



ADMINISTRATIVE REGISTER OF KENTUCKY

The submission deadline for this edition of the *Administrative Register of Kentucky* was 12 p.m. ET/11 a.m. CT, June 15, 2026.

MEETING NOTICES

The Administrative Regulation Review Subcommittee is tentatively scheduled to meet on July 8, 2026 at 1 p.m. ET/ 2 p.m. CT in Annex Room 149. **ARRS Tentative Agenda – 1** [Online agenda updated as needed.](#)

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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: 53rd Year of the Kentucky Register, page 318 (short form: 53 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, Office, Division, Board, Board, or Agency	or Major Function	Specific Regulation	

ADMINISTRATIVE REGISTER OF KENTUCKY

(ISSN 0096-1493)

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The Administrative Register of Kentucky is published monthly by the Legislative Research Commission, 702 Capital Avenue, Room 027, Frankfort, Kentucky 40601. Subscription rate, postpaid in the United States: \$120 (plus 6% Kentucky sales tax) per year for 12 issues, beginning in July and ending with the June issue of the subsequent year. Periodical postage paid at Frankfort, Kentucky. POSTMASTER: Send address changes to Administrative Register of Kentucky, 702 Capital Avenue, Room 76, State Capitol Annex, Frankfort, Kentucky 40601.

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PLEASE NOTE: Per KRS Chapter 13A, this agenda may be subject to change due to committee or promulgating agency request, or upon receipt of public comments.

Last Updated on June 24, 2026 at 10:05 a.m.



Administrative Regulation Review Subcommittee
TENTATIVE Meeting Agenda
Wednesday, July 8, 2026 at 1:00 p.m. ET/12:00 CT
Annex Room 149



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

COUNCIL ON POSTSECONDARY EDUCATION (CPE)

[013 KAR 002:140](#). Research consortiums.

STATE BOARD OF ELECTIONS

[031 KAR 004:240E](#). Procedures for Safe at Home Participants to Register to Vote and Request a Mail-in Absentee Ballot. (Filed with Ordinary) ("E" expires 1-16-2027)

OFFICE OF THE ATTORNEY GENERAL (OAG)

Office of Regulatory Relief

[040 KAR 012:300](#). Automated calling equipment operators.

[040 KAR 012:310](#). Telemarketing companies.

[040 KAR 012:400](#). Debt adjusters. (Not Amended After Comments)

[040 KAR 012:420](#). Recreational and retirement use land sellers.

[040 KAR 012:600](#). Nonresident sellers of contact lenses. (Not Amended After Comments)

FINANCE AND ADMINISTRATION CABINET

Department of Revenue

[103 KAR 043:341E](#). Excise taxes on gasoline and special fuels; average wholesale price of gasoline and annual survey value. ("E" expires 01-30-2027)

KENTUCKY PUBLIC PENSIONS AUTHORITY

[105 KAR 001:001](#). Definitions for KAR Title 105.

[105 KAR 001:440](#). Trustee Education Programs.

FINANCE AND ADMINISTRATION CABINET

Office of the Controller

[200 KAR 038:080](#). Account Validation Standards. (Filed with Emergency) ("E" expires 12-15-2026)

BOARDS AND COMMISSIONS

Board of Optometric Examiners

[201 KAR 005:010E](#). Application for licensure; endorsement. (Filed with Ordinary) ("E" expires 1-10-2027)

[201 KAR 005:021](#). Licensure Compliance Review. (Filed with Emergency) (Not Amended After Comments)

("E" expires 12-03-2026)

Board of Dentistry

[201 KAR 008:563](#). Licensure of dental hygienists.

Board of Veterinary Examiners

[201 KAR 016:767](#). Registered veterinary facilities – Duties of registered responsible parties and veterinarian managers. (Amended After Comments) (Deferred from December)

Board of Physical Therapy

[201 KAR 022:010](#). Objectives of physical therapy.

[201 KAR 022:070](#). Requirements for foreign-educated physical therapists.

TOURISM, ARTS AND HERITAGE CABINET

Department of Fish and Wildlife Resources

Fish

[301 KAR 001:201](#). Taking of fish by traditional fishing methods.

