VOLUME 52, NUMBER 4 LEGISLATIVE RESEARCH COMMISSION OCTOBER 1, 2025

# ADMINISTRATIVE REGISTER OF KENTUCKY

The submission deadline for this edition of the *Administrative Register of Kentucky* was noon, September 15, 2025

## MEETING NOTICES

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

**ARRS Tentative Agenda – 531** Online agenda updated as needed

## INDEXES & OTHER INFORMATION



## EMERGENCIES



## AMENDED IN-PROCESS EMERGENCIES



## AS AMENDED



## AMENDED AFTER COMMENTS

**None**

## PROPOSED AMENDMENTS

**NEW ADMINISTRATIVE REGULATIONS**

The **ADMINISTRATIVE REGISTER OF KENTUCKY** is the monthly supplement for the 2018 Edition of the **KENTUCKY ADMINISTRATIVE REGULATIONS SERVICE**.

**HOW TO CITE**: Cite all material in the **ADMINISTRATIVE REGISTER OF KENTUCKY** by Register Year number and Page number. Example: 52nd Year of the Kentucky Register, page 318 (short form: 52 Ky.R. 318).

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

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

**ADMINISTRATIVE REGISTER OF KENTUCKY**
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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for informational review of regulations, removed to either complete the public comment process, or are deferred or withdrawn by promulgating agencies.**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**
**Monday, October 13, 2025 at 1:00 p.m.**
**Annex Room 149**

## 1. CALL TO ORDER AND ROLL CALL

## 2. REGULATIONS FOR FULL REVIEW

**KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY**
**Division of Student Financial Aid**
**Kentucky Educational Savings Plan Trust**
011 KAR 012:010. Definitions for 011 KAR Chapter 012.
011 KAR 012:020. General rules for investments and fund transfers.
011 KAR 012:030. Eligibility of beneficiary and participant.
011 KAR 012:040. Residency classification for Kentucky Educational Savings Plan Trust vested participation agreements.
011 KAR 012:050. Substitution of a beneficiary.
011 KAR 012:060. Cancellation, partial withdrawal, and payment of refund.
011 KAR 012.070. Benefits payable from the Kentucky Educational Savings Plan Trust Program fund.
011 KAR 012:090. Transfer of ownership of Kentucky Educational Savings Plan Trust Program fund.

**FINANCE AND ADMINISTRATION CABINET**
**Kentucky Teachers' Retirement System**
**General Rules**
102 KAR 001:175. Investment policies.

**Department of Revenue**
**Inheritance Tax**
103 KAR 002:005. Life Mortality Table

**Purchasing**
200 KAR 005:021. Manual of policies and procedures.

**BOARDS AND COMMISSIONS**
**Board of Licensure for Long-Term Care Administrators**
201 KAR 006:030. Temporary permits. (Deferred from September)
201 KAR 006:071. Continuing education requirements. (Deferred from September)

**Board of Dentistry**
201 KAR 008:563. Licensure of dental hygienists.

**Board of Medical Licensure**
201 KAR 009:270. Professional standards for prescribing, dispensing, or administering Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone. (Amended After Comments) (Deferred from September)

**Board of Veterinary Examiners**
201 KAR 016:762. Application requirements for veterinary facility registration; veterinarian managers; registered responsible parties.
201 KAR 016:767. Registered veterinary facilities – Duties of registered responsible parties and veterinarian managers.

**Board of Nursing**
201 KAR 020:161. Investigation and depositions of complaints.
201 KAR 020:162. Disciplinary proceedings.
210 KAR 020:410. Expungement of records.

**Board of Physical Therapy**
201 KAR 022:020. Eligibility and credentialing procedure.

**Board of Social Work**
201 KAR 023:075. Continuing education for renewal. (Amended After Comments) (Deferred from September)

**Board of Medical Imaging and Radiation Therapy**
201 KAR 046:010. Definitions for 201 KAR Chapter 46. (Filed with Emergency) ("E" expires 03-27-26)
201 KAR 046:081. Limited X-Ray machine operator. (Filed with Emergency) ("E" expires 03-27-26)

**TOURISM, ARTS AND HERITAGE CABINET**

**Department of Fish and Wildlife Resources**

**Fish**

301 KAR 001:115. Propagation of aquatic organisms.
301 KAR 001:125. Transportation of fish.
301 KAR 001:132. Sale of live bait.
301 KAR 001:140. Special commercial fishing permit for Kentucky Lake and Lake Barkley.
301 KAR 001:152. Harvest and sale of invasive carp.
301 KAR 001:155. Commercial fishing requirements.
301 KAR 001:185. Pay lakes.

**Game**

301 KAR 002:031. Repeal of 301 KAR 002:030. (Deferred from August)
301 KAR 002:041. Shooting areas, dog training areas, commercial and noncommercial foxhound training enclosures, and bobwhite shoot-to-train season.
301KAR 002:075. Wildlife rehabilitation permit.
301 KAR 002:081. Transportation and holding of live native wildlife.
301 KAR 002:082. Transportation and holding of live exotic wildlife.
301 KAR 002:083. Holding and intrastate transportation of captive cervids.
301 KAR 002:178. Deer hunting on pubic properties.
301 KAR 002:195. Falconry, raptor take, and raptor propagation.
301 KAR 002:230. Shoot-to-retrieve field trial permits and procedures.

**Hunting and Fishing**

301 KAR 003:120. Commercial wildlife control.
301 KAR 002:150. Hunting and fishing outfitter and guide licenses.

**Wildlife**

301 KAR 004:070. Scientific and educational collecting permits.
301 KAR 004:090. Taxidermy and the buying and selling of inedible wildlife parts.
301 KAR 004:100. Peabody Wildlife Management Area use requirements and restrictions.

**Licensing**

301 KAR 005:001. Definitions for 301 KAR Chapter 5.
301 KAR 005:022. License, tag, registration and permit fees.

**CABINET FOR ECONOMIC DEVELOPMENT**

**Economic Development Finance Authority**

307 KAR 001:080E. Kentucky Entertainment Incentive Program. (Filed with Ordinary) (“E” expires 03-28-2026) (Amended After Comments)
307 KAR 001:080. Kentucky Entertainment Incentive Program. (Filed with Emergency) (“E” expires 03-28-2026)

**TRANSPORTATION CABINET**

**Department of Vehicle Regulation**

**Certification of Title**

601 KAR 023:070. Street-legal special purpose vehicles. (Filed with Emergency)

**EDUCATION AND LABOR CABINET**

**Board of Education**

**Department of Education**

701 KAR 005:170E. Waiver Requests. (Filed with Ordinary) (“E” expires 05-10-2026)

**KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

**Board of Regents**

739 KAR 001:080. Issuance of bonds.

**EDUCATION AND LABOR CABINET**

**Department of Workplace Standards**

**Occupational Safety and Health**

803 KAR 002:120E. Citations. (Filed with Ordinary) (“E” expires 04-18-2026)
803 KAR 002:181. Recordkeeping and reporting occupational injuries and illnesses. (Filed with Emergency) (“E” expires 03-28-2026)
803 KAR 002:250. Discrimination. (Filed with Emergency) (“E” expires 03-28-2026)
803 KAR 002:260. Appeal procedure. (Filed with Emergency) (“E” expires 03-28-2026)
803 KAR 002:310E. Medical services and first aid. (Filed with Ordinary) (“E” expires 03-28-2026) (Not Amended After Comments)
803 KAR 002:310. Medical services and first aid. (Filed with Emergency) (“E” expires 03-28-2026)

**PUBLIC PROTECTION CABINET**

**Department of Insurance**

**Administration**

806 KAR 002:200. Operations, eligibility and grant procedures for the Strengthen Kentucky Homes Program.
806 KAR 002:210. Eligibility requirements for contractors and evaluators in the Strengthen Kentucky Homes Program.
806 KAR 002:220. Subsequent reinspection procedures for the Strengthen Kentucky Homes Program.

**Casualty Insurance Contracts**
806 KAR 020:030E. Car valuation guides. (Filed with Ordinary) (“E” Expires 03-27-2026) (Not Amended After Comments)
806 KAR 020:030. Car Valuation Guides. (Filed with Emergency) (“E” expires 03-27-2026)

**KENTUCKY HORSE RACING AND CHARITABLE GAMING CORPORATION**
**Pari-Mutuel Wagering**
810 KAR 006:001. Definitions for 810 KAR Chapter 6. (Not Amended After Comments)

**Incentive and Development Funds**
810 KAR 007:060. Kentucky Paint Horse, Appaloosa, and Arabian Development Fund.
810 KAR 007:080. Kentucky Quarter Horse Development Fund.

## 3. REGULATIONS REMOVED FROM FULL REVIEW

~~**TOURISM, ARTS AND HERITAGE CABINET**~~
~~**Department of Fish and Wildlife Resources**~~
~~**Fish**~~
~~301 KAR 001:016. Use of lands and waters on lakes owned or controlled by the department.~~ (Withdrawn by agency, 8-11-2025)

**JUSTICE AND PUBLIC SAFETY CABINET**
**Department of Corrections**
501 KAR 016:310. Pre-execution medical actions. (Comments Received: SOC due 10-15-2025)

~~**TRANSPORTATION CABINET**~~
~~**Department of Vehicle Regulation**~~
~~**Motor Vehicle Tax**~~
~~601 KAR 009:076. Vehicle valuation guides. (Filed with Emergency)~~ (Withdrawn by Agency; 07-16-2025)

**EDUCATION AND LABOR CABINET**
**Board of Education**
**Pupil Transportation**
702 KAR 005:130. Non-school bus passenger vehicles. (Comments Received; SOC ext. due 10-15-2025)

**CABINET FOR HEALTH AND FAMILY SERVICES**
**Office of the Inspector General**
**State Health Plan**
900 KAR 005:020. State Health Plan for facilities and services. (Filed with Emergency) (“E” extended, exp. 04-05-2026) (Comments Received; SOC ext., due 10-15-2025)

**Certificate of Need**
900 KAR 006:075. Certificate of need nonsubstantive review. (Filed with Emergency) (“E” extended, exp. 04-05-2026) (Comments Received; SOC ext., due 10-15-2025)

# 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 the hearing was held or cancelled and whether or not written comments were received. If comments were received during the public hearing or written comment period, 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**
**101 KAR 2:210E.**

This amendment to an existing administrative regulation incorporates by reference the 2026 plan year handbook for the self-insured plan offered through the Public Employee Health Insurance Program, commonly known as the Kentucky Employees' Health Plan. KRS 18A.2254(1) requires the Personnel Cabinet to promulgate an administrative regulation that incorporates the plan year handbook by reference and to file the administrative regulation by September 15 of each year. This emergency amendment to an existing administrative regulation is necessary to meet the filing deadline established by state law at KRS 18A.2254(1)(a)3. KRS 18A.2254(1)(a) requires the secretary of the Personnel Cabinet to annually promulgate an administrative regulation to incorporate by reference the plan year handbook. The handbook must contain, at a minimum, the premiums, employee contributions, employer contributions, and a summary of benefits, co-pays, coinsurance, and deductibles for each plan provided to public employees covered under the self-insured plan. The 2026 plan year handbook, or Benefits Selection Guide, contains the required and necessary information for public employees to make health insurance coverage decisions during open enrollment in October 2025. This emergency amendment to an existing administrative regulation incorporates by reference the 2026 Benefits Selection Guide that will be distributed by the Personnel Cabinet's Department of Employee Insurance to public employees covered under the self-insured plan. An ordinary amendment is not sufficient due to the statutory filing deadlines and handbook distribution requirements. This emergency amendment to the existing administrative regulation will be replaced by an ordinary amendment to the existing administrative regulation. The ordinary amendment to the existing administrative regulation is not identical to this emergency amendment. This emergency amendment will be in effect for part of the current 2025 plan year. The existing language in the Benefits Selection Guide for the 2025 plan year should remain until such time as the ordinary amendment incorporating the Benefits Selection Guide for plan year 2026 replaces this emergency amendment.

ANDY BESHEAR, Governor
MARY ELIZABETH BAILEY, Secretary

**PERSONNEL CABINET**
**Office of the Secretary**
**(Emergency Amendment)**

**101 KAR 2:210E. 2025 and 2026 Plan Year Handbooks[~~Handbook~~] for the Public Employee Health Insurance Program.**

EFFECTIVE: September 15, 2025
RELATES TO: KRS 18A.030, 18A.225, 18A.2254
STATUTORY AUTHORITY: KRS 18A.030(2)(b), 18A.2254(1)(a)
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.2254(1)(a)1 requires the secretary of the Personnel Cabinet to promulgate an administrative regulation to incorporate by reference the plan year handbook distributed by the Department of Employee Insurance to public employees covered under the self-insured plan and establishes the minimum requirements for the information included in the handbook. This administrative regulation incorporates by reference the plan year Benefits Selection Guide, which is the handbook distributed by the department to public employees for the 2025 and 2026 Plan Years[~~Year~~] as required by KRS 18A.2254(1)(a)1.

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

Section 2.
(1) The Department of Employee Insurance shall distribute or make available to the public employees covered under the self-insured plan the 2026 Plan Year Kentucky Employees' Health Plan Benefits Selection Guide, which shall include the premiums, employee contributions, employer contributions, and a summary of benefits, copays, coinsurance, and deductibles for each plan provided to the public employees covered under the self-insured plan.
(2) The 2026 Plan Year Kentucky Employees' Health Plan Benefits Selection Guide shall govern the health plan benefits for public employees covered under the self-insured plan beginning January 1, 2026.

Section 3. Incorporation by Reference.
(1) The following material is incorporated by reference:
(a) "2025 Plan Year Kentucky Employees' Health Plan Benefits Selection Guide", 2025 edition; and
(b) "2026 Plan Year Kentucky Employees' Health Plan Benefits Selection Guide", 2026 edition[~~, is incorporated by reference~~].
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Personnel Cabinet, 501 High Street, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. The material incorporated by reference is also available on the Personnel Cabinet's website[~~Web site~~] on the Kentucky Employees' Health Plan page under KEHP Documents at https://personnel.ky.gov/Pages/Kentucky-Employees'-Health-Plan.aspx.

MARY ELIZABETH BAILEY, Secretary
APPROVED BY AGENCY: September 15, 2025
FILED WITH LRC: September 15, 2025 at 9:45 a.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 21, 2025, at 10:00 a.m. at 501 High Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through October 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: Will Adams, Staff Attorney, Office of Legal Services, Personnel Cabinet, 501 High Street, 4th Floor, Frankfort, Kentucky 40601, phone (502) 782-4370, fax (502) 564-5278, email Will.Adams@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Will Adams
Subject Headings: Personnel, State Employee Health Plans, State Employees
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation incorporates by reference the 2026 plan year handbook containing information about the self-insured health insurance plans offered through the Public Employee Health Insurance Program. The handbook, commonly referred to as the Benefits Selection Guide, is distributed to plan holders participating in the self-insured program. The Benefits Selection Guide contains the premiums, employee contributions, employer contributions, and a summary of benefits, co-pays, coinsurance, and deductibles for each plan available to public employees through the self-insured program in 2026.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with the statutory mandate of KRS 18A.2254. More specifically, KRS 18A.2254(1)(a) requires the Personnel Cabinet to promulgate an administrative regulation that incorporates by reference the 2026 plan year handbook that will be distributed to the public employees covered by the Public Employee Health Insurance Program. The handbook must be filed with the Legislative Research Commission on or before September 15 each year.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation complies with KRS 18A.2254(1), the statute that establishes the self-insured plan and mandates the promulgation of the administrative regulation.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation aids in the effectuation of the statute, KRS 18A.2254, by incorporating by reference the 2026 plan year handbook for the Public Employee Health Insurance Program in an administrative regulation. Further, this administrative regulation is the method by which the Personnel Cabinet will comply with KRS 18A.2254.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This is an amendment. The existing administrative regulation incorporates by reference the 2025 plan year handbook, which constitutes a compilation of the premium rates and contributions, benefit options, eligibility rules, and enrollment information for participants of the Public Employee Health Insurance Program for plan year 2025. The amendment adds and incorporates by reference the 2026 plan year handbook, which contains the premiums, employee contributions, employer contributions, and a summary of benefits, co-pays, coinsurance, and deductibles for each plan available to public employees for plan year 2026.
(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to give notice regarding the premiums, employee contributions, employer contributions, benefits, co-pays, coinsurance, and deductibles for each plan available to public employees under the Public Employee Health Insurance Program for plan year 2026. This amendment is also necessary to comply with the statutory mandate in KRS 18A.2254 to annually update the regulation incorporating the plan year handbook.
(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of KRS 18A.2254, the statute authorizing the self-insured plan under the Public Employee Health Insurance Program. KRS 18A.2254 mandates that the plan year handbook be incorporated by reference in an administrative regulation on or before September 15 each year. This amendment incorporates the 2026 plan year handbook by reference in accordance with KRS 18A.2254.
(d) How the amendment will assist in the effective administration of the statutes: This amendment conforms to the requirements of KRS 18A.2254, the statute authorizing the self-insured plan under the Public Employee Health Insurance Program. KRS 18A.2254 mandates that the plan year handbook be incorporated by reference in an administrative regulation on or before September 15 each year. This amendment incorporates the 2026 plan year handbook by reference in accordance with KRS 18A.2254.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects employees of state and select county and local government entities, including employees of the local school boards and districts. This administrative regulation also affects certain retirees as specified by KRS 18A.225. More specifically, and as defined by KRS 18A.225(1)(a), this administrative regulation affects approximately 187,951 employees and retirees eligible to participate in the Public Employee Health Insurance Program. In total, this administrative regulation affects approximately 305,794 members in the self-insured plan and those waiving coverage, including employees, retirees, and qualifying dependents.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: Affected entities will not be required to take any additional action to comply with this administrative regulation that incorporates the 2026 plan year handbook. The 2026 Benefits Selection Guide will provide information to the public employees covered under the Public Employee Health Insurance Program about the premiums, employee contributions, employer contributions, and a summary of benefits, co-pays, coinsurance, and deductibles for the 2026 plan year.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): This administrative regulation provides employer and employee premium contribution information for health plans available under the Public Employee Health Insurance Program for plan year 2026. There is no direct cost impact to employers participating in the Public Employee Health Insurance Program as a result of incorporating the 2026 plan year handbook into the administrative regulation.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): For plan year 2026, participating employers (entities) and participating employees and retirees and their beneficiaries and dependents covered under the Public Employee Health Insurance Program will have access to comprehensive health insurance benefits under all plans offered through the self-insured program. For plan year 2026, employer contributions to health coverage premiums will increase 18.2% across all plans combined, as compared to 2025 premiums. Employee contributions to health coverage premiums will remain unchanged across all plans, as compared to 2025 premiums.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: Costs of implementing this administrative regulation initially are believed to be minimal.
(b) On a continuing basis: Costs of implementing this administrative regulation initially are believed to be minimal.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The source of funding to be used for the implementation of this administrative regulation will be the Public Employee Health Insurance Trust Fund.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This is an amendment. This administrative regulation will not require an increase in funding or fees.
(9) 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.
(10) TIERING: Is tiering applied? No, tiering is not applied because this administrative regulation applies equally to all participants in the Public Employee Health Insurance Program.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 18A.030(2)(b), 18A.2254(1)(a)
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: The most recent act that expressly authorizes the Personnel Cabinet Secretary to promulgate this administrative regulation is 2024 Ky. Acts ch. 104, sec. 14. The specific authorizing statute, KRS 18A.2254, was created by 2006 Ky. Acts ch. 252, Pt. XXIX, sec. 1.
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Personnel Cabinet is the promulgating agency.: All state agencies and employees participating in the Public Employee Health Insurance Program are affected by the provisions of the incorporated plan year handbook.
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: This administrative regulation itself is not anticipated to trigger direct expenditures.
For subsequent years: This administrative regulation itself is not anticipated to trigger direct expenditures.
2. Revenues:
For the first year: None.
For subsequent years: None.
3. Cost Savings:
For the first year: Cost savings are not anticipated.
For subsequent years: Cost savings are not anticipated.
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): All county and local government employees and entities, including local school boards and districts and their employees, that participate in the Public Employee Health Insurance Program are affected by the provisions of the incorporated plan year handbook.
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: This administrative regulation itself is not anticipated to trigger direct expenditures.
For subsequent years: This administrative regulation itself is not anticipated to trigger direct expenditures.
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: Cost savings are not anticipated.
For subsequent years: Cost savings are not anticipated.
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): The plan year handbook incorporated in this administrative regulation also affects retirees under the age of 65 who are eligible to participate in the Program by virtue of their participation in one of the state-administered retirement systems.
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: This administrative regulation itself is not anticipated to trigger direct expenditures.
For subsequent years: This administrative regulation itself is not anticipated to trigger direct expenditures.
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: Cost savings are not anticipated.
For subsequent years: Cost savings are not 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: This administrative regulation does not have a significant fiscal impact.
(b) Methodology and resources used to reach this conclusion: The provisions of this administrative regulation were reviewed, and a significant fiscal impact was not identified.
(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(14): An overall negative or adverse major economic impact is not anticipated. This administrative regulation only serves to incorporate the Public Employee Health Insurance Program handbook. It does not, by itself, impose requirements or fees on Program participants.
(b) The methodology and resources used to reach this conclusion: The provisions of the administrative regulation were reviewed, and a significant fiscal impact was not identified.

***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 17:120E.**

Pursuant to KRS 13A.190(1)(a)3. and KRS 334A.188. SECTION 15.B.1, this emergency amendment is being promulgated to comply with the statutory requirements of the Board of Speech-Language Pathology and Audiology to review any rule adopted by the Audiology and Speech-Language Pathology Interstate Compact pursuant to SECTION 10 of KRS 334A.188 within sixty (60) days of adoption for the purpose of filing the rule as an emergency 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 Audiology and Speech-Language Pathology Interstate Compact.
KRS 334A.188. Section 15.B.1. requires that this emergency regulation be promulgated, and therefore the filing of an ordinary administrative regulation alone is not sufficient. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation filed with this emergency administrative regulation is identical.

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

**BOARDS AND COMMISSIONS**
**Board of Speech-Language Pathology and Audiology**
**(Emergency Amendment)**

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

EFFECTIVE: August 26, 2025
RELATES TO: KRS 334A.188
STATUTORY AUTHORITY: KRS 334A.080(3), 334A.188
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 334A.188, Section 15.B.1. requires the Board of Speech-Language Pathology and Audiology to review any rule adopted by the Audiology and Speech-Language Pathology Interstate Compact pursuant to Section 10 of KRS 334A.188 within sixty (60) days of adoption for the purpose of filing the rule as an emergency administrative regulation pursuant to KRS 13A.190 and for filing the rule as an accompanying ordinary administrative regulation pursuant to KRS Chapter 13A. This administrative regulation incorporates by reference the rules adopted by the Audiology and Speech-Language Pathology Interstate Compact.

Section 1. The Board of Speech-Language Pathology and Audiology shall comply with all rules of the Audiology and Speech-Language Pathology Interstate Compact, which includes the Audiology and Speech-Language Pathology Interstate Compact Rules as of June 30, 2025[~~October 7, 2023~~].

Section 2. Incorporation by Reference.

(1) The following material is incorporated by reference: "The Audiology and Speech-Language Pathology Interstate Compact Rules", June 30, 2025[~~October 7, 2023~~], and as revised.

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

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

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

(d) Chapter 4 – Rulemaking on Fees, adopted June 30, 2025.

(2)

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

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

(3) This material may also be obtained at:

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

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

JENNIFER LUTES, M.S., SLP, Chair

APPROVED BY AGENCY: August 26, 2025

FILED WITH LRC: August 26, 2025 at 4:25 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 29, 2025, at 2:00 p.m. Eastern Time, at the Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky in PPC Conference Room 127CW. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through October 31, 2025. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to https://ppc.ky.gov/reg_comment.aspx or the contact person.

CONTACT PERSON: Sara Boswell Janes, Staff Attorney III, Department of Professional Licensing, Office of Legal Services, 500 Mero Street, 2 NC WK#2, Frankfort, Kentucky 40601; phone (502) 782-2709 (office), fax (502) 564-4818, email Sara.Janes@ky.gov. Link to public comment portal https://ppc.ky.gov/reg_comment.aspx.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Sara Boswell Janes

Subject Headings: Speech-Language Pathology, Audiology, Compacts, Interstate

(1) Provide a brief summary of:

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

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

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

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

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

(a) How the amendment will change this existing administrative regulation: This amendment will add a new rule on fees, as adopted by the ASLP-IC on June 30, 2025.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to meet the statutory requirements of KRS 334A.188, SECTION 15.B.1. which requires rules adopted by the ASLP-IC 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 statute by being filed within the sixty (60) day period after adoption of the new rule by the ASLP-IC.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will put all licensees who wish to participate in the ASLP-IC the cost of the application for the privilege to practice.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes. 2021 Ky. Acts ch. 45, sec. 1, effective June 29, 2021.

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect the 4021 active and 102 inactive licensees in some capacity, and will also affect new applicants for licensure.

(5) Provide an analysis of how the entities identified in question (4) 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 (4) 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 (4): 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 (4): They will be in compliance with the regulation.

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

(a) Initially: There is no additional cost.

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

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

(8) 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 state fees or funding will be required.

(9) 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 in Kentucky. However, if a Kentucky licensee wishes to obtain the privilege to practice in another compact state, they will be required to pay an application fee to the ASLP-IC to obtain the privilege.

(10) TIERING: Is tiering applied? Tiering was not applied as the changes apply to all equally.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 334A.080(3), 334A.188. Interstate compacts are specifically authorized under the federal constitution (Article 1, Section 10, Clause 3- the Compacts Clause) and take precedence

over any conflicting state law pursuant to the Compacts Clause and the Con-tracts 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 expressly authorized by KRS 334A.188, Section 15.B.1.
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: (a) The Kentucky Board of Speech-Language Pathology and Audiology is the promulgating agency and the only 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 may become operational in 2025, however, the expenditures needed in the first year are currently indeterminable. There will likely be some state expenditures necessary for data system programming, administering applications for compact privileges within and without the Commonwealth, as well as administering complaint and enforcement actions for those with the privilege to practice in Kentucky, and possibly for Kentucky licensees with the privilege to practice in other states.
For subsequent years: The expenditures needed in subsequent years are currently indeterminable. There will likely be some state expenditures necessary for data system programming, administering applications for compact privileges within and without the Commonwealth, as well as administering complaint and enforcement actions for those with the privilege to practice in Kentucky, and possibly for Kentucky licensees with the privilege to practice in other states.
2. Revenues:
For the first year: The board will establish a fee for licensees in other states who wish to obtain a privilege to practice in Kentucky under the ASLP-IC to cover the cost of administration. However, at this time potential revenues are indeterminable.
For subsequent years: The board will also establish a renewal fee for out of state licensees who obtain the privilege to practice in Kentucky. However, at this time potential revenues are 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):
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): None anticipated.
(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: The fiscal impact is currently indeterminable since there are no known duties outlined for the state in relation to the compact. It is possible there will be a fiscal impact for 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 ASLP-IC remains in its infancy and the work to be conducted by the state board as a result of the compact is yet to be determined.
(b) Methodology and resources used to reach this conclusion: Methodology and resources used are the fiscal department within the Public Protection Cabinet, Department of Professional Services.
(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(14): (a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(13): 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 in-state licensees to practice in another state and out of state licensees to obtain the privilege to practice in Kentucky, this administrative regulation will not have a major economic impact to the entities identified.
(b) The methodology and resources used to reach this conclusion: Methodology and resources used are the fiscal department within the Public Protection Cabinet, Department of Professional Services.

***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**
**902 KAR 55:015E.**

This emergency amendment to an existing administrative regulation is necessary to designate bromazolam as a Schedule I controlled substance. Bromazolam has no known medical use and it mimics the effects of benzodiazepines. Bromazolam was detected in 48 overdose deaths in 2024, and has been designated a Schedule I controlled substance in Nevada, New Mexico, North Dakota, Virginia and West Virginia.
This emergency administrative regulation is deemed to be an emergency pursuant to KRS 13A.190(1)(a)1 in order to meet an imminent threat to public health, safety, and welfare. Although Bromazolam is not currently controlled under the federal Controlled Substances Act, it is being scheduled on a state-by-state basis and was recently designated as a schedule I controlled substance in five states, including Kentucky's bordering states of Virginia and West Virginia. Bromazolam is not approved by the US Food and Drug Administration (FDA) for any specific uses. Inclusion on Kentucky's Schedule I list will help reduce the risk to public health by making it illegal to possess bromazolam.
This emergency administrative regulation will be replaced by an ordinary administrative regulation. The companion ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor
STEVEN J. STACK, MD, MBA, Secretary

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

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

EFFECTIVE: August 26, 2025
RELATES TO: KRS 217.005-217.215, 218A.010, 218A.020, 218A.040, 218A.060, 218A.080, 218A.100, 218A.120, 218A.200, 21 C.F.R. 1308.11, 1308.12, 1308.13, 1308.14, 1308.15, 1308.35, 1308.49, 21 U.S.C. 301 – 399f[~~, 801-971~~]

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

CERTIFICATION STATEMENT:

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

Section 1. Schedule I Controlled Substances.

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

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

(a) Tianeptine;

(b) Bromazolam.

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

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

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

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

Section 3. Schedule III Controlled Substances.

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

(2) The Cabinet for Health and Family Services designates the following as Schedule III controlled substances:

(a) Pentazocine;

(b) Barbital;

(c) Methylphenobarbital; and

(d) Phenobarbital.

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

(a) Expressly intended for administration through implant to livestock or other nonhuman species; and

(b) Approved by the United States Food and Drug Administration for use as described in this subsection.

Section 4. Schedule IV Controlled Substances.

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

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

Section 5. Schedule V Controlled Substances.

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

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

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

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

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

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

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

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

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

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

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

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

(a) Name and address of the purchaser;

(b) Name and quantity of controlled substance purchased;

(c) Date of each purchase; and

(d) Name or initials of the pharmacist who dispensed the substance to the purchaser.

TRICIA STEWARD, Inspector General

STEVEN J. STACK, MD, MBA, Secretary

APPROVED BY AGENCY: August 18, 2025

FILED WITH LRC: August 18, 2025 at 2:35 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on October 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 October 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 October 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
Subject Headings: Controlled substance
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation designates Kentucky's schedules of controlled substances.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with KRS 218A.020.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 218A.020(3), which authorizes the Cabinet for Health and Family Services to promulgate administrative regulations to control substances at the state level in the same numerical schedule corresponding to the federal schedule or control a substance in a more restrictive schedule than the federal schedule.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by designating Kentucky's schedules of controlled substances.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This amendment designates bromazolam as a Schedule I controlled substance.
(b) The necessity of the amendment to this administrative regulation: This amendment is in response to a recent request from Van Ingram, Executive Director, Office of Drug Control Policy. Mr. Ingram requested that the cabinet designate bromazolam as a Schedule I controlled substance via emergency administrative regulation. Bromazolam has no accepted medical use in treatment and inclusion on Kentucky's Schedule I list will help reduce the risk to public health. Bromazolam was recently banned by two of Kentucky's border states, Virginia and West Virginia. Bromazolam is not approved for use by humans or animals by the FDA.
(c) How the amendment conforms to the content of the authorizing statutes: In accordance with KRS 218A.020(5), the Office of Drug Control Policy may request the cabinet to schedule any substance that meets the criteria to be scheduled under KRS Chapter 218A. This amendment conforms to the content of KRS 218A.040 by designating bromazolam as a Schedule I controlled substance.
(d) How the amendment will assist in the effective administration of the statutes: This amendment assists in the effective administration of KRS 218A.040 by designating bromazolam as a Schedule I controlled substance.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects Kentucky's pharmacists and prescribing practitioners. State and local law enforcement agencies would also be impacted.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: Bromazolam is not currently prescribed. Pharmacists and doctors should be advised that this drug will now be considered a Schedule I drug. Law enforcement, both local and state, should be advised that possession of this drug without a prescription is subject to laws currently in place regarding possession or sale of an illicit substance.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): No costs will be incurred by any entity identified in question (4).
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Bromazolam is not currently a prescription medication in the U.S. It is currently only purchased illegally and is not approved for use in humans or animals by the U.S. Food and Drug Administration (FDA). Bromazolam is a triazolobenzodiazepine, a type of benzodiazepine, that was first synthesized in 1976 but never marketed. It is known as a "designer drug" and has been identified in the illicit drug market. When benzodiazepines like bromazolam are sometimes prescribed for anxiety, insomnia, and other conditions, they can also lead to dependence and have potential side effects. Studies, like those using drug discrimination tests with rats, have shown bromazolam to have a high potential for substitution and abuse, similar to other benzodiazepines. Inclusion on Kentucky's Schedule I list will help reduce the risk to public health by making possession of the drug illegal.
(6) 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.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The source of funding to be used for the implementation and enforcement of this administrative regulation is from general funds.
(8) 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.
(9) 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.
(10) TIERING: Is tiering applied? Tiering is not applicable as compliance with this administrative regulation applies equally to all individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 218A.020, 21 C.F.R. 1308.11, 1308.12, 1308.13, 1308.14, 1308.15, 1308.35, 1308.49
(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 Kentucky's pharmacists and prescribing practitioners who rely on state and federal regulations for information regarding scheduled drugs as well as state and local law enforcement agencies and the Department of Corrections.
(a) Estimate the following for the first year:
Expenditures: This amendment will not generate additional revenue for state or local government.
Revenues: This amendment will not generate additional revenue for state or local government.
Cost Savings: This amendment will not generate any cost savings.
(b) How will expenditures, revenue, 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.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? (b) How will expenditures, revenue, 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 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): (4) Identify additional regulated entities not identified 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 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.
(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) (a) Whether this administrative regulation will have an overall negative or adverse 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.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 21 C.F.R. 1308.11, 1308.12, 1308.13, 1308.14, 1308.15, 1308.35, 1308.49.
(2) State compliance standards. KRS 218A.020.
(3) Minimum or uniform standards contained in the federal mandate. 21 C.F.R. 1308.11 lists controlled substances that have been classified by the DEA as Schedule I drugs. 21 C.F.R. 1308. Bromazolam is a triazolobendiazepine, a type of benzodiazepine. 21 C.F.R. 1308.49 allows the DEA to place a substance into Schedule I on a temporary basis if such action is necessary to avoid an imminent hazard to the public safety.
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Yes, the federal government has not scheduled this drug; however, the federal government has sent out warnings and is leaving the decision up to states to control. This administrative regulation differs from the federal regulation because it designates bromazolam as a Schedule I controlled substance. Bromazolam is not currently controlled under the federal Controlled Substances Act. Bromazolam is not a prescription medication and is not approved by the FDA for use in humans or animals. This administrative regulation differs from the federal regulation because it designates bromazolam is not yet regulated by the federal government, although it is not approved for any use by the FDA.
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The cabinet recognizes that bramazolam has no accepted medical use in treatment and inclusion on Kentucky's Schedule I list will help reduce the risk to public health.

***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**
**907 KAR 3:320E.**

This new emergency administrative regulation is being promulgated to establish a Beneficiary Advisory Council and modify the Advisory Council for Medical Assistance to conform to new federal requirements effective July 9, 2025.
This new emergency administrative regulation is being filed pursuant to KRS 13A.190(1)(a)2., to preserve state and federal funding and ensure the most efficient use of funds, and also pursuant to KRS 13A.190(1)(a)1. to preserve the welfare of Medicaid recipients who will benefit from having expanded beneficiary participation in the policy advising initiatives of the department.
This emergency amendment will be filed with an ordinary amendment that is identical to this emergency amendment.

ANDY BESHEAR, Governor
STEPHEN J. STACK, M.D., MBA, Secretary

**CABINET FOR HEALTH AND FAMILY SERVICES**
**Department for Medicaid Services**
**Commissioner's Office**
**(New Emergency Administrative Regulation)**

**907 KAR 3:320E. Beneficiary Advisory Council and modifications to the Advisory Council for Medical Assistance to establish the Kentucky Medicaid Advisory Committee.**

EFFECTIVE: September 9, 2025
RELATES TO: KRS 61.800-884, 205.540, 42 C.F.R. 431.12
STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3)
CERTIFICATION STATEMENT:
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 Beneficiary Advisory Council and implements additional requirements for the Advisory Council for Medical Assistance, referred to federally as the Medicaid Advisory Committee, following changes to federal law.

Section 1. Beneficiary Advisory Council membership.
(1) The Department for Medicaid Services shall establish a Beneficiary Advisory Council consistent with 42 C.F.R. 431.12.
(2) Members of the Beneficiary Advisory Council shall be appointed by the commissioner of the Department for Medicaid Services.
(3) The Beneficiary Advisory Council shall consist of fifteen (15) members as follows:
(a) Ten (10) current or former Medicaid beneficiaries; and

(b) Five (5) individuals who are parents, guardians, or paid or unpaid caregivers of a Medicaid beneficiary.

(c) The three (3) medical assistance recipients serving as of July 8, 2025 on the Advisory Council for Medical Assistance pursuant to KRS 205.540, shall be appointed for a term that aligns the remainder of their term to a new term in subsection 4 of this section, to the extent possible.

(d) Appointments shall ensure representation of member experience with Medicaid managed care, the foster care system, 1915(c) home and community based waivers, or maternal, child, or behavioral health services.

(4) Members of the Beneficiary Advisory Council shall hold office for a term of four (4) years, except that the terms for members appointed upon council creation shall be as follows:

(a) One-third (1/3) of the members shall be appointed for two (2) years;

(b) One-third (1/3) of the members shall be appointed for three (3) years;

(c) One-third (1/3) of the members shall be appointed for four (4) years; and

(d) The respective terms of the members first appointed shall be designated by the commissioner of the Department for Medicaid Services at the time of their appointments.

(5) The following requirements shall apply to the terms of members of the Beneficiary Advisory Council:

(a) A member shall not serve a consecutive term but may be reappointed after a period of at least four (4) years following the end of their term;

(b) A vacancy shall be filled for an unexpired term in the same manner as the original appointment; and

(c) Members whose term has expired may serve until their successor is appointed.

(6) The Beneficiary Advisory Council shall elect a chair, vice-chair, and secretary from among its members at its first regular meeting, and annually thereafter.

(7)

(a) Upon appointment to the Beneficiary Advisory Council, members shall indicate to the commissioner their interest in appointment to the Medicaid Advisory Committee pursuant to Section 4(3)(b) and to comply with 42 C.F.R. 431.12.

(b) The current chair of the Beneficiary Advisory Council shall serve as one (1) of the appointments to the Medicaid Advisory Committee.

(c) The three (3) medical assistance recipients serving as of July 8, 2025 on the Advisory Council for Medical Assistance pursuant to KRS 205.540 shall be appointed pursuant to subsection (3)(c).

(8) To permit meaningful participation, members of the Beneficiary Advisory Council, including members who also serve on the Medicaid Advisory Committee, may receive, if requested:

(a) Compensation for time and appropriate expenses in an amount consistent with similar services reimbursed by Medicaid or as reimbursed by other boards and commissions; and

(b) Reasonable accommodations including language services, personal assistance, communication supports, and any other supports or resources based on the individual member's needs.

Section 2. Confidentiality and privacy applicable to members of the Beneficiary Advisory Council.

(1) To the extent that a conflict exists between 42 C.F.R. 431.12 and the Kentucky Open Meetings and Kentucky Open Records statutes, KRS 61.800-884, members of the Beneficiary Advisory Council may participate in the work of the Beneficiary Advisory Council as consistent with this section.

(2) A member of the Beneficiary Advisory Council shall have the option to exclude their name from documents published or posted by the Department for Medicaid Services that include a list of members of the Beneficiary Advisory Council, the Medicaid Advisory Committee, or the actions of members recorded in publicly published or posted meeting minutes.

(3) Meetings of the Beneficiary Advisory Council are not required to be open to the public unless a majority of the members decide otherwise.

(4) A member of the Beneficiary Advisory Council may opt-in to participate and vote by telephone.

Section 3. Beneficiary Advisory Council duties and authority.

(1) The Beneficiary Advisory Council shall advise the Department for Medicaid Services on:

(a) Their experiences with the program;

(b) Matters related to policy development and effective administration of the program; and

(c) Other issues that impact the provision or outcomes of health and medical care services in the program.

(2) The Beneficiary Advisory Council shall:

(a) Be separate from the Medicaid Advisory Committee pursuant to 42 C.F.R. 431.12;

(b) Meet separately from the Medicaid Advisory Committee;

(c) Meet at least once per quarter; and

(d) Meet in advance of each Medicaid Advisory Committee meeting to prepare Beneficiary Advisory Council members.

(3) The Beneficiary Advisory Council shall adhere to bylaws developed and published by the department for governance.

Section 4. Medicaid Advisory Committee. KRS 205.540 created the Advisory Council for Medical Assistance in 1960 to meet a federal requirement for an advisory council to assist the state Medicaid program. KRS 205.540 now conflicts with changes to federal regulations that take effect July 9, 2025. Therefore, it is the department's intention that the Advisory Council for Medical Assistance established in KRS 205.540 shall be modified in this Section to meet the requirements of 42 C.F.R. 431.12 and function as Kentucky's Medicaid Advisory Committee.

(1) On or after July 9, 2025, the Medicaid Advisory Committee shall consist of members appointed by the commissioner of the Department for Medicaid Services.

(2) The membership appointed to the Advisory Council for Medical Assistance pursuant to KRS 205.540 as of July 8, 2025 shall be appointed by the commissioner for the Department for Medicaid Services to the new Medicaid Advisory Committee pursuant to 42 C.F.R. 431.12 as follows:

(a) For a member with an unexpired term, for a term that aligns the remainder of the member's term with a new term in subsection (4)(b) of this section, to the extent possible;

(b) For a member serving as a medical assistance recipient, to both the Medicaid Advisory Committee and the Beneficiary Advisory Council for the same term that aligns the remainder of their term with a new term in subsection (4)(b) of this section, to the extent possible;

(c) For a member serving in an expired term, that member's term shall end on July 8, 2025, and appointment shall follow the nomination process of KRS 205.540; and

(d) For a vacancy, appointment shall follow the nomination process of KRS 205.540.

(3) The Medicaid Advisory Committee shall consist of the following members:

(a) Members appointed by the commissioner of the Department for Medicaid Services according to the membership established in KRS 205.540.

(b) Ex-officio, non-voting members as follows:

1. The commissioner of the Department for Medicaid Services, or his or her designee;

2. The commissioner of the Department for Community Based Services, or his or her designee;

3. The commissioner of the Department for Public Health, or his or her designee;

4. The commissioner of the Department for Behavioral Health, Developmental and Intellectual Disabilities, or his or her designee;

(c) The appointment by the commissioner of the Department for Medicaid Services of a sufficient number of members of the Beneficiary Advisory Council so that at least twenty-five percent (25%) of the Medicaid Advisory Committee consists of members serving on the Beneficiary Advisory Council; and

(d) A member appointed by the commissioner for the Department for Medicaid Services from a list of three (3) nominees submitted by the Kentucky Association of Health Plans, or its successor organization, to represent a current contracted Medicaid

Managed Care Organization, if beneficiaries are enrolled in managed care.

(4) A member shall have a non-consecutive term of four (4) years except that:

(a) The member appointed pursuant to subsection (3)(d) of this section shall serve a term of one (1) year.

(b) The other members first appointed according to subsections (1), (2), and (3) of this section shall serve as follows:

1. One-third (1/3) of the members shall be appointed for a term of two (2) years;

2. One-third (1/3) of the members shall be appointed for a term of three (3) years; and

3. One-third (1/3) of the members shall be appointed for a term of four (4) years.

(c) A member may be reappointed after a period of at least four (4) years following the end of their term.

(d) A vacancy shall be filled for an unexpired term in the same manner as the original appointment.

(e) At the first meeting after July 9, 2025, the new Medicaid Advisory Committee shall elect a chair, vice-chair and secretary from among its members, and annually thereafter.

(5) The Medicaid Advisory Committee shall adhere to bylaws developed and published by the department for governance.

(6) On or after July 9, 2027, the Medicaid Advisory Committee shall submit an annual report to be published on the Medicaid Advisory Committee's website, with support from the Department for Medicaid Services, as follows:

(a) Describes the activities, topics discussed, and recommendations of the Medicaid Advisory Committee and the Beneficiary Advisory Council;

(b) Includes the department's review and responses to recommended actions; and

(c) Is published to the department's website thirty (30) days after it is final.

Section 5. Duties of the Department for Medicaid Services. The department shall comply with the requirements in 42 C.F.R. 431.12 as follows:

(1) Provide staff who attend and facilitate meetings and member engagement for the Medicaid Advisory Committee and Beneficiary Advisory Council;

(2) Develop and publish on the department's website a process for Medicaid Advisory Committee and Beneficiary Advisory Council member recruitment and selection;

(3) Develop and publish on the department's website bylaws for the governance of the Medicaid Advisory Committee and Beneficiary Advisory Council;

(4) Develop and publish on the department's website a meeting schedule that maximizes member attendance and an agenda with a 30-calendar day notice of a meeting date, location, and time of each public meeting of the Medicaid Advisory Committee and Beneficiary Advisory Council;

(5) Publish on the department's website past meeting minutes and list of meeting attendees within 30 calendar days following a meeting of the Medicaid Advisory Committee and Beneficiary Advisory Council, except that members of the Beneficiary Advisory Council shall have the option to exclude their names;

(6) Offer a variety of meeting options including in-person, virtual, and hybrid (in-person and virtual), and at a minimum a telephone dial-in option for members and the public, if the meeting is open to the public;

(7) Ensure meetings are accessible to people with disabilities and provide financial support and reasonable accommodations to members of the Beneficiary Advisory Council to support participation; and

(8) Support the Medicaid Advisory Committee with the development of an annual report, and publish it on the department's website.

LISA D. LEE, Commissioner
STEPHEN J. STACK, M.D., MBA, Secretary
APPROVED BY AGENCY: August 1, 2025
FILED WITH LRC: September 9, 2025 at 10:09 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on October 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 October 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 October 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
Subject Headings: Advisory Entities; Health and Medical Services; Medicaid
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the Beneficiary Advisory Committee and implements additional requirements for the Advisory Council for Medical Assistance following changes to federal law.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish Beneficiary Advisory Council and make additional federally required updates to the Advisory Council for Medical Assistance.
(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 ensuring federally required representation on existing committees and processes and a new Beneficiary Advisory Council.
(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 federally required updates to existing advisory councils and a new required advisory council.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.
(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.
(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.
(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: DMS anticipates the appointment of fifteen (15) members to the new Beneficiary Advisory Council.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: No action is required, except individuals

will need to inform DMS of their interest in serving.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): Regulated entities will experience no new costs in complying with this administrative regulation.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Recipients will be able to participate in the Beneficiary Advisory Council and provide advice and policy development assistance to DMS.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: The department anticipates expenses of less than $50,000 in introducing the Beneficiary Advisory Council and implementing a new structure and members into the Medicaid Advisory Committee. The expenses will consist of per diems for Medicaid recipients who will begin to participate more broadly in the Medicaid Advisory Committee and the new Beneficiary Advisory Council. In addition, transportation costs and beneficiary supports – if needed – would be included in this estimate.
(b) On a continuing basis: DMS anticipates that the cost of $50,000 will continue into the future, and would be impacted only by increases in state mileage rates, and increases in other transportation and labor costs of recipient participants.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Sources of funding to be used for the implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX and Title XXI of the Social Security Act, and state matching funds of general and agency appropriations.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Neither an increase in fees nor funding will be necessary to implement the administrative regulation.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The administrative regulation does not establish or increase any fees.
(10) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. 42 C.F.R. 431.12
(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Cabinet for Health and Family Services, Department for Medicaid Services is the promulgating agency, other agencies have not been identified.
(a) Estimate the following for the first year:
Expenditures: The department anticipates expenses of less than $50,000 in introducing the Beneficiary Advisory Council and implementing a new structure and members into the Medicaid Advisory Committee. The expenses will consist of per diems for Medicaid recipients who will begin to participate more broadly in the Medicaid Advisory Committee and the new Beneficiary Advisory Council. In addition, transportation costs and beneficiary supports – if needed – would be included in this estimate.
Revenues: The department does not anticipate revenues as a result of this administrative regulation.
Cost Savings: The department does not anticipate cost savings as a result of this administrative regulation.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? DMS anticipates that the cost of $50,000 will continue into the future, and would be impacted only by increases in state mileage rates, and increases in other transportation and labor costs of recipient participants.
(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): N/A
(a) Estimate the following for the first year:
Expenditures: DMS anticipates no additional costs for local entities.
Revenues: The department does not anticipate revenues for local entities as a result of this administrative regulation.
Cost Savings: The department does not anticipate cost savings for local entities as a result of this administrative regulation.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? DMS does not expect additional expenditures, revenues, or cost savings for local entities as a result of this regulation.
(4) Identify additional regulated entities not listed in questions (2) or (3): Medicaid recipients, provider representatives, or other interested parties participating in the Medicaid Advisory Committee or the Beneficiary Advisory Committee.
(a) Estimate the following for the first year:
Expenditures: DMS does not anticipate additional expenditures for regulated entities, as per diems and travel costs – if any – will be reimbursed.
Revenues: DMS does not anticipate revenues for other participating individuals.
Cost Savings: The department does not anticipate cost savings as a result of this administrative regulation.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? DMS anticipates that any new participating individuals will continue to be eligible for some travel costs and per diems.
(5) Provide a narrative to explain the:
(a) Fiscal impact of this administrative regulation: DMS anticipates no additional costs beyond those budgeted in 2024 Regular Session HB 6. The Beneficiary Advisory Council – similar to the technical advisory committees, Advisory Council on Medical Assistance, and the new Medicaid Advisory Committee is anticipated to be primarily conducted electronically for participant convenience. The department anticipates expenses of less than $50,000 in introducing the Beneficiary Advisory Council and implementing a new structure and members into the Medicaid Advisory Committee. The expenses will consist of per diems for Medicaid recipients who will begin to participate more broadly in the Medicaid Advisory Committee and the new Beneficiary Advisory Council. In addition, transportation costs and beneficiary supports – if needed – would be included in this estimate
(b) Methodology and resources used to determine the fiscal impact: The department worked with interested parties to gain input and perspectives. In addition, DMS also worked with an external contractor in order to assess, analyze, and implement the federal final rule established in 42 C.F.R. 431.12.
(6) Explain:
(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). ($500,000 or more, in aggregate) The administrative regulation will not have a major economic impact – as defined by KRS 13A.010 – on regulated entities.
(b) The methodology and resources used to reach this conclusion: An assessment of the scope, meeting frequency, and expected participation of the board.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 42 C.F.R. 431.12
(2) State compliance standards. KRS 205.520(3) states, "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."
(3) Minimum or uniform standards contained in the federal mandate. State Medicaid agencies are required to establish and operate beneficiary advisory councils. In addition, a Medicaid Advisory Committee is required that includes members appointed by the Medicaid commissioner. The Medicaid Advisory Committee is also required to include additional types of members and additional beneficiary members.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation will not impose stricter than federal requirements.
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation will not impose stricter than federal requirements.

## 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.

***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 ECONOMIC DEVELOPMENT**
**(Emergency Amended After Comments)**

**307 KAR 1:080E. Kentucky Entertainment Incentive Program (Effective July 1, 2025).**

EFFECTIVE: September 15, 2025
Prior Versions:
New Emergency Administrative Regulation - 52 Ky.R. 144
RELATES TO: KRS 154.61-010, 154.61-020, 154.61-030
STATUTORY AUTHORITY: KRS 154.61-030(5), 2025 Ky. Acts ch. 91, sec. 1 (2025 SB 1)
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 154.61-010, 154.61-020, 154-61-030, and 2025 Ky. Acts ch. 91, sec. 1 (2025 SB 1), authorize the Kentucky Film Office and Kentucky Film Leadership Council, through the Cabinet for Economic Development and its Secretary, to establish procedures and standards for the Kentucky Entertainment Incentive Program. This administrative regulation establishes the application, criteria, fee structure, and economic analysis to evaluate applications for the KRS Chapter 154.61 incentives.

Section 1. Definitions.
(1) "Above-the-line production crew" is defined by KRS 154.61-010(1).
(2) "Approved company" is defined by KRS 154.61-010(3).
(3) "Applicant" means an eligible company submitting an application for incentives under KRS 154.61-030.
(4) "Application" means an **Application for Kentucky Entertainment Incentive (KEI)**[**application**] for tax incentives filed with the Cabinet pursuant to KRS 154.61-030.
(5) "Below-the-line production crew" is defined by KRS 154.61-010(4).
(6) "Cabinet" is defined by KRS 154.61-010(5).
(7) "Commonwealth" is defined by KRS 154.61-010(6).
(8) "Common ownership" means two or more legal entities, such as corporations, limited liability companies, partnerships, and the like, where **the**:
(a) [~~The~~ ]Entities are owned by the same person(s);
(b) [~~The~~ ]Same person(s) serves as officer(s) or director(s) of those entities; or
(c) [~~The~~ ]Majority of one entity is owned by one or more of the other entities.
(9) "Compensation" is defined by KRS 154.61-010(7).
(10) "Continuous film production" is defined by KRS 154.61-010(8).
(11) "Council" is defined by KRS 154.61-010(9).
(12) "Eligible company" is defined by KRS 154.61-010(11).
(13) "Employee" is defined by KRS 154.61-010(12).
(14) "Enhanced incentive county" is defined by KRS 154.61-010(13).
(15) "Financial interest" means a pecuniary interest that a reasonable person would expect to influence the impartiality of the transaction.
(16) "Kentucky-based company" is defined by KRS 154.61-010(16).
(17) "Kentucky Film Office" **means the office created**[~~**is defined**~~] by **KRS 154.12-280**[~~**2025 Ky. Acts ch. 91, sec. 1**~~].
(18) "Kentucky vendor" means an individual or entity that:
(a) Sells or rents a type of property of which more than a de minimis amount is regularly held in its inventory in the ordinary course of business in Kentucky, or provides a service not performed at the filming **or production** site but in Kentucky, which is the subject of the production expenditure, in its ordinary course of business;
(b) Has a physical location in Kentucky with at least one Kentucky resident employee working at such location on a regular basis. Registering with the Kentucky Secretary of State or appointing a registered agent in Kentucky does not establish a physical location in Kentucky for purposes of this definition;
(c) Is registered with the Kentucky Department of Revenue for collection of sales and use tax where required by law;
(d) Has a local Kentucky business license where required by law. The approved company is required to obtain a copy of the license from any Kentucky vendor where the total amount of purchases exceed $50,000 for such vendor during the period considered in the application and approval by the council; and
(e) **Provides**[~~**For**~~] services rendered on set **or within the Commonwealth and:**[~~**, such persons or vendors providing such services, are**~~]
**1. Is** identified on the daily production reports**;** or
**2. Can provide** other reasonable evidence that such services were rendered **within the Commonwealth.**[~~**on set is provided;**~~]
(19) "Negotiated" means an arm's-length transaction between two **(2)** or more parties who are unrelated and unaffiliated, and entered into voluntarily in an open market where the parties acted in their own self-interest.
(20) "Non-resident" is any individual not meeting the definition of a "resident" under KRS 154.61-010(22).
(21) "Pass-through entity" is defined by KRS 141.010(28).
(22) "Person" is defined by KRS 154.61-010(20).
(23) "Program" means the Kentucky Entertainment Incentive Program established by KRS 141.383, 154.61-020, and 154.61-030.
(24) "Qualifying expenditure" is defined by KRS 154.61-010(21).
**(25) "Qualifying Kentucky crew training program" means a training program offered in conjunction with a motion picture or entertainment production, as defined by KRS 154.61-010(18), in partnership with:**
**(a) An accredited Kentucky educational institution;**
**(b) A local trade association; or**
**(c) A regional educational or trade association.**
**(26)**[~~**(25)**~~] "Qualifying payroll expenditure" is defined by KRS 154.61-010(22).
**(27)**[~~**(26)**~~] "Resident" is defined by KRS 154.61-010(23).

Section 2. Qualifying Payroll Expenditures under the Kentucky Entertainment Incentive Program.
(1) Qualifying payroll expenditures submitted to the Cabinet by an approved company shall only include those expenditures made in Kentucky for services performed in the Commonwealth by above-the-line production crew or below-the-line production crew.
(2) When submitting qualifying payroll expenditures for above-the-line production crew, an approved company shall demonstrate to the Cabinet that the employee's salary was negotiated prior to commencement of the production. Salaries paid to **above-the-line production crew**[~~**producers**~~] with a financial interest in the approved company **shall be disclosed and accompanied by supporting documentation, to the Cabinet's satisfaction, demonstrating the payroll expenditure was reasonable within market rates. Financial interest shall extend to parent companies, subsidiaries, or any other related individuals or entities deriving income, profits, or loss from the approved company**[~~**shall not be considered negotiated and shall not meet the requirements of a qualifying payroll expenditure**~~].
(3) When submitting qualifying payroll expenditures made in the Commonwealth for services performed in the Commonwealth, an

approved company shall demonstrate to the Cabinet that the employee rendered the service on-set or otherwise within the Commonwealth. Compensation for services conducted or rendered both in the Commonwealth and outside of the Commonwealth shall only qualify as a qualified payroll expenditure to the extent the service is physically rendered in the Commonwealth. If an approved company is unable to track the cost of the services physically rendered in Commonwealth, then some other reasonable method which approximates the cost of the services rendered in the Commonwealth may be used to determine the amount attributable to the Commonwealth subject to adjustment by the Cabinet.

**(4) Failing to provide documentation when requested by the Cabinet shall result in expenditures being disqualified and the claimed qualifying payroll expenditure being excluded.**

Section 3. Qualifying Expenditures under the Kentucky Entertainment Incentive Program.

(1) An approved company submitting qualifying expenditures to the Cabinet shall only include expenditures made in the Commonwealth for one or more of the categories listed in KRS 154.61-010(21)(a)(1) through (9).

(2) Expenditures shall be considered made in the Commonwealth where they are made to a Kentucky vendor.

(3) Expenditures shall not be considered to be made in the Commonwealth when those expenditures are paid to a Kentucky vendor acting as a conduit, waypoint, or pass-through entity solely to enable the purchases or rentals to qualify as qualifying expenditures.

(4) Expenditures made to persons with common ownership or a financial interest with an approved company **shall**[~~must~~] be accompanied by supporting documentation, to the Cabinet's satisfaction, demonstrating the expenditure was reasonable within market rates. **Supporting documentation shall disclose the total value of goods and services provided for the project as well as a breakdown of all such related party transactions.** Common ownership **shall extend**[~~extends~~] to parent companies, subsidiaries, or any other related individuals or entities deriving income, profits, or loss from the approved company.

(5) Failing to provide documentation when requested by the Cabinet shall result in expenditures being disqualified and the claimed qualifying expenditure being excluded.

Section 4. Application Requirements.

(1) Applicants seeking incentives under the program shall submit an Application **for Kentucky Entertainment Incentive (KEI)** to the Cabinet that includes:

(a) The name and address of the applicant;

(b) Verification that the applicant is a Kentucky-based company;

(c) The preliminary production script or a detailed synopsis of the script;

(d) The locations where the filming or production will occur;

(e) The anticipated date on which filming or production shall begin in Kentucky;

(f) The anticipated date on which the applicant will complete incurring expenditures in Kentucky;

(g) The total anticipated qualifying expenditures;

(h) The total anticipated qualifying payroll expenditures for resident and nonresident above-the-line crew by county;

(i) The total anticipated qualifying payroll expenditures for resident and nonresident below-the-line crew by county;

(j) The address of a Kentucky location at which records of the production will be kept;

(k) An affirmation that if not for the incentive offered under this subchapter, the eligible company would not film or produce the production in the Commonwealth;

(l) Proof of funding for the project. [~~Acceptable~~ ]Proof shall **demonstrate fifty (50) percent of funds raised through the following**[**include**]:

1. IATSE **Bonds**[**Bond**], SAG **Bonds**[**Bond**], Completion **Bonds;**[**Bond,**]

2. Payroll statements;

3. Bank statements;

4. Financing or funding **contracts**[**agreements**]; or

5. Commitment letters**, where the applicant shall:**

**a. Demonstrate twenty-five (25) percent of committed funds are held in an escrow account; and**

**b. Present a balance sheet and letter from an accredited financial institution, attorney, or accountant holding the funds**.

(m) Whether the applicant has a distribution contract for the project **and supporting plans and documentation regarding distribution**;[ ~~and~~]

(n) Whether the applicant has previously received approval for incentives under the program, and, if so, shall specify the year(s) of such approval and amount(s) of incentives received in each year. This information shall include incentives received by any other entity with common ownership or any individual with a financial interest in the applicant. Common ownership extends to parent companies, subsidiaries, or any other related individuals or entities deriving income, profits, or loss from the applicant**;**

**(o) The number of resident and nonresident above-the-line and below-the-line production crew members included by the applicant, or any other entity with common ownership or any individual with a financial interest in the applicant, on a previous application. This information shall include:**

**1. The date of the application;**

**2. Whether the application was approved;**

**3. The dates upon which the crew members were or are to be utilized; and**

**4. Each crew member's role in the production;**

**(p) Any deal memoranda between applicants and key personnel;**

**(q) A detailed episode-by-episode synopsis and committed talent;**

**(r) A detailed breakdown of the project's budget including all estimated line items used to support claimed qualifying payroll expenditures and qualifying expenditures. All budget line items shall be reasonable and within market rates;**

**(s) A detailed explanation of timing of the production in the event there are commonly held or financially interested applicants with overlapping personnel; and**

**(t) Whether there are one (1) or more qualifying Kentucky crew training programs offered in conjunction with the project**.

(2) Applicants shall submit a completed application no later than thirty (30) calendar days prior to the date upon which applicant seeks to have the application reviewed by the council.

(3) Within twenty (20) calendar days of receiving an application, the **Kentucky Film Office**[**Cabinet**] shall notify the applicant:

(a) That the **Kentucky Film Office**[**Cabinet**] received the application;

(b) Whether, upon initial review, the applicant appears to meet the criteria of an eligible company or whether the **Kentucky Film Office**[**Cabinet**] requires additional verification or documentation; and

(c) That[**, provided the applicant has not exceeded the individual incentive limitation set forth in Section 5 of this regulation,**] either:

1. Based upon the annual allocated funds for the program, enough uncommitted incentives remain in the program's calendar year to move forward with an economic analysis and ranking of the application and notification to the council thereof; or

2. Based upon the remaining annual allocated funds for the program, the **Kentucky Film Office**[**Cabinet**] will not move forward with the application.

Section 5. Incentive Awards. To effectuate the purposes of the program set forth in KRS 154.61-020(1)**,** [**:**]

[~~**(1)**~~] [~~**the amount of incentive awards received by any single approved company, not otherwise meeting the definition of continuous film production, shall be limited to no more than ten percent (10%) of the total annual tax credit cap under KRS 154.61-020(4). In determining whether this limit has been met, the Cabinet shall consider the applicant in conjunction with any approved company sharing common ownership or a financial interest with the applicant; and**~~]

[~~**(2)**~~] the amount of incentive awards approved for all applicants in any single calendar month, not otherwise meeting the definition of

continuous film production, shall be limited to no more than **ten million dollars ($10,000,000)**[**ten percent (10%)**] of the total annual tax credit cap under KRS 154.61-020(4). **If**[**In the event**] the amount of incentive awards approved does not meet the **ten-million-dollar ($10,000,000)**[**ten percent (10%)**] limitation set forth in this subsection, the remainder shall carry forward to the subsequent calendar month. **The council may elect to commit more than this monthly allocation in the event a project:**

**(1) Has anticipated qualifying expenditures and payroll expenditures that exceed this amount; and**

**(2) Commitment of incentives to the project is supported by the economic analysis set forth in Section 6 of this administrative regulation.**

Section 6. Economic Analysis.

(1) The Cabinet shall conduct an economic analysis of each application.

(2) The analysis shall evaluate each application on **the**:

(a) [**The** ]Percentage of spend in the Commonwealth in relation to the total amount anticipated to be spent on a project;

(b) [**The**]**Relative** percentage of total production costs **associated with**[**in Kentucky compared to**] above-the-line and below-the-line production crew costs;

(c) [**The anticipated** ]Percentage of project filming **or production** in enhanced incentive counties;

(d) **Number**[**the percentage**] of anticipated employed Kentucky residents **compared to the**[**and**] total above-the-line and below-the-line production crew;

(e) [**The** ]Amount of time filming **or production** will occur in Kentucky;[ **and**]

(f) [**The** ]Presence of a distribution contract**;**

**(g) Percentage of funding secured;**

**(h) Total amount of incentives sought compared to the number of Kentucky-based below-the-line production crew members employed;**

**(i) Percentage of incentives sought attributable to non-Kentucky-based production crew members; and**

**(j) Availability of one (1) or more qualifying Kentucky crew training programs offered in conjunction with the project**.

(3) **The Cabinet shall conduct an economic analysis of**[**The Cabinet shall then rank**] each application submitted under the program based upon the program's purposes set forth in KRS 154.61-020(1)(a) through (d). **Analysis**[**Ranking**] shall prioritize applications with more Kentucky-based jobs, **committed funding, spend to**[**employed**] Kentucky**-based vendors** residents, **qualifying Kentucky crew training programs,** and **overall economic benefit to Kentucky**[**percentage of spend going to Kentucky-based vendors**] in relation to the total amount of proposed spend on a project or incentives sought by an eligible company.

(4) **For a national touring production of a Broadway show produced in Kentucky in accordance with KRS 154.61-010(18)(a)2., the number of anticipated employed Kentucky residents identified in subsection (2)(d) of this section shall include the number of Kentucky-based jobs at the production's venue supported by the production.**

**(5)** Upon completion of the project, submission of qualifying expenditures and qualifying payroll expenditures, and certification of eligible expenditures by an independent certified public accountant, the Cabinet may reduce the approved incentive amount to an approved company based upon the variation between the approved company's application for incentives and actual expenditures submitted to the Cabinet.

Section 7. Fees. Applicants seeking incentives under the program shall include with their application:

(1) A nonrefundable application fee in the amount of:

(a) [**Two hundred fifty dollars (**]$250[**)**] where the total amount of qualifying expenditures and qualifying payroll expenditures is less than[ **fifty thousand dollars (**]$50,000[**)**];

(b) [**Five hundred dollars (**]$500[**)**] where the total amount of qualifying expenditures and qualifying payroll expenditures is between [**fifty thousand dollars (**]$50,000[**)**] and [**one hundred thousand dollars (**]$100,000[**)**]; or

(c) [**One thousand dollars (**]$1,000[**)**] where the total amount of qualifying expenditures and qualifying payroll expenditures is more than [**one hundred thousand dollars (**]$100,000[**)**]; and

(2) An administrative fee of one-half of one percent (0.5%) of the estimated amount of tax incentive sought or [**five hundred dollars (**]$500[**)**], whichever is greater.

**Section 8. Incorporation by Reference.**

**(1) "Application for Kentucky Entertainment Incentive (KEI)", September 2025, is incorporated by reference.**

**(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Economic Development, Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.**

JEFF NOEL, Secretary
APPROVED BY AGENCY: September 15, 2025
FILED WITH LRC: September 15, 2025 at 10:35 a.m.

CONTACT PERSON: Matthew Wingate, General Counsel, Cabinet for Economic Development, Mayo Underwood Building, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 782-1948, fax (502) 564-3256, email matthew.wingate@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Matthew Wingate or Dawn Powers
Subject Headings:
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the application, criteria, fee structure, and economic analysis to evaluate applications for the Kentucky Entertainment Incentive Program.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to administer the Kentucky Entertainment Incentive Program and Kentucky Film Office as required by statute.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing the application process and review criteria and requirements for the Kentucky Entertainment Incentive Program.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists with the effective administration of the statutes by establishing a framework for prioritizing applications based upon the purpose of the Kentucky Entertainment Incentive Program statutes.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: N/A.
(b) The necessity of the amendment to this administrative regulation: N/A.
(c) How the amendment conforms to the content of the authorizing statutes: N/A.
(d) How the amendment will assist in the effective administration of the statutes: N/A.
(3) Does this administrative regulation or amendment implement legislation from the previous five years?
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: this administrative regulation impacts the applicants to the Kentucky Entertainment Incentive Program. (4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Regulated entities will be able to participate in the Kentucky Entertainment Incentive Program through the established process. (b) In complying with this administrative regulation or amendment, how much will it cost each

of the entities identified in question (3): Regulated entities will experience no new costs in complying with this administrative regulation. (c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Recipients will be able to participate in the Kentucky Entertainment Incentive Program.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: Regulated entities will be able to participate in the Kentucky Entertainment Incentive Program through the established process.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): Regulated entities will experience no new costs in complying with this administrative regulation.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Recipients will be able to participate in the Kentucky Entertainment Incentive Program.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: No expenses or an unknown amount will be incurred.
(b) On a continuing basis: No expenses or an unknown amount will be incurred.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Pursuant to KRS 154.61-020, the total tax incentive amount of the Kentucky Entertainment Incentive Program is $75,000,000. Sources of funding for staffing are provided from General Funds provided to the Cabinet and restricted funds from application fees as set by KRS 154.61-030(5) and two and one-half percent (2.5%) of the transient room tax collected pursuant to KRS 142.400, up to the maximum amount of five hundred thousand dollars ($500,000) for the period beginning July 1, 2025, and ending June 30, 2027, as set by KRS 154.12-280(4).
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Neither an increase in fees nor funding will be necessary to implement this administrative regulation.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: KRS 154.61-030(5) establishes the fees used in this administrative regulation. This regulation does not increase any fees.
(10) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all applicants.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 154.12-280, 154.61-010, 154.61-020, 154.61-030.
(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Cabinet for Economic Development, other agencies have not been identified.
(a) Estimate the following for the first year:
Expenditures: The Cabinet does not anticipate expenditures as a result of this administrative regulation.
Revenues: The Cabinet does not anticipate revenues as a result of this administrative regulation.
Cost Savings: The Cabinet does not anticipate cost savings as a result of this administrative regulation.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? The Cabinet does not expect a change to revenues or cost savings in subsequent years.
(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): N/A
(a) Estimate the following for the first year:
Expenditures: The Cabinet does not anticipate expenditures as a result of this administrative regulation.
Revenues: The Cabinet does not anticipate revenues as a result of this administrative regulation.
Cost Savings: The Cabinet does not anticipate cost savings as a result of this administrative regulation.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? The Cabinet does not expect a change to revenues or cost savings in subsequent years.
(4) Identify additional regulated entities not listed in questions (2) or (3): Additional regulated entities include applicants to the Kentucky Entertainment Incentive Program.
(a) Estimate the following for the first year:
Expenditures: The Cabinet does not anticipate expenditures as a result of this administrative regulation.
Revenues: The Cabinet does not anticipate revenues as a result of this administrative regulation.
Cost Savings: The Cabinet does not anticipate cost savings as a result of this administrative regulation.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures: The Cabinet does not anticipate expenditures as a result of this administrative regulation. Revenues: The Cabinet does not anticipate revenues as a result of this administrative regulation. Cost Savings: The Cabinet does not anticipate cost savings as a result of this administrative regulation.
(5) Provide a narrative to explain the:
(a) Fiscal impact of this administrative regulation: The administrative regulation implements the application process and review criteria and requirements for the Kentucky Entertainment Incentive Program. The administrative regulation does not create a fiscal impact.
(b) Methodology and resources used to determine the fiscal impact: N/A.
(6) Explain:
(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). ($500,000 or more, in aggregate) The administrative regulation will not have a major economic impact – as defined by KRS 13A.010 – on regulated entities.
(b) The methodology and resources used to reach this conclusion: This administrative regulation does not create 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.***

**CABINET FOR HEALTH AND FAMILY SERVICES**
**Office of Inspector General**
**Division of Certificate of Need**
**(Emergency Amended at ARRS Committee)**

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

EFFECTIVE: September 9, 2025
Prior Versions:
Emergency Amendment - 52 Ky.R. 11
Emergency Amended After Comments – 52 Ky.R. 362
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) ***The proposal involves an application for a Level II PRTF***[***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.**~~]

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

(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.***~~]

FILED WITH LRC: September 9, 2025 at 1 p.m.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

# ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY AND REVIEWING SUBCOMMITTEE

**ARRS = Administrative Regulation Review Subcommittee**
**IJC = Interim Joint Committee**

## BOARDS AND COMMISSIONS
## Board of Pharmacy
## (As Amended at ARRS, September 9, 2025)

**201 KAR 2:480. Telework and electronic supervision for remote prescription processing.**

RELATES TO: KRS 315.020(5), 315.310
STATUTORY AUTHORITY: KRS 315.191(1)(a)
CERTIFICATION STATEMENT: This is to certify that the administrative regulation complies with the requirements of 2025 RS HB 6, Section 8. The Board of Pharmacy is not one of the agencies that is directed by House Bill 6, Section 8(3) to include a certification by the Governor.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.191(1)(a) authorizes the board to promulgate administrative regulations to regulate and control all matters prescribed in KRS Chapter 315. KRS 315.020(5) authorizes order entry, order entry verification, and drug regimen review as tasks that may be performed outside of the permitted space of the pharmacy by a pharmacist licensed in Kentucky, [***or*** ]a pharmacy technician registered in Kentucky**,** or a pharmacy intern certified in Kentucky. This administrative regulation establishes the minimum requirements for pharmacies located in Kentucky engaged in remote prescription processing[ ~~conducted via telework~~] and the requirements for electronic supervision.

Section 1. Definitions.
(1) "Electronic Supervision" means the oversight provided by a pharmacist licensed in Kentucky and supervising, by means of a real-time electronic communication system, a **pharmacy**[**pharmacist**] intern or registered pharmacy technician who is working for a permitted pharmacy.
(2) "Telework" means the practice or assistance in the practice of pharmacy by a pharmacist licensed in Kentucky**,**[***or*** ]a pharmacy technician registered in Kentucky**,** or a pharmacy intern certified in Kentucky[~~contractor or an employee of the pharmacy~~] from a remote location outside of the permitted pharmacy.
(3) "Telework Functions" means:
(a) For a pharmacist***, include***[ ~~***includes***~~]:
1. Receiving, interpreting, or clarifying medical orders or prescription drug orders;
2. Order entry and order entry verification;
3. Transfer of prescription information;
4. Prospective drug utilization reviews;
5. Interpretation of clinical data;
6. Refill authorizations;
7. Performing therapeutic intervention; and
8. Patient counseling; and
(b) For a pharmacy technician are limited to tasks authorized under KRS 315.020(5).
(4) "Telework Site" means a location within the United States where a Kentucky-registered pharmacy technician assists in the practice of pharmacy, or a Kentucky-licensed pharmacist or Kentucky-certified **pharmacy**[**pharmacist**] intern engages in the practice of pharmacy[ ~~as a contractor or an employee~~] outside of the pharmacy that is located and permitted in Kentucky.

Section 2. [~~Registration. The pharmacy and the pharmacist-in-charge of the pharmacy shall ensure individuals at telework sites are licensed or registered with the board.~~]

[~~Section 3.~~] Requirements.
(1) [~~The pharmacy and pharmacist-in-charge, or the designee appointed by the pharmacist in charge shall ensure that interns and pharmacy technicians working under electronic supervision are supervised by a Kentucky licensed pharmacist.~~]

[~~(2)~~] [~~A pharmacist or intern that engages in the practice of pharmacy and a pharmacy technician that assists in the practice of pharmacy at a telework site shall be licensed or registered by the board and shall comply with all applicable federal and state law.~~]
[~~(3)~~] Prescription drugs and related devices shall not be at a telework site.
(2)[~~(4)~~] The pharmacy utilizing telework functions shall:
(a) Possess a written agreement with the licensee or registrant that includes all conditions, duties, and policies governing the licensee or registrant engaged in telework activities; ***and***
(b) Maintain a continuously updated, readily retrievable, list of all licensees and registrants engaged in telework and the:
1. Address and phone number for each telework site;
2. Functions being performed by licensees or registrants engaged in telework; and
3. The name of the pharmacist providing supervision for each non-pharmacist registrant.
(3)[~~(5)~~] The pharmacist-in-charge or the designee appointed by the pharmacist**-in-charge**[~~**in charge**~~] of a pharmacy utilizing telework functions shall:
(a) Develop, implement, and enforce a continuous quality improvement program designed to objectively and systematically:
1. Monitor, evaluate, and document the quality and appropriateness of patient care;
2. Improve patient care;
3. Identify, resolve, and establish the root cause of dispensing and drug utilization review errors; and
4. Implement measures to prevent recurrence;
(b) Develop, implement, and enforce a procedure for identifying the pharmacist, **pharmacy** intern, and pharmacy technician responsible for telework functions; and
(c) Develop, implement, and enforce a process for a virtual inspection of each telework site where a pharmacist technician is assisting in the practice of pharmacy or a **pharmacy**[**pharmacist**] intern is engaged in the practice of pharmacy**.**
***1. The virtual inspection shall be conducted*** by a pharmacist at least once every twelve (12) months or more frequently ***based upon the professional judgment of***[~~***as determined necessary by***~~] the pharmacist.
***2.*** The inspection shall be documented and records retained.
***3.*** Board staff may request and participate in virtual inspections.

