects entities that submit

certificate of need applications subject to the nonsubstantive review process. The number of entities that submit certificate of need applications subject to nonsubstantive review varies.

(a) Estimate the following for the first year:

Expenditures: The certificate of need application filing fee is the same for nonsubstantive review and formal review and is established in a separate administrative regulation, 900 KAR 6:020. Revenues: No additional revenue is anticipated from this amendment.

Cost Savings: No cost savings are anticipated from this amendment. (b) How will expenditures, revenues, or cost savings differ in subsequent years? No changes are anticipated as a result of this amendment.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The certificate of need application filing fee is the same for nonsubstantive review and formal review and is established in a separate administrative regulation, 900 KAR 6:020.

(b) Methodology and resources used to determine the fiscal impact: The fees for licensure are established in 900 KAR 6:020 fees for licensure.

(6) Explain:

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

(b) The methodology and resources used to reach this conclusion: The fees are the same whether a facility applies for substantive or nonsubstantive review.



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](#).

**COMPILER'S NOTE: 2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency:**

**BOARDS AND COMMISSIONS**  
**Board of Long Term Care Administrators**  
**(New Administrative Regulation)**

**201 KAR 6:071. Continuing education requirements.**

RELATES TO: KRS 216A.090

STATUTORY AUTHORITY: KRS 216A.070(3), 216A.090

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216A.070(3) authorizes the Board of Licensure for Long-term Care Administrators to promulgate administrative regulations necessary for the proper performance of board duties. KRS 216A.090 authorizes the board to promulgate an administrative regulation requiring a licensed long-term care administrator to complete continuing education requirements as a condition of renewal of licensure. This administrative regulation establishes the requirements for continuing education and the methods and standards for the accreditation of continuing education courses.

**Section 1. Definitions.**

(1) "Approved" means recognized by the Kentucky Board of Licensure for Long-Term Care Administrators.

(2) "Continuing education hour" means sixty (60) clock minutes of participation in a continuing educational experience.

(3) "Program" means an organized learning experience planned and evaluated to meet behavioral objectives, including an experience presented in one (1) session or in a series.

(4) "Provider" means an organization approved by the Kentucky Board of Licensure for Long-Term Care Administrators for providing a continuing education program.

(5) "Relevant" means having content applicable to the practice of long term care administration.

**Section 2. Accrual of Continuing Education Hours; Computation of Accrual.**

(1) A minimum of thirty (30) continuing education hours shall be accrued by each person holding licensure during the two (2) year period for renewal.

(2) All continuing education hours shall be in or related to the field of long-term care administration.

(3) More than fifteen (15) continuing education hours shall not be accrued during one (1) calendar day.

**Section 3. Methods of Acquiring Continuing Education Hours.** Continuing education hours applicable to the renewal of the license shall be directly related to the professional growth and development of a long-term care administrator. A continuing education hour shall be earned by completing an educational activity established in this section.

(1) Programs not requiring board review and approval. An educational program shall be considered relevant to the practice of long-term care administration and shall be approved without further review by the board if the program is:

(a) Sponsored or approved by the National Association of Long-Term Care Administrator Boards (NAB) or another board of licensure that is a member of NAB; or

(b) Sponsored by:

1. Leading Age, or affiliated state chapters;
2. The American College of Health Care Administrators, or any

of its affiliated state chapters;

3. The American College of Healthcare Executives;

4. The American Health Care Association, or affiliated state chapters;

5. The American Hospital Association, or affiliated state chapters;

6. The Kentucky Board of Nursing; or

7. The American Medical Directors Association, or affiliated chapters.

(2) Programs requiring board review and approval. A relevant program from one (1) of the following sources shall be approved by the board:

(a) A college course directly related to business administration, economics, marketing, computer science, social services, psychology, gerontology, or health professions including nursing or premedicine, except that a college course established in this paragraph shall not fulfill more than one-half (1/2) of a licensee's continuing education requirement;

(b) A relevant program, including a home study course or in-service training provided by another organization, educational institution, or other service provider approved by the board;

(c) A relevant program or academic course presented by the licensee.

1. A presenter of a relevant program or academic course shall earn full continuing education credit for each contact hour of instruction, not to exceed one-half (1/2) of the continuing education renewal requirements.

2. Credit shall not be issued for repeated instruction of the same course; or

(d) Authoring an article in a relevant, professionally recognized or juried publication.

1. Credit shall be granted for an article that was published within the two (2) year period immediately preceding the renewal date if the licensee has not received credit for another publication during that renewal period.

2. A licensee shall earn one-half (1/2) of the continuing education hours required for a relevant publication.

**Section 4. Procedures for Approval of Continuing Education Programs.** A course that has not been preapproved by the board may be used for continuing education if approval is secured from the board for the course. In order for the board to adequately review this program, the licensee requesting approval shall submit:

(1) A published course or similar description;

(2) Names and qualifications of the instructors;

(3) A copy of the program agenda indicating hours of education, coffee breaks, and lunch breaks;

(4) Number of continuing education hours requested;

(5) Official certificate of completion or college transcript from the sponsoring agency or college;

(6) Application for Continuing Education; and

(7) The fee required by 201 KAR 6:060, Section 7.

**Section 5. Procedures for Preapproval of Continuing Education Sponsors and Programs.**

(1) Sponsor approval.

(a) Any entity seeking to obtain approval of a continuing education program prior to its offering shall apply to the board at least sixty (60) days in advance of the commencement of the program, and shall provide the information required in Section 4 of this administrative regulation.

(b) An applicant shall satisfy the board that the entity seeking this status:

1. Consistently offers programs that meet or exceed all the requirements established in subsection (2) of this section; and
2. Does not exclude any licensee from its programs.

(2) A continuing education activity shall be qualified for approval

if the board finds the activity being presented:

- (a) Is an organized program of learning;
- (b) Pertains to subject matters that integrally relate to the practice of long term care administration;
- (c) Contributes to the professional competency of the licensee; and
- (d) Is conducted by individuals who have relevant educational training or experience.

**Section 6. Responsibilities and Reporting Requirements of Licensees.**

(1) Each licensee shall be responsible for obtaining the required continuing education hours established in Section 2 of this administrative regulation. The licensee shall:

- (a) Identify his or her own continuing education needs;
  - (b) Take the initiative in seeking continuing professional education activities to meet these needs; and
  - (c) Seek ways to integrate new knowledge, skills, and attitudes.
- (2) Each person holding licensure shall:
- (a) Select approved activities by which to earn continuing education hours;
  - (b) Submit to the board, if applicable, a request for continuing education activities requiring approval by the board as established in Section 4 of this administrative regulation;
  - (c) Maintain his or her own records of continuing education hours;
  - (d) At renewal, list the continuing education hours obtained during that licensure renewal period; and
  - (e) At renewal, submit documentation of attendance and participation in the number of continuing education hours required by Section 2 of this administrative regulation and as required by this paragraph.

1. Each person holding licensure shall maintain, for at least a period of two (2) years from the date of renewal, all documentation verifying successful completion of continuing education hours.

2. During the two (2) year licensure renewal period, up to fifteen (15) percent of all licensees shall be required by the board to submit documentation of the completion of the number of continuing education hours, required by Section 2 of this administrative regulation, for the current renewal period.

3. Verification of continuing education hours shall not otherwise be reported to the board.

4. Documentation shall take the form of official documents including:

- a. Transcripts;
  - b. Certificates;
  - c. Affidavits signed by instructors; or
  - d. Receipts for fees paid to the sponsor.
5. Each licensee shall retain copies of the documentation.

**Section 7. Responsibilities and Reporting Requirements of Providers.**

(1) A provider of continuing education not requiring board approval shall be responsible for providing documentation, as established in Section 4 of this administrative regulation, directly to the licensee.

(2) A provider of continuing education requiring board approval shall be responsible for submitting a course offering to the board for review and approval before listing or advertising that offering as approved by the board.

**Section 8. Board to Approve Continuing Education Hours; Appeal if Approval Denied.**

(1) If an application for approval of continuing education hours is denied, the licensee may request reconsideration by the board of its decision.

(2) The request shall be in writing and shall be received by the board within thirty (30) days after the date of the board's decision denying approval of continuing education hours.

(3) An appeal shall be conducted in accordance with KRS Chapter 13B.

**Section 9. Waiver or Extensions of Continuing Education.**

(1) The board may, in an individual case involving medical

disability, illness, or undue hardship, grant a waiver of the minimum continuing education requirements or an extension of time within which to fulfill the requirements or make a required report.