Game

[301 KAR 002:178](#). Deer hunting on public properties.

[301 KAR 002:251](#). Hunting and trapping seasons and limits for furbearers.

JUSTICE AND PUBLIC SAFETY CABINET

Department of Corrections

Parole Board

[501 KAR 001:030](#). Determining parole eligibility. (Not Amended After Comments)

TRANSPORTATION CABINET (KYTC)

Division of Driver Licensing

[601 KAR 012:130](#). Third-party issuance of identity documents. (Amended After Comments) (Deferred from May)

EDUCATION AND LABOR CABINET

Department of Education

School Administration and Finance

[702 KAR 003:220](#). Guidelines for waiver of school fees.

Food Service Programs

[702 KAR 006:110](#). Claim reimbursement for school and community nutrition programs.

PUBLIC PROTECTION CABINET

Department of Alcoholic Beverage Control

[804 KAR 013:011E](#). Tobacco, nicotine, and vapor product enforcement and administration. (Filed with Ordinary) ("E" expires 02-09-2027)

Department of Housing, Buildings and Construction

[815 KAR 004:010](#). Annual inspection of elevators, chairlifts, fixed guideway systems, and platform lifts.

[815 KAR 004:025](#). Permit and inspection fees for new and altered elevators, chairlifts, fixed guideway systems, and platform lifts.

[815 KAR 007:070](#). The Kentucky Certified Building Inspector Program.

[815 KAR 015:010](#). Definitions for 815 KAR Chapter 15.

[815 KAR 015:025](#). New installations, general design, construction, and inspection criteria for boilers, pressure vessels, and pressure piping.

[815 KAR 015:026](#). Existing boilers and pressure vessels; testing, repairs, inspection, and safety factors.

[815 KAR 015:027](#). Fees and certificates for boiler and pressure vessel inspection.

[815 KAR 015:080](#). Boiler and pressure vessel licenses.

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[815 KAR 025:020](#). Recreational vehicles.

[815 KAR 025:050](#). Administration and enforcement of manufactured housing construction standards.

[815 KAR 025:060](#). Licensing and certifications with manufactured homes and mobile homes.

[815 KAR 025:090](#). Site preparation, installation, and inspection requirements.

[815 KAR 035:015](#). Certification of electrical inspectors.

CABINET FOR HEALTH AND FAMILY SERVICES (CHFS)

Department for Public Health (DPH)

Public Health Protection and Safety

[902 KAR 001:400](#). Administrative conference. (Amended After Comments)

Department for Medicaid Services (DMS)

1915(c) Waivers

[907 KAR 002:720](#). 1915(c) Kentucky's Community Health for Improved Lives and Development (CHILD) Waiver Program Requirements. (Amended After Comments) (Deferred from June)

[907 KAR 002:725](#). 1915(c) Kentucky's Community Health for Improved Lives and Development (CHILD) Waiver Reimbursement. (Amended After Comments) (Deferred from June)

3. REGULATIONS ~~REMOVED~~ FROM JULY'S AGENDA

BOARDS AND COMMISSIONS

Board of Pharmacy

[201 KAR 002:440](#). Legend drug repository. (Comments Received; SOC ext. due 07-15-2026)

Board of Licensure for Professional Engineers and Land Surveyors

[201 KAR 018:150](#). Standards of practice for professional land surveyors. (Comments Received; SOC ext. due 08-14-2026)

PUBLIC PROTECTION CABINET

Real Estate Appraisers Board

~~[831 KAR 003:001](#). Definitions for 831 KAR Chapter 3. (Withdrawn by Agency, 06-08-2026)~~

~~[831 KAR 003:010](#). Fees. (Withdrawn by Agency, 06-08-2026)~~

~~[831 KAR 003:020](#). General requirements for certification and licensure. (Withdrawn by Agency, 06-08-2026)~~

~~[831 KAR 003:030](#). Education requirements for certification and licensure. (Withdrawn by Agency, 06-08-2026)~~

~~[831 KAR 003:040](#). Appraisal experience requirements for certification and licensure. (Withdrawn by Agency, 06-08-2026)~~