Section 3.[~~Section 4.~~] Electronic Supervision Requirements. The pharmacy, pharmacist-in-charge, or the designee appointed by the pharmacist**-in-charge**[~~**in charge**~~] and the supervising pharmacist from the pharmacy shall:
(1) Utilize an electronic communication system and have appropriate technology or interface to allow access to information required to complete assigned duties;
(2) Ensure a pharmacist is supervising and directing each **pharmacy** intern and pharmacy technician and that the electronic communication system is operational;
(3) Ensure that a pharmacist, using professional judgment, determines the frequency of check-ins with registrants to ensure patient safety, competent practice, and compliance with federal and state laws**.**[**.**]
(4) Ensure that a pharmacist is readily available to answer questions and be fully responsible for the practice and accuracy of the registrant; and
(5) Ensure the **pharmacy** intern or pharmacy technician knows the identity of the pharmacist who is providing supervision and direction.

Section 4.[~~Section 5.~~] Confidentiality. The [~~Kentucky permitted~~ ]pharmacy, pharmacist-in-charge of the pharmacy, or the designee appointed by the pharmacist**-in-charge**[~~**in charge**~~], and the pharmacist, **pharmacy** intern, and pharmacy technician shall:

(1) Ensure patient and prescription information is managed in compliance with current state and federal law;

(2) Ensure the security and confidentiality of patient information and pharmacy records;

(3) Document in writing and report to the board within ten (10) days of discovery any confirmed breach in the security of the system or breach of confidentiality; and

(4) Report any breach of security or confidentiality to the Kentucky permitted pharmacy within twenty-four (24) hours of discovery[ ~~and to the board within ten (10) days~~].

Section 5.[~~Section 6.~~] Technology. The pharmacist-in-charge or the designee appointed by the pharmacist**-in-charge**[~~in charge~~] shall:

(1) Test the electronic communication system with the telework site and document that it operates properly before the **pharmacy** intern or pharmacy technician engages in telework at the telework site;

(2) Develop, implement, and enforce a plan for responding to and recovering from an interruption of service ***that***[~~***which***~~] prevents a pharmacist from supervising and directing the **pharmacy** intern and pharmacy technician at the telework site;

(3) Ensure access to appropriate and current pharmaceutical references based on the services offered***, which***[ ~~***and***~~] shall include Kentucky Revised Statutes, Kentucky Administrative Regulations, United States Code, Code of Federal Regulations, standards adopted by reference, and the Board of Pharmacy quarterly newsletters; and

(4) Train the pharmacists, **pharmacy** interns, and pharmacy technicians in the operation of the electronic communication system.

Section 6.[~~Section 7.~~] Security.

(1) The pharmacist-in-charge or the designee appointed by the pharmacist**-in-charge**[~~in charge~~] and each pharmacist supervising a telework site shall ensure the telework site has a designated work area that is secure and has been approved by a pharmacist ***based on compliance with this administrative regulation*** prior to utilization.

(2) Confidentiality shall be maintained so that patient information cannot be viewed or overheard by anyone other than the pharmacist, **pharmacy** intern, or pharmacy technician.

(3) All computer equipment used for telework shall:

(a) Establish and maintain a secure connection to the pharmacy and patient information;

(b) Utilize a program that prevents unauthorized access to the pharmacy and patient information;[ ~~***and***~~]

(c) Ensure the pharmacy and patient information is not accessed if:

1. There is not a pharmacist actively supervising the **pharmacy** intern or pharmacy technician at a telework site;

2. There is not **a pharmacy**[~~an~~] intern or pharmacy technician present at the electronically supervised telework site; or

3. Any component of the electronic communication system is not functioning; ***and***[~~***or***~~]

(d) Be configured so information from any patient or pharmacy records are not duplicated, downloaded, or removed from the electronic database if an electronic database is accessed remotely.

(4) A record shall be maintained with the date, time, and identification of the licensee or registrant accessing patient or pharmacy records at a telework site.

(5) All records shall be stored in a secure manner that prevents access by unauthorized persons.

Section 7.[~~Section 8.~~] Policies and Procedures.

(1) The pharmacy and the pharmacist-in-charge, or the designee appointed by the pharmacist**-in-charge**[**in charge**]**,** shall be accountable for establishing, maintaining, and enforcing written policies and procedures for the licensees working via telework. The written policies and procedures shall be maintained at the pharmacy and shall be available to the board upon request.

(2) The written policies and procedures shall include the services and responsibilities of the licensee or registrant engaging in telework including:

(a) Security;

(b) Operation, testing, training, and maintenance of the electronic communication system;

(c) Detailed description of work performed;

(d) Pharmacist supervision and direction of **pharmacy** interns and pharmacy technicians;

(e) Recordkeeping;

(f) Patient confidentiality;

(g) Continuous quality improvement;

(h) Plan for discontinuing and recovering services if the electronic communication system is disrupted;

(i) Confirmation of secure telework sites;

(j) Documenting the identity, function, location, date, and time of the licensees engaging in telework at a telework site;

(k) Written agreement with contracted licensees engaging in telework outlining the specific functions performed and requirement to comply with telework policies and procedures; and

(l) Equipment.

Section 8.[~~Section 9.~~] Records.

(1) The recordkeeping requirements of this administrative regulation shall be in addition to 201 KAR 2:171.

(2) A pharmacy utilizing registrants or licensees via telework shall be able to produce a record of each pharmacist, **pharmacy**[**pharmacist**] intern, or pharmacy technician involved in each order entry function. The record shall include the date and time when each step function was completed.

(3) Physical records shall not be stored at the telework site.

(4) Records shall not be duplicated, downloaded, or removed if accessed via telework.

(5) Records shall be stored in a manner that prevents unauthorized access.

(6) Records shall include items such as:

(a) Patient profiles and records;

(b) Patient contact and services provided;

(c) Date, time, and identification of the licensee or registrant accessing patient or pharmacy records;

(d) If processing prescriptions, date, time, and identification of the licensee or registrant and the specific activity or function of the person performing each step in the process;

(e) Training records;

(f) Virtual inspections;

(g) List of employees performing telework that includes:

1. Name;

2. License or registration number and expiration date;

3. Address of telework site; and

4. Name of the [~~Kentucky licensed~~][]pharmacist who:

a. Supervised the **pharmacy** intern or pharmacy technician;

b. Approved licensee to telework; and

c. Approved each telework site; and

(h) Electronic communication system testing and training.

Section 9.[~~Section 10.~~] Prohibited Practices. Final product verification and dispensing from a location outside of or other than a permitted pharmacy shall not occur in telework.

FILED WITH LRC: September 9, 2025 at 1 p.m.

CONTACT PERSON: Christopher Harlow, Executive Director, Kentucky Board of Pharmacy, 125 Holmes Street, Suite 300, State Office Building Annex, Frankfort, Kentucky 40601, phone (502) 564-7910, fax (502) 696-3806, email christopher.harlow@ky.gov.

***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**
**(As Amended at ARRS, September 9, 2025)**

**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 ***April 16, 2025***[~~***March 20, 2024***~~].

Section 2. Incorporation by Reference.
(1) The following material is incorporated by reference: "The Occupational Therapy Compact Rules", ***April 16, 2025***[~~***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) ***Implementation of Federal Bureau of Investigations***[~~***Rule on FBI***~~] Criminal Background ***Check (FBI CBC) Requirement***[~~***Checks***~~], adopted April 16, 2025;[.]
(d) [~~***Rule on***~~ ]Member State Implementation, adopted April 16, 2025;[.]
(e) ***Occupational Therapy Compact***[~~***Rule on OTC***~~] Fees (**[:** ]Administrative ***and***[~~***&***~~] State**),** adopted April 16, 2025***; and***[.]
(f) [~~***Rule on***~~ ]***Occupational Therapy*** 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.gov/ot-compact-commission/governance-documents/***[~~***https://otcompact.org/ot-compact-commission/governance-documents/***~~].

FILED WITH LRC: September 9, 2025 at 1 p.m.

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. Link to public comment portal: https://ppc.ky.gov/reg_comment.aspx.

**PUBLIC PROTECTION CABINET**
**Board of Registration for Professional Geologists**
**(As Amended at ARRS, September 9, 2025)**

**201 KAR 31:010. Fees.**

RELATES TO: KRS 322A.050, 322A.060, 322A.070
STATUTORY AUTHORITY: KRS 322A.030(5), 322A.050, 322A.060(1), 322A.070(1), (3)
CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8(2). The Kentucky Board of Registration for Professional Geologists is not among the agencies listed in Section 8(3) that require additional certification by the Governor.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 322A.040, 322A.050, and 322A.060 authorize the board to establish application, registration, renewal, and examination fees. KRS 322A.070(3) authorizes the board to replace registrations if needed. This administrative regulation establishes the fees charged by the board to apply for registration or certification, sit for the examination, and renew and reinstate a registration or certification.

Section 1. Application Fee.
(1) The application fee for registration as a professional geologist or certification as a geologist-in-training shall be non-refundable pursuant to KRS 322A.050 and shall be paid with the filing of the application.
(2) The application fee for registration as a professional geologist or certification as a geologist-in-training shall be set at ***$225***[~~***$225.00 unless adjusted by the Board, which may, upon approval of the Board, increase the fee to an amount not to exceed $325.00. Any such adjustment shall be based on financial necessity, administrative costs, or other relevant factors deemed appropriate by the Board***~~][~~$150~~].

Section 2. Examination Fees. An applicant for registration as a professional geologist or certification as a geologist-in-training shall be responsible for payment of the required examination fee charged by the National Association of State Boards of Geology.

Section 3. Biennial Renewal Fees and Penalties. The fees established in subsections (1) through (5) of this section shall be paid in connection with licensure and certification renewals and late renewal penalties.
(1) The biennial renewal fee for registration as a professional geologist or certification as a geologist-in-training shall be set at ***$250***[~~***$250.00 unless adjusted by the Board, which may, upon approval of the Board, increase the fee to an amount not to exceed $375.00. Any such adjustment shall be based on financial necessity, administrative costs, or other relevant factors deemed appropriate by the Board***~~][~~$175~~].
(2) The late biennial renewal fee for registration or certification in active status as a professional geologist or certification as a geologist-in-training, including penalty, for late renewal during the ninety (90) day grace period shall be set at ***$300***[~~***$300.00 unless adjusted by the Board, which may, upon approval of the Board, increase the fee to an amount not to exceed $400.00. Any such adjustment shall be based on financial necessity, administrative costs, or other relevant factors deemed appropriate by the Board***~~][~~$225~~].
(3) The reinstatement fee for registration as a professional geologist or certification as a geologist-in-training renewal after the end of the ninety (90) day grace period and before the registration or certification is revoked pursuant to KRS 322A.060(3) shall be set at ***$350***[~~***$350.00, unless adjusted by the Board, which may, upon approval of the Board, increase the fee to an amount not to exceed $450.00. Any such adjustment in fee shall be based on financial necessity, administrative costs, or other relevant factors deemed appropriate by the Board***~~][~~$275~~].
(4) In lieu of paying the biennial renewal fee, a person may opt to renew his or her registration or certification as inactive.
(a) The biennial inactive renewal fee shall be $100.
(b) A registration or certification may be renewed in inactive status indefinitely.

(c) The late biennial renewal fee for registration or certification in inactive status shall be $175.

(d) The reinstatement fee for registration as a professional geologist or certification as a geologist-in-training as an inactive renewal after the end of the ninety (90) day grace period and before the registration or certification is revoked pursuant to KRS 322A.060(3) shall be $200.

(5) To reinstate a license from inactive status, a licensee shall remit the reinstatement fee in subsection (3) of this section.

Section 4. Duplicate Registration or Certification Fees. The fee for a duplicate of the original registration or certification certificate shall be ten (10) dollars.

[***~~Section 5.~~***] [][***~~Board Approval Required for Fee Adjustment. Except as otherwise provided in this chapter, any fee increase pursuant to this section shall be approved by a super-majority vote of the Board at a public meeting open to public comment and shall not exceed the maximum amount established in this section.~~***]

FILED WITH LRC: September 9, 2025 at 1 p.m.

CONTACT PERSON: Adrian L. Del Valle, Assistant Attorney General, Kentucky Office of the Attorney General, Office of Civil and Environmental Law, 700 Capital Avenue, Suite 118, (502) 696-5363, email Adrian.Delvalle@ky.gov.

## KENTUCKY BOARD OF EMERGENCY MEDICAL SERVICES
## (As Amended at ARRS, September 9, 2025)

### 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***(1)***, 311A.025, 311A.030***(1)***[~~, 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***(1)*** 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***(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.

Section 1. Applying for Licensure.

(1) An applicant shall submit:

(a) A completed Initial Ground[~~Ambulance~~] Agency License Application***, accessed at kemsis.ky.gov***;

(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***, accessed at kemsis.ky.gov***[~~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 ***if***[~~***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 ***established***[~~***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[~~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's website at: kbems.ky.gov.

FILED WITH LRC: September 9, 2025 at 1 p.m.

CONTACT PERSON: John K. Wood, Counsel for the Kentucky Board of Emergency Medical Services, 163 East Main Street, Suite 200, Lexington, Kentucky 40507, phone (859) 225-4714, email administrativeregulations@wgmfirm.com.

**KENTUCKY BOARD OF EMERGENCY MEDICAL SERVICES**
**(As Amended at ARRS, September 9, 2025)**

**202 KAR 7:545. License classifications.**

RELATES TO: KRS ***216B.020,*** **311A.010,**311A.030, 311A.190[~~,~~ ***216B.020***]
STATUTORY AUTHORITY: KRS 311A.020***(1)***, 311A.025, 311A.030***(1)***, 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***(1)*** 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***(1)*** 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)

***(a)*** "911 scene response" means a response:

***1.***[***(a)***] Resulting from a 911 call or other call to a dispatch center or public safety answering point for assistance;

***2.***[***(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

***3.***[***(c)***] Where transportation of the patient will terminate in an emergency room or other location for immediate assessment or treatment.

***(b)***[***(d)***] "911 scene response" shall not include ***a*** response to a call ***in which***[***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 ***pursuant to***[***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, ***that***[***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 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 ***subsection(1)(f)6.c. through h.***[~~***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***; and***[.]

(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 ***EMS regulatory body*** 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 Certification of Need shall not be granted a license by the board.~~]

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

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

[~~(7)~~] 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.

FILED WITH LRC: September 9, 2025 at 1 p.m.

CONTACT PERSON: John K. Wood, Counsel for the Kentucky Board of Emergency Medical Services, 163 East Main Street, Suite 200, Lexington, Kentucky 40507, phone (859) 225-4714, email administrativeregulations@wgmfirm.com.

## KENTUCKY BOARD OF EMERGENCY MEDICAL SERVICES
## (As Amended at ARRS, September 9, 2025)

### 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***(1)***, [***~~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***(1)*** 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.

FILED WITH LRC: September 9, 2025 at 1 p.m.

CONTACT PERSON: John K. Wood, Counsel for the Kentucky Board of Emergency Medical Services, 163 East Main Street, Suite 200, Lexington, Kentucky 40507, phone (859) 225-4714, email administrativeregulations@wgmfirm.com.

**TOURISM, ARTS AND HERITAGE CABINET**
**Department of Fish and Wildlife Resources**
**(As Amended at ARRS, September 9, 2025)**

**301 KAR 3:140. Take of wildlife with aircraft prohibited.**

RELATES TO: KRS 150.010, 150.025, 16 U.S.C. 742

STATUTORY AUTHORITY: KRS 150.010(46), 150.025(1), 150.360

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 150.010(46) authorizes the Kentucky Department of Fish and Wildlife Resources to define methods of take. KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits and methods of take, and to make these requirements apply to a limited area. KRS 150.360(1) authorizes the department to restrict methods of taking wildlife. This administrative regulation establishes the use of aircraft for the take of wildlife and is within the frameworks established by 16 ***U.S.C.***[~~***US C.F.R.***~~] 742.

Section 1. Unlawful Use of Aircraft or Unmanned Aircraft**.**

(1) ***A person***[~~***If***~~] shall ***not***[~~***be unlawful at any time for any person to***~~] use an aircraft or unmanned aircraft system:

(a) To fish, hunt, or take wildlife or to drive or herd any wildlife for the purpose of fishing, hunting, or taking; or

(b) To harass any wildlife.

(2) [~~***Except***~~ ]Aircraft or unmanned aircraft systems may be used by:

(a) Department employees and contractors or agents acting on behalf of the Department when addressing human safety, law enforcement, research, management, or other needs approved by the department;

(b) Authorized landowners or their agents to engage in lawful wildlife damage control activities; and

(c) Commercial fishers for use in locating or removing invasive carp.

FILED WITH LRC: September 9, 2025, at 1 p.m.

CONTACT PERSON: Jenny Gilbert, Legislative Liaison, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman’s Lane, phone (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov.

**TOURISM, ARTS AND HERITAGE CABINET**
**Department of Fish and Wildlife Resources**
**(As Amended at ARRS, September 9, 2025)**

**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)***(i)***[~~(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)***(i)***[~~(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".

FILED WITH LRC: September 9, 2025 at 1 p.m.

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.

***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**
**(As Amended at ARRS, September 9, 2025)**

**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 ***7***[~~***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 ***7-12***[~~***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 ***on***[~~***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 ***8***[~~***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 ***7***[~~***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 ***6***[~~***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 ***6***[~~***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.

Section 7. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "KHSAA Constitution", 5/2025[~~7/2021~~];

(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.

FILED WITH LRC: September 9, 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.

***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**
**(As Amended at ARRS, September 9, 2025)**

**704 KAR 4:010. Physical education.**

RELATES TO: KRS [~~156.031,~~ ]156.160(1)
STATUTORY AUTHORITY: KRS 156.070, 156.160
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: [~~KRS 156.031 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 ***signed statement of a properly licensed physician, advanced practice registered nurse, physician's assistant, psychologist, or psychiatrist***[***~~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 ***or***[~~,~~] 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 ***may***[***~~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 ***the***[***~~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 ***it***[***~~such~~***]will reasonably accommodate ***the***[***~~such~~***] objections.

FILED WITH LRC: September 9, 2025 at 1 p.m.

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.

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**EDUCATION AND LABOR CABINET**
**Kentucky Board of Education**
**Department of Education**
**(As Amended at ARRS, September 9, 2025)**

**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)[~~KRS 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 ***4, 8, and 12***[***~~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.

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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.

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**EDUCATION AND LABOR CABINET**
**Kentucky Board of Education**
**Department of Education**
**(As Amended at ARRS, September 9, 2025)**

**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 ***9***[~~***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 ***9***[~~***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 ***9***[~~***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 2019~~], 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.

FILED WITH LRC: September 9, 2025 at 1 p.m.

CONTACT PERSON: Todd G. Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321, email regcomments@education.ky.gov.

## ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING OR RECEIPT OF WRITTEN COMMENTS

NONE

## 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*.

### AGRICULTURAL EXPERIMENT STATION
### (Amendment)

**12 KAR 2:006. Definitions for 12 KAR Chapter 2.**

RELATES TO: KRS 250.491-250.631
STATUTORY AUTHORITY: KRS 250.501(4), 250.571(1)(a)
CERTIFICATION STATEMENT: This certifies that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1)(a) requires the Director of the Agricultural Experiment Station to promulgate an administrative regulation adopting the official definitions of feed ingredients and official feed terms adopted by the Association of American Feed Control Officials. KRS 250.501(4) defines "commercial feed" and authorizes the director to promulgate an administrative regulation exempting commodities meeting established criteria. This administrative regulation incorporates by reference the definitions adopted by the Association of American Feed Control Officials and exempts certain commodities from the definition of commercial feed.

Section 1. The names and definitions for commercial feeds shall be the "Official Definition of Feed Ingredients" adopted by the Association of American Feed Control Officials and published in its Official Publication, except as exempted by this administrative regulation.

Section 2. The terms used in reference to commercial feeds shall be the official feed terms adopted by the Association of American Feed Control Officials and published in its Official Publication, except as exempted by this administrative regulation.

Section 3. Pursuant to KRS 250.501(4), the following commodities shall be exempt from the definition of commercial feed: raw meat,[; and] hay, straw, stover, silages, cobs, husks, and hulls when unground if the ingredient is not:
(1) Mixed or intermixed with other materials; or
(2) Adulterated within the meaning of KRS 250.541(1).

Section 4. "Quantity statement" means the net weight (mass), net volume (liquid or dry), or count.

Section 5. Incorporation by Reference.
(1) "2025 Official Publication", 2025[2018] Edition, Association of American Feed Control Officials, is incorporated by reference.
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Regulatory Services, 103 Regulatory Services Building, College of Agriculture, University of Kentucky, Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m.

DR. JAMES MATTHEWS, Director
APPROVED BY AGENCY: September 10, 2025
FILED WITH LRC: September 11, 2025 at 10:50 a.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 24, 2025, at 9:00 a.m., at the offices of the Division of Regulatory Services, 1600 University Court, Lexington, Kentucky 40546. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 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: G. Alan Harrison, Feed & Milk Director, University of Kentucky Division of Regulatory Services, 103 Regulatory Services Building, Lexington, Kentucky 40546, phone (859) 257-2785, fax (859) 323-9931, email alan.harrison@uky.edu.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: G. Alan Harrison
Subject Headings: Agriculture, Animals: Livestock and Poultry, Equine and Horses, Consumer Protection
(1) Provide a brief summary of:
(a) What this administrative regulation does: Defines what is considered a commercial feed.
(b) The necessity of this administrative regulation: Definition of commercial feed is necessary to determine what will be regulated by our Division.
(c) How this administrative regulation conforms to the content of the authorizing statutes: Pursuant to KRS 250.501(1)(a) the Director of the Agricultural Experiment Station is required to promulgate an administrative regulation to define official feed ingredients and feed terms.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation defines official feed ingredients and feed terms.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment updates usage of the Official Publication of the American Association of Feed Control Officials (AAFCO) from the 2018 Edition to the 2025 edition. This publication is used to define official feed ingredients and terms.
(b) The necessity of the amendment to this administrative regulation: The feed ingredient and feed terms defined in the Official Publication of AAFCO needed to be updated from the older version to a more modern version.
(c) How the amendment conforms to the content of the authorizing statutes: Updates terms and definitions used to regulate the feed industry.
(d) How the amendment will assist in the effective administration of the statutes: These updates are beneficial to both the regulatory body and the regulated industry as it brings in new terms and definitions that have been developed since 2018.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Firms registering commercial feeds in Kentucky will be affected by this administrative regulation.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: No action required by distributors of animal feed. No significant action required by manufacturers of animal feed.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): No cost.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): No significant benefit to distributors of animal feed. Manufacturers of animal feed may benefit from additional ingredients available for use in products and more descriptive ingredient definitions.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: No cost.
(b) On a continuing basis: No cost.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The Division of Regulatory Services regular annual budget is the source of funding.
(8) 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:
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No new fees and no increase in existing fees.
(10) TIERING: Is tiering applied? No, this administrative regulation treats all regulated entities the same.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 250.571
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 250.571
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: University of Kentucky Division of Regulatory Services
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
2. Revenues:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
3. Cost Savings:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No impact on local entities
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No impact on other entities
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(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 is being updated to reference the latest recommendations from the Association of American Feed Control Officials with regards to definitions of ingredients used in the manufacturing of animal feed.
(b) Methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers of animal feed.
(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(14): No
(b) The methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers of animal feed.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. Federal Food, Drug, and Cosmetic Act and C.F.R. 21
(2) State compliance standards. In harmony with federal standards.
(3) Minimum or uniform standards contained in the federal mandate. Standards developed by the Association of American Feed Control Officials are in harmony with federal standards.
(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. N/A

## AGRICULTURAL EXPERIMENT STATION
## (Amendment)

**12 KAR 2:011. Label format.**

RELATES TO: KRS 250.491-250.631
STATUTORY AUTHORITY: KRS 250.571(1)
CERTIFICATION STATEMENT: This certifies that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for the efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds. This administrative regulation establishes a uniform format for presentation of labeling to the purchaser of animal feeds.

Section 1. A commercial feed, other than customer formula feed, shall be labeled with the information prescribed in this administrative regulation on the principal display panel of the product and in the following format:
(1) Product name and brand name, if any, in conformance with 12 KAR 2:016;
(2) If a drug is used, the word "medicated" shall appear directly following and below the product name in type size no smaller than one-half (1/2) the type size of the product name;
(3) Product purpose statement as required by 12 KAR 2:017;
(4) If a drug is used:
(a) The purpose of medication (claim statement); and
(b) An active drug ingredient statement listing the active drug ingredients by their established names and the amounts in accordance with 12 KAR 2:021, Section 4;
(5) The guaranteed analysis of the feed as required by KRS 250.521(1)(b) and 12 KAR 2:018;
(6) The listing of feed ingredients as required by 12 KAR 2:026;
(7) Directions for use and precautionary statements as required by 12 KAR 2:031 and 12 KAR 2:036;
(8) Name and principal mailing address of the manufacturer or person responsible for distributing the feed. The principal mailing address shall include the street address, city, state, and zip code; however, the street address may be omitted if it is shown in a readily accessible, widely published, and publicly available resource, including but not limited to a printed directory, electronic database, or website[~~the current city directory or telephone directory of the city or county where the manufacturer or distributor maintains his principal place of business~~]; and
(9) The quantity statement of the net weight, net volume, or count.

Section 2.
(1) The information required by Section 1 of this administrative regulation shall appear in its entirety on one (1) side of the label or container, except the information required by Section 1(7) of this administrative regulation may be placed on a different side of the label or container if it is displayed in a prominent place on the label

or container. If the information is placed on a different side, it shall be referenced on the front side with a statement indicating where the information is located.

(2) The information required by Section 1 of this administrative regulation shall not be subordinated or obscured by other statements or designs.

Section 3. Customer-formula feed shall be accompanied by a label, invoice, delivery ticket, or other shipping document bearing the following information:

(1) The name and address of the manufacturer;

(2) The name and address of the purchaser;

(3) The date of sale or delivery;

(4) The customer-formula feed name and brand name, if any;

(5) The product name and net quantity of each registered commercial feed and each other ingredient used in the mixture;

(6) The directions for use and precautionary statements as required by 12 KAR 2:031 and 12 KAR 2:036; and

(7) If a drug-containing product is used:

(a) The purpose of the medication (claim statement); and

(b) The established name of each active drug ingredient and the level of each drug used in the final mixture as required by 12 KAR 2:021.

DR. JAMES MATTHEWS, Director

APPROVED BY AGENCY: September 10. 2025

FILED WITH LRC: September 11, 2025 at 10:50 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 24, 2025, at 9:00 a.m., at the offices of the Division of Regulatory Services, 1600 University Court, Lexington, Kentucky 40546. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 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: G. Alan Harrison, Feed & Milk Director, University of Kentucky Division of Regulatory Services, 103 Regulatory Services Building, Lexington, Kentucky 40546, phone (859) 257-2785, fax (859) 323-9931, email alan.harrison@uky.edu.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: G. Alan Harrison
Subject Headings: Agriculture, Animals: Livestock and Poultry, Equine and Horses, Consumer Protection
(1) Provide a brief summary of:
(a) What this administrative regulation does: Establishes a uniform label format for a commercial feed.
(b) The necessity of this administrative regulation: To establish a uniform format for labeling of feeds to allow consumers to evaluate nutritional quality and compare products.
(c) How this administrative regulation conforms to the content of the authorizing statutes: Helps allow for the efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Establishes criteria for proper labeling of feeds.
(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: Expands the options of guarantors of commercial feed to omit the street address on a label. Current regulation does not include websites.
(b) The necessity of the amendment to this administrative regulation: Replacing dated language.
(c) How the amendment conforms to the content of the authorizing statutes: Replacing dated language.
(d) How the amendment will assist in the effective administration of the statutes: No substantive change but recognizing websites that list guarantor addresses.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Firms which register commercial feeds in Kentucky will be affected by this administrative regulation.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: No action required by distributors of animal feed. No significant action required by manufacturers of animal feed.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): No cost.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): No significant benefit to distributors of animal feed.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: No cost.
(b) On a continuing basis: No cost.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The Division of Regulatory Services regular annual budget is the source of funding.
(8) 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:
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No new fees and no increase in existing fees.
(10) TIERING: Is tiering applied? No, this administrative regulation treats all regulated entities the same.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 250.571
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 250.571
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: University of Kentucky Division of Regulatory Services
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
2. Revenues:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
3. Cost Savings:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No impact on local entities
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact

For subsequent years: No impact
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No impact on other entities
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(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 impact
(b) Methodology and resources used to reach this conclusion: Minor changes in regulation affect only guarantors of animal feed.
(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(14): No
(b) The methodology and resources used to reach this conclusion: Minor changes in regulation affect only guarantors of animal feed.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. Federal Food, Drug, and Cosmetic Act and C.F.R. 21
(2) State compliance standards. In harmony with federal standards.
(3) Minimum or uniform standards contained in the federal mandate. Standards developed by the Association of American Feed Control Officials are in harmony with federal standards.
(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. N/A

## AGRICULTURAL EXPERIMENT STATION
## (Amendment)

### 12 KAR 2:018. Guaranteed analysis.

RELATES TO: KRS 250.491-250.631
STATUTORY AUTHORITY: KRS 250.521(1)(b), 250.571(1)
CERTIFICATION STATEMENT: This certifies that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for the efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds. KRS 250.521(1)(b) requires that a commercial feed label contain a guaranteed analysis stated in terms the director by administrative regulation determines are required to advise the user of the composition of the feed or to support claims made in the labeling. This administrative regulation establishes a uniform format for the nutritional guarantees required as a part of the commercial feed label.

Section 1. The nutritional guarantees shall be listed in the following order: crude protein, equivalent crude protein from non-protein nitrogen, amino acids, crude fat, crude fiber, acid detergent fiber, neutral detergent fiber, calcium, phosphorus, salt, and sodium. Other guarantees shall follow in a general format with the units of measure used to express guarantees (percentage, parts per million, international units, etc.) listed in a sequence that provides a consistent grouping of the units of measure.

Section 2. Required Guarantees for Swine Formula Feeds.
(1) The animal classes for swine shall be:
(a) Prestarter - two (2) to eleven (11) pounds;
(b) Starter - eleven (11) to forty-four (44) pounds;
(c) Grower - forty-four (44) to 110 pounds;
(d) Finisher - 110 pounds to market weight;
(e) Gilts, sows, and adult boars; and
(f) Lactating gilts and sows.
(2) The guaranteed analysis for swine complete feeds and supplements (all animal classes) shall include the:
(a) Minimum percentage of crude protein;
(b) Minimum percentage of lysine;
(c) Minimum percentage of crude fat;
(d) Maximum percentage of crude fiber or acid detergent fiber (ADF);
(e) Minimum and maximum percentage of calcium;
(f) Minimum percentage of phosphorus;
(g) Minimum and maximum percentage of salt (if added);
(h) Minimum and maximum percentage of total sodium, if the total sodium exceeds that furnished by the maximum salt guarantee; and
(i) Minimum selenium in parts per million (ppm).

Section 3. Required Guarantees for Formula Poultry Feeds (Chicken and Turkey).
(1) The animal classes for layer chickens that are grown to produce eggs for food shall be:
(a) Starting/ growing - from day of hatch to approximately ten (10) weeks of age;
(b) Finisher - from approximately ten (10) weeks of age to time first egg is produced (approximately twenty (20) weeks of age);
(c) Laying - chickens from time first egg is laid throughout the time of egg production; and
(d) Breeders - chickens that produce fertile eggs to hatch replacement layers that produce eggs for food.
(2) The animal classes for broiler chickens that are grown for human food shall be:
(a) Starting/ growing - from day of hatch to approximately five (5) weeks of age;
(b) Finisher - from approximately five (5) weeks of age to market, (forty-two (42) to fifty-two (52) days); and
(c) Breeders - hybrid strains of chickens whose offspring are grown for human food (broilers), any age and either sex.
(3) The animal classes for breeder chickens whose offspring (broilers) are grown for human food shall be:
(a) Starting/ growing - from day of hatch until approximately ten (10) weeks of age;
(b) Finishing - from approximately ten (10) weeks of age to time first egg is produced, approximately twenty (20) weeks of age; and
(c) Laying - fertile egg producing chickens (broilers/roasters) from day of first egg throughout the time fertile eggs are produced.
(4) The animal classes for turkeys shall be:
(a) Starting/ growing - turkeys that are grown for human food from day of hatch to approximately thirteen (13) weeks of age (females) and sixteen (16) weeks of age (males);
(b) Finisher - turkeys that are grown for human food, females from approximately thirteen (13) weeks of age to approximately seventeen (17) weeks of age, males from sixteen (16) weeks of age to twenty (20) weeks of age, or desired market weight;
(c) Laying - female turkeys that are producing eggs, from time first egg is produced, throughout the time they are producing eggs; and
(d) Breeder - turkeys that are grown to produce fertile eggs, from day of hatch to time first egg is produced (approximately thirty (30) weeks of age), both sexes.
(5) The guaranteed analysis for poultry complete feeds and supplements (all animal classes) shall include the:
(a) Minimum percentage of crude protein;
(b) Minimum percentage of lysine;
(c) Minimum percentage of methionine;
(d) Minimum percentage of crude fat;
(e) Maximum percentage of crude fiber or acid detergent fiber (ADF);
(f) Minimum and maximum percentage of calcium;
(g) Minimum percentage of phosphorus;
(h) Minimum and maximum percentage of salt (if added); and
(i) Minimum and maximum percentage of total sodium, if the

total sodium exceeds that furnished by the maximum salt guarantee.

Section 4. Required Guarantees for Beef Cattle Formula Feeds.
(1) The animal classes for beef cattle shall be:
(a) Calves (birth to weaning);
(b) Cattle on pasture (may be specific as to production stage; e.g., stocker, feeder, replacement heifers, brood cows, bulls, etc.); and
(c) Feedlot cattle.
(2) The guaranteed analysis for beef complete feeds and supplements (all animal classes) shall include the:
(a) Minimum percentage of crude protein;
(b) Maximum percentage of equivalent crude protein from non-protein nitrogen (if added);
(c) Minimum percentage of crude fat;
(d) Maximum percentage of crude fiber or acid detergent fiber (ADF);
(e) Minimum and maximum percentage of calcium;
(f) Minimum percentage of phosphorus;
(g) Minimum and maximum percentage of salt (if added);
(h) Minimum and maximum percentage of total sodium, if the total sodium exceeds that furnished by the maximum salt guarantee;
(i) Minimum percentage of potassium; and
(j) Minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).
(3) The guaranteed analysis for beef mineral feeds (if added) shall include the:
(a) Minimum and maximum percentage of calcium;
(b) Minimum percentage of phosphorus;
(c) Minimum and maximum percentage of salt;
(d) Minimum and maximum percentage of total sodium, if the total sodium exceeds that furnished by the maximum salt guarantee;
(e) Minimum percentage of magnesium;
(f) Minimum percentage of potassium;
(g) Minimum copper in parts per million (ppm);
(h) Minimum selenium in parts per million (ppm);
(i) Minimum zinc in parts per million (ppm); and
(j) Minimum vitamin A, other than precursors of vitamin A, in international units per pound.

Section 5. Required Guarantees for Dairy Formula Feeds.
(1) The animal classes for dairy cattle shall be:
(a) Veal milk replacer - milk replacer fed to calves for veal production;
(b) Herd milk replacer - milk replacer fed to calves for herd replacement and other uses;
(c) Starter - calf from approximately three (3) days to three (3) months of age;
(d) Non-lactating dairy cattle: replacement dairy heifers, dairy bulls, and dairy calves;
(e) Lactating dairy cows; and
(f) Dry dairy cows.
(2) The guaranteed analysis for veal and herd milk replacer shall include the:
(a) Minimum percentage of crude protein;
(b) Minimum percentage of crude fat;
(c) Maximum percentage of crude fiber;
(d) Minimum and maximum percentage of calcium;
(e) Minimum percentage of phosphorus; and
(f) Minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).
(3) The guaranteed analysis for dairy cattle complete feeds and supplements shall include the:
(a) Minimum percentage of crude protein;
(b) Maximum percentage of equivalent crude protein from non-protein nitrogen (NPN) (if added);
(c) Minimum percentage of crude fat;
(d) Maximum percentage of crude fiber;
(e) Maximum percentage of acid detergent fiber (ADF);
(f) Minimum and maximum percentage of calcium;
(g) Minimum percentage of phosphorus;
(h) Minimum selenium in parts per million (ppm); and
(i) Minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).
(4) The guaranteed analysis for dairy mixing and pasture mineral (if added) shall include the:
(a) Minimum and maximum percentage of calcium;
(b) Minimum percentage of phosphorus;
(c) Minimum and maximum percentage of salt;
(d) Minimum and maximum percentage of total sodium, if the total sodium exceeds that furnished by the maximum salt guarantee;
(e) Minimum percentage of magnesium;
(f) Minimum percentage of potassium;
(g) Minimum selenium in parts per million (ppm); and
(h) Minimum vitamin A, other than the precursors of vitamin A, in international units per pound.

Section 6. Required Guarantees for Equine Complete Feeds and Supplements (All Classes).
(1) The equine animal classes shall be:
(a) Growing;
(b) Broodmare;
(c) Maintenance; and
(d) Performance (including stallions).
(2) The guaranteed analysis for equine complete feeds and supplements (all animal classes) shall include the:
(a) Minimum percentage of crude protein;
(b) Minimum percentage of crude fat;
(c) Maximum percentage of crude fiber;
(d) Maximum percentage of Acid Detergent Fiber (ADF);
(e) Maximum percentage of Neutral Detergent Fiber (NDF);
(f) Minimum and maximum percentage of calcium;
(g) Minimum percentage of phosphorus;
(h) Minimum copper in parts per million (ppm) (if added);
(i) Minimum selenium in parts per million (ppm);
(j) Minimum zinc in parts per million (ppm); and
(k) Minimum vitamin A, other than the precursors of vitamin A, in international units per pound (if added).
(3) The guaranteed analysis for equine mineral feed shall include the:
(a) Minimum and maximum percentage of calcium;
(b) Minimum percentage of phosphorus;
(c) Minimum and maximum percentage of salt (if added);
(d) Minimum and maximum percentage of total sodium, if the total sodium exceeds that furnished by the maximum salt guarantee;
(e) Minimum copper in parts per million (ppm) (if added);
(f) Minimum selenium in parts per million (ppm);
(g) Minimum zinc in parts per million (ppm); and
(h) Minimum vitamin A, other than the precursors of vitamin A, in international units per pound (if added).

Section 7. Required Guarantees for Goat Formula Feeds.
(1) The animal classes for goats shall be:
(a) Starter;
(b) Grower;
(c) Finisher;
(d) Breeder; and
(e) Lactating.
(2) The guaranteed analysis for goat complete feeds and supplements (all animal classes) shall include the:
(a) Minimum percentage of crude protein;
(b) Maximum percentage of equivalent crude protein from non-protein nitrogen (NPN) (if added);
(c) Minimum percentage of crude fat;
(d) Maximum percentage of crude fiber;
(e) Maximum percentage of acid detergent fiber;
(f) Minimum and maximum percentage of calcium;
(g) Minimum percentage of phosphorus;
(h) Minimum and maximum percentage of salt (if added);
(i) Minimum and maximum percentage of total sodium, if the total sodium exceeds that furnished by the maximum salt guarantee;
(j) Minimum and maximum copper in parts per million (ppm) (if added);
(k) Minimum selenium in parts per million (ppm); and
(l) Minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).

Section 8. Required Guarantees for Sheep Formula Feeds.

(1) The animal classes for sheep shall be:

(a) Starter;

(b) Grower;

(c) Finisher;

(d) Breeder; and

(e) Lactating.

(2) The guaranteed analysis for sheep complete feeds and supplements (all animal classes) shall include the:

(a) Minimum percentage of crude protein;

(b) Maximum percentage of equivalent crude protein from non-protein nitrogen (NPN) (if added);

(c) Minimum percentage of crude fat;

(d) Maximum percentage of crude fiber or acid detergent fiber (ADF);

(e) Minimum and maximum percentage of calcium;

(f) Minimum percentage of phosphorus;

(g) Minimum and maximum percentage of salt (if added);

(h) Minimum and maximum percentage of total sodium, if the total sodium exceeds that furnished by the maximum salt guarantee;

(i) Minimum and maximum copper in parts per million (ppm) (if added, or total copper exceeds 20 ppm);

(j) Minimum selenium in parts per million (ppm); and

(k) Minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).

Section 9. Required Guarantees for Ducks and Geese Formula Feeds.

(1) The duck animal classes shall be:

(a) Starter - zero to three (3) weeks of age;

(b) Grower - three (3) to six (6) weeks of age;

(c) Finisher - six (6) weeks to market;

(d) Breeder developer - eight (8) to nineteen (19) weeks of age; and

(e) Breeder - twenty-two (22) weeks to end of lay.

(2) The geese animal classes shall be:

(a) Starter - zero to four (4) weeks of age;

(b) Grower - four (4) to eight (8) weeks of age;

(c) Finisher - eight (8) weeks to market;

(d) Breeder developer - ten (10) to twenty-two (22) weeks of age; and

(e) Breeder - twenty-two (22) weeks to end of lay.

(3) The guaranteed analysis for duck and geese complete feeds and supplements (for all animal classes) shall include the:

(a) Minimum percentage of crude protein;

(b) Minimum percentage of crude fat;

(c) Maximum percentage of crude fiber or acid detergent fiber (ADF);

(d) Minimum and maximum percentage of calcium;

(e) Minimum percentage of phosphorus;

(f) Minimum and maximum percentage of salt (if added); and

(g) Minimum and maximum percentage of total sodium, if the total sodium exceeds that furnished by the maximum salt guarantee.

Section 10. Required Guarantees for Fish Complete Feeds and Supplements.

(1) The following animal species shall be declared in lieu of an animal class:

(a) Trout;

(b) Catfish; and

(c) Species other than trout or catfish.

(2) The guaranteed analysis for all fish complete feeds and supplements shall include the:

(a) Minimum percentage of crude protein;

(b) Minimum percentage of crude fat;

(c) Maximum percentage of crude fiber or acid detergent fiber (ADF); and

(d) Minimum percentage of phosphorus.

Section 11. Required Guarantees for Rabbit Complete Feeds and Supplements.

(1) The rabbit animal classes shall be:

(a) Grower - four (4) to twelve (12) weeks of age; and

(b) Breeder - twelve (12) weeks of age and over.

(2) The guaranteed analysis for rabbit complete feeds and supplements (all animal classes) shall include the:

(a) Minimum percentage of crude protein;

(b) Minimum percentage of crude fat;

(c) Minimum and maximum percentage of crude fiber or acid detergent fiber (ADF) (the maximum shall not exceed the minimum by more than five (5.0) units);

(d) Minimum and maximum percentage of calcium;

(e) Minimum percentage of phosphorus;

(f) Minimum and maximum percentage of salt (if added);

(g) Minimum and maximum percentage of total sodium, if the total sodium exceeds that furnished by the maximum salt guarantee; and

(h) Minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).

Section 12. The required guarantees of grain mixtures and formula feeds and ingredients that are not specifically described in Sections 2 through 11 of this administrative regulation, or exempted under Section 13 of this administrative regulation, shall include the following items in the order listed:

(1) Minimum percentage of crude protein;

(2) Minimum or maximum percentage of equivalent crude protein from non-protein nitrogen (NPN) as required in 12 KAR 2:021 (if added);

(3) Minimum percentage of crude fat;

(4) Maximum percentage of crude fiber or acid detergent fiber (ADF);

(5) Minerals in formula feeds in the following order:

(a) Minimum and maximum percentage of calcium;

(b) Minimum percentage of phosphorus;

(c) Minimum and maximum percentage of salt (if added);

(d) Minimum and maximum percentage of total sodium, if the total sodium exceeds that furnished by the maximum salt guarantee; and

(e) Other minerals;

(6) Minerals in feed ingredients as specified by the official definition of the Association of American Feed Control Officials;

(7) Vitamins in the terms required by 12 KAR 2:021;

(8) Total sugars as invert on dried molasses products or products being sold primarily for their sugar content;

(9) Viable lactic acid producing microorganisms if used in silage products and direct fed microbial products guaranteed in terms specified in 12 KAR 2:021; and

(10) If the item is a commercial feed (e.g., vitamin and mineral premix, base mix, etc.) intended to provide a specialized nutritional source for use in the manufacture of other feeds, its intended purpose and guarantee of those nutrients relevant to the stated purpose.

Section 13. Exemptions.

(1) A mineral guarantee for feed, excluding those feeds manufactured as complete feeds and for feed supplements intended to be mixed with grain to produce a complete feed for swine, poultry, fish, or veal and herd milk replacers, shall not be required if:

(a) The feed or feed ingredient is not intended or represented or does not serve as a principal[~~principle~~] source of that mineral to the animal; or

(b) The feed or feed ingredient is intended for nonfood producing animals and contains less than six and five-tenths (6.5) percent total mineral.

(2) Guarantees for vitamins shall not be required if the commercial feed is neither formulated for nor represented as a vitamin supplement.

(3) Guarantees for crude protein, crude fat and crude fiber shall not be required if the commercial feed is intended for purposes other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, such as a Type A drug article, mineral or vitamin supplements, or molasses.

(4) Guarantees for microorganisms and enzymes shall not be required if the commercial feed is intended for a purpose other than to furnish these substances or they are of minor significance relating to the primary purpose of the product and no specific label claims

are made.

(5) The indication for animal class and species is not required on single ingredient products if the ingredient is not intended, represented, or defined for a specific animal class or species.

Section 14. Incorporation by Reference.

(1) "2025 Official Publication", 2025[~~2018~~] Edition, Association of American Feed Control Officials, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Regulatory Services, 103 Regulatory Services Building, College of Agriculture, University of Kentucky, Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m.

DR. JAMES MATTHEWS, Director

APPROVED BY AGENCY: September 10, 2025

FILED WITH LRC: September 11, 2025 at 10:50 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 24, 2025, at 9:00 a.m., at the offices of the Division of Regulatory Services, 1600 University Court, Lexington, Kentucky 40546. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 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: G. Alan Harrison, Feed & Milk Director, University of Kentucky Division of Regulatory Services, 103 Regulatory Services Building, Lexington, Kentucky 40546, phone (859) 257-2785, fax (859) 323-9931, email alan.harrison@uky.edu.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: G. Alan Harrison
Subject Headings: Agriculture, Animals: Livestock and Poultry, Equine and Horses, Consumer Protection
(1) Provide a brief summary of:
(a) What this administrative regulation does: Establishes label nutrient guarantees by species for a commercial feed.
(b) The necessity of this administrative regulation: To clarify for the consumer if this is the proper feed for the animals they are feeding.
(c) How this administrative regulation conforms to the content of the authorizing statutes: Helps allow for the efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Establishes criteria for proper labeling of feeds with regards to nutrient guarantees.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This amendment updates guarantees to those now recognized by the American Association of Feed Control Officials in their 2025 official publication.
(b) The necessity of the amendment to this administrative regulation: This change provides more information to the consumer and more uniformity in guarantees required for the manufacturer selling commercial feeds in multiple states.
(c) How the amendment conforms to the content of the authorizing statutes: Updates existing regulation.
(d) How the amendment will assist in the effective administration of the statutes: Provides more uniformity in labeling for companies selling commercial feeds in multiple states.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Firms which register commercial feeds in Kentucky will be affected by this administrative regulation.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: No action required by distributors of animal feed. No significant action required by manufacturers of animal feed.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): No cost.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): No significant benefit to distributors of animal feed.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: No cost.
(b) On a continuing basis: No cost.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The Division of Regulatory Services regular annual budget is the source of funding.
(8) 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:
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No new fees and no increase in existing fees.
(10) TIERING: Is tiering applied? No, this administrative regulation treats all regulated entities the same.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 250.571
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 250.571
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: University of Kentucky Division of Regulatory Services
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
2. Revenues:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
3. Cost Savings:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No impact on local entities
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No impact on other entities
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact

For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(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 impact
(b) Methodology and resources used to reach this conclusion: Minor changes in regulation affect only guarantors of animal feed.
(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(14): No
(b) The methodology and resources used to reach this conclusion: Minor changes in regulation affect only guarantors of animal feed.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. Federal Food, Drug, and Cosmetic Act and C.F.R. 21
(2) State compliance standards. In harmony with federal standards.
(3) Minimum or uniform standards contained in the federal mandate. Standards developed by the Association of American Feed Control Officials are in harmony with federal standards.
(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. N/A

## AGRICULTURAL EXPERIMENT STATION
## (Amendment)

### 12 KAR 2:026. Ingredients.

RELATES TO: KRS 250.491-250.631
STATUTORY AUTHORITY: KRS 250.521(1)(c), 250.571(1)
CERTIFICATION STATEMENT: This certifies that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for the efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds. KRS 250.521(1)(c) requires that a commercial feed label list the common or usual name of each ingredient used in the manufacture of the commercial feed, unless the director promulgates an administrative regulation permitting the use of a collective term for a group of ingredients. This administrative regulation establishes the requirements for listing the ingredients on the commercial feed label.

Section 1. Commercial feeds, other than customer-formula feeds, shall have an ingredient statement listing the feed ingredients, collective terms for the grouping of feed ingredient, or other appropriate statement pursuant to KRS 250.521(1)(c).
(1) The name of each ingredient or collective term for the grouping of ingredients, if required to be listed, shall be the name as defined in the "Official Common and Usual Names and Definitions of Feed Ingredients" as published in the Official Publication of the Association of American Feed Control Officials, the common or usual name, or one approved by the director.
(2) The ingredient statement may list the collective terms for the grouping of feed ingredients as defined in the official definitions of feed ingredients published in the Official Publication of the Association of American Feed Control Officials rather than the individual ingredients.
(a) If a collective term for a group of ingredients is used on the label, individual ingredients within that group shall not be listed on the label.
(b) The manufacturer shall provide the Director of Regulatory Services, upon written or oral request, with a listing of individual ingredients within a defined group that are or have been used in manufacturing facilities distributing in Kentucky. The manufacturer shall be specific in its response when the request is made of a particular facility or production.

Section 2. The name of each ingredient shall be shown in letters or type of the same size.

Section 3. A reference to quality or grade of an ingredient shall not appear in the ingredient statement of a feed.

Section 4. The term "dehydrated" may precede the name of a product that has been artificially dried.

Section 5. A single ingredient product defined by the Association of American Feed Control Officials shall not be required to have an ingredient statement.

Section 6. Tentative definitions for ingredients shall not be used until adopted as official by the Association of American Feed Control Officials unless an official definition does not exist or the ingredient has a common accepted name that requires no definition, (i.e. sugar).

Section 7. If the word "iodized" is used in connection with a feed ingredient, the feed ingredient shall contain not less than 0.007 percent iodine, uniformly distributed.

Section 8. Incorporation by Reference.
(1) "2025 Official Publication", 2025[~~2018~~] Edition, Association of American Feed Control Officials, is incorporated by reference.
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Regulatory Services, 103 Regulatory Services Building, College of Agriculture, University of Kentucky, Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m.

DR. JAMES MATTHEWS, Director
APPROVED BY AGENCY: September 10, 2025
FILED WITH LRC: September 11, 2025 at 10:50 a.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 24, 2025, at 9:00 a.m., at the offices of the Division of Regulatory Services, 1600 University Court, Lexington, Kentucky 40546. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 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: G. Alan Harrison, Feed & Milk Director, University of Kentucky Division of Regulatory Services, 103 Regulatory Services Building, Lexington, Kentucky 40546, phone (859) 257-2785, fax (859) 323-9931, email alan.harrison@uky.edu.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: G. Alan Harrison
Subject Headings: Agriculture, Animals: Livestock and Poultry, Equine and Horses, Consumer Protection
(1) Provide a brief summary of:
(a) What this administrative regulation does: Defines the information required in the ingredient statement for a commercial feed.
(b) The necessity of this administrative regulation: Necessary for consistent labeling of commercial feeds and to provide the consumer with information regarding ingredients used in formulation of feed.
(c) How this administrative regulation conforms to the content of the authorizing statutes: Pursuant to KRS 250.501(1)(a) the Director of the Agricultural Experiment Station is required to promulgate an

administrative regulation to define official feed ingredients, feed terms, and feed labeling.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation defines how feed ingredients and feed terms are used in the ingredient statement.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment updates usage of the Official Publication of the American Association of Feed Control Officials (AAFCO) from the 2018 Edition to the 2025 edition. This publication is used to define official feed ingredients and terms.
(b) The necessity of the amendment to this administrative regulation: The feed ingredient and feed terms defined in the Official Publication of AAFCO needed to be updated from the older version to a more modern version.
(c) How the amendment conforms to the content of the authorizing statutes: Updates terms and definitions used to regulate the feed industry.
(d) How the amendment will assist in the effective administration of the statutes: These updates are beneficial to both the regulatory body and the regulated industry as it brings in new terms and definitions that have been developed since 2018.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Firms which register commercial feeds in Kentucky will be affected by this administrative regulation.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: No action required by distributors of animal feed. No significant action required by manufacturers of animal feed.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): No cost.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): No significant benefit to distributors of animal feed. Manufacturers of animal feed may benefit from additional ingredients available for use in products and more descriptive ingredient definitions.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: No cost.
(b) On a continuing basis: No cost.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The Division of Regulatory Services regular annual budget is the source of funding.
(8) 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:
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No new fees and no increase in existing fees.
(10) TIERING: Is tiering applied? No, this administrative regulation treats all regulated entities the same.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 250.571
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 250.571
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: University of Kentucky Division of Regulatory Services
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
2. Revenues:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
3. Cost Savings:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No impact on local entities
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No impact on other entities
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(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 is being updated to reference the latest recommendations from the Association of American Feed Control Officials with regards to definitions of ingredients used in the manufacturing of animal feed.
(b) Methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers of animal feed.
(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(14): No
(b) The methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers of animal feed.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. Federal Food, Drug, and Cosmetic Act and C.F.R. 21
(2) State compliance standards. In harmony with federal standards.
(3) Minimum or uniform standards contained in the federal mandate. Standards developed by the Association of American Feed Control Officials are in harmony with federal standards.
(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. N/A

**AGRICULTURAL EXPERIMENT STATION**
**(Amendment)**

**12 KAR 2:041. Drug and feed additives.**

RELATES TO: KRS 250.501, 250.511, 250.541(1)(a), (b), (c), (d), (e), (f), (j), (2)(c), (d), (e), 21 C.F.R. 570.3(1), 570.30, 582, 21 U.S.C. 151-158, 360(b)

STATUTORY AUTHORITY: KRS 250.571(1)

CERTIFICATION STATEMENT: This certifies that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for the efficient enforcement of KRS 250.491 to 250.631 regarding commercial feeds. KRS 250.541 provides that a commercial feed or a material exempted from the definition of commercial feed shall be considered adulterated if it meets the conditions established in KRS 250.541. KRS 250.551(1) and (2) prohibit the manufacture or distribution of an adulterated product as animal feed. This administrative regulation establishes the requirements to ensure the safe and effective use of commercial feeds containing additives.

Section 1. Before approval of a registration application or approval of a label for a commercial feed containing an additive, including a drug, another special purpose additive, or non-nutritive additive, the distributor shall, upon request by the director, submit evidence to prove the safe and effective use of the commercial feed when used according to the directions furnished on the label.

Section 2. Satisfactory evidence of safe and effective use of a commercial feed shall be one (1) of the following:

(1) When the commercial feed contains such additives, the use of which conforms to the requirements of the applicable regulation in Title 21, Code of Federal Regulations, or which are "prior sanctioned" or "informal review sanctioned" or "generally recognized as safe" for such use;

(2) A commercial feed that is a drug as defined in KRS 250.501(7) and is generally recognized by the Food and Drug Administration as safe and effective for its labeled use or is marketed subject to an application approved by the Food and Drug Administration under Section 512 of the Federal Food, Drug, and Cosmetic Act;

(3) When one (1) of the purposes for a commercial feed is to impart immunity (that is to act through some immunological process) the constituents imparting immunity have been approved for the purpose through the Federal Virus, Serum and Toxins Act of 1913 as amended;

(4) When the commercial feed is a direct-fed microbial product and:

(a) The product is defined as a fermentation product in the Official Publication of the Association of American Feed Control Officials; and

(b) The microbial content statement:

1. Appears on the label; and

2. States "Contains a source of live (viable), naturally occurring microorganisms"; and

3. The source is stated with a corresponding guarantee expressed in accordance with 12 KAR 2:021, Section 7; or

(5) When the commercial feed is an enzyme product and is:

(a) Defined as an enzyme in the Official Publication of the Association of American Feed Control Officials; and

(b) Guaranteed according to the provisions of 12 KAR 2:021, Section 8.

Section 3. Incorporation by Reference.

(1) "2025 Official Publication", 2025[~~2018~~] Edition, Association of American Feed Control Officials, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Regulatory Services, 103 Regulatory Services Building, College of Agriculture, University of Kentucky, Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m.

DR. JAMES MATTHEWS, Director

APPROVED BY AGENCY: September 10, 2025

FILED WITH LRC: September 11, 2025 at 10:50 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 24, 2025, at 9:00 a.m., at the offices of the Division of Regulatory Services, 1600 University Court, Lexington, Kentucky 40546. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 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: G. Alan Harrison, Feed & Milk Director, University of Kentucky Division of Regulatory Services, 103 Regulatory Services Building, Lexington, Kentucky 40546, phone (859) 257-2785, fax (859) 323-9931, email alan.harrison@uky.edu.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: G. Alan Harrison
Subject Headings: Agriculture, Animals: Livestock and Poultry, Equine and Horses, Consumer Protection
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the requirements to ensure the safe and effective use of commercial feeds containing additives.
(b) The necessity of this administrative regulation: Provides clarification on the proper way to label commercial feeds.
(c) How this administrative regulation conforms to the content of the authorizing statutes: Pursuant to KRS 250.501(1)(a) the Director of the Agricultural Experiment Station is required to promulgate an administrative regulation to define official feed ingredients and feed terms.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Establishes proper labeling of feeds containing drugs or other feed additives.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment updates usage of the Official Publication of the American Association of Feed Control Officials (AAFCO) from the 2018 Edition to the 2025 edition.
(b) The necessity of the amendment to this administrative regulation: Use of AAFCO language provides consistency between states.
(c) How the amendment conforms to the content of the authorizing statutes: Updates terms and definitions used to regulate the feed industry.
(d) How the amendment will assist in the effective administration of the statutes: These updates are beneficial to both the regulatory body and the regulated industry as it brings in new terms and definitions that have been developed since 2018.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Firms which register commercial feeds in Kentucky will be affected by this administrative regulation.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: No action required by distributors of animal feed. No significant action required by manufacturers of animal feed.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): No cost.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): No significant benefit to distributors of animal feed. Manufacturers of animal feed may benefit from additional ingredients available for use in products and more descriptive ingredient definitions.

(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: No cost.
(b) On a continuing basis: No cost.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The Division of Regulatory Services regular annual budget is the source of funding.
(8) 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:
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No new fees and no increase in existing fees.
(10) TIERING: Is tiering applied? No, this administrative regulation treats all regulated entities the same.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 250.571
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 250.571
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: University of Kentucky Division of Regulatory Services
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
2. Revenues:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
3. Cost Savings:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No impact on local entities
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No impact on other entities
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(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 is being updated to reference the latest recommendations from the Association of American Feed Control Officials with regards to definitions of ingredients used in the manufacturing of animal feed.
(b) Methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers of animal feed.
(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(14): No
(b) The methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers of animal feed.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. Federal Food, Drug, and Cosmetic Act and C.F.R. 21
(2) State compliance standards. In harmony with federal standards.
(3) Minimum or uniform standards contained in the federal mandate. Standards developed by the Association of American Feed Control Officials are in harmony with federal standards.
(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. N/A

## AGRICULTURAL EXPERIMENT STATION
## (Amendment)

### 12 KAR 2:046. Poisonous or deleterious substances.

RELATES TO: KRS 250.501(4), (5), (6), (7), (8), (24), 250.541, 250.551(1), (2), (3)
STATUTORY AUTHORITY: KRS 250.571(1)
CERTIFICATION STATEMENT: This certifies that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for the efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds. This administrative regulation establishes the requirements for the safe use of substances that might have deleterious effects if not fed according to the following standards.

Section 1. For the purpose of KRS 250.541(1)(a), poisonous or deleterious substances shall include but are not limited to the following:
(1) Fluorine and a mineral or mineral mixture that is fed directly to a domestic animal if the fluorine exceeds:
(a) 0.20 percent for breeding or dairy cattle;
(b) 0.30 percent for slaughter cattle;
(c) 0.30 percent for sheep;
(d) 0.35 percent for lambs;
(e) 0.45 percent for swine; and
(f) 0.60 percent for poultry.
(2) A fluorine-bearing ingredient if used in an amount that raises the fluorine content of the total ration, excluding roughage, above:
(a) 0.004 percent for breeding or dairy cattle;
(b) 0.009 percent for slaughter cattle;
(c) 0.006 percent for sheep;
(d) 0.01 percent for lambs;
(e) 0.015 percent for swine; and
(f) 0.03 percent for poultry.
(3) A fluorine-bearing ingredient mixed in feed that:
(a) Is fed directly to cattle, sheep, or goats that consume roughage regardless of the amount of grain consumed; and
(b) Results in a daily intake of more than fifty (50) milligrams of fluorine per 100 pounds of body weight.
(4) Soybean meal, flakes or pellets or another vegetable meal, flake, or pellet that have been extracted with trichloroethylene or other chlorinated solvent.
(5) Sulfur dioxide, sulfurous acid, and salts of sulfurous acid that are used in or on feeds or feed ingredients that are considered or labeled a significant source of vitamin $B_1$ (thiamine).
(6) Raw leather residue from tanning or leather manufacturing.

Section 2. A screening or by-product of grains and seeds

containing weed seeds used in commercial feed or sold as commercial feed to the ultimate consumer shall be ground fine enough or otherwise treated to destroy the viability of the weed seeds so the finished product contains:

(1) No viable prohibited noxious weed seeds; and

(2) Not more than 480 viable restricted weed seeds per pound.

DR. JAMES MATTHEWS, Director

APPROVED BY AGENCY: September 10, 2025

FILED WITH LRC: September 11, 2025 at 10:50 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 24, 2025, at 9:00 a.m., at the offices of the Division of Regulatory Services, 1600 University Court, Lexington, Kentucky 40546. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 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: G. Alan Harrison, Feed & Milk Director, University of Kentucky Division of Regulatory Services, 103 Regulatory Services Building, Lexington, Kentucky 40546, phone (859) 257-2785, fax (859) 323-9931, email alan.harrison@uky.edu.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: G. Alan Harrison
Subject Headings: Agriculture, Animals: Livestock and Poultry, Equine and Horses, Consumer Protection
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the requirements for the safe use of substances that might have deleterious effects if not fed according to described standards.
(b) The necessity of this administrative regulation: Protect animals from consuming toxic substances.
(c) How this administrative regulation conforms to the content of the authorizing statutes: Helps allow for the efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Establishes standards for safe levels of poisonous or deleterious substances in commercial feeds.
(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: Establishes that there could be more deleterious or poisonous substances than just those we have listed.
(b) The necessity of the amendment to this administrative regulation: Allows for new poisonous or deleterious substances that may come along.
(c) How the amendment conforms to the content of the authorizing statutes: Provides for potential of more toxic compounds being discovered.
(d) How the amendment will assist in the effective administration of the statutes: Allows for potential of new toxic substances that may need to be regulated as to the amounts allowed in commercial feeds.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Firms which register commercial feeds in Kentucky will be affected by this administrative regulation.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: None unless new poisonous or deleterious substances are recognized that require limits on how much can be in the feed.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): Nothing
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Protection against producing products that may be toxic to animals.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: Nothing.
(b) On a continuing basis: Nothing
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Annual budget of the Division of Regulatory Services
(8) 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.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No new fees and no increase in existing fees.
(10) TIERING: Is tiering applied? No, this administrative regulation treats all regulated entities the same.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 250.571
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 250.571
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: University of Kentucky Division of Regulatory Services
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
2. Revenues:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
3. Cost Savings:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No impact on local entities
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No impact on other entities
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact

For subsequent years: No impact
(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: None.
(b) Methodology and resources used to reach this conclusion: Minor changes in regulation affect only guarantors of animal feed.
(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(14): No
(b) The methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers of animal feed.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. Federal Food, Drug, and Cosmetic Act and C.F.R. 21
(2) State compliance standards. In harmony with federal standards.
(3) Minimum or uniform standards contained in the federal mandate. Standards developed by the Association of American Feed Control Officials are in harmony with federal standards.
(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. N/A

## AGRICULTURAL EXPERIMENT STATION
## (Amendment)

### 12 KAR 2:051. Manufacturing conditions.

RELATES TO: KRS 250.501, 250.511, 250.541, 250.551, 250.581(1), 21 C.F.R. 225.1-225.202, 226.1-226.115

STATUTORY AUTHORITY: KRS 250.541(c), 250.571(1), 21 C.F.R. 225.1-225.202, 226.1-226.115

CERTIFICATION STATEMENT: This certifies that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for the efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds. KRS 250.541(2)(c) requires the promulgation of an administrative regulation that establishes the current good manufacturing practices for the manufacturing, processing, and packaging of commercial feed. This administrative regulation establishes current good manufacturing practices, hazard analysis, and risk-based preventive controls for facilities engaged in holding and distribution of animal feed.

Section 1. The current good manufacturing practices published in the Code of Federal Regulations for Type B and Type C medicated feeds [~~are~~ ]governed by 21 C.F.R. 225.1 through 225.202 are adopted by reference.

Section 2. The current good manufacturing practices published in the Code of Federal Regulations for Type A medicated articles [~~are~~ ]governed by 21 C.F.R. 226.1 through 226.115 are adopted by reference.

Section 3. The current good manufacturing practices, hazard analysis, and risk-based preventive controls for food for animals published in the Code of Federal Regulations for facilities engaged in the holding and distribution of animal food [~~are~~ ]governed by 21 C.F.R. 507.1 through 507.215 are adopted by reference.

DR. JAMES MATTHEWS, Director

APPROVED BY AGENCY: September 10, 2025

FILED WITH LRC: September 11, 2025 at 10:50 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 24, 2025, at 9:00 a.m., at the offices of the Division of Regulatory Services, 1600 University Court, Lexington, Kentucky 40546. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 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: G. Alan Harrison, Feed & Milk Director, University of Kentucky Division of Regulatory Services, 103 Regulatory Services Building, Lexington, Kentucky 40546, phone (859) 257-2785, fax (859) 323-9931, email alan.harrison@uky.edu.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: G. Alan Harrison
Subject Headings: Agriculture, Animals: Livestock and Poultry, Equine and Horses, Consumer Protection
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes current good manufacturing practices, hazard analysis, and risk-based preventive controls for facilities engaged in holding and distribution of animal feed.
(b) The necessity of this administrative regulation: Establishes good manufacturing practices for companies manufacturing commercial feeds.
(c) How this administrative regulation conforms to the content of the authorizing statutes: Pursuant to KRS 250.501(1)(a) the Director of the Agricultural Experiment Station is required to promulgate an administrative regulation to achieve efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Establishes proper manufacturing practices for the safe manufacture of commercial feeds.
(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: Establishes proper manufacturing practices based on the Food Safety Modernization Act put forth in 2011.
(b) The necessity of the amendment to this administrative regulation: Updates standards previously established in this regulation.
(c) How the amendment conforms to the content of the authorizing statutes: Updates the existing regulation.
(d) How the amendment will assist in the effective administration of the statutes: Brings this regulation up to current standards.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Firms which manufacture commercial feeds in Kentucky will be affected by this administrative regulation.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: Follow current good manufacturing practices.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): It will depend on how much they have to do to meet the requirements established by FSMA.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): They will meet federal standards and be sure of producing safe products.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: Depends on how much needs to be done.
(b) On a continuing basis: Minimal once standards are met.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Annual budget of the Division of Regulatory Services.
(8) 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.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No new fees and no increase in existing fees.
(10) TIERING: Is tiering applied? No, this administrative regulation treats all regulated entities the same.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 250.571
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 250.571
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: University of Kentucky Division of Regulatory Services
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
2. Revenues:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
3. Cost Savings:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No impact on local entities
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No impact on other entities
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(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 University of Kentucky Division of Regulatory Services anticipates no fiscal impact from the proposed amendment to the regulation. The update simply incorporates by reference the good manufacturing practices outlined in the Food Safety Modernization Act (FSMA).
(b) Methodology and resources used to reach this conclusion: Manufacturers of animal feed are already held to good manufacturing practices as outlined in FSMA.
(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(14): No
(b) The methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers of animal feed.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. Federal Food, Drug, and Cosmetic Act and C.F.R. 21
(2) State compliance standards. In harmony with federal standards.
(3) Minimum or uniform standards contained in the federal mandate. This administrative regulation aligns with FMSA, creating harmony between state and federal standards.
(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. NA

## AGRICULTURAL EXPERIMENT STATION
## (Amendment)

**12 KAR 3:012. Label format and labeling.**

RELATES TO: KRS 250.501, 250.521, 15 U.S.C. 1451-1461
STATUTORY AUTHORITY: KRS 250.521(2)(e), (f), 250.571
CERTIFICATION STATEMENT: This certifies that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for the efficient enforcement of KRS 250.491 to 250.631. KRS 250.521 requires that pet foods be labeled and establishes the information that shall be stated on the label. This administrative regulation establishes a uniform format for labeling information for pet foods and specialty pet foods and delineates criteria for product claims.

Section 1. Pet food and specialty pet food shall be labeled with:
(1) Product name and brand name, if any, on the principal display panel as established in 12 KAR 3:017;
(2) A statement specifying the species name of pet or specialty pet for which the food is intended, conspicuously designated on the principal display panel;
(3) "Quantity statement", as defined by KRS 250.501(22) and as established in 12 KAR 2:011, Section 1(9), by weight (pounds and ounces, and metric), liquid measure (quarts, pints, and fluid ounces, and metric) or by count, on the principal display panel;
(4) Guaranteed analysis as established in 12 KAR 3:022;
(5) Ingredient statement as established in 12 KAR 3:027;
(6) A statement of nutritional adequacy or purpose if required pursuant to 12 KAR 3:039;
(7) A statement of calorie content if required pursuant to 12 KAR 3:042;
(8) Feeding directions if required pursuant to 12 KAR 3:032; and
(9) Name and address of the manufacturer or distributor as established in Sections 10 and 11 of this administrative regulation.

Section 2. If a pet food or specialty pet food enclosed in an outer container or wrapper is intended for retail sale, all required label information shall appear on the outer container or wrapper.

Section 3. A vignette, graphic, or pictorial representation on a pet food or specialty pet food label shall not misrepresent the contents of the package.

Section 4. The word "proven," in connection with a label claim for a pet food or specialty pet food, shall not be used unless the claim is substantiated by scientific or other empirical evidence.

Section 5. A statement shall not appear upon the label or labeling

of a pet food or specialty pet food that makes false or misleading comparisons between that product and any other product.

Section 6. A personal or commercial endorsement may be used on a pet food or specialty pet food label if the endorsement is not false or misleading.

Section 7. A statement on a pet food or specialty pet food label stating "improved," "new," or similar designation shall be substantiated and limited to six (6) months of production.

Section 8. A statement on a pet food or specialty pet food label stating preference or comparative attribute claims shall be substantiated and limited to one (1) year production, after which the claim shall be removed or re-substantiated.

Section 9.

(1) Raw milk distributed as pet food or specialty pet food shall bear the following statement "WARNING: NOT FOR HUMAN CONSUMPTION – THIS PRODUCT HAS NOT BEEN PASTEURIZED AND MAY CONTAIN HARMFUL BACTERIA."

(2) This statement shall be displayed in a conspicuous manner and shall not be smaller than the height of the minimum font required by the federal Fair Packaging and Labeling Act 15 U.S.C. 1451-1461, for the quantity statement as shown in the following table:

| Panel Size | Minimum Warning Statement Type Size |
|---|---|
| ≤5 in.$^2$ | 1/16 in. |
| >5-≤25 in.$^2$ | 1/8 in. |
| >25-≤100in.$^2$ | 3/16 in. |
| >100-≤400in.$^2$ | 1/4 in. |
| >400 in.$^2$ | 1/2 in. |

Section 10. The label of a pet food or specialty pet food shall specify the business or corporate name and address of the manufacturer or distributor. This information shall appear under the header "Manufactured for __", or "Distributed by __", or any other wording that expresses the facts, if the business whose name appears on the label is not the manufacturer.

(1) Except as established in subsection (2) of this section, the statement of the place of business shall include the street address, city, state, and zip code.

(2) The street address may be omitted if the street address is shown in a readily accessible, widely published, and publicly available resource, including but not limited to a printed[~~current city~~] directory, electronic database, or website[~~ or telephone directory for the city listed on the label~~].Current city directory or telephone directory for the city listed on the label.

Section 11. If a person manufactures or distributes a pet food or specialty pet food in a place other than the principal place of business, the label may state the principal place of business in lieu of the actual place where each package of the pet food or specialty pet food was manufactured or packaged or from where each package is to be distributed.

Section 12. Incorporation by Reference.

(1) "2023[~~2018~~] Official Publication", (2023[~~2018~~] Edition), Association of American Feed Control Officials, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Regulatory Services, 103 Regulatory Services Building, College of Agriculture, University of Kentucky, Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m.

DR. JAMES MATTHEWS, Director

APPROVED BY AGENCY: September 10, 2025

FILED WITH LRC: September 11, 2025 at 10:50 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 24, 2025, at 9:00 a.m., at the offices of the Division of Regulatory Services, 1600 University Court, Lexington, Kentucky 40546. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 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: G. Alan Harrison, Feed & Milk Director, University of Kentucky Division of Regulatory Services, 103 Regulatory Services Building, Lexington, Kentucky 40546, phone (859) 257-2785, fax (859) 323-9931, email alan.harrison@uky.edu.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: G. Alan Harrison
Subject Headings: Agriculture, Animals: Livestock and Poultry, Equine and Horses, Consumer Protection
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes a uniform format for labeling information for pet foods and specialty pet foods and delineates criteria for product claims.
(b) The necessity of this administrative regulation: Establishes uniform labeling of pet foods to better allow consumers to evaluate products.
(c) How this administrative regulation conforms to the content of the authorizing statutes: Helps allow for the efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Establishes uniformity in labeling of pet foods and specialty pet foods.
(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 regulation was last updated in 1999. These changes bring it up to accepted standards in labeling that are currently used and conform to those prescribed by the American Association of Feed Control Officials (AAFCO). This is a standard used by the industry.
(b) The necessity of the amendment to this administrative regulation: Make the regulation current with current industry standards.
(c) How the amendment conforms to the content of the authorizing statutes: Updates the existing regulation.
(d) How the amendment will assist in the effective administration of the statutes: Modernizes labeling standards.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Firms which register commercial feeds in Kentucky will be affected by this administrative regulation.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: Use the revised label format and labeling which is already being done by the industry. This amendment is more to update our standards to what is currently being done.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): No increased cost.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): We will now be regulating them on what are already industry standards.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: No increased costs.
(b) On a continuing basis: No increased costs.
(7) What is the source of the funding to be used for the implementation

and enforcement of this administrative regulation or this amendment: Annual budget of the Division of Regulatory Services
(8) 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.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No new fees and no increase in existing fees.
(10) TIERING: Is tiering applied? No, this administrative regulation treats all regulated entities the same.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 250.571
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 250.571(1)
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: University of Kentucky Division of Regulatory Services
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
2. Revenues:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
3. Cost Savings:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No impact on local entities
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No impact on other entities
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(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 is being updated to reference the latest recommendations from the Association of American Feed Control Officials with regards to ingredient definitions and labeling of pet food.
(b) Methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers and guarantors of pet food.
(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(14): No
(b) The methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers of animal feed.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. Federal Food, Drug, and Cosmetic Act and C.F.R. 21
(2) State compliance standards. In harmony with federal standards.
(3) Minimum or uniform standards contained in the federal mandate. This administrative regulation aligns with FMSA, creating harmony between state and federal standards.
(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. N/A

## AGRICULTURAL EXPERIMENT STATIONS
## (Amendment)

### 12 KAR 3:022. Expression of guarantees.

RELATES TO: KRS 250.501, 250.521
STATUTORY AUTHORITY: KRS 250.521(1)(b), 250.571(1)
CERTIFICATION STATEMENT: This certifies that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for efficient enforcement of KRS 259.491 to 250.631. KRS 250.521(1)(b) requires that a commercial feed label contain a guaranteed analysis that advises the purchaser of the composition of the feed or to support claims made in the labeling. This administrative regulation establishes a uniform format for expressing guarantees for pet foods and specialty pet foods.