(2) A written request for waiver or extension of time involving medical disability or illness shall be submitted by the person holding a license and shall be accompanied by a verifying document signed by a licensed physician.

(3) A waiver of the minimum continuing education requirements or an extension of time within which to fulfill the continuing education requirements shall be granted by the board for a period of time not to exceed one (1) calendar year.

(4) If the medical disability or illness upon which a waiver or extension has been granted continues beyond the period of the waiver or extension, the person holding licensure shall reapply for the waiver or extension.

**Section 10. Continuing Education Requirements for Reinstatement or Reactivation of Licensure.**

(1) A person requesting reinstatement or reactivation of licensure shall submit evidence of thirty (30) hours of continuing education within the twenty-four (24) month period immediately preceding the date on which the request for reinstatement or reactivation is submitted to the board.

(2) Upon request by a licensee, the board shall permit the licensee to resume practice, with the provision that the licensee shall receive thirty (30) hours continuing education within six (6) months of the date on which the licensee is approved to resume practice.

(3) The continuing education hours received in compliance with this section shall be in addition to the continuing education requirements established in Section 2 of this administrative regulation and shall not be used to comply with the requirements of that section.

**Section 11. Incorporation by Reference.**

(1) "Application for Continuing Education", June 2025, is incorporated by reference.

(2)

(a) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Licensure for Long-Term Care Administrators, Department of Professional Licensing, 500 Mero Street, 2SC32, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.; or

(b) This material may also be obtained on the Board of Licensure for Long-Term Care Administrators website at <https://ltca.ky.gov/>.

DAVID MCKENZIE, Chair

APPROVED BY AGENCY: June 12, 2025

FILED WITH LRC: June 13, 2025 at 10:10 a.m.

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on August 30, 2025 at 10:00 a.m., at 500 Mero Street, PPC Conference Room 259SW, 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 August 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.

**CONTACT PERSON:** Lilly Jean Coiner, Executive Advisor  
Department of Professional Licensing, Office of Legal Services, 500 Mero Street, 2 NC WK#4, phone (502) 262-5065 (office), fax (502) 564-4818, email [Lilly.Coiner@ky.gov](mailto:Lilly.Coiner@ky.gov).

**REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT**

Contact Person: Lilly Coiner

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes continuing education requirements for the renewal of a license.

(b) The necessity of this administrative regulation: This regulation is

necessary to implement the provisions of KRS 2016A.090 which allows the Board to require continuing education.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is in conformity with KRS 216A.070(3) which grants the Board authority to promulgate administrative regulations necessary for the proper enforcement of its duties.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will help licensees understand continuing education requirements.

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

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 720 individuals are licensed by the Board.

(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 individuals listed above must comply with the continuing education requirements to renew their licenses.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The licensees will have a better understanding of the requirements for continuing education.

(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 associated with implementing this administrative regulation.

(b) On a continuing basis: There will be no continuing cost associated with implementing this administrative regulation.

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

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

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

(9) TIERING: Is tiering applied? Tiering is not applied to this administrative regulation because the administrative regulation applies equally to all licensees.

#### FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 216A.090; KRS 216A.070(3).

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: This administrative regulation is not expressly authorized by an act of the General Assembly.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Board of Licensure for Long-Term Care Administrators is the promulgating agency and the only other affected state unit, part or division.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year: None

For subsequent years: None.

2. Revenues:

For the first year: None.

For subsequent years: None.

3. Cost Savings:

For the first year: None.

For subsequent years: None.

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

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year: None

For subsequent years: None.

2. Revenues:

For the first year: None.

For subsequent years: None.

3. Cost Savings:

For the first year: None.

For subsequent years: None.

(5)(a) Identify any affected regulated entities not listed in (3)(a) or

(4)(a): There are no other affected regulated entities not otherwise listed. (b) Estimate the following for each regulated identified in 5(a):

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year: N/A.

For subsequent years: N/A.

2. Revenues:

For the first year: N/A.

For subsequent years: N/A.

3. Cost Savings:

For the first year: N/A.

For subsequent years: N/A.

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation: There is no fiscal impact of this administrative regulation.

(b) Methodology and resources used to reach this conclusion: No methodology and resources were necessary because there is no fiscal impact.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(13): 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: No methodology and resources were necessary because there is no "major economic impact."

#### TOURISM, ARTS AND HERITAGE CABINET Department of Fish and Wildlife Resources (New Administrative Regulation)

#### 301 KAR 3:160. Reciprocal agreements regarding fishing and hunting.

RELATES TO: KRS 150.330, 150.340, 150.440, 150.445, 150.450, 150.470

STATUTORY AUTHORITY: KRS 150.025(1)(h), 150.170(8)

CERTIFICATION STATEMENT: The Kentucky Department of Fish and Wildlife Resources, pursuant to statutory authority to promulgate administrative regulations to carry out the provisions of KRS Chapter 150 as established in KRS 150.025 and as an independent department of state government within the meaning of KRS Chapter 12 as established in KRS 150.021(1), promulgated by the Commissioner with approval of the Commission in accordance with KRS 150.010(1), does hereby certify this administrative regulation is promulgated in compliance with Section 8 of 2025 RS HB6.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1)(h) authorizes the department to promulgate administrative regulations necessary to carry out the purposes of the chapter. KRS 150.170(8) authorizes the department to enter into reciprocal agreements with

other states so that a person holding a resident or nonresident fishing license, or a resident or nonresident hunting license issued by the state shall be permitted to perform the acts authorized by the license upon certain contiguous waters and land areas adjacent to the common boundaries. This administrative regulation identifies all current reciprocal agreements established between Kentucky and bordering states.

#### Section 1. Fishing Agreements.

(1) Persons fishing in Dale Hollow Lake, the Big South Fork portion of the Cumberland River, and a portion of the Kentucky Lake shall comply with the sport fishing requirements in the reciprocal sport fishing license agreement with the Tennessee Wildlife Resources Agency incorporated by reference in this administrative regulation.

(2) Persons fishing in the Mississippi River shall comply with the sport fishing requirements in the reciprocal sport fishing license agreement with the Missouri Department of Conservation incorporated by reference in this administrative regulation.

(3) Persons fishing in the Ohio River bordering Illinois or Indiana shall comply with both the sport and commercial fishing requirements in the reciprocal fishing license agreements with the Illinois and Indiana Departments of Natural Resources incorporated by reference in this administrative regulation.

(4) Persons fishing in the Ohio River bordering Ohio shall comply with the sport fishing requirements in the reciprocal sport fishing license agreement with the Ohio Department of Natural Resources incorporated by reference in this administrative regulation.

(5) Persons fishing in the Big Sandy and Tug Fork rivers shall comply with the sport fishing requirements in the reciprocal agreement with the West Virginia Division of Natural Resources incorporated by reference in this administrative regulation.

#### Section 2. Hunting Agreements.

(1) Persons hunting migratory birds on the Ohio River bordering Indiana or Ohio shall comply with the reciprocal hunting license agreements with the Indiana and Ohio Departments of Natural Resources incorporated by reference in the administrative regulation.

(2) Persons hunting on the Big Sandy and Tug Fork rivers shall comply with the requirements in the reciprocal agreement with the West Virginia Division of Natural Resources incorporated by reference in this administrative regulation.