~~[831 KAR 003:050](#). Examinations. (Withdrawn by Agency, 06-08-2026)~~

~~[831 KAR 003:060](#). Reciprocity. (Withdrawn by Agency, 06-08-2026)~~

~~[831 KAR 003:070](#). Temporary practice permit. (Withdrawn by Agency, 06-08-2026)~~

~~[831 KAR 003:080](#). Criminal background checks. (Withdrawn by Agency, 06-08-2026)~~

~~[831 KAR 003:090](#). Supervision of associates. (Withdrawn by Agency, 06-08-2026)~~

~~[831 KAR 003:100](#). Continuing education required for certification and licensure. (Withdrawn by Agency, 06-08-2026)~~

~~[831 KAR 003:110](#). Renewal and reinstatement of certificates and licenses. (Withdrawn by Agency, 06-08-2026)~~

~~[831 KAR 003:120](#). Inactive status and reactivation of certification and licenses. (Withdrawn by Agency, 06-08-2026)~~

~~[831 KAR 003:130](#). Education provider and instructor standards and requirements. (Withdrawn by Agency, 06-08-2026)~~

~~[831 KAR 003:140](#). Education course approval, renewal, and standards. (Withdrawn by Agency, 06-08-2026)~~

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~~[831 KAR 003:150](#). Standards of professional conduct. (Withdrawn by Agency, 06-08-2026)~~

~~[831 KAR 003:160](#). Complaints and disciplinary proceedings. (Withdrawn by Agency, 06-08-2026)~~

~~[831 KAR 003:170](#). Appraisal Management Company registration. (Withdrawn by Agency, 06-08-2026)~~

~~[831 KAR 003:180](#). Appraisal Management Company registration renewal. (Withdrawn by Agency, 06-08-2026)~~

~~[831 KAR 003:190](#). Appraisal Management Company duties and prohibitions. (Withdrawn by Agency, 06-08-2026)~~

~~[831 KAR 003:200](#). Appraisal Management Company roster and reporting. (Withdrawn by Agency, 06-08-2026)~~

~~[831 KAR 003:210](#). Appraiser roster and reporting. (Withdrawn by Agency, 06-08-2026)~~

*****Expiration dates in this document have been determined pursuant to KRS Chapter 13A provisions. Other statutes or legislation may affect a regulation's actual end date.*****

**STANDARD ADMINISTRATIVE REGULATION REVIEW PROCEDURE
Overview for Regulations Filed under KRS Chapter 13A**

(See KRS Chapter 13A for specific provisions)

Filing and Publication

Administrative bodies shall file all proposed administrative regulations with the Regulations Compiler. Filed regulations shall include public hearing and comment period information; a regulatory impact analysis and tiering statement; a fiscal impact statement; and, if applicable, a federal mandate comparison and any required incorporated material. Administrative regulations received by the deadline established in KRS 13A.050 shall be published in the *Administrative Register of Kentucky*. Emergency administrative regulations become effective upon filing.

Public Hearing and Public Comment Period

The administrative body shall schedule a public hearing on a proposed administrative regulation. The public hearing is held between the 21st and the last workday of the month in which the public comment period ends. Information about the public comment period shall include: the place, time, and date of the hearing; the manner in which a person may submit written comments or a notification to attend the hearing; a statement specifying that unless a notification to attend the hearing is received no later than 5 workdays prior to the hearing date, the hearing may be cancelled; the deadline for submitting written comments; and the name, position, and contact information of the person to whom notifications and written comments shall be sent.

Public comment periods for ordinary regulations end on the last day of the month that follows publication; whereas, public comment periods for emergency regulations run through the last day of the month in which the regulation was published. For other ordinary regulations with open comment periods, please also see last month's *Administrative Register of Kentucky*.