Section 1. The "Guaranteed Analysis" shall be listed in the following order and format unless otherwise established in 12 KAR Chapter 3:
(1) A pet food or specialty pet food label shall list the following required guarantees;
(a) Minimum percentage of crude protein;
(b) Minimum percentage of crude fat;
(c) Maximum percentage of crude fat, if required by 12 KAR 3:028;
(d) Maximum percentage of crude fiber;
(e) Maximum percentage of moisture; and
(f) Additional guarantees, if applicable, shall follow moisture;
(2) If ash is listed in the guaranteed analysis on a pet food or specialty pet food label, ash shall be guaranteed as a maximum percentage and shall immediately follow moisture;
(3) If listed on the label of a dog or cat food product, guarantees for dietary starch and sugars shall be stated as maximum percentages. Neither guarantee shall be listed without the other. The guarantee for dietary starch shall follow ash, if also listed, or moisture, if ash is not listed. The guarantee for sugars shall follow dietary starch;
(4) A dog or cat food label shall list other required or voluntary guarantees in the same order and units of the nutrients in the AAFCO Dog (or Cat) Food Nutrient Profiles. Guarantees for substances not listed in the AAFCO Dog (or Cat) Food Nutrient Profiles, or not otherwise provided for in 12 KAR Chapter 3, shall immediately follow the listing of the recognized nutrients and shall be accompanied by an asterisk referring to the disclaimer "not recognized as an essential nutrient by the AAFCO Dog (or Cat) Food Nutrient Profiles." The disclaimer shall appear immediately after the last guarantee in the same size type as the guarantees; and
(5)
(a) Except as established in paragraph (b) of this subsection, a specialty pet food label shall list other required or voluntary guarantees in the same order and units for the nutrients in an AAFCO-recognized nutrient profile for the specific species.
(b) If no species-specific AAFCO-recognized nutrient profile is

available, the order and units shall follow the same order and units of nutrients in the AAFCO Cat Food Nutrient Profile.[.]

(c) [(c)] Guarantees for substances not listed in an AAFCO recognized nutrient profile for the specific species of animal shall immediately follow the listing of recognized nutrients and shall be accompanied by an asterisk referring to the disclaimer "not recognized as an essential nutrient by the _____." The blank shall be completed by listing the specific AAFCO recognized nutrient profile. This disclaimer shall appear immediately after the last guarantee in the same size type as the guarantees. The disclaimer shall not be required unless an AAFCO-recognized nutrient profile is available for the specific species of specialty pet.

Section 2. The sliding scale method of expressing a guaranteed analysis on a pet food or specialty pet food label (for example, "Minimum crude protein 15-18%") shall not be used.

Section 3. The label of a pet food or a specialty pet food that is formulated as and represented to be a mineral supplement shall include:

(1)

(a) Minimum guarantees for all minerals from sources declared in the ingredient statement and established by an AAFCO-recognized nutrient profile, expressed as the element in units specified in the nutrient profile; or

(b) Minimum guarantees for all minerals from sources declared in the ingredient statement expressed as the element in units specified in the AAFCO Cat Food Nutrient Profiles if no species-specific nutrient profile has been recognized by AAFCO;

(2) Mineral guarantees required by subsection (1) of this section may be expressed in milligrams (mg) per unit (e.g., tablets, capsules, granules, or liquids) consistent with those employed in the quantity statement and directions for use; and

(3) A weight equivalent (e.g., 1 fl. oz. = 28 grams) for liquid products.

Section 4. The label of a pet food or a specialty pet food that is formulated as and represented to be a vitamin supplement shall include:

(1)

(a) Minimum guarantees for all vitamins from sources declared in the ingredient statement and established by an AAFCO-recognized nutrient profile, expressed in units specified in the nutrient profile; or

(b) Minimum guarantees for all vitamins from sources declared in the ingredient statement expressed in units specified in the AAFCO Cat Food Nutrient Profiles if no species-specific nutrient profile has been recognized by AAFCO;

(2) Vitamin guarantees required by subsection (1) of this section may be expressed in approved units (e.g., IU, mg, g) per unit (e.g., tablets, capsules, granules, or liquids) consistent with those employed in the quantity statement and directions for use; and

(3) A weight equivalent (e.g., 1 fl. oz. = 28 grams) for liquid products.

Section 5. If the label of a pet food or specialty pet food includes a comparison of the nutrient content of the food with levels established by an AAFCO-recognized nutrient profile, such as a table of comparison, a percentage, or any other designation referring to an individual nutrient or all of the nutrient levels, the following shall apply:

(1) The product shall meet the AAFCO-recognized nutrient profile;

(2)

(a) Except as established in paragraph (b) of this subsection, the statement of comparison shall be preceded by a statement that the product meets the AAFCO-recognized profile.

(b) The statement that the product meets the AAFCO-recognized nutrient profile shall not be required if the nutritional adequacy statement as per 12 KAR 3:039, Section 1(1) or Section 2(2)(a) appears elsewhere on the product label;

(3) The statement of comparison of the nutrient content shall constitute a guarantee, but need not be repeated in the guaranteed analysis; and

(4) The statement of comparison may appear on the label separate and apart from the guaranteed analysis.

Section 6.

(1) Except as established in subsection (2) of this section, the maximum moisture declared on a pet food or specialty pet food label shall not exceed seventy-eight (78) percent or the natural moisture content of the ingredients, whichever is higher.

(2) Pet food and specialty pet food such as those consisting principally of stew, gravy, sauce, broth, aspic, juice, or a milk replacer, and that are so labeled, may contain moisture in excess of seventy-eight (78) percent.

Section 7. Guarantees for crude protein, crude fat, and crude fiber shall not be required if the pet food or specialty pet food is intended for purposes other than to furnish these substances or if they are of minor significance relative to the primary purpose of the product, such as a mineral or vitamin supplement.

Section 8. Guarantees for microorganisms and enzymes shall be stated in the format as established in 12 KAR 2:021, Sections 7 and 8.

Section 9. Incorporation by Reference.

(1) "2023 Official Publication," (2023[2018] Edition), Association of American Feed Control Officials, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Regulatory Services, 103 Regulatory Services Building, College of Agriculture, University of Kentucky, Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m.

DR. JAMES MATTHEWS, Director

APPROVED BY AGENCY: September 10, 2025

FILED WITH LRC: September 11, 2025 at 10:50 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 24, 2025, at 9:00 a.m., at the offices of the Division of Regulatory Services, 1600 University Court, Lexington, Kentucky 40546. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 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: G. Alan Harrison, Feed & Milk Director, University of Kentucky Division of Regulatory Services, 103 Regulatory Services Building, Lexington, Kentucky 40546, phone (859) 257-2785, fax (859) 323-9931, email alan.harrison@uky.edu.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: G. Alan Harrison
Subject Headings: Agriculture, Pet Food and Feed, Consumer Protection
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes a uniform format for expressing guarantees for pet foods and specialty pet foods.
(b) The necessity of this administrative regulation: Specifies for pet food and specialty pet food manufacturers the nutrient guarantees they are to place on their product labeling. Helps consumers determine which product they need for their pet.
(c) How this administrative regulation conforms to the content of the authorizing statutes: Helps allow for the efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Established standardized labeling of nutrient guarantees on pet and specialty pet

food products.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment updates usage of the Official Publication of the American Association of Feed Control Officials (AAFCO) from the 2018 Edition to the 2023 edition.
(b) The necessity of the amendment to this administrative regulation: This change provides more information to the consumer and more uniformity in guarantees required for the manufacturer selling pet and specialty pet food products in multiple states.
(c) How the amendment conforms to the content of the authorizing statutes: Updates terms and definitions used to regulate the feed industry.
(d) How the amendment will assist in the effective administration of the statutes: These updates are beneficial to both the regulatory body and the regulated industry as it brings in new terms and definitions that have been developed since 2018.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Firms which register commercial feeds in Kentucky will be affected by this administrative regulation.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: No action required by distributors of animal feed. No significant action required by manufacturers of animal feed.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): No cost.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): No significant benefit to distributors of animal feed. Manufacturers of animal feed may benefit from additional ingredients available for use in products and more descriptive ingredient definitions.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: No cost.
(b) On a continuing basis: No cost.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The Division of Regulatory Services regular annual budget is the source of funding.
(8) 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:
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No new fees and no increase in existing fees.
(10) TIERING: Is tiering applied? No, this administrative regulation treats all regulated entities the same.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 250.571
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 250.571
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: University of Kentucky Division of Regulatory Services
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
2. Revenues:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
3. Cost Savings:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No impact on local entities
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No impact on other entities
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(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 is being updated to reference the latest recommendations from the Association of American Feed Control Officials with regards to ingredient definitions and labeling of pet food.
(b) Methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers and guarantors of pet food.
(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(14): No
(b) The methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers and guarantors of pet food.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. Federal Food, Drug, and Cosmetic Act and C.F.R. 21
(2) State compliance standards. In harmony with federal standards.
(3) Minimum or uniform standards contained in the federal mandate. Standards developed by the Association of American Feed Control Officials are in harmony with federal standards.
(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. N/A

**AGRICULTURAL EXPERIMENT STATION**
**(Amendment)**

**12 KAR 3:027. Ingredients.**

RELATES TO: KRS 250.501, 250.521
STATUTORY AUTHORITY: KRS 250.521(1)(c), 250.571(1)
CERTIFICATION STATEMENT: This certifies that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for efficient enforcement of KRS 250.491 to 250.631. KRS 250.521(1)(c) requires that a commercial feed label list the common or usual name of each ingredient used in the manufacture of a commercial feed, unless the director promulgates an administrative regulation permitting the use of a collective term for a group of ingredients. This administrative regulation establishes the required format for listing ingredients on the label of pet foods and specialty pet foods.

Section 1. Each ingredient of a pet food or specialty pet food shall be listed in the ingredient statement as established in subsections (1) through (4) of this section.

(1) The names of all ingredients in the ingredient statement shall be shown in letters or type of the same size, style, and color.

(2) The ingredients shall be listed in descending order by their predominance by weight in non-quantitative terms.

(3) Ingredients shall be listed and identified by the name and definition established by AAFCO.

(4) Any ingredient for which no name and definition have been so established shall be identified by the common or usual name of the ingredient.

Section 2. The ingredients "meat" or "meat by-products" shall be qualified to designate the animal from which the meat or meat by-products are derived unless the meat or meat by-products are derived from cattle, swine, sheep, goats, or any combination thereof. For example, ingredients derived from horses shall be listed as "horsemeat" or "horsemeat by-products".

Section 3. Brand or trade names shall not be used in the ingredient statement.

Section 4. The quality, nature, form, or other attribute of an ingredient may be referenced if:

(1) The designation is not false or misleading;

(2) The ingredient imparts a distinctive characteristic to the pet food or specialty pet food because it possesses that attribute; and

(3) A reference to quality or grade of the ingredient does not appear in the ingredient statement.

Section 5. Incorporation by Reference.

(1) "2023 [~~2018~~]Official Publication", (2023[~~2018~~] Edition), Association of American Feed Control Officials, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Regulatory Services, 103 Regulatory Services Building, College of Agriculture, University of Kentucky, Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m.

DR. JAMES MATTHEWS, Director

APPROVED BY AGENCY: September 10, 2025

FILED WITH LRC: September 11, 2025 at 10:50 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 24, 2025, at 9:00 a.m., at the offices of the Division of Regulatory Services, 1600 University Court, Lexington, Kentucky 40546. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 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: G. Alan Harrison, Feed & Milk Director, University of Kentucky Division of Regulatory Services, 103 Regulatory Services Building, Lexington, Kentucky 40546, phone (859) 257-2785, fax (859) 323-9931, email alan.harrison@uky.edu.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: G. Alan Harrison
Subject Headings: Agriculture, Pet Food and Feed, Consumer Protection
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the required format for listing ingredients on the label of pet foods and specialty pet foods.
(b) The necessity of this administrative regulation: Provides a uniform guide on how ingredients are to be expressed on product labeling so all manufacturers are playing by the same rules.
(c) How this administrative regulation conforms to the content of the authorizing statutes: Helps allow for the efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Provides clear rules on how ingredients are to be listed on product labeling.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment updates usage of the Official Publication of the American Association of Feed Control Officials (AAFCO) from the 2018 Edition to the 2023 edition.
(b) The necessity of the amendment to this administrative regulation: The feed ingredient and feed terms defined in the Official Publication of AAFCO needed to be updated from the older version to a more modern version.
(c) How the amendment conforms to the content of the authorizing statutes: Updates terms and definitions used to regulate the feed industry.
(d) How the amendment will assist in the effective administration of the statutes: These updates are beneficial to both the regulatory body and the regulated industry as it brings in new terms and definitions that have been developed since 2018.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Firms which register commercial feeds in Kentucky will be affected by this administrative regulation.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: No action required by distributors of animal feed. No significant action required by manufacturers of animal feed.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): No cost.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): No significant benefit to distributors of animal feed. Manufacturers of animal feed may benefit from additional ingredients available for use in products and more descriptive ingredient definitions.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: No cost.
(b) On a continuing basis: No cost.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The Division of Regulatory Services regular annual budget is the source of funding.
(8) 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:
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No new fees and

no increase in existing fees.
(10) TIERING: Is tiering applied? No, this administrative regulation treats all regulated entities the same.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 250.571
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 250.571
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: University of Kentucky Division of Regulatory Services
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
2. Revenues:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
3. Cost Savings:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No impact on local entities
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No impact on other entities
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(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 is being updated to reference the latest recommendations from the Association of American Feed Control Officials with regards to ingredient definitions and labeling of pet food.
(b) Methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers and guarantors of pet food.
(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(14): No
(b) The methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers and guarantors of pet food.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. Federal Food, Drug, and Cosmetic Act and C.F.R. 21
(2) State compliance standards. In harmony with federal standards.
(3) Minimum or uniform standards contained in the federal mandate. Standards developed by the Association of American Feed Control Officials are in harmony with federal standards.
(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. N/A

**AGRICULTURAL EXPERIMENT STATION**
**(Amendment)**

**12 KAR 3:028. Descriptive terms.**

RELATES TO: KRS 250.501, 250.521, 15 U.S.C. 1451-1461
STATUTORY AUTHORITY: KRS 250.521(2)(e), (f), 250.571
CERTIFICATION STATEMENT: This certifies that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for the efficient enforcement of KRS 250.491 to 250.631. KRS 250.521 requires that pet foods be labeled and establishes the information that shall be stated on the label. This administrative regulation establishes a uniform format for labeling information for pet foods and delineates criteria for the use of descriptive terms.

Section 1. Calorie Terms.
(1) "Light."
(a) A dog food product that bears on its label the terms "light," "lite," "low calorie," or words of similar designation shall:
1. Contain no more than 3100 kcal ME/kg for products containing less than twenty (20) percent moisture, no more than 2500 kcal ME/kg for products containing twenty (20) percent or more but less than sixty-five (65) percent moisture, and no more than 900 kcal ME/kg for products containing sixty-five (65) percent or more moisture;
2. Include on the label a calorie content statement:
a. In accordance with the format established in 12 KAR 3:042; and
b. That states no more than 3100 kcal ME/kg for products containing less than twenty (20) percent moisture, no more than 2500 kcal ME/kg for products containing twenty (20) percent or more but less than sixty-five (65) percent moisture, and no more than 900 kcal ME/kg for products containing sixty-five (65) percent or more moisture; and
3. Include on the label feeding directions that reflect a reduction in calorie intake consistent with the intended use.
(b) A cat food product that bears on its label the terms "light," "lite," "low calorie," or words of similar designation shall:
1. Contain no more than 3250 kcal ME/kg for products containing less than twenty (20) percent moisture, no more than 2650 kcal ME/kg for products containing twenty (20) percent or more but less than sixty-five (65) percent moisture, and no more than 950 kcal ME/kg for products containing sixty-five (65) percent or more moisture;
2. Include on the label a calorie content statement:
a. In accordance with the format established in 12 KAR 3:042; and
b. That states no more than 3250 kcal ME/kg for products containing less than twenty (20) percent moisture, no more than 2650 kcal ME/kg for products containing twenty (20) percent or more but less than sixty-five (65) percent moisture, and no more than 950 kcal ME/kg for products containing sixty-five (65) percent or more moisture; and
3. Include on the label feeding directions that reflect a reduction in calorie intake consistent with the intended use.
(2) "Less" or "reduced calories."
(a) A dog or cat food product that bears on its label a claim of "less calories," "reduced calories," or words of similar designation, shall include on the label:
1. The name of the product of comparison and the percentage

of calorie reduction (expressed on equal weight basis) explicitly stated and juxtaposed with the largest or more prominent use of the claim on each panel of the label on which the term appears;

2. The comparative statement printed in type of the same color and style and at least one-half the type size used in the claim;

3. A calorie content statement in accordance with the format established in 12 KAR 3:042; and

4. Feeding directions that reflect a reduction in calories compared to feeding directions for the product of comparison.

(b) A comparison between products in different categories of moisture content (for example, less than twenty (20) percent, twenty (20) percent or more but less than sixty-five (65) percent, sixty-five (65) percent or more) is misleading.

Section 2. Fat Terms.

(1) "Lean."

(a) A dog food product that bears on its label the terms "lean," "low fat," or words of similar designation shall:

1. Contain no more than nine (9) percent crude fat for products containing less than twenty (20) percent moisture, no more than seven (7) percent crude fat for products containing twenty (20) percent or more but less than sixty-five (65) percent moisture, and no more than four (4) percent crude fat for products containing sixty-five (65) percent or more moisture; and

2. Include on the product label in the Guaranteed Analysis:

a. A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in (12 KAR 3:022, Section 1(1); and

b. A maximum crude fat guarantee that is no more than nine (9) percent crude fat for products containing less than twenty (20) percent moisture, no more than seven (7) percent crude fat for products containing twenty (20) percent or more but less than sixty-five (65) percent moisture, and no more than four (4) percent crude fat for products containing sixty-five (65) percent or more moisture.

(b) A cat food product that bears on its label the terms "lean," "low fat," or words of similar designation shall:

1. Contain a maximum percentage of crude fat that is no more than ten (10) percent crude fat for products containing less than twenty (20) percent moisture, no more than eight (8) percent crude fat for products containing twenty (20) percent or more but less than sixty-five (65) percent moisture, and no more than five (5) percent crude fat for products containing sixty-five (65) percent or more moisture; and

2. Include on the product label in the Guaranteed Analysis:

a. A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as established in 12 KAR 3:022, Section 1(1); and

b. A maximum crude fat guarantee that is no more than ten (10) percent crude fat for products containing less than twenty (20) percent moisture, no more than eight (8) percent crude fat for products containing twenty (20) percent or more but less than sixty-five (65) percent moisture, and no more than five (5) percent crude fat for products containing sixty-five (65) percent or more moisture.

(2) "Less" or "Reduced Fat."

(a) A dog or cat food product that bears on its label a claim of "less fat," "reduced fat," or words of similar designation, shall include on the label:

1. The name of the product of comparison and the percentage of fat reduction (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on which the term appears;

2. The comparative statement printed in type of the same color and style and at least one-half the type size used in the claim; and

3. Carbohydrate Terms.

(1) "Low" carbohydrate, dietary starch, and sugars claims. A claim of "low carbohydrates," "low dietary starch," "low sugars," or a combination thereof shall be prohibited.

(2) "Less" or "reduced" carbohydrates, dietary starch, and sugars claims.

(a) A dog or cat food product that bears on its label a claim of "less _____" or "reduced _____" (the blank shall be completed by using "carbohydrates," "dietary starch," or "sugars") or words of similar designation, shall include on the label:

1. The name of the product of comparison and the percentage of reduction in total dietary starch plus sugars (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on which the term appears;

2. The comparative statement printed in type of the same color and style and not less than one-half the size used in the claim; and

3. Maximum guarantees for dietary starch and sugars as established in 12 KAR 3:022, Section 1(3).

(b) A comparison between products in different categories of moisture content (for example, less than twenty (20) percent, twenty (20) percent or more but less than sixty-five (65) percent, sixty-five (65) percent or more) is misleading.

Section 4. Incorporation by Reference.

(1) "2023[~~2018~~] Official Publication", (2023[~~2018~~] Edition), Association of American Feed Control Officials, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Regulatory Services, 103 Regulatory Services Building, College of Agriculture, University of Kentucky, Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m.

DR. JAMES MATTHEWS, Director

APPROVED BY AGENCY: September 10, 2025

FILED WITH LRC: September 11, 2025 at 10:50 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 24, 2025, at 9:00 a.m., at the offices of the Division of Regulatory Services, 1600 University Court, Lexington, Kentucky 40546. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 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: G. Alan Harrison, Feed & Milk Director, University of Kentucky Division of Regulatory Services, 103 Regulatory Services Building, Lexington, Kentucky 40546, phone (859) 257-2785, fax (859) 323-9931, email alan.harrison@uky.edu.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: G. Alan Harrison
Subject Headings: Agriculture, Pet Food and Feed, Consumer Protection
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes a uniform format for labeling information for pet foods and delineates criteria for the use of descriptive terms.
(b) The necessity of this administrative regulation: To ensure proper labeling directions on the labeling of pet and specialty pet food products.
(c) How this administrative regulation conforms to the content of the authorizing statutes: Helps allow for the efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Provides further clarification on labeling for consumers and a level playing field for manufacturers.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment updates usage of the Official Publication of the American Association of Feed Control Officials

(AAFCO) from the 2018 Edition to the 2023 edition.
(b) The necessity of the amendment to this administrative regulation: The feed ingredient and feed terms defined in the Official Publication of AAFCO needed to be updated from the older version to a more modern version.
(c) How the amendment conforms to the content of the authorizing statutes: Updates terms and definitions used to regulate the feed industry.
(d) How the amendment will assist in the effective administration of the statutes: These updates are beneficial to both the regulatory body and the regulated industry as it brings in new terms and definitions that have been developed since 2018.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Firms which register commercial feeds in Kentucky will be affected by this administrative regulation.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: No action required by distributors of animal feed. No significant action required by manufacturers of animal feed.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): No cost.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): No significant benefit to distributors of animal feed. Manufacturers of animal feed may benefit from additional ingredients available for use in products and more descriptive ingredient definitions.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: No cost.
(b) On a continuing basis: No cost.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The Division of Regulatory Services regular annual budget is the source of funding.
(8) 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:
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No new fees and no increase in existing fees.
(10) TIERING: Is tiering applied? No, this administrative regulation treats all regulated entities the same.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 250.571
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 250.571
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: University of Kentucky Division of Regulatory Services
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
2. Revenues:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
3. Cost Savings:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No impact on local entities
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No impact on other entities
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(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 is being updated to reference the latest recommendations from the Association of American Feed Control Officials with regards to ingredient definitions and labeling of pet food.
(b) Methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers and guarantors of pet food.
(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(14): No
(b) The methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers and guarantors of pet food.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. Federal Food, Drug, and Cosmetic Act and C.F.R. 21
(2) State compliance standards. In harmony with federal standards.
(3) Minimum or uniform standards contained in the federal mandate. Standards developed by the Association of American Feed Control Officials are in harmony with federal standards.
(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. N/A

**AGRICULTURAL EXPERIMENT STATION**
**(Amendment)**

**12 KAR 3:032. Feeding directions.**

RELATES TO: KRS 250.491-250.631
STATUTORY AUTHORITY: KRS 250.571
CERTIFICATION STATEMENT: This certifies that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for the efficient enforcement of KRS 250.491 to 250.631. This administrative regulation establishes requirements for feeding directions to ensure that pet food and specialty pet food products

have adequate labeling to provide for safe and effective use.

Section 1.

(1) Dog or cat food, including snacks or treats, labeled as complete and balanced for any or all life stages, as established in 12 KAR 3:039, Section 3(1), except those pet foods labeled in accordance with 12 KAR 3:039, Section 4, shall list feeding directions on the product label.

(2) These directions shall be consistent with the intended uses indicated in the nutritional adequacy statement, unless a limited use or more limited life stage designation is declared elsewhere (for example, "adult formula").

(3) These directions shall be expressed in common terms and shall appear prominently on the label.

(4) Feeding directions shall, at a minimum, state:

(a) "Feed (weight/unit of product) per (weight) of dog (or cat).";

and

(b) The frequency of feeding.

Section 2. If a dog or cat food is intended for use by or under the supervision or direction of a veterinarian, the statement: "Use only as directed by your veterinarian" may be used in lieu of feeding directions.

Section 3.

(1) Specialty pet food, including snacks or treats, labeled as complete and balanced for any or all life stages, as established in 12 KAR 3:039, Section 1, shall list feeding directions on the product label.

(2) These feeding directions shall be adequate to meet the nutritional requirements of the intended species of specialty pet as recommended by the AAFCO-recognized nutritional authority.

(3) These directions shall be expressed in common terms and shall appear prominently on the label.

(4) The frequency of feeding shall also be specified.

Section 4. Incorporation by Reference.

(1) "[~~2018~~]Official Publication", (2023[~~2018~~] Edition), Association of American Feed Control Officials, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Regulatory Services, 103 Regulatory Services Building, College of Agriculture, University of Kentucky, Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m.

DR. JAMES MATTHEWS, Director

APPROVED BY AGENCY: September 10, 2025

FILED WITH LRC: September 11, 2025 at 10:50 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 24, 2025, at 9:00 a.m., at the offices of the Division of Regulatory Services, 1600 University Court, Lexington, Kentucky 40546. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 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: G. Alan Harrison, Feed & Milk Director, University of Kentucky Division of Regulatory Services, 103 Regulatory Services Building, Lexington, Kentucky 40546, phone (859) 257-2785, fax (859) 323-9931, email alan.harrison@uky.edu.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: G. Alan Harrison

Subject Headings: Agriculture, Pet Food and Feed, Consumer Protection

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation ensures that pet and specialty pet food products have adequate labeling to provide for safe and effective use.

(b) The necessity of this administrative regulation: To ensure proper feeding directions on the labeling of pet and specialty pet food products.

(c) How this administrative regulation conforms to the content of the authorizing statutes: Helps allow for the efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Provides clarity on how feeding directions should be constructed on pet food labels.

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

(a) How the amendment will change this existing administrative regulation: The amendment updates usage of the Official Publication of the American Association of Feed Control Officials (AAFCO) from the 2018 Edition to the 2023 edition.

(b) The necessity of the amendment to this administrative regulation: The feed ingredient and feed terms defined in the Official Publication of AAFCO needed to be updated from the older version to a more modern version.

(c) How the amendment conforms to the content of the authorizing statutes: Updates terms and definitions used to regulate the feed industry.

(d) How the amendment will assist in the effective administration of the statutes: These updates are beneficial to both the regulatory body and the regulated industry as it brings in new terms and definitions that have been developed since 2018.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? No

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Firms which register commercial feeds in Kentucky will be affected by this administrative regulation.

(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: No action required by distributors of animal feed. No significant action required by manufacturers of animal feed.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): No cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): No significant benefit to distributors of animal feed. Manufacturers of animal feed may benefit from additional ingredients available for use in products and more descriptive ingredient definitions.

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

(a) Initially: No cost.

(b) On a continuing basis: No cost.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The Division of Regulatory Services regular annual budget is the source of funding.

(8) 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:

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No new fees and no increase in existing fees.

(10) TIERING: Is tiering applied? No, this administrative regulation treats all regulated entities the same.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 250.571

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 250.571
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: University of Kentucky Division of Regulatory Services
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
2. Revenues:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
3. Cost Savings:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No impact on local entities
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No impact on other entities
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(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 is being updated to reference the latest recommendations from the Association of American Feed Control Officials with regards to ingredient definitions and labeling of pet food.
(b) Methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers and guarantors of pet food.
(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(14): No
(b) The methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers and guarantors of pet food.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. Federal Food, Drug, and Cosmetic Act and C.F.R. 21
(2) State compliance standards. In harmony with federal standards.
(3) Minimum or uniform standards contained in the federal mandate. Standards developed by the Association of American Feed Control Officials are in harmony with federal standards.
(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. N/A

**AGRICULTURAL EXPERIMENT STATION**
**(Amendment)**

**12 KAR 3:037. Drugs and pet food additives.**

RELATES TO: KRS 250.501, 250.511, 250.541(1)(a), (b), (c), (d), (e), (f), (j), (2)(c), (d), (e), 21 C.F.R. Parts 70, 71, 73, 74, 80, 81, 82, 501.22, 570.3(1), 570.30, 582, 21 U.S.C. 360(b)
STATUTORY AUTHORITY: KRS 250.571(1)
CERTIFICATION STATEMENT: This certifies that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for efficient enforcement of KRS 250.491 to 250.631. KRS 250.541 defines adulterated commercial feeds and states how they may be adulterated by additives. KRS 250.551(1) and (2) prohibits the manufacturing and distribution of adulterated products as animal feeds. This administrative regulation establishes requirements to ensure that a drug or additive used in pet food or specialty pet food is safe and effective for its intended purpose.

Section 1. An artificial color may be used in a pet food or specialty pet food only if it has been shown to be harmless to pets or specialty pets. The permanent or provisional listing of an artificial color in 21 C.F.R. Part 70, 71, 73, 74, 80, 81, or 82, or 501.22 as safe for use, together with the conditions, limitations, and tolerances, if any, shall constitute evidence that the color is harmless to pets or specialty pets.

Section 2. Before approval of a label and a registration application, the distributor of a pet food, containing an additive including a drug, another special purpose additive, or a nonnutritive additive shall, upon request of the director, submit evidence to prove the safety and efficacy of the pet food if used according to label directions. Evidence of the safety and efficacy of a pet food or specialty pet food shall be:
(1) If the pet food or specialty pet food contains an additive that conforms to 21 C.F.R. 570.3(1), 570.30, or Part 582; or
(2) If the pet food or specialty pet food is a drug as defined by KRS 250.501(7) and is generally recognized by the Food and Drug Administration as safe and effective for its labeled use or is marketed subject to an application approved by the Food and Drug Administration under 21 U.S.C. 360(b).

Section 3. If a drug is included in a pet food or specialty pet food, the medicated labeling format recommended by the Association of American Feed Control Officials in its 2023[~~2018~~] Official Publication shall be used to insure that adequate labeling is provided.

Section 4. Incorporation by Reference.
(1) "2023[~~2018~~] Official Publication", (2023[~~2018~~] Edition), Association of American Feed Control Officials, is incorporated by reference.
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Regulatory Services, 103 Regulatory Services Building, College of Agriculture, University of Kentucky, Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m.

DR. JAMES MATTHEWS, Director
APPROVED BY AGENCY: September 10, 2025
FILED WITH LRC: September 11, 2025 at 10:50 a.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 24, 2025, at 9:00 a.m., at the offices of the Division of Regulatory Services, 1600 University Court, Lexington, Kentucky 40546. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public

hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 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: G. Alan Harrison, Feed & Milk Director, University of Kentucky Division of Regulatory Services, 103 Regulatory Services Building, Lexington, Kentucky 40546, phone (859) 257-2785, fax (859) 323-9931, email alan.harrison@uky.edu.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: G. Alan Harrison
Subject Headings: Agriculture, Pet Food and Feed, Consumer Protection
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes requirements to ensure that a drug or additive used in pet food or specialty pet food is safe and effective for its intended purpose.
(b) The necessity of this administrative regulation: Provide guidelines for safe use of drugs and additives in pet or specialty pet foods.
(c) How this administrative regulation conforms to the content of the authorizing statutes: Helps allow for the efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Defines proper usage of drugs or additives in pet or specialty pet foods.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment updates usage of the Official Publication of the American Association of Feed Control Officials (AAFCO) from the 2018 Edition to the 2023 edition.
(b) The necessity of the amendment to this administrative regulation: The feed ingredient and feed terms defined in the Official Publication of AAFCO needed to be updated from the older version to a more modern version.
(c) How the amendment conforms to the content of the authorizing statutes: Updates terms and definitions used to regulate the feed industry.
(d) How the amendment will assist in the effective administration of the statutes: These updates are beneficial to both the regulatory body and the regulated industry as it brings in new terms and definitions that have been developed since 2018.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Firms which register commercial feeds in Kentucky will be affected by this administrative regulation.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: No action required by distributors of animal feed. No significant action is required by manufacturers of animal feed.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): No cost.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): No significant benefit to distributors of animal feed. Manufacturers of animal feed may benefit from additional ingredients available for use in products and more descriptive ingredient definitions.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: No cost.
(b) On a continuing basis: No cost.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The Division of Regulatory Services regular annual budget is the source of funding.
(8) 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:
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No new fees and no increase in existing fees.
(10) TIERING: Is tiering applied? No, this administrative regulation treats all regulated entities the same.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 250.571
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 250.571
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: University of Kentucky Division of Regulatory Services
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
2. Revenues:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
3. Cost Savings:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No impact on local entities
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No impact on other entities
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(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 is being updated to reference the latest recommendations from the Association of American Feed Control Officials with regards to ingredient definitions and labeling of pet food.
(b) Methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers and guarantors of pet food.
(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(14): No
(b) The methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers and guarantors of pet food.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. Federal Food, Drug, and Cosmetic Act and C.F.R. 21
(2) State compliance standards. In harmony with federal standards.
(3) Minimum or uniform standards contained in the federal mandate. Standards developed by the Association of American Feed Control Officials are in harmony with federal standards.
(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. N/A

**AGRICULTURAL EXPERIMENT STATION**
**(Amendment)**

**12 KAR 3:039. Nutritional adequacy.**

RELATES TO: KRS 250.501, 250.521, 15 U.S.C. 1451-1461
STATUTORY AUTHORITY: KRS 250.521(2)(e), (f), 250.571
CERTIFICATION STATEMENT: This certifies that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for the efficient enforcement of KRS 250.491 to 250.631. KRS 250.521 requires that pet foods and specialty pet foods be labeled and establishes the information that shall be stated on the label. This administrative regulation establishes a uniform format for establishing nutritional adequacy in labeling information for pet foods and specialty pet foods and delineates criteria for product claims.

Section 1. The label of a pet food or specialty pet food that is intended for all life stages and sizes of the pet or specialty pet may include an unqualified claim, directly or indirectly, such as "complete and balanced," "perfect," "scientific," or "100% nutritious" if at least one (1) of the following apply:
(1) The product complies with the nutrient requirements for all life stages and sizes established by an AAFCO-recognized nutrient profile;
(2) The product complies with the criteria for all life stages as substantiated by completion of the appropriate AAFCO-recognized animal feeding protocols; or
(3) The product is a member of a product family that is nutritionally similar to a lead product that contains a combination of ingredients that has been fed to a normal animal as the sole source of nourishment in accordance with the testing procedures established by AAFCO for all life stages, if:
(a) The nutritional similarity of the family product can be substantiated according to the Procedures for Establishing Pet Food Product Families developed by AAFCO;
(b) The family product complies with the criteria for all life stages; and
(c) Under circumstances of reasonable doubt, the director requires the manufacturer to perform additional testing of the family product and substantiates the claim of nutritional adequacy.

Section 2. The label of a pet food or specialty pet food that is intended for a limited purpose (such as size of dog) or a specific life stage, but not for all life stages and sizes, may include a qualified claim such as "complete and balanced," "perfect," "scientific," or "100% nutritious" if the product and claim meet all of the following:
(1) The claim is qualified with a statement of the limited purpose of specific life stage for which the product is intended or suitable, for example, "complete and balanced for puppies (or kittens)." The claim and the required qualification shall be juxtaposed on the same label panel and in the same size, style, and color print; and
(2) The product complies with at least one (1) of the following:
(a) The nutrient requirements for the limited purpose or specific life stage established by an AAFCO-recognized nutrient profile;
(b) The criteria for a limited purpose or a specific life stage as substantiated by completion of the appropriate AAFCO-recognized animal feeding protocol; or
(c) The requirements of a product family that is nutritionally similar to a lead product that contains a combination of ingredients that, if fed for the limited purpose, will satisfy the nutrient requirements for the limited purpose and has had its capabilities in this regard demonstrated by adequate testing, and if:
1. The nutritional similarity of the family product can be substantiated according to the Procedures for Establishing Pet Food Product Families developed by AAFCO;
2. The family product meets the criteria for the limited purpose; and
3. Under circumstances of reasonable doubt, the director requires the manufacturer to perform additional testing for the family product and substantiates the claim of nutritional adequacy.

Section 3. Dog and cat food labels shall include a statement of nutritional adequacy or purpose of the product except if the dog or cat food is clearly and conspicuously identified on the principal display panel as "snack," "treat," or "supplement." The statement shall consist of one (1) of the following:
(1) A claim that the dog or cat food complies with the requirements of one (1) or more of the recognized categories of nutritional adequacy: gestation or lactation, growth, maintenance, and all life stages. The claim shall be stated verbatim as one (1) of the following:
(a) "(Name of product) is formulated to meet the nutritional levels established by the AAFCO Dog (or Cat) Food Nutrient Profiles for _____." (The blank shall be completed by using the stage or stages of the pet's life, such as gestation or lactation, growth, maintenance, or the words "All Life Stages."). For a dog food, if the blank includes the words "growth" or "all life stages," one (1) of the following phrases shall also be added verbatim to the end of the claim:
1. "including growth of large size dogs (70 lb. or more as an adult)" if the product has been formulated to meet the levels of nutrients specifically referenced in the Dog Food Nutrient Profiles as being applicable to large size growing dogs; or
2. "except for growth of large size dogs (70 lb. or more as an adult)" if the product has not been formulated to meet the levels of nutrients specifically referenced in the Dog Food Nutrient Profiles as being applicable to large size growing dogs;
(b) "Animal feeding tests using AAFCO procedures substantiate that (Name of Product) provides complete and balanced nutrition for _____." (The blank shall be completed by using the stage or stages of the pet's life tested, such as gestation/lactation, growth, maintenance, or the words "all life stages."); or
(c) "(Name of Product) provides complete and balanced nutrition for _____ (The blank shall be completed by using the stage or stages of the pet's life, such as gestation and lactation, growth, maintenance, or the words "all life stages") and is comparable in nutritional adequacy to a product that has been substantiated using AAFCO feeding test.";
(2) A nutritional or dietary claim for purposes other than those established in Sections 1 and 2 of this administrative regulation if the claim is scientifically substantiated; or
(3) The statement: "This product is intended for intermittent or supplemental feeding only," if a product does not comply with the requirements of Sections 1 and 2 of this administrative regulation or any other special nutritional or dietary need and so is suitable only for limited or intermittent or supplementary feeding.

Section 4. A product intended for use by, or under the supervision or direction of a veterinarian shall make a statement in accordance with Section 3(1) or (3) of this administrative regulation.

Section 5. A signed affidavit attesting that the product complies

with the requirements of Sections 1 or 2(2) of this administrative regulation shall be submitted to the director upon request.

Section 6. If the nutrient content of a product does not comply with those nutrient requirements established by an AAFCO-recognized nutrient profile, or if no requirement has been established by an AAFCO recognized nutritional authority for the life stages of the intended species, the claimed nutritional adequacy or purpose of the product shall be scientifically substantiated.

Section 7. The following AAFCO-recognized nutritional authority, nutrient profile, or animal feeding protocol shall be acceptable as the basis for a claim of nutritional adequacy:

(1) As an AAFCO-recognized nutrient profile or nutritional authority:

(a) For dogs, the AAFCO Dog Nutrient Profiles;

(b) For cats, the AAFCO Cat Nutrient Profiles; and

(c) For specialty pets, the nutrient recommendation approved by the Committee on Animal Nutrition of the National Research Council of the National Academy of Sciences, if this nutrient recommendation is recognized only for the specific specialty pet of which the profile is intended; and

(2) As an AAFCO-recognized animal feeding protocol, the AAFCO Dog and Cat Food Feeding Protocols.

Section 8. Incorporation by Reference.

(1) "2023[~~2018~~] Official Publication", (2023[~~2018~~] Edition), Association of American Feed Control Officials, is incorporated by reference.

(2) This material may be inspected, copied, or obtained. Subject to applicable copyright law, at the Division of Regulatory Services, 103 Regulatory Services Building, College of Agriculture, University of Kentucky, Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m.

DR. JAMES MATTHEWS, Director

APPROVED BY AGENCY: September 10, 2025

FILED WITH LRC: September 11, 2025 at 10:50 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 24, 2025, at 9:00 a.m., at the offices of the Division of Regulatory Services, 1600 University Court, Lexington, Kentucky 40546. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 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: G. Alan Harrison, Feed & Milk Director, University of Kentucky Division of Regulatory Services, 103 Regulatory Services Building, Lexington, Kentucky 40546, phone (859) 257-2785, fax (859) 323-9931, email alan.harrison@uky.edu.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: G. Alan Harrison

Subject Headings: Agriculture, Pet Food and Feed, Consumer Protection

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes a uniform format for nutritional adequacy in labeling information of pet foods and specialty pet foods and delineates criteria for product claims.

(b) The necessity of this administrative regulation: This is regulation that matches what has been put forth by the American Association of Feed Control Officials as part of their model bill for pet foods. This has been adopted by many states and helps provide uniformity for those companies selling product in multiple states. The regulation provides needed information to consumers.

(c) How this administrative regulation conforms to the content of the authorizing statutes: Helps allow for the efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Provides direction in product labeling.

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

(a) How the amendment will change this existing administrative regulation: The amendment updates usage of the Official Publication of the American Association of Feed Control Officials (AAFCO) from the 2018 Edition to the 2023 edition.

(b) The necessity of the amendment to this administrative regulation: The feed ingredient and feed terms defined in the Official Publication of AAFCO needed to be updated from the older version to a more modern version.

(c) How the amendment conforms to the content of the authorizing statutes: Updates terms and definitions used to regulate the feed industry.

(d) How the amendment will assist in the effective administration of the statutes: These updates are beneficial to both the regulatory body and the regulated industry as it brings in new terms and definitions that have been developed since 2018.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? No

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Firms which register commercial feeds in Kentucky will be affected by this administrative regulation.

(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: No action required by distributors of animal feed. No significant action required by manufacturers of animal feed.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): No cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): No significant benefit to distributors of animal feed. Manufacturers of animal feed may benefit from additional ingredients available for use in products and more descriptive ingredient definitions.

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

(a) Initially: No cost.

(b) On a continuing basis: No cost.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The Division of Regulatory Services regular annual budget is the source of funding.

(8) 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:

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No new fees and no increase in existing fees.

(10) TIERING: Is tiering applied? No, this administrative regulation treats all regulated entities the same.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 250.571

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 250.571

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: University of Kentucky Division of

Regulatory Services
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
2. Revenues:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
3. Cost Savings:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No impact on local entities
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No impact on other entities
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(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 is being updated to reference the latest recommendations from the Association of American Feed Control Officials with regards to ingredient definitions and labeling of pet food.
(b) Methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers and guarantors of pet food.
(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(14): No
(b) The methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers and guarantors of pet food.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. Federal Food, Drug, and Cosmetic Act and C.F.R. 21
(2) State compliance standards. In harmony with federal standards.
(3) Minimum or uniform standards contained in the federal mandate. Standards developed by the Association of American Feed Control Officials are in harmony with federal standards.
(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. N/A

**AGRICULTURAL EXPERIMENT STATION**
**(Amendment)**

**12 KAR 3:042. Statements of calorie content.**

RELATES TO: KRS 250.501, 250.521
STATUTORY AUTHORITY: KRS 250.571(1)
CERTIFICATION STATEMENT: This certifies that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for efficient enforcement of KRS 250.491 to 250.631. This administrative regulation establishes a uniform procedure for determining the caloric content of dog and cat foods and expressing it on product labels.

Section 1. The label of a dog or cat food, including snacks, treats, and supplements, shall bear a statement of calorie content and comply with the requirements established in subsections (1) through (5) of this section.
(1) The statement shall be separate and distinct from the "Guaranteed Analysis" and shall appear under the heading "Calorie Content".
(2) The statement shall be measured in terms of metabolizable energy (ME) on an "as fed" basis and must be expressed both as "kilocalories per kilogram" ("kcal/kg") of product, and as kilocalories per familiar household measure (for example, cans or cups) or unit of product (for example, treats or pieces).
(3) The calorie content shall be determined by one (1) of the following methods:
(a) By calculation using the following "Modified Atwater" formula:

$$ME(kcal/kg) = 10[(3.5 \times CP) + (8.5 \times CF) + (3.5 \times NFE)]$$

where ME = metabolizable energy,
CP = % crude protein "as fed,"
CF = % crude fat "as fed,"
NFE = % nitrogen-free extract (carbohydrate) "as fed," and the percentages of CP and CF are the average values of these components in the product as determined by sound scientific methods, such as scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product. The NFE is calculated as the difference between 100 and the sum of CP, CF, and the percentages of crude fiber, moisture and ash (determined in the same manner as CP and CF); or

(b) In accordance with a testing procedure established by AAFCO.
(4) An affidavit shall be provided upon request of the director, substantiating that the calorie content was determined by:
(a) Subsection (3)(a) of this section, in which case the summary data used in the calculation shall be included in the affidavit; or
(b) Subsection (3)(b) of this section, in which case the summary data used in the determination of calorie content shall accompany the affidavit.
(5) The caloric content statement shall appear as one (1) of the following:
(a) The heading "Calorie Content" on the label or other labeling shall be followed parenthetically by the word "calculated" if the caloric content is determined in accordance with subsection (3)(a) of this section; or
(b) The heading "Calorie Content" on the label or other labeling shall be followed parenthetically by the word "fed" if the calorie content is determined in accordance with subsection (3)(b) of this section.

Section 2. A comparative claim shall:
(1) Not be false, misleading, or given undue emphasis; and
(2) Be based on the same methodology for all products compared.

Section 3. Incorporation by Reference.

(1) "2023[2018] Official Publication", (2023[2018] Edition), Association of American Feed Control Officials, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Regulatory Services, 103 Regulatory Services Building, College of Agriculture, University of Kentucky, Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m.

DR. JAMES MATTHEWS, Director

APPROVED BY AGENCY: September 10, 2025

FILED WITH LRC: September 11, 2025 at 10:50 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 24, 2025, at 9:00 a.m., at the offices of the Division of Regulatory Services, 1600 University Court, Lexington, Kentucky 40546. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 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: G. Alan Harrison, Feed & Milk Director, University of Kentucky Division of Regulatory Services, 103 Regulatory Services Building, Lexington, Kentucky 40546, phone (859) 257-2785, fax (859) 323-9931, email alan.harrison@uky.edu.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: G. Alan Harrison
Subject Headings: Agriculture, Pet Food and Feed, Consumer Protection
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes a uniform procedure for determining the caloric content of dog and cat foods and expressing it on product labels.
(b) The necessity of this administrative regulation: Provide needed information to consumers.
(c) How this administrative regulation conforms to the content of the authorizing statutes: Helps allow for the efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Provides direction in product labeling.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment updates usage of the Official Publication of the American Association of Feed Control Officials (AAFCO) from the 2018 Edition to the 2023 edition.
(b) The necessity of the amendment to this administrative regulation: The feed ingredient and feed terms defined in the Official Publication of AAFCO needed to be updated from the older version to a more modern version.
(c) How the amendment conforms to the content of the authorizing statutes: Updates terms and definitions used to regulate the feed industry.
(d) How the amendment will assist in the effective administration of the statutes: These updates are beneficial to both the regulatory body and the regulated industry as it brings in new terms and definitions that have been developed since 2018.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Firms which register commercial feeds in Kentucky will be affected by this administrative regulation.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: No action required by distributors of animal feed. No significant action required by manufacturers of animal feed.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): No cost.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): No significant benefit to distributors of animal feed. Manufacturers of animal feed may benefit from additional ingredients available for use in products and more descriptive ingredient definitions.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: No cost.
(b) On a continuing basis: No cost.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The Division of Regulatory Services regular annual budget is the source of funding.
(8) 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:
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No new fees and no increase in existing fees.
(10) TIERING: Is tiering applied? No, this administrative regulation treats all regulated entities the same.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 250.571
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 250.571
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: University of Kentucky Division of Regulatory Services
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
2. Revenues:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
3. Cost Savings:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No impact on local entities
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No impact on other entities
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: No impact

For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(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 is being updated to reference the latest recommendations from the Association of American Feed Control Officials with regards to ingredient definitions and labeling of pet food.
(b) Methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers and guarantors of pet food.
(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(14): No
(b) The methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers and guarantors of pet food.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. Federal Food, Drug, and Cosmetic Act and C.F.R. 21
(2) State compliance standards. In harmony with federal standards.
(3) Minimum or uniform standards contained in the federal mandate. Standards developed by the Association of American Feed Control Officials are in harmony with federal standards.
(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. N/A

***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**
**Education Professional Standards Board**
**(Amendment)**

**16 KAR 2:020. Occupation-based career and technical education certification.**

RELATES TO: KRS 156.095, 158.070, 158.816, 160.380, 161.020, 161.028, 161.030
STATUTORY AUTHORITY: KRS 161.020(3),161.028(1)(a), 161.030
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.020[(3)], 161.028(1)(a), and 161.030 require the Education Professional Standards Board (EPSB) to promulgate administrative regulations establishing standards and requirements for obtaining and maintaining a teaching certificate. This administrative regulation establishes the qualifications for certification of teachers of occupation-based career and technical education and implements the testing [and internship ]requirements of KRS 161.030.

Section 1.
(1) The EPSB[Education Professional Standards Board (EPSB)] shall issue and reissue certificates for occupation-based career and technical teachers employed by the public schools[, the Kentucky Community and Technical College System,] or the Kentucky Department of Education Office of Career and Technical Education (KDE).
(2) The EPSB may issue occupation-based certificates for any career and technical[information technology, industrial education, public service, health science, or human services occupation] area for which programs may be offered under the required Kentucky Academic Standards established in 704 KAR Chapter 8[704 KAR 3:303].
(3) The EPSB shall issue certificates for occupation-based career and technical teacher candidates who are employed based upon required occupational experience in the occupation area to be taught.
[(4)] [The EPSB shall not require a college degree for initial issuance.]

Section 2. Initial Issuance [and Renewal ]of the One (1) Year Provisional Certificate[Certificates].
(1) [Initial issuance. ]The EPSB shall issue a provisional certificate to occupation-based career and technical teacher candidates for a duration period of one (1) year. The EPSB shall only issue the provisional certificate after the KDE [and, if applicable, an accredited provider of an approved occupation-based educator preparation degree program ]recommends the teacher candidate for certification and the teacher candidate completes the requirements set forth in this section.
(2)[(a)] Occupation-based[For those] teacher candidates [who do not hold at least an associate degree in the occupation area in which the teacher candidate is ]seeking certification[, the teacher candidate] shall:
(a)[1.] Demonstrate that he or she has at least a high school diploma or its equivalent;
(b)[2.] Demonstrate that he or she has four (4) years of successful and appropriate occupational experience in the occupation area in which certification is sought along with:
1.[a.] At least two (2) years of the occupational experience shall be completed within the last five (5) years; and[. A maximum of one (1) year of the required work experience may be satisfied by completion of an approved occupation-based educator preparation program for the occupation to be taught; and]
2.[b.] Proof that KDE confirmed the occupational experience;
(c)[3.] Provide documentation[Demonstrate] that he or she meets the assessment requirements set forth in 16 KAR 6:020;
(d)[4.] Answer[The teacher candidate shall answer "no" to] all of the EPSB's background disclosure questions set forth in Section 6(1)(a)-(f) of[Section 4(1)(a)-(f)] this administrative regulation. If the teacher candidate answers "yes" to any of the questions set forth in Section 6(1)(a)-(f)[Section 4(1)(a)-(f)], the EPSB may still issue a certificate[statement of eligibility] for the[those] teacher candidate[candidates], but the EPSB[board] shall retain final authority to deny a request for certification pursuant to the EPSB's[board's] authority established in KRS 161.120; and
(e)[5.] Demonstrate that a local school district or[,] the KDE[, or the Kentucky Community and Technical College System] has made an offer of employment that requires a certificate in the content area for which the candidate is seeking certification.
(3) Upon issuance of the one (1) year provisional certificate, the candidate shall enroll in the New Teacher Institute (NTI) provided by the KDE. The NTI shall include professional learning in the areas of classroom management, lesson planning and curriculum, assessment, academic integration of numeracy and literacy, and instruction for students with special learning needs.
[(b)] [For those teacher candidates who hold either an occupation-based degree in the occupation area in which certification is sought or a degree from an approved occupation-based educator preparation degree program, the teacher candidates shall provide proof of that degree to the EPSB.]
[(c)] [The teacher candidate shall answer "no" to all of the EPSB's background disclosure questions set forth in Section 4(1)(a)-(f) this administrative regulation. If the teacher candidate answers "yes" to any of the questions set forth in Section 4(1)(a)-(f), the EPSB may still issue a statement of eligibility for those teacher candidates, but the board shall retain final authority to deny a request for certification pursuant to the board's authority established in KRS 161.120.]

Section 3.[(2)] Renewal[First renewal] of the One (1) Year Provisional Certificate[certificates].

(1) The EPSB shall renew[issue the first renewal of] the one (1) year provisional certificate to a requesting teacher candidate only after the KDE [and, if applicable, an accredited provider of an occupation-based educator preparation degree program ]recommends the renewal of the provisional certificate and the teacher candidate meets the requirements set forth in subsection (4) of this section[(2)(b)].

(2)[(a)] While a teacher candidate is completing NTI, the KDE[The KDE or the accredited provider of an occupation-based educator preparation degree program] shall only recommend renewal of the [first ]provisional certificate [for a teacher candidate ]after that teacher candidate makes progress towards completion of NTI for each renewal.[:]

[1.] [Completes six (6) semester hours of academic credit or its equivalent in professional learning from NTI in areas such as classroom management, lesson planning and curriculum, assessment, academic integration of numeracy and literacy, and instruction for students with special learning needs;]

(3) After successful completion of NTI, the KDE shall only recommend renewal of the provisional certificate after the teacher candidate completes a minimum of six (6) semester hours of college credit from an occupation-based degree or an approved occupation-based educator preparation degree program for each renewal.

[2.] [Completes the first year of professional learning through the NTI;]

[3.] [Receives a recommendation by the KDE or an accredited provider of an occupation-based educator preparation program for enrollment in the Kentucky Teacher Internship Program (KTIP); and]

(4)[(b)] The teacher candidate shall answer[Answers "no" to] all of the EPSB's background disclosure questions set forth in Section 6(1)(a)-(f)[Section 4(1)(a)-(f)] of this administrative regulation. If the teacher candidate answers "yes" to any of the questions set forth in Section 6(1)(a)-(f)[Section 4(1)(a)-(f)], the EPSB may still issue a certificate[statement of eligibility] for the[those] teacher candidate[candidates], but the EPSB[board] shall retain final authority to deny a request for certification pursuant to the EPSB's[board's] authority established in KRS 161.120.

[(3)] [Subsequent renewal of one (1) year provisional certificate. The EPSB shall issue any subsequent renewal of the one (1) year provisional certificate to a requesting teacher candidate only after the KDE or the provider of an approved occupation-based educator preparation degree program recommends to the EPSB that the EPSB renew the one (1) year provisional certificate. The KDE or an approved occupation-based educator preparation degree program shall ensure that the teacher candidate meets the following requirements before recommending renewal:]

[(a)] [The completion of a minimum of six (6) semester hours of college credit for each renewal selected from the degree program;]

[(b)] [Documentation of completion of four (4) days of professional development as required by KRS 156.095 and 158.070; and]

[(c)] [Answering "no" to all of the EPSB's background disclosure questions set forth in Section 4(1)(a)-(f) this administrative regulation. If the teacher candidate answers "yes" to any of the questions set forth in Section 4(1)(a)-(f), the EPSB may still issue a statement of eligibility for those teacher candidates, but the board shall retain final authority to deny a request for certification pursuant to the board's authority established in KRS 161.120.]

(5)[(4)] The one (1) year provisional certificate shall be limited to five (5), one (1) year renewals for a total validity period of six (6) years. These renewals may be consecutive or nonconsecutive.

(6) For a teacher candidate who holds a provisional certificate and was admitted into an approved occupation-based educator preparation program prior to July 1, 2018, the EPSB shall renew that teacher candidate's provisional certificate in accordance with the laws and administrative regulations in effect at the time the first provisional certificate was issued as required by KRS 161.020.

Section 4.[Section 3.] Issuance and Renewal of the Professional Certificate.

(1) Issuance. The EPSB shall issue a professional certificate pursuant to this administrative regulation for a duration period of five (5) years to a requesting teacher candidate only after the KDE [and, if applicable, a provider of an approved occupation-based educator preparation degree program ]recommends that the EPSB issue the professional certificate and the teacher candidate meets the requirements set forth in subsection (2) of this section. The[Neither the] KDE [nor the provider of the approved occupation-based educator preparation degree program ]shall not recommend issuance of the professional certificate until the teacher candidate has met the following requirements:

(a) The teacher candidate receives a minimum of an occupation-based degree or an approved occupation-based educator preparation degree; and

(b) The teacher candidate completes the [two (2) years ]professional learning through NTI sponsored by KDE.[; and]

[(c)] [The teacher candidate successfully completes KTIP.]

(2) The teacher candidate shall answer all of the EPSB's background disclosure questions set forth in Section 6(1)(a)-(f) of this administrative regulation. If the teacher candidate answers "yes" to any of the questions set forth in Section 6(1)(a)-(f), the EPSB may still issue a certificate for the teacher candidate, but the EPSB shall retain final authority to deny a request for certification pursuant to the EPSB's authority established in KRS 161.120.

(3)[(2)] Renewal. The EPSB shall renew the professional certificate in accordance with 16 KAR 4:060.

(4) For a teacher candidate who was admitted into an approved occupation-based educator preparation program prior to July 1, 2018, the EPSB shall issue and renew that teacher candidate's professional certificate in accordance with the laws and administrative regulations in effect at the time the teacher candidate's first provisional certificate was issued.

Section 5. Electricity, HVAC and Plumbing Teacher Candidates.

(1) For a candidate for occupation-based certification in the area of electricity, HVAC, or plumbing who holds a current Kentucky master license earned through examination in the subject area in which certification is sought, an associate degree is not required.

(2) When applying for issuance of the professional certificate, the candidate shall submit proof of the current Kentucky master license in the area in which certification is sought. Proof of a current Kentucky master license in the area in which certification is sought shall exempt the candidate from the requirements of Section 4(1)(a) of this administrative regulation.

Section 6.[Section 4.] Disclosure of Background Information.

(1) Teachers and teacher candidates shall disclose certain background information to the EPSB whenever those teachers and teacher candidates apply for the issuance and renewal of the provisional certificate and the professional certificate by answering the following questions:

(a) "Have you ever had a professional certificate, license, credential, or any document issued for practice denied, suspended, revoked, or voluntarily surrendered? If you have had a professional certificate, license, credential, or any other document issued for practice initially denied by a licensing body, but later issued, you must answer "yes."";

(b) "Have you ever been suspended or discharged from any employment or military service because of allegations of misconduct?"

(c) "Have you ever resigned, entered into a settlement agreement, or otherwise left employment as a result of allegations of misconduct?"

(d) "Is any action now pending against you for alleged misconduct in any school district, court, or before any educator licensing agency?"

(e) "Have you ever been convicted of or entered a guilty plea, an "Alford" plea, or a plea of nolo contendere (no contest) to a felony or misdemeanor, even if adjudication of the sentence was withheld in Kentucky or any other state? Minor traffic violations should not be reported. Convictions for driving while intoxicated (DWI) or driving under the influence of alcohol or other drugs (DUI) must be reported."

(f) "Do you have any criminal charges pending against you?"

and

(g) "If you answered affirmatively [~~to~~ ]any of the questions in this Section, has the EPSB previously reviewed the information?"

(2) The EPSB shall provide teachers and teacher candidates with the opportunity to submit a narrative to the EPSB[~~board~~] to consider before the EPSB reviews[~~board approves~~] the request for issuance or renewal of a provisional certificate or a professional certificate. The teacher or teacher candidate may include in their narrative any dates, locations, school systems, court records, or any other information the teacher or teacher candidate would like the EPSB[~~board~~] to consider.

[~~Section 5.~~]

[~~(1)~~] [~~Effective July 1, 2018, the EPSB shall not issue a professional certificate to a teacher candidate who does not have at least an associate degree in the area in which the teacher candidate is seeking certification, and who has not completed the two (2) year professional learning through NTI sponsored by KDE unless that teacher candidate holds a valid, unexpired provisional certificate and was admitted into an approved occupation-based educator preparation program prior to July 1, 2018.~~]

[~~(2)~~] [~~For a teacher candidate who holds a provisional certificate and was admitted into an approved occupation-based educator preparation program prior to July 1, 2018, the EPSB shall renew that teacher candidate's provisional certificate in accordance with the laws and administrative regulations in effect at the time the first provisional certificate was issued as required by KRS 161.020.~~]

[~~(3)~~] [~~For a teacher candidate who was admitted into an approved occupation-based educator preparation program prior to July 1, 2018, the EPSB shall issue and renew that teacher candidate's professional certificate in accordance with the laws and administrative regulations in effect at the time the teacher candidate's first provisional certificate was issued.~~]

[~~Section 6.~~] [~~Information Technology and Computer Science Teachers.~~]

[~~(1)~~] [~~A teacher shall possess one (1) of the following credentials to instruct in the field of information technology or computer science:~~]

[~~(a)~~] [~~Provisional certificate established in Section 2 of this administrative regulation;~~]

[~~(b)~~] [~~Professional certificate established in Section 3 of this administrative regulation;~~]

[~~(c)~~] [~~Computer information systems certificate established in 16 KAR 2:010;~~]

[~~(d)~~] [~~Computer science endorsement established in 16 KAR 2:010; or~~]

[~~(e)~~] [~~Instructional computer technology endorsement established in 16 KAR 2:010.~~]

[~~(2)~~] [~~If a qualified teacher is not available for the position of information technology teacher, as attested to by the local school superintendent or the Associate Commissioner of the Kentucky Department of Education Office of Career and Technical Education, a one (1) year probationary certificate may be issued under the requirements established in 16 KAR 2:190.~~]

AMBER SNELL, Board Chair

APPROVED BY AGENCY: September 8, 2025

FILED WITH LRC: September 15, 2025 at 11:15 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 24, 2025, at 10:00 a.m., 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 November 30, 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

Subject Headings: Education Professional Standards, Education, Education: Career and Technical Education.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the qualifications for certification of teachers of occupation-based career and technical education and implements the testing requirements of KRS 161.030.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide minimum requirements for obtaining occupation-based career and technical education certification.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 161.020 and 161.030 require that a teacher and other professional school personnel hold a certificate of legal qualification for the respective position to be issued upon completion of a program of preparation prescribed by the Education Professional Standards Board. KRS 161.028(1)(a) requires the Education Professional Standards Board to establish the standards for obtaining and maintaining a teaching certificate. This administrative regulation sets the standards and requirements for obtaining occupation-based career and technical education certification.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation provides applicants and districts with the minimum requirements for occupation-based career and technical education teacher certification.

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

(a) How the amendment will change this existing administrative regulation: The revisions include technical amendments, language updates, and separates sections for clarification. The amendment also exempts candidates seeking occupation-based certification in HVAC, Plumbing, and Electricity who have a current Kentucky master level certification in the area of certification from being required to obtain an associate's degree.

(b) The necessity of the amendment to this administrative regulation: The primary purpose of this amendment is to update language and separate sections to provide clarity for the qualification requirements. The amendment includes removing the requirement to have or obtain an associate's degree for those candidates who hold a current Kentucky master level license and are seeking certification in HVAC, Plumbing, and Electricity.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 161.020 and 161.030 require that a teacher and other professional school personnel hold a certificate of legal qualification for the respective position to be issued upon completion of a program of preparation prescribed by the Education Professional Standards Board. KRS 161.028(1)(a) requires the Education Professional Standards Board to establish the standards for obtaining and maintaining a teaching certificate. This administrative regulation sets the standards and requirements for obtaining occupation-based career and technical education certification.

(d) How the amendment will assist in the effective administration of the statutes: This amendment provides applicants and districts with the minimum requirements for occupation-based certification to ensure qualified individuals are hired.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes, it removes the reference to the Kentucky Teacher Internship Program which was removed from statute by SB 265 of the 2024 Legislative Session.

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Those affected by this administrative regulation include 171 Kentucky public school districts and the 50

Area Technology Centers.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: Kentucky school districts and Area Technology Centers will no longer need to ensure candidates for HVAC, Plumbing, and Electricity who hold a current Kentucky master level license in the area of certification have or earn a minimum of an associate's degree to obtain occupation-based teacher professional certification.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There is no anticipated cost to comply with this regulation or amendment.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Compliance with this regulation will ensure qualified occupation-based teacher candidates are placed in the classroom.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: There are no costs expected to implement this amendment as staff and structures are already in place to issue occupation-based certificates.
(b) On a continuing basis: There are no expected continuing costs with this amendment.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: General fund.
(8) 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 for the Education Professional Standards Board to implement this administrative regulation.
(9) 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 any fees.
(10) TIERING: Is tiering applied? Tiering was not appropriate as this administrative regulation applies equally to all applicants, 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 161.020, KRS 161.028, and KRS 161.030.
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 161.028 requires the Education Professional Standards Board to establish standards and requirements for obtaining and maintaining a teaching certificate. KRS 161.030(1) provides that certificates shall be issued in accordance with the administrative regulations of the Education Professional Standards Board
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Education Professional Standards Board, the Kentucky Board of Education, and the 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: There are no additional expected expenditures for the state during the first year as the systems and staff are already in place for processing applications and issuing certificates for occupational-based teachers.
For subsequent years: There are no additional expected expenditures for the state during subsequent years as the systems and staff are already in place for processing applications and issuing certificates for occupational-based teachers.
2. Revenues:
For the first year: The amendment to this administrative regulation is not expected to generate any revenue during the first year as this regulation does not create fees.
For subsequent years: The amendment to this administrative regulation is not expected to generate any revenue during subsequent years as this regulation does not create fees.
3. Cost Savings:
For the first year: No cost savings are expected with this amendment.
For subsequent years: No cost savings are expected with this amendment.
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): Kentucky public school districts.
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: There are no expected expenditures for districts as there are no fees established in this regulation.
For subsequent years: There are no expected expenditures for districts as there are no fees established in this regulation.
2. Revenues:
For the first year: This regulation sets the standards for certification for occupation-based career and technical education teachers. It will not generate revenue for districts.
For subsequent years: This regulation sets the standards for certification for occupation-based career and technical education teachers. It will not generate revenue for districts.
3. Cost Savings:
For the first year: No cost savings are expected with this amendment.
For subsequent years: No cost savings are expected with this amendment.
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): Applicants for occupation-based career and technical education teacher certification.
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: There are no expected expenditures for applicants as there are no fees established in this regulation.
For subsequent years: There are no expected expenditures for applicants as there are no fees established in this regulation.
2. Revenues:
For the first year: This regulation sets the standards for certification for occupation-based career and technical education teachers. It will not generate revenue for applicants.
For subsequent years: his regulation sets the standards for certification for occupation-based career and technical education teachers. It will not generate revenue for applicants.
3. Cost Savings:
For the first year: There may be some cost savings for applicants for occupation-based certification in HVAC, electricity, and plumbing as their master license will exempt them from obtaining an associate's degree.
For subsequent years: There may be some cost savings for applicants for occupation-based certification in HVAC, electricity, and plumbing as their master license will exempt them from obtaining an associate's degree.
(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 as a result of the proposed amendments to this regulation. No fees are established or increased in this regulation. While processing applications and issuing certificates does require staff time and resources from the Kentucky Department of Education and the Education Professional Standards Board, the amendments can be carried out by the existing staff and systems.
(b) Methodology and resources used to reach this conclusion: The methodology and resources used to determine this is looking to current systems and processes to see if additional expenditures or resources are needed to carry out the amendments. Since no additional expenditures or resources are needed to carry out the amendments, and there are no fees established or increased by this regulation, there will not be a negative or adverse major economic 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(14): There is not an expected major economic impact from this regulation as it does not create additional costs for the Education Professional Standards Board or the regulated entities.
(b) The methodology and resources used to reach this conclusion: The methodology and resources used to determine this is looking to current systems and processes to see if additional expenditures or resources are needed to carry out the amendments. Since no additional expenditures or resources are needed to carry out the amendments, and there are no fees established or increased by this regulation, there will not be a negative or adverse 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.***

**PERSONNEL CABINET**
**Office of the Secretary**
**(Amendment)**

**101 KAR 2:210. 2026[~~2025~~] Plan Year Handbook for the Public Employee Health Insurance Program.**

RELATES TO: KRS 18A.030, 18A.225, 18A.2254
STATUTORY AUTHORITY: KRS 18A.030(2)(b), 18A.2254(1)(a)
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.2254(1)(a)1 requires the secretary of the Personnel Cabinet to promulgate an administrative regulation to incorporate by reference the plan year handbook distributed by the Department of Employee Insurance to public employees covered under the self-insured plan and establishes the minimum requirements for the information included in the handbook. This administrative regulation incorporates by reference the plan year Benefits Selection Guide, which is the handbook distributed by the department to public employees for the 2026[~~2025~~] Plan Year as required by KRS 18A.2254(1)(a)1.

Section 1. The Department of Employee Insurance shall distribute or make available to the public employees covered under the self-insured plan the 2026[~~2025~~] Plan Year Kentucky Employees' Health Plan Benefits Selection Guide, which shall include the premiums, employee contributions, employer contributions, and a summary of benefits, copays, coinsurance, and deductibles for each plan provided to the public employees covered under the self-insured plan.

Section 2. Incorporation by Reference.
(1) "2026[~~2025~~] Plan Year Kentucky Employees' Health Plan Benefits Selection Guide", 2026[~~2025~~] edition, is incorporated by reference.
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Personnel Cabinet, 501 High Street, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. The material incorporated by reference is also available on the Personnel Cabinet's website[~~Web site~~] on the Kentucky Employees' Health Plan page under KEHP Documents at https://personnel.ky.gov/Pages/Kentucky-Employees'-Health-Plan.aspx.

MARY ELIZABETH BAILEY, Secretary
APPROVED BY AGENCY: September 15, 2025
FILED WITH LRC: September 15, 2025 at 9:45 a.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 26, 2025, at 10:00 a.m. at 501 High Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 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: Will Adams, Staff Attorney, Office of Legal Services, Personnel Cabinet, 501 High Street, 4th Floor, Frankfort, Kentucky 40601, phone (502) 782-4370, fax (502) 564-5278, email Will.Adams@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Will Adams
Subject Headings: Personnel, State Employee Health Plans, State Employees
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation incorporates by reference the 2026 plan year handbook containing information about the self-insured health insurance plans offered through the Public Employee Health Insurance Program. The handbook, commonly referred to as the Benefits Selection Guide, is distributed to plan holders participating in the self-insured program. The Benefits Selection Guide contains the premiums, employee contributions, employer contributions, and a summary of benefits, co-pays, coinsurance, and deductibles for each plan available to public employees through the self-insured program in 2026.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with the statutory mandate of KRS 18A.2254. More specifically, KRS 18A.2254(1)(a) requires the Personnel Cabinet to promulgate an administrative regulation that incorporates by reference the 2026 plan year handbook that will be distributed to the public employees covered by the Public Employee Health Insurance Program. The handbook must be filed with the Legislative Research Commission on or before September 15 each year.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation complies with KRS 18A.2254(1), the statute that establishes the self-insured plan and mandates the promulgation of the administrative regulation.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation aids in the effectuation of the statute, KRS 18A.2254, by incorporating by reference the 2026 plan year handbook for the Public Employee Health Insurance Program in an administrative regulation. Further, this administrative regulation is the method by which the Personnel Cabinet will comply with KRS 18A.2254.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This is an amendment. The existing administrative regulation incorporates by reference the 2025 plan year handbook, which constitutes a compilation of the premium rates and contributions, benefit options, eligibility rules, and enrollment information for participants of the Public Employee Health Insurance Program for plan year 2025. The amendment adds and incorporates by reference the 2026 plan year handbook, which contains the premiums, employee contributions, employer contributions, and a summary of benefits, co-pays, coinsurance, and deductibles for each plan available to public employees for plan year 2026.
(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to give notice regarding the premiums, employee contributions, employer contributions,

benefits, co-pays, coinsurance, and deductibles for each plan available to public employees under the Public Employee Health Insurance Program for plan year 2026. This amendment is also necessary to comply with the statutory mandate in KRS 18A.2254 to annually update the regulation incorporating the plan year handbook.
(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of KRS 18A.2254, the statute authorizing the self-insured plan under the Public Employee Health Insurance Program. KRS 18A.2254 mandates that the plan year handbook be incorporated by reference in an administrative regulation on or before September 15 each year. This amendment incorporates the 2026 plan year handbook by reference in accordance with KRS 18A.2254.
(d) How the amendment will assist in the effective administration of the statutes: This amendment conforms to the requirements of KRS 18A.2254, the statute authorizing the self-insured plan under the Public Employee Health Insurance Program. KRS 18A.2254 mandates that the plan year handbook be incorporated by reference in an administrative regulation on or before September 15 each year. This amendment incorporates the 2026 plan year handbook by reference in accordance with KRS 18A.2254.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects employees of state and select county and local government entities, including employees of the local school boards and districts. This administrative regulation also affects certain retirees as specified by KRS 18A.225. More specifically, and as defined by KRS 18A.225(1)(a), this administrative regulation affects approximately 187,951 employees and retirees eligible to participate in the Public Employee Health Insurance Program. In total, this administrative regulation affects approximately 305,794 members in the self-insured plan and those waiving coverage, including employees, retirees, and qualifying dependents.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: Affected entities will not be required to take any additional action to comply with this administrative regulation that incorporates the 2026 plan year handbook. The 2026 Benefits Selection Guide will provide information to the public employees covered under the Public Employee Health Insurance Program about the premiums, employee contributions, employer contributions, and a summary of benefits, co-pays, coinsurance, and deductibles for the 2026 plan year.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): This administrative regulation provides employer and employee premium contribution information for health plans available under the Public Employee Health Insurance Program for plan year 2026. There is no direct cost impact to employers participating in the Public Employee Health Insurance Program as a result of incorporating the 2026 plan year handbook into the administrative regulation.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): For plan year 2026, participating employers (entities) and participating employees and retirees and their beneficiaries and dependents covered under the Public Employee Health Insurance Program will have access to comprehensive health insurance benefits under all plans offered through the self-insured program. For plan year 2026, employer contributions to health coverage premiums will increase 18.2% across all plans combined, as compared to 2025 premiums. Employee contributions to health coverage premiums will remain unchanged across all plans, as compared to 2025 premiums.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: Costs of implementing this administrative regulation initially are believed to be minimal.
(b) On a continuing basis: Costs of implementing this administrative regulation initially are believed to be minimal.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The source of funding to be used for the implementation of this administrative regulation will be the Public Employee Health Insurance Trust Fund.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This is an amendment. This administrative regulation will not require an increase in funding or fees.
(9) 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.
(10) TIERING: Is tiering applied? No, tiering is not applied because this administrative regulation applies equally to all participants in the Public Employee Health Insurance Program.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 18A.030(2)(b), 18A.2254(1)(a)
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: The most recent act that expressly authorizes the Personnel Cabinet Secretary to promulgate this administrative regulation is 2024 Ky. Acts ch. 104, sec. 14. The specific authorizing statute, KRS 18A.2254, was created by 2006 Ky. Acts ch. 252, Pt. XXIX, sec. 1.
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Personnel Cabinet is the promulgating agency. All state agencies and employees participating in the Public Employee Health Insurance Program are affected by the provisions of the incorporated plan year handbook.
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: This administrative regulation itself is not anticipated to trigger direct expenditures.
For subsequent years: This administrative regulation itself is not anticipated to trigger direct expenditures.
2. Revenues:
For the first year: None.
For subsequent years: None.
3. Cost Savings:
For the first year: Cost savings are not anticipated.
For subsequent years: Cost savings are not anticipated.
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): All county and local government employees and entities, including local school boards and districts and their employees, that participate in the Public Employee Health Insurance Program are affected by the provisions of the incorporated plan year handbook.
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: This administrative regulation itself is not anticipated to trigger direct expenditures.
For subsequent years: This administrative regulation itself is not anticipated to trigger direct expenditures.
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: Cost savings are not anticipated.
For subsequent years: Cost savings are not anticipated.
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): The plan year handbook incorporated in this administrative regulation also affects retirees under the age of 65 who are eligible to participate in the Program by virtue of their participation in one of the state-administered retirement systems.