#### Section 3. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Reciprocal Sport Fishing License Agreement between Kentucky Department of Fish and Wildlife Resources and Tennessee Wildlife Resources Agency", 2025 Edition;

(b) "Reciprocal Sport Fishing License Agreement between Kentucky Department of Fish and Wildlife Resources and Missouri Department of Conservation", 2025 Edition;

(c) "Reciprocal Fishing License Agreement between Kentucky Department of Fish and Wildlife Resources and Illinois Department of Natural Resources", 2025 Edition;

(d) "Reciprocal Fishing License Agreement between Kentucky Department of Fish and Wildlife Resources and Indiana Department of Natural Resources", 2025 Edition;

(e) "Reciprocal Sport Fishing License Agreement between Kentucky Department of Fish and Wildlife Resources and Ohio Department of Natural Resources", 2025 Edition;

(f) "Reciprocal Agreement between Kentucky Department of Fish and Wildlife Resources and West Virginia Division of Natural Resources", 2025 Edition;

(g) "Reciprocal Hunting License Agreement between Kentucky Department of Fish and Wildlife Resources and Indiana Department of Natural Resources", 2025 Edition; and

(h) "Reciprocal Hunting License Agreement between Kentucky Department of Fish and Wildlife Resources and Ohio Department of Natural Resources", 2025 Edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Fish and Wildlife Resources, 1 Sportsman's Lane, Frankfort, Kentucky 40601,

Monday through Friday, 8 a.m. to 4:30 p.m. or online at:

(a) <https://fw.ky.gov/Documents/TN-KY-Reciprocal-Fish-License-Agreement.pdf> for the "Reciprocal Sport Fishing License Agreement between Kentucky Department of Fish and Wildlife Resources and Tennessee Wildlife Resources Agency";

(b) <https://fw.ky.gov/Documents/MO-KY-Reciprocal-Fish-License-Agreement.pdf> for the "Reciprocal Sport Fishing License Agreement between Kentucky Department of Fish and Wildlife Resources and Missouri Department of Conservation";

(c) <https://fw.ky.gov/Documents/IL-KY-Reciprocal-Fish-License-Agreement.pdf> for the "Reciprocal Fishing License Agreement between Kentucky Department of Fish and Wildlife Resources and Illinois Department of Natural Resources";

(d) <https://fw.ky.gov/Documents/IN-KY-Reciprocal-Fish-License-Agreement.pdf> for the "Reciprocal Fishing License Agreement between Kentucky Department of Fish and Wildlife Resources and Indiana Department of Natural Resources";

(e) <https://fw.ky.gov/Documents/OH-KY-Reciprocal-Fish-License-Agreement.pdf> for the "Reciprocal Sport Fishing License Agreement between Kentucky Department of Fish and Wildlife Resources and Ohio Department of Natural Resources";

(f) <https://fw.ky.gov/Documents/WV-KY-Reciprocal-Fish-Hunt-License-Agreement.pdf> for the "Reciprocal Agreement between Kentucky Department of Fish and Wildlife Resources and West Virginia Division of Natural Resources";

(g) <https://fw.ky.gov/Documents/IN-KY-Reciprocal-Hunt-License-Agreement.pdf> for the "Reciprocal Hunting License Agreement between Kentucky Department of Fish and Wildlife Resources and Indiana Department of Natural Resources"; and

(h) <https://fw.ky.gov/Documents/OH-KY-Reciprocal-Hunt-License-Agreement.pdf> for the "Reciprocal Hunting License Agreement between Kentucky Department of Fish and Wildlife Resources and Ohio Department of Natural Resources".

RICH STORM, Commissioner

APPROVED BY AGENCY: June 11, 2025

FILED WITH LRC: June 12, 2025 at 11:45 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 28, 2025, at 10:00 a.m., at KDFWR Administration Building, 1 Sportsman's Lane, Frankfort, KY 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 August 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.

CONTACT PERSON: Jenny Gilbert, Legislative Liaison, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman's Lane, phone (502) 564-3400, fax (502) 564-0506, email [fwpubliccomments@ky.gov](mailto: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 identifies all current reciprocal agreements established between Kentucky and bordering states pertaining to hunting and fishing and establishes procedures for applying the administrative regulations of Kentucky and the states bordering Kentucky who share common waters.

(b) The necessity of this administrative regulation: To allow for effective management and enforcement of bordering waters.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025(1)(h) authorizes the department to promulgate administrative regulations necessary to carry out the purposes of the chapter. KRS 150.170(8) authorizes the department to enter into reciprocal agreements with other states so that a person

holding a resident or nonresident fishing license, or a resident or nonresident hunting license issued by the state shall be permitted to perform the acts authorized by the license upon certain contiguous waters and land areas adjacent to the common boundaries.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the administration of the statutes by describing those reciprocal agreements which have been established upon waters which form common boundaries between Kentucky and bordering states.

(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: Due to a previous administrative regulation expiring (301 KAR 1:220), this new regulation is being proposed to allow for updated fishing and hunting reciprocal agreements to become effective. This regulation also fits better under Chapter 3 of Title 301.

(b) The necessity of the amendment to this administrative regulation: This is a new regulation, replacing a previous regulation that expired.

(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: All individuals fishing and/or hunting on bordering waters listed in these reciprocal agreements between Kentucky and the states of Tennessee, Missouri, Illinois, Indiana, Ohio, and West Virginia will be affected by this regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Individuals of bordering states fishing and/or hunting on the waters listed in the reciprocal agreements will need to follow the requirements of the agreements and possess the appropriate licenses and permits.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Individuals of bordering states fishing and/or hunting on the reciprocal waters will only need to obtain a single license from their state instead of obtaining a resident license from their state and a non-resident license from the bordering state.

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

(a) Initially: This administrative regulation will result in no initial change in administrative cost to the Department.

(b) On a continuing basis: There will be no additional cost on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding is the State Game and Fish Fund.

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No new fees will be established.

(9) TIERING: Is tiering applied? Tiering is not applied as all individuals of the bordering states who are fishing and/or hunting on these reciprocal waters will follow 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: KRS 150.025(1)(h) authorizes the department to promulgate administrative regulations necessary to carry out the

purposes of the chapter. KRS 150.170(8) authorizes the department to enter into reciprocal agreements with other states so that a person holding a resident or nonresident fishing license, or a resident or nonresident hunting license issued by the state shall be permitted to perform the acts authorized by the license upon certain contiguous waters and land areas adjacent to the common boundaries.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: This amendment is not expressly authorized by an act of the General Assembly but is promulgated pursuant to KRS 150.025.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The promulgating agency is the Kentucky Department of Fish and Wildlife Resources. No other Kentucky state agencies are affected.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year: This regulation will not result in any additional expenditures for the department.

For subsequent years: This regulation will not result in any additional expenditures for the department.

2. Revenues:

For the first year: This regulation will not result in any change in revenues for the department.

For subsequent years: This regulation will not result in any change in revenues for the department.

3. Cost Savings:

For the first year: This regulation will not result in any cost savings for the department.

For subsequent years: This regulation will not result in any cost savings for the department.

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No local entities should be affected by this regulation.

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year: NA

For subsequent years: NA

2. Revenues:

For the first year: NA

For subsequent years: NA

3. Cost Savings:

For the first year: NA

For subsequent years: NA

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No other entities should be affected by this regulation.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year: NA

For subsequent years: NA

2. Revenues:

For the first year: NA

For subsequent years: NA

3. Cost Savings:

For the first year: NA

For subsequent years: NA

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

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

(b) Methodology and resources used to reach this conclusion: This regulation does not increase any fees or otherwise create a financial burden to state or local government agencies or to regulated entities.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(13): This regulation will not have a major economic impact.

(b) The methodology and resources used to reach this conclusion: This regulation does not increase any fees or otherwise create a financial burden to state or local government agencies or to regulated entities.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of June 10, 2025

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of June 10, 2025

**Call to Order and Roll Call**

The June meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, June 10, 2025, at 1:00 p.m. in Room 149 of the Capitol Annex. Senator Stephen West, Co-Chair, called the meeting to order, and roll call was taken.

**Present were:**

**Members:** Senator Stephen West, Co-Chair; Senators Julie Raque Adams, Mike Wilson, and David Yates; and Representatives Randy Bridges, Deanna Gordon, and Mary Lou Marzian.

**LRC Staff:** Sarah Amburgey, Stacy Auterson, Laura Begin, Emily Caudill, Emily Harkenrider, Anna Latek, Callie Lewis, and Carrie Nichols.

**Guests:** Jessica Bowman, Christopher Thacker, Kentucky Opioid Abatement Advisory Commission; Jamie Caldwell, Rosemary Holbrook, Personnel Cabinet; Kelly Jenkins, Board of Nursing; Mark Brengelman, Marc Kelly, Board of Social Work; Mark Brengelman, Board of Examiners of Psychology; Bruce Roberts, John Wood, Kentucky Fire Commission; Jeb Pinney, Public Service Commission; Dr. Leslie Hoffmann, Jonathan Scott, Cabinet for Health and Family Services; Nikki Boyd, March of Dimes; Brittany Elam, Kentucky Voices for Health; Jackie McGranahan, Kate Miller, American Civil Liberties Union of Kentucky; and Michael Frazier, Kentucky Student Rights Coalition.

**Administrative Regulations Reviewed by this Subcommittee**

**OFFICE OF THE ATTORNEY GENERAL: Kentucky Opioid Abatement Advisory Commission**

040 KAR 009:020. Local government application procedure. Jessica Bowman, executive advisor, and Christopher Thacker, general counsel, represented the commission.