The administrative body shall notify the Compiler whether 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
915 KAR 2:050E.**

This emergency administrative regulation is being promulgated in order to meet an imminent threat to public health and welfare. KRS Chapter 218B, which was created by 2023 Ky. Acts Ch. 146 that Governor Andy Beshear signed into law on March 31, 2023, legalized the cultivation, processing, dispensing, and use of medicinal cannabis in the Commonwealth of Kentucky beginning on January 1, 2025, and directed the Cabinet for Health and Family Services to implement and oversee the medicinal cannabis program. KRS 218B.140(1)(c)21 authorizes the Cabinet for Health and Family Services to promulgate administrative regulations that establish standards, procedures, or restrictions that the cabinet deems necessary to ensure the efficient, transparent, and safe operation of the medicinal cannabis program.

This administrative regulation is being filed on an emergency basis to provide clarification to Kentuckians suffering from serious medical conditions regarding the definition of "qualifying medical condition" contained in KRS 218B.010(26) and their eligibility for a registry identification card. Based on available evidence, immediate clarification of the statutory definition of "qualifying medical condition" is necessary to prevent a substantial risk of denied or delayed access to safe medical cannabis for individuals with such qualifying medical conditions and to ensure timely treatment for qualified individuals.

The current lack of clarity may also place strain on critical public health and safety infrastructure, including emergency hospitalization and crisis-response services. This emergency administrative regulation will be replaced by an ordinary administrative regulation, which is being filed contemporaneously herewith. 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 Medical Cannabis
(New Emergency Administrative Regulation)**

915 KAR 2:050E. Qualifying Medical Conditions.

EFFECTIVE: June 2, 2026

RELATES TO: KRS Chapter 218B

STATUTORY AUTHORITY: KRS 218B.020; KRS 218B.140(1)(c); KRS 218B.010(26)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218B.020 charges the Cabinet for Health and Family Services with the implementation, operation, oversight, and regulation of the medicinal cannabis program established in KRS Chapter 218B. KRS 218B.140(1)(c)21 authorizes the Cabinet for Health and Family Services to promulgate administrative regulations that establish standards, procedures, or restrictions that the cabinet deems necessary to ensure the efficient, transparent, and safe operation of the medicinal cannabis program. This administrative regulation provides clarification regarding the definition of "qualifying medical condition" contained in KRS 218B.010(26).

Section 1. The definition of "qualifying medical condition."

(1) The definition of "qualifying medical condition" contained in KRS 218B.010(26) may encompass additional medical conditions if an underlying symptom of those conditions is:

(a) Expressly defined as a "qualifying medical condition" in KRS 218B.010(26); and

(b) Properly diagnosed by a medical cannabis practitioner or the medical cannabis practitioner properly confirms the diagnosis provided by another health care provider.

(2) The following list of medical conditions have been recommended for express inclusion within the definition of "qualifying medical condition" by the Kentucky Board of Physicians and Advisors and are recognized as having at least one (1) underlying symptom that is defined as a "qualifying medical condition" under KRS 218B.010(26):

(a) Amyotrophic Lateral Sclerosis;

(b) Parkinson's Disease;

(c) Crohn's Disease;

(d) Ulcerative Colitis;

(e) Sickle Cell Anemia;

(f) Cachexia or Wasting Syndrome;

(g) Neuropathies;

(h) Severe Arthritis;

(i) Muscular Dystrophy;

(j) Huntington's Disease;

(k) Human Immunodeficiency Virus (HIV);

(l) Acquired Immunodeficiency Syndrome (AIDS);

(m) Glaucoma; and

(n) Terminal Illness.

CANNON ARMSTRONG, Executive Director
STEVEN J. STACK, MD, MBA

APPROVED BY AGENCY: May 28, 2026

FILED WITH LRC: June 2, 2026 at 3:20 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on July 27, 2026, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by July 20, 2026, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation through July 31, 2026. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

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

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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Oran S. McFarlan, III, Krista Quarles, Phone Number: (502) 564-5313/ (502) 564-7476, Email: oran.mcfarlan@ky.gov/ CHFSregs@ky.gov

Subject Headings: Cannabis and Cannabinoids, Health and Medical Services, and Physicians and Practitioners

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation clarifies that the definition of "qualifying medical condition" contained in KRS 218B.010(26) may encompass additional medical conditions if an underlying symptom of those conditions is (1) expressly defined as a "qualifying medical condition" and (2) properly diagnosed by a medical cannabis practitioner.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide clarification regarding the definition of "qualifying medical condition" contained in KRS 218B.010(26).