(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: This administrative regulation itself is not anticipated to trigger direct expenditures.
For subsequent years: This administrative regulation itself is not anticipated to trigger direct expenditures.
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: Cost savings are not anticipated.
For subsequent years: Cost savings are not 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: This administrative regulation does not have a significant fiscal impact.
(b) Methodology and resources used to reach this conclusion: The provisions of this administrative regulation were reviewed, and a significant fiscal impact was not identified.
(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(14): An overall negative or adverse major economic impact is not anticipated. This administrative regulation only serves to incorporate the Public Employee Health Insurance Program handbook. It does not, by itself, impose requirements or fees on Program participants.
(b) The methodology and resources used to reach this conclusion: The provisions of the administrative regulation were reviewed, and a significant fiscal impact was not identified.

***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 Speech-Language Pathology and Audiology
## (Amendment)

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

RELATES TO: KRS 334A.188
STATUTORY AUTHORITY: KRS 334A.080(3), 334A.188
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 334A.188, Section 15.B.1. requires the Board of Speech-Language Pathology and Audiology to review any rule adopted by the Audiology and Speech-Language Pathology Interstate Compact pursuant to Section 10 of KRS 334A.188 within sixty (60) days of adoption for the purpose of filing the rule as an emergency administrative regulation pursuant to KRS 13A.190 and for filing the rule as an accompanying ordinary administrative regulation pursuant to KRS Chapter 13A. This administrative regulation incorporates by reference the rules adopted by the Audiology and Speech-Language Pathology Interstate Compact.

Section 1. The Board of Speech-Language Pathology and Audiology shall comply with all rules of the Audiology and Speech-Language Pathology Interstate Compact, which includes the Audiology and Speech-Language Pathology Interstate Compact Rules as of June 30, 2025[~~October 7, 2023~~].

Section 2. Incorporation by Reference.
(1) The following material is incorporated by reference: "The Audiology and Speech-Language Pathology Interstate Compact Rules", June 30, 2025[~~October 7, 2023~~], and as revised.
(a) Chapter 1 – Rule on Definitions, adopted April 17, 2023;
(b) Chapter 2 – Rule on Data System Reporting Requirements, adopted April 17, 2023; and
(c) Chapter 3 – Rule on Implementation of Criminal Background Check Requirement, adopted October 7, 2023.
(d) Chapter 4 – Rulemaking on Fees, adopted June 30, 2025.
(2)
(a) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Speech-Language Pathology and Audiology, 500 Mero Street, 2 SC 32, Frankfort, Kentucky 40602, Monday through Friday, 8 a.m. to 4:30 p.m.; or
(b) This material may also be obtained on the Board of Speech-Language Pathology and Audiology Web site at https://slp.ky.gov/.
(3) This material may also be obtained at:
(a) The Audiology and Speech-Language Pathology Interstate Compact Commission, 1776 Avenue of the States, Lexington, Kentucky 40511; or
(b) https://aslpcompact.com/commission/commission-governance-documents/.

JENNIFER LUTES, M.S., SLP, Chair
APPROVED BY AGENCY: August 26, 2025
FILED WITH LRC: August 26, 2025 at 4:25 p.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 25, 2025, at 2:00 p.m. Eastern Time, at the Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky in PPC Conference Room 127 CW. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 2025. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to https://ppc.ky.gov/reg_comment.aspx or the contact person.

CONTACT PERSON: Sara Boswell Janes, Staff Attorney III, Department of Professional Licensing, Office of Legal Services, 500 Mero Street, 2 NC WK#2, Frankfort, Kentucky 40601; phone (502) 782-2709 (office), fax (502) 564-4818, email Sara.Janes@ky.gov. Link to public comment portal: https://ppc.ky.gov/reg_comment.aspx.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Sara Boswell Janes
Subject Headings: Speech-Language Pathology, Audiology, Compacts, Interstate
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation implements KRS 334A.188, the Audiology and Speech-Language Pathology Interstate Compact ("ASLP-IC").
(b) The necessity of this administrative regulation: This administrative regulation is necessary because KRS 334A.188, SECTION 15.B.1. requires rules adopted by the Audiology and Speech-Language Pathology Interstate Compact to be promulgated as administrative regulations pursuant to KRS Chapter 13A.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the specific requirements of the authorizing statute, KRS 334A.188, SECTION 15.B.1. which requires rules adopted by the ASLP-IC to be promulgated as administrative regulations pursuant to KRS Chapter 13A.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation conforms to the content of KRS 334A.188 which requires this promulgation.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This amendment will add a new rule on fees, as adopted

by the ASLP-IC on June 30, 2025.
(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to meet the statutory requirements of KRS 334A.188, SECTION 15.B.1. which requires rules adopted by the ASLP-IC 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 statute by being filed within the sixty (60) day period after adoption of the new rule by the ASLP-IC.
(d) How the amendment will assist in the effective administration of the statutes: The amendment will put all licensees who wish to participate in the ASLP-IC the cost of the application for the privilege to practice.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes. 2021 Ky. Acts ch. 45, sec. 1, effective June 29, 2021.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect the 4021 active and 102 inactive licensees in some capacity, and will also affect new applicants for licensure.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) 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 (4): 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 (4): They will be in compliance with the regulation.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: There is no additional cost.
(b) On a continuing basis: There is no additional cost.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The board's operations are funded by fees paid by credential holders and applicant.
(8) 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 state fees or funding will be required.
(9) 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 in Kentucky. However, if a Kentucky licensee wishes to obtain the privilege to practice in another compact state, they will be required to pay an application fee to the ASLP-IC to obtain the privilege.
(10) 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: (1) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 334A.080(3), 334A.188. Interstate compacts are specifically authorized under the federal constitution (Article 1, Section 10, Clause 3- the Compacts Clause) and take precedence over any conflicting state law pursuant to the Compacts Clause and the Con-tracts 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 expressly authorized by KRS 334A.188, Section 15.B.1.
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: (a) The Kentucky Board of Speech-Language Pathology and Audiology is the promulgating agency and the only 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 may become operational in 2025, however, the expenditures needed in the first year are currently indeterminable. There will likely be some state expenditures necessary for data system programming, administering applications for compact privileges within and without the Commonwealth, as well as administering complaint and enforcement actions for those with the privilege to practice in Kentucky, and possibly for Kentucky licensees with the privilege to practice in other states.
For subsequent years: The expenditures needed in subsequent years are currently indeterminable. There will likely be some state expenditures necessary for data system programming, administering applications for compact privileges within and without the Commonwealth, as well as administering complaint and enforcement actions for those with the privilege to practice in Kentucky, and possibly for Kentucky licensees with the privilege to practice in other states.
2. Revenues:
For the first year: The board will establish a fee for licensees in other states who wish to obtain a privilege to practice in Kentucky under the ASLP-IC to cover the cost of administration. However, at this time potential revenues are indeterminable.
For subsequent years: The board will also establish a renewal fee for out of state licensees who obtain the privilege to practice in Kentucky. However, at this time potential revenues are 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):
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): None anticipated.
(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: The fiscal impact is currently indeterminable since there are no known duties outlined for the state in relation to the compact. It is possible there will be a fiscal impact for 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 ASLP-IC remains in its infancy and the work to be conducted by the state board as a result of the compact is yet to be determined.
(b) Methodology and resources used to reach this conclusion: Methodology and resources used are the fiscal department within

the Public Protection Cabinet, Department of Professional Services.
(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(14): (a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(13): 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 in-state licensees to practice in another state and out of state licensees to obtain the privilege to practice in Kentucky, this administrative regulation will not have a major economic impact to the entities identified.
(b) The methodology and resources used to reach this conclusion: Methodology and resources used are the fiscal department within the Public Protection Cabinet, Department of Professional Services.

**BOARDS AND COMMISSIONS**
**Board of Physical Therapy**
**(Amendment)**

**201 KAR 22:045. Continued competency requirements and procedures.**

RELATES TO: KRS 12.355, 327.010(1), (2), 327.070
STATUTORY AUTHORITY: KRS 327.040(10)
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 327.040(10) authorizes the board to promulgate administrative regulations establishing a measure of continued competency as a condition of license renewal. This administrative regulation establishes continued competency requirements and procedures.

Section 1. Definitions.
(1) "Contact hour" means a credit earned based on sixty (60) minutes of participation in a physical therapy-related activity.
(2) "Continued competency" means a planned learning experience relating to the scope of "physical therapy" practice, as defined by KRS 327.010(1), if the subject is intervention, examination, research, documentation, education, or management of a health care delivery system.
(3) "Jurisprudence Examination" means an[~~a board-provided~~] open book tutorial provided by the board on KRS Chapter 327 and 201 KAR Chapter 22.

Section 2.
(1) A credential holder applying for renewal shall have completed the continued competency requirements established in subsections (2) and (3) of this section during the preceding renewal period. Continued competency shall be based on contact hours awarded.
(a) For a physical therapist, the board shall require thirty (30) contact hours as a condition of licensure renewal. These hours shall be obtained as established in subparagraphs 1. through 3. of this paragraph.
1. Two (2) hours shall be awarded for the successful completion of the Jurisprudence Examination per biennium.
2. At least eighteen (18) hours shall be earned from Category 1 as established in subsection (2) of this section.
3. Hours may be earned from Category 2. If hours are earned from Category 2, hours shall be as established in subsection (3) of this section. Hours earned from Category 2 over ten (10) hours shall not be awarded.[~~Hours may be earned from Category 2 and shall be as established in subsection (3) of this section. Hours earned from Category 2 over ten (10) hours shall not be awarded.~~]
(b) For a physical therapist assistant, the board shall require twenty (20) contact hours as a condition of renewal. These hours shall be obtained as established in subparagraphs 1. through 3. of this paragraph.
1. Two (2) hours shall be awarded for the successful completion of the Jurisprudence Examination per biennium.
2. At least ten (10) hours shall be earned from Category 1 as established in subsection (2) of this section.
3. Hours may be earned from Category 2 and shall be as established in subsection (3) of this section. Hours earned from Category 2 over eight (8) hours shall not be awarded.
(c) A participant shall not be awarded contact hours for a course that is repeated more than once in the same biennium.
(2) Category 1 continued competency shall include:
(a) Completion of courses, seminars, workshops, symposia, or home study courses consisting of at least three (3) contact hours that have been approved by the board, the board's designee, the Federation of State Boards of Physical Therapy (FSBPT), another physical therapy licensing agency, or the American Physical Therapy Association (APTA) or its components;
(b) Completion of courses, seminars, workshops, symposia, or home study courses that have been produced and developed by the American Physical Therapy Association (APTA) or its components and consist of less than three (3) contact hours;
(c) Completion or auditing of an accredited postsecondary educational institution credit course meeting continued competency, as defined by Section 1(2) of this administrative regulation.[~~, which shall be awarded as:~~]
1. Twelve (12) contact hours shall be awarded for each semester credit hour completed; and
2. Eight (8) contact hours shall be awarded for each quarter credit hour completed;
(d) Presentation of a continued competency course, workshop, seminar, or symposium that has been approved by the board or its designee. A maximum of three (3) contact hours for preparation may be awarded for each contact hour awarded to participants, with a maximum of two (2) events of the same course per biennium;
(e) Authorship of a research article, manuscript, or scientific paper, published in the biennium and related to physical therapy. Fifteen (15) contact hours shall be awarded per event with a maximum of two (2) events per biennium;
(f) A presented scientific poster or scientific platform presentation related to physical therapy. Ten (10) contact hours shall be awarded per event with a maximum of two (2) events per biennium;
(g) Teaching part of a physical therapy or physical therapist assistant credit course if that teaching is not the primary employment of the credential holder. A maximum of twenty (20) contact hours per biennium shall be awarded;
(h) American Board of Physical Therapy Specialties (ABPTS) certification. Twenty-eight (28) contact hours shall be awarded per biennium;
(i) ABPTS recertification or other certifications and recertifications within the scope of physical therapy practice. A maximum of twenty-eight (28) contact hours per biennium shall be awarded;
(j) Completion of a clinical residency program or clinical fellowship program. Not more than five (5) contact hours shall be awarded for each week of residency with a maximum of twenty-eight (28) contact hours per program per biennium;
(k) Engaging in the practice of "physical therapy", as defined by KRS 327.010(1), at least 1,000 hours per biennium. Five (5) contact hours shall be awarded per biennium;
(l) Engaging in the instruction in a CAPTE-accredited physical therapy or physical therapist assistant program at least 1,000 hours per biennium. Five (5) contact hours shall be awarded per biennium;
(m) Appointment to the Kentucky Board of Physical Therapy. Four (4) contact hours shall be awarded per biennium;
(n) Election or appointment to a position with the APTA Kentucky, APTA, or FSBPT as an officer or committee chair. Four (4) contact hours shall be awarded per biennium; or
(o) Member[~~Being a member~~] of a committee or task force for one (1) of the organizations in paragraph (m) or (n) of this subsection. One (1) contact hour shall be awarded per biennium.[~~;~~]
(p) Completion of the APTA's PTA Advanced Proficiency Pathways Program (APP). A maximum of ten (10) contact hours shall be awarded in the biennium during which the certification or recertification of the APP is granted;[~~ or~~]
(q) Member[~~Being a member~~] of the APTA. One (1) contact hour

shall be awarded per year and a maximum of two (2) contact hours per biennium; or

(r) Completion of the Healthcare Regulatory Research Institutes (HRRI) Healthy Practice Resource (HPR) modules. A maximum of six (6) contact hours shall be awarded in the biennium.

(3) Category 2 continued competency shall be[include]:

(a) Self-instruction from reading professional literature. One (1) contact hour shall be awarded per biennium;

(b) Attendance at a scientific poster session, lecture, panel, or symposium other than approved in Section 2(2) or other unapproved applicable courses. One (1) contact hour for each hour of credit shall be awarded up to a maximum of three (3) hours per course;[.]

(c) Clinical instructor for a CAPTE-approved educational program or an APTA credentialed residency or fellowship program. Continued competency shall be one (1) contact hour per sixteen (16) hours of student supervision;

(d) Participation in a physical therapy in-service or study group consisting of two (2) or more physical therapists or physical therapist assistants. A maximum of two (2) contact hours shall be awarded per biennium;

(e) Participation in community service related to health care. One (1) contact hour for each hour of participation shall be awarded up to a maximum of two (2) hours per biennium;

(f) Participation as a mentor or mentee in a mentorship program developed by APTA KY. A maximum of two (2) contact hours shall be awarded per year and a maximum of four (4) contact hours per biennium;[-or]

(g) Completion of other healthcare related courses (cardiopulmonary resuscitation initial certification or re-certification, Bloodborne pathogens courses). A maximum of two (2) contact hours shall be awarded per biennium; or[.]

(4) Documentation of compliance.

(a) Each licensee shall retain independently verifiable documentation of completion of all continued competency requirements of this administrative regulation for a period of at least two (2) years from the end of the biennium.

(b) The licensee shall, within thirty (30) days of a written request from the board, provide evidence of continued competency activities to the board.

(c) A licensee who fails to provide evidence of the continued competency activities or who falsely certifies completion of continued competency activities shall be subject to disciplinary action pursuant to KRS 327.070.

(5) Exemption and extension.

(a) A licensee shall be granted a temporary hardship extension for an extension of time, not to exceed one (1) renewal cycle, if the licensee:

1. Files a completed Exemption or Extension for Completion of Continued Competency Form by April 30 of the odd-numbered year in the renewal cycle for which the extension is sought. This plan must[shall] include a description on how the required credits will be met; and

2. Submits documentation showing evidence of undue hardship by reason of the licensee's:

a. Disability;

b. Medical condition;

c. Financial condition; or

d. Other clearly mitigating circumstance.

(b) A licensee shall be granted a temporary nonhardship extension of time if the licensee cannot show undue hardship and if the licensee:

1. Files a completed Exemption or Extension for Completion of Continued Competency Form by March 31 of the odd-numbered year in the renewal cycle for which the extension is sought. This plan must[shall] include a description on how the required credits will be met;

2. Pays a fee of $250;

3. Has not received a temporary nonhardship extension of time in the prior renewal cycle; and

4. Files proof of compliance with the continued competency requirements by the following July 1.

(c) A licensee on active military duty shall be granted an exemption from continued competency requirements as established in KRS 12.355.

Section 3. Incorporation by Reference.

(1) "Exemption or Extension for Completion of Continued Competency Form", June 2012[July 2023], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable law, at the Kentucky Board of Physical Therapy, 312 Whittington Parkway, Suite 102, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m.

STEPHEN CURLEY, Executive Director

APPROVED BY AGENCY: August 8, 2025

FILED WITH LRC: September 4,2025 at 11:15 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 21, 2025, at 3:00 p.m. (ET) at 312 Whittington Parkway, Suite 102, Louisville, Kentucky 40222. Individuals interested in being heard at this hearing shall notify this agency in writing five 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 cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until November 30, 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: Stephen Curley, Executive Director, Board of Physical Therapy, 312 Whittington Parkway, Suite 102, Louisville, Kentucky 40222, phone (502) 429-7140; fax (502) 429-7142, email Stephen.Curley@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Stephen Curley
Subject Headings: Physical Therapy, Occupations and Professions, Boards and Commissions
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation assists in assuring safe and effective practices for the safety and welfare of the public by implementing continued competency.
(b) The necessity of this administrative regulation: This administrative regulation was necessary to implement provisions of KRS Chapter 327.040(10).
(c) How this administrative regulation conforms to the content of the authorizing statutes: It provides the procedures for continued competency requirements.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It provides the procedures for continued competency requirements for renewal of credential holders.
(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: By creating additional opportunity for credential holders to earn free continued competency credit.
(b) The necessity of the amendment to this administrative regulation: The necessity is to clarify the course approval process for continued competency requirements.
(c) How the amendment conforms to the content of the authorizing statutes: The board is authorized to set standards for licensing and renewal procedures.
(d) How the amendment will assist in the effective administration of the statutes: By clarifying the requirements of continued competency.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this

administrative regulation: Approximately 6500
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: The entities identified in question (4) will be afforded additional opportunity to earn free continued competency credit of Contact 1 contact hours.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There will be no additional cost.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): The entities identified in question (4) will enjoy greater opportunity to earn continuing competency credit.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: No cost.
(b) On a continuing basis: No cost.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Agency Revenue Fund, and costs will not change from current spending.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There will be no increase in fees or funding.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: None.
(10) TIERING: Is tiering applied? Tiering was not used in this administrative regulation because the administrative regulation applies equally to all those individuals regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS Chapter 327.040.
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 327.040 (10)
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Physical Therapy
(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
(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): Physical Therapist and Physical Therapist Assistants
(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: None
(b) Methodology and resources used to reach this conclusion: There is no fee changes or added costs this would allow licenses to complete free Category 1 Continued Competency.
(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(14): No
(b) The methodology and resources used to reach this conclusion: There is no fee changes or added costs this would allow licenses to complete free Category 1 Continued Competency.

***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 Examiners of Psychology**
**(Amendment)**

**201 KAR 26:160. Fee schedule.**

RELATES TO: KRS 319.050(2)(a), 319.064(2)(a), 319.071(1)
STATUTORY AUTHORITY: KRS 319.032(1)(n), 319.071(1)
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.050(2)[~~(a)~~] and 319.064(2)(a) require an applicant to pay a fee for applying for licensure. KRS 319.071(1) requires a credential holder to pay a renewal fee established by the board. KRS 319.032(1)(n) requires the board to promulgate administrative regulations increasing or decreasing the fees for an applicant or credential holder as the board deems necessary. This administrative regulation establishes the application, licensure, and renewal fees for credential holders.

Section 1.
(1) Except as provided in subsection (3) of this section, an applicant for licensure as a psychologist shall pay the following:
(a) A $150[~~100~~] application review fee;
(b) The fee for taking the EPPP, which shall be paid directly to the ASPB[~~ASPPB~~] examination contractor; and
(c) A $150[~~100~~] fee for taking the jurisprudence and competency examinations.
(2) Except as provided in subsection (3) of this section, an applicant for licensure as a psychological associate shall pay the following:
(a) A $150[~~100~~] application review fee; and
(b) The fee for taking the EPPP, which shall be paid directly to the ASPB[~~ASPPB~~] examination contractor.
(3) The examination fee established in [~~subsection~~ ](1)(b) or (2)(b) of this section shall be waived if a candidate has:
(a) Previously taken the EPPP in another state; and
(b) Achieved a score which would be considered as passing in Kentucky.
(4) Upon successful completion of the application and examination processes, the initial licensure fees shall be as follows:
(a) An applicant for licensure as a psychologist or psychological practitioner shall pay $795[~~250~~] for the first three (3) year period.[~~;~~]
(b) An applicant for licensure as a psychological associate shall pay $525[~~200~~] for the first three (3) year period.

(5) Every three (3) years a licensed psychologist, certified psychologist with autonomous functioning, or licensed psychologist[~~psychological~~] practitioner shall pay to the board a renewal fee of $795[~~450~~].

(6) Every three (3) years a certified psychologist or licensed psychological associate shall pay to the board a renewal fee of $525[~~300~~].

Section 2. The late renewal fee for late renewal during the three (3) month period shall be $100[~~seventy-five (75) dollars~~].

Section 3. The reinstatement fee for licensure shall be $300[~~100~~].

Section 4. The fee for registration as a nonresident psychologist shall be $300[~~100~~].

Section 5.

(1) If the applicant fails the Examination for Professional Practice in Psychology (EPPP) and applies to retake the examination, the applicant shall submit the examination fee as established by the ASPB[~~ASPPB~~] examination contractor directly to the contractor.

(2) If the applicant fails either the jurisprudence or competency examination and applies to retake the examination, the fee shall be $250[~~fifty (50) dollars~~] for each attempt.

Section 6. An application for licensure by reciprocity shall be accompanied by a fee of $150[~~100~~].

Section 7. All fees required by this administrative regulation shall be nonrefundable.

HARWELL SMITH, PH.D, Chair

APPROVED BY AGENCY: September 15, 2025

FILED WITH LRC: September 15, 2025 at 10:50 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 21, 2025 at 1:00 p.m. EST at The Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing no later than five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be canceled. A transcript of the public hearing will not be made unless a written request for a transcript is made prior to the end of the hearing. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until 11:59 pm on November 30, 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: Mark R. Brengelman, Board Counsel, Kentucky Board of Examiners of Psychology, 306 W. Main St., The McClure Building Suite 503, Frankfort, Kentucky 40601-1840, phone (502) 696-3992, e-mail Mark@MarkRBrengelmanPLLC.attorney.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Mark R. Brengelman

Subject Headings: Licensing, Occupations and Professions, and Psychological Services.

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 319.050(2)(a) and 319.064(2)(a) require an applicant to pay a fee for applying for licensure. KRS 319.071(1) requires a credential holder to pay a renewal fee established by the board. KRS 319.032(1)(n) requires the board to promulgate administrative regulations increasing or decreasing the fees for an applicant or credential holder as the board deems necessary. This administrative regulation establishes the application and renewal fees for credential holders.

(b) The necessity of this administrative regulation: This regulation is necessary to comply with the provisions of KRS 319.050(2)(a), 319.064(2)(a), 319.071(1), and 319.032(1)(n).

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing application and renewal fees for credential holders.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statutes by allowing the board to have necessary funding to effectuate KRS Chapter 319 in conformity with 319.050(2)(a), 319.064(2)(a), 319.071(1), and 319.032(1)(n).

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

(a) How the amendment will change this existing administrative regulation: This amendment will change the administrative regulation by increasing licensure and renewal fees.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to allow the board to continue to enforce the provisions of KRS Chapter 319.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing application and renewal fees for credential holders.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statutes by allowing the board to have necessary funding to effectuate KRS Chapter 319 in conformity with 319.050(2)(a), 319.064(2)(a), 319.071(1), and 319.032(1)(n).

(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect the approximately 1,630 licensees regulated by the board and will also affect new applicants for licensure.

(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: Applicants and licensees will have to comply with the change in fees for application, licensure, reinstatement, and renewal.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): Applicants and licensees will pay additional application and license fees. Late fees for renewal will increase by $25. Reinstatement fees will increase by $200. Nonresident psychologist registration will increase by $200. The fee to retake the state exam will increase by $200. Application fees will increase by $50. Initial licensure fees will increase from a range of $225 to $545. Renewal fees will increase by a range of $225 to $345.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Licensees will be benefitted by the board being able to continue to regulate the profession and enforce the provisions of KRS Chapter 319.

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

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

(b) On a continuing basis: There will be no additional cost to implement this regulation on a continuing basis.

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

(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This regulation provides for fee increases but no increase in fees or funding will be required specifically to implement this regulation.

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

(10) TIERING: Is tiering applied? Tiering is not applied as the

regulation applies equally to similarly situated regulated individuals.

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 319.050(2)(a), 319.064(2)(a), 319.071(1), and 319.032(1)(n).
(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 KRS 319.032(1)(n).
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Board of Examiners of Psychology is the promulgating agency. No other state units, parts or divisions are affected.
(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: Approximately $200,000.
For subsequent years: Approximately $200,000 per year.
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): No local entities are affected.
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: None. No local entities are identified.
For subsequent years: None. No local entities are identified.
2. Revenues:
For the first year: None. No local entities are identified.
For subsequent years: None. No local entities are identified.
3. Cost Savings:
For the first year: None. No local entities are identified.
For subsequent years: None. No local entities are identified.
(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:
For subsequent years:
3. Cost Savings:
For the first year:
For subsequent years:
(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 is expected to bring in approximately $200,000 in revenue to the board per year.
(b) Methodology and resources used to reach this conclusion: The board regulates approximately 1,630 licensees. The maximum renewal fee increase per licensee is $345. $345 times 1,630 equals $562, 350. Not all licensees will renew in any given year. Licensees renew every three years and dividing that figure by 3 equals $187,450. Some additional revenue will be raised by fees unrelated to license renewal.
(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(14): This administrative regulation will not have a major economic impact.
(b) The methodology and resources used to reach this conclusion: This administrative regulation is expected to bring in approximately $200,000 total per year.

## KENTUCKY BOARD OF EMERGENCY MEDICAL SERVICES (Amendment)

### 202 KAR 7:555. Ground agencies.

RELATES TO: KRS 311A.030, 311A.190, 29 C.F.R. 1910.1030
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 EMS system and the licensing of ambulance services and medical first response agencies, except those regulated by the Board of Medical Licensure or the Cabinet for Health and Family Services. KRS 311A.030 requires the board to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers and medical first response agencies. This administrative regulation establishes minimum licensing requirements.

Section 1. Utilization of Ground Vehicles by Class I, II, III, and IV Licensed Agencies.
(1) At the time of initial inspection, each agency shall inform the Kentucky Board of Emergency Medical Services (KBEMS) office of the make, model, year, vehicle identification number or serial number, and license tag number for each vehicle the agency plans to use for medical care and transportation.
(2) Each agency shall complete a Vehicle Add application in the Kentucky Emergency Medical Services Information System (KEMSIS) no later than five (5) business days before any unlicensed vehicle is placed into operation.
(3)[~~(2)~~] Unless exigent circumstances exist and the agency receives written approval from the executive director of the board to place an unlicensed vehicle into operation, a[A] vehicle shall not be placed into operation until the board has conducted a physical inspection of the vehicle and determined it meets the requirements of 202 KAR Chapter 7.
(4)[~~(3)~~] Each agency shall complete a Vehicle Delete application in KEMSIS[~~the Kentucky Emergency Medical Services Information System (KEMSIS),~~] no later than the next business day after the permanent removal of any licensed vehicle from service by the license holder.
(5)[~~(4)~~]
(a) A licensed agency may use a replacement vehicle that meets all of the requirements of 202 KAR Chapter 7 on a temporary basis while a permitted vehicle is out of service. The agency shall complete an Add TEMPORARY Vehicle/Aircraft Part 1 application in KEMSIS within twenty-four (24) hours of the replacement.
(b) A temporary replacement vehicle shall not be used for more than thirty (30) days annually unless the KBEMS office has verified, through a physical inspection, that it meets the requirements of 202 KAR Chapter 7.
(6)[~~(5)~~] The KBEMS office shall be notified by a completed Add TEMPORARY Vehicle/Aircraft Part 2 application in KEMSIS within twenty-four (24) hours or on the next business day if a temporary vehicle is removed from service and the original licensed vehicle is returned to service.
(7)[~~(6)~~]
(a) An agency that fails to report using a temporary vehicle shall be required to immediately cease use of the replacement vehicle until the reporting requirements are met.
(b) An agency that fails to remove a temporary vehicle from service after thirty (30) days shall be fined $500 for each day or partial day the vehicle is in service and not reported.
(8)[~~(7)~~] This administrative regulation shall not prevent a licensed agency from utilizing other means of transporting patients in:
(a) Disasters;
(b) Mass casualty incidents; or
(c) Extraordinary scene conditions that would impair access to the safety or care of the patient or personnel operating at the scene.

Section 2. Provider Management Requirements.

(1) All licensed agencies shall maintain:

(a) An organizational chart that establishes lines of authority, including the designation of:

1. An administrator responsible for assuring compliance with KRS Chapter 311A and 202 KAR Chapter 7 during the daily operation of the service; and

2. A designee who shall serve in the absence of the administrator;

(b) Records and reports at the ambulance agency base station including:

1. An original, electronic equivalent, or copy of all patient care records consistent with the U.S. Department of Transportation National Highway Traffic Safety Administration (NHTSA) National Emergency Medical Services Information System (NEMSIS) data dictionary found at www.nemsis.org/technical-resources/version-3;

2. An electronic copy of all completed patient care reports, which shall be maintained to ensure confidentiality and safekeeping for at least seven (7) years from the date on which the service was rendered, or in the case of a minor, at least three (3) years after the minor reaches the age of majority; and

3. Copies of Patient Care Reports for the preceding twelve (12) months, which shall be accessible and be immediately available to the board, KBEMS office, or representatives upon request;

(c) Personnel files for each employee or volunteer who staffs a vehicle of a licensed agency. Personnel files shall be maintained for at least one (1) year following separation from employment. As a minimum, all personnel files shall contain:

1. A pre-employment and biennial[~~annual~~] criminal background checks, which shall be national in scope and[~~check~~] administered by a vendor approved by the board.[~~the Kentucky Administrative Office of the Courts;~~]

a. All criminal background checks shall include searches of:

(i) County criminal records;

(ii) Nationwide crime database;

(iii) Federal criminal records;

(iv) Nationwide sexual offender registry;

(v) Healthcare fraud and abuse scan; and

(vi) Address history;

b. A new employee or volunteer shall not staff any licensed vehicle until the agency has requested an initial employment background check from a vendor approved by the board;

c. If a new employee or volunteer is currently employed by another agency licensed by the board and a national criminal background check for that employee or volunteer has been completed within the last six (6) months, the hiring agency may, with the employee's or volunteer's written consent and with approval from the other licensed agency, obtain the completed background check from the other licensed agency, and such background check shall constitute the employee's or volunteer's initial employment background check;

2. A copy of the employee's valid KBEMS certification or licensure card;[~~ and~~]

3. A Federal Emergency Management Agency (FEMA) transcript or copy of each employee's completion of the National Incident Management System (NIMS) Incident Command System (ICS) 100, 200, 700, and 800 courses;

4. A valid copy of the employee's driver's license and documentation of the employee's completion of driver's training, if the employee operates any agency vehicle; and

5. Annual fitness for duty statements, which shall be consistent with the agency's pre-employment and annual health assessment policy and signed by an authorized representative of the agency.

(d) A policy for the provision of a pre-employment and annual health assessment of employees of the agency, which shall include reporting mechanisms for work-related illness or injury;

(e) A written plan for providers to consult with online adult and pediatric medical direction. This plan shall address as a minimum:

1. The availability of medical direction twenty-four (24) hours a day, seven (7) days a week;

2. The availability of medical direction during an emergency event;

3. The provision of medical direction by a physician, physician assistant (PA), or nurse practitioner (NP)[~~medical professional with a higher level of training or expertise~~]; and

4. Recommended actions if:

a. There is an equipment failure, a communication barrier, or other unusual circumstance; and

b. It is not possible to contact online medical direction

(f) A plan and records for the provision of continuing education for staff and volunteers, including:

1. A written plan for the method of assessment of staff continuing education needs; and

2. A coordinated plan to meet those needs, including a provision that all continuing education shall be provided either by a licensed TEI or in accordance with 202 KAR 7:601;

(g) An infection control plan in accordance with 29 C.F.R. 1910.1030;

(h) A written plan for training or educating personnel for responding to hazardous materials, criminal, and potential terrorist incidents[~~, including plans for the protection and decontamination of patients, ambulances, equipment, and staff~~];

(i) Written policies for the protection and decontamination of patients, ambulances, equipment, and staff; if an agency carries firefighter structural personal protective equipment, the written policies shall include provisions for bagging or containing the equipment to minimize off-gassing and prevent cross-contamination within the patient compartment when storing the equipment in an external compartment is not possible;

(j)[~~(i)~~] A written policy regarding the appropriate destination of a patient who expires during transport if a valid Kentucky EMS Do Not Resuscitate (DNR), or Medical Orders for Scope of Treatment (MOST) form is present;

(k)[~~(j)~~] A written plan for the quality assessment of patient care and provider quality improvement, including a monthly review of patient care reports and evaluation of staff performance related to patient care. This plan shall address as a minimum:

1. Employee health and safety;

2. Compliance with protocols and operating procedures;

3. Assessment of dispatch protocols;

4. Vehicle operations and vehicle safety;

5. Additional training necessary for the patient care provider or providers;

6. Equipment preventive maintenance programs; and

7. A process for the resolution of customer complaints;

(l)[~~(k)~~] A written plan for training personnel and responding to mass casualty incidents and disasters;

(m)[~~(l)~~] A written orientation program for all personnel, including at a minimum:

1. Validation of certification or license with KBEMS;

2. Validation of the National Incident Management System (NIMS) Incident Command System (ICS) 100, 200, 700, and 800 courses within sixty (60) days of employment for any employee who staffs a licensed vehicle;

3. Completion of driver's training in accordance with 202 KAR 7:560 prior to operating a board licensed vehicle during an emergency response or when actively transporting a patient,[~~Validation of Driver's License~~] if applicable;

4. A review of all agency policies, procedures, and protocols;

5. Communication equipment at the base station and on each vehicle;

6. Operational aspects of the agency fleet and equipment;

7. Inspection and routine maintenance of agency fleet, facilities, and equipment;

8. Appropriate processes for disinfection of agency fleet, facilities, and equipment;

9. Local navigation and geographic orientation; and

10. Completion of Patient Care Reports and other documentation as established by the agency;

(n)[~~(m)~~] Proof of professional liability malpractice insurance of a minimum of $1,000,000; and

(o)[~~(n)~~] Proof of vehicular liability insurance.

(2) Each agency shall maintain[~~notify the board at least twenty-four (24) hours prior to the transfer of coverage, cancellation, lapse, or other cessation or change in~~] professional liability malpractice insurance and[~~or~~] vehicular liability insurance. An agency that fails

to maintain professional liability malpractice insurance and vehicular liability insurance shall notify the board immediately and cease operations until all insurance coverage has been restored.

(3) Each agency shall verify that all[~~valid~~] staff certifications and licenses are valid[~~certification or licensure~~] as of the first day of the calendar year.

(4) If an agency is ceasing to operate, the[~~an~~] agency shall provide the board with the physical or electronic digital storage location of all Patient Care Reports within five (5) business days of closure. These reports shall be maintained by the owner of the licensed agency, or a contracted third party to meet the timeline established in subsection (1)(b) of this section.

(5) Each agency that allows an employed emergency responder to provide medical services while off duty in accordance with 202 KAR 7:701[~~, Section 6,~~] shall maintain and implement a policy regarding which employees are approved to provide medical services off duty by the agency's medical director and the manner in which worker's compensation and general liability insurance covers employees off duty.

(a) The policy shall be signed by both the agency's administrator and medical director and[~~,~~] shall be reviewed annually.[~~, and shall include:~~]

(b) Off duty emergency medical personnel shall not provide off duty care that would require an agency license, such as a Class VIII license.

[~~(a)~~] [~~Direction on which employees may remove medical equipment from the agency's premises for the purpose of providing care off duty;~~]

[~~(b)~~] [~~Direction on which equipment may be removed from the agency's premises for the purpose of providing care off duty; and~~]

[~~(c)~~] [~~A provision that controlled substances shall not be removed from the agency's premises for the purposes of providing care off duty.~~]

(6) Each Class I, II, and VI agency shall, in the county in which the agency's base station or a satellite is located:

(a) Document evidence of participation in a local, county, facility, regional, or state disaster or preparedness exercise within the preceding twelve (12) months;

(b) Coordinate with the county or facility emergency management director plans for the possible use of agency personnel for use in the emergency operations center in a disaster;[~~ and~~]

(c) Maintain a hard copy or electronic equivalent of the most current adopted facility, city, county, or urban county government emergency management agency's emergency operations plan at the ambulance base station; and[~~.~~]

(d) Document evidence of use and operation of Kentucky Ready Ops patient tracking during a disaster or preparedness exercise.

Section 3. Operating Requirements.

(1) Each licensed agency, except Class IV,[~~ and~~] VIII, and IX, shall provide service twenty-four (24) hours a day, seven (7) days a week. Class IV,[~~ and~~] VIII, and IX agencies shall operate during the hours of operation for their geographical service area or designated events[~~event~~].

(2) Each licensed agency shall retain staffing schedules for at least the previous twelve (12) months.

[~~(3)~~] [~~Each agency administrator or designee shall be familiar with emergency management reporting and procurement processes and software platforms utilized to communicate the needs of the local government to state agencies.~~]

[~~(4)~~] [~~A licensed agency shall have a written plan to assure all requests for service shall be promptly answered.~~]

(3)[~~(5)~~] A licensed agency shall have a written scope of care policy to include the types of services performed, limitations of response, and the types of medical teams provided.

(4)[~~(6)~~] Unless utilizing a medical dispatch prioritizing system, any[~~Any~~] agency licensed and located within the geographical service area that determines it is unable to have a vehicle responding within ten (10) minutes from the initial time a 911 scene response[~~an emergency~~] call is received shall request that the next closest appropriate licensed agency respond.

(5)[~~(7)~~] If an agency licensed for a specific geographical service area is unable to respond to a scheduled or non-scheduled medically necessary ambulance transportation[~~non-emergency~~] call within two (2) hours from the initial time the[~~a non-emergency~~] call is received, the requesting healthcare facility may contact any appropriately licensed agency and request that the agency conduct the transport.

(6)[~~(8)~~] Each Class I[~~An~~] agency shall attempt to enter into a mutual aid agreement with another [~~Kentucky~~ ]licensed Class I[~~ambulance~~] agency operating within the same or contiguous counties[~~ that provide response to medical emergencies~~]. These agreements shall be in writing and address:

(a) The type of mutual aid assistance to be provided, including advanced life support (ALS) or basic life support (BLS) medical care and transport and ALS or BLS medical first response;

(b) Response personnel, including levels of training or education and provisions for joint in-service training or education if appropriate;

(c) Response vehicles, including unit identifiers and the station or location from which the vehicles shall be operated;

(d) A plan of action for the mutual aid agreement, including dispatch and notification procedures;

(e) Radio and other communications procedures between the ambulance agency and other response agencies with which the agency has mutual aid agreements;

(f) On-scene coordination and scene control including medical direction if several agencies respond to the same incident;

(g) Exchange of patient information, records, and reports as allowed by law; and

(h) The effective dates and process for amendment or termination.

(7)[~~(9)~~] A Class I[~~ground~~] agency shall send a written request for a mutual aid agreement to at least two (2) contiguous counties and retain a copy of each request and each county's response;

(8)[~~(10)~~] Each Class I and VI agency shall maintain a policy or affiliation agreement with the primary call-taking center that provides dispatch services for all or part of the service area of the ground agency. The agreement or policy shall state at a minimum that:

(a) Unless utilizing a medical dispatch prioritizing system, Requests for 911 scene response[~~emergency ambulance service~~] shall be dispatched or notified within two (2) minutes from determining that the caller is requesting an ambulance response.[~~;~~]

(b) If the closest licensed agency for that geographic service area is unable to have an ambulance[~~a vehicle~~] responding to an emergency 911 scene response call within ten (10) minutes from the time the call is dispatched, the agency shall notify the next closest appropriate licensed agency to respond; and

(c) The agreement shall specify which patient information shall be collected by the call-taking center during a call for service.

(9) Each Class II and III agency shall maintain a policy or affiliation agreement with the primary call-taking center that provides dispatch services for all or part of the service area of the ground agency. The agreement or policy shall state, at a minimum, which patient information shall be collected by the call-taking center during a call for service.

(10)[~~(11)~~] If a ground agency is unable to secure a written affiliation agreement with the dispatch center, the ground agency shall retain all written correspondence to the dispatch center requesting an affiliation agreement and the dispatch center's denial of the agency's request.

(11)[~~(12)~~] An agency shall not respond to requests for emergency service outside of its licensed geographic service area without first receiving authorization from the licensed agency in the geographic service area in which the request originates.

(12)[~~(13)~~] A licensed Class I ground agency that is located in a geographical service area containing multiple destination hospitals, with regard to the furnishing of 911 scene response and transportation, shall not engage in:

(a) Exclusive or coercive practices regarding transportation decisions with regard to any affiliated hospital or hospital emergency department;

(b) Preferential transportation to any affiliated hospital emergency department if the transports are not justified by time, place, patient convenience, or other objective factors affecting a patient;

(c) Noncompetitive transportation to any affiliated hospital

emergency department; or

(d) Transports to any affiliated hospital emergency department if that hospital is not the closest to the patient location or most appropriate based on the availability of particular services or patient preference.

(13)[~~(14)~~] Each licensed Class I and II[~~ground~~] agency shall schedule a minimum of one (1) staffed ambulance to be staged in the agency's geographic service area.

(14)[~~(15)~~] An agency that cannot meet the timelines established in subsection (8)[~~(10)~~] of this section shall contact another licensed agency and receive an estimated time of arrival to the request for service. If the mutual aid agency can arrive at the location where the request originated more quickly than the agency licensed for the geographic service area, the agency licensed for the geographic service area shall request mutual aid from its neighboring agency to respond to the call.

(15)[~~(16)~~] Class I, IV, and VI agencies[~~An agency~~] shall not refuse a request for an emergency site or 911 scene[~~emergency pre-hospital~~] response if a unit is available in its geographic service area.

(16)[~~(17)~~] A Class I[~~An~~] agency shall not exhaust its resources by responding to a scheduled or non-scheduled medically necessary[~~answering a nonemergency~~] call or by responding[~~for response~~] to a mutual aid request[~~requests~~].

(17)[~~(18)~~] This administrative regulation shall not be construed to prevent a licensed agency from providing medical first response emergency or nonemergency pre-hospital care at or below the level for which the agency is licensed through the use of designated agency-owned response vehicles.

(18)[~~(19)~~] A communications system shall be developed, coordinated, and maintained by each licensed agency. The communication system shall comply with paragraphs (a) through (f) of this subsection.

(a) Radio equipment used in emergency medical services vehicles shall be appropriately licensed through the Federal Communications Commission (FCC). Copies of the current FCC licenses shall be on file in the agency office.

(b) Each ambulance shall have an operational push-to-talk two-way radio programmed with all very high frequency (VHF) Kentucky State Mutual Aid Frequencies in accordance with the Commonwealth of Kentucky Field Operations Guide (KY-FOG).

(c) Each Class I ambulance shall be equipped with a minimum of one (1) mobile two-way radio located in the driver's compartment.

(d) Each Class I ambulance shall have a minimum of two (2) portable push-to-talk two-way radios capable, under normal conditions, of operating on the agency, dispatch center, mutual aid, and hospital frequencies.

(e) Each ambulance shall be equipped with mobile two-way radio communication equipment with the ability to communicate from the driver's compartment and patient care compartment.

(f) One (1) alternative method of two-way communication may be substituted for one (1) portable two-way radio.

Section 4. Ceasing Continuous Service.

(1) A licensed Class I, II, III, VI, or VII agency that ceases to provide continuous service on a twenty-four (24) hour basis shall surrender its license to the board office within twenty-four (24) hours of the agency ceasing to provide continuous service.

(2) The agency's chief operations or service director shall immediately contact the executive director of the board upon determining that his or her Class I, II, III, VI, or VII agency will cease providing continuous service, and shall provide the approximate date and time that the agency will cease continuous service.

(3) The agency's chief operations or service director shall immediately contact the executive director of the board upon determining that his or her Class I, II, III, VI, or VII agency has ceased providing continuous service, and shall provide the date and time that the agency ceased continuous service.

(4) Notwithstanding subsection (1) of this section and Section 3(1) of this administrative regulation, a Class I, II, III, VI, or VII agency shall resume continuous service no later than seventy-two (72) hours after ceasing continuous service if the executive director of the board determines, in writing, that:

(a) Circumstances beyond the agency's control exist which justify the agency's temporary lapse in continuous service; and

(b) Public health, safety, and welfare will be better served by allowing the agency to resume continuous service within seventy-two (72) hours after ceasing continuous service.

(5) A licensed Class I, II, III, VI, or VII agency that ceases continuous service shall be deemed to pose a threat to the public and the agency's license shall be temporarily suspended in accordance with KRS 311A.075 if:

(a) The agency fails to surrender its license in accordance with subsection (1) of this section; and

(b) The executive director of the board does not make the determinations set forth in subsection (4)(a) and (b) of this section; or

(c) The executive director of the board makes the determinations set forth in subsection (4)(a) and (b) of this section, but the agency fails to resume continuous service within seventy-two (72) hours after ceasing continuous service and fails to surrender its license to the board office within seventy-two (72) hours after ceasing continuous service.

(6) Unless the agency surrenders its license to the board within two (2) hours after ceasing continuous service, a Class I, II, III, VI, or VII agency that ceases continuous service shall be assessed $200 per hour for non-operations after the second hour of failure to provide continuous service. Assessments for non-operations shall not be imposed for any period of non-operations after an agency surrenders its license, after an agency's license is suspended, or, if the executive director of the board makes the determinations set forth in subsection 4(a) and (b) of this section, after the written determinations are made.

Section 5. Issuance of Temporary Class I Hardship Licenses to Counties.

(1) The board office shall issue a temporary Class I hardship license to the county or counties listed as the geographic service area on a Class I license that:

(a) Is the only Class I license for the geographic service area; and

(b) Is surrendered in accordance with Section 4(1) of this administrative regulation; or

(c) Is temporarily suspended in accordance with Section 4 of this administrative regulation and KRS 311A.075.

(2) The board office may issue a temporary Class I hardship license to a county or counties subject to emergent conditions that pose a threat to public health, safety, and welfare.

(3)[~~(2)~~] A temporary hardship license shall not be transferrable.

(4)[~~(3)~~] A county issued a temporary hardship license may contract with a licensed Class I agency to provide service to the geographic service area listed on the temporary hardship license.

(5)[~~(4)~~] Notwithstanding Sections 3(1) and 4(1) of this administrative regulation, a county issued a temporary hardship license shall begin providing continuous service no later than 120 days after the license is issued.

(6)[~~(5)~~] Notwithstanding any other administrative regulation promulgated by the board, for up to and not exceeding 120 days after a temporary hardship license is issued to a county under this section, the county may request that any licensed Class I agency respond to a call for service in the geographic service area listed on the temporary hardship license.

(7)[~~(6)~~] A temporary hardship license issued pursuant to subsection (1) of this section shall expire one (1) year after the license is issued, after a new Class I license for the geographic service area is issued, or, if the Class I license for the geographic service area was temporarily suspended in accordance with Section 4 of this administrative regulation, after that license is reinstated, whichever occurs first.

(8) A temporary hardship license issued pursuant to subsection (2) of this section shall expire one (1) year after the license is issued, unless extended by approval of the board for up to one (1) additional year.

Section 6. Medical Directors.

(1) Each licensed agency shall have a medical director who meets the requirements established in 202 KAR 7:801.

(2) A licensed agency shall notify KBEMS within twenty-four (24) hours of a decision to discontinue a medical director agreement by either the agency or the medical director.

(3)

(a) If an agency is found to be operating without a medical director, the agency shall be provided emergency medical direction by the KBEMS Medical Advisor for a fee of $100 per day for the first thirty (30) calendar days the agency is without a medical director.

(b) The fee shall increase to $500 per day after thirty (30) calendar days.

Section 7. Public Notice of Negative Action. The board office shall cause to be published, 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 8. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Commonwealth of Kentucky Field Operations Guide (KY-FOG)", (6/2012) found at https://kwiec.ky.gov/SiteCollectionDocuments/KYFOG.pdf.;

(b) "NHTSA NEMSIS Data Dictionary", (v3.40) U.S. Department of Transportation National Highway Traffic Safety Administration (NHTSA) National Emergency Medical Services Information System (NEMSIS) data dictionary found at https://www.nemsis.org/media/nemsis_v3/3.4.0.150302/DataDictionary/PDFHTML/DEMEMS/NEMSISDataDictionary.pdf;

(c) "Vehicle Delete application in KEMSIS", (12/2019);

(d) "Add TEMPORARY Vehicle/Aircraft application Part 1 in KEMSIS", (12/2019); and

(e) "Add TEMPORARY Vehicle/Aircraft application Part 2 in KEMSIS", (12/2019).

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

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

JOHN R. HOLDER, Chair

APPROVED BY AGENCY: August 14, 2025

FILED WITH LRC: September 11, 2025 at 11:55 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 21, 2025, at 1:00 PM ET at the Kentucky Board of Emergency Medical Services, 500 Mero Street, 5th Floor 5SE32, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John K. Wood

Subject Headings: Emergency Medical Services, Medical Transportation, Licensing, Inspections, Background Checks

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the licensure requirements for ambulance providers and medical first response agencies.

(b) The necessity of this administrative regulation: 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 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 is necessary to establish licensure requirements for ambulance providers and medical first response agencies.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 311A.020 and 311A.030 by establishing licensure requirements for ambulance providers and medical first response agencies.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 311A.020 requires the Board 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 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 assists in the effective administration of those statutes by establishing licensure requirements for ambulance providers and medical first response agencies.

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

(a) How the amendment will change this existing administrative regulation: This amendment: Brings this administrative regulation into conformity with the proposed amendment to 202 KAR 7:545 (License Classifications) by clarifying requirements for different license classes and by updating terminology. Clarifies requirements for putting a new vehicle into service and provides an exception for exigent circumstances. Requires agencies to conduct biennial, national criminal background checks on their employees and volunteers rather than annual, Kentucky-only criminal background checks. Provides a mechanism for recent background checks by a current employer to be used by a new employer. Clarifies requirements for employees who drive agency vehicles. Requires agencies to have annual fitness for duty statements for each employee. Clarifies who may provide online medical direction. Requires agencies who use firefighter structural personal protective equipment to have policies for storing contaminated equipment. Requires agencies to give notice to the Board and to cease operations if they lose professional liability malpractice or vehicular liability insurance coverage. Clarifies that off-duty providers may not provide off-duty care that would require an agency license, such as a Class VIII event medicine provider license. Requires agencies to document use and operation of Kentucky Ready Ops patient tracking. Provides that agencies utilizing a medical dispatch prioritizing system are not subject to the default response time requirements. Clarifies requirements regarding policies and affiliation agreements with primary call-taking centers. Clarifies that a healthcare facility may contact and request a response from any appropriately licensed agency when the agency for the specific geographic area is unable to initiate a response to a call requesting a scheduled or non-scheduled medically necessary ambulance transport within two (2) hours. Removes requirement that all agencies enter into mutual aid agreements. Requires instead that Class I agencies attempt to enter into a mutual aid agreement with another Class I agency operating within the same or contiguous counties. Establishes a $200 per hour assessment after the second hour of a Class I, II, III, VI, or VII agency ceasing to provide continuous service, if the agency fails to surrender its license within two (2) hours of ceasing operations (subject to existing exceptions). Permits the Board to issue a temporary hardship license to a county

if emergent conditions pose a threat to public health, safety, and welfare. Provides that such temporary licenses shall expire one (1) year after issuance unless extended by approval of the Board for up to one (1) additional year.
(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update and clarify the requirements for the different classes of agencies established in the proposed amendment to 202 KAR 7:545, to ensure consistent terminology use across regulations, and to add the additional requirements, procedures, and clarifications discussed above.
(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of KRS 311A.020 and 311A.030 by establishing licensure requirements for ambulance providers and medical first response agencies.
(d) How the amendment 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 amendment will assist in the effective administration of the statue by updating the licensure requirements for ambulance providers and medical first response agencies.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes. 2024 RS HB 57, Section 1, amended KRS 311A.030 to permit the Board to classify ambulance services, mobile integrated healthcare programs, and medical first response providers. The proposed amendment to 202 KAR 7:545 updates agency license classifications. This amendment brings this administrative regulation into conformity with the license classifications established in the proposed amendment to 202 KAR 7:545.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All ambulance services, medical first response agencies, cities, counties, and healthcare facilities will be affected by this administrative regulation.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: Ambulance services and medical first response agencies will have to ensure that their policies and agreements, response times, and employee personnel files conform to the requirements of this amendment. Ambulance services and medical first response agencies will also need to ensure that they are conducting biennial, national criminal background checks for each employee or volunteer.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): Affected entities will incur costs of approximately $34 per employee per year as a result of the requirement to obtain biennial, national criminal background checks for each employee.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): EMS agencies will benefit from ensuring, biennially, that their employees do not have a criminal history that renders them unfit to perform their duties. EMS agencies will also benefit from the nationwide scope of the background checks.
(6) 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.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The Kentucky Board of Emergency Medical Services is a state agency that receives its annual budget from the state government.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary to implement this administrative regulation.
(9) 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. However, this amendment will require costs of approximately $34 per employee, per year as a result of the requirement that agencies conduct biennial, national criminal background checks on their employees.
(10) TIERING: Is tiering applied? Tiering is not applied to this administrative regulation because this administrative regulation applies to all ambulance providers and medical first response 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.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 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 is necessary to establish licensure requirements for ambulance providers and medical first response agencies.
(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 KRS 311A.030, which was last amended by 2025 Ky. Acts ch. 150, sec. 4.
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: This administrative regulation 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 city and county owned EMS services.
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: Approximately $34 per employee per year for biennial, national criminal background checks.
For subsequent years: Approximately $34 per employee per year for biennial, national criminal background checks.
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 EMS services.
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: Approximately $34 per employee per year for biennial, national criminal background checks.
For subsequent years: Approximately $34 per employee per year for biennial, national criminal background checks.

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 will require costs of approximately $34 per employee per year as a result of the requirement that agencies conduct biennial, national criminal background checks on their employees and volunteers.
(b) Methodology and resources used to reach this conclusion: The approximate cost of the national criminal background checks was obtained from the Board's national background check vendor.
(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(14): This administrative regulation will not have a major economic impact.
(b) The methodology and resources used to reach this conclusion: There are approximately 5,000 currently employed EMS providers in Kentucky. As the national criminal background checks will cost approximately $34 per employee per year, the expected overall fiscal impact of this amendment is approximately $170,000 per year, or $340,000 over a two-year period. Accordingly, the Board does not anticipate this amendment having a major economic impact as defined by KRS 13A.010(14).

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

**202 KAR 7:801. Medical directors.**

RELATES TO: KRS 311A.025, 311A.055, 311A.125, 311A.130, 311A.170, 311A.175, 311A.180
STATUTORY AUTHORITY: KRS 311A.020, 311A.025, 311A.030, 311A.180
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.025 requires the board to promulgate administrative regulations relating to EMS medical directors. This administrative regulation establishes requirements for EMS medical directors.

Section 1. Agency[~~EMS~~] Medical Director Certification Requirements.
(1) An individual desiring initial certification as an agency medical director[~~EMS medical directors~~] shall:
(a) Hold a current, unrestricted license to practice medicine in Kentucky as a physician;[~~ and~~]
(b) Satisfy one (1) of the following:
1. Be certified in Emergency Medical Services (EMS) by the American Board of Emergency Medicine (ABEM) or the American Osteopathic Board of Emergency Medicine (AOBEM);
2. Be certified in emergency medicine by the ABEM or AOBEM and successfully complete the board-approved Kentucky EMS State Medical Introductory Course; or
3. Be certified in any specialty by the American Board of Medical Specialties (ABMS), the American Board of Physician Specialties (ABPS), or the American Osteopathic Association (AOA) and:
a. Successfully complete the board-approved Kentucky EMS State Medical Director Full Course; and
b. Hold and maintain current provider certification in:
(i) Advanced Trauma Life Support (ATLS);
(ii) Advanced Cardiovascular Life Support (ACLS), through either American Heart Association or the American Safety and Health Institute (ASHI); and
(iii) Pediatric Advanced Life Support or Pediatric Education for Prehospital Professionals (PEPP);
(c) Submit a completed EMS Medical Director application in KEMSIS; and
(d) Pay the fee required for certification pursuant to 202 KAR 7:030.
[~~(b)~~] [~~Have knowledge of EMS laws and administrative regulations in Kentucky.~~]
[~~(2)~~] [~~Medical directors for an ALS provider shall meet the requirements of subsection (1) of this section; and either:~~]
[~~(a)~~] [~~Be board-certified in emergency medicine by the American Board of Medical Specialties or the American Association of Physician Specialists; or~~]
[~~(b)~~] [~~Hold current provider certification in:~~]
[~~1.~~] [~~ATLS;~~]
[~~2.~~] [~~ACLS, through either the AHA or the ASHI; and~~]
[~~3.~~] [~~Pediatric ALS or PEPP.~~]
[~~(3)~~] [~~Medical directors for a BLS provider shall meet the requirements of subsection (1) of this section, and either:~~]
[~~(a)~~] [~~Be board-certified in emergency medicine by the American Board of Medical Specialties or the American Association of Physician Specialists; or~~]
[~~(b)~~] [~~Hold current provider certification in:~~]
[~~1.~~] [~~ATLS, BTLS, or Prehospital Trauma Life Support;~~]
[~~2.~~] [~~ACLS, through either the AHA or the ASHI; and~~]
[~~3.~~] [~~Pediatric ALS or PEPP.~~]]
(2)[~~(4)~~] A physician applying to become an agency medical director[~~a medical director~~] may request a waiver for up to twelve (12) months [~~from the date the physician is approved by the board~~] to acquire the certifications under[~~as required in~~] subsection (1)(b)3.b.[~~(2)(b) or (3)~~] of this section.
[~~(5)~~] [~~A physician operating under a one (1) year waiver may request an additional one (1) year extension at which time the KBEMS office shall assign a staff member to work with the EMS medical director to locate any training needed to obtain missing credentials or to work with the provider to find an alternate EMS medical director who meets the requirements of this administrative regulation.~~]

Section 2. Renewal of Agency Medical Director Certification and Continuing Education Requirements. An Agency Medical Director shall be eligible for certification renewal if the applicant:
(1) Submits a completed EMS Medical Director application in KEMSIS;
(2) Pays the renewal fee pursuant to 202 KAR 7:030;
(3) Submits evidence of current, unrestricted licensure to practice medicine in Kentucky as a physician;
(4) Submits evidence of successful completion of at least sixteen (16) hours of continuing education consisting of the following:
(a) A board-approved medical director update;
(b) At least eight (8) hours of providing EMS education for agencies or providers; and
(c) At least four (4) hours of EMS continuing education or other equivalent American Medical Association Physician's Recognition Award program (AMA PRA Category 1) or Continuing Education Unit (CEU) in emergency medicine; and
(5) If certified pursuant to subsection (1)(b)3. of this section, submits evidence of current certification in:
(a) ATLS;
(b) ACLS, through either the AHA or the ASHI; and
(c) Pediatric ALS or PEEP.

Section 3.[~~Section 2.~~] Agency[~~EMS~~] Medical Director Responsibilities. Agency medical directors[~~EMS medical directors~~] shall function under terms of employment or a contractual agreement that specifically address the responsibilities of the medical director and the employer or the contractor responsibilities for the following topics:
(1) Establishing medical protocols and standing orders for communications and patient care personnel;
(2) Serving as a liaison with the local medical community;
(3) Interacting with regional, state, and local EMS authorities on issues relating to EMS standards, needs and requirements and the optimization of resource utilization;
(4) Maintaining continuing education appropriate for the agency

medical director[~~EMS medical director~~], administrative staff, communication and patient care personnel;

(5) Restricting or limiting patient care functions of staff;

(6) Establishing patient destination policies;

(7) Establishing initial qualification of personnel involved in patient care and dispatch; and

(8) Developing, implementing, and maintaining a quality improvement program for continuous system and patient care improvement;[~~.~~]

(9) Developing, implementing, and maintaining credentialing of personnel who provide patient care; and

(10) Developing on-line medical control policies.

Section 4. Associate Medical Director Certification.

(1) An individual desiring initial certification as an associate medical director shall:

(a) Be a physician that meets the requirements of Section 1 of this administrative regulation or hold a current, unrestricted license to practice medicine in Kentucky as a nurse practitioner (NP) or physician assistant (PA);

(b) Successfully complete the board-approved Kentucky EMS State Medical Director Introduction Course;

(c) Hold and maintain current provider certification in:

1. ATLS;

2. ACLS, through either AHA or the ASHI; and

3. Pediatric ALS or PEPP;

(d) Submit a completed EMS Medical Director application in KEMSIS; and

(e) Pay the fee required for certification pursuant to 202 KAR 7:030.

(2) Associate medical directors shall only function under the supervision and authority of the agency's board-certified agency medical director.

(3) If approved by the agency medical director, an associate medical director may serve as on-line medical control for an agency with which the associate medical director is affiliated.

Section 5. Renewal of Associate Medical Director Certification and Continuing Education Requirements. An associate medical director shall be eligible for certification renewal if the applicant:

(1) Submits a completed EMS Medical Director application in KEMSIS;

(2) Pays the fee required for certification renewal pursuant to 202 KAR 7:030;

(3) Submits evidence of current, unrestricted licensure to practice medicine in Kentucky as a nurse practitioner (NP) or physician assistant (PA); and

(4) Submits evidence of successful completion of at least sixteen (16) hours of continuing education consisting of the following:

(a) A board-approved medical director update;

(b) At least eight (8) hours of providing EMS education for agencies or providers; and

(c) At least four (4) hours of EMS continuing education or other equivalent American Medical Association Physician's Recognition Award program (AMA PRA Category 1) or Continuing Education Unit (CEU) in emergency medicine.

Section 6. EMS-TEI Primary Medical Director Certification Requirements. An individual desiring initial certification as an EMS-TEI Primary Medical Director shall:

(1) Hold a current, unrestricted license to practice medicine in Kentucky as a physician;

(2) Satisfy one (1) of the following:

(a) Be a board-certified EMS Medical Director;

(b) Be certified in Emergency Medical Services (EMS) by the American Board of Emergency Medicine (ABEM) or the American Osteopathic Board of Emergency Medicine (AOBEM);

(c) Be certified in emergency medicine by the American Board of Medical Specialties (ABMS), the American Association of Physician Specialists (AAPS), the ABEM, or the AOBEM; or

(d) Be certified in any specialty by the ABMS, the American Board of Physician Specialties (ABPS), or the American Osteopathic Association (AOA) with evidence of training or experience in the delivery of emergency care, including the proper care and transport of patients, medical direction, and quality improvement in out-of-hospital care;

(3) Successfully complete the board-approved EMS-TEI State Medical Director Course;

(4) Submit a completed EMS Medical Director application in KEMSIS; and

(5) Pay the fee required for certification pursuant to 202 KAR 7:030.

Section 7. EMS-TEI Associate Medical Director Certification Requirements. An individual desiring initial certification as an EMS-TEI Associate Medical Director shall:

(1) Hold a current, unrestricted license to practice medicine in Kentucky as a physician;

(2) Successfully complete the board-approved EMS-TEI State Medical Director Course;

(3) Have training or experience in the delivery of emergency care, including the proper care and transport of patients, medical direction, and quality improvement in out-of-hospital care;

(4) Submit a completed EMS Medical Director application in KEMSIS; and

(5) Pay the fee required for certification pursuant to 202 KAR 7:030.

Section 8. EMS-TEI Assistant Medical Director Certification Requirements. An individual desiring initial certification as an EMS-TEI Assistant Medical Director shall:

(1) Hold a current, unrestricted license to practice medicine as a physician in the state where the EMS-TEI program's students are participating in clinical rotations, field experience, or a capstone field internship;

(2) Successfully complete the board-approved EMS-TEI State Medical Director Course;

(3) Have training or experience in the delivery of emergency care, including the proper care and transport of patients, medical direction, and quality improvement in out-of-hospital care;

(4) Submit a completed EMS Medical Director application in KEMSIS; and

(5) Pay the fee required for certification pursuant to 202 KAR 7:030.

Section 9. Renewal of EMS-TEI Primary Medical Director, EMS-TEI Associate Medical Director, and EMS-TEI Assistant Medical Director Certifications. An EMS-TEI Primary Medical Director, EMS-TEI Associate Medical Director, or EMS-TEI Assistant Medical Director shall be eligible for certification renewal if the applicant:

(1) Submits a completed EMS Medical Director application in KEMSIS;

(2) Pays the renewal fee pursuant to 202 KAR 7:030; and

(3) Submits evidence of current, unrestricted licensure to practice medicine as a physician in Kentucky; or

(4) If certified as an EMS-TEI Assistant Medical Director pursuant to Section 8 of this administrative regulation, submits evidence of current, unrestricted licensure to practice medicine in the state where the EMS-TEI program students are participating in clinical rotations, field experience, or a capstone field internship.

Section 10. Expiration of Certifications. All certifications issued pursuant to this administrative regulation shall:

(1) Be valid for a period of two (2) years upon renewal; and

(2) Expire on December 31 of the second year from its initial issuance.

Section 11. Public Notice of Negative Action. The board office shall cause to be published on the board website the name of any person certified pursuant to this administrative regulation who:

(1) Is fined;

(2) Is placed on probationary status;

(3) Is placed on restricted status;

(4) Is suspended; or

(5) Has had his or her certification revoked.

Section 12. Incorporation by Reference.

(1) "EMS Medical Director" application in KEMSIS, August 2025, is incorporated by reference.

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

(3) This material is also available at kemsis.ky.gov.

[~~Section 3.~~] [~~The board may revoke the authorization for a physician to serve as an EMS medical director.~~]

JOHN R. HOLDER, Chair

APPROVED BY AGENCY: August 14, 2025

FILED WITH LRC: September 11, 2025 at 11:55 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 21, 2025, at 1:00 PM ET at the Kentucky Board of Emergency Medical Services, 500 Mero Street, 5th Floor 5SE32, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John K. Wood

Subject Headings: Emergency Medical Services, Health and Medical Services, Licensing, Physicians and Practitioners

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 311A.025(1) authorizes the Board to create appropriate levels of certification or licensure, which may include certification or licensure of EMS medical directors. KRS 311A.025(3) provides that the Board may authorize a physician licensed in Kentucky to serve as an EMS medical director if the physician meets the requirements specified by the Board by administrative regulation. This administrative regulation establishes requirements for EMS medical directors, including certification requirements.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to regulate EMS medical directors.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 311A.025(1) authorizes the Board to create appropriate levels of certification or licensure, which may include certification or licensure of EMS medical directors. KRS 311A.025(3) provides that the Board may authorize a physician licensed in Kentucky to serve as an EMS medical director if the physician meets the requirements specified by the Board by administrative regulation. This administrative regulation conforms to the content of KRS 311A.025 by establishing requirements for EMS medical directors.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists and will assist in the effective administration of KRS 311A.025 by establishing requirements for EMS medical directors.

(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 five (5) EMS medical director certifications: (1) Agency Medical Director, (2) Associate Medical Director, (3) EMS-TEI Primary Medical Director, (4) EMS-TEI Associate Medical Director, and (5) EMS-TEI Assistant Medical Director. This amendment further establishes certification expiration dates and renewal requirements, and requires the Board to publish notice of any disciplinary sanction imposed against an EMS medical director.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to establish certifications for EMS medical directors, which will permit the Board to better regulate EMS medical directors. For example, establishing EMS medical director certifications enables the Board to establish and clarify different roles and responsibilities, to address misconduct through the Board's disciplinary process, and to ensure that physicians in EMS medical director roles are qualified to oversee the provision of pre-hospital care.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of KRS 311A.025 by establishing certifications and requirements for EMS medical directors.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation assists and will assist in the effective administration of KRS 311A.025 by establishing certifications and requirements for EMS medical directors.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All ambulance services, medical first response agencies, EMS Training and Education Institutions (EMS-TEIs), and EMS medical directors.

(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: Ambulance services, medical first response agencies, and EMS-TEIs will be required to ensure that their medical directors are appropriately certified. Current Board-approved EMS medical directors will be required to become Board-certified EMS medical directors, which may require obtaining additional credentials. Applicants will be required to complete a Board-approved medical director course. Agency Medical Directors and Associate Medical Directors will be required to complete at least 16 hours of continuing education to be eligible for certification renewal.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): This amendment is not expected to result in any additional costs to the affected entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Ambulance services, medical first response agencies, and EMS-TEIs will benefit from having the assurance that their medical directors are qualified to oversee the provision of pre-hospital care. EMS medical directors will benefit from the clarified roles, responsibilities, and necessary qualifications for medical directors. Agency Medical Directors and Associate Medical Directors will benefit by obtaining continuing education upon certification renewal.

(6) 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.

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

state government.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in funding will be necessary to implement this administrative regulation. No increase in fees will initially be necessary to implement this administrative regulation. However, initial certification and renewal fees may be established in 202 KAR 7:030 in the future.
(9) 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. Initial certification and renewal fees are not currently established in 202 KAR 7:030, but may be included in a future amendment to that regulation.
(10) TIERING: Is tiering applied? Tiering is not applied to this administrative regulation because this administrative regulation applies to EMS medical directors.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 311A.025(1) authorizes the Board to create appropriate levels of certification or licensure, which may include certification or licensure of EMS medical directors. KRS 311A.025(3) provides that the Board may authorize a physician licensed in Kentucky to serve as an EMS medical director if the physician meets the requirements specified by the Board by administrative regulation. This administrative regulation establishes requirements for EMS medical directors, including certification requirements.
(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 KRS 311A.025, which was last amended in 2022 Ky. Acts ch. 126, sec. 3.
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: This administrative regulation is promulgated by 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): Ambulance services and medical first response agencies.
(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): EMS-TEIs.
(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 is not expected to result in any fiscal impact.
(b) Methodology and resources used to reach this conclusion: This administrative regulation is not expected to result in any fiscal impact as there are currently no costs or fees associated with this administrative regulation.
(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(14): This administrative regulation will not have a major economic impact.
(b) The methodology and resources used to reach this conclusion: This administrative regulation is not expected to result in any fiscal impact as there are currently no costs or fees associated with this administrative regulation.

## TOURISM, ARTS AND HERITAGE CABINET
## Department of Fish and Wildlife Resources
## (Amendment)

**301 KAR 3:015. Shooting ranges on department-owned or managed lands.**

RELATES TO: KRS 150.025(1)(h)
STATUTORY AUTHORITY: KRS 150.025(1)(h), 150.620
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) authorizes the department to promulgate administrative regulations to carry out the purposes of KRS Chapter 150. KRS 150.620 authorizes the department to promulgate administrative regulations to acquire or lease land for the operation of public shooting or fishing grounds. This administrative regulation establishes requirements for the safe operation of department-owned or managed shooting ranges.

Section 1. [~~Definitions.~~]
[~~(1)~~] [~~"Archery and crossbow range" means a shooting range that is established for target shooting at stationary targets with archery or crossbow equipment.~~]
[~~(2)~~] [~~"Club-operated shooting range" means a facility that is:~~]
[~~(a)~~] [~~Operated by a department-authorized entity for target shooting; and~~]
[~~(b)~~] [~~Open to the public during club events.~~]
[~~(3)~~] [~~"Firing line" means the area where a weapon is shot or discharged, as designated by:~~]
[~~(a)~~] [~~Signage;~~]
[~~(b)~~] [~~A shooting bench; or~~]
[~~(c)~~] [~~A range officer.~~]
[~~(4)~~] [~~"Pistol pit" means a shooting range that is established for target shooting with pistols.~~]
[~~(5)~~] [~~"Range officer" means an individual designated as a National Rifle Association range officer, a National Shooting Sports Foundation range officer, a department hunter education instructor, or a law enforcement range officer, responsible for supervising a shooting range and ensuring compliance with this administrative regulation.~~]
[~~(6)~~] [~~"Safety zone" means an area downrange of a firing line where all public access is prohibited as designated by department signs.~~]
[~~(7)~~] [~~"Self-service trap shooting range" means a shooting range that is established for people to shoot at moving targets with a~~

~~shotgun.~~]

[~~(8)~~] [~~"Shooting range" means a public facility on lands owned or managed by the department that is designated for target shooting with:~~]

[~~(a)~~] [~~A rifle;~~]

[~~(b)~~] [~~A pistol;~~]

[~~(c)~~] [~~A shotgun;~~]

[~~(d)~~] [~~Archery equipment; or~~]

[~~(e)~~] [~~Crossbow equipment.~~]

[~~(9)~~] [~~"Shooting station" means a location on the firing line for one (1) person to shoot, as designated by:~~]

[~~(a)~~] [~~Signage;~~]

[~~(b)~~] [~~A shooting bench; or~~]

[~~(c)~~] [~~A concrete pad.~~]

[~~(10)~~] [~~"Tube range" means a shooting range established for target shooting through designated steel tubes. .~~]

[~~Section 2.~~]

(1) Except as established in subsection (2) of this section, if a shooting range exists on department-owned or managed lands, then a person shall not target practice, sight in a firearm, or discharge a firearm on any area except the shooting range.

(2) Subsection (1) of this section shall not apply to:

(a) A person legally hunting a game species;

(b) A department employee, range officer, or department-authorized volunteer[~~certified volunteer hunter education instructor~~] in the performance of an official duty;

(c) A person or group participating in a department-sponsored [~~hunter education class~~ ]event; or

(d) A group participating in a department-approved event pursuant to 301 KAR 3:010.

Section 2.[~~Section 3.~~] General Shooting Range Requirements.

(1) A person shall not operate firearms, archery equipment, or any other device used to mechanically propel a projectile on a shooting range without possessing a valid shooting range permit, except the following individuals may utilize the ranges without a shooting range permit:

(a) Department personnel engaged in official duties; and

(b) Federal, state, or local law enforcement agency personnel operating pursuant to a written agreement may participate in organized training events without possessing a shooting range permit.

(2) A person operating a firearm, archery equipment, or any other device used to mechanically propel a projectile on a shooting range, shall provide proof they possess a valid shooting range permit upon request by a department game warden.

(3) Except as posted by a department sign or a group[~~an event~~] permit issued pursuant to 301 KAR 3:010, a person using a shooting range shall only shoot from a designated firing line downrange at a department-provided:

(a) Target stand;

(b) Target; or

(c) Shooting berm.

(4)[~~(2)~~] A person shall not:

(a) Enter a shooting range except at a designated entrance;

(b) Enter a designated safety zone, except as established in subsection (8)[~~(6)~~] of this section;

(c) Discharge a firearm:

1. Before 9 a.m.;

2. After sunset, except on a lighted range during scheduled hours of operation; or

3. At any time prohibited by department signage.[~~; or~~]

(d) Be under the influence of alcohol or other intoxicant.