**PERSONNEL CABINET: Classified**

101 KAR 002:034. Classified compensation administrative regulations. Jamie Caldwell, commissioner, Department of Human Resources Administration, and Rosemary Holbrook, assistant general counsel, represented the cabinet. Nikki Boyd, director, Maternal and Infant Health Initiatives, March of Dimes; Brittany Elam, policy specialist, Kentucky Voices for Health; and Jackie McGranahan, senior policy strategist, and Kate Miller, advocacy director, American Civil Liberties Union of Kentucky, appeared in opposition to 101 KAR 002:102 and 101 KAR 003:015.

In response to questions by Co-Chair West, Ms. Holbrook stated that the current amount of annual leave time allotted to new employees was 12 days per year, with employees having longevity allotted up to 24 days per year. Sick leave was allotted one day per month, up to 12 days per year, regardless of seniority. 101 KAR 002:102 and 101 KAR 003:015 would provide six additional weeks of leave time.

In response to a question by Co-Chair West, Ms. Boyd stated that the March of Dimes supported amending 101 KAR 002:102 and 101 KAR 003:015 to further expand paid leave by allowing the six additional weeks of leave time to be used annually, rather than limited to once per 10-year period. Studies showed that additional paid leave time resulted in reduced turnover, increased productivity, increased workforce participation by women, health benefits, and increased job satisfaction.

In response to a question by Co-Chair West, Ms. Elam stated that Kentucky Voices for Health supported amending 101 KAR 002:102 and 101 KAR 003:015 to further expand paid leave by allowing the six additional weeks of leave time to be used more frequently than limited to once per 10-year period. To support this proposal, Kentucky Voices for Health submitted surveys and

testimony from applicable employees. Kentucky ranked 37<sup>th</sup> in the nation regarding family and medical leave benefits. Paid parental leave and medical leave were both important but different. Kentucky should align paid leave with the Family Medical Leave Act and federal standards.

In response to a question by Co-Chair West, Ms. McGranahan stated that the American Civil Liberties Union of Kentucky supported amending 101 KAR 002:102 and 101 KAR 003:015 to further expand paid leave by allowing the six additional weeks of leave time to be used annually, rather than limited to once per 10-year period. The ACLU also supported increasing the additional paid leave time to 12 weeks, rather than six.

In response to a question by Representative Marzian, Ms. Boyd stated that Kentucky had one of the highest rates of infant mortality, pre-term birth, maternal morbidity, and maternal mortality. Both mental and physical health were important for caretakers and children.

In response to questions by Senator Yates, Ms. Elam stated that the median number of weeks of paid leave nationwide ranged anywhere from four to 12 weeks. Ms. Miller stated that all of the surrounding states, with the exception of West Virginia, offered employees a minimum of six weeks of paid leave. Ohio recently increased the maximum paid leave availability for public employees to 12 weeks. Some private-sector employees received up to six months of paid leave. Ms. Miller was unaware if any other public or private employers required a 10-year waiting period between the use of paid leave.

In response to a question by Co-Chair West, Ms. Holbrook stated that employees had the option to split the six weeks of leave during the 10-year period.

In response to a question by Senator Raque Adams, Ms. Holbrook stated that the cabinet's intention was for the additional paid leave to supplement the existing leave structure, which already provided sick and annual leave days. Ms. Caldwell stated that both annual and sick leave accruals could be rolled over from year to year.

In response to a question from Co-Chair West, Ms. Holbrook stated that up to 30 days may be rolled over from one year to the next for new employees. Employees with more than 20 years of service could have up to 60 roll over days. Ms. Caldwell stated that any accrued annual leave over those maximums was converted into sick leave at the end of each year.

In response to questions by Senator Yates, Ms. Holbrook stated that this was a new program and that the cabinet welcomed feedback and would consider concerns and suggestions in the future as this initiative evolved.

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 2 through 7 and 9 through 11 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

101 KAR 002:102. Classified leave general requirements.

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 8, 10, 12, and 13 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**Unclassified**

101 KAR 003:015. Leave requirements for unclassified service.

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 8, 10, 12, and 13 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the

amendments were approved.

101 KAR 003:045. Compensation plan and pay incentives for unclassified service.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 3 through 6 and 8 through 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### **BOARDS AND COMMISSIONS: Board of Nursing**

201 KAR 020:240. Fees for applications and services. Kelly Jenkins, executive director, represented the board.

In response to a question by Co-Chair West, Ms. Jenkins stated that the board was able to reduce fees from \$500 to \$165 now that the initial program startup costs were met and because of the lowered cost of managing the database for licensed certified professional midwives.

201 KAR 020:600. Standards for training programs for licensed certified professional midwives.

A motion was made and seconded to approve the following amendments: to amend Sections 6, 7, and 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 020:620. Licensing requirements for licensed certified professional midwives.

#### **Board of Social Work**

201 KAR 023:012E. Social Work Licensure Compact. Mark Brengelman, counsel, and Marc Kelly, executive director, represented the board.

#### **Board of Examiners of Psychology**

201 KAR 026:320. Per diem and reimbursement. Mark Brengelman, counsel, represented the board.

#### **KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM: Kentucky Fire Commission**

739 KAR 002:050. Volunteer fire department aid. Bruce Roberts, executive director, and John Wood, general counsel, represented the commission.

739 KAR 002:140. Fire department reporting requirements.

#### **ENERGY AND ENVIRONMENT CABINET: Public Service Commission: Utilities**

807 KAR 005:015E. Access and attachments to utility poles and facilities. Jeb Pinney, executive advisor, represented the commission.

#### **CABINET FOR HEALTH AND FAMILY SERVICES: Department for Medicaid Services**

907 KAR 001:039. Hearing program reimbursement provisions and requirements. Dr. Leslie Hoffmann, deputy commissioner, and Jonathan Scott, legislative and regulatory liaison, represented the department.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 001:835. Michelle P. waiver services and reimbursement.

#### **Payments and Services**

907 KAR 003:100. Reimbursement for acquired brain injury waiver services.

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 3 and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 003:210. Acquired brain injury long-term care waiver services and reimbursement.

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 11 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### **Certified Provider Requirements**

907 KAR 007:015. Reimbursement for home and community based waiver services version 2.

A motion was made and seconded to approve the following amendments: to amend Sections 2 through 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### **Hospital Service Coverage and Reimbursement**

907 KAR 010:840. Hospital Rate Improvement Program.

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 and 2 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 4 to: (a) clarify that the quality metrics that hospitals are required meet to receive the supplemental payment are established in federal law; and (b) delete an example. Without objection, and with agreement of the agency, the amendments were approved.

#### **Home and Community Based Services**

907 KAR 016:005. Definitions for 1915(i) Recovery, Independence, Support & Engagement (RISE) Initiative.

A motion was made and seconded to approve the following amendments: to amend the TITLE; the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs; and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 016:010. 1915(i) RISE Initiative Home and Community-Based Services (HCBS); participant eligibility.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 016:015. Recovery, Independence, Support & Engagement (RISE) Initiative 1915(i) Home and Community-Based Services (HCBS); provider participation and enrollment.

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 5 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.

907 KAR 016:020. 1915(i) Home and Community-Based Services (HCBS) Recovery, Independence, Support & Engagement (RISE) Initiative; covered services.

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 and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

## VOLUME 52, NUMBER 1 – JULY 1, 2025

907 KAR 016:025. Recovery, Independence, Support & Engagement Initiative (RISE) Program reimbursement provisions and requirements.