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 218B.020 charges the Cabinet for Health and Family Services with the implementation, operation, oversight, and regulation of the medicinal cannabis program established in KRS Chapter 218B. KRS 218B.040(1)(c)21 authorizes the Cabinet for Health and Family Services to promulgate administrative regulations that establish standards, procedures, or restrictions that the cabinet deems necessary to ensure the efficient, transparent, and safe operation of the medicinal cannabis program. This administrative regulation provides clarification regarding the definition of "qualifying medical condition" contained in KRS 218B.010(26).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides clarification regarding the definition of "qualifying medical condition" contained in KRS 218B.010(26).

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

(a) How the amendment will change this existing administrative regulation: Not applicable. This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: Not applicable. This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: Not applicable. This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: Not applicable. This is a new administrative regulation.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? This administrative regulation provides clarification regarding the definition of "qualifying medical condition" contained in KRS 218B.010(26). KRS Chapter 218B codifies the provisions of 2023 Senate Bill 47 (Ky. Acts Chapter 146).

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects qualified patients, medical cannabis practitioners, and the Office of Medical Cannabis within the Cabinet for Health and Family Services.

(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 additional action must be taken by the regulated entities. This administrative regulation clarifies the definition of "qualifying medical condition" contained in KRS 218B.010(26).

(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 cost to comply with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Qualified patients and medical cannabis practitioners will have a greater understanding of the definition of "qualifying medical condition" contained in KRS 218B.010(26).

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

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

(b) On a continuing basis: There is no anticipated cost to implement this administrative 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 Office of Medical Cannabis receives general funds provided by the commonwealth as well as 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: It is not anticipated that an increase in 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 or increase any fees.

(10) TIERING: Is tiering applied? Tiering is not applied. All individuals and entities will be treated equally.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 218B.020; KRS 218B.140.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: This administrative regulation is promulgated by the Office of Medical Cannabis within the Cabinet for Health and Family Services.

(a) Estimate the following for the first year:

Expenditures: There are no anticipated expenditures arising from this administrative regulation.

Revenues: There are no anticipated revenues arising from this administrative regulation.

Cost Savings: There are no anticipated cost savings arising from this administrative regulation.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? It is not anticipated that expenditures, revenues, or cost savings will differ in subsequent years.

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

(a) Estimate the following for the first year:

Expenditures: None

Revenues: None.

Cost Savings: None.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? It is not anticipated that expenditures, revenues, or cost savings will differ in subsequent years.

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

(a) Estimate the following for the first year:

Expenditures: None.

Revenues: None.

Cost Savings: None.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? It is not anticipated that expenditures, revenues, or cost savings will differ in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: There is no anticipated fiscal impact arising from this administrative regulation.

(b) Methodology and resources used to determine the fiscal

impact: This administrative regulation clarifies that the definition of "qualifying medical condition" contained in KRS 218B.010(26) may encompass additional medical conditions if an underlying symptom of those conditions is (1) expressly defined as a "qualifying medical condition" and (2) properly diagnosed by a medical cannabis practitioner.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate).
No.

(b) The methodology and resources used to reach this conclusion: This administrative regulation clarifies that the definition of "qualifying medical condition" contained in KRS 218B.010(26) may encompass additional medical conditions if an underlying symptom of those conditions is (1) expressly defined as a "qualifying medical condition" and (2) properly diagnosed by a medical cannabis practitioner.

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AMENDED IN-PROCESS EMERGENCY ADMINISTRATIVE REGULATIONS

NOTE: Pursuant to KRS 13A.190, emergency regulations expire after 270 days (or 270 days plus the number of days an accompanying ordinary is extended) or upon replacement by an ordinary regulation, whichever occurs first. Other statutes or legislation may affect a regulation's actual end date.