(5)[~~(3)~~] A person shall not use:

(a) A tracer bullet;

(b) Armor piercing ammunition;

(c) A fully automatic firearm;

(d) A rifle cartridge that is.50 caliber or larger;

(e) A muzzle-loading rifle ball, sabot, or bullet larger than.78 caliber;

(f) A cannon or replica thereof;

(g) A mortar or other explosive device;

(h) A grenade; or

(i) An incendiary.

(6)[~~(4)~~] A person shall not:

(a) Leave spent cartridge cases or litter on the range;

(b) Point a firearm in an unsafe direction or otherwise carelessly handle a firearm; or

(c) Use a shooting range at any time or in any manner inconsistent with department-posted signage or department group permit pursuant to 301 KAR 3:010.

(7)[~~(5)~~] A person under the age of sixteen (16) shall not discharge a firearm on a shooting range unless under the direct supervision of a person at least eighteen (18) years old.

(8)[~~(6)~~] A person actively engaged in shooting or a spectator shall not go beyond the firing line without first clearly communicating to all other shooters to cease fire.

(9)[~~(7)~~] Upon hearing a cease fire command, seeing a person move beyond the firing line, or seeing another unsafe condition[~~ or seeing a person move beyond the firing line~~], a person shall:

(a) Immediately cease firing;

(b) Unload all firearms;

(c) Leave the action open, with the safety in the "on" position if the firearm has a safety mechanism, on all firearms;

(d) Place all firearms:

1. In a holster;

2. On a table at the shooting station; or

3. On the ground; and

(e) Not handle a firearm while a person is beyond the firing line.

(10)[~~(8)~~] There shall not be more than one (1) person at a shooting station at the same time, unless one (1) person is an instructor and the other is a student.

(11)[~~(9)~~] A person shall immediately obey the range officer's command.

(12)[~~(10)~~] Any spectator and a person handling a firearm shall wear protective eye and ear wear.

(13)[~~(11)~~] Each person shall be limited to one (1) hour of shooting time if anyone is waiting to use the shooting range.

(14)[~~(12)~~] If a scheduled event or department maintenance activities preclude open public use of a shooting range, then the department shall notify the public by:

(a) Posting the closure on the department's Web site at fw.ky.gov; and

(b) Posting a notice at the shooting range or a kiosk or bulletin board on the department-managed area.

(15)[~~(13)~~] A shooting range may be reserved for group use, if:

(a) The group has obtained a department group[~~event~~] permit pursuant to 301 KAR 3:010; and

(b) The group designates a range officer who shall oversee the event and ensure that all participants are in compliance with this administrative regulation.

Section 3.[~~Section 4.~~] Special Shooting Range Requirements.

(1) In addition to the general shooting range requirements established in Section 2[~~3~~] of this administrative regulation, a person shall comply with the special shooting range requirements established in subsections (2) through (8) of this section.

(2) A person using a tube range shall only:

(a) Shoot from a designated shooting station;

(b) Shoot a firearm through the tube provided at a shooting station;

(c) Use the department-provided target frames;

(d) Place target frames in the ground inserts provided on the tube range; and

(e) Attach paper targets to the target frames.

(3) A person using a tube range shall:

(a) Not shoot a pistol;

(b) Close tube doors when any person is downrange of the firing line;

(c) Not smoke or have any open flame;

(d) Not shoot at any objects on the ground; or

(e) Not use the range on a Monday, except if participating in a department-approved event pursuant to 301 KAR 3:010.

(4) A person may target shoot on a club-operated shooting range on Curtis Gates Lloyd WMA, Jones-Keeney WMA, Miller Welch-

Central Kentucky WMA, and West Kentucky WMA if the person:

(a) Attends a [~~regularly~~ ]scheduled event coordinated and sponsored by a department-authorized club;

(b) Complies with the requirements of this administrative regulation and posted signage on the area; and

(c) Complies with the rules of operation established by the club and the club's range officer.

(5) On a club-operated shooting range, a club or organization shall:

(a) Comply with all WMA group[~~event~~] permit requirements pursuant to 301 KAR 3:010;

(b) Post all approved event dates and times that are open to the public:

1. In the WMA clubhouse, if present;

2. On a WMA bulletin board or kiosk; and

3. On the department's website[~~Web site~~] at fw.ky.gov.[~~; and~~]

(c) Provide a range officer who shall oversee each event to ensure that all participants shall be in compliance with the requirements of this administrative regulation.

(d) Submit required reporting information to Kentucky Department of Fish and Wildlife Resources pursuant to 301 KAR 3:010.

[~~(6)~~] [~~A person who is using an archery and crossbow range shall only use:~~]

[~~(a)~~] [~~The department-provided targets; and~~]

[~~(b)~~] [~~Broadhead-tipped arrows or crossbow bolts on department-provided broadhead targets, and in compliance with area signage.~~]

(6)[~~(7)~~] A person using a pistol pit shall:

(a) Only shoot from a designated firing line;

(b) Only use department-provided target frames;

(c) Only attach paper targets to the target frames;

(d) Only use single projectile ammunition;

(e) Not shoot any firearm except a pistol;

(f) Not shoot at any objects on the ground; and

(g) Not use the range on a Monday, except when participating in a department-approved event pursuant to 301 KAR 3:010.

(7)[~~(8)~~] A person using a self-service trap shooting range shall:

(a) Only use a shotgun with shotshells containing multiple projectile pellets no larger than number two (2);

(b) Provide clay targets and portable target throwers; and

(c) Not target shoot anywhere except at a designated self-service trap shooting station.

Approved by the Fish and Wildlife Commission
RICH STORM, Commissioner

APPROVED BY AGENCY: August 26, 2025

FILED WITH LRC: August 27, 2025 at 12:40 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 25, 2025, at 9:00 a.m., at KDFWR Administration Building, 1 Sportsman’s Lane, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 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, Frankfort, Kentucky 40601; phone (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jenny Gilbert
Subject Headings: Fish and Wildlife, Conservation, Firearms and Weapons
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the rules for the use of department owned public shooting ranges.
(b) The necessity of this administrative regulation: This regulation is necessary to establish rules for the safe and equitable usage of department owned shooting ranges, track usage at department owned shooting ranges, and generate income to use as match for federal shooting range grants.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025(h) authorizes the department to make administrative regulations apply to a limited area or to the entire state. KRS 150.620 authorizes the department to establish public shooting grounds. This administrative regulation will help the department better manage those public shooting grounds and determine where to establish additional shooting ranges or enhance existing ones.
(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 150.620 by ensuring the public shooting grounds utilized as shooting ranges will encourage and develop public interest in wildlife and carrying out the policy of the Commonwealth of Kentucky under KRS Chapter 150 by providing the opportunity for members of the public to safely and equitably utilize department owned shooting ranges. Additionally, the regulation protects and conserves the wildlife of this Commonwealth so as to insure a permanent and continued supply of the wildlife resources by ensuring continued federal funding through excise taxes on shooting equipment.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: It will add a free annual shooting range permit for holders of a valid Kentucky annual hunting or fishing license, as well as a paid annual permit and a paid one-day permit for shooting range or range use on lands owned or managed by the department through ownership, lease, license, or cooperative agreement, or a facility owned or managed by an affiliated partner of the department that is designated for the shooting of firearms or archery equipment.
(b) The necessity of the amendment to this administrative regulation: Increase safety at shooting ranges on lands owned or managed by the department through ownership, lease, license, or cooperative agreement, or a facility owned or managed by an affiliated partner of the department that is designated for the shooting of firearms or archery equipment. Track usage at state owned shooting ranges. Increase income to use as match for federal shooting range grants.
(c) How the amendment conforms to the content of the authorizing statutes: KRS 150.025(h) authorizes the department to make administrative regulations apply to a limited area or to the entire state. KRS 150.620 authorizes the department to establish public shooting grounds. This amendment will help the department better manage those public shooting grounds and determine where to establish additional shooting ranges or enhance existing ones.
(d) How the amendment will assist in the effective administration of the statutes: This amendment assists in the effective administration of KRS 150.620 by ensuring the public shooting grounds utilized as shooting ranges will encourage and develop public interest in wildlife and carrying out the policy of the Commonwealth of Kentucky under KRS Chapter 150 by providing the opportunity for members of the public to safely and equitably utilize department owned shooting ranges. The addition of shooting range permits will help the department track usage of department owned shooting ranges to determine public need and generate income to use as match for federal shooting range grants. Additionally, the regulation protects and conserves the wildlife of this Commonwealth so as to ensure a permanent and continued supply of the wildlife resources by ensuring continued federal funding through excise taxes on shooting equipment.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? {If yes, provide the year of the legislation and either the bill number or Ky Acts chapter number being implemented.}: 2024 HB 586 RS established shooting range permits. The provisions associated for use of shooting ranges and associated fees referenced in this regulation are in accordance with

2024 HB 586 RS
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: It will affect all individuals that utilize state owned shooting ranges. It will affect the approximately 20 sportsman's clubs that currently hold events at department owned ranges and any other groups that choose to utilize them in the future.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: Each individual would be required to obtain either a free or paid permit in order to use state owned ranges. While obtaining said permits, they will be required to acknowledge that they will read and follow posted range rules and range officer directions. Sportsman's clubs will be required to collect information on those participating in their events and report it to the state as required in 301 KAR 3:010.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): For the individuals: Each individual would be required to obtain either a free or paid permit in order to use state owned ranges. For the sportsman's clubs: it will not cost them anything. Fees for the permits outlined in this administrative regulation can be found at 301 KAR 5:022 and referenced at fw.ky.gov/licenses/pages/fees
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Increase safety at shooting ranges on lands owned or managed by the department through ownership, lease, license, or cooperative agreement, or a facility owned or managed by an affiliated partner of the department that is designated for the shooting of firearms or archery equipment. Increase income to use as match for federal shooting range grants.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: $0
(b) On a continuing basis: $0
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Fish and Game Fund.
(8) 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: Each individual would be required to obtain either a free or paid permit in order to use state owned ranges. Fees for the permits outlined in this administrative regulation can be found at 301 KAR 5:022 and referenced at fw.ky.gov/licenses/pages/fees.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: Each individual would be required to obtain either a free or paid permit in order to use state owned ranges. Fees for the permits outlined in this administrative regulation can be found at 301 KAR 5:022 and referenced at fw.ky.gov/licenses/pages/fees.
(10) TIERING: Is tiering applied? Tiering has not been applied.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 150.025 and KRS 150.620
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: 2024 HB 586 RS defined a shooting range or range and established shooting range permits.
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Department of Fish and Wildlife Resources.
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: $0
For subsequent years: $0
2. Revenues:
For the first year: Unknown at this time
For subsequent years: Unknown at this time
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): No local government entities should be affected by the regulation.
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: $0
For subsequent years: $0
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): Organizations that engage in shooting sports and utilize the department ranges would be affected. The entities themselves would not need to acquire permits but individual participants would need to obtain permits.
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: $0
For subsequent years: $0
2. Revenues:
For the first year: $0
For subsequent years: $0
3. Cost Savings:
For the first year: $0
For subsequent years: $0
(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: We are unable to determine a fiscal impact until the permit has been effective and sold for at least a year as the number of shooters utilizing state-owned shooting ranges is unknown.
(b) Methodology and resources used to reach this conclusion: We are using this permit as a tool to track usage of state-owned shooting ranges.
(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(14): No
(b) The methodology and resources used to reach this conclusion: The entities listed in (3)(a), (4)(a), and (5)(a) will not have any negative fiscal impact. Only individuals will be impacted.

***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 for Libraries and Archives**
**Archives and Records Management Division**
**(Amendment)**

**725 KAR 1:050. Records management program.**

RELATES TO: KRS Chapter 171
STATUTORY AUTHORITY: KRS 171.450(2), 171.520
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 171.450(2) requires that the department shall enforce the provisions of KRS 171.410 to[~~through~~] 171.740 by appropriate rule

and[promulgation of] administrative regulations. KRS 171.520 requires the department to prescribe[establish] the policies and principles to be followed by state and local agencies in the conduct of their records management programs;[,] to ensure the maintenance and security of records deemed appropriate for preservation;[,] to facilitate the segregation and disposal of records of temporary value and to promote the effective and economical use of space, equipment, and supplies needed for the purpose of creating, maintaining, and servicing records. KRS 171.520 authorizes the department to administer and grant any money appropriated to it for providing and improving records management programs of state and local agencies. This administrative regulation establishes uniform policies in[for] the administration of grants to local governments for the improvement of records management programs.

Section 1. Eligibility of Applicants. Any local government office interested in improving the management and preservation of its public records may apply for a grant under the local records program by completing application forms available through the department[the Local Records Program Grant Application]. For the purposes of this program, a local government office shall conform to the definition of[constitute a] "public agency" as defined by KRS 171.410(4)[61.870(1)].

Section 2. Application Procedures. All applications shall be submitted on the Local Records Program Grant Application and include a detailed project description, plan of work, and budget request. Additional guidance is[Supporting documentation, such as the Invitation for Bid Proposal are] established in the Local Records Program Grant Guidelines. Entries on the application form and any required supporting documents shall be [typed and ]completed as fully as possible, with additional sheets attached if necessary. In signing the application and in accepting a grant award, applicants agree, in carrying out their projects, to abide by the criteria established in this administrative regulation.

Section 3. Categories for Funding. Any project to improve the management and preservation of local public records shall be considered. Categories for funding include, for example:

(1) Security microfilming permanent, vital, and/or archival records. Security microfilms created with Local Records Program Grant (LRPG) funds must adhere to the standards and procedures defined in Microfilming and Digital Imaging of Public Records: A Procedural Guide. A certified micrographics laboratory or vendor must be used. A list of currently certified laboratories may be obtained from the department's website;

(2) Creating digital counterparts and/or digital indexes of born-analog permanent, vital, and/or archival records. Digital images or indexes created with LRPG funds must adhere to standards and procedures described in Microfilming and Digital Imaging of Public Records: A Procedural Guide;

(3) Records preservation, conservation, or restoration projects for at risk or affected permanent, vital, and/or archival records. These projects should adhere to current archival best practice and standards. These projects can include, but are not limited to, services to preserve at-risk records or mitigation of existing damage;

(4) Purchasing supplies and equipment that promote preservation, conservation, or restoration of permanent, vital, and/or archival records, including but not limited to, archival quality boxes and folders, shelving, cabinets, and microfilm readers/scanners;

(5) Establishing a local government records management program or archives. This may include salary for hiring new staff. These funds are not designed for ongoing support, and they cannot be used to replace salary funds already being expended by a local government. Salary support can only be used for compensation of wages up to forty (40) hours per week, and cannot be used for overtime, taxes, or any other fringe benefits;

(6) Arranging and describing permanent, vital, and/or archival records, according to generally accepted professional standards of records management and archival theory and practice;

(7) Codification of ordinances, orders, resolutions, motions, etc. for cities and counties. Codification projects will adhere to Policy Memorandum on Approved Codification Services Vendors and Codification Grant Applicants/Recipients (PM 2021-01); and

(8) Limited records management for records with less than permanent retention(s) to assist in maintaining usability and accessibility for the entirety of the defined retention period(s). Records management tasks for these records may include purchase of storage, projects to provide for long-term storage, or access of records with multiple retentions. These projects should have clearly defined, specific, and time-limited parameters and be recognizable as part of established records management policies, procedures, and goals for the local agency. These funds shall not be used for ongoing records management support.

[(1)] [Security microfilming vital (critical for the functioning of the office) or historically significant records following the standards and procedures in Microfilming and Digital Imaging of Public Records: A Procedural Guide. Security microfilming carried out with local records grant funds must be done through a micrographics laboratory or vendor certified according to the criteria established in the Microfilming and Digital Imaging of Public Records: A Procedural Guide and officially recognized by the State Libraries, Archives, and Records Commission. A list of the names of currently certified laboratories or vendors may be obtained from the department's web site (https://kdla.ky.gov/records/recmgmtservices/Pages/LocalRecordsProgramGrants.aspx);]

[(2)] [Rerecording projects, for rerecording damaged records or records now losing their image, using archivally acceptable methods of recording on paper or microfilm;]

[(3)] [Document preservation projects, to carry out preservation or conservation measures on endangered records of major historical significance;]

[(4)] [Purchasing document conservation supplies;]

[(5)] [Establishing a local government records management program or archives. This may include hiring or partially subsidizing the salary of a qualified archivist who will work with department personnel in initiating a specific, time-limited project. Requests for salary support shall be evaluated based on this administrative regulation. These funds are not designed for ongoing support, and they shall not be used to replace salary funds already being expended by the local government. They may be used as short-term salary supplements;]

[(6)] [Arranging and describing archival holdings, according to generally accepted professional standards of records management and archival theory and practice;]

[(7)] [Purchasing supplies and equipment that promote preservation of or access to archival materials, including acid-free boxes and folders, shelving, and cabinets; and]

[(8)] [Codification of ordinances for cities and counties, according to procedures in Policy Memorandum on Approved Codification Services Vendors and Codification Grant Applicants/Recipients. Funds shall be available for production of initial codes but not for code supplements.]

Section 4. Grant Award Periods. Grants shall be awarded throughout[on] a state fiscal year[ basis.] on a quarterly schedule as set forth in Section 5 of this administrative regulation.

Section 5. Grant Application Review and Evaluation. All applications shall be reviewed by KDLA staff to ensure compliance with the application requirements set forth in this administrative regulation. All qualified applications shall be reviewed by an Advisory Group of the State Libraries, Archives, and Records Commission using the criteria set forth in this administrative regulation. Applications shall be submitted by March 15, June 15, September 15, and December 31. Ranked recommendations shall be presented to the State Libraries, Archives and Records Commission at the next regular meeting, or special meeting called to reschedule a regular meeting.[Applications shall be reviewed by the Local Records Grant Review Committee and ranked recommendations shall be presented to the State Libraries, Archives, and Records Commission.] The State Libraries, Archives and Records Commission shall make the final decision on grant awards using the criteria established in Section 6[5] of this

administrative regulation.

Section 6. Grant Review Criteria. In reviewing applications and recommending the funding of specific projects, reviewers shall consider[judge the projects by criteria, which includes]:

(1) Category for funding fits within the scope of projects outlined in Section 3 of this administrative regulation.

(2) Urgency of the problem, such as significance and age of the records. Precedence shall be given to local government applicants with critical records problems, those with older records, and those with chronologically complete groupings of records.

(3) Value and equity in the distribution of grants. The program shall include various types and sizes of local governments, and provide geographic distribution of grants.

(4) Alignment of the proposed methods with accepted professional standards of records management and archival theories and practices.

(5) Adequate security and protection of records. Local governments should house records in fire-resistant facilities, or state how the proposed project will safeguard the records in question. (See KRS 171.710 regarding the safeguarding of public records.)

(6) Compliance with all legal requirements regarding custody and public access. This shall include complying with the requirements of the state's Open Records Law (KRS 61.870-876) and providing access to the public in an area with proper security and supervision.

(7) Commitment by the local government to a comprehensive records management program. This shall include regular legal disposition of records in accordance with the records retention schedules covering the records of a local government agency, and may also include files control, segregation of inactive or noncurrent material from active files, selective microfilming (where appropriate), and training of records personnel in records management standards.

(8) Ninety (90) percent of the grant funds shall be awarded to county clerks unless insufficient qualified applications are received from county clerks.

(9) Proposed project was not previously funded by LRPG.

[~~(1)~~] [~~Urgency of the problem, such as significance and age of the records. The commission and other evaluation groups shall consider first local government applicants with critical records problems and to those with older records and with chronologically complete groupings of records;~~]

[~~(2)~~] [~~Value as a model and type for size and geographical location of the local government. The program shall promote equity in the geographic distribution of grant projects. The program shall include projects in various types and sizes of local governments, with a major goal to provide model projects in all areas of the state;~~]

[~~(3)~~] [~~Soundness of the proposed methods. The methods of handling the records shall conform to generally accepted professional standards of records management and archival theory and practice;~~]

[~~(4)~~] [~~Commitment of local government resources to the project. The commission and other evaluation groups shall give preference to local governments that commit some local resources to the proposed projects. Support may take the form of adequate office, storage, or working space; personnel; supplies; equipment; or a monetary contribution. Evidence of previous concern or commitment of support to improved local records management and preservation shall also be important factors in the reviewers' evaluation;~~]

[~~(5)~~] [~~Commitment by the local government to maintain the program or the lasting benefit of a specific project. This may include provisions for maintaining the accuracy and currency of a grant-funded code of ordinances with annual supplements, providing adequate storage space, designating of a person or persons responsible for maintaining and adding to a local archives, adhering to all standards for archival microfilming, or being willing to assume the cost of future security microfilming of relevant records;~~]

[~~(6)~~] [~~Adequate security and protection of records. Local governments shall:~~]

[~~(a)~~]

[~~1.~~] [~~House records in secure, fire-resistant facilities; or~~]

[~~2.~~] [~~State how the proposed project will safeguard the records in question.~~]

[~~(b)~~] [~~Applicants shall comply with KRS 171.710 regarding the safeguarding of public records;~~]

[~~(7)~~] [~~Compliance with all legal requirements regarding custody and public access. This shall include complying with the requirements of the state's Open Records Law (KRS 61.870-876) and providing access to the general public in an area with proper security and supervision; and~~]

[~~(8)~~] [~~Commitment by the local government to a comprehensive records management program. This shall include regular legal disposition of records in accordance with the records retention schedules covering the records of a local government agency, and may also include files control, segregation of inactive or noncurrent material from active files, selective microfilming (where appropriate), and training of records personnel in records management techniques~~].]

Section 7. [~~Informal~~ ]Appeals.

(1) An applicant who believes their application was wrongly denied by[~~aggrieved by a decision of~~] the State Libraries, Archives and Records Commission shall[~~may~~] file an [~~informal~~ ]appeal with the commissioner of the department.

(2) Procedures.

(a) A formal letter of appeal shall be sent via email or postal mail to the commissioner of the department within five (5)[~~three (3)~~] working days of receipt of notice of rejection.

(b) The appeal shall include a brief description of why the applicant believes the decision of the State Libraries, Archives, and Records Commission is in error. The decision of[~~appeal shall be based solely upon alleged error by~~] the State Libraries, Archives, and Records Commission shall not be overturned unless there is clear and convincing evidence that the decision violated this administrative regulation. New information shall not be considered in[~~submitted with~~] the appeal.

(c) The commissioner of the department shall issue a[~~make~~] decision within five (5)[~~two (2)~~] working days of receipt of the letter of appeal.

(d) An applicant who is dissatisfied with the commissioner's decision may appeal to Franklin Circuit Court.

Section 8. Local governments that are awarded grants shall enter into a grant contract with the department. The contract[~~grant~~] shall establish performance and reporting requirements. Failure to fulfill the requirements may result in the return of the grant funds to the department and may affect future funding considerations.[~~shall result in the return of the grant to the department.~~]

[~~Section 9.~~] [~~Selection of Codification Services Vendors. The department, in approving established codification services vendors to participate in codification work funded with local records grants, shall ensure that basic criteria and professional standards are met. Criteria such as the following shall be used as essential measures to approve prospective codification services vendors:~~]

[~~(1)~~] [~~Corporate stability or a history of reliable service, preferably to client governments in Kentucky;~~]

[~~(2)~~] [~~Experienced legal and editorial staff conversant with local government law and the technical and editorial requirements to be met in producing accurate, usable codes of ordinances;~~]

[~~(3)~~] [~~Access to online statutory databases; and~~[]

[~~(4)~~] [~~[(5)] The ability to provide code supplement services on a continuing basis.~~]

[~~Section 10.~~] [~~Codification Services Vendor Applications from prospective codification services vendors shall be reviewed by the State Libraries, Archives, and Records Commission using the criteria established in Section 9 of this administrative regulation.~~]

Section 9.[~~Section 11.~~] Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Local Records Program Grant Guidelines", June 2025.[~~"Local Records Program Grant Application", October 2021;~~]

(b) "Microfilming and Digital Imaging of Public Records: A Procedural Guide", June 2025;[~~"Invitation for Bid Proposal", October 2021;~~]

(c) "Policy Memorandum on Approved Codification Services Vendors and Codification Grant Applicants/Recipients, PM 2021-11", November 2021.~~["Local Records Program Grant Guidelines", November 2021;]~~

~~[(d)] ["Microfilming and Digital Imaging of Public Records: A Procedural Guide", January 2010;]~~

~~[(e)] ["Policy Memorandum on Approved Codification Services Vendors and Codification Grant Applicants/Recipients, PM 2021-11", November 2021; and]~~

~~[(f)] ["Codification Services Vendor Application", December 2021.]~~

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601, Monday through Friday, 9 a.m. to 4 p.m.

JAMIE LINK, Secretary

APPROVED BY AGENCY: September 3, 2025

FILED WITH LRC: September 12, 2025 at 10:20 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Friday, November 21, 2025, at 11:00 AM Eastern time, at the Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 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: Drew Preston, Local Records Branch Manager, Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601, phone (502) 330-4986, andrewd.preston@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Andrew Preston
Subject Headings: Archives and Records, County Clerks, Local Governments
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes uniform policies to govern the Local Records Grant Program as required by KRS 142.010(5).
(b) The necessity of this administrative regulation: This regulation is essential to establish the method by which the Kentucky Department for Libraries and Archives administers the Local Records Program Grant funds in accordance with KRS 142.010(5).
(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation sets forth the details of the Local Records Program Grant and the method by which the Kentucky Department for Libraries and Archives administers it as required by KRS 142.010(5).
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation outlines eligibility requirements, evaluation criteria, application procedures, and program rules for local government offices pursuing a Local Records Program Grant.
(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 amended regulation amends the program rules and processes to align with state procurement law, streamline the process for local agency applicants, and eliminate the restrictions applied to codification services.
(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to implement the Local Records Program Grant as mandated by KRS 142.010(5). It ensures local government offices understand the parameters for eligibility and the criteria by which applications are reviewed.
(c) How the amendment conforms to the content of the authorizing statutes: KRS 142.010(5) mandates the Kentucky Department for Libraries and Archives to administer the Local Records Program Grant; and KRS 171.520 mandates the Kentucky Department for Libraries and Archives to prescribe policies for the provision and improvement of records management programs. Amendments to the regulation effectuate the Kentucky Department for Libraries and Archives' responsibility to establish policies and principles for records management programs and administer the Local Records Program Grant.
(d) How the amendment will assist in the effective administration of the statutes: The amendment ensures the program rules and processes align with state procurement law, streamlines the process for local agency applicants, and eliminates the restrictions applied to codification services.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation, which effectuates the Local Records Program Grants, affects all one hundred twenty (120) of Kentucky's County Clerks offices, potentially all other local government offices, and micrographics vendors.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: The amended regulation changes the applicable procurement procedures used when grant recipients utilize the grant money to ensure grant recipients follow their locally adopted procurement laws.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): The amendment implements a grant program; therefore, the amendment carries no expected costs for those identified in question four (4).
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Entities identified in question (4) will benefit from this amendment by having a clearer definition of the eligibility of their projects and the criteria by which they are judged. It also streamlines the required procurement procedures to ensure they align with the grantees locally adopted procurement laws.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: No new costs will be incurred.
(b) On a continuing basis: No new costs will be incurred.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Taxes on legal processes and instruments per KRS 142.010(5) provide the funding for this regulation.
(8) 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.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This amended regulation does not establish fees or directly or indirectly increase any fees.
(10) TIERING: Is tiering applied? Tiering is not applicable to the requirements of this regulation because the expectations it establishes apply to all local government offices 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 142.010(5)(a), KRS 171.450(2), and KRS 171.520.
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 171.450(2) requires the Department for Libraries and Archives (Department) to use allocated tax funds to fund the Local

Records Grant Program. KRS 171.520 authorizes the department to administer and grant any money appropriated to it for providing and improving records management programs of state and local agencies. This administrative regulation establishes uniform policies for the administration of the Department's Local Records Grant Program, which effectuates the mandate set forth in KRS 171.450.
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The promulgating agency is the Kentucky Department for Libraries and Archives. This regulation is used to administer the Local Records Grant Program, and it affects the county clerks as well as all other local government agencies which apply for a grant.
(b) Estimate the following for each affected state unit, part, or division identified in (3)(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.
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): Any local government office is eligible to apply for a grant. KRS 142.010(5) requires the Department to allocate ninety percent (90%) of the funds to county clerks. However, if there are insufficient grant applications from the county clerks, the Department may award remaining grant money to any local government office. (b) Estimate the following for each affected state unit, part, or division identified in (4)(a):
(b) Estimate the following for each affected local entity identified in (4)(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.
(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)
(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 amendments are procedural and will not impact the amount of grants awarded through the local records grant program.
(b) Methodology and resources used to reach this conclusion: The local records grants are funded through taxes collected in accordance with KRS 142.010(5). Therefore, the Department has no authority to determine the total amounts available to award through the local records grant program.
(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(14): This administrative regulation will not have a "major economic impact" as defined by KRS 13A.010(14), because there are no additional costs to implement the amendments to the Local Records Grant Program.
(b) The methodology and resources used to reach this conclusion: Not applicable.

***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 Audits and Investigations**
**(Amendment)**

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

RELATES TO: KRS 217.005-217.215, 218A.010, 218A.020, 218A.040, 218A.060, 218A.080, 218A.100, 218A.120, 218A.200, 21 C.F.R. 1308.11, 1308.12, 1308.13, 1308.14, 1308.15, 1308.35, 1308.49, 21 U.S.C. 301 – 399f[~~, 801-971~~]
STATUTORY AUTHORITY: KRS 218A.020(1), (3)
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 218A.020(1) authorizes the Cabinet for Health and Family Services to promulgate administrative regulations in order to add, delete, or reschedule substances enumerated in KRS Chapter 218A. KRS 218A.020(3) authorizes the Cabinet for Health and Family Services to promulgate administrative regulations to control substances at the state level in the same numerical schedule corresponding to the federal schedule or control a substance in a more restrictive schedule than the federal schedule. This administrative regulation designates Schedule I, II, III, IV, and V drugs. This administrative regulation differs from the federal regulation, 21 C.F.R. 1308.11, because it designates tianeptine and bromazolam as [~~a~~]Schedule I controlled substances[~~substance~~]. The Cabinet for Health and Family Services recognizes that tianeptine and bromazolam have[~~has~~] no accepted medical use in treatment and inclusion on Kentucky's Schedule I list will help reduce the risk to public health. This administrative regulation differs from the federal regulation, 21 C.F.R. 1308.14, because it designates pentazocine, barbital, methylphenobarbital, and phenobarbital as a Schedule III controlled substance. The federal regulation designates these substances as a Schedule IV controlled substance. The Cabinet for Health and Family Services recognizes that pentazocine and derivatives of barbituric acid or its salts have significant abuse potential, and inclusion on Kentucky's Schedule III list will help reduce the risk to public health. This administrative regulation further differs from the federal regulation, 21 C.F.R. 1308.14-1308.15, because it designates nalbuphine as a Schedule IV controlled substance and gabapentin as a Schedule V controlled substance. The Cabinet for Health and Family Services recognizes that nalbuphine and gabapentin have significant abuse potential, and inclusion on Kentucky's controlled substances schedules will help reduce the risk to public health.

Section 1. Schedule I Controlled Substances.
(1) Each substance that is scheduled or designated as a Schedule I controlled substance under 21 C.F.R. 1308.11, including a substance temporarily scheduled or designated under 21 C.F.R. 1308.11(h) or 1308.49, shall be scheduled or designated at the state level as a Schedule I controlled substance.
(2) The Cabinet for Health and Family Services designates the following as[~~—a~~] Schedule I controlled substances[~~substance~~]:[ ~~tianeptine.~~]
(a) Tianeptine;
(b) Bromazolam.
(3) The following shall be exempt from control as a Schedule I substance:
(a) Cannabis plant material, and products made therefrom, that contain tetrahydrocannabinols pursuant to the exemption established in 21 C.F.R. 1308.35; and

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

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

Section 3. Schedule III Controlled Substances.

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

(2) The Cabinet for Health and Family Services designates the following as Schedule III controlled substances:

(a) Pentazocine;

(b) Barbital;

(c) Methylphenobarbital; and

(d) Phenobarbital.

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

(a) Expressly intended for administration through implant to livestock or other nonhuman species; and

(b) Approved by the United States Food and Drug Administration for use as described in this subsection.

Section 4. Schedule IV Controlled Substances.

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

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

Section 5. Schedule V Controlled Substances.

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

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

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

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

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

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

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

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

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

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

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

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

(a) Name and address of the purchaser;

(b) Name and quantity of controlled substance purchased;

(c) Date of each purchase; and

(d) Name or initials of the pharmacist who dispensed the substance to the purchaser.

TRICIA STEWARD, Inspector General
STEVEN J. STACK, MD, MBA, Secretary
APPROVED BY AGENCY: August 18, 2025
FILED WITH LRC: August 18, 2025 at 2:35 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 24, 2025, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by November 17, 2025, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation through November 30, 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
Subject Headings: Controlled substance
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation designates Kentucky's schedules of controlled substances.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with KRS 218A.020.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 218A.020(3), which authorizes the Cabinet for Health and Family Services to promulgate administrative regulations to control substances at the state level in the same numerical schedule corresponding to the federal schedule or control a substance in a more restrictive schedule than the federal schedule.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by designating Kentucky's schedules of controlled substances.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This amendment designates bromazolam as a Schedule I controlled substance.
(b) The necessity of the amendment to this administrative regulation: This amendment is in response to a recent request from Van Ingram, Executive Director, Office of Drug Control Policy. Mr. Ingram requested that the cabinet designate bromazolam as a Schedule I controlled substance via emergency administrative regulation. Bromazolam has no accepted medical use in treatment and

inclusion on Kentucky's Schedule I list will help reduce the risk to public health. Bromazolam was recently banned by two of Kentucky's border states, Virginia and West Virginia. Bromazolam is not approved for use by humans or animals by the FDA.
(c) How the amendment conforms to the content of the authorizing statutes: In accordance with KRS 218A.020(5), the Office of Drug Control Policy may request the cabinet to schedule any substance that meets the criteria to be scheduled under KRS Chapter 218A. This amendment conforms to the content of KRS 218A.040 by designating bromazolam as a Schedule I controlled substance.
(d) How the amendment will assist in the effective administration of the statutes: This amendment assists in the effective administration of KRS 218A.040 by designating bromazolam as a Schedule I controlled substance.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects Kentucky's pharmacists and prescribing practitioners. State and local law enforcement agencies would also be impacted.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: Bromazolam is not currently prescribed. Pharmacists and doctors should be advised that this drug will now be considered a Schedule I drug. Law enforcement, both local and state, should be advised that possession of this drug without a prescription is subject to laws currently in place regarding possession or sale of an illicit substance.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): No costs will be incurred by any entity identified in question (4).
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Bromazolam is not currently a prescription medication in the U.S. It is currently only purchased illegally and is not approved for use in humans or animals by the U.S. Food and Drug Administration (FDA). Bromazolam is a triazolobenzodiazepine, a type of benzodiazepine, that was first synthesized in 1976 but never marketed. It is known as a "designer drug" and has been identified in the illicit drug market. When benzodiazepines like bromazolam are sometimes prescribed for anxiety, insomnia, and other conditions, they can also lead to dependence and have potential side effects. Studies, like those using drug discrimination tests with rats, have shown bromazolam to have a high potential for substitution and abuse, similar to other benzodiazepines. Inclusion on Kentucky's Schedule I list will help reduce the risk to public health by making possession of the drug illegal.
(6) 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.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The source of funding to be used for the implementation and enforcement of this administrative regulation is from general funds.
(8) 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.
(9) 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.
(10) TIERING: Is tiering applied? Tiering is not applicable as compliance with this administrative regulation applies equally to all individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 218A.020, 21 C.F.R. 1308.11, 1308.12, 1308.13, 1308.14, 1308.15, 1308.35, 1308.49.
(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 Kentucky's pharmacists and prescribing practitioners who rely on state and federal regulations for information regarding scheduled drugs as well as state and local law enforcement agencies and the Department of Corrections.
(a) Estimate the following for the first year:
Expenditures: This amendment will not generate additional revenue for state or local government.
Revenues: This amendment will not generate additional revenue for state or local government.
Cost Savings: This amendment will not generate any cost savings.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? (b) How will expenditures, revenue, 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 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): (4) Identify additional regulated entities not identified 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 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.
(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) (a) Whether this administrative regulation will have an overall negative or adverse 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.

FEDERAL MANDATE ANALYSIS COMPARISON

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

1308.49.
(2) State compliance standards. KRS 218A.020.
(3) Minimum or uniform standards contained in the federal mandate. 21 C.F.R. 1308.11 lists controlled substances that have been classified by the DEA as Schedule I drugs. 21 C.F.R. 1308. Bromazolam is a triazolobendiazepine, a type of benzodiazepine. 21 C.F.R. 1308.49 allows the DEA to place a substance into Schedule I on a temporary basis if such action is necessary to avoid an imminent hazard to the public safety.
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Yes, the federal government has not scheduled this drug; however, the federal government has sent out warnings and is leaving the decision up to states to control. This administrative regulation differs from the federal regulation because it designates bromazolam as a Schedule I controlled substance. Bromazolam is not currently controlled under the federal Controlled Substances Act. Bromazolam is not a prescription medication and is not approved by the FDA for use in humans or animals. This administrative regulation differs from the federal regulation because it designates bromazolam is not yet regulated by the federal government, although it is not approved for any use by the FDA
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The cabinet recognizes that bramazolam has no accepted medical use in treatment and inclusion on Kentucky's Schedule I list will help reduce the risk to public health.

***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**
**Department for Public Health**
**Division of Public Health Protection and Safety**
**(Amendment)**

**902 KAR 100:130. Dental.**

RELATES TO: KRS 211.842-211.852, 211.990(4), 21 C.F.R. 1020.30
STATUTORY AUTHORITY: KRS 194A.050, 211.090, 211.844
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services[Human Resources] is authorized by KRS 211.844 to provide by administrative regulation for the registration and licensing of the possession or use of any sources of ionizing or electronic product radiation and the handling and disposal of radioactive waste. [The purpose of ]This administrative regulation establishes the[is to provide special] requirements for the possession, use and operation of intraoral[intra-oral] dental radiographic x-ray systems.

Section 1. Applicability. This administrative regulation shall apply to dental intraoral[intra-oral] radiographic x-ray systems and to persons, equipment and materials used in connection with the possession, use or operation of these systems.

Section 2. Source to Skin Distance. Each radiographic x-ray system designed for use with an intraoral[intra-oral] image receptor shall be provided with a means to limit the source to skin distance to not less than[:]
[(1)] eighteen (18) centimeters[ if operable above fifty (50) kilovolts peak; or]
[(2)] [Ten (10) centimeters if not operable above fifty (50) kilovolts peak].

Section 3. Field Limitation. Each radiographic x-ray system designed for use with an intraoral[intra-oral] image receptor shall be equipped[provided] with a means to limit the x-ray beam.
(1) If the minimum source to skin distance [(SSD) ]is eighteen (18) centimeters or more, the x-ray field[, at the minimum SSD,] shall be containable in a circle having a diameter of no more than seven (7) centimeters.[; or]
(2) Circular beams are permitted but the cabinet recommends the use of rectangular collimation.
(3) The useful beam shall be limited to the area of clinical interest[If the minimum SSD is less than eighteen (18) centimeters, the x-ray field, at the minimum SSD, shall be containable in a circle having a diameter of no more than six (6) centimeters].

Section 4. Operator and Public Protection.
(1) Except for hand-held x-ray systems with integral shields, each installation shall be provided with a protective barrier for the operator or shall be so arranged that the operator can conveniently stand[, in the judgment of the cabinet,] at least six (6) feet[one and eight tenths (1.8) meters] from the patient, the tube housing assembly, and outside the path of the useful x-ray beam while making an exposure.
(2) If six (6) feet cannot be maintained, a barrier shall be provided, with the ability to view the patient, while making the exposure.
(3) The operator shall monitor and secure the area prior to making an exposure near public areas.
(4) In dental facilities using a large, multi-patient open-bay design, a patient in proximity to another patient being radiographed shall be treated as a member of the public.
(5) All public areas shall comply with the applicable requirements of 902 KAR 100:019[if the exposure to the operator is within the limits provided by 902 KAR 100:020, Section 20].

Section 5. Operating Procedures. In performing intraoral[intra-oral] dental radiography, the following rules shall apply:
(1) Patient and image receptor film holding devices shall be used if technique permits.[;]
(2) Except for units designed to be hand-held, the tube housing and position indicating device shall not be hand-held during an exposure.
(3) No individual shall be used routinely to hold the image receptor or patient during a radiation exposure.
(4) The registrant shall restrict the presence of individuals in the area of the patient being radiographed. Parents or guardians may accompany a child or person with special needs. Those persons shall be positioned so that no part of their body is exposed to the primary beam and be protected from secondary radiation by protective lead shielding to not less than 0.25 millimeter lead equivalent material.
(5) A sufficient number of protective apparel (e.g., aprons, gloves, thyroid collars) and auxiliary shields shall be available to provide the necessary radiation protection for all patients and personnel who are involved with x-ray operations.
(a) All protective apparel and auxiliary shields shall be evaluated annually for integrity and clearly labeled with their lead equivalence.
(b) Shielding shall be provided for patients when it will not interfere with the examination.
(c) In accordance with guidance from a qualified expert, registrants implementing dose reduction technologies (e.g., position-indicating device 20-30 cm, rectangular collimation, fast digital image receptors) and procedures, may develop and submit to the cabinet for approval their own policies and procedures regarding human patient protection, exposure of pregnant patients, patient shielding, and patient education.
(6) The registrant shall annually review their radiation protection program in accordance with 902 KAR 100:019 Section 2.
(7) The registrant shall maintain and make available safe operating procedures to include written safety procedures and techniques required for the safe use of the x-ray system.
(8) Image receptors of speeds slower than ANSI speed group E/F or D speed shall not be used for intraoral radiography.
(9) Dental fluoroscopy without image intensification shall not be used.
(10) Technique factors and selection criteria shall be appropriate

to the age and size of the patient.

(11) The registrant shall maintain a quality control program that complies with 902 KAR Chapter 100[~~Neither the tube housing assembly nor the position indicating device shall be hand-held during an exposure;~~]

[~~(3)~~] [~~The x-ray system shall be arranged and operated in a manner that the useful beam at the patient's skin does not exceed the dimensions specified in Section 3 of this administrative regulation.~~]

[~~(4)~~] [~~Each patient undergoing dental radiography shall be draped with a protective apron of not less than 0.25 mm lead equivalent to cover the gonadal area;~~]

[~~(5)~~] [~~Film of a USASI (USA) speed group rating of "D" or faster shall be used;~~]

[~~(6)~~] [~~All dental radiographic x-ray systems registered after March 2, 1977, shall be provided with electronic timers; and~~]

[~~(7)~~] [~~If patients are immobilized during an x-ray exposure mechanical restraints shall be used if technique permits~~].

Section 6. Beam Quality. The half-value layer of the useful beam shall:

(1) Not be less than the value specified in 21 C.F.R. 1020.30(m), Table 1; and

(2) Meet requirements specified in 21 C.F.R. 1012.30(m)(1).

Section 7. Leakage Radiation. The leakage radiation from the diagnostic source assembly shall be measured in accordance with 21 C.F.R. 1020.30(k).

Section 8. kVp Accuracy. The kVp accuracy shall be within plus or minus ten (10) percent of its indicated value.

Section 9. Coefficient of Variation. The coefficient of variation for timing, radiation exposure and reproducibility shall not exceed 0.05 in four (4) consecutive exposures.

Section 10. Maintaining Compliance. Diagnostic x-ray systems and their associated components used on humans and certified pursuant to the Federal X-Ray Equipment Performance Standards for Ionizing Radiation Emitting Products, 21 C.F.R. Part 1020, shall be maintained in compliance with applicable requirements of that standard.

Section 11. Additional Requirements. In addition to the requirements of this administrative regulation, dental intraoral x-ray systems shall:

(1) Provide a visual and audible indication x-rays are being produced.

(2) Utilize a "dead-man" exposure switch.

(3) Provide a means to terminate the exposure at a preset:

(a) Time interval;

(b) Product of current and time;

(c) Number of pulses; or

(d) Radiation exposure to the image receptor.

(4) Display their technique factors prior to exposure:

(a) If automatic exposure controls are used, the technique factors, which are set prior, shall be indicated; or

(b) May be met by permanent display of markings on x-ray systems using fixed technique factors.

(5) Have tube housing assembly supports so that the tube housing assembly remains stable during the exposure unless tube housing movement is a designed function of the x-ray system.

(6) Not be operated at less than 50 kVp.

Section 12. Hand-held Devices. In addition to the standards in 902 KAR Chapter 100, the following applies specifically to intraoral hand-held devices.

(1) Any dental intraoral hand-held x-ray system used shall be cleared by the Federal Food and Drug Administration prior to use.

(2) The hand-held x-ray system shall be equipped with a backscatter shield of not less than .25 millimeter lead equivalent.

(3) The registrant shall maintain documentation that each operator has completed training as specified by the manufacturer, to ensure the operator is competent in the safe use of the x-ray system.

(4) The training required by subsection (3) of this section shall, at a minimum, contain:

(a) Basics of x-ray production and scatter,

(b) ALARA principle and basic protective measures to include time, distance, and shielding; and

(c) Proper positioning of the patient and operator, location and orientation of the handheld device, and operator's hand positioning on the device.

(5) When the hand-held x-ray system is not in use it shall be secured and stored so that it is not accessible to members of the public.

(6) The registrant shall provide personal dosimeters for all new hand-held x-ray system operators to determine if further monitoring is required pursuant to 902 KAR 100:19 Section.[~~Filtration. In addition to the requirements of 902 KAR 100:115, Section 6, all intra-oral dental radiographic systems manufactured on and after December 1, 1980, shall have a minimum half-value layer not less than one and five- tenths (1.5) millimeters aluminum equivalent filtration permanently installed in the useful beam.~~]

[~~Section 7.~~] [~~Linearity. On dental intra-oral radiographic systems certified under the federal performance standard, if the equipment allows a choice of x-ray tube current settings and is operated on a power supply as specified by the manufacturer in accordance with the requirements of applicable federal standards, for any fixed x-ray tube potential within the range of forty (40) to 100 percent of the maximum rating, the average ratios of exposure to the indicated milliampere-seconds product obtained at any two (2) consecutive tube current settings shall not differ by more than one-tenth (0.1) times their sum.~~]

JOHN R. LANGEFELD, MD, Commissioner
STEPHEN J. STACK, M.D., MBA, Secretary
APPROVED BY AGENCY: August 1, 2025
FILED WITH LRC: September 9, 2025 at 10:09 a.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 24, 2025, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by November 17, 2025, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation through November 30, 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: Julie Brooks and Krista Quarles
Subject Headings: Public Health, Dentistry, Health and Medical Services
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the standards for the possession, use and operation of intraoral dental radiographic x-ray systems.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to protect the dental office staff who use intraoral dental radiographic x-ray systems, the

patients, and members of the general public from accidental exposure.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 194A.050 authorizes the secretary of the cabinet to promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law. KRS 211.844 authorizes the Cabinet for Health and Family Services to provide by administrative regulation for the registration and licensing of the possession or use of any source of ionizing or electronic product radiation, and to protect the public from unnecessary radiation exposure.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures that all intraoral dental radiographic x-ray systems are operated in a safe manner that protects the patient, members of the general public, and the staff of the dental office engaged in taking the x-ray.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation revises the requirements for shielding the patient during x-ray procedures, adds requirements for the use of hand-held x-ray devices, adds procedures to protect members of the general public from exposure, adds the option for a dental office to engage with a qualified expert for guidance, and cites to the applicable federal code of regulation for additional safety requirements.
(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to address updates to the technology used for intraoral dental radiographic x-ray systems, and to ensure these systems are operated in a safe manner.
(c) How the amendment conforms to the content of the authorizing statutes: KRS 211.844 authorizes the cabinet to promulgate administrative regulations for the registration and licensing related to the possession and use of any source of ionizing or electronic product radiation, and to protect the public from unnecessary radiation exposure.
(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation will continue to ensure intraoral dental radiographic x-ray systems meet all required safety standards.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are currently 1,550 registered dental offices that will be affected by this administrative regulation.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: Dental offices will need to ensure the intraoral dental radiographic x-ray systems are in compliance with the requirements of this administrative regulation and will need to make any necessary adjustments for compliance.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): The costs associated with compliance can vary. Dental x-ray shielding supplies to protect from radiographic exposure can range in prices from $150 up to $300, depending on the product. New radiographic machines can range in price from $3,500 up to $10,000 or more. This administrative regulation does not require dental offices to purchase new machines, and most offices will have shielding products available.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Dental office staff, patients, and members of the general public will be protected from unnecessary radiation exposure.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: This is an ongoing program, there are no initial cost.
(b) On a continuing basis: This administrative regulation does not add to the cost to implement the radiation producing machine program.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The Radiation Health Branch is funded through a mix of state general fund dollars and revenue from licensing fees.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees or funding is not necessary to implement the requirements of this administrative regulation.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees contained in this administrative regulation.
(10) TIERING: Is tiering applied? Tiering is not applied as the provisions of this administrative regulation are applicable to all dental offices that have intraoral dental radiographic x-ray systems.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050 and 211.844.
(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Department for Public Health, Radiation Health Branch is the promulgating agency.
(a) Estimate the following for the first year:
Expenditures: There will be no impact on program expenditures. The Radiation Health Branch currently issues licenses for the use of intraoral dental radiographic systems. Staff also regularly conduct inspections of these machines. These functions will not be impacted by the amendment to this administrative regulation.
Revenues: This administrative regulation will not generate revenue.
Cost Savings: This administrative regulation will not result in cost savings.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no change to expenditures, revenues, or cost savings in subsequent years.
(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): There are no affected local entities.
(a) Estimate the following for the first year:
Expenditures: Not applicable.
Revenues: Not applicable.
Cost Savings: Not applicable.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? Not applicable.
(4) Identify additional regulated entities not listed in questions (2) or (3): Dental offices that utilize an intraoral dental radiographic x-ray system are additional regulated entities.
(a) Estimate the following for the first year:
Expenditures: This administrative regulation should not result in increased expenditures for the additional regulated entities in the first year. If funds are expended for compliance with this administrative regulation, the range can be between $150 to purchase new shielding materials up to $10,000 to purchase new intraoral radiographic x-ray systems. This would be a one-time expense. These expenditures would be considered part of the cost of doing business and not additional expenditures.
Revenues: This administrative regulation does not generate revenue for the additional regulated entities.
Cost Savings: This administrative regulation does not result in overall cost savings for the additional regulated entities.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no change in expenditures, revenues, or cost saving in subsequent years.
(5) Provide a narrative to explain the:
(a) Fiscal impact of this administrative regulation: The fiscal impact of this administrative regulation will be minimal. Most registered dental offices utilize intraoral radiographic x-ray systems that are in compliance with the requirements of this administrative regulation. They may have minimal cost associated with purchasing new shielding equipment. Those items can cost between $150 and $300

depending on the style purchased. New intraoral radiographic x-ray systems can cost between $3,500 and $10,000, depending on the model purchased.
(b) Methodology and resources used to determine the fiscal impact: The cost of the shielding items and radiographic x-ray systems was obtained through an internet search for the cost of dental x-ray supplies.
(6) Explain:
(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). ($500,000 or more, in aggregate) This administrative regulation does not have an overall negative or adverse major economic impact. If a dental office were to purchase new intraoral radiographic x-ray system, the cost would not exceed $500,000. Most new systems cost between $3,500 and $10,000.
(b) The methodology and resources used to reach this conclusion: The internet search returned several suggestions for the purchase of dental x-ray supplies, including x-ray systems. No single item was listed in excess of $10,000.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. The requirements under 21 C.F.R. 1020.30 are applicable to all diagnostic x-ray systems and their major components.
(2) State compliance standards. KRS 194A.050 authorizes the secretary of the cabinet to promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law. KRS 211.844 authorizes the Cabinet for Health and Family Services to provide by administrative regulation for the registration and licensing of the possession or use of any source of ionizing or electronic product radiation, and to protect the public from unnecessary radiation exposure.
(3) Minimum or uniform standards contained in the federal mandate. 21 C.F.R. 1020.30(m) establishes the beam quality, including those for specified systems, and 21 C.F.R. 1020.30(k) establishes the threshold for leakage radiation from the diagnostic source assembly.
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No, this administrative regulation does not impose any stricter requirements, or additional or different responsibilities or requirements.
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.

***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**
**Department for Medicaid Services**
**Division of Health Care Policy**
**(Amendment)**

**907 KAR 1:023. Review and approval of selected therapies as ancillary services in nursing facilities.**

RELATES TO: 42 C.F.R. Parts 430,[~~431, 432, 433, 435, 440, 442,~~] 447, 455, 456, 482, 42 U.S.C. 1396a, b, d, c, r
STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3)[~~, EO 2004-726~~]
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: [~~EO 2004-726, effective July 9, 2004, reorganized the Cabinet for Health Services and placed the Department for Medicaid Services and the Medicaid Program under the Cabinet for Health and Family Services.~~ ]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 for the provision of Medical Assistance to Kentucky's indigent citizenry. This administration regulation establishes the provisions relating to the review and approval of selected therapies as ancillary services for Medicaid recipients in nursing facilities.

Section 1. Definitions.
(1) [~~"Adult recipient" means an individual who is:~~]
[~~(a)~~] [~~Eligible to participate in Kentucky's Medicaid Program; and~~]
[~~(b)~~] [~~Age twenty-one (21) or over.~~]
[~~(2)~~] "Ancillary service" means a direct therapy service[~~ for which a separate charge is customarily made~~] pursuant to Section 2 of this administrative regulation.
[~~(3)~~] [~~"Attending physician" means the physician of record identified in the recipient's nursing facility medical record.~~]
(2)[~~(4)~~] "Department" means the Department for Medicaid Services or its designee.
(3)[~~(5)~~] "Nursing facility" or "NF" means:
(a) A facility:
1. To which the state survey agency has granted an NF license;
2. For which the state survey agency has recommended to the department certification as a Medicaid provider; and
3. To which the department has granted certification for Medicaid participation; or
(b) A hospital swing bed that provides services in accordance with 42 U.S.C. 1395tt and 1396l, if the swing bed is certified to the department as meeting requirements for the provision of swing bed services in accordance with 42 U.S.C. 1396r(b), (c), (d), 42 C.F.R. 447.280 and 482.66.
[~~(6)~~] [~~"Pediatric recipient" means an individual who is:~~]
[~~(a)~~] [~~Eligible to participate in Kentucky's Medicaid Program; and~~]
[~~(b)~~] [~~Under twenty-one (21) years of age.~~]

Section 2. Covered Ancillary Services.
(1) Oxygen therapy shall be a covered ancillary service if[~~ the department determines that~~] the therapy[~~:~~]
[~~(a)~~] is medically necessary[~~; and~~]
[~~(b)~~] [~~Meets criteria pursuant to Section 3 of this administrative regulation~~].
(2) The following therapies shall be covered ancillary services if medically necessary[~~the department determines that the therapies meet the criteria established in Section 3 of this administrative regulation~~]:
(a) Physical therapy;
(b) Occupational therapy; or
(c) Speech and language therapy.

[~~Section 3.~~] [~~On-site Review Approval and Denial Criteria.~~]
[~~(1)~~] [~~The department shall approve a therapy as an ancillary service if, through an on-site review, the department determines that:~~]
[~~(a)~~] [~~The nature and extent of functional deficiency requires a qualified therapist, as determined through chart evaluation and resident contact;~~]
[~~(b)~~] [~~The care setting is appropriate for treatment planned;~~]
[~~(c)~~] [~~The therapy frequency, duration and intensity shall be reasonable and necessary for the resident's current active diagnosis;~~]
[~~(d)~~] [~~The following documentation is complete:~~]
[~~1.~~] [~~Referral request;~~]
[~~2.~~] [~~Therapy assessment;~~]
[~~3.~~] [~~Action plan;~~]
[~~4.~~] [~~Progress report; and~~]
[~~5.~~] [~~Service discontinuance;~~]
[~~(e)~~] [~~The progress of the resident can be verified against baseline and stated goals and time frames;~~]
[~~(f)~~] [~~The therapy is not duplicative of other services that the resident is receiving;~~]
[~~(g)~~] [~~The condition of the resident requires a registered therapist~~

to:]

[1.] [Evaluate the resident's active daily intervention program;]

[2.] [Supervise trained staff to carry out a therapy regimen;]

[3.] [Use assistive or adaptive equipment;]

[4.] [Train staff to use assistive or adaptive equipment;]

[5.] [Train the resident to use assistive or adaptive equipment during goal setting;]

[6.] [Supervise and certify a therapy assistant who is participating in a treatment program;]

[7.] [Establish a nursing care plan program to be performed by:]

[a.] [Nursing staff;]

[b.] [Restorative aide; or]

[c.] [A resident; and]

[8.] [Be responsible for the timely discharge of a service level;]

[(h)] [A therapist has a:]

[1.] [Specific diagnosis;]

[2.] [Specific treatment plan that relates to a condition of the resident;]

[3.] [Specific modality for intervention that relates to a condition of the resident; and]

[4.] [Reasonable expectation for gain based on reasonable goals and time frames; and]

[(i)] [A resident is:]

[1.] [An adult recipient who meets the approval criteria of the "Technical Criteria for Reviewing Ancillary Services for Adults"; or]

[2.] [A pediatric recipient who meets the "Technical Criteria for Reviewing Ancillary Services for Pediatrics".]

[(2)] [The department shall deny a request for a therapy as an ancillary service pursuant to Section 2 of this administrative regulation if, through an on-site review, the department determines that:]

[(a)] [Services of a registered therapist are not needed on a daily basis because:]

[1.] [Lack of progress of the patient;]

[2.] [Goals have been met;]

[3.] [A patient is unable to participate;]

[4.] [Lack of ability of nursing staff or resident to conduct or perform care;]

[5.] [The Nursing care plan program has been designed and will be performed by staff other than a therapist;]

[6.] [Nursing staff or the resident is able to safely:]

[a.] [Perform the following:]

[(i)] [Repetitious exercise;]

[(ii)] [Nonrestorative exercise; or]

[(iii)] [Drills; and]

[b.] [Use equipment or devices;]

[7.] [The frequency or intensity of the services exceeds the benefits;]

[8.] [No further gains are reasonably achievable; or]

[9.] [A resident is:]

[a.] [Independent; or]

[b.] [Needs only minimal assistance for performance;]

[(b)] [The resident is:]

[1.] [An adult recipient who meets the "Indication for Denial" criteria established in the "Technical Criteria for Reviewing Ancillary Services for Adults"; or]

[2.] [A pediatric recipient who meets the "Indication for Denial" criteria established in the "Technical Criteria for Reviewing Ancillary Services for Pediatrics"; and]

[(c)] [If applicable, oxygen therapy is not medically necessary.]

[Section 4.] [Certification and Recertification Process for a Therapy as an Ancillary Service.]

[(1)] [Within two (2) workdays of the date that a recipient's attending physician orders administration of a therapy pursuant to Section 2 of this administrative regulation, an NF shall:]

[(a)] [Notify the department by telephone; and]

[(b)] [Request an on-site review of the therapy.]

[(2)] [Within five (5) workdays of receipt of notification pursuant to subsection (1) of this section, the department shall:]

[(a)] [Perform an on-site review pursuant to Section 3 of this administrative regulation; and]

[(b)] [Render a certification decision.]

[(3)] [The department shall issue a written notice of approval or denial relating to:]

[(a)] [A request for oxygen therapy to the:]

[1.]

[a.] [Resident; or]

[b.] [Guardian;]

[2.] [NF; and]

[3.] [Attending physician; or]

[(b)] [A request for a therapy pursuant to Section 2(2) of this administrative regulation to the NF.]

[(4)] [If a therapy pursuant to Section 2(2) of this administrative regulation is approved as an ancillary service, the department shall establish a certification period that includes:]

[(a)] [A start date of up to two (2) workdays prior to the date of notification by an NF pursuant to subsection (1) of this section; and]

[(b)] [An end date that the department determines to be a reasonable time period for an individual to meet goals established by an individualized therapy program.]

[(5)] [Prior to the last day of a certification period for an approved therapy as an ancillary service, the department shall:]

[(a)] [Recertify a therapy as an ancillary service for the extended period of time, if an individual continues to meet criteria pursuant to Sections 2 and 3 of this administrative regulation; and]

[(b)] [Issue a written notice pursuant to subsection (3) of this section.]

[(6)] [If the department denies a request for certification or recertification of a therapy as an ancillary service, the NF may request that the department reconsider a request pursuant to Section 5 of this administrative regulation.]

[Section 5.] [Reconsideration and Appeal of a Denial of a Therapy as an Ancillary Service.]

[(1)] [The department shall reconsider its decision to deny a request for oxygen therapy as an ancillary service if, within thirty (30) days of the date on a notice of adverse action, a written request for reconsideration is submitted to the department by the:]

[(a)] [Resident; or]

[(b)] [Resident's legal guardian.]

[(2)] [If the department receives a request for reconsideration pursuant to subsection (1) of this section, the department shall:]

[(a)] [Conduct a reconsideration on-site review within three (3) workdays from the receipt of the request;]

[(b)] [Employ a physician who was not involved with the initial on-site review or determination to conduct a reconsideration on-site review;]

[(c)] [Base its reconsideration decision solely upon information that is:]

[1.] [Contained in the resident's medical records; and]

[2.] [Submitted with the written request pursuant to subsection (1) of this section; and]

[(d)] [Issue a notification of approval or denial within two (2) workdays of a reconsideration on-site review.]

[(3)] [The department shall reconsider its decision to deny a request for a therapy as an ancillary service pursuant to Section 2(2) of this administrative regulation if:]

[(a)] [Form MAP-703, "Request for Reconsideration of Ancillary Therapy Billing" is submitted to the department by an NF; and]

[(b)] [Form MAP-703 is received by the department within seven (7) days of the date on the notice of adverse action.]

[(4)] [If the department receives a request for reconsideration pursuant to subsection (3) of this section, the department shall:]

[(a)] [Conduct a reconsideration on-site review within seven (7) workdays from receipt of the request;]

[(b)] [Employ a registered nurse who was not involved with the initial on-site review or determination to conduct the reconsideration on-site review;]

[(c)] [Base its reconsideration decision solely upon information that is:]

[1.] [Contained in the resident's medical records; and]

[2.] [Submitted with the request pursuant to subsection (3)(a) of this section; and]

[(d)] [Issue a notification of approval or denial within three (3) workdays of a reconsideration on-site review.]

[~~(5)~~] [~~If an outcome of a reconsideration on-site review results in the denial of a therapy as an ancillary service, the department shall grant an appeal as follows:~~]

[~~(a)~~] [~~An appeal of the denial of oxygen therapy as an ancillary service shall be granted pursuant to 907 KAR 1:563; and~~]

[~~(b)~~] [~~An appeal of the denial of a therapy pursuant to Section 2(2) of this administrative regulation as an ancillary service shall be granted pursuant to 907 KAR 1:671.~~]

[~~Section 6.~~] [~~Incorporation by Reference.~~]

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

[~~(a)~~] [~~The "Technical Criteria for Reviewing Ancillary Services for Adults", Department for Medicaid Services, November 2003 edition;~~]

[~~(b)~~] [~~The "Technical Criteria for Reviewing Ancillary Services for Pediatrics", Department for Medicaid Services, November 2003 edition; and~~]

[~~(c)~~] [~~Form "MAP-703, Request for Reconsideration of Ancillary Therapy Billing", Department for Medicaid Services, April 2000 edition.~~]

[~~(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 40621, Monday through Friday, 8 a.m. to 4:30 p.m.~~]

LISA D. LEE, Commissioner
STEVEN J. STACK, MD, MBA, Secretary
APPROVED BY AGENCY: August 1, 2025
FILED WITH LRC: September 9, 2025 at 10:09 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 24, 2025, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by November 17, 2025, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation through November 30, 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 and Jonathan Scott
Subject Headings: Cognitive Decline and Impairment; Disability and Disabilities; Health and Medical Services; Medicaid, Nursing Facilities
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administration regulation establishes the provisions relating to the review and approval of selected therapies as ancillary services for Medicaid recipients in nursing facilities.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the provisions relating to the review and approval of selected therapies as ancillary services for Medicaid recipients in nursing facilities.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the authorizing statutes by establishing the provisions relating to the review and approval of selected therapies as ancillary services for Medicaid recipients in nursing facilities.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the administration of the statute by establishing the provisions relating to the review and approval of selected therapies as ancillary services for Medicaid recipients in nursing facilities.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The administrative regulation removes various provisions relating to ancillary therapy reviews, documentation, and services.
(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to reflect a change to the Medicaid state plan that transitions ancillary therapies to a per diem payment instead of separate reimbursement.
(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms by ensuring that current state plan and reimbursement policy aligns with the relevant administrative regulation.
(d) How the amendment will assist in the effective administration of the statutes: The amendment will ensure that current reimbursement policy surrounding ancillary therapies is updated.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are 257 nursing facilities currently participating in the Medicaid Program.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: None.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): DMS does not anticipate additional costs for regulated entities in complying with this amendment.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Entities will be able to participate in ancillary services and receive reimbursement as part of the per diem reimbursement.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: The department does not anticipate any additional costs in implementing this administrative regulation.
(b) On a continuing basis: The department does not anticipate any additional costs in implementing this administrative regulation.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Federal and state general and restricted funds.
(8) 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.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish or increase any fees directly or indirectly.
(10) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. 42 C.F.R. 431.153, 431.154, 447.280, 482.58, 42 U.S.C. 1396r
(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Cabinet for Health and Family Services, Department for Medicaid Services, other agencies have

not been identified.
(a) Estimate the following for the first year:
Expenditures: The department does not anticipate additional expenses as a result of the amendment.
Revenues: The department does not anticipate additional revenues as a result of the amendment.
Cost Savings: The department does not anticipate cost savings as a result of the amendment.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? DMS does not anticipate additional expenditures, revenues, or cost savings as a result of this amendment.
(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): N/A this regulation does not impact local entities.
(a) Estimate the following for the first year:
Expenditures: N/A there is no impact on local entities
Revenues: N/A there is no impact on local entities
Cost Savings: N/A there is no impact on local entities
(b) How will expenditures, revenues, or cost savings differ in subsequent years? The department does not anticipate that this administrative regulation will have a fiscal impact on local entities.
(4) Identify additional regulated entities not listed in questions (2) or (3): Nursing facilities.
(a) Estimate the following for the first year:
Expenditures: The department does not anticipate additional expenses for nursing facilities as a result of incorporating ancillary therapies into per diem payment rates.
Revenues: The department does not anticipate additional revenues for nursing facilities as a result of incorporating ancillary therapies into per diem payment rates.
Cost Savings: The department does not anticipate cost savings for nursing facilities as a result of incorporating ancillary therapies into per diem payment rates.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? The department does not anticipate additional expenditures, additional revenues, or cost savings for nursing facilities as a result of incorporating ancillary therapies into per diem payment rates.
(5) Provide a narrative to explain the:
(a) Fiscal impact of this administrative regulation: This administrative regulation will not have a fiscal impact on the department or regulated entities. DMS does not anticipate a change to reimbursement amounts for ancillary therapies as a result of this change.
(b) Methodology and resources used to determine the fiscal impact: The department has worked with an external contractor to complete a fiscal analysis. This information has also been relayed to the federal government.
(6) Explain:
(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). ($500,000 or more, in aggregate) This administrative regulation will not have a major economic impact – as defined by KRS 13A.010 – on regulated entities.
(b) The methodology and resources used to reach this conclusion: The department has worked with an external contractor to complete a fiscal analysis. This information has also been relayed to the federal government

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1395tt, 1396l, 1396r
(2) State compliance standards. KRS 194A.030(2), 194A.050(1), 205.520(3)
(3) Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 1396R establishes requirements for nursing facilities.
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation does not impose stricter than federal requirements.
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter than federal requirements.

***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**
**Department for Medicaid Services**
**Division of Health Care Policy**
**(Amendment)**

**907 KAR 1:065. Payments for price-based nursing facility services.**

RELATES TO: KRS 142.361, 142.363, 216.380, 42 C.F.R. Parts 430, 431, 432, 433, 435, 440, 441, 442, 447, 455, 456, 482.58, 483.10, 483.20, 42 U.S.C. 1395tt, 1396, 1396a, 1396b, 1396c, 1396d, 1396g, 1396l, 1396n, 1396o, 1396p, 1396r, 1396r-2, 1396r-5

STATUTORY AUTHORITY: KRS 142.361(5), 142.363(3), 194A.030(2), 194A.050(1), 205.520(3)

CERTIFICATION STATEMENT:

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 for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes the method for determining amounts payable by the Medicaid program for services provided by a price-based nursing facility.

Section 1. Definitions.
(1) "Ancillary service" means a direct service including:
(a) Ancillary services pursuant to 907 KAR 1:023; or
(b) If ordered by a physician:
1. Clinical laboratory procedures; or
2. X-rays or imaging services.
(2) "Appraisal" means an evaluation of a price-based nursing facility building, excluding equipment and land, conducted by the department in accordance with Section 4 of this administrative regulation for the purpose of calculating the depreciated replacement cost of a price-based nursing facility.
(3) "Appraisal base year" means a year in which the department conducts an appraisal of each price-based NF.
(4) "Auxiliary building" means a roofed and walled structure:
(a) Serviced by electricity, heating, and cooling;
(b) Independent of an NF;
(c) Used for administrative or business purposes related to an NF; and
(d) Constructed on the same tract of ground as an NF.
(5) "Capital rate component" means a calculated per diem amount for an NF based on:
(a) The NF's appraised depreciated replacement cost;
(b) A value for land;
(c) A value for equipment;
(d) A rate of return;
(e) A risk factor;
(f) The number of calendar days in the NF's cost report year;
(g) The number of licensed NF beds in the NF; and
(h) The NF's bed occupancy percentage.
(6) "Case-mix" means the time-weighted average price-based NF acuity for Medicaid-eligible and dual-eligible Medicare and Medicaid residents under a Medicare Part A reimbursed stay in a price-based nursing facility, and is based on Minimum Data Set (MDS) 3.0 data classified through the Patient Driven Payment Model

(PDPM) resident classification system or equivalent.

(7) "Core based statistical area" or "CBSA" means the designation of metropolitan and micropolitan population centers based on the national census, as published by the Federal Office of Management and Budget.

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

(9) "Equipment" means a depreciable tangible asset, other than land or a building, which is used in the provision of care for a resident by an NF staff person.

(10) "Governmental entity" means a unit of government for the purposes of 42 U.S.C. 1396b(w)(6)(A).

(11) "Hospital-based NF" means an NF that:

(a) Is separately identifiable as a distinct part of the hospital; and

(b) If separated into multiple but distinct parts of a single hospital, is combined under one (1) provider number.

(12) "Land" means a surveyed tract or tracts of ground that share a common boundary:

(a) As recorded in a county government office;

(b) Upon which a building licensed as an NF is constructed; and

(c) Including site preparation and improvements.

(13) "Local unit of government" means a city, county, special purpose district, or other governmental unit in the state.

(14) "NF" or "nursing facility" means:

(a) A facility:

1. To which the state survey agency has granted an NF license;

2. For which the state survey agency has recommended to the department certification as a Medicaid provider; and

3. To which the department has granted certification for Medicaid participation; or

(b) A hospital swing bed that provides services in accordance with 42 U.S.C. 1395tt and 1396l, if the swing bed is certified to the department as meeting requirements for the provision of swing bed services in accordance with 42 U.S.C. 1396r(b), (c), (d), 42 C.F.R. 447.280, and 482.58.

(15) "NF building" means a roofed and walled structure serviced by electricity, heating, and cooling and that is also an NF.

(16) "Nursing facility with Medicaid waiver" or "NF-W" means an NF to which the state survey agency has granted a waiver of the nursing staff requirement.

(17) "Provider assessment" means the assessment imposed by KRS 142.361 and 142.363.

(18) "Routine services" means the services covered by the Medicaid program pursuant to 42 C.F.R. 483.10(f)(11)(i).

(19) "Site improvement" means a depreciable asset element, other than an NF building or auxiliary building, on NF land extending beyond an NF's foundation if used for NF-related purposes.

(20) "Standard price" means a facility-specific reimbursement that includes a case-mix adjusted component, noncase-mix adjusted component including an allowance to offset a provider assessment, noncapital-facility related component, and capital rate component.

(21) "State survey agency" means the Cabinet for Health and Family Services, Office of Inspector General, Division of Health Care.

(22) "Time-weighted" means a method of calculating case-mix by determining the number of days that a minimum data set (MDS) record is active over a calendar quarter rather than captured from a single day during the calendar quarter.

Section 2. NF Reimbursement Classifications and Criteria.

(1) An NF or a hospital-based NF shall be reimbursed as a price-based NF pursuant to this administrative regulation if:

(a) It provides NF services to an individual who:

1. Is a Medicaid recipient;

2. Meets the NF patient status criteria pursuant to 907 KAR 1:022; and

3. Occupies a Medicaid-certified bed; and

(b)

1. It has more than ten (10) NF beds and the greater of:

a. Ten (10) of its Medicaid-certified beds participate in the Medicare program; or

b. Twenty (20) percent of its Medicaid certified beds participate in the Medicare program; or

2. It has less than ten (10) NF beds and all of its NF beds participate in the Medicare program.

(2) An NF-W shall be reimbursed as a price-based NF pursuant to this administrative regulation if it meets the criteria established in subsection (1)(a) of this section.

(3) The following shall not be reimbursed as a price-based NF and shall be reimbursed pursuant to 907 KAR 1:025:

(a) An NF with a certified brain injury unit;

(b) An NF with a distinct part ventilator unit;

(c) An NF designated as an institution for mental disease;

(d) A dually-licensed pediatric facility; or

(e) An intermediate care facility for individuals with an intellectual disability.

Section 3. Reimbursement for Federally-Defined Swing Beds and for Skilled Nursing Facility Services in Critical Access Hospital Swing Beds.

(1) The reimbursement rate for a federally-defined swing bed shall be:

(a) The average rate per patient day paid to freestanding price-based NFs for routine services furnished during the preceding calendar year, excluding any payment made pursuant to Section 14 of this administrative regulation; and

(b) Established effective January 1 of each year.

(2)

(a) The department shall reimburse a critical access hospital for skilled nursing facility services in a swing bed at the same rate as established by the Centers for Medicare and Medicaid Services for Medicare.

(b) The department shall pay an interim per diem rate as established by CMS for the Medicare program.

(c) The effective date of a rate shall be the same as used by the Medicare program.

(d) A critical access hospital's final reimbursement for skilled nursing facility services in a swing bed shall reflect any adjustment made by the Centers for Medicare and Medicaid Services.

(e) Total payments made to a critical access hospital for skilled nursing facility services provided in a swing bed under this section shall be subject to the payment limitation established in 42 C.F.R. 447.271.

(f) The provisions established in this subsection shall apply to a critical access hospital that complies with all requirements established in KRS 216.380.

Section 4. Price-based NF Appraisal.

(1) The department shall appraise a price-based NF to determine the facility specific capital component in 2009, and every fifth year, in order to calculate the NF's depreciated replacement cost.

(2) The department shall not appraise equipment or land. A provider shall be given the following values for land and equipment:

(a) Ten (10) percent of an NF's average licensed bed value for land; and

(b) $2,000 per licensed NF bed for equipment.