A motion was made and seconded to approve the following amendments: to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Section 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**The following administrative regulations were deferred or removed from the June 10, 2025, subcommittee agenda:**

**OFFICE OF THE GOVERNOR: Department of Veterans' Affairs: State Veteran's Nursing Home**

017 KAR 003:042. Eligibility requirements to state veterans' nursing homes.

**BOARDS AND COMMISSIONS: Board of Pharmacy**

201 KAR 002:045. Technicians.

201 KAR 002:165. Transfer of prescription information.

201 KAR 002:416. Pharmacy annual reporting of cost of dispensing data.

**PUBLIC PROTECTION CABINET: Department of Insurance: Agents, Consultants, Solicitors, and Adjusters**

806 KAR 009:360. Pharmacy Benefit Manager License.

**ENERGY AND ENVIRONMENT CABINET: Public Service Commission: Utilities**

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

**The subcommittee adjourned at 1:50 p.m. The next meeting of this subcommittee was tentatively scheduled for July 8, 2025, at 1 p.m. in Room 149 of the Capitol 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 EDUCATION**  
**Meeting of June 3, 2025**

The Interim Joint Committee on Education met on June 3, 2025 and a quorum was present. The following administrative regulations were available for consideration having been referred to the Committee on April 2, 2025, pursuant to KRS 13A.290(6):

704 KAR 3:315

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(8) and 13A.030(2):

none

**The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.**

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

none

**The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.**

The following administrative regulations were deferred pursuant to KRS 13A.300:

none

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the June 3, 2025 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

**INTERIM JOINT COMMITTEE ON TRANSPORTATION**  
**Meeting of June 3, 2025**

The Interim Joint Committee on Transportation met on June 3, 2025 and a quorum was present. The following administrative regulations were available for consideration having been referred to the Committee on April 2, 2025, pursuant to KRS 13A.290(6):

601 KAR 012:120E

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(8) and 13A.030(2):

none

**The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.**

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

none

**The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.**

The following administrative regulations were deferred pursuant to

KRS 13A.300:

none

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the June 3, 2025 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

**INTERIM JOINT COMMITTEE ON TRANSPORTATION**  
**Meeting of June 3, 2025**

The Interim Joint Committee on Transportation met on June 3, 2025 and a quorum was present. The following administrative regulations were available for consideration having been referred to the Committee on May 7, 2025, pursuant to KRS 13A.290(6):

601 KAR 012:120

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(8) and 13A.030(2):

none

**The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.**

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

**The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.**

The following administrative regulations were deferred pursuant to KRS 13A.300:

none

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the June 3, 2025 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

**INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENERGY**  
**Meeting of June 18, 2025**

The Interim Joint Committee on Natural Resources and Energy met on June 18, 2025, and a quorum was present. The following administrative regulations were available for consideration having been referred to the Committee on April 2, 2025, and May 7, 2025, pursuant to KRS 13A.290(6):

301 KAR 001:201

301 KAR 005:022

301 KAR 002:300

301 KAR 002:172

301 KAR 002:132

The following administrative regulations were found to be deficient

**VOLUME 52, NUMBER 1 – JULY 1, 2025**

pursuant to KRS 13A.290(8) and 13A.030(2):

none

**The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.**

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

none

**The wording of the amendment of each such administrative**

**regulation is attached to and made a part of this memorandum.**

The following administrative regulations were deferred pursuant to KRS 13A.300:

none

Committee activity in regard to review of the above-referenced administrative regulation is reflected in the minutes of the June 18, 2025, meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

## CUMULATIVE SUPPLEMENT

Unless otherwise noted, information contained in these indexes relates only to administrative regulations printed in this, the 52<sup>nd</sup> year of the *Administrative Register of Kentucky*, from July 2025 through June 2026.

### Locator Index - Effective Dates

A – 2

Lists all administrative regulations published or continuing through the KRS Chapter 13A review process during this Register year. It also lists the page number on which each regulation is published, the effective date of the regulation after it has completed the review process, and other actions that may affect the regulation.

NOTE: Regulations listed with a “51 Ky.R.” or “52 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

A – 5

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

A – 7

A list of administrative regulations for which certification letters have been filed pursuant to KRS 13A.3104 during this *Register* year.

### Technical Amendment Index

A – 10

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

A – 11

A general index of administrative regulations published during this *Register* year, and is mainly broken down by agency.

## LOCATOR INDEX - EFFECTIVE DATES

Administrative regulations published in previous Register years may appear in this index if a regulation had not completed the KRS Chapter 13A review process by the beginning of this *Register* year. 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 the 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.

201 KAR 002:416E	51 Ky.R. 1359	12-17-2024
201 KAR 028:240E	52 Ky.R. 5	6-13-2025
201 KAR 017:120E	51 Ky.R. 1237	11-26-2024
As Amended	1643	2-10-2025
Replaced	1775	6-18-2025
201 KAR 023:012E	51 Ky.R. 1838	4-15-2025
201 KAR 036:100E	51 Ky.R. 1238	11-26-2024
Am Comments	1764	3-10-2025
Replaced	1776	6-18-2025
307 KAR 001:070E	51 Ky.R. 1927	5-15-2025
601 KAR 012:120E	51 Ky.R. 1240	12-6-2024
Am Comments	1764	3-10-2025
Replaced	1850	6-3-2025
803 KAR 002:320E	51 Ky.R. 1244	11-19-2024
803 KAR 002:404E	52 Ky.R. 7	6-12-2025
807 KAR 005:015E	51 Ky.R. 1751	2-25-2025
900 KAR 005:020E	52 Ky.R. 9	6-9-2025
900 KAR 006:075E	52 Ky.R. 11	6-9-2025
907 KAR 001:595E	51 Ky.R. 1361	12-23-2024
907 KAR 001:835E	51 Ky.R. 1365	12-23-2024
907 KAR 003:100E	51 Ky.R. 1379	12-23-2024
907 KAR 003:210E	51 Ky.R. 1382	12-23-2024
907 KAR 007:015E	51 Ky.R. 1401	12-23-2024
907 KAR 010:840E	51 Ky.R. 1759	2-24-2025
As Amended	1931	5-13-2025
907 KAR 012:020E	51 Ky.R. 1405	12-23-2024
907 KAR 020:005E	51 Ky.R. 1409	12-23-2024
922 KAR 001:360E	51 Ky.R. 1636	1-22-2025
Am Comments	1840	4-14-2025
Replaced	1946	6-25-2025

### ORDINARY ADMINISTRATIVE REGULATIONS

012 KAR 001:134	51 Ky.R. 1907	
012 KAR 001:144	51 Ky.R. 1908	
012 KAR 001:149	51 Ky.R. 1909	
012 KAR 001:164	51 Ky.R. 1910	
017 KAR 001:030		
Amended	51 Ky.R. 1490	
As Amended	1845	
017 KAR 003:042	51 Ky.R. 1825	
Am Comments	52 Ky.R. 82	
030 KAR 002:010		
Repealed	51 Ky.R. 1644	6-3-2025
030 KAR 002:011(r)	51 Ky.R. 1222	
As Amended	1644	6-3-2025

040 KAR 005:010		
Amended	51 Ky.R. 1187	
As Amended	1644	6-3-2025
040 KAR 009:010		
Amended	51 Ky.R. 1699	
As Amended	1933	
040 KAR 009:020		
Amended	51 Ky.R. 1701	
101 KAR 001:325		
Amended	51 Ky.R. 1703	
101 KAR 002:034		
Amended	51 Ky.R. 1492	
As Amended	52 Ky.R. 17	
101 KAR 002:102		
Amended	51 Ky.R. 1498	
As Amended	52 Ky.R. 22	
101 KAR 003:015		
Amended	51 Ky.R. 1505	
As Amended	52 Ky.R. 27	
101 KAR 003:045		
Amended	51 Ky.R. 1511	
As Amended	52 Ky.R. 32	
105 KAR 001:200		
Amended	51 Ky.R. 1864	
105 KAR 001:202	51 Ky.R. 1913	
105 KAR 001:451		
Amended	51 Ky.R. 1191	
As Amended	1767	7-1-2025
201 KAR 002:045		
Amended	51 Ky.R. 1799	
201 KAR 002:165		
Amended	51 Ky.R. 1801	
201 KAR 002:416	51 Ky.R. 1611	
Reprint	1633	
Am Comments	1861	
201 KAR 002:480		
Amended	51 Ky.R. 1869	
201 KAR 005:010		
Amended	51 Ky.R. 712	
As Amended	1846	
201 KAR 006:030		
Amended	52 Ky.R. 84	
201 KAR 006:071	52 Ky.R. 125	
201 KAR 009:270		
Amended	51 Ky.R. 1872	
201 KAR 012:010		
Amended	51 Ky.R. 1876	
201 KAR 012:030		
Amended	51 Ky.R. 1878	
201 KAR 012:060		
Amended	51 Ky.R. 1882	
201 KAR 012:082		
Amended	51 Ky.R. 1884	
201 KAR 012:100		
Amended	51 Ky.R. 1889	
201 KAR 012:190		
Amended	51 Ky.R. 1892	
201 KAR 012:260		
Amended	51 Ky.R. 1894	
201 KAR 012:280		
Amended	51 Ky.R. 1896	
201 KAR 012:290		
Amended	51 Ky.R. 1898	
201 KAR 016:510		
Amended	51 Ky.R. 972	

# LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	46 Ky.R. Page No.	Effective Date	Regulation Number	46 Ky.R. Page No.	Effective Date
Am Comments	1664	7-1-2025	301 KAR 001:201		
201 KAR 016:513	51 Ky.R. 1012		Amended	51 Ky.R. 1528	6-18-2025
Am Comments	1667	7-1-2025	301 KAR 002:031(r)	51 Ky.R. 1969	
201 KAR 016:515	51 Ky.R. 1014		301 KAR 002:041		
Am Comments	1669	7-1-2025	Amended	51 Ky.R. 1196	
201 KAR 016:517	51 Ky.R. 1016		As Amended	1647	
Am Comments	1671	7-1-2025	301 KAR 002:132		
201 KAR 016:730	51 Ky.R. 1018		Amended	51 Ky.R. 1306	
Am Comments	1673	7-1-2025	As Amended	1777	6-18-2025
201 KAR 016:731	51 Ky.R. 1020		301 KAR 002:172		
Am Comments	1675	7-1-2025	Amended	51 Ky.R. 1310	6-18-2025
201 KAR 016:732	51 Ky.R. 1022		301 KAR 002:221		
Am Comments	1676	7-1-2025	Amended	51 Ky.R. 1955	
201 KAR 016:735	51 Ky.R. 1024		301 KAR 002:300		
Am Comments	1679	7-1-2025	Amended	51 Ky.R. 1314	6-18-2025
201 KAR 016:737	51 Ky.R. 1026		301 KAR 003:001	51 Ky.R. 1970	
Am Comments	1681	7-1-2025	301 KAR 003:010		
201 KAR 016:762	51 Ky.R. 1028		Amended	51 Ky.R. 1957	
Am Comments	1683	7-1-2025	301 KAR 003:140	51 Ky.R. 1973	
201 KAR 016:765	51 Ky.R. 1031		301 KAR 003:160	52 Ky.R. 127	
Am Comments	1685		301 KAR 004:120	51 Ky.R. 1974	
As Amended	1770	7-1-2025	301 KAR 005:022		
201 KAR 016:767	51 Ky.R. 1033		Amended	1317	
Am Comments	1688		As Amended	1780	6-18-2025
As Amended	1772	7-1-2025	301 KAR 006:006(r)	51 Ky.R. 1978	
201 KAR 016:772	51 Ky.R. 1035		401 KAR 047:110		
Am Comments	1690	7-1-2025	Amended	51 Ky.R. 773	
201 KAR 016:775	51 Ky.R. 1037		Am Comments	1483	
Am Comments	1692		As Amended	1650	
As Amended	1773	7-1-2025	401 KAR 048:320		
201 KAR 016:777	51 Ky.R. 1040		Amended	51 Ky.R. 777	
Am Comments	1694		As Amended	1652	
As Amended	1774	7-1-2025	502 KAR 012:010		
201 KAR 017:120	51 Ky.R. 1342		Amended	51 Ky.R. 1204	
As Amended	1775	6-18-2025	As Amended	1654	6-3-2025
201 KAR 020:215			601 KAR 012:120	51 Ky.R. 1343	
Amended	51 Ky.R. 1521		As Amended	1850	6-3-2025
201 KAR 020:240			701 KAR 005:055		
Amended	51 Ky.R. 1803		Amended	51 Ky.R. 1706	
201 KAR 020:600			As Amended	1934	
Amended	51 Ky.R. 1805		702 KAR 005:130		
As Amended	52 Ky.R. 36		Amended	52 Ky.R. 96	
201 KAR 020:620			702 KAR 007:065		
Amended	51 Ky.R. 1807		Amended	52 Ky.R. 99	
201 KAR 023:012	51 Ky.R. 1914		704 KAR 003:315	51 Ky.R. 1346	
201 KAR 023:025	51 Ky.R. 1915		As Amended	1782	6-3-2025
201 KAR 023:075			704 KAR 003:535		
Amended	51 Ky.R. 1901		Amended	51 Ky.R. 567	
201 KAR 026:320	51 Ky.R. 1826		704 KAR 004:010		
201 KAR 028:240			Amended	52 Ky.R. 104	
Amended	52 Ky.R. 86		704 KAR 008:030		
201 KAR 031:010			Amended	52 Ky.R. 106	
Amended	51 Ky.R. 1952		704 KAR 008:050		
201 KAR 036:050			Amended	52 Ky.R. 108	
Amended	51 Ky.R. 975		704 KAR 008:080		
Am Comments	1696		Amended	52 Ky.R. 110	
As Amended	1775	6-18-2025	739 KAR 002:050		
201 KAR 036:100			Amended	51 Ky.R. 1809	
Amendment	51 Ky.R. 1305		739 KAR 002:140		
As Amended	1776	6-18-2025	Amended	51 Ky.R. 1810	
202 KAR 007:410			802 KAR 001:010		
Amended	51 Ky.R. 1524		Amended	51 Ky.R. 1534	
As Amended	1847		As Amended	1934	
202 KAR 007:501			802 KAR 002:010		
Amended	52 Ky.R. 87		Amended	51 Ky.R. 1537	
202 KAR 007:5			As Amended	1936	
Amended	52 Ky.R. 90		802 KAR 003:010		
202 KAR 007:5			Amended	51 Ky.R. 1541	
Amended	52 Ky.R. 94		As Amended	1939	
301 KAR 001:017(r)	51 Ky.R. 1968		802 KAR 003:020		

# LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	46 Ky.R. Page No.	Effective Date	Regulation Number	46 Ky.R. Page No.	Effective Date
Amended	51 Ky.R. 1544		907 KAR 010:840		
As Amended	1941		Amended	51 Ky.R. 1821	
802 KAR 003:030	51 Ky.R. 1613		As Amended	52 Ky.R. 59	
As Amended	1942		907 KAR 012:020		
802 KAR 003:040	51 Ky.R. 1616		Amended	51 Ky.R. 1601	
As Amended	1944		As Amended	1854	
802 KAR 003:050	51 Ky.R. 1618		907 KAR 016:005	51 Ky.R. 1714	
As Amended	1944		As Amended	52 Ky.R. 61	
802 KAR 003:060	51 Ky.R. 1620		907 KAR 016:010	51 Ky.R. 1717	
As Amended	1945		As Amended	52 Ky.R. 63	
803 KAR 002:300			907 KAR 016:015	51 Ky.R. 1719	
Amended	51 Ky.R. 1320	7-1-2025	As Amended	52 Ky.R. 64	
803 KAR 002:320			907 KAR 016:020	51 Ky.R. 1729	
Amended	51 Ky.R. 1322		As Amended	52 Ky.R. 72	
As Amended	1783	7-1-2025	907 KAR 016:025	51 Ky.R. 1739	
803 KAR 002:404			As Amended	52 Ky.R. 81	
Amended	52 Ky.R. 113		907 KAR 020:005		
804 KAR 004:212			Amended	51 Ky.R. 1605	
Amended	51 Ky.R. 1547		As Amended	1856	
As Amended	1852		920 KAR 001:090		
804 KAR 004:251			Amended	51 Ky.R. 1332	7-1-2025
Amended	51 Ky.R. 1549		922 KAR 001:360		
As Amended	1853		Amended	51 Ky.R. 1707	
804 KAR 004:400			As Amended	1946	6-25-2025
Amended	51 Ky.R. 1550		922 KAR 002:020		
804 KAR 004:410			Amended	51 Ky.R. 1336	
Amended	51 Ky.R. 1552		As Amended	1793	6-25-2025
As Amended	1853		922 KAR 005:120		
804 KAR 004:415			Amendment	51 Ky.R. 593	
Amended	51 Ky.R. 1554		Am Comments	1184	
As Amended	1946				
806 KAR 009:360					
Amended	51 Ky.R. 1207				
807 KAR 005:015					
Amended	51 Ky.R. 1813				
810 KAR 002:070					
Amended	51 Ky.R. 1209				
As Amended	1787	7-1-2025			
810 KAR 003:020					
Amended	51 Ky.R. 1961				
810 KAR 004:030					
Amended	51 Ky.R. 1214				
As Amended	1791	7-1-2025			
810 KAR 006:001					
Amended	52 Ky.R. 115				
900 KAR 005:020					
Amended	52 Ky.R. 119				
900 KAR 006:075					
Amended	52 Ky.R. 120				
902 KAR 004:105	51 Ky.R. 1050				
Am Comments	1487	6-3-2025			
907 KAR 001:039					
Amended	51 Ky.R. 1555				
As Amended	52 Ky.R. 37				
907 KAR 001:595					
Amended	51 Ky.R. 1558				
907 KAR 001:835					
Amended	51 Ky.R. 1562				
907 KAR 003:100					
Amended	51 Ky.R. 1576				
As Amended	52 Ky.R. 39				
907 KAR 003:210					
Amended	51 Ky.R. 1579				
As Amended	52 Ky.R. 40				
907 KAR 007:015					
Amended	51 Ky.R. 1597				
As Amended	52 Ky.R. 58				
907 KAR 010:015					
Amended	51 Ky.R. 581				
As Amended	1657	6-3-2025			

## SYMBOL KEY:

- \* Statement of Consideration not filed by deadline
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- \*\*\* Withdrawn before being printed in Register
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- (r) Repealer regulation: KRS 13A.310(3)-on the effective date of an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.

# KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
12.357	201 KAR 006:030	160.445	702 KAR 007:065
17.165	907 KAR 003:210	189.540	702 KAR 005:130
18A.020	101 KAR 002:034	189.550	702 KAR 005:130
	101 KAR 002:102	199.555	101 KAR 003:045
	101 KAR 003:015	202A.011	907 KAR 003:210
	101 KAR 003:045	205.520	907 KAR 001:039
18A.030	101 KAR 002:034		907 KAR 016:005
	101 KAR 002:102		907 KAR 016:010
	101 KAR 003:015		907 KAR 016:015
18A.095	101 KAR 002:102		907 KAR 016:020
18A.110	101 KAR 002:034		907 KAR 016:025
	101 KAR 002:102	205.5605	907 KAR 003:100
	101 KAR 003:015		907 KAR 003:210
	101 KAR 003:045	205.5606	907 KAR 003:100
18A.140	101 KAR 002:102	205.5607	907 KAR 003:210
	101 KAR 003:015	205.6405	907 KAR 010:840
18A.145	101 KAR 002:102	205.6406	907 KAR 010:840
	101 KAR 003:015	205.6407	907 KAR 010:840
18A.155	101 KAR 003:045	205.6408	907 KAR 010:840
18A.165	101 KAR 002:034	205.6411	907 KAR 010:840
18A.195	101 KAR 002:102	205.8451	907 KAR 001:039
	101 KAR 003:015		907 KAR 003:210
18A.202	101 KAR 003:045	205.8477	907 KAR 003:210
18A.990	101 KAR 002:102	209.030	907 KAR 003:210
	101 KAR 003:015	210.005	907 KAR 016:005
40.320	017 KAR 003:042	216.380	907 KAR 010:840
40.325	017 KAR 003:042	216A.070	201 KAR 006:030
61.373	101 KAR 002:102	216A.090	201 KAR 006:071
	101 KAR 003:015	216B.010-216B.130	900 KAR 005:020
61.394	101 KAR 002:102	216B.010	900 KAR 006:075
	101 KAR 003:015	216B.015	900 KAR 006:075
61.805-61.850	702 KAR 007:065	216B.020	202 KAR 007:501
118.035	101 KAR 002:102		202 KAR 007:545
	101 KAR 003:015		202 KAR 007:565
150.330	301 KAR 003:160		900 KAR 006:075
150.340	301 KAR 003:160	216B.040	900 KAR 006:075
150.440	301 KAR 003:160	216B.062	900 KAR 006:075
150.445	301 KAR 003:160	216B.090	900 KAR 006:075
150.450	301 KAR 003:160	216B.095	900 KAR 006:075
150.470	301 KAR 003:160	216B.115	900 KAR 006:075
156.070	702 KAR 007:065	216B.178	900 KAR 005:020
	704 KAR 008:030	216B.450	900 KAR 006:075
	704 KAR 008:050	216B.455	900 KAR 006:075
	704 KAR 008:080	216B.990	900 KAR 006:075
156.153	702 KAR 005:130	Chapter 230	810 KAR 006:001
156.160	702 KAR 005:130	273.182	907 KAR 016:015
	704 KAR 004:010	311A.025	900 KAR 006:075
	704 KAR 008:030	311A.030	202 KAR 007:501
	704 KAR 008:050		202 KAR 007:545
	704 KAR 008:080		202 KAR 007:565
156.990	702 KAR 005:130	311A.060	202 KAR 007:501
158.110	702 KAR 005:130		202 KAR 007:565
158.148	702 KAR 005:130	311A.180	202 KAR 007:565
158.162	702 KAR 007:065	311A.190	202 KAR 007:501
158.645	704 KAR 008:030		202 KAR 007:545
	704 KAR 008:050		202 KAR 007:565
	704 KAR 008:080	314.011	907 KAR 003:210
158.1411	704 KAR 008:080		907 KAR 016:020
158.1413	704 KAR 008:080	314.400-314.414	201 KAR 020:600
158.6451	704 KAR 008:030	319.010	907 KAR 003:210
	704 KAR 008:050	319.056	907 KAR 003:210
	704 KAR 008:080	319A.010	907 KAR 003:210
158.6453	704 KAR 008:030	319A.310	201 KAR 028:240
	704 KAR 008:050	327.010	907 KAR 003:210
	704 KAR 008:080	334.010	907 KAR 001:039
160.290	704 KAR 008:030	334.040	907 KAR 001:039
	704 KAR 008:050	334.200	907 KAR 001:039
	704 KAR 008:080	334A.020	907 KAR 001:039
160.310	702 KAR 005:130		907 KAR 003:210
160.380	702 KAR 005:130	335.300	907 KAR 003:210
	702 KAR 007:065	335.500	907 KAR 003:210

KRS SECTION	REGULATION	KRS SECTION	REGULATION
Chapter 337			101 KAR 002:102
			101 KAR 003:015
338.051			803 KAR 002:404
338.061			803 KAR 002:404
344.030			101 KAR 002:102
			101 KAR 003:015
Chapter 369			907 KAR 003:210
620.030			907 KAR 003:210
24 C.F.R.			907 KAR 016:005
29 C.F.R.			101 KAR 002:102
			101 KAR 003:015
			803 KAR 002:404
34 C.F.R.			907 KAR 003:100
42 C.F.R.			907 KAR 001:039
			907 KAR 003:100
			907 KAR 003:210
			907 KAR 007:015
			907 KAR 010:840
			907 KAR 016:020
45 C.F.R.			907 KAR 003:210
			907 KAR 016:015
49 C.F.R.			702 KAR 005:130
20 U.S.C.			702 KAR 007:065
			907 KAR 016:020
29 U.S.C.			101 KAR 002:034
			101 KAR 002:102
			101 KAR 003:015
			907 KAR 003:100
			907 KAR 016:005
			907 KAR 016:020
38 U.S.C.			017 KAR 003:042
42 U.S.C.			907 KAR 001:039
			907 KAR 003:100
			907 KAR 003:210
			907 KAR 007:015
			907 KAR 010:840
			907 KAR 016:005
			907 KAR 016:020