NONE

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ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY
AND REVIEWING SUBCOMMITTEE

ARRS = Administrative Regulation Review Subcommittee
IJC = Interim Joint Committee

OFFICE OF ATTORNEY GENERAL
Office of Regulatory Relief
(As Amended at ARRS, June 9, 2026)

40 KAR 12:441. Health Spas.

RELATES TO: KRS 367.900, 367.905, 367.906
STATUTORY AUTHORITY: KRS 15.180, 367.150(4), 367.905,
367.906

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

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15.180 authorizes the Attorney General to promulgate administrative regulations that will facilitate performing the duties and exercising the authority vested in the Attorney General and the Department of Law. KRS 367.150(4) requires the Department of Law to recommend administrative regulations in the consumers' interest. KRS 367.905 requires health spas to file with the Attorney General registration statement applications and renewal statement applications and establishes fees~~[with the Attorney General]~~. KRS 367.906 requires the Attorney General to establish a surety bond form for use by health spas. This administrative regulation establishes an online registration application, an online renewal application, and a surety bond form to be used by health spas.

Section 1. Health Spa Registration Application.

(1) A health spa shall not offer health spa services or facilities at a specific location in the Commonwealth of Kentucky unless the Attorney General approves the health spa's registration application in accordance with this administrative regulation. An applicant shall submit an online registration application using the ~~[]~~Health Spa Registration Application portal~~[]~~ available at <https://www.ag.ky.gov/Resources/Pages/Office-of-Regulatory-Relief.aspx>.

(2) ~~To complete~~When completing an online application, an applicant shall submit:

(a) Payment of the \$100.00 registration fee;

(b) The applicant's certificate of existence, authorization certificate from the Kentucky Secretary of State's office, or other evidence of the applicant's authority to transact business in Kentucky;

(c) Copies of all the applicant's membership contracts for all plans; and

(d) Unless exempted by KRS 367.906(4), a completed Health Spa Surety Bond, form HS-1.

(3)

(a) An applicant shall complete its application by submitting additional information or documents within thirty (30) days of a request by the Attorney General.

(b) The Attorney General may deny an application if the applicant fails to timely complete the application by not paying the application fee or not providing requested information or required documents.

Section 2. Health Spa Renewal Application.

(1) An approved health spa registration or renewal shall be valid for a one (1) year period from July 1 to June ~~30~~30~~[]~~^[] of the following year.

(2) On or before June ~~1~~1~~[]~~^[] of a current registration year, a registered health spa may renew its registration for another annual period by submitting an online renewal application using the ~~[]~~Health Spa Registration Renewal Statement Application portal~~[]~~ available at <https://www.ag.ky.gov/Resources/Pages/Office-of-Regulatory-Relief.aspx>, and submitting:

(a) Payment of the \$50.00 registration renewal fee; and

(b) Unless exempted by KRS 367.906(4), a completed Health Spa Surety Bond, form HS-1, when a prior filed bond is not current

or the bond amount is insufficient.

(3) A registrant shall complete its renewal application by submitting additional information or documents for its application within thirty (30) days of any request by the Attorney General. The Attorney General may deny a renewal application if a registrant fails to timely complete an application by not paying the renewal application fee or providing requested information or documents.

(4) Any registration renewal by the Attorney General shall not be construed to waive or condone any violation of law that occurred prior to any registration renewal and shall not prevent subsequent proceedings against the registrant.

Section 3. Written Notification of Material Changes. A registered health spa shall notify the Attorney General, in writing, within fourteen (14) days of any material change to information provided in the registrant's original application, any renewal application, or application attachments.

Section 4. Record Requests. A health spa shall make requested business records and documents related to an investigation or inquiry readily available to the Attorney General for inspection and copying upon request.

Section 5. Incorporation by Reference.

(1) The following materials are incorporated by reference:

(a) "Health Spa Registration Statement Application~~[]~~^[]", Feb. 2026;

(b) "Health Spa Registration Renewal Statement Application~~[]~~^[]", Feb. 2026;

(c) "Health Spa Surety Bond", form HS-1, Feb. 2026;

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Office of the Attorney General Capital Complex East, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, Monday through Friday, between the hours of 8:00 a.m. and 4:30 p.m. This material is also available on the Attorney General's website, <https://ag.ky.gov/Pages/default.aspx>

FILED WITH LRC: June 9, 2026

CONTACT PERSON: Stephen B. Humphress, Executive Director, Kentucky Office of Regulatory Relief, Kentucky Office of Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, phone: 502-696-5408, fax: (502) 573-8317, email: steve.humphress@ky.gov.