(3) The department shall utilize the following variables and fields of the nursing home or convalescent center CoreLogic Commercial Express Valuation System to appraise an NF identified in Section 2(1) of this administrative regulation:

(a) Provider number;

(b) Property owner - NF name;

(c) Address;

(d) Zip code;

(e) Section number - the lowest number shall be assigned to the oldest section and a basement, appraised as a separate section, immediately follows the section it is beneath;

(f) Occupancy code - nursing home or substructure;

(g) Average story height;

(h) Construction type;

(i) Number of stories;

(j) Gross floor area (which shall be the determination of the exterior dimensions of all interior areas including stairwells of each floor, specifically excluding outdoor patios, covered walkways,

carports, and similar areas). In addition, interior square footage measurements shall be reported for:

1. A non-NF area;

2. A shared service area by type of service; and

3. A revenue-generating area;

(k) Gross perimeter (common walls between sections shall be excluded from both sections);

(l) Construction quality;

(m) Year built;

(n) Building effective age;

(o) Building condition;

(p) Depreciation percent;

(q) Exterior wall material;

(r) Roof covering material and roof pitch;

(s) Heating system;

(t) Cooling system;

(u) Floor finish;

(v) Ceiling finish;

(w) Partition wall structure and finish;

(x) Passenger and freight elevators - actual number;

(y) Fire protection system (sprinklers, manual fire alarms, and automatic fire detection) - percent of gross area served. If both the floor and attic areas are protected by a sprinkler system or automatic detection, the percent of gross area served shall be twice the floor area; and

(z) Miscellaneous additional features, which shall be limited to:

1. Canopies;

2. Entry foyers (sheltered entry ways):

a. The glass and aluminum standard allowance shall be fifty (50) dollars per square foot;

b. Bulkhead standard allowance shall be:

(i) Eleven (11) dollars per square foot for a wood frame;

(ii) Twelve (12) dollars per square foot for a steel frame; or

(iii) Thirty-one (31) dollars per square foot for brick masonry;

3. Loading docks;

4. Code alerts, Wanderguards, or other special electronically-secured doorways, except for a door with a sound detector or sensing unit (the standard allowance shall be $1,420 for each fully-functioning door at the time of appraisal);

5. A door with a sound detector or sensing unit shall have a standard allowance of $865 per door;

6. Automatic sliding doors (the standard allowance shall be $25,450 per doorway);

7. An automatic door opener shall have a standard allowance of $9160 per door;

8. Detached garages or storage sheds (which shall have an attached reinforced concrete floor and a minimum of 200 square feet);

9. Modular buildings or trailers, if the structure has a minimum of 200 square feet, electrical service, and heating or cooling services (the standard allowance shall be eighty (80) dollars per square foot);

10. Walk-in coolers or freezers;

11. Laundry chutes (the standard allowance shall be $2,530 per floor serviced);

12. Dumb waiters (which shall have a minimum speed of fifty (50) feet per minute. The standard allowance shall be $20,500 for the initial two (2) stops for a manual door or $52,520 for the initial two (2) stops for an electric door and $5,050 per additional stop);

13. Skylights (the standard allowance shall be fifty-seven dollars per square foot);

14. Operable built-in oxygen delivery systems (valued at $425 per serviced bed);

15. Carpeted wainscoting (the standard allowance shall be eighty (80) dollars per licensed bed);

16. Balconies;

17. Ceiling fans for which the standard allowance shall be $375 for each ceiling fan without a light and $675 for each ceiling fan with a light;

18. Cupolas for which the standard allowance shall be $990 each;

19. Fireplaces;

20. Concrete-lined utility tunnels for which the standard allowance shall be thirty-two dollars per cubic foot; and

21. Mechanical penthouses.

(4) An item listed in subsection (3)(z) of this section shall be subject to the CoreLogic Commercial Express valuation system monetary limit unless a monetary limit is provided for that item in subsection (3)(z) of this section.

(5) The department shall use the corresponding CoreLogic Commercial Express valuation system default value for any variable listed in subsection (3) of this section if no other value is stated for that variable in subsection (3) of this section.

(6)

(a) Values from the most recent CoreLogic Commercial Express valuation system tables shall be used during an appraisal.

(b) An adjustment calculation shall be performed if the most recent CoreLogic Commercial Express valuation system tables do not correspond to an appraisal base year.

(7) In addition to an appraisal cited in subsection (1) of this section, the department shall appraise an NF identified in Section 2(1) of this administrative regulation if:

(a) The NF submits written proof of construction costs to the department; and

(b)

1. The NF undergoes renovations or additions costing a minimum of $150,000 and the NF has more than sixty (60) licensed beds; or

2. The NF undergoes renovations or additions costing a minimum of $75,000 and the NF has sixty (60) or fewer licensed beds.

(8) An auxiliary building shall be:

(a) Appraised if it rests on land, as defined in Section 1(12) of this administrative regulation; and

(b) Appraised separately from an NF building.

(9) To appraise an auxiliary building, the department shall utilize a CoreLogic Commercial Express valuation system model, if the model better fits the auxiliary building's use and type.

(10) If an NF building has beds licensed for non-NF purposes or a provider conducts business activities not related to the NF, the appraisal shall be adjusted between NF and non-NF activity. The appraiser shall determine if the adjustment shall be made by dividing the number of licensed NF beds by the total number of beds, or through the use of an adjustment factor determined in accordance with appraisal industry standards by the appraiser, regardless of the occupancy factor. For example, an adjustment factor may be used to apportion the appraisal by the percent of NF square footage relative to the square footage on non-NF-related business activities.

(11) Cost of an appraisal shall be the responsibility of the NF being appraised.

(12) A building held for investment, future expansion, or speculation shall not be considered for appraisal purposes.

(13) The department shall not consider the following location factors in rendering an appraisal:

(a) Climate;

(b) High-wind zone;

(c) Degree of slope;

(d) Position;

(e) Accessibility; or

(f) Soil condition.

Section 5. Standard Price Overview.

(1) Rates shall reflect the differential in wages, property values, and cost of doing business in rural and urban designated areas.

(2) On July 1 of each year, the department shall utilize the most recent Federal Office of Management and Budget's core based statistical area (CBSA) designations to classify an NF as being in an urban or rural area, with metropolitan areas always being classified as urban. The urban and rural designations shall be based on the location of the NF under the CBSA designation.

(3) The department shall utilize an analysis of fair-market pricing and historical cost for the following data:

(a) Staffing ratios;

(b) Wage rates;

(c) Cost of administration, food, professional support, consultation, and nonpersonnel operating expenses as a percentage of total cost;

(d) Fringe benefit levels;
(e) Capital rate component; and
(f) Noncapital facility-related component.

(4) The following components shall comprise the case-mix adjustable portion of an NF's standard price:
(a) The personnel cost of:
1. A director of nursing;
2. A registered nurse (RN);
3. A licensed practical nurse (LPN);
4. A nurse aide;
5. An activities staff person; and
6. A medical records staff person; and
(b) Nonpersonnel operating cost including:
1. Medical supplies; and
2. Activity supplies.

(5) The following components shall comprise the noncase-mix adjustable portion of an NF's standard price:
(a) Administration to include an allowance to offset a provider assessment;
(b) Nondirect care personnel;
(c) Food;
(d) Professional support; and
(e) Consultation.

(6) The following components shall comprise the facility and capital component of an NF's standard price:
(a) The noncapital facility-related component, which shall be a fixed, uniform amount for all price-based NFs; and
(b) The NF's capital rate component, which shall be facility specific.

(7) Excluding capital rate components, the following is an example of an urban and a rural price-based NF's standard price based on rebased wages at the 2024 level:

| CBSA Designation | Case-Mix Adjustable Portion of Standard Price | Noncase-Mix Adjustable Portion of Standard Price Without Capital Rate Component | Total Standard Price Excluding Capital Rate Components |
|---|---|---|---|
| Urban | $160.33[~~160.14~~] | $133.70[~~101.81~~] | $294.03[~~261.95~~] |
| Rural | $136.05[~~135.87~~] | $121.58[~~89.68~~] | $257.63[~~225.55~~] |

(8) A price-based NF's standard price may be:
(a) Adjusted for inflation every July 1 using the version of the CMS Nursing Home without Capital Market Basket that was effective on the July 1 that the inflation adjustment occurred; and
(b) Rebased:
1. Effective July 1, 2024; and
2. At least once every four (4) years thereafter.

(9) The department shall adjust an NF's standard price if:
(a) A governmental entity imposes a mandatory minimum wage or staffing ratio increase and the increase was not included in the inflation adjustment; or
(b) A new licensure requirement or new interpretation of an existing requirement by the state survey agency results in changes that affect all facilities within the class. The provider shall document that a cost increase occurred as a result of a licensure requirement or policy interpretation.

Section 6. Standard Price Calculation.

(1) Based on the classification of urban or rural, the department shall calculate an individual NF's standard price to be the sum of:
(a) The case-mix adjustable portion of the NF's standard price, adjusted by the NF's current case-mix index pursuant to Section 7 of this administrative regulation;
(b) The noncase-mix adjustable portion of the NF's standard price, which shall include an allowance to offset a provider assessment;
(c) The noncapital facility-related component; and
(d) Pursuant to subsection (2) of this section, the capital rate component.

(2) An NF's capital rate component shall be calculated as follows:
(a) The department shall add the total of:
1. The NF's average licensed bed value, which shall:
a. Be determined by dividing the NF's depreciated replacement cost, as determined from an appraisal conducted in accordance with Section 4 of this administrative regulation, adjusted every July 1 using the RS Means Construction Cost Indexes, and applying the total weighted average annual change of the Kentucky cities by the NF's total licensed NF beds; and
b. Not exceed $80,278[~~79,775~~] effective July 1, 2024[~~2023~~], which shall be adjusted every July 1 thereafter by the same factor applied to the NF's depreciated replacement cost;
2. A value for land, which shall be ten (10) percent of the NF's average licensed NF bed value, established in accordance with subparagraph 1. of this paragraph; and
3. A value for equipment, which shall be $2,000 per licensed NF bed;
(b) The department shall multiply the sum of paragraph (a) of this subsection by a rate of return factor, which shall:
1. Be equal to the sum of:
a. The yield on a twenty (20) year treasury bond as of the first business day on or after May 31 of the most recent year; and
b. A risk factor of two (2) percent; and
2. Not be less than nine (9) percent nor exceed twelve (12) percent;
(c) The department shall determine the NF's capital cost-per-bed day by:
1. Dividing the NF's total patient days by the NF's available bed days to determine the NF's occupancy percentage;
2. If the NF's occupancy percentage is less than ninety (90) percent, multiplying ninety (90) percent by 365 days; and
3. If the NF's occupancy percentage exceeds ninety (90) percent, multiplying the NF's occupancy percentage by 365 days; and
(d) The department shall divide the sum of paragraphs (a) and (b) of this subsection by the NF's capital cost-per-bed day established in paragraph (c) of this subsection to determine an NF's capital rate component.

(3) If a change of ownership occurs pursuant to 42 C.F.R. 447.253(d), the new owner shall:
(a) Receive the capital cost rate of the previous owner unless the NF is eligible for a reappraisal pursuant to Section 4(7) of this administrative regulation; and
(b) File an updated provider application with the Medicaid program pursuant to 907 KAR 1:672, Section 3(4).

(4) A new facility shall be:
(a) Classified as a new facility if the facility does not have a July 1, of the current state fiscal year, Medicaid rate;
(b) Determined to be urban or rural; and
(c) Reimbursed at its standard price, which shall:
1. Be based on a case-mix of 1.0;
2. Be adjusted prospectively based upon no less than one (1) complete calendar quarter of available MDS 3.0 data following the facility's Medicaid certification;
3. Utilize $80,278[~~79,775~~] effective July 1, 2024[~~2023~~], as adjusted through the current state fiscal year as the facility's average licensed NF bed value until the facility is appraised in accordance with Section 4 of this administrative regulation; and
4. Be adjusted, if necessary, following the facility's appraisal if the appraisal determines the facility's average licensed NF bed value to be less than $80,278[~~79,775~~] effective July 1, 2024[~~2023~~], as adjusted through the current state fiscal year.

(5) The amounts calculated pursuant to subsection (4)(c)3. and 4. of this section shall be adjusted annually consistent with the adjustments made to the depreciated replacement cost, as described in subsection (2)(a)1.b. of this section for the capital component calculation.

Section 7. PDPM Adapted Minimum Data Set (MDS) 3.0, and Validation.

(1) A price-based NF's Medicaid MDS data shall be utilized to

determine its case-mix index each quarter.

(2) A price-based NF's case-mix index shall be applied to its case-mix adjustable portion of its standard price.

(3) To determine a price-based NF's case-mix index, the department shall:

(a) Calculate case-mix on a time-weighted basis using MDS data:

1. Extracted on the last date of each calendar quarter from the NF's MDS item sets:

a. Included in the PDPM Adapted Minimum Data Set (MDS) - Version 3.0, Resident Assessment and Care Screening; and

b. Transmitted by the NF to the Centers for Medicare and Medicaid Services; and

2. Which, if revised, shall be revised no later than the last date of the quarter following the date on which MDS data was extracted. For example, MDS data submitted after September 30, 2024[~~2023~~], for the purpose of revision to MDS data extracted June 30, 2024[~~2023~~], shall not be utilized;

(b) Classify the data cited in paragraph (a) of this subsection through the Patient Driven Payment Model (PDPM) resident classification system, nursing component; and

(c) Validate the data cited in paragraph (a) of this subsection as follows:

1. The department shall generate a stratified random sample of thirty (30) percent of the Medicaid residents in a price-based NF;

2. The department shall review one (1) MDS assessment from each resident in the sample referenced in subparagraph 1. of this paragraph; and

3. The department shall review medical records corresponding to the individuals included in the sample identified in subparagraphs 1. and 2. of this paragraph to determine if the medical records accurately support the MDS assessments submitted for the sample residents.

(4) If the department's review, in accordance with subsection (3)(c)3. of this section, of a price-based NF's MDS assessment data reveals that the NF fails to meet the MDS data minimum accuracy threshold, the department shall conduct another review of the same data utilizing an individual or individuals not involved in the initial validation process if the price-based NF requests a reconsideration within ten (10) business days of being notified of the findings of the review.

(5) Only MDS data extracted in accordance with subsection (3)(a)2. of this section shall be allowed during a review or reconsideration.

(6) If a reconsideration of a price-based NF's MDS assessment data, in accordance with subsection (4) of this section, confirms that the NF fails to meet the minimum accuracy threshold, the department shall:

(a) Conduct a conference with the NF to review preliminary findings of the reconsideration; and

(b) Send the final results of the reconsideration to the NF within ten (10) business days of the conference.

(7) In performing validation reviews on MDS data, the department shall:

(a) Notify the NF at the time of the MDS assessment review of any assessment that is not validated and allow the NF to provide supporting documentation that had been utilized to support the assessment;

(b) Consider all MDS supporting documentation provided by the NF prior to the exit conference; and

(c) Not consider MDS supporting documentation provided by the NF after the exit conference has occurred.

(8)

(a) Reconsideration of a price-based NF's MDS assessment data validation shall be provided if the NF:

1. Requests a reconsideration and clearly identifies each specific resident's review and MDS elements that are being disputed;

2. States the basis on which the department's decision on each issue is believed to be erroneous; and

3. Provides a summary supporting the NF's position.

(b) After a reconsideration of a price-based NF's MDS assessment data has been completed, the NF may appeal the department decision regarding the data in accordance with 907 KAR 1:671, Section 9.

(9)

(a) The department shall refer any suspected intentional alteration of clinical documentation or creation of documentation after an MDS assessment has been transmitted to the Office of Inspector General (OIG) for investigation of possible fraud.

(b) A fraud investigation may result in a felony or misdemeanor criminal conviction.

(10) An NF's rate shall be effective beginning on the first date of the second quarter following the MDS extraction date.

(11) An MDS validation review, if conducted, shall be initiated in the quarter[~~month~~] containing the corresponding rate effective date.

(12) A rate sanction shall be applied on the rate effective date following the validation review initiation date.

(13) MDS assessment accuracy thresholds and corresponding rate sanctions shall be established in accordance with this subsection.

(a) If a price-based NF's percentage of accurate MDS assessments is between sixty-five (65) and seventy-nine (79) percent, the price-based NF's rate shall be sanctioned by fifty (50) cents per patient day.

(b) If a price-based NF's percentage of accurate MDS assessments is between forty (40) and sixty-four (64) percent, the price-based NF's rate shall be sanctioned by sixty (60) cents per patient day.

(c) If a price-based NF's percentage of accurate MDS assessments is below forty (40) percent, the price-based NF's rate shall be sanctioned by seventy (70) cents per patient day.

[~~(d)~~] [~~Rate sanctions shall not be applied:~~]

[~~1.~~] [~~Until the rates effective July 1, 2025 are in effect; and~~]

[~~2.~~] [~~Except for those rates that are effective on and after July 1, 2025 as specified in subsection (14) of this section.~~]

(14) Beginning with rates effective July 1, 2025, upon conclusion of a departmental review of MDS data, in accordance with this section of this administrative regulation:

(a) The department shall recalculate the facility's case mix index based on the review's findings; and

(b) If a recalculated case mix index results in a change to the NF's established rate or rates, the rate or rates shall be recalculated and any payment adjustment shall be made.

(15) [~~For rates effective April 1, 2024, through June 30, 2024, the rate shall be equal to the rate effective January 1, 2024.~~]

[~~(16)~~] Beginning July[~~,~~] 1, 2024, the PDPM case-mix index shall be phased in.[~~using the following schedule:~~]

[~~(a)~~] [~~For rates effective July 1, 2024 through September 30, 2024, the case-mix index shall be comprised of twenty-five (25) percent of the PDPM CMI and seventy-five (75) percent of the RUG-III CMI that was in effect prior to the transition.~~]

[~~(b)~~] [~~For rates effective October 1, 2024 through December 31, 2024, the case-mix index shall be comprised of fifty (50) percent of the PDPM CMI and fifty (50) percent of the RUG-III CMI that was in effect prior to the transition.~~]

[~~(c)~~] [~~For rates effective January 1, 2025 through March 31, 2025, the case-mix index shall be comprised of seventy-five (75) percent of the PDPM CMI and twenty-five (25) percent of the RUG-III CMI that was in effect prior to the transition.~~]

(16)[~~(d)~~] Beginning April 1, 2025, the case-mix index shall be comprised of 100 percent of the PDPM CMI at full phase in.[~~and zero percent of the RUG-III CMI that was in effect prior to the transition.~~]

Section 8. Limitation on Charges to Residents.

(1) Except for applicable deductible and coinsurance amounts, an NF that receives reimbursement for a resident pursuant to Section 6 of this administrative regulation shall not charge a resident or his representative for the cost of routine or ancillary services.

(2) An NF may charge a resident or his representative for an item pursuant to 42 C.F.R. 483.10(f)(11)(ii) if:

(a) The item is requested by the resident or representative;

(b) The NF informs the resident or representative in writing that there will be a charge; and

(c) Medicare, Medicaid, or another third party does not pay for the item.

(3) An NF shall:

(a) Not require a resident, or responsible representative of the resident, to request any item or services as a condition of admission or continued stay; and

(b) Inform a resident, or responsible representative of the resident, requesting an item or service for which a charge will be made in writing that there will be a charge and the amount of the charge.

(4) Reserved bed days, per resident, for an NF or an NF-W shall be:

(a) Reimbursed for a maximum of thirty (30) days per calendar year due to hospitalization. Accumulated bed reserve days shall follow a resident if the resident relocates to another facility within a calendar year rather than starting over at zero due to relocation;

(b) Reimbursed for a maximum of ten (10) days during a calendar year for leaves of absence other than hospitalization. Accumulated bed reserve days shall follow a resident if the resident relocates to another facility within a calendar year rather than starting over at zero due to the relocation;

(c) Reimbursed at seventy-five (75) percent of a facility's rate.

(5) Except for oxygen therapy, durable medical equipment (DME) and supplies shall:

(a) Be furnished by an NF; and

(b) Not be billed to the department under a separate DMS claim pursuant to 907 KAR 1:479, Section 6(3).

(6) Except as otherwise covered pursuant to Title 907 KAR, dentures, lenses, frames, or hearing aids shall be paid for through the resident's patient liability or spend down amounts and limited to one (1) replacement per item per calendar year.

Section 9. Reimbursement for Required Services Under the Preadmission Screening Resident Review (PASRR).

(1) Prior to an admission of an individual, a price-based NF shall conduct a level I PASRR in accordance with 907 KAR 1:755, Section 4.

(2) The department shall reimburse an NF for services delivered to an individual if the NF complies with the requirements of 907 KAR 1:755.

(3) Failure to comply with 907 KAR 1:755 may be grounds for termination of the NF's participation in the Medicaid Program.

Section 10. Price-Based NF Protection Period and Budget Constraints.

(1) A county-owned hospital-based nursing facility shall not receive a rate that is less than the rate that was in effect on June 30, 2002.

(2) For each year of the biennium, a price-based NF shall:

(a) Receive an adjustment pursuant to Section 5(8) and (9) of this administrative regulation; or

(b) Except for a county-owned hospital-based nursing facility pursuant to subsection (1) of this section, not receive an increase if the price-based NF's rate is greater than its standard price.

Section 11. Cost Report.

(1) A Medicare cost report and the Supplemental Medicaid Schedules shall be submitted pursuant to time frames established in the CMS Medicare Provider Reimbursement Manual - Part 2 (Pub. 15-2) Sections 102, 102.1, 102.3, and 104, using the Instructions for Completing the Medicaid Supplemental Schedules.

(2) A copy of a price-based NF's Medicare cost report shall be submitted for the most recent fiscal year end.

Section 12. Ancillary Services.

(1) Except for [~~oxygen therapy and for~~ ]ancillary services provided to an individual in a critical access hospital swing bed, the department shall reimburse for an ancillary service [~~that meets the criteria established in 907 KAR 1:023~~ ]utilizing a per diem component to the rates, updated every July 1.

(a) Prior year utilization based on claims through June 30, 2024, and the corresponding outpatient procedure code rate listed in the Medicaid Physician Fee Schedule established in 907 KAR 3:010, Section 1(17).For oxygen therapy procedure codes, the Medicaid DME Program fee schedule established in 907 KAR 1:479 shall be utilized.

(b) For dates of service July 1, 2024, and after, the volume of services shall be reported by the provider on the Kentucky Medicaid Nursing Facility Ancillary Supplemental Schedules. The schedules on file by the department as of June 1 of each year shall be used to determine the ancillary fees.

(c) The sum from paragraphs (a) and (b) above shall be divided by the number of the provider's paid Medicaid days for the same time period.

[~~(2)~~] [~~The department shall reimburse for an oxygen therapy utilizing the Medicaid DME Program fee schedule established in 907 KAR 1:479.~~]

(2)[~~(3)~~] Respiratory therapy and respiratory therapy supplies shall be a routine service.

(3)[~~(4)~~] Reimbursement for ancillary services provided to an individual in a critical access hospital swing bed shall be included in the critical access hospital swing bed reimbursement established in Section 3(2) of this administrative regulation.

Section 13. Quality Program.

(1) Beginning with rates effective July 1, 2025, there shall be a quality add on component in the prospective per diem rates, distributed from a pool of combined funding (state and federal share) from the provider assessment.

(a) For rates effective July 1, 2025, through December 31, 2025, the quality pool shall be five (5) percent of the increase to the provider assessment effective July 1, 2024.

(b) For rates effective January 1, 2026, through June 30, 2026, the quality pool shall be ten (10) percent of the increase to the provider assessment effective July 1, 2024.

(c) For rates effective July 1, 2026, through December 31, 2026, the quality pool shall be fifteen (15) percent of the increase to the provider assessment effective July 1, 2024.

(d) For rates effective January 1, 2027 and after, the quality pool shall be twenty (20) percent of the increase to the provider assessment effective July 1, 2024.

(2) The allowance to offset the provider assessment as determined in Section 5(5)(a) shall be reduced in order to fund the quality pool.

(3) Any leftover funds shall be rolled into the pool for the next state fiscal year.

(4) Points shall be determined on a tiered scoring allocation system, as set by the department, based on metrics from CMS Care Compare, the Supplemental Medicaid Schedules, and the Kentucky Medicaid Nursing Facility Quality Program Behavioral Health Metric Attestation Statement and may be adjusted periodically.

(5) Each metric shall be weighted equally in the collection of total points and distributed by the facility's percentage of weighted Medicaid days.

(6) The quality add on shall be updated on a quarterly basis based on the most recent information as of the day preceding the rate effective date.

Section 14.[~~Section 13.~~] Appeal Rights. A price-based NF may appeal a department decision as to the application of this administrative regulation in accordance with 907 KAR 1:671.

Section 15.[~~Section 14.~~] Supplemental Payments to Nonstate Government-Owned or Operated Nursing Facilities.

(1) Beginning July 1, 2001, subject to state funding made available for this provision by a transfer of funds from a governmental entity, the department shall make a supplemental payment to a qualified nursing facility.

(2) To qualify for a supplemental payment under this section, a nursing facility shall:

(a) Be owned or operated by a local unit of government pursuant to 42 C.F.R. 447.272(a)(2);

(b) Have at least 140 or more Medicaid-certified beds; and

(c) Have a Medicaid occupancy rate at or above seventy-five (75) percent.

(3) For each state fiscal year, the department shall calculate the maximum supplemental payment that it may make to qualifying nursing facilities in accordance with 42 C.F.R. 447.272.

(4) Using the data reported by a nursing facility on a Schedule

NF-7 submitted to the department as of December 31, 2000, the department shall identify each nursing facility that meets the criteria established in subsection (2) of this section.

(5) The department shall determine a supplemental payment factor for a qualifying nursing facility by dividing the qualifying nursing facility's total Medicaid days by the total Medicaid days for all qualifying nursing facilities.

(6) The department shall determine a supplemental payment for a qualifying nursing facility by applying the supplemental payment factor established in subsection (5) of this section to the total amount available for funding under this section.

(7) Total payments made under this section shall not exceed the amount determined in subsection (3) of this section.

(8) Payments made under this section shall:

(a) Apply to services provided on or after April 1, 2001; and

(b) Be made on a quarterly basis.

Section 16.[~~Section 15.~~] Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the coverage; and

(2) Centers for Medicare and Medicaid Services' approval for the coverage.

Section 17.[~~Section 16.~~] Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Medicare Provider Reimbursement Manual - Part 2 (Pub. 15-2), Sections 102, 102.1, 102.3, and 104", October 2007;

(b) The "Instructions for Completing the Medicaid Supplemental Schedules", April 2015;

(c) The "Supplemental Medicaid Schedules", April 2015;[~~and~~]

(d) The "Kentucky Medicaid Nursing Facility Ancillary Supplemental Schedules," July 2024;

(e) The "Kentucky Medicaid Nursing Facility Ancillary Supplemental Schedules Instructions," July 2024;

(f) The "Kentucky Medicaid Nursing Facility Quality Program Behavioral Health Metric Attestation Statement", February 2025; and

(g)[~~(d)~~] "PDPM Adapted Minimum Data Set (MDS)", October 1, 2024[~~2023~~].

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

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

(b) Following location on the department's website[~~Web site~~]: https://chfs.ky.gov/agencies/dms/dafm/Pages/default.aspx.

LISA D. LEE Commissioner
STEVEN J. STACK, M.D., MBA, Secretary
APPROVED BY AGENCY: August 1, 2025
FILED WITH LRC: September 9, 2025 at 10:09 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 24, 2025, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by November 17, 2025, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation through November 30, 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 and Jonathan Scott
Subject Headings: Medicaid, Nursing Facilities, Public Assistance
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes reimbursement for nursing facilities participating in Kentucky Department for Medicaid Services for all non-managed care recipients.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish price-based nursing facility reimbursement provisions.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing price-based nursing facility reimbursement provisions.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the authorizing statutes by establishing updated reimbursement rates for nursing facilities providing care to Kentucky Medicaid recipients.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This amendment updates the reimbursement methodology for the PDPM case mix. In addition, a nursing home quality payment system will be implemented over multiple years, starting at 5% and ending at 20%. In addition, new materials incorporated by reference are included.
(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to produce a quality payment system that is present in an approved state plan document.
(c) How the amendment conforms to the content of the authorizing statutes: The amendment is necessary to comply with a received federal approval.
(d) How the amendment will assist in the effective administration of the statutes: The amendment updated the Medicaid nursing home program to coincide with a received federal approval relating to quality payments.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are 257 nursing facilities participating with Medicaid that may be affected.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: Entities will have to comply with quality initiatives that are included as part of this program in order to receive quality payments.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): DMS does not anticipate additional costs in complying with quality initiatives.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Facilities will become eligible for additional reimbursement via the quality payments.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: DMS anticipates that expenditures for nursing facilities will be consistent with appropriations in the current executive branch state budget.
(b) On a continuing basis: DMS anticipates that expenditures for

nursing facilities will be consistent with appropriations in the current executive branch state budget.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Sources of funding to be used for the implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX and Title XXI of the Social Security Act, and state matching funds of general and agency appropriations.
(8) 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 department does not anticipate an increase in funding in order to implement this administrative regulation.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor increases any fees.
(10) TIERING: Is tiering applied? Tiering was not applied in this administrative regulation because the administration regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.030(2), 194A.050(1)
(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Department for Medicaid Services is the promulgating agency.
(a) Estimate the following for the first year:
Expenditures: The Department for Medicaid Services (DMS) anticipates no additional expenditures as a result of the amendment.
Revenues: The Department for Medicaid Services (DMS) anticipates no additional revenues as a result of the amendment.
Cost Savings: The Department for Medicaid Services (DMS) anticipates no additional cost savings as a result of the amendment.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? DMS does not anticipate expenditures, revenues, or cost savings as a result of the amendment in subsequent years.
(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): DMS does not anticipate an impact on local entities.
(a) Estimate the following for the first year:
Expenditures: N/A
Revenues: N/A
Cost Savings: N/A
(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A
(4) Identify additional regulated entities not listed in questions (2) or (3): Nursing facilities
(a) Estimate the following for the first year:
Expenditures: DMS does not anticipate that facilities will experience increased expenditures as a result of the quality measures.
Revenues: DMS does not anticipate that facilities will experience increased revenues as a result of the quality measures.
Cost Savings: DMS does not anticipate that facilities will experience increased cost savings as a result of the quality measures.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? DMS does not anticipate expenditures, revenues, or cost savings in subsequent years.
(5) Provide a narrative to explain the:
(a) Fiscal impact of this administrative regulation: DMS is implementing a required nursing home quality payment program. Nursing facilities will have the opportunity to prove that they qualify for various higher percentage payment based on meeting quality metrics, improved outcomes, and additional payments will result in no cost savings or fiscal impact changes.
(b) Methodology and resources used to determine the fiscal impact: Staff and external contractor review of the approved program and administrative regulation.
(6) Explain:
(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). ($500,000 or more, in aggregate) The administrative regulation will not have a major negative or adverse economic impact – as defined by KRS 13A.010 – on regulated entities.
(b) The methodology and resources used to reach this conclusion: Staff and external contractor review of the approved program and administrative regulation.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396r(f)(6) and 42 C.F.R. 483.20.
(2) State compliance standards. 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 for the provision of medical assistance to Kentucky's indigent citizenry.
(3) Minimum or uniform standards contained in the federal mandate. 42 C.F.R. 483.20 requires a nursing facility to conduct a resident assessment of each resident.
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation does not set stricter requirements.
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Neither stricter nor additional standards nor responsibilities are imposed.

***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**
**Department for Medicaid Services**
**Division of Health Care Policy**
**(Amendment)**

**907 KAR 8:020. Independent physical therapy service coverage provisions and requirements.**

RELATES TO: KRS 205.520
STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.622, 369.101-369.120, 42 C.F.R. 431.17, 440.130, 45 C.F.R. Part 164, 42 U.S.C. 1396d(a)(13)(C)
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has a responsibility to administer the Medicaid program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the Medicaid program coverage provisions and requirements regarding physical therapy services provided by an independent physical therapist or physical therapy assistant working under the direct supervision of an independent physical therapist.

Section 1. Provider Participation.
(1)
(a) To be eligible to provide and be reimbursed for physical therapy as an independent provider, a provider shall be:
1. Currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672;
2. Except as established in paragraph (b) of this subsection, currently participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671; and
3. Except as provided in subsection (2) of this section, a physical therapist.
(b) In accordance with 907 KAR 17:015, Section 3(3), a provider

of a service to an enrollee shall not be required to be currently participating in the fee-for-service Medicaid program.

(2) Physical therapy provided in accordance with Section 2 of this administrative regulation by a physical therapist assistant who works under the direct supervision of a physical therapist who meets the requirements in subsection (1) of this section shall be reimbursable if the physical therapist is the biller for the therapy.

Section 2. Coverage and Limit.

(1) The department shall reimburse for physical therapy if:

(a) The therapy:

1. Is provided:

a. By a:

(i) Physical therapist who meets the requirements in Section 1(1) of this administrative regulation; or

(ii) Physical therapist assistant who works under the direct supervision of a physical therapist who meets the requirements in Section 1(1) of this administrative regulation; and

b. To a recipient;

2. Is ordered for the recipient by a physician, physician assistant, or advanced practice registered nurse for:

a. Maximum reduction of a physical or intellectual disability; or

b. Restoration of a recipient to the recipient's best possible functioning level; and

3. [~~Is prior authorized; and~~]

[~~4.~~] Is medically necessary; and

(b) A specific amount of visits is requested for the recipient by a physical therapist, physician, physician assistant, or an advanced practice registered nurse.

(2)

(a) There shall be an annual limit of twenty (20) physical therapy visits per recipient per calendar year except as established in [~~paragraph (b) of~~ ]this subsection.

(b) The limit established in paragraph (a) of this subsection may be exceeded if services in excess of the limits are determined to be medically necessary by the:

1. Department, if the recipient is not enrolled with a managed care organization; or

2. Managed care organization in which the enrollee is enrolled, if the recipient is an enrollee.

(c) Prior authorization by the department shall be required only for each therapy visit that exceeds the limit established in paragraph (a) of this subsection unless[~~for a recipient who is not enrolled with~~] a managed care organization establishes a higher limit contractually with the provider.

(d) The limit established in paragraph (a) of this subsection shall not apply to the list of diagnoses established in this paragraph. The therapy diagnosis codes referenced are for information purposes only and shall be updated, if necessary, by the department on an annual basis on any relevant fee schedules. These therapy diagnoses and diagnosis codes shall not be subject to a prior authorization requirement after meeting the visit limit in paragraph (a) of this subsection:

1. Cerebral palsy, currently referenced via diagnosis code G80;

2. Amytrophic lateral sclerosis (ALS), currently referenced via diagnosis code G12;

3. Spinal muscular atrophy (SMA), currently referenced via diagnosis code G12;

4. Muscular dystrophy, currently referenced via diagnosis code G71;

5. Multiple sclerosis, currently referenced via diagnosis code G35;

6. Any traumatic brain injury currently referenced via diagnosis code S06;

7. Parkinson's, currently referenced via diagnosis code G20;

8. Alzheimer's disease, currently referenced via diagnosis code G30;

9. Dementia, currently referenced via diagnosis codes F01 to F03;

10. Frontotemporal dementia, currently referenced by diagnosis code G31;

11. Any intellectual disability currently referenced by diagnosis codes F70 to F79;

12. Ankylosing spondylitis, currently referenced by diagnosis code M45.9; or

13. Diffuse idiopathic skeletal hyperostosis (DISH), currently referenced by diagnosis code M48.1.

Section 3. No Duplication of Service.

(1) The department shall not reimburse for physical therapy provided to a recipient by more than one (1) provider of any program in which physical therapy is covered during the same time period.

(2) For example, if a recipient is receiving physical therapy from a physical therapist enrolled with the Medicaid program, the department shall not reimburse for physical therapy provided to the same recipient during the same time period via the home health program.

Section 4. Records Maintenance, Protection, and Security.

(1)

(a) A provider shall maintain a current health record for each recipient;

(b)

1. A health record shall document each service provided to the recipient including the date of the service and the signature of the individual who provided the service; and

2. The individual who provided the service shall date and sign the health record within seventy-two (72) hours of[~~on~~] the date that the individual provided the service.

(2)

(a) Except as established in paragraph (b) of this subsection, a provider shall maintain a health record regarding a recipient for at least seven (7)[~~five (5)~~] years from the date of the service or until any audit dispute or issue is resolved beyond five (5) years; and

(b) If the secretary of the United States Department of Health and Human Services requires a longer document retention period than the period referenced in paragraph (a) of this subsection, pursuant to 42 C.F.R. 431.17, the period established by the secretary shall be the required period.

(3) A provider shall comply with 45 C.F.R. Part 164.

Section 5. Medicaid Program Participation Compliance.

(1) A provider shall comply with:

(a) 907 KAR 1:671;

(b) 907 KAR 1:672; and

(c) All applicable state and federal laws.

(2)

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

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

1. Interpreted to be fraud or abuse; and

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

Section 6. Third Party Liability. A provider shall comply with KRS 205.622.

Section 7. Use of Electronic Signatures.

(1) The creation, transmission, storage, and other use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 to 369.120.

(2) A provider that chooses to use electronic signatures shall:

(a) Develop and implement a written security policy that shall:

1. Be adhered to by each of the provider's employees, officers, agents, or contractors;

2. Identify each electronic signature for which an individual has access; and

3. Ensure that each electronic signature is created, transmitted, and stored in a secure fashion;

(b) Develop a consent form that shall:

1. Be completed and executed by each individual using an electronic signature;

2. Attest to the signature's authenticity; and

3. Include a statement indicating that the individual has been notified of his or her responsibility in allowing the use of the electronic signature; and

(c) Provide the department, immediately upon request, with:
1. A copy of the provider's electronic signature policy;
2. The signed consent form; and
3. The original filed signature.

Section 8. Auditing Authority. The department shall have the authority to audit any claim, medical record, or documentation associated with any claim or medical record.

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

(1) Receipt of federal financial participation for the coverage; and

(2) Centers for Medicare and Medicaid Services' approval for the coverage.

Section 10. Appeal Rights.

(1) An appeal of an adverse action by the department regarding a service and a recipient who is not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

(2) An appeal of an adverse action by a managed care organization regarding a service and an enrollee shall be in accordance with 907 KAR 17:010.

LISA D. LEE, Commissioner
STEVEN J. STACK, MD, MBA, Secretary
APPROVED BY AGENCY: August 1, 2025
FILED WITH LRC: September 9, 2025 at 10:09 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 24, 2025, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by November 17, 2025, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation through November 30, 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 and Jonathan Scott
Subject Headings: Brain Injury; Children and Minors; Cognitive Decline and Impairment; Disability and Disabilities; Health and Medical Services; Health Benefit Plans; Health Insurance; Medicaid; Physicians and Practitioners
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the Medicaid program coverage provisions and requirements regarding physical therapy services provided by an independent physical therapist or physical therapy assistant working under the direct supervision of an independent physical therapist.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the Medicaid program coverage provisions and requirements regarding physical therapy services provided by an independent physical therapist or physical therapy assistant working under the direct supervision of an independent physical therapist.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing the Medicaid program coverage provisions and requirements regarding physical therapy services provided by an independent physical therapist or physical therapy assistant working under the direct supervision of an independent physical therapist.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists with the effective administration of the statutes by establishing the Medicaid program coverage provisions and requirements regarding physical therapy services provided by an independent physical therapist or physical therapy assistant working under the direct supervision of an independent physical therapist.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment will change this administrative regulation by limiting prior authorization by the department to only therapy visits that exceed the limits established in the administrative regulation unless there is a higher contractual limit established between the provider and the managed care organization. In addition, a list of diagnoses is included that will not be subject to the 20 visit limit. Finally, a date of service signature requirement is removed and replaced with a requirement to sign and date a health record within 72 hours of service.
(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to clarify policies regarding prior authorizations and signature requirements.
(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statute by ensuring there is policy in place regarding prior authorization for therapy services.
(d) How the amendment will assist in the effective administration of the statutes: This amendment assists with the effective administration of the statutes by ensuring there is policy in place regarding prior authorization for therapy services.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: DMS estimates that more than 1,000 practicing and enrolled physical therapists may be affected by this administrative regulation.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: Therapy providers will be required to comply with the updated prior authorization requirements.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): DMS does not anticipate additional costs as a result of this amendment.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Therapists will only be required to follow the prior authorization policy if the limits established in the administrative regulation are exceeded or if they have a contractual agreement with a managed care organization. This may reduce their administrative burden.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: DMS does not anticipate additional costs as a result of this amendment.
(b) On a continuing basis: DMS does not anticipate additional costs as a result of this amendment on a continuing basis.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Sources of funding to be used for the

implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX and Title XXI of the Social Security Act, and state matching funds of general and agency appropriations.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This administrative regulation will not require an increase in fees or funding.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor increases any fees.
(10) TIERING: Is tiering applied? Tiering is not applied.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.030(2), 194A.050(1), 205.520(3), 42 C.F.R. 440.130, 42 U.S.C. 1396d(a)(13)(C)
(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Cabinet for Health and Family Services, Department for Medicaid Services, Division of Health Care Policy
(a) Estimate the following for the first year:
Expenditures: DMS does not anticipate additional expenditures as a result of this amendment.
Revenues: DMS does not anticipate additional revenues as a result of this amendment.
Cost Savings: DMS does not anticipate cost savings as a result of this amendment.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? DMS does not anticipate additional expenditures, revenues, or costs savings as a result of this amendment in subsequent years.
(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): N/A
(a) Estimate the following for the first year:
Expenditures: N/A
Revenues: N/A
Cost Savings: N/A
(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A
(4) Identify additional regulated entities not listed in questions (2) or (3): Physical therapy providers.
(a) Estimate the following for the first year:
Expenditures: DMS does not anticipate additional expenditures as a result of this amendment.
Revenues: DMS does not anticipate additional revenues as a result of this amendment.
Cost Savings: DMS does not anticipate cost savings as a result of this amendment.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? DMS does not anticipate additional expenditures, revenues, or costs savings as a result of this amendment in subsequent years.
(5) Provide a narrative to explain the:
(a) Fiscal impact of this administrative regulation: DMS anticipates no additional costs beyond those budgeted in 2024 Regular Session HB 6.
(b) Methodology and resources used to determine the fiscal impact: Departmental staff have reviewed and assessed this amendment for fiscal impact.
(6) Explain:
(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). ($500,000 or more, in aggregate) This administrative regulation will not have a major economic impact – as defined by KRS 13A.010 – on regulated entities.
(b) The methodology and resources used to reach this conclusion: Departmental staff assessing the practice needs of physical therapists.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396d(a)(13)(C)
(2) State compliance standards. KRS 205.520(3)
(3) Minimum or uniform standards contained in the federal mandate. 42 C.F.R. Part 440, Subpart A establishes requirements for physical therapy, occupations therapy, and services for individuals with speech, hearing, and language disorders.
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation does not impose stricter than federal requirements.
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter than federal requirements.

***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**
**Department for Medicaid Services**
**Division of Health Care Policy**
**(Amendment)**

**907 KAR 8:040. Coverage of occupational therapy, physical therapy, and speech-language pathology services provided by various entities.**

RELATES TO: KRS 205.520, 205.622, 369.101-369.120, 42 C.F.R. 431.17, 440.130, 45 C.F.R. Part 164, 42 U.S.C. 1396a(a)(30)
STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 42 U.S.C. 1396a(a)(30)
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has a responsibility to administer the Medicaid program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the Medicaid program coverage provisions and requirements regarding occupational therapy services, physical therapy services, and speech-language pathology services provided by adult day health care programs, rehabilitation agencies, special health clinics, mobile health services, multi-therapy agencies, and comprehensive outpatient rehabilitation facilities to Medicaid recipients.

Section 1. Provider Participation. To be eligible to provide and be reimbursed for services covered under this administrative regulation, a provider shall be:
(1) Currently enrolled in the Kentucky Medicaid program in accordance with 907 KAR 1:672;
(2) Currently participating in the Kentucky Medicaid program in accordance with 907 KAR 1:671; and
(3)
(a) An adult day health care program;
(b) A multi-therapy agency;
(c) A comprehensive outpatient rehabilitation facility;
(d) A mobile health service;
(e) A special health clinic; or
(f) A rehabilitation agency.

Section 2. Coverage of Services.
(1) The services covered under this administrative regulation shall include:
(a) Physical therapy;

(b) Occupational therapy; or

(c) Speech-language pathology services.

(2) To be covered under this administrative regulation, a service shall be:

(a) Provided to a recipient;

(b) Provided by:

1. An occupational therapist who renders services on behalf of a provider listed in Section 1(3) of this administrative regulation;

2. A physical therapist who renders services on behalf of a provider listed in Section 1(3) of this administrative regulation;

3. A speech-language pathologist who renders services on behalf of a provider listed in Section 1(3) of this administrative regulation;

4. An occupational therapy assistant who renders services:

a. Under supervision in accordance with 201 KAR 28:130; and

b. On behalf of a provider listed in Section 1(3) of this administrative regulation; or

5. A physical therapist assistant who renders services:

a. Under supervision in accordance with 201 KAR 22:053; and

b. On behalf of a provider listed in Section 1(3) of this administrative regulation;

(c) Ordered by:

1. A physician currently participating in the Medicaid program in accordance with 907 KAR 1:671;

2. An advanced practice registered nurse currently participating in the Medicaid program in accordance with 907 KAR 1:671;

3. A physician assistant currently participating in the Medicaid program in accordance with 907 KAR 1:671; or

4. A psychiatrist currently participating in the Medicaid program in accordance with 907 KAR 1:671;

(d) Consistent with a plan of care that shall:

1. Be developed:

a. By:

(i) An occupational therapist currently participating in the Medicaid program in accordance with 907 KAR 1:671;

(ii) A physical therapist currently participating in the Medicaid program in accordance with 907 KAR 1:671; or

(iii) A speech-language pathologist currently participating in the Medicaid program in accordance with 907 KAR 1:671; and

b. In collaboration with:

(i) A physician currently participating in the Medicaid program in accordance with 907 KAR 1:671;

(ii) An advanced practice registered nurse currently participating in the Medicaid program in accordance with 907 KAR 1:671;

(iii) A physician assistant currently participating in the Medicaid program in accordance with 907 KAR 1:671; or

(iv) A psychiatrist currently participating in the Medicaid program in accordance with 907 KAR 1:671; and

2. Identify a specific amount and duration;

(e) For the:

1. Maximum reduction of the effects of a physical or intellectual disability; or

2. Restoration of a recipient to the recipient's best possible functioning level; and

(f) Medically necessary.

(3)

(a) There shall be an annual limit of twenty (20) rehabilitative visits and an annual limit of twenty (20) habilitative visits for each of the following:

1. Occupational therapy service visits per recipient per calendar year except as established in paragraph (c) of this subsection;

2. Physical therapy service visits per recipient per calendar year except as established in paragraph (c) of this subsection; and

3. Speech-language pathology service visits per recipient per calendar year except as established in paragraph (c) of this subsection.

(b) For example, a recipient may receive twenty (20) rehabilitative occupational therapy visits, twenty (20) rehabilitative physical therapy visits, and twenty (20) rehabilitative speech-language pathology service visits per calendar year and in the same calendar year, a recipient may receive twenty (20) habilitative occupational therapy visits, twenty (20) habilitative physical therapy visits, and twenty (20) habilitative speech-language pathology service visits.

(c) The limit established in paragraph (a) of this subsection may be exceeded if services in excess of the limits are determined to be medically necessary by the:

1. Department, if the recipient is not enrolled with a managed care organization; or

2. Managed care organization in which the enrollee is enrolled, if the recipient is an enrollee.

(d) Medical necessity shall be determined on an individual basis per recipient based on the given recipient's needs.

(e) Prior authorization by the department shall be required only for visits above the limit established in paragraph (a) of this subsection unless[~~for a recipient who is not enrolled with~~] a managed care organization establishes a higher limit contractually with the provider.

(f) The limit established in paragraph (a) of this subsection shall not apply to the list of diagnoses established in this paragraph. The therapy diagnosis codes referenced are for information purposes only, and shall be updated – if necessary – by the department on an annual basis on any relevant fee schedules. These therapy diagnoses and diagnosis codes shall not be subject to a prior authorization requirement after meeting paragraph (a)'s visit limit:

1. Cerebral palsy, currently referenced via diagnosis code G80;

2. Amytrophic lateral sclerosis (ALS), currently referenced via diagnosis code G12;

3. Spinal muscular atrophy (SMA), currently referenced via diagnosis code G12;

4. Muscular dystrophy, currently referenced via diagnosis code G71;

5. Multiple sclerosis, currently referenced via diagnosis code G35;

6. Any traumatic brain injury currently referenced via diagnosis code S06;

7. Parkinson's, currently referenced via diagnosis code G20;

8. Alzheimer's disease, currently referenced via diagnosis code G30;

9. Dementia, currently referenced via diagnosis codes F01 to F03;

10. Frontotemporal dementia, currently referenced by diagnosis code G31;

11. Intellectual disabilities, currently referenced by diagnosis codes F70 to F79;

12. Ankylosing spondylitis, currently referenced by diagnosis code M45.9; or

13. Diffuse idiopathic skeletal hyperostosis (DISH), currently referenced by diagnosis code M48.1.

Section 3. Documentation, Records Maintenance, Protection, and Security.

(1) A provider shall maintain a current health record for each recipient.

(2) A health record shall:

(a) Document the provider's initial assessment of the recipient and any subsequent assessments;

(b) Document each service provided to the recipient; and

(c) Include detailed staff notes that state:

1. Progress made toward outcomes identified according to the provider's assessment and in the plan of care developed pursuant to Section 2(2)(d) of this administrative regulation;

2. The date of each service;

3. The beginning and ending time of each service; and

4. The signature and title of the individual providing each service.

(3) The individual who provides a service shall date and sign the health record within seventy-two (72)[~~forty-eight (48)~~] hours of the date that the individual provides the service.

(4)

(a) Except as established in paragraph (b) of this subsection, a provider shall maintain a health record regarding a recipient for at least six (6) years from the date of the service or until any audit dispute or issue is resolved beyond six (6) years.

(b) If the secretary of the United States Department of Health and Human Services requires a longer document retention period

than the period referenced in paragraph (a) of this subsection, pursuant to 42 C.F.R. 431.17, the period established by the secretary shall be the required period.

(5) A provider shall comply with 45 C.F.R. Part 164.

Section 4. Medicaid Program Participation Compliance.

(1) A provider shall comply with:

(a) 907 KAR 1:671;

(b) 907 KAR 1:672; and

(c) [~~KAR Title 895; and~~]

[~~(d)~~] All applicable state and federal laws.

(2)

(a) If a provider receives any duplicate payment or overpayment from the department, regardless of reason, the provider shall return the payment to the department in accordance with 907 KAR 1:671.

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

1. Interpreted to be fraud or abuse; and

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

Section 5. No Duplication of Service.

(1) The department shall not reimburse for an occupational therapy service, physical therapy service, or speech-language pathology service provided to a recipient by more than one (1) provider of any Medicaid program in which the respective service is covered during the same time period.

(2) For example, if a recipient is receiving an occupational therapy service from a multi-therapy agency enrolled with the Medicaid program, the department shall not reimburse for the same occupational therapy service provided to the same recipient during the same time period via the home health program.

Section 6. Third Party Liability. A provider shall comply with KRS 205.622.

Section 7. Out-of-State Providers. The department shall cover a service under this administrative regulation that is provided by an out-of-state provider if the:

(1) Service meets the coverage requirements of this administrative regulation; and

(2) Provider:

(a) Complies with the requirements of this administrative regulation; and

(b) Is:

1.

a. Licensed as an adult day health care program in the state in which it is located;

b. A comprehensive outpatient rehabilitation facility licensed in the state in which it is located;

c. Licensed as a mobile health service in the state in which it is located;

d. A special health clinic licensed in the state in which it is located;

e. A rehabilitation agency licensed in the state in which it is located;

f. An occupational therapist or occupational therapist group;

g. A physical therapist or physical therapist group;

h. A speech-language pathologist or speech-language pathologist group; or

i. A multi-therapy agency;

2. Currently enrolled in the Kentucky Medicaid program in accordance with 907 KAR 1:672; and

3. Currently participating in the Kentucky Medicaid program in accordance with 907 KAR 1:671.

Section 8. Use of Electronic Signatures.

(1) The creation, transmission, storage, and other use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 to 369.120.

(2) A provider that chooses to use electronic signatures shall:

(a) Develop and implement a written security policy that shall:

1. Be adhered to by each of the provider's employees, officers, agents, or contractors;

2. Identify each electronic signature for which an individual has access; and

3. Ensure that each electronic signature is created, transmitted, and stored in a secure fashion;

(b) Develop a consent form that shall:

1. Be completed and executed by each individual using an electronic signature;

2. Attest to the signature's authenticity; and

3. Include a statement indicating that the individual has been notified of his or her responsibility in allowing the use of the electronic signature; and

(c) Provide the department, immediately upon request, with:

1. A copy of the provider's electronic signature policy;

2. The signed consent form; and

3. The original filed signature.

Section 9. Auditing Authority. The department shall have the authority to audit any claim, medical record, or documentation associated with any claim or medical record.

Section 10. Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the coverage; and

(2) Centers for Medicare and Medicaid Services' approval for the coverage.

Section 11. Appeals.

(1) An appeal of an adverse action by the department regarding a service and a recipient who is not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

(2) An appeal of an adverse action by a managed care organization regarding a service and an enrollee shall be in accordance with 907 KAR 17:010.

LISA D. LEE, Commissioner
STEVEN J. STACK, MD, MBA, Secretary
APPROVED BY AGENCY: August 1, 2025
FILED WITH LRC: September 9, 2025 at 10:09 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 24, 2025, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by November 17, 2025, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation through November 30, 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 and Jonathan Scott
Subject Headings: Medicaid, Occupational Therapy, Speech-Language Pathology
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the Medicaid program coverage provisions

and requirements regarding occupational therapy services, physical therapy services, and speech-language pathology services provided by adult day health care programs, rehabilitation agencies, special health clinics, mobile health services, multi-therapy agencies, and comprehensive outpatient rehabilitation facilities to Medicaid recipients.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the Medicaid program coverage provisions and requirements regarding occupational therapy services, physical therapy services, and speech-language pathology services.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statute by establishing the Medicaid program coverage provisions and requirements regarding occupational therapy services, physical therapy services, and speech-language pathology services
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists with the effective administration of the statutes by establishing the Medicaid program coverage provisions and requirements regarding occupational therapy services, physical therapy services, and speech-language pathology services
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment will change this administrative regulation by limiting prior authorization by the department to only therapy visits that exceed the limits established in the regulation unless there is a higher contractual limit established between the provider and the managed care organization. In addition, a list of diagnoses is included that will not be subject to the 20 visit limit. Finally, providers are required to sign health records within 72 hours instead of 48.
(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to clarify policies regarding prior authorizations and signature requirements.
(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statute by ensuring there is policy in place regarding prior authorization for therapy services.
(d) How the amendment will assist in the effective administration of the statutes: This amendment assists with the effective administration of the statutes by ensuring there is policy in place regarding prior authorization for therapy services.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Department for Medicaid Services (DMS) estimates that there are more than 1,000 practicing and enrolled physical therapists, occupational therapists, and speech and language therapists that may be affected by this administrative regulation.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: Therapy providers will be required to comply with the updated prior authorization requirements.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): DMS does not anticipate additional costs as a result of this amendment.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Therapists will only be required to follow the prior authorization policy if the limits established in the administrative regulation are exceeded or if they have a contractual agreement with a managed care organization. This may reduce their administrative burden.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: DMS does not anticipate additional costs as a result of this amendment.
(b) On a continuing basis: DMS does not anticipate additional costs as a result of this amendment on a continuing basis.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Sources of funding to be used for the implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX and Title XXI of the Social Security Act, and state matching funds of general and agency appropriations.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This administrative regulation will not require an increase in fees or funding.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor increases any fees.
(10) TIERING: Is tiering applied? Tiering is not applied.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.030(2), 194A.050(1), 205.520(3), 42 C.F.R. 440.130, 42 U.S.C. 1396d(a)(13)(C)
(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Cabinet for Health and Family Services, Department for Medicaid Services, Division of Health Care Policy
(a) Estimate the following for the first year:
Expenditures: DMS does not anticipate additional expenditures as a result of this amendment.
Revenues: DMS does not anticipate additional revenues as a result of this amendment.
Cost Savings: DMS does not anticipate cost savings as a result of this amendment.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? DMS does not anticipate additional expenditures, revenues, or costs savings as a result of this amendment in subsequent years.
(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): N/A
(a) Estimate the following for the first year:
Expenditures: N/A
Revenues: N/A
Cost Savings: N/A
(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A
(4) Identify additional regulated entities not listed in questions (2) or (3): Therapy providers including physical therapists, occupational therapists, and speech and language therapists.
(a) Estimate the following for the first year:
Expenditures: DMS does not anticipate additional expenditures as a result of this amendment.
Revenues: DMS does not anticipate additional revenues as a result of this amendment.
Cost Savings: DMS does not anticipate cost savings as a result of this amendment.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? DMS does not anticipate additional expenditures, revenues, or costs savings as a result of this amendment in subsequent years.
(5) Provide a narrative to explain the:
(a) Fiscal impact of this administrative regulation: DMS anticipates no additional costs beyond those budgeted in 2024 Regular Session HB 6.
(b) Methodology and resources used to determine the fiscal impact: Departmental staff have reviewed and assessed this amendment for fiscal impact.
(6) Explain:
(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified

in questions (2) - (4). ($500,000 or more, in aggregate) This administrative regulation will not have a major economic impact – as defined by KRS 13A.010 – on regulated entities.
(b) The methodology and resources used to reach this conclusion: Departmental staff assessing the practice needs of physical therapists, occupational therapists, and speech and language pathologists.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396d(a)(13)(C)
(2) State compliance standards. KRS 205.520(3)
(3) Minimum or uniform standards contained in the federal mandate. 42 C.F.R. Part 440, Subpart A establishes requirements for physical therapy, occupations therapy, and services for individuals with speech, hearing, and language disorders.
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation does not impose stricter than federal requirements.
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter than federal requirements.

***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**
**Department for Medicaid Services**
**Division of Health Care Policy**
**(Amendment)**

**907 KAR 10:016. Coverage provisions and requirements regarding inpatient psychiatric hospital services.**

RELATES TO: KRS 205.520
STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 42 C.F.R. 441 Subparts C, D, 456 Subparts D, G, H, I, 42 U.S.C. 1396a-d
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the Medicaid Program coverage provisions and requirements regarding inpatient services provided by psychiatric hospitals.

Section 1. Definitions.
(1) "Active treatment" means a covered psychiatric hospital service provided:
(a) In accordance with 42 C.F.R. 441.154; and
(b) By professional staff employed or contracted by a psychiatric hospital.
(2) "Chronic" is defined by KRS 210.005(2)[(3)].
(3) "Department" means the Department for Medicaid Services or its designee.
(4) "Enrollee" means a recipient who is enrolled with a managed care organization.
(5) "Federal financial participation" is defined by 42 C.F.R. 400.203.
(6) "Interdisciplinary team" means:
(a) For a recipient who is under the age of eighteen (18) years:
1. A parent, legal guardian, or caregiver of the recipient;
2. The recipient;
3. Professional staff; and
4. A staff person, if available, who worked with the recipient during the recipient's most recent placement if the recipient has previously been in a psychiatric hospital; or
(b) For a recipient who is eighteen (18) years of age or older:
1. The recipient;
2. Professional staff;
3. A staff person, if available, who worked with the recipient during the recipient's most recent placement if the recipient has previously been in a psychiatric hospital; and
4. If requested by the recipient, a parent, legal guardian, or caregiver of the recipient.
(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" or "medical necessity" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.
(9) "Mental illness" is defined by KRS 210.005(5)[(2)].
(10) "Professional staff" means psychiatrists and other physicians, physician assistants, psychologists, psychiatric nurses and other nurses, social workers, and other professionals with special education or experience in the care of persons with mental illness and who are involved in the diagnosis and treatment of patients with mental illness.
(11) "Recipient" is defined by KRS 205.8451(9).

Section 2. General Provider Participation Requirements.
(1) To be eligible to provide services covered under this administrative regulation, a psychiatric hospital shall:
(a) Be currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672;
(b) Except as established in subsection (2) of this section, be currently participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671;
(c) Be licensed as a psychiatric hospital in accordance with 902 KAR 20:180;
(d) Meet the facility specification requirements established in 902 KAR 20:170;
(e) Have a utilization review plan for each recipient;
(f) Establish a utilization review process which shall evaluate each Medicaid admission and continued stay prior to the expiration of the Medicaid certification period to determine if the admission or stay is or remains medically necessary;
(g) Be located:
1. Within the Commonwealth of Kentucky;
2. In a state contiguous to the Commonwealth of Kentucky; or
3. In a non-contiguous state and participates on a time-limited, case-by-case basis. The department may limit placement to hospitals within a non-contiguous state to urgent cases who are not able to be placed within the commonwealth or a contiguous state.
(h) Perform and place in each recipient's record a:
1. Medical evaluation;
2. Social evaluation; and
3. Psychiatric evaluation;
(i) Establish a plan of care for each recipient which shall:
1. Address in detail the intensive treatment services to be provided to the recipient;
2. Be placed in the recipient's record; and
3. Meet the master treatment plan requirements established in 902 KAR 20:180; and
(j) If providing services to an individual who is at least sixty-five (65) years of age, be currently certified for participation in the Medicare program.
(2) In accordance with 907 KAR 17:015, Section 3(3), a psychiatric hospital which provides a service to an enrollee shall not be required to be currently participating in the fee-for-service Medicaid Program.
(3) A psychiatric hospital shall:
(a) Agree to provide services in compliance with federal and state laws regardless of age, sex, race, creed, religion, national origin, handicap, or disability;
(b) Comply with the Americans with Disabilities Act (42 U.S.C.

12101 et seq.) and any amendments to the act; and

(c) Comply with:

1. 907 KAR 1:671;

2. 907 KAR 1:672; and

3. All applicable state and federal laws.

(4)

(a) A psychiatric hospital shall attest by the psychiatric hospital's staff's or representative's signature that any claim associated with a service is valid and submitted in good faith.

(b) Any claim and substantiating record associated with a service shall be subject to audit by the:

1. Department or its designee;

2. Cabinet for Health and Family Services, Office of Inspector General or its designee;

3. Kentucky Office of Attorney General or its designee;

4. Kentucky Office of the Auditor for Public Accounts or its designee;

5. United States General Accounting Office or its designee; or

6. For an enrollee, managed care organization in which the enrollee is enrolled.

(c) If a psychiatric hospital receives a request from the:

1. Department to provide a claim, related information, related documentation, or record for auditing purposes, the psychiatric hospital shall provide the requested information to the department within the timeframe requested by the department; or

2. Managed care organization in which an enrollee is enrolled to provide a claim, related information, related documentation, or record for auditing purposes, the psychiatric hospital shall provide the requested information to the managed care organization within the timeframe requested by the managed care organization.

(d)

1. All services provided shall be subject to review for recipient or provider abuse.

2. Willful abuse by a psychiatric hospital provider shall result in the suspension or termination of the psychiatric hospital from Medicaid Program participation.

Section 3. Coverage Requirements.

(1) For the department or managed care organization to reimburse for a service covered under this administrative regulation, the service shall be:

(a) Medically necessary; and

(b) Provided:

1. To a recipient:

a.

(i) Who is at least sixty-five (65) years of age and requires inpatient psychiatric services; or

(ii) Who is under twenty-one (21) years of age and requires inpatient psychiatric services; and

b. Whose needs require inpatient psychiatric hospital services:

(i) On a daily basis; and

(ii) Under the direction of a physician; and

2. By professional staff of a psychiatric hospital that meets the requirements established in this administrative regulation.

(2) Inpatient psychiatric hospital services shall involve active treatment that shall be reasonably expected to:

(a) Improve the recipient's condition; or

(b) Prevent further regression.

(3) If a recipient is receiving inpatient psychiatric hospital services on the recipient's twenty-first (21st) birthday, the Medicaid Program shall continue to cover the recipient's admission:

(a) As long as the services continue to be medically necessary for the recipient; and

(b) Through the birth month in which the child becomes twenty-two (22) years of age.

(4)

(a) If a recipient is eligible for Medicare coverage of inpatient psychiatric services, the recipient shall exhaust all Medicare coverage of inpatient psychiatric services prior to being eligible for Medicaid coverage of inpatient psychiatric services.

(b) After exhausting Medicare coverage of inpatient psychiatric services, the department, or managed care organization for an enrollee, shall determine if a continued stay in a psychiatric hospital:

1. Is medically necessary for the recipient; and

2. Can be reasonably expected to:

a. Improve the recipient's condition; or

b. Prevent further regression.

(5) The requirements established in 42 C.F.R. 456, Subpart D (456.150 to 456.245), shall apply regarding Medicaid program coverage of inpatient psychiatric hospital services.

Section 4. KRS Chapter 202A Related Admission.

(1) For an adult who is at least sixty-five (65) years of age, has chronic mental illness, and is admitted to a psychiatric hospital under a KRS Chapter 202A commitment, the psychiatric hospital shall maintain the recipient at, or restore the recipient to, the greatest possible degree of health and independent functioning.

(2) For a recipient who was at least sixty-five (65) years of age and residing in a psychiatric hospital on December 28, 1994, the requirement for admission under a commitment pursuant to KRS Chapter 202A shall not apply if:

(a) The recipient continues to reside in the same psychiatric hospital; and

(b) Ambulatory care or alternative services available in the community are not sufficient to meet the treatment needs of the recipient.

Section 5. Reevaluation of Need for Services.

(1)

(a) A psychiatric hospital stay shall be certified for a specific length of time as deemed medically appropriate by the:

1. Department for a recipient who is not an enrollee; or

2. Managed care organization in which an enrollee is enrolled, if applicable.

(b) In determining the appropriate length of time for a stay, the department or a managed care organization shall consider the health status and care needs of the individual.

(2)

(a) A recipient's continued eligibility for inpatient psychiatric hospital services shall be reevaluated at least once every thirty (30) days.

(b) Upon the expiration of a certified length of stay, the Medicaid Program shall not be responsible for the cost of care of a continuing stay unless the recipient or the recipient's authorized representative:

1. Requests a continuing stay; and

2.

a. The department approves the continued stay; or

b. For an enrollee, the managed care organization in which the enrollee is enrolled approves the continued stay.

Section 6. Other Limitations and Exclusions.

(1) An admission for diagnostic purposes shall only be covered if the diagnostic procedure cannot be performed on an outpatient basis.

(2) The Medicaid Program shall not reimburse for any day in which a recipient is not present in the psychiatric hospital.

(3) The Medicaid Program shall not reimburse for a court-ordered psychiatric hospital admission unless the department determines that the admission meets the criteria established in Section 3(1) of this administrative regulation.

(4) The Medicaid Program shall not reimburse for:

(a) An elective admission; or

(b) An admission for substance use treatment.

Section 7. Records Maintenance.

(1)

(a) For each recipient, a psychiatric hospital shall maintain a health record that shall:

1. Be:

a. Current;

b. Readily retrievable;

c. Organized;

d. Complete; and

e. Legible;

2. Meet the record requirements established in

a. 902 KAR 20:180;

b. KRS 194A.060;

c. KRS 434.840 through 434.860;
d. KRS 422.317; and
e. 42 C.F.R. 431 Subpart F;
3. Document the need for admission and appropriate utilization of services;
4. Be made available for inspection or copying or provided to the following upon request:
a. A representative of the United States Department of[~~for~~] Health and Human Services or its designee;
b. The United States Office of the Attorney General or its designee;
c. The Commonwealth of Kentucky, Office of the Attorney General or its designee;
d. The Commonwealth of Kentucky, Office of the Auditor of Public Accounts or its designee;
e. The Commonwealth of Kentucky, Cabinet for Health and Family Services, Office of the Inspector General or its designee;
f. The department; or
g. Personnel of the managed care organization in which the recipient is enrolled if applicable; and
5. Contain a:
a. Physician's certification statement documenting the medical necessity of the recipient's:
(i) Admission to the psychiatric hospital; and
(ii) If applicable, continued stay in the psychiatric hospital;
b. Copy of the recipient's most recent plan of care that:
(i) Has been established and approved by the recipient's physician; and
(ii) Shall include the date of the most recent interdisciplinary team review or revision of the plan of care;
c. Copy of the Medicare remittance advice of explanation of Medicare benefits if the recipient has Medicare coverage for inpatient psychiatric services; and
d. Copy of any Medicare denial letters if applicable.
(b) A physician's certification statement shall:
1. Be made no earlier than sixty (60) days prior to the recipient's admission to the psychiatric hospital; or
2. Not be made prior to the individual applying for Medicaid benefits while in an institutional setting.
(c) A licensed staff or consulting physician shall sign and date a certification statement.
(d) Failure to provide information in accordance with paragraph (a) of this subsection shall result in denial of payment for any service associated with the requested information.
(2) For each recipient, a psychiatric hospital shall have a physician's certification statement documenting the necessity of the psychiatric hospital admission.
(3) If a recipient is transferred or referred to a health care facility or other provider for care or treatment, the psychiatric hospital shall, within ten (10) business days of awareness of the transfer or referral, transfer the recipient's records in a manner that complies with the records' use and disclosure requirements as established in or required by:
(a)
1. The Health Insurance Portability and Accountability Act;
2. 42 U.S.C. 1320d-2 to 1320d-8; and
3. 45 C.F.R. Parts 160 and 164; or
(b)
1. 42 U.S.C. 290ee-3; and
2. 42 C.F.R. Part 2.
(4)
(a) Except as established in paragraph (b) or (c) of this subsection, a psychiatric hospital shall maintain a case record regarding a recipient for at least six (6) years from the last date of the service or until any audit dispute or issue is resolved beyond six (6) years.
(b) After a recipient's death or discharge from services, a psychiatric hospital shall maintain the recipient's record for the longest of the following periods:
1. Six (6) years unless the recipient is a minor; or
2. If the recipient is a minor, three (3) years after the recipient reaches the age of majority under state law.
(c) If the Secretary of the United States Department of Health and Human Services requires a longer document retention period than the period referenced in paragraph (a) of this subsection, pursuant to 42 C.F.R. 431.17 the period established by the secretary shall be the required period.
(5)
(a) A psychiatric hospital shall comply with 45 C.F.R. Part 164.
(b) All information contained in a case record shall:
1. Be treated as confidential; and
2. Not be disclosed to an unauthorized individual.

Section 8. Auditing Authority. The department or the managed care organization in which an enrollee is enrolled shall have the authority to audit any:
(1) Claim;
(2) Medical record; or
(3) Documentation associated with any claim or medical record.

Section 9. Federal Approval and Federal Financial Participation. The Medicaid Program's coverage of services pursuant to this administrative regulation shall be contingent upon:
(1) Receipt of federal financial participation for the coverage; and
(2) Centers for Medicare and Medicaid Services' approval for the coverage.

Section 10. Appeals.
(1) An appeal of an adverse action by the department regarding a service and a recipient who is not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.
(2) An appeal of an adverse action by a managed care organization regarding a service and an enrollee shall be in accordance with 907 KAR 17:010.

LISA D. LEE, Commissioner
STEVEN J. STACK, MD, MBA, Secretary
APPROVED BY AGENCY: August 1, 2025
FILED WITH LRC: September 9, 2025 at 10:09 a.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 24, 2025, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by November 17, 2025, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation through November 30, 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 and Jonathan Scott
Subject Headings: Behavioral Health, Children and Minors; Cognitive Decline and Impairment; Disability and Disabilities; Health and Medical Services; Health Benefit Plans; Health Insurance; Hospitals; Medicaid; Mental Health; Physicians and Practitioners; Psychological Services; Substance Use
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative

regulation establishes psychiatric hospital policies for Kentucky Medicaid.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to ensure that psychiatric hospital care and treatment is available to Kentucky recipients.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing a mental health hospitalization benefit as required by the Medicaid state plan and federal law.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the authorizing statutes by establishing a psychiatric hospital benefit and policies.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendments to the regulation establish policies to allow out of state hospitals to provide care to Kentucky Medicaid recipients. The amendments allow for greater participation by contiguous states and more limited participation by non-contiguous states.
(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to ensure that there are sufficient psychiatric facilities to care for Kentucky residents and Kentucky Medicaid participants.
(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by establishing a limited benefit that conforms to existing psychiatric hospitalization policies.
(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the authorizing statutes by ensuring that there is a policy in place to ensure that adequate mental health treatment is available to Kentucky residents.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: DMS anticipates that are approximately 10 hospitals in contiguous states who may be eligible to participate in providing care and expanding options for care for recipients.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: Hospitals will have to enroll and meet existing Kentucky licensure requirements.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): Hospitals will need to cover their own enrollment and licensing costs if enrolling in the Kentucky Medicaid program for the first time.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Hospitals will have the ability to treat Kentucky Medicaid recipients.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: DMS does not anticipate additional costs as a result of this amendment.
(b) On a continuing basis: DMS does not anticipate additional costs as a result of this amendment on a continuing basis.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Sources of funding to be used for the implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX and Title XXI of the Social Security Act, and state matching funds of general and agency appropriations.
(8) 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.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor increases any fees.
(10) TIERING: Is tiering applied? Tiering is applied in that contiguous states are treated differently than non-contiguous states. This treatment is due, in part, to ability to ensure that families do not travel an additionally long distance to visit a family member residing in a psychiatric hospital. Furthermore, any departmental oversight, auditing, or inspection duties are less burdensome if there is a distance limit such as that provided by a contiguous state required.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.030(2), 194A.050(1), 205.520(3), 42 C.F.R. 441 Subparts C, D, 456 Subparts G, H, I, 42 U.S.C. 1396a-d
(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Department for Medicaid Services, Division of Health Care Policy
(a) Estimate the following for the first year:
Expenditures: DMS does not anticipate additional expenditures as a result of this amendment.
Revenues: This administrative regulation is not expected to generate revenue to DMS.
Cost Savings: There are no expected cost savings to DMS.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? DMS does not anticipate additional expenditures, revenues, or cost savings as a result of this amendment in subsequent years.
(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): N/A, this regulation does not impact local entities.
(a) Estimate the following for the first year:
Expenditures: DMS does not anticipate additional expenditures as a result of this amendment.
Revenues: This administrative regulation is not expected to generate revenue to local entities.
Cost Savings: There are no expected cost savings to local entities.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? DMS does not anticipate additional expenditures, revenues, or cost savings as a result of this amendment in subsequent years.
(4) Identify additional regulated entities not listed in questions (2) or (3):
(a) Estimate the following for the first year:
Expenditures: DMS does not anticipate additional expenditures as a result of this amendment.
Revenues: DMS anticipates that out-of-state hospitals will have the opportunity to participate in the Medicaid program and may receive a per-diem for the care that they provide to Medicaid recipients.
Cost Savings: There are no expected cost savings for regulated entities.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? DMS does not anticipate additional expenditures, revenues, or cost savings as a result of this amendment in subsequent years.
(5) Provide a narrative to explain the:
(a) Fiscal impact of this administrative regulation: DMS does not anticipate a loss of revenues or expenditures as a result of this regulation. The regulation will assist DMS in providing stabilizing care to psychiatric patients who are difficult to place under the current system of psychiatric care available to Kentuckians and will further improve access to care. Out of state hospitals will receive a per-diem payment for each day that a Kentucky recipient is placed in their care.
(b) Methodology and resources used to determine the fiscal impact: Application of regulatory language.
(6) Explain:
(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). ($500,000 or more, in aggregate) This administrative regulation will not have a major economic impact – as

defined by KRS 13A.010 – on regulated entities.
(b) The methodology and resources used to reach this conclusion: Departmental staff assessing out of state placed Kentucky resident population.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 42 C.F.R. Part 482, Subpart E
(2) State compliance standards. KRS 205.520(3) states, "Further, it is the policy of the commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."
(3) Minimum or uniform standards contained in the federal mandate. 42 C.F.R. Part 482, Subpart E establishes requirements for psychiatric hospitals
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation does not impose stricter than federal requirements.
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter than federal requirements.

***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**
**Department for Medicaid Services**
**Division of Quality and Population Health**
**(Amendment)**

**907 KAR 15:022. Coverage provisions and requirements regarding services provided by behavioral health services organizations for substance use disorder treatment and co-occurring disorders.**

RELATES TO: KRS 205.520, 205.622, 309.0831, 369.101 - 369.120, 20 U.S.C. 1400 et seq., 21 U.S.C. 823(g)(2), 29 U.S.C. 701 et seq., 42 U.S.C. 290ee-3, 1320d-2 - 1320d-8, 1396a(a)(10)(B), 1396a(a)(23), 12101, 42 C.F.R. Part 2, 431.17, 435.1010, 45 C.F.R. Parts 160, 164
STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3)
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has a 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 coverage provisions and requirements regarding Medicaid Program behavioral health services provided by tier II and III behavioral health services organizations.