## 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
201 KAR 009:021	05-27-2025	Remain in Effect without Amendment
201 KAR 009:031	05-27-2025	Remain in Effect without Amendment
201 KAR 009:051	05-27-2025	Remain in Effect without Amendment
201 KAR 009:061	05-27-2025	Remain in Effect without Amendment
201 KAR 009:071	05-27-2025	Remain in Effect without Amendment
400 KAR 001:060	06-11-2025	Remain in Effect without Amendment
401 KAR 004:070	06-04-2025	Remain in Effect without Amendment
401 KAR 051:001	06-12-2025	Remain in Effect without Amendment
401 KAR 051:005	06-12-2025	Remain in Effect without Amendment
401 KAR 051:150	06-05-2025	Remain in Effect without Amendment
401 KAR 051:160	06-05-2025	Remain in Effect without Amendment
401 KAR 051:210	06-12-2025	Remain in Effect without Amendment
401 KAR 051:220	06-12-2025	Remain in Effect without Amendment
401 KAR 058:025	06-12-2025	Remain in Effect without Amendment
405 KAR 007:001	06-10-2025	Remain in Effect without Amendment
405 KAR 007:015	06-10-2025	Remain in Effect without Amendment
405 KAR 007:030	06-10-2025	Remain in Effect without Amendment
405 KAR 007:035	06-10-2025	Remain in Effect without Amendment
405 KAR 007:060	06-10-2025	Remain in Effect without Amendment
405 KAR 007:070	06-10-2025	Remain in Effect without Amendment
405 KAR 007:080	06-10-2025	Remain in Effect without Amendment
405 KAR 007:095	06-10-2025	Remain in Effect without Amendment
405 KAR 007:097	06-10-2025	Remain in Effect without Amendment
405 KAR 007:100	06-10-2025	Remain in Effect without Amendment
405 KAR 007:110	06-10-2025	Remain in Effect without Amendment
405 KAR 008:001	06-10-2025	Remain in Effect without Amendment
405 KAR 008:020	06-10-2025	Remain in Effect without Amendment
405 KAR 008:040	06-10-2025	Remain in Effect without Amendment
405 KAR 008:050	06-10-2025	Remain in Effect without Amendment
405 KAR 012:001	06-10-2025	Remain in Effect without Amendment
405 KAR 012:010	06-10-2025	Remain in Effect without Amendment
405 KAR 012:020	06-10-2025	Remain in Effect without Amendment
405 KAR 012:030	06-10-2025	Remain in Effect without Amendment
405 KAR 016:001	06-10-2025	Remain in Effect without Amendment
405 KAR 016:010	06-10-2025	Remain in Effect without Amendment
405 KAR 016:020	06-10-2025	Remain in Effect without Amendment
405 KAR 016:030	06-10-2025	Remain in Effect without Amendment
405 KAR 016:040	06-10-2025	Remain in Effect without Amendment
405 KAR 016:050	06-10-2025	Remain in Effect without Amendment
405 KAR 016:060	06-10-2025	Remain in Effect without Amendment
405 KAR 016:070	06-10-2025	Remain in Effect without Amendment
405 KAR 016:080	06-10-2025	Remain in Effect without Amendment
405 KAR 016:090	06-10-2025	Remain in Effect without Amendment
405 KAR 016:110	06-10-2025	Remain in Effect without Amendment
405 KAR 016:120	06-10-2025	Remain in Effect without Amendment
405 KAR 016:130	06-10-2025	Remain in Effect without Amendment
405 KAR 016:140	06-10-2025	Remain in Effect without Amendment
405 KAR 016:150	06-10-2025	Remain in Effect without Amendment
405 KAR 016:160	06-10-2025	Remain in Effect without Amendment
405 KAR 016:170	06-10-2025	Remain in Effect without Amendment
405 KAR 016:180	06-10-2025	Remain in Effect without Amendment
405 KAR 016:190	06-10-2025	Remain in Effect without Amendment
405 KAR 016:200	06-10-2025	Remain in Effect without Amendment
405 KAR 016:220	06-10-2025	Remain in Effect without Amendment
405 KAR 016:250	06-10-2025	Remain in Effect without Amendment
702 KAR 003:020	06-09-2025	Remain in Effect without Amendment
702 KAR 003:030	06-09-2025	Remain in Effect without Amendment
702 KAR 003:080	06-09-2025	Remain in Effect without Amendment
702 KAR 003:135	06-09-2025	Remain in Effect without Amendment
702 KAR 003:190	06-09-2025	Remain in Effect without Amendment

## CERTIFICATION LETTER SUMMARIES

[illegible]

### CERTIFICATION LETTER SUMMARIES

825 KAR 001:020	06-10-2025	Remain in Effect without Amendment
825 KAR 001:030	06-10-2025	Remain in Effect without Amendment
900 KAR 006:040	05-19-2025	Remain in Effect without Amendment
902 KAR 020:260	05-19-2025	Remain in Effect without Amendment
902 KAR 100:022	05-19-2025	Remain in Effect without Amendment
902 KAR 100:052	05-19-2025	Remain in Effect without Amendment
902 KAR 100:070	05-19-2025	Remain in Effect without Amendment
902 KAR 100:072	05-19-2025	Remain in Effect without Amendment
902 KAR 100:100	05-19-2025	Remain in Effect without Amendment
902 KAR 100:142	05-19-2025	Remain in Effect without Amendment
906 KAR 001:200	05-19-2025	Remain in Effect without Amendment
910 KAR 001:260	05-19-2025	Remain in Effect without Amendment
920 KAR 001:060	05-19-2025	Remain in Effect without Amendment
922 KAR 002:190	06-17-2025	Remain in Effect without Amendment
922 KAR 002:270	06-17-2025	Remain in Effect without Amendment

## TECHNICAL AMENDMENT INDEX

The Technical Amendment Index is a list of administrative regulations that have had technical, nonsubstantive amendments made during the 49<sup>th</sup> year of the *Administrative Register of Kentucky*. These technical changes have been made by the Regulations Compiler pursuant to KRS 13A.040(9) and (10), 13A.2255(2), 13A.312(2), or 13A.320(1)(d). Since these changes were not substantive in nature, administrative regulations appearing in this index will NOT be published to show the technical corrections in the *Register*. NOTE: Technical amendments may be available online for a short period of time before finalized versions of the technically amended regulations are available. To view regulations on the Legislative Research Commission Web site go to <https://apps.legislature.ky.gov/law/kar/titles.htm>.

‡ - A technical change was made to this administrative regulation during the promulgation process, pursuant to KRS 13A.320(1)(e).

† - A nonsubstantive change was made by the Compiler pursuant to KRS 13A.040(9).

Regulation Number	Date Corrected	Regulation Number	Date Corrected
NONE			

## SUBJECT INDEX

### ADULT SERVICES

Veterans Centers  
Eligibility requirements for veterans' nursing homes; 017 KAR 003:042

### BOARDS AND COMMISSIONS

*See also Occupations and Professions*  
*See listing below for other possible, specific subject headings:*

*Emergency Medical Services (202 KAR Chapter 007)*  
*Long-term Care Administrators (201 KAR Chapter 006)*  
*Nursing (201 KAR Chapter 020)*  
*Occupational Therapy (201 KAR Chapter 028)*

### EDUCATION

Academic Standards  
Career studies, required; 704 KAR 008:080  
Financial literacy, required; 704 KAR 008:080  
Health education, required; 704 KAR 008:030  
Physical education, required; 704 KAR 008:050  
Health and Physical Education Programs  
Physical education; 704 KAR 004:010  
Pupil Transportation  
Non-school bus passenger vehicles; 702 KAR 005:130  
School Terms, Attendance and Operation  
Agent designation, high school interscholastic athletics; 702 KAR 7:065  
Agent designation, middle school interscholastic athletics; 702 KAR 7:065

### EDUCATION AND LABOR CABINET

*See also:*  
*Education (KAR Titles 702 and 704)*  
*Workplace Standards (KAR Title 803)*

### EMERGENCY MEDICAL SERVICES

Ambulance agency licensure; 201 KAR 007:501  
Clinical pilot programs; 202 KAR 007:565  
License classifications; 202 KAR 007:545

### FISH AND WILDLIFE RESOURCES

Hunting and Fishing  
Reciprocal agreements; 301 KAR 003:160

### HEALTH AND FAMILY SERVICES

Certificate of Need  
Nonsubstantive review; 900 KAR 006:075  
State Health Plan  
Facilities and services; 900 KAR 005:020

### HORSE RACING AND GAMING CORPORATION

Pari-Mutuel Wagering  
Definitions; 810 KAR 006:001

### LONG-TERM CARE ADMINISTRATORS

Continuing education requirements; 201 KAR 006:071  
Temporary permits; 201 KAR 006:071

### MEDICAID SERVICES

Certified Provider Requirements  
Reimbursement for home/community-based waiver services version 2; 907 KAR 007:015  
Home and Community Based Services 1915(i) Initiatives  
Definitions; 907 KAR 016:005  
RISE Covered services; 907 KAR 016:020  
RISE Participant eligibility; 907 KAR 016:010  
RISE Program reimbursement provisions; requirements; 907 KAR 016:025  
RISE Provider participation and enrollment; 907 KAR 016:015  
Hospital Service Coverage and Reimbursement  
Hospital Rate Improvement Program; 907 KAR 010:840

### Payments and Services

ABI long-term care waiver services and reimbursement; 907 KAR 003:210

ABI waiver services & reimbursement; 907 KAR 003:100

### Services

Hearing program reimbursement provisions, requirements; 907 KAR 001:039

### NURSING

Midwives, Licensed Professional  
Standards for training programs; 201 KAR 020:600

### OCCUPATIONAL THERAPY

Licensure compact; 201 KAR 028:240

### OCCUPATIONS AND PROFESSIONS

*See Boards and Commissions*  
*See listings for specific occupational headings*

### PERSONNEL

Cabinet: Classified  
Compensation; 101 KAR 002:034  
Leave, general requirements; 101 KAR 002:102  
Cabinet: Unclassified service  
Compensation plan & pay incentives; 101 KAR 003:045  
Leave requirements; 101 KAR 003:015

### VETERANS AFFAIRS

Veterans Centers  
Eligibility requirements for veterans' nursing homes; 017 KAR 003:042

### WORKPLACE STANDARDS

Occupational Safety and Health Compliance  
Personal protective and lifesaving equipment; 803 KAR 002:404