Section 1. General Coverage Requirements.
(1) For the department to reimburse for a service covered under this administrative regulation, the service shall be:
(a) Medically necessary; and
(b) Provided:
1. To a recipient; and
2. By a behavioral health services organization that meets the provider participation requirements established in Section 2 of this administrative regulation.
(2)
(a) Direct contact between a practitioner and a recipient shall be required for each service except for:
1. Collateral outpatient therapy for a child under the age of twenty-one (21) years if the collateral outpatient therapy is in the child's plan of care;
2. A family outpatient service in which the corresponding current procedural terminology code establishes that the recipient is not present; or
3. A psychological testing service comprised of interpreting or explaining results of an examination or data to family members or other kin if the corresponding current procedural terminology code establishes that the recipient is not present.
(b) A service that does not meet the requirement in paragraph (a) of this subsection shall not be covered.
(3) A billable unit of service shall be actual time spent delivering a service in an encounter.
(4) A service shall be:
(a) Stated in the recipient's plan of care; and
(b) Provided in accordance with the recipient's plan of care.
(5)
(a) A behavioral health services organization shall establish a plan of care for each recipient receiving services from the behavioral health services organization.
(b) A plan of care shall meet the plan of care requirements established in 908 KAR 1:370, Section 19.

Section 2. Provider Participation.
(1) To be eligible to provide services under this administrative regulation, a behavioral health services organization shall:
(a) Be currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672;
(b) Be currently participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671; and
(c) Have:
1. For each service it provides, the capacity to provide the full range of the service as established in this administrative regulation;
2. Documented experience in serving individuals with substance use disorders;
3. The administrative capacity to ensure quality of services;
4. A financial management system that provides documentation of services and costs; and
5. The capacity to document and maintain individual case records.
(2) A behavioral health services organization shall:
(a) Agree to provide services in compliance with federal and state laws regardless of age, sex, race, creed, religion, national origin, handicap, or disability;
(b) Comply with the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments to the Act; and
(c) Provide, directly or through written agreement with another behavioral health services provider, access to face-to-face or telehealth, as appropriate pursuant to 907 KAR 3:170, emergency services twenty-four (24) hours per day, seven (7) days per week.
(3)
(a) Each behavioral health services organization II (BHSO II) shall provide services in accordance with 908 KAR 1:374 and this administrative regulation for outpatient substance use disorder services and co-occurring disorders.
(b) Each behavioral health services organization III (BHSO III) shall provide services in accordance with 908 KAR 1:372 and this administrative regulation for residential substance use disorder services and co-occurring disorders.
(4) A BHSO II shall:
(a) Possess an outpatient alcohol and other drug treatment entity (AODE) license issued pursuant to 908 KAR 1:370 and 908 KAR 1:374;
(b) Except as provided by subsection (6) of this section, possess accreditation within one (1) year of initial enrollment by one (1) of the following:
1. The Joint Commission;

2. The Commission on Accreditation of Rehabilitation Facilities;
3. The Council on Accreditation; or
4. A nationally recognized accreditation organization; and

(c) Be authorized to provide outpatient substance use disorder treatment services authorized by Section 3 of this administrative regulation to treat substance use disorders and co-occurring disorders by the appropriate provider.

(5) A BHSO III shall:

(a) Possess a residential alcohol and other drug treatment entity (AODE) license issued pursuant to 908 KAR 1:370 and 908 KAR 1:372;

(b) Except as provided by subsection (6) of this section, possess accreditation within one (1) year of initial enrollment by one (1) of the following:

1. The Joint Commission;
2. The Commission on Accreditation of Rehabilitation Facilities;
3. The Council on Accreditation; or
4. A nationally recognized accreditation organization; and

(c) Be authorized to provide residential substance use disorder treatment services authorized by Section 3 of this administrative regulation to treat substance use disorders and co-occurring disorders by the appropriate provider.

(6) The department shall grant a one (1) time extension to a BHSO II or III that requests a one (1) time extension to complete the accreditation process, if the request is submitted at least ninety (90) days prior to expiration of provider enrollment.

Section 3. Covered Services.

(1) Reimbursement shall not be available for services performed within a BHSO II by a:

(a) Licensed behavior analyst;
(b) Licensed assistant behavior analyst;
(c) Registered behavior technician; or
(d) Community support associate.

(2) A BHSO III shall provide services on a residential basis to treat a beneficiary's substance use disorder.

(3) Reimbursement shall not be available for services performed within a BHSO III by a:

(a) Licensed behavior analyst;
(b) Licensed assistant behavior analyst;
(c) Registered behavior technician; or
(d) Community support associate.

(4) Except as specified in the requirements stated for a given service, the services covered may be provided for:

(a) A substance use disorder; or

(b) Co-occurring disorders if provided in accordance with Section 2 of this administrative regulation.

(5) The services established in this subsection shall be covered under this administrative regulation in accordance with the requirements established in this subsection.

(a) A screening shall:

1. Determine the likelihood that an individual has a mental health disorder, substance use disorder, or co-occurring disorders;
2. Not establish the presence or specific type of disorder;
3. Establish the need for an in-depth assessment;
4. Be provided face-to-face or via telehealth as appropriate pursuant to 907 KAR 3:170; and
5. Be provided by:

a. An approved behavioral health practitioner, as limited by subsections (1) and (3) of this section; or

b. An approved behavioral health practitioner under supervision, as limited by subsections (1) and (3) of this section.

(b) An assessment shall:

1. Include gathering information and engaging in a process with the individual that enables the practitioner to:

a. Establish the presence or absence of a substance use disorder, mental health disorder, or co-occurring disorders;

b. Determine the individual's readiness for change;

c. Identify the individual's strengths or problem areas that may affect the treatment and recovery processes; and

d. Engage the individual in developing an appropriate treatment relationship;

2. Establish or rule out the existence of a clinical disorder or service need;
3. Include working with the individual to develop a plan of care;
4. Not include a psychological or psychiatric evaluation or assessment;
5. If being made for the treatment of a substance use disorder, utilize a multidimensional assessment that complies with the most current edition of The ASAM Criteria to determine the most appropriate level of care;
6. Be provided face-to-face or via telehealth as appropriate pursuant to 907 KAR 3:170; and
7. Be provided by:

a. An approved behavioral health practitioner, as limited by subsections (1) and (3) of this section; or

b. An approved behavioral health practitioner under supervision, as limited by subsections (1) and (3) of this section.

(c) Psychological testing shall:

1. Include a psychodiagnostic assessment of personality, psychopathology, emotionality, or intellectual disabilities;
2. Include an interpretation and a written report of testing results;
3. Be face-to-face or via telehealth as appropriate pursuant to 907 KAR 3:170; and
4. Be provided by:

a. A licensed psychologist;
b. A certified psychologist with autonomous functioning;
c. A licensed psychological practitioner;
d. A certified psychologist under supervision; or
e. A licensed psychological associate under supervision.

(d) Crisis intervention:

1. Shall be a therapeutic intervention for the purpose of immediately reducing or eliminating the risk of physical or emotional harm to:

a. The recipient; or
b. Another individual;

2. Shall consist of clinical intervention and support services necessary to provide integrated crisis response, crisis stabilization interventions, or crisis prevention activities for individuals;
3. Shall be provided:

a. As an immediate relief to the presenting problem or threat; and

b. In a one (1) on one (1) encounter between the provider and the recipient, which is delivered either face-to-face or via telehealth if appropriate pursuant to 907 KAR 3:170;

4. Shall be followed by a referral to non-crisis services if applicable;
5. May include:

a. Further service prevention planning including:
(i) Lethal means reduction for suicide risk; or
(ii) Substance use disorder relapse prevention; or

b. Verbal de-escalation, risk assessment, or cognitive therapy; and

6. Shall be provided by:

a. An approved behavioral health practitioner, as limited by subsections (1) and (3) of this section; or

b. An approved behavioral health practitioner under supervision, as limited by subsections (1) and (3) of this section.

(e) Mobile crisis services shall:

1. Be available twenty-four (24) hours a day, seven (7) days a week, every day of the year;
2. Be provided for a duration of less than twenty-four (24) hours;
3. Not be an overnight service;
4. Be a face-to-face multi-disciplinary team based intervention in a home or community setting that ensures access to substance use disorder and co-occurring disorder services and supports to:

a. Reduce symptoms or harm; or

b. Safely transition an individual in an acute crisis to the appropriate least restrictive level of care;

5. Involve all services and supports necessary to provide:

a. Integrated crisis prevention;
b. Assessment and disposition;
c. Intervention;
d. Continuity of care recommendations; and
e. Follow-up services;

6. Include access to a board-certified or board-eligible

psychiatrist twenty-four (24) hours a day, seven (7) days a week, every day of the year; and

7. Be provided by:

a. An approved behavioral health practitioner, as limited by subsections (1) and (3) of this section;

b. An approved behavioral health practitioner under supervision, as limited by subsections (1) and (3) of this section; or

c. A peer support specialist who:

(i) Is under the supervision of an approved behavioral health practitioner; and

(ii) Provides support services for a mobile crisis service.

(f)

1. Day treatment shall be a non-residential, intensive treatment program for a child under the age of twenty-one (21) years who has:

a. A substance use disorder or co-occurring disorders; and

b. A high risk of out-of-home placement due to a behavioral health issue.

2. Day treatment shall:

a. Be face-to-face;

b. Consist of an organized, behavioral health program of treatment and rehabilitative services;

c. Include:

(i) Individual outpatient therapy, family outpatient therapy, or group outpatient therapy;

(ii) Behavior management and social skills training;

(iii) Independent living skills that correlate to the age and developmental stage of the recipient; or

(iv) Services designed to explore and link with community resources before discharge and to assist the recipient and family with transition to community services after discharge; and

d. Be provided:

(i) In collaboration with the education services of the local education authority including those provided through 20 U.S.C. 1400 et seq. (Individuals with Disabilities Education Act) or 29 U.S.C. 701 et seq. (Section 504 of the Rehabilitation Act);

(ii) On school days and during scheduled school breaks;

(iii) In coordination with the recipient's individualized education program or Section 504 plan if the recipient has an individualized education program or Section 504 plan; and

(iv) With a linkage agreement with the local education authority that specifies the responsibilities of the local education authority and the day treatment provider.

3. To provide day treatment services, a behavioral health services organization shall have:

a. The capacity to employ staff authorized to provide day treatment services in accordance with this section and to coordinate the provision of services among team members; and

b. Knowledge of substance use disorders and co-occurring disorders.

4. Day treatment shall not include a therapeutic clinical service that is included in a child's individualized education program or Section 504 plan.

5. Day treatment shall be provided by:

a. An approved behavioral health practitioner, as limited by subsections (1) and (3) of this section; or

b. An approved behavioral health practitioner under supervision, as limited by subsections (1) and (3) of this section.

6. Day treatment support services conducted by a provider working under the supervision of an approved behavioral health practitioner may be provided by:

a. A registered alcohol and drug peer support specialist;

b. An adult peer support specialist;

c. A family peer support specialist; or

d. A youth peer support specialist.

(g)

1. Peer support services shall:

a. Be emotional support that is provided by:

(i) An individual who has been trained and certified in accordance with 908 KAR 2:220 and who is experiencing or has experienced a substance use disorder or co-occurring disorders to a recipient by sharing a similar substance use disorder or co-occurring disorders in order to bring about a desired social or personal change;

(ii) A parent or other family member, who has been trained and certified in accordance with 908 KAR 2:230, of a child having or who has had a substance use or co-occurring disorders to a parent or family member of a child sharing a similar substance use or co-occurring disorders in order to bring about a desired social or personal change;

(iii) An individual who has been trained and certified in accordance with 908 KAR 2:240 and identified as experiencing a substance use disorder or co-occurring disorders; or

(iv) A registered alcohol and drug peer support specialist who has been trained and certified in accordance with KRS 309.0831 and is a self-identified consumer of substance use disorder services who provides emotional support to others with substance use disorders to achieve a desired social or personal change;

b. Be an evidence-based practice;

c. Be structured and scheduled non-clinical therapeutic activities with an individual recipient or a group of recipients;

d. Be provided face-to-face;

e. Promote socialization, recovery, self-advocacy, preservation, and enhancement of community living skills for the recipient;

f. Except for the engagement into substance use disorder treatment through an emergency department bridge clinic, be coordinated within the context of a comprehensive, individualized plan of care developed through a person-centered planning process;

g. Be identified in each recipient's plan of care; and

h. Be designed to directly contribute to the recipient's individualized goals as specified in the recipient's plan of care.

2. To provide peer support services, a behavioral health services organization shall:

a. Have demonstrated:

(i) The capacity to provide peer support services for the behavioral health population being served including the age range of the population being served; and

(ii) Experience in serving individuals with behavioral health disorders;

b. Employ peer support specialists who are qualified to provide peer support services in accordance with 908 KAR 2:220, 908 KAR 2:230, 908 KAR 2:240, or KRS 309.0831;

c. Use an approved behavioral health practitioner to supervise peer support specialists;

d. Have the capacity to coordinate the provision of services among team members;

e. Have the capacity to provide on-going continuing education and technical assistance to peer support specialists;

f. Require individuals providing peer support services to recipients to provide no more than thirty (30) hours per week of direct recipient contact; and

g. Require peer support services provided to recipients in a group setting not exceed eight (8) individuals within any group at one (1) time.

(h)

1. Intensive outpatient program services shall:

a. Be an alternative to or transition from a higher level of care for a substance use disorder or co-occurring disorders;

b. Offer a multi-modal, multi-disciplinary structured outpatient treatment program that is significantly more intensive than individual outpatient therapy, group outpatient therapy, or family outpatient therapy;

c. Meet the service criteria, including the components for support systems, staffing, and therapies outlined in the most current edition of The ASAM Criteria for intensive outpatient level of care services;

d. Be provided face-to-face;

e. Be provided at least three (3) hours per day at least three (3) days per week for adults;

f. Be provided at least six (6) hours per week for adolescents; and

g. Include:

(i) Individual outpatient therapy, group outpatient therapy, or family outpatient therapy unless contraindicated;

(ii) Crisis intervention; or

(iii) Psycho-education related to identified goals in the recipient's treatment plan.

2. During psycho-education, the recipient or recipient's family member shall be:

a. Provided with knowledge regarding the recipient's diagnosis, the causes of the condition, and the reasons why a particular treatment might be effective for reducing symptoms; and

b. Taught how to cope with the recipient's diagnosis or condition in a successful manner.

3. An intensive outpatient program services treatment plan shall:

a. Be individualized; and

b. Focus on stabilization and transition to a lesser level of care.

4. To provide intensive outpatient program services, a behavioral health services organization shall have:

a. Access to a board-certified or board-eligible psychiatrist for consultation;

b. Access to a psychiatrist, physician, or advanced practiced registered nurse for medication prescribing and monitoring;

c. Adequate staffing to ensure a minimum recipient-to-staff ratio of ten (10) recipients to one (1) staff person;

d. The capacity to provide services utilizing a recognized intervention protocol based on nationally accepted treatment principles; and

e. The capacity to employ staff authorized to provide intensive outpatient program services in accordance with this section and to coordinate the provision of services among team members.

5. Intensive outpatient program services shall be provided by:

a. An approved behavioral health practitioner, as limited by subsections (1) and (3) of this section; or

b. An approved behavioral health practitioner under supervision, as limited by subsections (1) and (3) of this section.

(i) Individual outpatient therapy shall:

1. Be provided to promote the:

a. Health and wellbeing of the individual; and

b. Restoration of a recipient to their best possible functional level from a substance use disorder or co-occurring disorders;

2. Consist of:

a. A face-to-face encounter or via telehealth as appropriate pursuant to 907 KAR 3:170 that is a one (1) on one (1) encounter between the provider and recipient; and

b. A behavioral health therapeutic intervention provided in accordance with the recipient's identified plan of care;

3. Be aimed at:

a. Reducing adverse symptoms;

b. Reducing or eliminating the presenting problem of the recipient; and

c. Improving functioning;

4. Not exceed three (3) hours per day alone or in combination with any other outpatient therapy per recipient unless additional time is medically necessary; and

5. Be provided by:

a. An approved behavioral health practitioner, as limited by subsections (1) and (3) of this section; or

b. An approved behavioral health practitioner under supervision, as limited by subsections (1) and (3) of this section.

(j)

1. Group outpatient therapy shall:

a. Be a behavioral health therapeutic intervention provided in accordance with a recipient's identified plan of care;

b. Be provided to promote the:

(i) Health and wellbeing of the individual; and

(ii) Restoration of a recipient to their best possible functional level from a substance use disorder or co-occurring disorders;

c. Consist of a face-to-face behavioral health therapeutic intervention provided in accordance with the recipient's identified plan of care;

d. Be provided to a recipient in a group setting:

(i) Of nonrelated individuals except for multi-family group therapy; and

(ii) Not to exceed twelve (12) individuals in size;

e. Focus on the psychological needs of the recipients as evidenced in each recipient's plan of care;

f. Center on goals including building and maintaining healthy relationships, personal goals setting, and the exercise of personal judgment;

g. Not include physical exercise, a recreational activity, an educational activity, or a social activity; and

h. Not exceed three (3) hours per day alone or in combination with any other outpatient therapy per recipient unless additional time is medically necessary.

2. The group shall have a:

a. Deliberate focus; and

b. Defined course of treatment.

3. The subject of group outpatient therapy shall relate to each recipient participating in the group.

4. The provider shall keep individual notes regarding each recipient within the group and within each recipient's health record.

5. Group outpatient therapy shall be provided by:

a. An approved behavioral health practitioner, as limited by subsections (1) and (3) of this section; or

b. An approved behavioral health practitioner under supervision, as limited by subsections (1) and (3) of this section.

(k)

1. Family outpatient therapy shall consist of a face-to-face or appropriate telehealth, pursuant to 907 KAR 3:170, behavioral health therapeutic intervention provided:

a. Through scheduled therapeutic visits between the therapist and the recipient and at least one (1) member of the recipient's family; and

b. To address issues interfering with the relational functioning of the family and to improve interpersonal relationships within the recipient's home environment.

2. A family outpatient therapy session shall be billed as one (1) service regardless of the number of individuals (including multiple members from one (1) family) who participate in the session.

3. Family outpatient therapy shall:

a. Be provided to promote the:

(i) Health and wellbeing of the individual; or

(ii) Restoration of a recipient to their best possible functional level from a substance use disorder or co-occurring disorders; and

b. Not exceed three (3) hours per day alone or in combination with any other outpatient therapy per recipient unless additional time is medically necessary.

4. Family outpatient therapy shall be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision.

(l)

1. Collateral outpatient therapy shall:

a. Consist of a face-to-face or appropriate telehealth, provided pursuant to 907 KAR 3:170, behavioral health consultation:

(i) With a parent or caregiver of a recipient, household member of a recipient, legal representative of a recipient, school personnel, treating professional, or other person with custodial control or supervision of the recipient; and

(ii) That is provided in accordance with the recipient's plan of care; and

b. Not be reimbursable if the therapy is for a recipient who is at least twenty-one (21) years of age.

2. Written consent by a parent or custodial guardian to discuss a recipient's treatment with any person other than a parent or legal guardian shall be signed and filed in the recipient's health record.

3. Collateral outpatient therapy shall be provided by:

a. An approved behavioral health practitioner, as limited by subsections (1) and (3) of this section; or

b. An approved behavioral health practitioner under supervision, as limited by subsections (1) and (3) of this section.

(m)

1. Service planning shall:

a. Be provided face-to-face;

b. Involve assisting a recipient in creating an individualized plan for services and developing measurable goals and objectives needed for maximum reduction of the effects of a substance use disorder or co-occurring disorders;

c. Involve restoring a recipient's functional level to the recipient's best possible functional level; and

d. Be performed using a person-centered planning process.

2. A service plan:

a. Shall be directed and signed by the recipient;

b. Shall include practitioners of the recipient's choosing; and

c. May include:

(i) A mental health advance directive being filed with a local hospital;

(ii) A crisis plan; or

(iii) A relapse prevention strategy or plan.

3. Service planning shall be provided by:

a. An approved behavioral health practitioner, as limited by subsections (1) and (3) of this section; or

b. An approved behavioral health practitioner under supervision, as limited by subsections (1) and (3) of this section.

(n)

1. Residential services for substance use disorders shall:

a. Be provided in a twenty-four (24) hour per day unit that is a live-in facility that offers a planned and structured regimen of care aimed to treat individuals with addiction or co-occurring disorders;

b. Provide intensive treatment and skills building in a structured and supportive environment;

c. Assist an individual in abstaining from alcohol or substance use and in entering alcohol or drug addiction recovery;

d. Assist a recipient in making necessary changes in the recipient's life to enable the recipient to live drug- or alcohol-free;

e. Be provided under the medical direction of a physician;

f. Provide continuous nursing services in which a registered nurse shall be:

(i) On-site during traditional first shift hours, Monday through Friday;

(ii) Continuously available by phone after hours; and

(iii) On-site as needed in follow-up to telephone consultation after hours;

g. Be provided following an assessment of an individual and a determination that the individual meets the dimensional admission criteria for approval of residential level of care placement in accordance with the most current edition of The ASAM Criteria; and

h. Be based on individual need and shall include clinical activities to help the recipient develop and apply recovery skills.

2. Residential services may include:

a. A screening;

b. An assessment;

c. Service planning;

d. Individual outpatient therapy;

e. Group outpatient therapy;

f. Family outpatient therapy;

g. Peer support;

h. Withdrawal management; ori. Medication assisted treatment.

3. For recipients in residential substance use treatment, care coordination shall include at minimum:

a. If the recipient chooses medication assisted treatment, facilitation of medication assisted treatment off-site of the BHSO III, if not offered on-site;

b. Referral to appropriate community services;

c. Facilitation of medical and behavioral health follow ups; and

d. Linking the recipient to the appropriate level of substance use treatment within the continuum to provide ongoing supports.

4. Residential services shall be provided in accordance with 908 KAR 1:370 and 908 KAR 1:372.

5. Length-of-stay for residential services for substance use disorders shall be person-centered and according to an individually designed plan of care that is consistent with this administrative regulation and the licensure of the facility and practitioner.

6.

a. Except as established in clause b. or c. of this subparagraph, the physical structure in which residential services for substance use disorders is provided shall:

(i) Have between nine (9) and sixteen (16) beds; and

(ii) Not be part of multiple units comprising one (1) facility with more than sixteen (16) beds in aggregate.

b. If every recipient receiving services in the physical structure is under the age of twenty-one (21) years or over the age of sixty-five (65) years, the limit of sixteen (16) beds established in clause a. of this subparagraph shall not apply.

c. The limit of sixteen (16) beds established in clause a. of this subparagraph shall not apply if the facility possesses a departmental provisional certification to provide residential substance use disorder services that are equivalent to the appropriate level of The ASAM Criteria.

7. Residential services for substance use disorders shall not include:

a. Room and board;

b. Educational services;

c. Vocational services;

d. Job training services;

e. Habilitation services;

f. Services to an inmate in a public institution pursuant to 42 C.F.R. 435.1010;

g. Services to an individual residing in an institution for mental diseases pursuant to 42 C.F.R. 435.1010;

h. Recreational activities;

i. Social activities; or

j. Services required to be covered elsewhere in the Medicaid state plan.

8. To provide residential services for substance use disorders, a behavioral health services organization shall:

a. Have the capacity to employ staff authorized to provide services in accordance with this section and to coordinate the provision of services among team members;

b. Be licensed as a non-medical and non-hospital based alcohol and other drug abuse treatment entity in accordance with 908 KAR 1:370 and 908 KAR 1:372; and

c. After July 1, 2021, possess an appropriate ASAM Level of Care Certification in accordance with The ASAM Criteria.

9. A BHSO III may provide residential services for substance use disorders, if provided by:

a. An approved behavioral health practitioner, as limited by subsections (1) and (3) of this section; or

b. An approved behavioral health practitioner under supervision, as limited by subsections (1) and (3) of this section.

10. Support services for residential services for substance use disorders may be provided by a peer support specialist under the supervision of an approved behavioral health practitioner.

(o)

1. Screening, brief intervention, and referral to treatment for a substance use disorder shall:

a. Be provided face-to-face or via telehealth as appropriate according to 907 KAR 3:170;

b. Be an evidence-based early intervention approach for an individual with non-dependent substance use to provide an effective strategy for intervention prior to the need for more extensive or specialized treatment; and

c. Consist of:

(i) Using a standardized screening tool to assess an individual for risky substance use behavior;

(ii) Engaging a recipient, who demonstrates risky substance use behavior, in a short conversation and providing feedback and advice; and

(iii) Referring a recipient to additional substance use disorder or co-occurring disorder services if the recipient is determined to need additional services to address substance use.

2. A screening and brief intervention that does not meet criteria for referral to treatment may be subject to coverage by the department.

3. A screening, brief intervention, and referral to treatment for a substance use disorder shall be provided by:

a. An approved behavioral health practitioner, as limited by subsections (1) and (3) this section; or

b. An approved behavioral health practitioner under supervision, as limited by subsections (1) and (3) of this section.

(p)

1. Withdrawal management services shall:

a. Be provided face-to-face for recipients with a substance use disorder or co-occurring disorders;

b. Be incorporated into a recipient's care as appropriate according to the continuum of care described in the most current version of The ASAM Criteria;

c. Be in accordance with the most current version of The ASAM Criteria for withdrawal management levels in an outpatient setting;

d. If provided in an outpatient setting, comply with 908 KAR 1:374, Section 2; and

e. If provided in a substance use disorder residential program, comply with 908 KAR 1:372, Section 2.

2. A recipient who is receiving withdrawal management services shall:

a. Meet the most current edition of diagnostic criteria for substance withdrawal management found in the Diagnostic and Statistical Manual of Mental Disorders; and

b. Meet the current dimensional admissions criteria for withdrawal management level of care as found in The ASAM Criteria.

3. Withdrawal management services shall be provided by:

a. A physician;

b. A psychiatrist;

c. A physician assistant;

d. An advanced practice registered nurse; or

e. Any other approved behavioral health practitioner with oversight by a physician, advanced practice registered nurse, or a physician assistant, as limited by subsections (1) and (3) of this section.

(q)

1. Medication assisted treatment services shall be provided by an authorized prescribing provider who:

a.

(i) Is a physician licensed to practice medicine under KRS Chapter 311; or

(ii) Is an advanced practice registered nurse (APRN);

b. Meets standards in accordance with 201 KAR 9:270 or 201 KAR 20:065;

c. Maintains a current waiver under 21 U.S.C. 823(g)(2) to prescribe buprenorphine products; and

d. Has experience and knowledge in addiction medicine.

2. Medication assisted treatment with behavioral health therapies shall:

a. Be co-located within the same practicing site or via telehealth as appropriate according to 907 KAR 3:170 as the practitioner with a waiver pursuant to subparagraph 1.c. of this paragraph; or

b. Be conducted with agreements in place for linkage to appropriate behavioral health treatment providers who specialize in substance use disorders and are knowledgeable in biopsychosocial dimensions of alcohol or other substance use disorder, such as:

(i) An approved behavioral health practitioner, as limited by subsections (1) and (3) of this section; or

(ii) A multi-specialty group or behavioral health provider group pursuant to 907 KAR 15:010.

3. Medication assisted treatment may be provided in:

a. An outpatient behavioral health setting, including in a narcotic treatment program for substance use disorder treatment with methadone operating in accordance with 908 KAR 1:374, Section 7; or

b. A residential treatment program for substance use disorders. If a residential treatment program for substance use disorders does not offer medication assisted treatment on-site, care coordination shall be provided to facilitate medication assisted treatment off-site if necessary by recipient choice. If the choice of medication in medication assisted treatment is methadone, the residential treatment provider shall establish a contractual relationship with a narcotic treatment program that dispenses methadone.

4. A medication assisted treatment program shall:

a. Assess the need for treatment including:

(i) A full patient history to determine the severity of the patient's substance use disorder; and

(ii) Identifying and addressing any underlying or co-occurring diseases or conditions, as necessary;

b. Educate the patient about how the medication works, including:

(i) The associated risks and benefits; and

(ii) Overdose prevention;

c. Evaluate the need for medically managed withdrawal from substances;

d. Refer patients for higher levels of care if necessary; and

e. Obtain informed consent prior to integrating pharmacologic or nonpharmacologic therapies.

5. Medication assisted treatment shall be provided by:

a. A physician;

b. A psychiatrist; or

c. An advanced practice registered nurse.

6.

a. Notwithstanding any other provision of 907 KAR Chapter 15 to the contrary, temporary licensure shall be permissible for a certified alcohol and drug counselor practicing within a narcotic treatment program.

b. A temporarily certified alcohol and drug counselor practicing within a narcotic treatment program shall be under the direct supervision of a licensed clinical alcohol and drug counselor.

[~~c.~~]

[~~(i)~~] [~~The provisions of this subparagraph shall no longer be operational three (3) years after this administrative regulation becomes effective.~~]

[~~(ii)~~] [~~After the three (3) year period has lapsed, an individual performing temporarily licensed certified alcohol and drug counselor duties shall possess an appropriate license to perform those duties.~~]

(r)

1. Partial hospitalization services shall be:

a. Short-term with an average of four (4) to six (6) weeks,

b. Less than twenty-four (24) hours each day;

c. An intensive treatment program for an individual who is experiencing significant impairment to daily functioning due to a substance use disorder or co-occurring disorders; and

d. Provided face-to-face.

2. Partial hospitalization may be provided to an adult or a minor.

3. Admission criteria for partial hospitalization shall be based on an inability of community-based therapies or intensive outpatient services to adequately treat the recipient.

4. A partial hospitalization program shall meet the service criteria, including the components for support systems, staffing, and therapies outlined in the most current edition of The ASAM Criteria for partial hospitalization level of care services.

5. A partial hospitalization program shall consist of:

a. Individual outpatient therapy;

b. Group outpatient therapy;

c. Family outpatient therapy; or

d. Medication management.

6. The department shall not reimburse for educational, vocational, or job training services provided as part of partial hospitalization.

7.

a. A behavioral health services organization's partial hospitalization program shall have an agreement with the local educational authority to come into the program to provide all educational components and instruction that are not Medicaid billable or reimbursable.

b. Services in a Medicaid eligible child's individualized education program shall be coverable under Medicaid.

8. Partial hospitalization shall be:

a. Provided for at least four (4) hours per day; and

b. Focused on one (1) primary presenting problem.

9. A partial hospitalization program operated by a behavioral health services organization shall:

a. Include the following personnel for the purpose of providing medical care:

(i) An advanced practice registered nurse, a physician assistant, or a physician available on site; and

(ii) A board-certified or board-eligible psychiatrist available for consultation; and

b. Have the capacity to:

(i) Provide services utilizing a recognized intervention protocol based on nationally accepted treatment principles;

(ii) Employ required practitioners and coordinate service provision among rendering practitioners; and

(iii) Provide the full range of services included in the scope of partial hospitalization established in this paragraph.

(6)

(a) Laboratory services shall be reimbursable in accordance with 907 KAR 1:028 if provided by a BHSO II or a BHSO III if:

1. The BHSO II or BHSO III has the appropriate CLIA certificate to perform laboratory testing pursuant to 907 KAR 1:028; and

2. The services are prescribed by a physician, advanced practice registered nurse, or physician assistant who has a contractual relationship with the BHSO II or BHSO III.

(b) Laboratory services shall be administered, as appropriate, by:

1. An approved behavioral health practitioner, as limited by subsections (1) and (3) of this section; or

2. An approved behavioral health practitioner under supervision, as limited by subsections (1) and (3) of this section.

Section 4. Additional Limits and Non-covered Services or Activities.

(1)

(a) Except as established in paragraph (b) of this subsection, unless a diagnosis is made and documented in the recipient's medical record within three (3) visits, the service shall not be covered.

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

1. Mobile crisis services;

2. Crisis intervention;

3. A screening;

4. An assessment; or

5. Peer support services for the engagement into substance use disorder treatment within an emergency department bridge clinic.

(2) For a recipient who is receiving residential services for a substance use disorder, the following shall not be billed or reimbursed for the same date of service for the recipient:

(a) A screening;

(b) An assessment;

(c) Service planning;

(d) A psychiatric service;

(e) Individual outpatient therapy;

(f) Group outpatient therapy;

(g) Family outpatient therapy; or

(h) Peer support services.

(3) For a recipient who is receiving assertive community treatment for non-substance use disorder treatment pursuant to 907 KAR 15:020, the following shall not be billed or reimbursed for the same date of service for the recipient:

(a) An assessment;

(b) Case management;

(c) Individual outpatient therapy;

(d) Group outpatient therapy;

(e) Peer support services; or

(f) Mobile crisis services.

(4) The department shall not reimburse for both a screening and a screening, brief intervention, and referral to treatment provided to a recipient on the same date of service.

(5) The following services or activities shall not be covered under this administrative regulation:

(a) A service provided to:

1. A resident of:

a. A nursing facility; or

b. An intermediate care facility for individuals with an intellectual disability;

2. An inmate of a federal, local, or state:

a. Jail;

b. Detention center; or

c. Prison; or

3. An individual with an intellectual disability without documentation of an additional psychiatric diagnosis;

(b) Psychiatric or psychological testing for another agency, including a court or school, that does not result in the individual receiving psychiatric intervention or behavioral health therapy from the behavioral health services organization;

(c) A consultation or educational service provided to a recipient or to others;

(d) A telephone call, an email, a text message, or other electronic contact that is not face-to-face, unless permitted as a telehealth service pursuant to 907 KAR 3:170 and this administrative regulation;

(e) Travel time;

(f) A field trip;

(g) A recreational activity;

(h) A social activity; or

(i) A physical exercise activity group.

(6)

(a) A consultation by one (1) provider or professional with another shall not be covered under this administrative regulation except as established in Section 3(5)(m)1. of this administrative regulation.

(b) A third party contract shall not be covered under this administrative regulation.

(7) A billing supervisor arrangement between a billing supervisor and an approved behavioral health practitioner under supervision shall not violate the supervision rules or policies of the respective professional licensure boards governing the billing supervisor and the approved behavioral health practitioner under supervision.

Section 5. No Duplication of Service.

(1) The department shall not reimburse for a service provided to a recipient by more than one (1) provider, of any program in which the service is covered, during the same time period.

(2) For example, if a recipient is receiving a behavioral health service from an independent behavioral health provider, the department shall not reimburse for the same service provided to the same recipient during the same time period by a behavioral health services organization.

Section 6. Records Maintenance, Documentation, Protection, and Security.

(1) A behavioral health services organization shall maintain a current health record for each recipient.

(2) A health record shall document each service provided to the recipient including the date of the service and the signature of the individual who provided the service.

(3) A health record shall:

(a) Include:

1. An identification and intake record including:

a. Name;

b. Social Security number;

c. Date of intake;

d. Home (legal) address;

e. Health insurance or Medicaid information;

f. Referral source and address of referral source;

g. Primary care physician and address;

h. The reason the individual is seeking help including the presenting problem and diagnosis;

i. Any physical health diagnosis, if a physical health diagnosis exists for the individual, and information regarding:

(i) Where the individual is receiving treatment for the physical health diagnosis; and

(ii) The physical health provider; and

j. The name of the informant and any other information deemed necessary by the behavioral health services organization to comply with the requirements of:

(i) This administrative regulation;

(ii) The behavioral health services organization's licensure board;

(iii) State law; or

(iv) Federal law;

2. Documentation of the:

a. Screening;

b. Assessment if an assessment was performed; and

c. Disposition if a disposition was performed;

3. A complete history including mental status and previous treatment;

4. An identification sheet;

5. A consent for treatment sheet that is accurately signed and dated; and

6. The individual's stated purpose for seeking services; and

(b) Be:

1. Maintained in an organized central file;

2. Furnished to the:

a. Cabinet for Health and Family Services upon request; or

b. Managed care organization in which the recipient is enrolled upon request if the recipient is enrolled with a managed care organization;

3. Made available for inspection and copying by:

a. Cabinet for Health and Family Services' personnel; or

b. Personnel of the managed care organization in which the recipient is enrolled if the recipient is enrolled with a managed care organization;

4. Readily accessible; and

5. Adequate for the purpose of establishing the current treatment modality and progress of the recipient if the recipient received services beyond a screening.

(4) Documentation of a screening shall include:

(a) Information relative to the individual's stated request for services; and

(b) Other stated personal or health concerns if other concerns are stated.

(5)

(a) A behavioral health services organization's service notes regarding a recipient shall:

1. Be made within forty-eight (48) hours of each service visit;

2. Indicate if the service was provided face-to-face or via telehealth; and

3. Describe the:

a. Recipient's symptoms or behavior, reaction to treatment, and attitude;

b. Therapist's intervention;

c. Changes in the plan of care if changes are made; and

d. Need for continued treatment if continued treatment is needed.

(b)

1. Any edit to notes shall:

a. Clearly display the changes; and

b. Be initialed and dated by the person who edited the notes.

2. Notes shall not be erased or illegibly marked out.

(c)

1. Notes recorded by an approved behavioral health practitioner under supervision shall be co-signed and dated by the supervising professional within thirty (30) days.

2. If services are provided by an approved behavioral health practitioner under supervision, there shall be a monthly supervisory note recorded by the supervising professional reflecting consultations with the approved behavioral health practitioner under supervision concerning the:

a. Case; and

b. Supervising professional's evaluation of the services being provided to the recipient.

(6) Immediately following a screening of a recipient, the practitioner shall perform a disposition related to:

(a) A provisional diagnosis;

(b) A referral for further consultation and disposition, if applicable; or

(c)

1. If applicable, termination of services and referral to an outside source for further services; or

2. If applicable, termination of services without a referral to further services.

(7) Any change to a recipient's plan of care shall be documented, signed, and dated by the rendering practitioner and by the recipient or recipient's representative.

(8)

(a) Notes regarding services to a recipient shall:

1. Be organized in chronological order;

2. Be dated;

3. Be titled to indicate the service rendered;

4. State a starting and ending time for the service; and

5. Be recorded and signed by the rendering practitioner and include the professional title (for example, licensed clinical social worker) of the provider.

(b) Initials, typed signatures, or stamped signatures shall not be accepted.

(c) Telephone contacts, family collateral contacts not covered under this administrative regulation, or other non-reimbursable contacts shall:

1. Be recorded in the notes; and

2. Not be reimbursable.

(9)

(a) A termination summary shall:

1. Be required, upon termination of services, for each recipient who received at least three (3) service visits; and

2. Contain a summary of the significant findings and events during the course of treatment including the:

a. Final assessment regarding the progress of the individual toward reaching goals and objectives established in the individual's plan of care;

b. Final diagnosis of clinical impression; and

c. Individual's condition upon termination and disposition.

(b) A health record relating to an individual who terminated from receiving services shall be fully completed within ten (10) days following termination.

(10) If an individual's case is reopened within ninety (90) days of terminating services for the same or related issue, a reference to the prior case history with a note regarding the interval period shall be acceptable.

(11)

(a) Except as established in paragraph (b) of this subsection, if a recipient is transferred or referred to a health care facility or other provider for care or treatment, the transferring behavioral health services organization shall, within ten (10) business days of the transfer or referral, transfer the recipient's records in a manner that complies with the records' use and disclosure requirements as established in or required by:

1.

a. The Health Insurance Portability and Accountability Act;

b. 42 U.S.C. 1320d-2 to 1320d-8; and

c. 45 C.F.R. Parts 160 and 164; or

2.

a. 42 U.S.C. 290 ee-3; and

b. 42 C.F.R. Part 2.

(b) If a recipient is transferred or referred to a residential crisis stabilization unit, a psychiatric hospital, a psychiatric distinct part unit in an acute care hospital, or an acute care hospital for care or treatment, the transferring behavioral health services organization shall, within forty-eight (48) hours of the transfer or referral, transfer the recipient's records in a manner that complies with the records' use and disclosure requirements as established in or required by:

1.

a. The Health Insurance Portability and Accountability Act;

b. 42 U.S.C. 1320d-2 to 1320d-8; and

c. 45 C.F.R. Parts 160 and 164; or

2.

a. 42 U.S.C. 290 ee-3; and

b. 42 C.F.R Part 2.

(12)

(a) If a behavioral health services organization's Medicaid Program participation status changes as a result of voluntarily terminating from the Medicaid Program, involuntarily terminating from the Medicaid Program, a licensure suspension, or death of an owner or deaths of owners, the health records of the behavioral health services organization shall:

1. Remain the property of the behavioral health services organization; and

2. Be subject to the retention requirements established in subsection (13) of this section.

(b) A behavioral health services organization shall have a written plan addressing how to maintain health records in the event of death of an owner or deaths of owners.

(13)

(a) Except as established in paragraph (b) or (c) of this subsection, a behavioral health services organization shall maintain a case record regarding a recipient for at least six (6) years from the

date of the service or until any audit dispute or issue is resolved beyond six (6) years.

(b) After a recipient's death or discharge from services, a provider shall maintain the recipient's record for the longest of the following periods:

1. Six (6) years unless the recipient is a minor; or

2. If the recipient is a minor, three (3) years after the recipient reaches the age of majority under state law.

(c) If the Secretary of the United States Department of Health and Human Services requires a longer document retention period than the period referenced in paragraph (a) of this subsection, pursuant to 42 C.F.R. 431.17, the period established by the secretary shall be the required period.

(14)

(a) A behavioral health services organization shall comply with 45 C.F.R. Part 164.

(b) All information contained in a health record shall:

1. Be treated as confidential;

2. Not be disclosed to an unauthorized individual; and

3. Be disclosed to an authorized representative of:

a. The department; or

b. Federal government.

(c)

1. Upon request, a behavioral health services organization shall provide to an authorized representative of the department or federal government information requested to substantiate:

a. Staff notes detailing a service that was rendered;

b. The professional who rendered a service; and

c. The type of service rendered and any other requested information necessary to determine, on an individual basis, whether the service is reimbursable by the department.

2. Failure to provide information required by subparagraph 1. of this paragraph shall result in denial of payment for any service associated with the requested information.

Section 7. Medicaid Program Participation Compliance.

(1) A behavioral health services organization shall comply with:

(a) 907 KAR 1:671;

(b) 907 KAR 1:672; and

(c) All applicable state and federal laws.

(2)

(a) If a behavioral health services organization receives any duplicate payment or overpayment from the department, regardless of reason, the behavioral health services organization shall return the payment to the department.

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

1. Interpreted to be fraud or abuse; and

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

(3)

(a) When the department makes payment for a covered service and the behavioral health services organization accepts the payment:

1. The payment shall be considered payment in full;

2. A bill for the same service shall not be given to the recipient; and

3. Payment from the recipient for the same service shall not be accepted by the behavioral health services organization.

(b)

1. A behavioral health services organization may bill a recipient for a service that is not covered by the Kentucky Medicaid Program if the:

a. Recipient requests the service; and

b. Behavioral health services organization makes the recipient aware in advance of providing the service that the:

(i) Recipient is liable for the payment; and

(ii) Department is not covering the service.

2. If a recipient makes payment for a service in accordance with subparagraph 1. of this paragraph, the:

a. Behavioral health services organization shall not bill the department for the service; and

b. Department shall not:

(i) Be liable for any part of the payment associated with the service; and

(ii) Make any payment to the behavioral health services organization regarding the service.

(4)

(a) A behavioral health services organization shall attest by the behavioral health services organization's staff's or representative's signature that any claim associated with a service is valid and submitted in good faith.

(b) Any claim and substantiating record associated with a service shall be subject to audit by the:

1. Department or its designee;

2. Cabinet for Health and Family Services, Office of Inspector General, or its designee;

3. Kentucky Office of Attorney General or its designee;

4. Kentucky Office of the Auditor for Public Accounts or its designee; or

5. United States General Accounting Office or its designee.

(c) If a behavioral health services organization receives a request from the department to provide a claim, related information, related documentation, or record for auditing purposes, the behavioral health services organization shall provide the requested information to the department within the timeframe requested by the department.

(d)

1. All services provided shall be subject to review for recipient or provider abuse.

2. Willful abuse by a behavioral health services organization shall result in the suspension or termination of the behavioral health services organization from Medicaid Program participation.

Section 8. Third Party Liability. A behavioral health services organization shall comply with KRS 205.622.

Section 9. Use of Electronic Signatures.

(1) The creation, transmission, storage, and other use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 to 369.120.

(2) A behavioral health services organization that chooses to use electronic signatures shall:

(a) Develop and implement a written security policy that shall:

1. Be adhered to by each of the behavioral health services organization's employees, officers, agents, or contractors;

2. Identify each electronic signature for which an individual has access; and

3. Ensure that each electronic signature is created, transmitted, and stored in a secure fashion;

(b) Develop a consent form that shall:

1. Be completed and executed by each individual using an electronic signature;

2. Attest to the signature's authenticity; and

3. Include a statement indicating that the individual has been notified of his or her responsibility in allowing the use of the electronic signature; and

(c) Provide the department, immediately upon request, with:

1. A copy of the behavioral health services organization's electronic signature policy;

2. The signed consent form; and

3. The original filed signature.

Section 10. Auditing Authority. The department shall have the authority to audit any:

(1) Claim;

(2) Medical record; or

(3) Documentation associated with any claim or medical record.

Section 11. Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the coverage; and

(2) Centers for Medicare and Medicaid Services' approval for the coverage.

Section 12. Appeals.

(1) An appeal of an adverse action by the department regarding a service and a recipient who is not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

(2) An appeal of an adverse action by a managed care organization regarding a service and an enrollee shall be in accordance with 907 KAR 17:010.

LISA D. LEE, Commissioner
STEVEN J. STACK, MD, MBA, Secretary
APPROVED BY AGENCY: August 1, 2025
FILED WITH LRC: September 9, 2025 at 10:09 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 24, 2025, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by November 17, 2025, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation through November 30, 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 and Jonathan Scott
Subject Headings: Behavioral Health, Children and Minors; Health and Medical Services; Health Benefit Plans; Health Insurance; Hospitals; Medicaid; Mental Health; Physicians and Practitioners; Psychological Services; Substance Use
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the coverage provisions and requirements regarding Medicaid Program behavioral health services provided by tier II and III behavioral health services organizations.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the coverage provisions and requirements regarding Medicaid Program behavioral health services provided by tier II and III behavioral health services organizations.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing the coverage provisions and requirements regarding Medicaid Program behavioral health services provided by tier II and III behavioral health services organizations.
(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 coverage provisions and requirements regarding Medicaid Program behavioral health services provided by tier II and III behavioral health services organizations.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This amendment will change the existing administrative regulation by allowing temporarily certified drug and alcohol counselors to continue performing their duties within a narcotic treatment program without possessing a permanent license to perform those duties. This was previously limited to a three (3) year period.
(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to allow temporarily certified drug and alcohol counselors to continue performing their duties within a narcotic treatment program. This will ensure continued availability of this service for Medicaid recipients.
(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the authorizing statutes by establishing the provisions that will allow temporarily certified drug and alcohol counselors to continue performing their duties within a narcotic treatment program.
(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the statutes by establishing the provisions that will allow temporarily certified drug and alcohol counselors to continue performing their duties within a narcotic treatment program.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: DMS anticipates this may impact more than 150 addiction treatment providers.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: No action is required.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): Entities will experience no new costs in complying with this administrative regulation.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Entities will be able to continue providing services in their current role without pursuing additional licensure.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: The department does not anticipate a cost to implement with amendment.
(b) On a continuing basis: The department does not anticipate a cost to implement with amendment on an ongoing basis.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Sources of funding to be used for the implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX and Title XXI of the Social Security Act, and state matching funds of general and agency appropriations.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Neither an increase in fees nor funding will be necessary to implement the amendments.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The administrative regulation does not establish or increase any fees.
(10) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. 42 U.S.C. 18022(b)(1)(E), 42 U.S.C. 1396a(a)(10)(B), and 42 U.S.C. 1396a(a)(23), KRS 194A.030(2), 194A.050(1), 205.520(3).
(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Cabinet for Health and Family Services, Department for Medicaid Services is the promulgating agency, other agencies have not been identified.
(a) Estimate the following for the first year:
Expenditures: The department does not anticipate expenditures as

a result of the amendment to this administrative regulation.
Revenues: The department does not anticipate revenues as a result of the amendment to this administrative regulation.
Cost Savings: The department does not anticipate cost savings as a result of this administrative regulation.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? The department does not anticipate expenditures in subsequent years as a result of the amendment to this administrative regulation.
(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): N/A
(a) Estimate the following for the first year:
Expenditures: DMS anticipates no additional costs for local entities.
Revenues: The department does not anticipate revenues for local entities as a result of this administrative regulation.
Cost Savings: The department does not anticipate cost savings for local entities as a result of this administrative regulation.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? DMS does not expect additional expenditures, revenues, or cost savings for local entities as a result of this regulation.
(4) Identify additional regulated entities not listed in questions (2) or (3): Narcotic treatment programs and associated behavioral health providers enrolled in the Medicaid program.
(a) Estimate the following for the first year:
Expenditures: DMS does not anticipate additional expenditures for regulated entities.
Revenues: DMS does not anticipate revenues for regulated entities.
Cost Savings: The department does not anticipate cost savings as a result of this administrative regulation.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? The department does not anticipate expenditures, revenues, or cost savings in subsequent years as a result of this administrative regulation.
(5) Provide a narrative to explain the:
(a) Fiscal impact of this administrative regulation: DMS anticipates no additional costs beyond those budgeted in 2024 Regular Session HB 6.
(b) Methodology and resources used to determine the fiscal impact: The department worked with interested parties to gain input and perspectives. The department also conducted in-house analyses related to the continuation of the existing services.
(6) Explain:
(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). ($500,000 or more, in aggregate) The administrative regulation will not have a major economic impact – as defined by KRS 13A.010 – on regulated entities.
(b) The methodology and resources used to reach this conclusion: The department conducted in-house analyses related to the continuation of the existing services.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 42 U.S.C. 18022(b)(1)(E), 42 U.S.C. 1396a(a)(10)(B), and 42 U.S.C. 1396a(a)(23).
(2) State compliance standards. KRS 205.520(3)
(3) Minimum or uniform standards contained in the federal mandate. Substance use disorder services are federally mandated for Medicaid programs. 42 U.S.C. 18022(b)(1)(E) mandates that "essential health benefits" for Medicaid programs include "mental health and substance use disorder services, including behavioral health treatment." 42 U.S.C. 1396a(a)(23), is known as the freedom of choice of provider mandate. This federal law requires the Medicaid Program to "provide that (A) any individual eligible for medical assistance (including drugs) may obtain such assistance from any institution, agency, community pharmacy or person, qualified to perform the service or services required (including an organization which provides such services, or arranges for their availability, on a prepayment basis), who undertakes to provide him such services." Medicaid recipients enrolled with a managed care organization may be restricted to providers within the managed care organization's provider network. The Centers for Medicare and Medicaid Services (CMS) – the federal agency that oversees and provides the federal funding for Kentucky's Medicaid Program – has expressed to the Department for Medicaid Services (DMS) the need for DMS to expand its substance use disorder provider base to comport with the freedom of choice of provider requirement. 42 U.S.C. 1396a(a)(10)(B) requires the Medicaid Program to ensure that services are available to Medicaid recipients in the same amount, duration, and scope as available to other individuals (non-Medicaid). Expanding the provider base will help ensure Medicaid recipient access to services statewide and reduce or prevent the lack of availability of services due to demand exceeding supply in any given area.
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation will not impose stricter than federal requirements.
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation will not impose stricter than federal 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.***

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

**907 KAR 23:010. Outpatient Pharmacy Program.**

RELATES TO: KRS Chapter 13B, 205.510, [~~205.560, 205.561,~~ ]205.5631-205.5639, 205.564, 205.6316, 205.8451, 205.8453, 217.015, 217.822, 369.101 to 369.120, 42 C.F.R. 430.10, 431.54, 440.120, 447.512-447.518, 42 U.S.C. 1396a, 1396b, 1396c, 1396d, 1396r-8
STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560, 205.561, 205.5632, 205.5634, 205.5639(2), 205.564(10), (13)
CERTIFICATION STATEMENT:
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 for the provision of medical assistance to Kentucky's indigent citizenry. KRS 205.560 provides that the scope of medical care for which Medicaid shall pay is determined by administrative regulations promulgated by the cabinet. This administrative regulation establishes the provisions for coverage of outpatient drugs through the Medicaid outpatient pharmacy program for fee-for-service recipients and managed care enrollees.

Section 1. Covered Drugs. A covered drug shall be:
(1) Medically necessary;
(2) Approved by the FDA;
(3) Prescribed for an indication that has been approved by the FDA or for which there is documentation in official compendia or peer-reviewed medical literature supporting its medical use;
(4) A rebateable drug; and
(5) A covered outpatient drug.

Section 2. Diabetic Supplies. Except if Medicare is the primary payer, the department shall cover the diabetic supplies listed in this section via the department's pharmacy program and not via the department's medical supplies, equipment, and appliances[~~durable medical equipment~~] program established in 907 KAR 1:479:

(1) A syringe with needle (sterile, 1cc or less);
(2) Urine test or reagent strips or tablets;
(3) Blood ketone test or reagent strip;
(4) Blood glucose test or reagent strips;
(5) Calibrating solutions;
(6) Lancet device;
(7) Lancets; or
(8) Home blood glucose monitor.

Section 3. Tamper-Resistant Prescription Pads.

(1) Each covered drug or diabetic supply shall be prescribed on a tamper-resistant prescription pad, except if the prescription is:

(a) An electronic prescription;
(b) A faxed prescription; or
(c) A prescription telephoned by a prescriber or authorized agent.

(2) To qualify as a tamper-resistant prescription, the prescription pad shall contain one (1) or more of each industry-recognized feature designed to prevent:

(a) Unauthorized copying of a completed or blank prescription form;
(b) The erasure or modification of information written by the prescriber on the prescription; and
(c) The use of counterfeit prescription forms.

Section 4. Kentucky Medicaid Fee-for-Service Outpatient Drug List.

(1) The department shall maintain each Outpatient Drug List to include drug coverage and availability information in the following formats:

(a) Kentucky Medicaid Provider Drug Portal Lookup, which shall be an online searchable drug database that functionally affords users the ability to perform a search of the Kentucky specific fee-for-service drug formulary for the purpose of ascertaining formulary status, drug coverage, and other plan limitations (prior authorization, quantity limits, step therapy, and diagnosis) associated with a drug;

(b) Kentucky Preferred Drug Listing (PDL), which shall be a listing of selected drugs available to fee-for-service recipients that have been included based on proven clinical and cost effectiveness and that prescribers are encouraged to prescribe if medically appropriate;

(c) Physician Administered Drug List (PAD), which was formerly known as the Physician Injectable Drug List (PIDL), and which shall indicate the list of physician administered drugs that can be billed to the fee-for-service medical benefit using appropriate Healthcare Common Procedure Coding System codes, National Drug Codes, and appropriate units;

(d) Over-the-Counter (OTC) Drug List, which shall be a list of OTCs that, if prescribed, are eligible for fee-for-service coverage and reimbursement through the pharmacy benefit;

(e) Covered Prescription Cold, Cough, and Vitamin Product List, which shall indicate the legend drugs that, if prescribed and FDA indicated for the intended use, are eligible for fee-for-service coverage and reimbursement through the pharmacy benefit;

(f) Long Term Care Per Diem List, which shall indicate OTC drugs that, if provided to a Medicaid nursing facility service recipient, are included in the nursing facility's standard price or daily per diem rate, and are not otherwise reimbursed by the department;

(g) Maximum Quantity Limits List, which shall indicate covered drugs that have a quantity limit consistent with the maximum dosage that the FDA has approved to be both safe and effective; and

(h) Kentucky Medicaid Diagnosis Drug List, which shall indicate covered drugs that require a diagnosis code or a prerequisite to therapy, or both.

(2) Each Outpatient Drug List shall be updated by the department at least quarterly or otherwise as needed.

(3) Each Outpatient Drug List shall be accessible through the department's pharmacy webpage.

Section 5. Exclusions to Coverage. The following drugs shall be excluded from coverage and shall not be reimbursed:

(1) A drug that the FDA considers, by way of a final determination, to be:

(a) A less-than-effective drug; or
(b) Identical, related, or similar to a less-than-effective drug;

(2) A drug or its medical use in one (1) of the following categories unless the drug or its medical use is designated as covered by an Outpatient Drug List:

(a) [~~A drug if used for anorexia, weight loss, or weight gain;~~]
[~~(b)~~] A drug if used to promote fertility;
(b)[~~(c)~~] A drug if used for cosmetic purposes or hair growth;
(c)[~~(d)~~] A drug if used for the symptomatic relief of cough and colds;
(d)[~~(e)~~] A vitamin or mineral product other than prenatal vitamins and fluoride preparations;
(e)[~~(f)~~] An OTC drug provided to a Medicaid nursing facility service recipient and included in the nursing facility's standard price or daily per diem rate;
(f)[~~(g)~~] A drug that the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee; or
(g)[~~(h)~~] A drug utilized for erectile dysfunction therapy unless the drug is used to treat a condition, other than sexual or erectile dysfunction, for which the drug has been approved by the FDA;

(3) A drug that is not rebateable, unless there has been a review and determination by the department that it is in the best interest of a recipient for the department to make payment for the drug and federal financial participation is available for the drug;

(4) A drug dispensed as part of, or incident to and in the same setting as, an inpatient hospital service, an outpatient hospital service, or an ambulatory surgical center service;

(5) A drug for which the department requires prior authorization if prior authorization has not been approved;

(6) A drug that shall no longer be dispensed by a pharmacy provider because it has reached the manufacturer's termination date or is 365 days past the manufacturer's obsolete date; and

(7) Investigational drugs or drugs being used for investigational uses or uses not otherwise supported by documentation found in official compendia or peer-reviewed medical literature.

Section 6. Limitations to Coverage.

(1) All dispensing and administration of covered drugs shall comply with applicable federal and state law.

(2) Refills.

(a) A controlled substance in Schedule II shall not be refilled.

(b) If authorized by a prescriber, a prescription for a:

1. Controlled substance in Schedule III, IV, or V may be refilled up to five (5) times within a six (6) month period from the date the prescription was written or ordered, at which time a new prescription shall be required; or

2. Noncontrolled substance, except as provided in subsection (3)(a) of this section, may be refilled up to eleven (11) times within a twelve (12) month period from the date the prescription was written or ordered, at which time a new prescription shall be required.

(3) Days Supply. For each initial fill or refill of a prescription, a pharmacist shall dispense the drug in the quantity prescribed not to exceed a thirty-two (32) day supply unless:

(a) The drug is indicated as a noncontrolled maintenance drug per the department's nationally recognized comprehensive drug data file as a drug exempt from the thirty-two (32) day dispensing limit, in which case the pharmacist shall dispense the quantity prescribed not to exceed a three (3) month supply or 100 units, whichever is greater;

(b) A prior authorization request has been submitted on a Kentucky Medicaid prior authorization request form and approved by the department because the recipient needs additional medication while traveling or for a valid medical reason, in which case the pharmacist shall dispense the quantity prescribed not to exceed a three (3) month supply or 100 units, whichever is greater; or

(c) The drug is prepackaged by the manufacturer and is intended to be dispensed as an intact unit, and it is not feasible for the pharmacist to dispense only a month's supply because one (1) or more units of the prepackaged drug will provide more than a thirty-two (32) day supply.

(4) A refill of a prescription shall not be covered unless at least

ninety (90) percent of the prescription time period has elapsed.

(5) Compounded Drugs. The department may require prior authorization for a compounded drug that requires preparation by mixing two (2) or more individual drugs.

(6) Emergency Fills. In an emergency situation, a pharmacy provider may dispense an emergency supply of a prescribed drug to a recipient in accordance with this subsection.

(a) An emergency situation shall exist if, based on the clinical judgment of the dispensing pharmacist, it would reasonably be expected that a delay in providing the drug to the recipient would place the recipient's health in serious jeopardy or the recipient would experience substantial pain and suffering.

(b) At the time of dispensing the emergency supply, the pharmacist shall:

1. Submit a prior authorization request form to the department using the urgent fax number or the department's pharmacy webpage; or

2. Notify the prescriber as soon as possible that an emergency supply was dispensed and that the prescriber is required to obtain prior authorization for the requested drug from the department.

(c) An emergency supply shall not be provided for:

1. An OTC drug;

2. A controlled substance; or

3. A drug excluded from coverage by this administrative regulation.

(d) The quantity of an emergency supply shall be:

1. The lesser of a seventy-two (72) hour supply of the drug or the amount prescribed; or

2. The amount prescribed if the drug is prepackaged by the manufacturer and is intended to be dispensed as an intact unit and it is not feasible for the pharmacist to dispense in a smaller quantity.

Section 7. Confirming Receipt of Prescription.

(1) A recipient, or a designee of the recipient, shall sign his or her name in a format that allows the signature to be reproduced or preserved by the pharmacy provider confirming that the recipient received the prescription.

(2) A pharmacy provider shall maintain, or be able to produce a copy of, the recipient's signature referenced in subsection (1) of this section for six (6) years.

Section 8. Exemptions to Kentucky Enrolled Prescriber Requirements. The department shall reimburse for a full prescription or an emergency supply of a prescription, prescribed by a provider who is not enrolled in the Kentucky Medicaid Program, if the department determines it is in the best interest of the recipient to receive the prescription.

Section 9. Utilization Management. Utilization management techniques shall be applied by the department to support medically appropriate and cost effective access to covered drugs and shall include prior authorization, step therapy, quantity limitations, generic substitution, therapeutic substitution protocols, and clinical edits.

(1) Step therapy.

(a) The department may implement step therapy drug treatment protocols by requiring the use of a medically-appropriate drug that is available without prior authorization before the use of a drug that requires prior authorization.

(b) The department may approve a request from the prescriber or a pharmacist for exemption of a specific recipient from step therapy based on documentation that a drug available without prior authorization:

1. Was used and was not an effective medical treatment or lost its effectiveness;

2. Is reasonably expected to not be an effective medical treatment;

3. Resulted in, or is reasonably expected to result in, a clinically-significant adverse reaction or drug interaction; or

4. Is medically contraindicated.

(2) Prior authorization.

(a)

1. If prior authorization is required for a drug, the applicable prior authorization request form shall be completed and submitted to the department by fax, mail service, telephone, or the department's pharmacy web portal.

2. The applicable prior authorization request form shall be the:

a. Kentucky Medicaid Substance Use Treatment Pharmacy Prior Authorization Form for Buprenorphine Products if prior authorization is being requested for buprenorphine products for substance use treatment; or

b. Kentucky Medicaid Pharmacy Prior Authorization Form if the prior authorization is being requested for a drug that is not a buprenorphine product for substance use treatment.

(b) If a recipient presents a prescription to a pharmacy provider for a drug that requires prior authorization, the pharmacist shall:

1. Complete and submit a prior authorization request form in accordance with this subsection; or

2. Notify the prescriber or the prescriber's authorized representative that the drug requires prior authorization.

a. If the prescriber indicates that an alternative available without prior authorization is acceptable and provides a new prescription, the pharmacist shall dispense the alternative.

b. If the prescriber indicates that an alternative available without prior authorization has been tried and failed or is clinically inappropriate or if the prescriber is unwilling to consider an alternative, the pharmacist shall request that the prescriber obtain prior authorization from the department.

(c) The department's notification of a decision on a request for prior authorization shall be made in accordance with this paragraph.

1. If the department approves a prior authorization request, notification of the approval shall be provided by telephone, fax, or the department's pharmacy web portal to the party requesting the prior authorization and, if known, to the pharmacist.

2. If the department denies a prior authorization request, the department shall provide a denial notice:

a. By mail to the recipient and in accordance with 907 KAR 1:563; and

b. By fax, telephone, or, if notification cannot be made by fax or telephone, by mail to the party who requested the prior authorization.

(d) Prior authorization time limits.

1. The department may grant approval of a prior authorization request for a drug for a specific recipient for a period of time not to exceed 365 calendar days.

2. Approval of a new prior authorization request shall be required for continuation of therapy subsequent to the expiration of a time-limited prior authorization request.

Section 10. Drug Review Process. The drug review process to determine if a drug requires prior authorization or other utilization management, or is otherwise restricted or excluded by the department, shall be in accordance with this section.

(1) Drug review considerations. Drug review shall be based upon available and relevant clinical information to assess appropriate use of medications and include:

(a) A review of clinically-significant adverse side effects, drug interactions and contraindications, and an assessment of the likelihood of significant abuse of the drug; and

(b) An assessment of the cost of the drug compared to other drugs used for the same therapeutic indication and if the drug offers a substantial clinically-meaningful advantage in terms of safety, effectiveness, or clinical outcome over other available drugs used for the same therapeutic indication. Cost shall be based on the net cost of the drug after federal rebate and supplemental rebates have been subtracted.

(2) New drugs. Except as provided by subsections (3) and (4) of this section, upon initial coverage by the Kentucky Medicaid Program, a drug that is newly approved for marketing by the FDA under a product licensing application, new drug application, or a supplement to a new drug application and that is a new chemical or molecular entity and not otherwise excluded shall be subject to prior authorization in accordance with KRS 205.5632.

(3) Product line. If a drug, which has been determined to require prior authorization, becomes available on the market in a new strength, package size, or other form that does not meet the definition of a new drug, the new strength, package size, or other form shall require prior authorization.

(4) Generic equivalency for prescribed brands. A brand name drug for which there is a generic form that contains identical amounts of the same active drug ingredients in the same dosage form and that meets compendia or other applicable standards of strength, quality, purity, and identity in comparison with the brand name drug shall require prior authorization, unless there has been a review and determination by the department that it is in the best interest of a recipient for the department to cover the drug without prior authorization.

(5) Advisory recommendation. Drugs subject to review by the Pharmacy and Therapeutics Advisory Committee (P&T Committee) shall be reviewed in accordance with KRS 205.564 and this administrative regulation. Upon review, the P&T Committee shall make a recommendation to the department regarding utilization management of the drug including prior authorization and the recommendation shall be advisory to the commissioner in making the final determination.

(6) The department may exclude from coverage or require prior authorization for a drug that is subject to coverage limitations in accordance with 42 U.S.C. 1396r-8(d).

Section 11. Pharmacy and Therapeutics Advisory Committee (P&T Committee) Meeting Procedures. P&T Committee meetings, processes, and procedures shall be in accordance with KRS 205.564 and this administrative regulation.

(1) Drug review considerations. The P&T Committee shall consider the drug review information specified in Section 10(1) of this administrative regulation when developing recommendations.

(2) Meeting processes and procedures.

(a) Public presentations. A public presentation at a P&T Committee meeting shall comply with this paragraph.

1. A presentation shall be limited to an agenda item.

2. A verbal presentation by pharmaceutical industry representatives shall not exceed three (3) minutes in aggregate per drug per drug manufacturer with two (2) additional minutes allowed for questions from the P&T Committee. Pharmaceutical industry representatives shall be limited to presenting:

a. Information on a new product; or

b. New information on a previously reviewed current agenda topic (package insert changes, new indications, or peer-reviewed journal articles).

3. A verbal presentation by an individual other than a pharmaceutical industry representative shall not exceed five (5) minutes.

4. A request to make a verbal presentation shall be submitted in writing via fax or e-mail to the department no later than five (5) business days in advance of the P&T Committee meeting date.

(b) Nonverbal comments, documents, or electronic media material (limited to package insert changes, new indications, or peer reviewed journal articles) shall be e-mailed to the department in a Microsoft compatible format or mailed to the department as a package including twenty-five (25) printed copies. All materials shall be received by the department no later than seven (7) business days prior to the P&T Committee meeting date.

(3) Postings. P&T Committee meeting documents shall be published in accordance with KRS 205.564(6), and shall include the:

(a) Meeting agenda;

(b) Options, including any department recommendations, for drug review and drug review placements,

(c) P&T Committee recommendations; and

(d) Commissioner's final determination.

Section 12. Exceptions to P&T Committee Recommendations.

(1)

(a) An interested party who is adversely affected by a recommendation of the P&T Committee may submit a written exception to the commissioner.

(b) The written exception shall be received by the commissioner within seven (7) calendar days of the date of the P&T Committee meeting at which the recommendation was made.

(c) Only information that was not available to be presented at the time of the P&T Committee meeting shall be included in the written exception.

(2) After the time for filing written exceptions has expired, the commissioner shall consider each recommendation of the P&T Committee and all exceptions that were filed in a timely manner prior to making a final determination.

Section 13. Final Determination. The commissioner shall issue and post a final determination in accordance with KRS 205.564(9) and (11).

(1) A decision of the commissioner to remand any recommendation to the P&T Committee shall not constitute a final decision or final determination for purposes of an appeal pursuant to KRS Chapter 13B.

(2) If any recommendation of the P&T Committee is not accepted, the commissioner or commissioner's designee shall inform the P&T Committee of the basis for the final determination in accordance with KRS 205.564(9).

Section 14. Appeals. An appeal request shall:

(1) Be in writing;

(2) Be sent by mail, messenger, carrier service, or express-delivery service to the commissioner in a manner that safeguards the information;

(3) State the specific reasons the final determination of the commissioner is alleged to be erroneous or not based on the facts and law available to the P&T Committee and the commissioner at the time of the decision;

(4) Be received by the commissioner within the deadline established by KRS 205.564(12); and

(5) Be forwarded by the commissioner to the Office of Administrative Hearings within the Department of Law[~~Division of Administrative Hearings of the Cabinet for Health and Family Services~~] for processing in accordance with the provisions of KRS Chapter 13B.

Section 15. Drug Management Review Advisory Board (DMRAB) Meeting Procedures and Appeals.

(1) A person may address the DMRAB if:

(a) The presentation is directly related to an agenda item; and

(b) The person gives notice to the department by fax or email at least five (5) business days prior to the meeting.

(2) A verbal presentation:

(a) In aggregate per drug per drug manufacturer shall not exceed three (3) minutes with two (2) additional minutes allowed for questions from the DMRAB, if required; or

(b) By an individual on a subject shall not exceed three (3) minutes with two (2) additional minutes allowed for questions from the DMRAB, if required.

(3) The proposed agenda shall be posted on the department's pharmacy webpage, located at: https://www.chfs.ky.gov/agencies/dms/dpo/ppb/Pages/p-tac.aspx at least fourteen (14) calendar days prior to the meeting.

(4) An appeal of a final decision by the commissioner by a manufacturer of a product shall be in accordance with KRS 205.5639(5). The appeal request shall:

(a) Be in writing;

(b) State the specific reasons the manufacturer believes the final decision to be incorrect;

(c) Provide any supporting documentation; and

(d) Be received by the department within thirty (30) calendar days of the manufacturer's actual notice of the final decision.

Section 16. Medicaid Program Participation Compliance.

(1) A provider shall comply with:

(a) 907 KAR 1:671;

(b) 907 KAR 1:672; and

(c) All applicable state and federal laws.

(2)

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

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

1. Interpreted to be fraud or abuse; and

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

Section 17. Use of Electronic Signatures.

(1) The creation, transmission, storage, and other use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 to 369.120.

(2) A provider that chooses to use electronic signatures shall:

(a) Develop and implement a written security policy that shall:

1. Be adhered to by each of the provider's employees, officers, agents, or contractors;

2. Identify each electronic signature for which an individual has access; and

3. Ensure that each electronic signature is created, transmitted, and stored in a secure fashion;

(b) Develop a consent form that shall:

1. Be completed and executed by each individual using an electronic signature;

2. Attest to the signature's authenticity; and

3. Include a statement indicating that the individual has been notified of his or her responsibility in allowing the use of the electronic signature; and

(c) Provide the department, immediately upon request, with:

1. A copy of the provider's electronic signature policy;

2. The signed consent form; and

3. The original filed signature.

Section 18. Auditing Authority. The department shall have the authority to audit any claim, medical record, or documentation associated with any claim or medical record.

Section 19. Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the coverage; and

(2) Centers for Medicare and Medicaid Services' approval for the coverage.

Section 20. Appeal Rights.

(1) An appeal of an adverse action taken by the department regarding a service and a recipient who is not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

(2) An appeal of an adverse action by a managed care organization regarding a service and an enrollee shall be in accordance with 907 KAR 17:010.

Section 21. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Kentucky Medicaid Substance Use Treatment Pharmacy Prior Authorization Form for Buprenorphine Products", 1-3-17; and

(b) "Kentucky Medicaid Pharmacy Prior Authorization Form", 1-3-17.

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

(a) The Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky, Monday through Friday, 8:00 a.m. to 4:30 p.m.; or

(b) Online at the department's website at https://www.chfs.ky.gov/agencies/dms/dpo/ppb/Pages/default.aspx [~~Web site at http://www.chfs.ky.gov/dms/incorporated.htm~~].

LISA D. LEE, Commissioner
STEVEN J. STACK, MD, MBA, Secretary
APPROVED BY AGENCY: August 1, 2025
FILED WITH LRC: September 9, 2025 at 10:09 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 24, 2025, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by November 17, 2025, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation through November 30, 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 and Jonathan Scott
Subject Headings: Behavioral Health; Health and Medical Services; Medicaid; Mental Health; Pharmacy; Physicians and Practitioners

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the provisions for coverage of outpatient drugs through the Medicaid outpatient pharmacy program for fee-for-service recipients and managed care enrollees.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the provisions for coverage of outpatient drugs through the Medicaid outpatient pharmacy program for fee-for-service recipients and managed care enrollees.

(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 ensuring coverage of outpatient drugs through the Medicaid outpatient pharmacy program for fee-for-service recipients and managed care enrollees.

(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 provisions for coverage of outpatient drugs through the Medicaid outpatient pharmacy program for fee-for-service recipients and managed care enrollees.

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

(a) How the amendment will change this existing administrative regulation: This amendment will allow reimbursement for prescription weight loss, anorexia, and weight loss drugs.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to implement reimbursement for weight loss, anorexia, and weight gain drugs as provided by federal law.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of authorizing statutes by permitting coverage for medication as permitted by federal law.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administrative of the statutes by allowing reimbursement for covered medications.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: As many as 350,000 Medicaid members have an obesity related diagnosis. In addition, anorexia is the deadliest behavioral health disorder, and many recipients with a diagnosis such as cancer may benefit from weight gain drugs.

(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative

regulation or amendment: In order to be reimbursed by DMS, participating providers will have to submit claims for covered drugs in accordance with this administrative regulation and applicable billing rules.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There will be no additional costs experienced by affected providers
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Medicaid beneficiaries will be able to access weight loss, anorexia, or weight loss drugs and pharmacies will be able to receive reimbursement for these covered medications.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: In the Medicaid program, drugs have to be rebateable in order to be covered. DMS therefore would not utilize or offer a GLP-1 weight loss drug if sufficient rebates were not negotiated and available. In addition, any availability of GLP-1 drugs will be mediated through prior authorizations, step therapy, or other ways to ensure that utilization by Medicaid members is responsible and limited to those individuals who will benefit the most. In commercial insurance settings, when available, about 32% of recipients will continue to take GLP-1s over the course of a year. When compared to other states who have introduced GLP-1s, 2.5% of eligible individuals may attempt to take these drugs. Therefore, DMS estimates an actual impact of $1.1 million in state funds.
(b) On a continuing basis: DMS does not anticipate offering GLP-1 medications without prior authorizations, step therapy, and other utilization management review to ensure appropriate use. DMS further anticipates that cost savings from avoided hospitalizations and other medical interventions. Adherence and persistence (the number of recipients who begin to take a medicine and continue to take it) will drive costs in this area. DMS continues to estimate a lower persistence rate, as consistent with the experience in other states that cover GLP-1 medicines. DMS therefore estimates that about 32% of about 2.5% of the potential population will have sustained use of a GLP-1 medication.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Sources of funding to be used for the implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX and Title XXI of the Social Security Act, and state matching funds of general and agency appropriations.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Neither an increase in fees nor funding will be necessary to implement the amendments.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The amendment does not establish or increase any fees.
(10) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 205.520(3), 42 C.F.R. 447 Subpart I
(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Cabinet for Health and Family Services, Department for Medicaid Services is the promulgating agency, other agencies have not been identified.
(a) Estimate the following for the first year:
Expenditures: In the Medicaid program, drugs have to be rebateable in order to be covered. DMS therefore would not utilize or offer a GLP-1 weight loss drug if sufficient rebates were not negotiated and available. In addition, any availability of GLP-1 drugs will be mediated through prior authorizations, step therapy, or other ways to ensure that utilization by Medicaid members is responsible and limited to those individuals who will benefit the most. In commercial insurance settings, when available, about 32% of recipients will continue to take GLP-1s over the course of a year. When compared to other states who have introduced GLP-1s, 2.5% of eligible individuals may attempt to take these drugs. Therefore, DMS estimates an actual impact of $1.1 million in state funds.
Revenues: The department does not anticipate additional revenues as a result of the amendment.
Cost Savings: The department anticipates that if used appropriately, weight loss (including GLP-1 medications), anorexia, and weight gain drugs will improve the health status of Kentuckians in various ways. This includes a reduction of mortality and morbidity from anorexia, the deadliest behavioral health condition. Weight gaining drugs could improve multiple treatments for conditions including cancer or chronic conditions. Finally, weight loss drugs will reduce costs for treatment of conditions such as diabetes which will lessen the need for other medications and treatments. In addition, hospital admissions and reimbursements could be reduced as a result of fewer cardiac events.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? DMS does not anticipate offering GLP-1 medications without clinical criteria, including use of prior authorizations, step therapy, and other utilization management review in order to ensure appropriate use.
(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): N/A this regulation does not impact local entities.
(a) Estimate the following for the first year:
Expenditures: N/A there is no impact on local entities
Revenues: N/A there is no impact on local entities
Cost Savings: N/A there is no impact on local entities
(b) How will expenditures, revenues, or cost savings differ in subsequent years? The department does not anticipate that this administrative regulation will have a fiscal impact on local entities.
(4) Identify additional regulated entities not listed in questions (2) or (3): Providers, pharmacies, and Medicaid recipients.
(a) Estimate the following for the first year:
Expenditures: DMS does not anticipate additional expenditures as a result of this amendment.
Revenues: The department does not anticipate revenues for other regulated entities as a result of this administrative regulation.
Cost Savings: The department does not anticipate cost savings for other regulated entities as a result of this administrative regulation.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? The department does not anticipate additional expenditures or additional revenues for other regulated entities. Individuals who improve their health status via the use of anorexia medications, weight gaining medications, or GLP-1 medications may experience cost savings.
(5) Provide a narrative to explain the:
(a) Fiscal impact of this administrative regulation: In the Medicaid program, drugs have to be rebateable in order to be covered. DMS therefore would not utilize or offer a GLP-1 weight loss drug if sufficient rebates were not negotiated and available. In addition, any availability of GLP-1 drugs will be mediated through prior authorizations, step therapy, or other ways to ensure that utilization by Medicaid members is responsible and limited to those individuals who will benefit the most. In commercial insurance settings, when available, about 32% of recipients will continue to take GLP-1s over the course of a year. When compared to other states who have introduced GLP-1s, 2.5% of eligible individuals may attempt to take these drugs. Therefore, DMS estimates an actual impact of $1.1 million in state funds.
(b) Methodology and resources used to determine the fiscal impact: Analysis of addition of GLP-1 medications conducted by the CHFS Office of Data Analytics.
(6) Explain:
(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). ($500,000 or more, in aggregate) This administrative regulation will not have a major economic impact – as defined by KRS 13A.010 – on regulated entities.
(b) The methodology and resources used to reach this conclusion: The department assessed claims data, studies that have assessed usage of GLP-1 medications across multiple states, and an analysis conducted by the CHFS Office of Data Analytics.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 42 C.F.R. 447 Subpart I
(2) State compliance standards. KRS 205.520(3) states, "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."
(3) Minimum or uniform standards contained in the federal mandate. 42 C.F.R. 447 Subpart I introduces weight-gaining and weight-loss drugs as Medicaid coverable and rebateable services.
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The amendment will not impose stricter than federal requirements.
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The amendment will not impose stricter than federal requirements.

## 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.***

**CABINET FOR HEALTH AND FAMILY SERVICES**
**Department for Medicaid Services**
**Division of Fiscal Management**
**(New Administrative Regulation)**

**907 KAR 3:062. Public Ground Ambulance Supplemental Payment Program.**

RELATES TO: KRS 45.229, 194A.030(2), 2 C.F.R. 200.413, 200.414, 42 C.F.R. 400.203, 413, 45 C.F.R. 75.413, 75.414, 42 U.S.C. 1396a

STATUTORY AUTHORITY: KRS 194A.050(1), 205.520(3), 205.560(1), 205.5604

CERTIFICATION STATEMENT:

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 a requirement that may be imposed, or opportunity presented, by federal law to qualify for federal funds. KRS 205.5604 requires the department to promulgate an administrative regulation to implement a cost-based directed payment program for public ground ambulance providers. This administrative regulation establishes the requirements for implementing the ambulance supplemental payment program for ground ambulance providers.

Section 1. Definitions.

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

(2) "Direct cost" is defined by 2 C.F.R. 200.413 and 45 C.F.R. 75.413.

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

(4) "Government owned or operated ambulance provider" is established pursuant to 42 C.F.R. 433.50.

(5) "Indirect cost" is defined by 2 C.F.R. 200.414 and 45 C.F.R. 75.414.

(6) "Intergovernmental transfer" means any transfer of money by or on behalf of a public agency for purposes of qualifying funds for federal financial participation in accordance with 42 C.F.R. 433.51.

(7) "Medicaid" means the state program of medical assistance as administered by the Cabinet for Health and Family Services in compliance with 42 U.S.C. sec. 1396.

(8) "MMIS" means the Medicaid Management Information System or its successor program.

(9) "Program year" means the calendar year during which supplemental payments and intergovernmental payments are made.

Section 2. Public Ground Ambulance Supplemental Payment Program. Prior to the program year, the department shall calculate a statewide average uniform per trip cost for transports provided by eligible government owned or operated, or special taxing district based, emergency medical transportation services that have opted in to this voluntary program.

(1) For each quarter in a program year, the department shall calculate a quarterly Medicaid managed care payment to each qualifying government owned or operated emergency ambulance provider by:

(a) Computing the total allowable costs for providing medical transportation services based on the statewide average cost per trip multiplied by each provider's eligible trips.

(b) Utilizing MMIS managed care encounter data to be requested ninety (90) days after the quarter ends.

(c) Deducting any existing claims payments or other state directed payment amounts.

(2) The department shall submit to each Medicaid managed care organization a listing of the quarterly Medicaid managed care supplemental payments that the Medicaid managed care organization shall make to each eligible government owned or operated ambulance provider.

(3) Each Medicaid managed care organization shall remit to each government owned or operated ambulance provider, as directed by the department, the quarterly Medicaid managed care supplemental payment within ten (10) business days of receipt of the quarterly supplemental payment transfer.

(4) On a quarterly basis, within fifteen (15) days of receiving quarterly managed care payments, each eligible government owned or operated ambulance provider shall transfer an intergovernmental transfer to the department in accordance with 42 C.F.R. 433.51.

(5) If an intergovernmental transfer is not received in a timely manner, the department may consider the provider to be ineligible to participate in future periods.

Section 3. Reporting Requirements.

(1) By November 30 of each program year, a government owned or operated ground ambulance provider shall submit a completed cost report. An extension may be granted on a temporary and case-by-case basis, not to exceed thirty (30) days, following a written request detailing the exigent circumstances that prevented the timely filing of the completed cost report.

(2)

(a) If a completed cost report and supporting documentation is not received by November 30, and an extension has not been requested and approved by the department, the department may deny or withhold future quarterly supplemental payments until a complete cost report is submitted.

(b) If a provider is sanctioned pursuant to paragraph (a) of this subsection, the provider shall be ineligible to participate in the next program year.

Section 4. Access to Supporting Records. A government owned or operated ground ambulance provider shall maintain and make available, upon request, any records and data necessary to justify and document:

(1) Cost report amounts submitted in accordance with Section 2;

(2) Resolution of a supplemental payment that the government owned or operated ground ambulance provider suspects is in error; or

(3) Quality metrics necessary for program reporting to the Centers for Medicare and Medicaid Services.

Section 5. Appeal Rights. An appeal of a department decision regarding quarterly payments shall be in accordance with 907 KAR 1:671.

Section 6. 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.

LISA D. LEE, Commissioner

STEPHEN J. STACK, M.D., MBA, Secretary
APPROVED BY AGENCY: August 1, 2025
FILED WITH LRC: September 9, 2025 at 10:09 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 24, 2025, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by November 17, 2025, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation through November 30, 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
Subject Headings: Emergency Medical Services; Health and Medical Services; Medicaid; Medical Transportation; Paramedics
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the public ground ambulance supplemental payment program established pursuant to HB 152 of the 2025 Regular Session and codified in KRS 205.5604.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish and implement the public ground ambulance supplemental payment program.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statute by establishing the Medicaid program processes relating to the public ground ambulance supplemental payment program.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists with the effective administration of the statutes by establishing the Medicaid program coverage provisions and requirements regarding the Public Ground Ambulance Supplemental Payment Program.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.
(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.
(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.
(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes, HB 152 of the 2025 Regular Session.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: DMS estimates that up to 130 publicly operated or owned ground ambulance providers may participate in this program.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: Public ground ambulance providers will be required to provide a cost report to the department and make an intergovernmental transfer payment in order to be eligible to participate in the supplemental payment program.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): DMS does not anticipate additional costs as a result of this amendment.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Entities will be able to participate in the ground ambulance supplemental payment program.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: DMS does not anticipate costs beyond those allocated to DMS pursuant to the statute.
(b) On a continuing basis: DMS does not anticipate costs beyond those allocated to DMS pursuant to the statute.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Sources of funding to be used for the implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX and Title XXI of the Social Security Act, and state matching funds of general and agency appropriations.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This administrative regulation will not require an increase in fees or funding.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor increases any fees.
(10) TIERING: Is tiering applied? Tiering is not applied.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1), 205.520(3), 205.560(1), 42 C.F.R. 431.53, 433.50, 433.51, 438.6c, 42 U.S.C. 1396a
(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Cabinet for Health and Family Services, Department for Medicaid Services, Division of Fiscal Administration
(a) Estimate the following for the first year:
Expenditures: DMS does not anticipate additional expenditures beyond those allocated in the statute.
Revenues: DMS does not anticipate revenues.
Cost Savings: DMS does not anticipate cost savings.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? DMS does not anticipate additional expenditures beyond those allocated in the statute. DMS does not anticipate revenues or costs savings as a result of this program in subsequent years.
(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Cities, counties, or other districts that operate a public ground ambulance provider.
(a) Estimate the following for the first year:
Expenditures: Public ground ambulance providers will be required to remit an intergovernmental transfer in order to be eligible for a supplemental payment.
Revenues: Public ground ambulance providers will be eligible for a supplemental payment that is calculated based on a statewide average add-on per ambulance transport.
Cost Savings: Cost savings are not expected.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? An annual process will determine the amount of the expenditures and revenues to be expected by the local entity.
(4) Identify additional regulated entities not listed in questions (2) or (3): N/A
(a) Estimate the following for the first year:

Expenditures: DMS does not anticipate additional expenditures as a result of this amendment.
Revenues: DMS does not anticipate additional revenues as a result of this amendment.
Cost Savings: DMS does not anticipate cost savings as a result of this amendment.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? DMS does not anticipate additional expenditures, revenues, or costs savings as a result of this amendment in subsequent years.
(5) Provide a narrative to explain the:
(a) Fiscal impact of this administrative regulation: DMS anticipates no additional costs beyond those allocated pursuant to 2025 House Bill 152.
(b) Methodology and resources used to determine the fiscal impact: Research, input, and analysis provided by a working group of departmental staff, local entities, and consultants associated with the department and the local ambulance providers.
(6) Explain:
(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). ($500,000 or more, in aggregate) This administrative regulation will not have a major economic impact – as defined by KRS 13A.010 – on regulated entities.
(b) The methodology and resources used to reach this conclusion: Research, input, and analysis provided by a working group of departmental staff, local entities, and consultants associated with the department and the local ambulance providers.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 42 C.F.R. 431.53, 433.50, 433.51, 438.6c, 42 U.S.C. 1396a
(2) State compliance standards. KRS 205.520(3)
(3) Minimum or uniform standards contained in the federal mandate. 42 C.F.R. 431.53 establishes requirements for supplemental payment programs.
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation does not impose stricter than federal requirements.
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter than federal requirements.

***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**
**Department for Medicaid Services**
**Commissioner's Office**
**(New Administrative Regulation)**

**907 KAR 3:320. Beneficiary Advisory Council and modifications to the Advisory Council for Medical Assistance to establish the Kentucky Medicaid Advisory Committee.**

RELATES TO: KRS 61.800-884, 205.540, 42 C.F.R. 431.12
STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3)
CERTIFICATION STATEMENT:
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 Beneficiary Advisory Council and implements additional requirements for the Advisory Council for Medical Assistance, referred to federally as the Medicaid Advisory Committee, following changes to federal law.

Section 1. Beneficiary Advisory Council membership.
(1) The Department for Medicaid Services shall establish a Beneficiary Advisory Council consistent with 42 C.F.R. 431.12.
(2) Members of the Beneficiary Advisory Council shall be appointed by the commissioner of the Department for Medicaid Services.
(3) The Beneficiary Advisory Council shall consist of fifteen (15) members as follows:
(a) Ten (10) current or former Medicaid beneficiaries; and
(b) Five (5) individuals who are parents, guardians, or paid or unpaid caregivers of a Medicaid beneficiary.
(c) The three (3) medical assistance recipients serving as of July 8, 2025 on the Advisory Council for Medical Assistance pursuant to KRS 205.540, shall be appointed for a term that aligns the remainder of their term to a new term in subsection 4 of this section, to the extent possible.
(d) Appointments shall ensure representation of member experience with Medicaid managed care, the foster care system, 1915(c) home and community based waivers, or maternal, child, or behavioral health services.
(4) Members of the Beneficiary Advisory Council shall hold office for a term of four (4) years, except that the terms for members appointed upon council creation shall be as follows:
(a) One-third (1/3) of the members shall be appointed for two (2) years;
(b) One-third (1/3) of the members shall be appointed for three (3) years;
(c) One-third (1/3) of the members shall be appointed for four (4) years; and
(d) The respective terms of the members first appointed shall be designated by the commissioner of the Department for Medicaid Services at the time of their appointments.
(5) The following requirements shall apply to the terms of members of the Beneficiary Advisory Council:
(a) A member shall not serve a consecutive term but may be reappointed after a period of at least four (4) years following the end of their term;
(b) A vacancy shall be filled for an unexpired term in the same manner as the original appointment; and
(c) Members whose term has expired may serve until their successor is appointed.
(6) The Beneficiary Advisory Council shall elect a chair, vice-chair, and secretary from among its members at its first regular meeting, and annually thereafter.
(7)
(a) Upon appointment to the Beneficiary Advisory Council, members shall indicate to the commissioner their interest in appointment to the Medicaid Advisory Committee pursuant to Section 4(3)(b) and to comply with 42 CFR 431.12.
(b) The current chair of the Beneficiary Advisory Council shall serve as one (1) of the appointments to the Medicaid Advisory Committee.
(c) The three (3) medical assistance recipients serving as of July 8, 2025 on the Advisory Council for Medical Assistance pursuant to KRS 205.540 shall be appointed pursuant to subsection (3)(c).
(8) To permit meaningful participation, members of the Beneficiary Advisory Council, including members who also serve on the Medicaid Advisory Committee, may receive, if requested:
(a) Compensation for time and appropriate expenses in an amount consistent with similar services reimbursed by Medicaid or as reimbursed by other boards and commissions; and
(b) Reasonable accommodations including language services, personal assistance, communication supports, and any other supports or resources based on the individual member's needs.

Section 2. Confidentiality and privacy applicable to members of the Beneficiary Advisory Council.

(1) To the extent that a conflict exists between 42 C.F.R. 431.12 and the Kentucky Open Meetings and Kentucky Open Records statutes, KRS 61.800-884, members of the Beneficiary Advisory Council may participate in the work of the Beneficiary Advisory Council as consistent with this section.

(2) A member of the Beneficiary Advisory Council shall have the option to exclude their name from documents published or posted by the Department for Medicaid Services that include a list of members of the Beneficiary Advisory Council, the Medicaid Advisory Committee, or the actions of members recorded in publicly published or posted meeting minutes.

(3) Meetings of the Beneficiary Advisory Council are not required to be open to the public unless a majority of the members decide otherwise.

(4) A member of the Beneficiary Advisory Council may opt-in to participate and vote by telephone.

Section 3. Beneficiary Advisory Council duties and authority.

(1) The Beneficiary Advisory Council shall advise the Department for Medicaid Services on:

(a) Their experiences with the program;

(b) Matters related to policy development and effective administration of the program; and

(c) Other issues that impact the provision or outcomes of health and medical care services in the program.

(2) The Beneficiary Advisory Council shall:

(a) Be separate from the Medicaid Advisory Committee pursuant to 42 CFR 431.12;

(b) Meet separately from the Medicaid Advisory Committee;

(c) Meet at least once per quarter; and

(d) Meet in advance of each Medicaid Advisory Committee meeting to prepare Beneficiary Advisory Council members.

(3) The Beneficiary Advisory Council shall adhere to bylaws developed and published by the department for governance.

Section 4. Advisory Council for Medical Assistance. Medicaid Advisory Committee. KRS 205.540 created the Advisory Council for Medical Assistance in 1960 to meet a federal requirement for an advisory council to assist the state Medicaid program. KRS 205.540 now conflicts with changes to federal regulations that take effect July 9, 2025. Therefore, it is the department's intention that the Advisory Council for Medical Assistance established in KRS 205.540 shall be modified in this Section to meet the requirements of 42 CFR 431.12 and function as Kentucky's Medicaid Advisory Committee.

(1) On or after July 9, 2025, the Medicaid Advisory Committee shall consist of members appointed by the commissioner of the Department for Medicaid Services.

(2) The membership appointed to the Advisory Council for Medical Assistance pursuant to KRS 205.540 as of July 8, 2025 shall be appointed by the commissioner for the Department for Medicaid Services to the new Medicaid Advisory Committee pursuant to 42 CFR 431.12 as follows:

(a) For a member with an unexpired term, for a term that aligns the remainder of the member's term with a new term in subsection (4)(b) of this section, to the extent possible;

(b) For a member serving as a medical assistance recipient, to both the Medicaid Advisory Committee and the Beneficiary Advisory Council for the same term that aligns the remainder of their term with a new term in subsection (4)(b) of this section, to the extent possible;

(c) For a member serving in an expired term, that member's term shall end on July 8, 2025, and appointment shall follow the nomination process of KRS 205.540; and

(d) For a vacancy, appointment shall follow the nomination process of KRS 205.540.

(3) The Medicaid Advisory Committee shall consist of the following members:

(a) Members appointed by the commissioner of the Department for Medicaid Services according to the membership established in KRS 205.540.

(b) Ex-officio, non-voting members as follows:

1. The commissioner of the Department for Medicaid Services, or his or her designee;

2. The commissioner of the Department for Community Based Services, or his or her designee;

3. The commissioner of the Department for Public Health, or his or her designee;

4. The commissioner of the Department for Behavioral Health, Developmental and Intellectual Disabilities, or his or her designee;

(c) The appointment by the commissioner of the Department for Medicaid Services of a sufficient number of members of the Beneficiary Advisory Council so that at least twenty-five percent (25%) of the Medicaid Advisory Committee consists of members serving on the Beneficiary Advisory Council; and

(d) A member appointed by the commissioner for the Department for Medicaid Services from a list of three (3) nominees submitted by the Kentucky Association of Health Plans, or its successor organization, to represent a current contracted Medicaid Managed Care Organization, if beneficiaries are enrolled in managed care.

(4) A member shall have a non-consecutive term of four (4) years except that:

(a) The member appointed pursuant to subsection (3)(d) of this section shall serve a term of one (1) year.

(b) The other members first appointed according to subsections (1), (2), and (3) of this section shall serve as follows:

1. One-third (1/3) of the members shall be appointed for a term of two (2) years;

2. One-third (1/3) of the members shall be appointed for a term of three (3) years; and

3. One-third (1/3) of the members shall be appointed for a term of four (4) years.

(c) A member may be reappointed after a period of at least four (4) years following the end of their term.

(d) A vacancy shall be filled for an unexpired term in the same manner as the original appointment.

(e) At the first meeting after July 9, 2025, the new Medicaid Advisory Committee shall elect a chair, vice-chair and secretary from among its members, and annually thereafter.

(5) The Medicaid Advisory Committee shall adhere to bylaws developed and published by the department for governance.

(6) On or after July 9, 2027, the Medicaid Advisory Committee shall submit an annual report to be published on the Medicaid Advisory Committee's website, with support from the Department for Medicaid Services, as follows:

(a) Describes the activities, topics discussed, and recommendations of the Medicaid Advisory Committee and the Beneficiary Advisory Council;

(b) Includes the department's review and responses to recommended actions; and

(c) Is published to the department's website thirty (30) days after it is final.

Section 5. Duties of the Department for Medicaid Services. The department shall comply with the requirements in 42 CFR 431.12 as follows:

(1) Provide staff who attend and facilitate meetings and member engagement for the Medicaid Advisory Committee and Beneficiary Advisory Council;

(2) Develop and publish on the department's website a process for Medicaid Advisory Committee and Beneficiary Advisory Council member recruitment and selection;

(3) Develop and publish on the department's website bylaws for the governance of the Medicaid Advisory Committee and Beneficiary Advisory Council;

(4) Develop and publish on the department's website a meeting schedule that maximizes member attendance and an agenda with a 30-calendar day notice of a meeting date, location, and time of each public meeting of the Medicaid Advisory Committee and Beneficiary Advisory Council;

(5) Publish on the department's website past meeting minutes and list of meeting attendees within 30 calendar days following a meeting of the Medicaid Advisory Committee and Beneficiary Advisory Council, except that members of the Beneficiary Advisory Council shall have the option to exclude their names;

(6) Offer a variety of meeting options including in-person, virtual, and hybrid (in-person and virtual), and at a minimum a telephone dial-in option for members and the public, if the meeting is open to the public;

(7) Ensure meetings are accessible to people with disabilities and provide financial support and reasonable accommodations to members of the Beneficiary Advisory Council to support participation; and

(8) Support the Medicaid Advisory Committee with the development of an annual report, and publish it on the department's website.

LISA D. LEE, Commissioner
STEPHEN J. STACK, M.D., MBA, Secretary
APPROVED BY AGENCY: August 1, 2025
FILED WITH LRC: September 9, 2025 at 10:09 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 24, 2025, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by November 17, 2025, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation through November 30, 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
Subject Headings: Advisory Entities; Health and Medical Services; Medicaid
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the Beneficiary Advisory Committee and implements additional requirements for the Advisory Council for Medical Assistance following changes to federal law.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish Beneficiary Advisory Council and make additional federally required updates to the Advisory Council for Medical Assistance.
(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 ensuring federally required representation on existing committees and processes and a new Beneficiary Advisory Council.
(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 federally required updates to existing advisory councils and a new required advisory council.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.
(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.
(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.
(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: DMS anticipates the appointment of fifteen (15) members to the new Beneficiary Advisory Council.
(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: No action is required, except individuals will need to inform DMS of their interest in serving.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): Regulated entities will experience no new costs in complying with this administrative regulation.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Recipients will be able to participate in the Beneficiary Advisory Council and provide advice and policy development assistance to DMS.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: The department anticipates expenses of less than $50,000 in introducing the Beneficiary Advisory Council and implementing a new structure and members into the Medicaid Advisory Committee. The expenses will consist of per diems for Medicaid recipients who will begin to participate more broadly in the Medicaid Advisory Committee and the new Beneficiary Advisory Council. In addition, transportation costs and beneficiary supports – if needed – would be included in this estimate.
(b) On a continuing basis: DMS anticipates that the cost of $50,000 will continue into the future, and would be impacted only by increases in state mileage rates, and increases in other transportation and labor costs of recipient participants.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Sources of funding to be used for the implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX and Title XXI of the Social Security Act, and state matching funds of general and agency appropriations.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Neither an increase in fees nor funding will be necessary to implement the administrative regulation.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The administrative regulation does not establish or increase any fees.
(10) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. 42 C.F.R. 431.12
(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Cabinet for Health and Family Services, Department for Medicaid Services is the promulgating agency, other agencies have not been identified.
(a) Estimate the following for the first year:
Expenditures: The department anticipates expenses of less than $50,000 in introducing the Beneficiary Advisory Council and implementing a new structure and members into the Medicaid Advisory Committee. The expenses will consist of per diems for Medicaid recipients who will begin to participate more broadly in the Medicaid Advisory Committee and the new Beneficiary Advisory

Council. In addition, transportation costs and beneficiary supports – if needed – would be included in this estimate.
Revenues: The department does not anticipate revenues as a result of this administrative regulation.
Cost Savings: The department does not anticipate cost savings as a result of this administrative regulation.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? DMS anticipates that the cost of $50,000 will continue into the future, and would be impacted only by increases in state mileage rates, and increases in other transportation and labor costs of recipient participants.
(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): N/A
(a) Estimate the following for the first year:
Expenditures: DMS anticipates no additional costs for local entities.
Revenues: The department does not anticipate revenues for local entities as a result of this administrative regulation.
Cost Savings: The department does not anticipate cost savings for local entities as a result of this administrative regulation.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? DMS does not expect additional expenditures, revenues, or cost savings for local entities as a result of this regulation.
(4) Identify additional regulated entities not listed in questions (2) or (3): Medicaid recipients, provider representatives, or other interested parties participating in the Medicaid Advisory Committee or the Beneficiary Advisory Committee.
(a) Estimate the following for the first year:
Expenditures: DMS does not anticipate additional expenditures for regulated entities, as per diems and travel costs – if any – will be reimbursed.
Revenues: DMS does not anticipate revenues for other participating individuals.
Cost Savings: The department does not anticipate cost savings as a result of this administrative regulation.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? DMS anticipates that any new participating individuals will continue to be eligible for some travel costs and per diems.
(5) Provide a narrative to explain the:
(a) Fiscal impact of this administrative regulation: DMS anticipates no additional costs beyond those budgeted in 2024 Regular Session HB 6. The Beneficiary Advisory Council – similar to the technical advisory committees, Advisory Council on Medical Assistance, and the new Medicaid Advisory Committee is anticipated to be primarily conducted electronically for participant convenience. The department anticipates expenses of less than $50,000 in introducing the Beneficiary Advisory Council and implementing a new structure and members into the Medicaid Advisory Committee. The expenses will consist of per diems for Medicaid recipients who will begin to participate more broadly in the Medicaid Advisory Committee and the new Beneficiary Advisory Council. In addition, transportation costs and beneficiary supports – if needed – would be included in this estimate
(b) Methodology and resources used to determine the fiscal impact: The department worked with interested parties to gain input and perspectives. In addition, DMS also worked with an external contractor in order to assess, analyze, and implement the federal final rule established in 42 C.F.R. 431.12.
(6) Explain:
(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). ($500,000 or more, in aggregate) The administrative regulation will not have a major economic impact – as defined by KRS 13A.010 – on regulated entities.
(b) The methodology and resources used to reach this conclusion: An assessment of the scope, meeting frequency, and expected participation of the board.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 42 C.F.R. 431.12
(2) State compliance standards. KRS 205.520(3) states, “Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect.”
(3) Minimum or uniform standards contained in the federal mandate. State Medicaid agencies are required to establish and operate beneficiary advisory councils. In addition, a Medicaid Advisory Committee is required that includes members appointed by the Medicaid commissioner. The Medicaid Advisory Committee is also required to include additional types of members and additional beneficiary members.
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation will not impose stricter than federal requirements.
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation will not impose stricter than federal requirements.

# ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
## Minutes of September 9, 2025

**ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE**
**Minutes of September 9, 2025**

**Call to Order and Roll Call**
The September meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, September 9, 2025, at 1:00 PM in Room 149 of the Capitol Annex. Senator Stephen West, Chair, called the meeting to order, and roll call was taken.

**Present were:**
**Members:** Senator Stephen West, Co-Chair; Representative Derek Lewis, Co-Chair; Senators Mike Wilson and David Yates; and Representatives Deanna Gordon and Mary Lou Marzian.

**LRC Staff:** Stacy Auterson, Laura Begin, Emily Caudill, Ange Darnell, Emily Harkenrider, Karen Howard, Anna Latek, Callie Lewis, and Carrie Nichols.

**Guests:** Jessica Brown, General Counsel, Board of Pharmacy; Mark Brengelman, General Counsel, Board of Social Work; Hank Cecil, Chair, Board of Social Work; Marc Kelly, Executive Director, Board of Social Work; Lilly Coiner, Counsel, Board of Licensure for Occupational Therapy; Jill Phelps, Chair, Board of Licensure for Occupational Therapy; William Brab, Chair, Board of Registration for Professional Geologists; Adrian Del Valle, Counsel, Board of Registration for Professional Geologists; Elizabeth Morgan, R.T., Executive Director, Board of Medical Imaging and Radiation Therapy; Eddie Slone, Executive Director, Board of Emergency Medical Services; John Wood, Counsel, Board of Emergency Medical Services; Steven Fields, Attorney, Department of Fish and Wildlife Resources; Jenny Gilbert, Legislative Liaison, Department of Fish and Wildlife Resources; Jon Johnson, Assistant General Counsel, Kentucky Transportation Cabinet (KYTC); Chad Collins, General Counsel, Kentucky High School Athletic Association (KHSAA); Lauren Graves, Policy Advisor, Kentucky Department of Education (KDE); Sarah Medley, Policy Advisor, KDE; Corey Nichols, Deputy General Counsel, KDE; Julian Tackett, Commissioner, KHSAA; Jason Hernandez, General Counsel, Education and Labor Cabinet; Robin Maples, Occupational Safety and Health Standards Specialist, Department of Workplace Standards; and Wesley Duke, General Counsel, Cabinet for Health and Family Services (CHFS).

**Approval of August 12, 2025 Minutes**
A motion was made and seconded to approve the minutes of the August 12, 2025, meeting. Minutes were approved by voice vote without objection.

**Administrative Regulations Reviewed by this Subcommittee:**
**BOARDS AND COMMISSIONS: Board of Pharmacy**
201 KAR 002:480. Telework and electronic supervision for remote prescription processing. Jessica Brown, General Counsel, Board of Pharmacy, represented the board.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 3 and 5 through 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**Board of Licensure for Occupational Therapy**
201 KAR 028:240. Occupational Therapy Licensure Compact. Lilly Coiner, Counsel, Board of Licensure for Occupational Therapy, and Jill Phelps, Chair, Board of Licensure for Occupational Therapy, represented the board.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**Board of Registration for Professional Geologists**
201 KAR 031:010. Fees. William Brab, Chair, Board of Registration for Professional Geologists, and Adrian Del Valle, Counsel, Board of Registration for Professional Geologists, represented the board.

In response to Co-Chair Lewis, Mr. Del Valle stated the last adjustment in fees took place approximately two years ago.

In response to Representative Gordon, Mr. Brab stated the increase in fees is due to decreasing membership and increasing operational fees and costs to the board.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1(2) and Section 3(1), (2), and (3) to delete the added language granting the board discretion to further increase the fee up to a set maximum on the board's own initiative; and (2) to delete Section 5 that requires a supermajority board vote at a public meeting to implement additional increases. Without objection, and with agreement of the agency, the amendments were approved.

**Board of Medical Imaging and Radiation Therapy**
201 KAR 046:010E. Definitions for 201 KAR Chapter 46. Elizabeth Morgan, R.T., Executive Director, Board of Medical Imaging and Radiation Therapy, represented the board.

201 KAR 046:081E. Limited X-Ray machine operator.

**INDEPENDENT ADMINISTRATIVE BODIES: Board of Emergency Medical Services**
202 KAR 007:501. Ambulance agency licensure. Eddie Slone, Executive Director, Board of Emergency Medical Services, and John Wood, Counsel, Board of Emergency Medical Services, represented the board.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO, STATUTORY AUTHORITY, and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 2, 5, and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

202 KAR 007:545. License classifications.

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 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

202 KAR 007:565. Clinical pilot programs.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO, STATUTORY AUTHORITY, and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**TOURISM, ARTS AND HERITAGE CABINET: Department of Fish and Wildlife Resources: Hunting and Fishing**
301 KAR 003:140. Take of wildlife with aircraft prohibited. Steven Fields, Attorney, Department of Fish and Wildlife, Jenny Gilbert, Legislative Liaison, Department of Fish and Wildlife, represented the department.

In response to Co-Chair Lewis, Ms. Gilbert stated the regulation complies with 16 U.S.C. 742, which prohibits the use of drones for the take or harassment of wildlife. The regulation ensures the department operates within the federal guidelines, as well as addresses concerns raised by hunters.

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 Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with

agreement of the agency, the amendments were approved.

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

In response to Senator Wilson, Ms. Gilbert stated the regulation replaces an expired licensure reciprocity regulation. Some reciprocal agreements with neighboring states are over a decade old, necessitating review and clarification.

In response to Chair West, Ms. Gilbert stated the regulation does not affect licensing fees. A current state-issued license allows access to shared areas between Kentucky and contiguous states. The re-evaluation of fee structures in neighboring states for non-resident licenses is under discussion but requires further research.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY
paragraphs to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**TRANSPORTATION CABINET: Department of Vehicle Registration: Division of Motor Vehicle Licensing**

601 KAR 023:070E. Street-legal special purpose vehicles. Jon Johnson, Assistant General Counsel, KYTC, represented the division.

**EDUCATION AND LABOR CABINET: Board of Education: Department of Education: School Terms, Attendance and Operation**

702 KAR 007:065. Designation of agent to manage middle and high school interscholastic athletics. Chad Collins, General Counsel, KHSAA; Lauren Graves, Policy Advisor, KDE; Sarah Medley, Policy Advisor, KDE; Corey Nichols, Deputy General Counsel, KDE; and Julian Tackett, Commissioner, KHSAA, represented the department.

In response to Chair West, Mr. Collins stated the regulation implements procedural and bylaw changes, including provisions relating to local control of athlete reinstatement, start and end times for sports activities to ensure coverage under catastrophic insurance, heat injury procedures, Title IX, and statutory compliance. Commissioner Tackett stated KRS 156.070 authorizes the department to designate an outside entity to manage athletics, which is KHSAA, and the statute does not refer to “NIL” or “name, image, likeness” programs used in affiliated schools.

In response to Representative Gordon, Commissioner Tackett stated the gender- at-birth section of the athletic participation form is not required to participate, and the physician has discretion to determine which portions of the form to complete, in compliance with recently passed legislation.

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.

**Office of Learning Programs Development**

704 KAR 004:010. Physical education.

A motion was made and seconded to approve the following amendments: to amend Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**Academic Standards**

704 KAR 008:030. Required academic standards for health education.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

704 KAR 008:050. Required academic standards for physical education.

704 KAR 008:080. Required academic standards in career studies and financial literacy.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**Department of Workplace Standards: Division of Occupational Safety and Health Compliance**

803 KAR 002:181E. Recordkeeping and reporting occupational injuries and illnesses. Jason Hernandez, General Counsel, Education and Labor Cabinet, and Robin Maples, Occupational Safety and Health Standards Specialist, Department of Workplace Standards, represented the division.

In response to Senator Yates, Mr. Hernandez stated the passage of 2025 RS HB 398 requires the amendments. Ms. Maples stated the changes in reporting timelines comply with federal requirements.

803 KAR 002:241E. Repeal of 803 KAR 2:240.

803 KAR 002:250E. Discrimination.

803 KAR 002:260E. Appeal procedure.

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

**CABINET FOR HEALTH AND FAMILY SERVICES: Office of the Inspector General: State Health Plan**

900 KAR 005:020E. State Health Plan for facilities and services. Wesley Duke, General Counsel, CHFS, represented the office.

In response to Senator Yates, Mr. Duke stated the regulation supports the large- scale expansion at Norton Healthcare’s pediatric teaching hospital, as well as addresses gaps in pediatric health services across the state. The increase in neonatal beds improves access to quality care. Senator Yates stated Norton Healthcare is building one of the best pediatric hospitals in the country, and the existing pediatric facility will continue to expand.

In response to Chair West, Mr. Duke stated it is his understanding the age cut-off for pediatric psychiatric beds is 17, but he could not confirm it definitively.

**Certificate of Need**

900 KAR 006:075E. Certificate of need nonsubstantive review.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2(3)(e) and Section 3(4) for consistency with related statutes; and (2) to amend Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**The following administrative regulations were deferred or removed from the September 9, 2025, subcommittee agenda:**

**BOARDS AND COMMISSIONS: Board of Licensure for Long-Term Care Administrators**

201 KAR 006:030. Temporary permits.
201 KAR 006:071. Continuing education requirements.

**Board of Medical Licensure**

201 KAR 009:270. Professional standards for prescribing, dispensing, or administering Buprenorphine-Mono-Product or Buprenorphine-Combined-with- Naloxone.

**Board of Social Work**

201 KAR 023:075. Continuing education for renewal. Mark Brengelman, General Counsel, Board of Social Work; Hank Cecil, Chair, Board of Social Work; and Marc Kelly, Executive Director,

Board of Social Work, represented the board.

In response to Chair West, Mr. Kelly requested to defer consideration of this administrative regulation to the October meeting of the subcommittee. Without objection, and with agreement of the subcommittee, this administrative regulation was deferred.

**TOURISM, ARTS AND HERITAGE CABINET: Department of Fish and Wildlife Resources: Game**
301 KAR 002:031. Repeal of 301 KAR 002:030. Steven Fields, Attorney, Department of Fish and Wildlife, and Jenny Gilbert, Legislative Liaison, Department of Fish and Wildlife, represented the department.

In response to Chair West, Ms. Gilbert requested to defer consideration of this administrative regulation to the October meeting of the subcommittee. Without objection, and with agreement of the subcommittee, this administrative regulation was deferred.

**CABINET FOR ECONOMIC DEVELOPMENT: Economic Development Finance Authority**
307 KAR 001:080E. Kentucky Entertainment Incentive Program.

**EDUCATION AND LABOR CABINET: Board of Education: Department of Education: Pupil Transportation**
702 KAR 005:130. Non-school bus passenger vehicles.

**Department of Workplace Standards: Division of Occupational Safety and Health Compliance**
803 KAR 002:310E. Medical services and first aid.

**PUBLIC PROTECTION CABINET: Department of Insurance: Division of Property and Casualty Insurance**
806 KAR 020:030E. Car Valuation Guides.

**KENTUCKY HORSE RACING AND CHARITABLE GAMING CORPORATION: Pari-Mutuel Wagering**
810 KAR 006:001. Definitions for 810 KAR Chapter 6.

**CABINET FOR HEALTH AND FAMILY SERVICES: Office of the Inspector General: State Health Plan**
900 KAR 005:020. State Health Plan for facilities and services.

**Certificate of Need**
900 KAR 006:075. Certificate of need nonsubstantive review.

**The subcommittee adjourned at 1:35 PM. The next meeting of this subcommittee is tentatively scheduled for October 13, 2025, at 1 PM in Room 149 of the Annex.**

## OTHER COMMITTEE REPORTS

**COMPILER'S NOTE:** In accordance with KRS 13A.290(11), the following reports were forwarded by the appropriate jurisdictional committees to the Regulations Compiler and the Legislative Research Commission and are hereby printed in the *Administrative Register of Kentucky*.

### INTERIM JOINT COMMITTEE ON HEALTH SERVICES
### Meeting of August 27, 2025

The following administrative regulations were available for consideration and placed on the agenda of the Interim Joint Committee on Health Services for its meeting of August 27, 2025, having been referred to the Committee on August 6, 2025, pursuant to KRS 13A.290(6):

201 KAR 002:416
201 KAR 023:012
201 KAR 023:025

Committee activity in regards to review of the above-referenced administrative regulations is reflected in the minutes of the August 27, 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 September 19, 2025

Committee activity in regards to review of the above-referenced administrative regulations is reflected in the minutes of the July 30, 2025 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.
The Interim Joint Committee on Natural Resources and Energy met on September 18, 2025, and a quorum was present. The following administrative regulations were available for consideration having been referred to the Committee on September 3, 2025, pursuant to KRS 13A.290(6):

301 KAR 002:221
301 KAR 003:001
301 KAR 003:010
301 KAR 004:120
301 KAR 006:006
807 KAR 005:015

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 regulation is reflected in the minutes of the September 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 52nd year of the *Administrative Register of Kentucky*, from July 2025 through June 2026.

# LOCATOR INDEX - EFFECTIVE DATES

| Regulation Number | Ky.R. Page No. | Effective Date |
|---|---|---|

Administrative regulations published in previous Register years may appear in this index if a regulation had not completed the KRS Chapter 13A review process by the beginning of 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.

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**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.

| | | | |
|---|---|---|---|
| 101 KAR 002:210E | 52 Ky.R. | 535 | 9-15-2025 |
| 201 KAR 002:416E | 51 Ky.R. | 1359 | 12-17-2024 |
| Replaced | 52 Ky.R. | 173 | 8-27-2025 |
| 201 KAR 028:240E | 52 Ky.R. | 5 | 6-13-2025 |
| As Amended | | 362 | 8-12-2025 |
| 201 KAR 017:120E | 51 Ky.R. | 1237 | 11-26-2024 |
| As Amended | | 1643 | 2-10-2025 |
| Replaced | | 1775 | 6-18-2025 |
| Resubmitted | 52 Ky.R. | 537 | 8-26-2025 |
| 201 KAR 023:012E | 51 Ky.R. | 1838 | 4-15-2025 |
| Replaced | | 1914 | 8-27-2025 |
| 201 KAR 036:100E | 51 Ky.R. | 1238 | 11-26-2024 |
| Am Comments | | 1764 | 3-10-2025 |
| Replaced | | 1776 | 6-18-2025 |
| 201 KAR 046:010E | 52 Ky.R. | 138 | 6-30-2025 |
| 201 KAR 046:081E | 52 Ky.R. | 140 | 6-30-2025 |
| 307 KAR 001:070E | 51 Ky.R. | 1927 | 5-15-2025 |
| 307 KAR 001:080E | 52 Ky.R. | 144 | 7-1-2025 |
| Am Comments | | 547 | 9-15-2025 |
| 601 KAR 009:076E | 52 Ky.R. | 147 | 7-10-2025 |
| Withdrawn by agency | | | 7-16-2025 |
| 601 KAR 012:120E | 51 Ky.R. | 1240 | 12-6-2024 |
| Am Comments | | 1764 | 3-10-2025 |
| Replaced | | 1850 | 6-3-2025 |
| 601 KAR 023:070E | 52 Ky.R. | 149 | 7-10-2025 |
| 701 KAR 005:170E | 52 Ky.R. | 356 | 8-13-2025 |
| 803 KAR 002:120E | 52 Ky.R. | 359 | 7-22-2025 |
| 803 KAR 002:181E | 52 Ky.R. | 151 | 7-1-2025 |
| 803 KAR 002:241E*(r)* | 52 Ky.R. | 154 | 7-1-2025 |
| 803 KAR 002:250E | 52 Ky.R. | 155 | 7-1-2025 |
| 803 KAR 002:260E | 52 Ky.R. | 158 | 7-1-2025 |
| 803 KAR 002:310E | 52 Ky.R. | 161 | 7-1-2025 |
| 803 KAR 002:320E | 51 Ky.R. | 1244 | 11-19-2024 |
| 803 KAR 002:404E | 52 Ky.R. | 7 | 6-12-2025 |
| 806 KAR 020:030E | 52 Ky.R. | 164 | 6-30-2025 |
| 807 KAR 005:015E | 51 Ky.R. | 1751 | 2-25-2025 |
| Replaced | 52 Ky.R. | 392 | 9-18-2025 |
| 900 KAR 005:020E | 52 Ky.R. | 9 | 6-9-2025 |
| 900 KAR 006:075E | 52 Ky.R. | 11 | 6-9-2025 |
| Am Comments | | 362 | 8-15-2025 |
| As Amended | | 550 | 9-9-2025 |
| 902 KAR 055:015E | 52 Ky.R. | 539 | 8-18-2025 |
| 907 KAR 001:595E | 51 Ky.R. | 1361 | 12-23-2024 |
| Replaced | | 1558 | 7-30-2025 |
| 907 KAR 001:835E | 51 Ky.R. | 1365 | 12-23-2024 |
| Replaced | | 1562 | 7-30-2025 |
| 907 KAR 003:100E | 51 Ky.R. | 1379 | 12-23-2024 |
| Replaced | 52 Ky.R. | 39 | 7-30-2025 |
| 907 KAR 003:210E | 51 Ky.R. | 1382 | 12-23-2024 |
| Replaced | 52 Ky.R. | 40 | 7-30-2025 |
| 907 KAR 003:320E | 52 Ky.R. | 542 | 9-09-2025 |
| 907 KAR 007:015E | 51 Ky.R. | 1401 | 12-23-2024 |
| Replaced | 52 Ky.R. | 58 | 7-30-2025 |
| 907 KAR 010:840E | 51 Ky.R. | 1759 | 2-24-2025 |
| As Amended | | 1931 | 5-13-2025 |
| Replaced | 52 Ky.R. | 59 | 7-30-2025 |
| 907 KAR 012:020E | 51 Ky.R. | 1405 | 12-23-2024 |
| Replaced | | 1854 | 7-30-2025 |
| 907 KAR 020:005E | 51 Ky.R. | 1409 | 12-23-2024 |
| Replaced | | 1856 | 7-30-2025 |
| 922 KAR 001:360E | 51 Ky.R. | 1636 | 1-22-2025 |
| Am Comments | | 1840 | 4-14-2025 |
| Replaced | | 1946 | 6-25-2025 |

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**ORDINARY ADMINISTRATIVE REGULATIONS**

| | | |
|---|---|---|
| 011 KAR 012:010 | | |
| Amended | 52 Ky.R. | 178 |
| 011 KAR 012:020 | | |
| Amended | 52 Ky.R. | 180 |
| 011 KAR 012:030 | | |
| Amended | 52 Ky.R. | 182 |
| 011 KAR 012:040 | | |
| Amended | 52 Ky.R. | 183 |
| 011 KAR 012:050 | | |
| Amended | 52 Ky.R. | 185 |
| 011 KAR 012:060 | | |
| Amended | 52 Ky.R. | 187 |
| 011 KAR 012:070 | | |
| Amended | 52 Ky.R. | 189 |
| 011 KAR 012:090 | | |
| Amended | 52 Ky.R. | 190 |
| 012 KAR 001:134 | 51 Ky.R. | 1907 |
| As Amended | 52 Ky.R. | 167 |
| 012 KAR 001:144 | 51 Ky.R. | 1908 |
| As Amended | 52 Ky.R. | 167 |
| 012 KAR 001:149 | 51 Ky.R. | 1909 |
| As Amended | 52 Ky.R. | 168 |
| 012 KAR 001:164 | 51 Ky.R. | 1910 |
| As Amended | 52 Ky.R. | 168 |
| 012 KAR 002:006 | | |
| Amended | 52 Ky.R. | 569 |
| 012 KAR 002:011 | | |
| Amended | 52 Ky.R. | 570 |
| 012 KAR 002:018 | | |
| Amended | 52 Ky.R. | 572 |
| 012 KAR 002:026 | | |
| Amended | 52 Ky.R. | 576 |
| 012 KAR 002:041 | | |
| Amended | 52 Ky.R. | 578 |
| 012 KRA 002:046 | | |
| Amended | 52 Ky.R. | 579 |
| 012 KAR 002:051 | | |
| Amended | 52 Ky.R. | 581 |
| 012 KAR 003:012 | | |
| Amended | 52 Ky.R. | 582 |
| 012 KAR 003:022 | | |
| Amended | 52 Ky.R. | 584 |
| 012 KAR 003:027 | | |
| Amended | 52 Ky.R. | 586 |

# LOCATOR INDEX - EFFECTIVE DATES

| Regulation Number | 46 Ky.R. Page No. | Effective Date |
|---|---|---|
| 012 KAR 003:028 | | |
| Amended | 52 Ky.R. 588 | |
| 012 KAR 003:032 | | |
| Amended | 52 Ky.R. 590 | |
| 012 KAR 003:037 | | |
| Amended | 52 Ky.R. 592 | |
| 012 KAR 003:039 | | |
| Amended | 52 Ky.R. 594 | |
| 012 KAR 003:042 | | |
| Amended | 52 Ky.R. 596 | |
| 016 KAR 002:020 | | |
| Amended | 52 Ky.R. 598 | |
| 017 KAR 001:030 | | |
| Amended | 51 Ky.R. 1490 | |
| As Amended | 1845 | 6-25-2025 |
| 017 KAR 003:042 | 51 Ky.R. 1825 | |
| Am Comments | 52 Ky.R. 82 | |
| As Amended | 169 | |
| 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 002:010 | | |
| Recodified as 040 KAR 012:420 | | 7-18-2025 |
| 040 KAR 002:040 | | |
| Recodified as 040 KAR 012:300 | | 7-18-2025 |
| 040 KAR 002:050 | | |
| Recodified as 040 KAR 012:900 | | 7-18-2025 |
| 040 KAR 002:070 | | |
| Recodified as 040 KAR 012:310 | | 7-18-2025 |
| 040 KAR 002:110 | | |
| Recodified as 040 KAR 012:200 | | 7-18-2025 |
| 040 KAR 002:120 | | |
| Recodified as 040 KAR 012:410 | | 7-18-2025 |
| 040 KAR 002:145 | | |
| Recodified as 040 KAR 012:100 | | 7-18-2025 |
| 040 KAR 002:150 | | |
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| | an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation. | |

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**SYMBOL KEY:**

* Statement of Consideration not filed by deadline

** Withdrawn, deferred more than twelve months (KRS 13A.300(2)(e) and 13A.315(1)(d))

*** Withdrawn before being printed in Register

IJC Interim Joint Committee

*(r)* Repealer regulation: KRS 13A.310(3)-on the effective date of

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| | 806 KAR 009:360 |
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| 47 C.F.R. | 807 KAR 005:015 |
| 49 C.F.R. | 702 KAR 005:130 |
| 50 C.F.R. | 301 KAR 002:075 |
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| | 012 KAR 003:028 |
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## 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 |
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| 009 KAR 001:015 | 09-18-2025 | Remain in Effect without Amendment |
| 009 KAR 001:030 | 09-18-2025 | Remain in Effect without Amendment |
| 011 KAR 003:001 | 07-28-2025 | Remain in Effect without Amendment |
| 011 KAR 003:005 | 07-28-2025 | Remain in Effect without Amendment |
| 011 KAR 003:045 | 07-28-2025 | Remain in Effect without Amendment |
| 011 KAR 003:055 | 07-28-2025 | Remain in Effect without Amendment |
| 011 KAR 003:100 | 07-28-2025 | Remain in Effect without Amendment |
| 012 KAR 002:006 | 09-11-2025 | Remain in Effect without Amendment |
| 012 KAR 002:006 | 09-11-2025 | To be amended; filing deadline 3-11-2027 |
| 012 KAR 002:011 | 09-11-2025 | To be amended; filing deadline 3-11-2027 |
| 012 KAR 002:016 | 09-11-2025 | Remain in Effect without Amendment |
| 012 KAR 002:017 | 09-11-2025 | Remain in Effect without Amendment |
| 012 KAR 002:018 | 09-11-2025 | To be amended; filing deadline 3-11-2027 |
| 012 KAR 002:021 | 09-11-2025 | Remain in Effect without Amendment |
| 012 KAR 002:026 | 09-11-2025 | To be amended; filing deadline 3-11-2027 |
| 012 KAR 002:031 | 09-11-2025 | Remain in Effect without Amendment |
| 012 KAR 002:036 | 09-11-2025 | Remain in Effect without Amendment |
| 012 KAR 002:041 | 09-11-2025 | To be amended; filing deadline 3-11-2027 |
| 012 KAR 002:046 | 09-11-2025 | To be amended; filing deadline 3-11-2027 |
| 012 KAR 002:051 | 09-11-2025 | To be amended; filing deadline 3-11-2027 |
| 012 KAR 002:056 | 09-11-2025 | To be amended; filing deadline 3-11-2027 |
| 012 KAR 002:056 | 09-11-2025 | Remain in Effect without Amendment |
| 012 KAR 002:061 | 09-11-2025 | Remain in Effect without Amendment |
| 012 KAR 002:066 | 09-11-2025 | Remain in Effect without Amendment |
| 012 KAR 003:007 | 09-11-2025 | Remain in Effect without Amendment |
| 012 KAR 003:012 | 09-11-2025 | To be amended; filing deadline 3-11-2027 |
| 012 KAR 003:017 | 09-11-2025 | Remain in Effect without Amendment |
| 012 KAR 003:022 | 09-11-2025 | To be amended; filing deadline 3-11-2027 |
| 012 KAR 003:027 | 09-11-2025 | To be amended; filing deadline 3-11-2027 |
| 012 KAR 003:028 | 09-11-2025 | To be amended; filing deadline 3-11-2027 |
| 012 KAR 003:032 | 09-11-2025 | To be amended; filing deadline 3-11-2027 |
| 012 KAR 003:037 | 09-11-2025 | To be amended; filing deadline 3-11-2027 |
| 012 KAR 003:039 | 09-11-2025 | To be amended; filing deadline 3-11-2027 |
| 012 KAR 003:042 | 09-11-2025 | To be amended; filing deadline 3-11-2027 |
| 016 KAR 002:010 | 08-28-2025 | Remain in Effect without Amendment |
| 016 KAR 005:030 | 08-28-2025 | Remain in Effect without Amendment |
| 101 KAR 002:020 | 07-14-2025 | Remain in Effect without Amendment |
| 101 KAR 002:076 | 07-14-2025 | Remain in Effect without Amendment |
| 101 KAR 003:050 | 07-14-2025 | Remain in Effect without Amendment |
| 201 KAR 006:050 | 06-25-2025 | Remain in Effect without Amendment |
| 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 009:041 | 09-10-2025 | 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 |
| 201 KAR 009:084 | 09-10-2025 | Remain in Effect without Amendment |
| 201 KAR 009:400 | 09-10-2025 | Remain in Effect without Amendment |
| 201 KAR 012:010 | 08-28-2025 | To be amended; filing deadline 3-2-2027 |
| 201 KAR 034:060 | 06-25-2025 | Remain in Effect without Amendment |
| 301 KAR 001:132 | 08-28-2025 | To be amended; filing deadline 2-28-2027 |
| 301 KAR 002:176 | 08-29-2025 | To be amended; filing deadline 2-28-2027 |
| 301 KAR 006:015 | 08-28-2025 | To be amended; filing deadline 2-28-2027 |
| 400 KAR 001:060 | 06-11-2025 | Remain in Effect without Amendment |
| 400 KAR 001:120 | 07-22-2025 | Remain in Effect without Amendment |
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| 401 KAR 004:030 | 07-22-2025 | To be amended; filing deadline 1-22-2027 |
| 401 KAR 004:040 | 07-22-2025 | Remain in Effect without Amendment |
| 401 KAR 004:050 | 07-22-2025 | To be amended; filing deadline 1-22-2027 |

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| 401 KAR 004:060 | 07-22-2025 | To be amended; filing deadline 1-22-2027 |
| 401 KAR 004:070 | 07-22-2025 | Remain in Effect without Amendment |
| 401 KAR 004:070 | 06-04-2025 | Remain in Effect without Amendment |
| 401 KAR 004:200 | 07-22-2025 | Remain in Effect without Amendment |
| 401 KAR 004:220 | 07-22-2025 | Remain in Effect without Amendment |
| 401 KAR 004:300 | 07-22-2025 | Remain in Effect without Amendment |
| 401 KAR 009:010 | 09-02-2025 | To be amended; filing deadline 2-28-2027 |
| 401 KAR 009:020 | 08-29-2025 | To be amended; filing deadline 2-28-2027 |
| 401 KAR 030:005 | 08-29-2025 | To be amended; filing deadline 2-28-2027 |
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| 401 KAR 030:031 | 08-29-2025 | Remain in Effect without Amendment |
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| 401 KAR 045:060 | 08-29-2025 | To be amended; filing deadline 2-28-2027 |
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| 401 KAR 048:060 | 07-22-2025 | Remain in Effect without Amendment |
| 401 KAR 048:070 | 07-22-2025 | Remain in Effect without Amendment |
| 401 KAR 048:080 | 07-22-2025 | Remain in Effect without Amendment |
| 401 KAR 048:090 | 07-22-2025 | Remain in Effect without Amendment |
| 401 KAR 048:170 | 07-22-2025 | Remain in Effect without Amendment |
| 401 KAR 048:200 | 08-06-2025 | To be amended; filing deadline 2-8-2027 |
| 401 KAR 048:205 | 07-22-2025 | Remain in Effect without Amendment |
| 401 KAR 048:206 | 07-22-2025 | Remain in Effect without Amendment |
| 401 KAR 048:207 | 07-22-2025 | Remain in Effect without Amendment |
| 401 KAR 048:208 | 07-22-2025 | Remain in Effect without Amendment |
| 401 KAR 048:300 | 07-22-2025 | Remain in Effect without Amendment |
| 401 KAR 048:310 | 07-22-2025 | Remain in Effect without Amendment |
| 401 KAR 049:005 | 08-29-2025 | Remain in Effect without Amendment |
| 401 KAR 049:011 | 08-29-2025 | Remain in Effect without Amendment |
| 401 KAR 049:080 | 08-29-2025 | Remain in Effect without Amendment |
| 401 KAR 049:100 | 08-29-2025 | To be amended; filing deadline 2-28-2027 |
| 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 051:017 | 06-27-2025 | To be amended; filing deadline 12-27-2026 |
| 401 KAR 051:052 | 06-27-2025 | To be amended; filing deadline 1-3-2027 |
| 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 051:170 | 06-27-2025 | Remain in Effect without Amendment |
| 401 KAR 051:180 | 06-27-2025 | Remain in Effect without Amendment |
| 401 KAR 051:190 | 06-27-2025 | Remain in Effect without Amendment |
| 401 KAR 051:195 | 06-27-2025 | 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 051:230 | 06-12-2025 | Remain in Effect without Amendment |
| 401 KAR 051:240 | 06-27-2025 | Remain in Effect without Amendment |
| 401 KAR 051:250 | 06-27-2025 | Remain in Effect without Amendment |
| 401 KAR 051:260 | 06-27-2025 | Remain in Effect without Amendment |
| 401 KAR 052:001 | 08-28-2025 | Remain in Effect without Amendment |
| 401 KAR 052:020 | 08-28-2025 | Remain in Effect without Amendment |
| 401 KAR 052:030 | 08-28-2025 | Remain in Effect without Amendment |
| 401 KAR 052:040 | 08-28-2025 | Remain in Effect without Amendment |
| 401 KAR 052:060 | 08-28-2025 | Remain in Effect without Amendment |
| 401 KAR 052:090 | 08-28-2025 | Remain in Effect without Amendment |
| 401 KAR 053:005 | 08-28-2025 | Remain in Effect without Amendment |
| 401 KAR 053:010 | 08-28-2025 | Remain in Effect without Amendment |
| 401 KAR 055:005 | 08-28-2025 | Remain in Effect without Amendment |
| 401 KAR 055:010 | 08-28-2025 | Remain in Effect without Amendment |
| 401 KAR 055:015 | 08-28-2025 | Remain in Effect without Amendment |

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| 401 KAR 055:020 | 08-28-2025 | Remain in Effect without Amendment |
| 401 KAR 057:002 | 08-28-2025 | Remain in Effect without Amendment |
| 401 KAR 058:010 | 06-27-2025 | To be amended; filing deadline 12-27-2026 |
| 401 KAR 058:025 | 06-12-2025 | Remain in Effect without Amendment |
| 401 KAR 063:001 | 08-28-2025 | Remain in Effect without Amendment |
| 401 KAR 063:005 | 08-28-2025 | Remain in Effect without Amendment |
| 401 KAR 063:015 | 08-28-2025 | Remain in Effect without Amendment |
| 401 KAR 063:020 | 08-28-2025 | Remain in Effect without Amendment |
| 401 KAR 063:021 | 08-28-2025 | Remain in Effect without Amendment |
| 401 KAR 063:025 | 08-28-2025 | Remain in Effect without Amendment |
| 401 KAR 063:031 | 08-28-2025 | Remain in Effect without Amendment |
| 401 KAR 065:001 | 09-09-2025 | Remain in Effect without Amendment |
| 401 KAR 065:005 | 09-09-2025 | Remain in Effect without Amendment |
| 401 KAR 068:010 | 09-09-2025 | Remain in Effect without Amendment |
| 401 KAR 068:020 | 09-09-2025 | Remain in Effect without Amendment |
| 401 KAR 068:048 | 09-09-2025 | Remain in Effect without Amendment |
| 401 KAR 068:065 | 09-09-2025 | Remain in Effect without Amendment |
| 401 KAR 068:090 | 09-09-2025 | Remain in Effect without Amendment |
| 401 KAR 068:100 | 09-09-2025 | Remain in Effect without Amendment |
| 401 KAR 068:150 | 09-09-2025 | Remain in Effect without Amendment |
| 401 KAR 068:200 | 09-09-2025 | Remain in Effect without Amendment |
| 401 KAR 100:030 | 08-06-2025 | To be amended; filing deadline 2-6-2027 |
| 401 KAR 101:001 | 07-22-2025 | Remain in Effect without Amendment |
| 401 KAR 101:010 | 07-22-2025 | Remain in Effect without Amendment |
| 401 KAR 101:020 | 07-22-2025 | Remain in Effect without Amendment |
| 401 KAR 101:030 | 07-22-2025 | Remain in Effect without Amendment |
| 401 KAR 101:040 | 07-22-2025 | Remain in Effect without Amendment |
| 401 KAR 102:005 | 07-22-2025 | Remain in Effect without Amendment |
| 401 KAR 102:010 | 07-22-2025 | Remain in Effect without Amendment |
| 401 KAR 102:020 | 07-22-2025 | Remain in Effect without Amendment |
| 402 KAR 003:010 | 06-17-2025 | Remain in Effect without Amendment |
| 402 KAR 003:020 | 06-17-2025 | Remain in Effect without Amendment |
| 402 KAR 003:030 | 06-17-2025 | Remain in Effect without Amendment |
| 402 KAR 003:040 | 06-17-2025 | Remain in Effect without Amendment |
| 402 KAR 003:050 | 06-17-2025 | Remain in Effect without Amendment |
| 405 KAR 002:010 | 06-17-2025 | Remain in Effect without Amendment |
| 405 KAR 005:015 | 06-17-2025 | Remain in Effect without Amendment |
| 405 KAR 005:021 | 06-17-2025 | Remain in Effect without Amendment |
| 405 KAR 005:036 | 06-17-2025 | Remain in Effect without Amendment |
| 405 KAR 005:040 | 06-17-2025 | Remain in Effect without Amendment |
| 405 KAR 005:042 | 06-17-2025 | Remain in Effect without Amendment |
| 405 KAR 005:050 | 06-17-2025 | Remain in Effect without Amendment |
| 405 KAR 005:055 | 06-17-2025 | Remain in Effect without Amendment |
| 405 KAR 005:062 | 06-17-2025 | Remain in Effect without Amendment |
| 405 KAR 005:065 | 06-17-2025 | Remain in Effect without Amendment |
| 405 KAR 005:070 | 06-17-2025 | Remain in Effect without Amendment |
| 405 KAR 005:078 | 06-17-2025 | Remain in Effect without Amendment |
| 405 KAR 005:082 | 06-17-2025 | Remain in Effect without Amendment |
| 405 KAR 005:085 | 06-17-2025 | 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 010:025 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 010:030 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 010:035 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 010:040 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 010:070 | 06-30-2025 | Remain in Effect without Amendment |

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| 405 KAR 010:080 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 010:090 | 06-30-2025 | 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 |
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| 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 |
| 405 KAR 018:001 | 06-26-2025 | Remain in Effect without Amendment |
| 405 KAR 018:010 | 06-26-2025 | Remain in Effect without Amendment |
| 405 KAR 018:020 | 06-26-2025 | Remain in Effect without Amendment |
| 405 KAR 018:030 | 06-26-2025 | Remain in Effect without Amendment |
| 405 KAR 018:040 | 06-26-2025 | Remain in Effect without Amendment |
| 405 KAR 018:050 | 06-26-2025 | Remain in Effect without Amendment |
| 405 KAR 018:060 | 06-26-2025 | Remain in Effect without Amendment |
| 405 KAR 018:070 | 06-26-2025 | Remain in Effect without Amendment |
| 405 KAR 018:080 | 06-26-2025 | Remain in Effect without Amendment |
| 405 KAR 018:090 | 06-26-2025 | Remain in Effect without Amendment |
| 405 KAR 018:110 | 06-26-2025 | Remain in Effect without Amendment |
| 405 KAR 018:120 | 06-26-2025 | Remain in Effect without Amendment |
| 405 KAR 018:130 | 06-26-2025 | Remain in Effect without Amendment |
| 405 KAR 018:140 | 06-26-2025 | Remain in Effect without Amendment |
| 405 KAR 018:150 | 06-26-2025 | Remain in Effect without Amendment |
| 405 KAR 018:160 | 06-26-2025 | Remain in Effect without Amendment |
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| 405 KAR 018:180 | 06-26-2025 | Remain in Effect without Amendment |
| 405 KAR 018:190 | 06-26-2025 | Remain in Effect without Amendment |
| 405 KAR 018:200 | 06-26-2025 | Remain in Effect without Amendment |
| 405 KAR 018:210 | 06-26-2025 | Remain in Effect without Amendment |
| 405 KAR 018:230 | 06-26-2025 | Remain in Effect without Amendment |
| 405 KAR 018:260 | 06-26-2025 | Remain in Effect without Amendment |
| 405 KAR 020:001 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 020:010 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 020:030 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 020:050 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 020:060 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 020:070 | 06-30-2025 | Remain in Effect without Amendment |
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| 405 KAR 024:001 | 06-26-2025 | Remain in Effect without Amendment |
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| 405 KAR 024:030 | 06-26-2025 | Remain in Effect without Amendment |
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| 405 KAR 030:025 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:035 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:040 | 06-30-2025 | Remain in Effect without Amendment |

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| 405 KAR 030:050 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:060 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:070 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:080 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:090 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:100 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:110 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:121 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:125 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:130 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:140 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:150 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:160 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:170 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:180 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:210 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:220 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:230 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:240 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:250 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:260 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:270 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:280 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:290 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:300 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:310 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:320 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:330 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:340 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:350 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:360 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:370 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:390 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:400 | 06-30-2025 | Remain in Effect without Amendment |
| 405 KAR 030:410 | 06-30-2025 | Remain in Effect without Amendment |
| 501 KAR 006:170 | 06-27-2025 | To be amended; filing deadline 12-27-2026 |
| 501 KAR 006:270 | 06-27-2025 | To be amended; filing deadline 12-27-2026 |
| 501 KAR 016:290 | 06-27-2025 | Remain in Effect without Amendment |
| 501 KAR 016:300 | 06-27-2025 | Remain in Effect without Amendment |
| 501 KAR 016:330 | 06-27-2025 | Remain in Effect without Amendment |
| 501 KAR 016:340 | 06-27-2025 | 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 |
| 702 KAR 003:246 | 06-09-2025 | Remain in Effect without Amendment |
| 702 KAR 003:250 | 06-09-2025 | Remain in Effect without Amendment |
| 702 KAR 003:270 | 06-09-2025 | Remain in Effect without Amendment |
| 702 KAR 003:275 | 06-09-2025 | Remain in Effect without Amendment |
| 702 KAR 003:285 | 06-09-2025 | Remain in Effect without Amendment |
| 702 KAR 003:310 | 06-09-2025 | Remain in Effect without Amendment |
| 702 KAR 004:100 | 06-09-2025 | Remain in Effect without Amendment |
| 702 KAR 005:010 | 06-09-2025 | Remain in Effect without Amendment |
| 702 KAR 005:020 | 06-09-2025 | Remain in Effect without Amendment |
| 702 KAR 005:060 | 06-09-2025 | Remain in Effect without Amendment |
| 702 KAR 005:100 | 06-09-2025 | Remain in Effect without Amendment |
| 702 KAR 005:120 | 06-09-2025 | Remain in Effect without Amendment |
| 702 KAR 005:130 | 08-27-2025 | To be amended; filing deadline 2-27-2027 |
| 702 KAR 005:150 | 06-09-2025 | Remain in Effect without Amendment |
| 703 KAR 003:205 | 06-09-2025 | Remain in Effect without Amendment |
| 704 KAR 003:015 | 06-09-2025 | Remain in Effect without Amendment |
| 704 KAR 003:285 | 06-09-2025 | Remain in Effect without Amendment |
| 704 KAR 003:292 | 06-09-2025 | Remain in Effect without Amendment |
| 704 KAR 003:420 | 06-09-2025 | Remain in Effect without Amendment |
| 704 KAR 003:440 | 08-27-2025 | To be amended; filing deadline 2-27-2027 |
| 704 KAR 003:455 | 08-11-2025 | Remain in Effect without Amendment |
| 704 KAR 003:490 | 06-09-2025 | Remain in Effect without Amendment |
| 704 KAR 003:510 | 06-09-2025 | Remain in Effect without Amendment |

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| 704 KAR 004:010 | 08-27-2025 | To be amended; filing deadline 2-27-2027 |
| 704 KAR 007:130 | 06-09-2025 | Remain in Effect without Amendment |
| 705 KAR 004:081 | 06-09-2025 | Remain in Effect without Amendment |
| 707 KAR 001:270 | 06-09-2025 | Remain in Effect without Amendment |
| 707 KAR 001:290 | 06-09-2025 | Remain in Effect without Amendment |
| 707 KAR 001:300 | 06-09-2025 | Remain in Effect without Amendment |
| 707 KAR 001:320 | 06-09-2025 | Remain in Effect without Amendment |
| 707 KAR 001:350 | 06-09-2025 | Remain in Effect without Amendment |
| 707 KAR 001:360 | 06-09-2025 | Remain in Effect without Amendment |
| 707 KAR 001:370 | 06-09-2025 | Remain in Effect without Amendment |
| 707 KAR 001:380 | 06-09-2025 | Remain in Effect without Amendment |
| 735 KAR 001:010 | 08-05-2025 | Remain in Effect without Amendment |
| 735 KAR 001:020 | 08-05-2025 | Remain in Effect without Amendment |
| 735 KAR 002:010 | 08-05-2025 | Remain in Effect without Amendment |
| 735 KAR 002:010 | 08-05-2025 | Remain in Effect without Amendment |
| 735 KAR 002:020 | 08-05-2025 | Remain in Effect without Amendment |
| 735 KAR 002:030 | 08-05-2025 | Remain in Effect without Amendment |
| 735 KAR 002:040 | 08-05-2025 | Remain in Effect without Amendment |
| 735 KAR 002:050 | 08-05-2025 | Remain in Effect without Amendment |
| 735 KAR 002:060 | 08-05-2025 | Remain in Effect without Amendment |
| 750 KAR 001:010 | 05-29-2025 | Remain in Effect without Amendment |
| 750 KAR 002:010 | 05-29-2025 | Remain in Effect without Amendment |
| 780 KAR 002:030 | 06-09-2025 | Remain in Effect without Amendment |
| 780 KAR 002:110 | 06-09-2025 | Remain in Effect without Amendment |
| 780 KAR 003:010 | 06-09-2025 | Remain in Effect without Amendment |
| 780 KAR 003:040 | 06-09-2025 | Remain in Effect without Amendment |
| 780 KAR 003:060 | 06-09-2025 | Remain in Effect without Amendment |
| 780 KAR 003:065 | 06-09-2025 | Remain in Effect without Amendment |
| 780 KAR 003:075 | 06-09-2025 | Remain in Effect without Amendment |
| 780 KAR 003:090 | 06-09-2025 | Remain in Effect without Amendment |
| 780 KAR 003:110 | 08-11-2025 | Remain in Effect without Amendment |
| 780 KAR 003:150 | 08-11-2025 | Remain in Effect without Amendment |
| 780 KAR 003:160 | 08-11-2025 | Remain in Effect without Amendment |
| 780 KAR 006:005 | 08-11-2025 | Remain in Effect without Amendment |
| 780 KAR 006:030 | 08-11-2025 | Remain in Effect without Amendment |
| 780 KAR 006:040 | 08-11-2025 | Remain in Effect without Amendment |
| 780 KAR 006:050 | 08-11-2025 | Remain in Effect without Amendment |
| 780 KAR 006:062 | 08-11-2025 | Remain in Effect without Amendment |
| 780 KAR 006:065 | 08-11-2025 | Remain in Effect without Amendment |
| 780 KAR 006:070 | 08-11-2025 | Remain in Effect without Amendment |
| 780 KAR 006:090 | 06-09-2025 | Remain in Effect without Amendment |
| 805 KAR 001:220 | 05-21-2025 | Remain in Effect without Amendment |
| 805 KAR 004:005 | 06-02-2025 | Remain in Effect without Amendment |
| 805 KAR 004:010 | 06-02-2025 | Remain in Effect without Amendment |
| 805 KAR 004:020 | 06-02-2025 | Remain in Effect without Amendment |
| 805 KAR 004:030 | 06-02-2025 | Remain in Effect without Amendment |
| 805 KAR 004:040 | 06-02-2025 | Remain in Effect without Amendment |
| 805 KAR 004:060 | 06-02-2025 | Remain in Effect without Amendment |
| 805 KAR 004:075 | 06-02-2025 | Remain in Effect without Amendment |
| 805 KAR 004:080 | 06-02-2025 | Remain in Effect without Amendment |
| 805 KAR 004:085 | 06-02-2025 | Remain in Effect without Amendment |
| 805 KAR 004:087 | 06-02-2025 | Remain in Effect without Amendment |
| 805 KAR 004:090 | 06-02-2025 | Remain in Effect without Amendment |
| 805 KAR 004:093 | 06-02-2025 | Remain in Effect without Amendment |
| 805 KAR 004:095 | 06-02-2025 | Remain in Effect without Amendment |
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| 805 KAR 004:105 | 06-02-2025 | Remain in Effect without Amendment |
| 805 KAR 004:110 | 06-02-2025 | Remain in Effect without Amendment |
| 805 KAR 004:115 | 06-02-2025 | Remain in Effect without Amendment |
| 805 KAR 004:120 | 06-02-2025 | Remain in Effect without Amendment |
| 805 KAR 004:125 | 06-02-2025 | Remain in Effect without Amendment |
| 805 KAR 004:130 | 06-02-2025 | Remain in Effect without Amendment |
| 805 KAR 004:135 | 06-02-2025 | Remain in Effect without Amendment |
| 805 KAR 004:140 | 06-02-2025 | Remain in Effect without Amendment |
| 805 KAR 004:145 | 06-02-2025 | Remain in Effect without Amendment |
| 805 KAR 004:150 | 06-02-2025 | Remain in Effect without Amendment |
| 805 KAR 004:155 | 06-02-2025 | Remain in Effect without Amendment |
| 805 KAR 004:160 | 06-02-2025 | Remain in Effect without Amendment |
| 805 KAR 004:165 | 06-02-2025 | Remain in Effect without Amendment |

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|---|---|---|
| 815 KAR 008:070 | 07-29-2025 | To be amended; filing deadline 1-30-2027 |
| 815 KAR 008:080 | 07-29-2025 | To be amended; filing deadline 1-30-2027 |
| 815 KAR 008:100 | 07-29-2025 | To be amended; filing deadline 1-30-2027 |
| 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 006:020 | 09-19-2025 | Remain in Effect without Amendment |
| 900 KAR 006:040 | 05-19-2025 | Remain in Effect without Amendment |
| 902 KAR 008:165 | 07-17-2025 | Remain in Effect without Amendment |
| 902 KAR 020:008 | 09-03-2025 | Remain in Effect without Amendment |
| 902 KAR 020:260 | 05-19-2025 | Remain in Effect without Amendment |
| 902 KAR 020:275 | 09-03-2025 | 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 |
| 907 KAR 001:075 | 08-13-2025 | Remain in Effect without Amendment |
| 907 KAR 008:040 | 09-19-2025 | 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 49th year of the *Administrative Register of Kentucky*. These technical changes have been made by the Regulations Compiler pursuant to KRS 13A.040(9) and (10), 13A.2255(2), 13A.312(2), or 13A.320(1)(d). Because these changes are not substantive in nature, administrative regulations appearing in this index will NOT be published to show the technical corrections in the *Register*, however, they are usually available on the Legislative Research Commission website at 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 |
|---|---|---|---|
| 040 KAR 012:130 | 7-18-2025 | | |
| 302 KAR 045:020 | 7-24-2025 | | |