OFFICE OF ATTORNEY GENERAL
Office of Regulatory Relief
(As Amended at ARRS, June 9, 2026)

40 KAR 12:500. Going out of business, fire, removal, and other KRS 365.415 sales~~[Application for conducting more than two (2) going-out-of-business sales in four (4) years form]~~.

RELATES TO: KRS 365.415, 365.420~~[365.447]~~
STATUTORY AUTHORITY: KRS 15.180, 367.150(4), 365.420(7)~~[365.447]~~

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

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15.180 authorizes the Attorney General to promulgate administrative regulations that will facilitate performing the duties and exercising the authority vested in the Attorney General and the Department of Law. KRS 367.150(4) requires the Department of Law to recommend administrative regulations in the consumers' interest. KRS 365.415 and 365.420 require sellers conducting going out of

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business, fire, removal, and other KRS 365.415 sales to submit license applications and bonds with the county clerk where the sales occur. KRS 365.420(7) requires the Attorney General to promulgate an administrative regulation to establish a license application form containing an inventory itemization relating to going out of business, fire, removal, and other KRS 365.415 sales. KRS 365.420(8) requires applicants to submit surety bonds to county clerks with an application. This administrative regulation ~~establishes~~prescribes the license application and bond forms to be used by persons conducting going out of business, fire, removal, and other KRS 365.415 sales. [To fulfill the requirement for an application form to conduct more than two (2) going-out-of-business sales in a four (4) year period identified in KRS 365.447.]

Section 1. License Application for Going out of Business, Fire, Removal, or Other KRS 365.415 Sale [Excess Permits Form]. (1) A seller shall not conduct a going out of business, fire, removal, or other KRS 365.415 sale unless the county clerk of the county where a proposed sale is located approves a seller's license application in accordance with this administrative regulation. An applicant shall complete and submit to the county clerk a Going out of Business, Fire, Removal, or Other **KRS 365.415** Sale License Application, form GOB-1, ~~to the county clerk~~, and submit a completed Going out of Business, Fire, Removal, or Other KRS 365.415 Sale Surety Bond, form GOB-2, or other surety bond in compliance with KRS 365.415 [satisfactory to the county clerk]. [The "Application for Excess Permits Form GOB-2" required by KRS 365.447 shall contain the following information:]

- [(1)] [The title of the county clerk;]
- [(2)] [The number of going-out-of-business permits acquired by the applicant during past four (4) years;]
- [(3)] [For each of the previous sales, the applicant shall provide the name of the store involved, the name(s) of the owner(s), and the date and address of the sale;]
- [(4)] [The name and address of the owner(s) of the goods to be sold. If the owner is a partnership, corporation, firm, or association, list all partners and officers;]
- [(5)] [The address of the principal office of the applicant in Kentucky;]
- [(6)] [The date and place of incorporation or organization of the business;]
- [(7)] [Whether the controlling interest in the firm or business has been transferred within the twelve (12) months prior to the filing of the application. If the answer is yes, then specify the parties to the transfer and the date of the transfer;]
- [(8)] [The name and style in which the sale is to be conducted;]
- [(9)] [The address of the premises where the sale will be conducted;]
- [(10)] [The date the sale is to begin and the projected duration of the sale;]
- [(11)] [The name and address of the person who will be in charge and responsible for the conduct of the sale;]
- [(12)] [Nature of the occupancy (lease, etc.) of the premises where the sale is to be held, and the effective date of the termination of the occupancy;]
- [(13)] [The condition or necessity which is the occasion of the sale;]
- [(14)] [An explanation of the condition or necessity for the previous sales, and the legitimate business reason for obtaining the excess permits;]
- [(15)] [The name of the sale, and the reason why the name is truthfully descriptive of the sale;]
- [(16)] [The location to which the business will be relocated if the sale is a removal sale;]
- [(17)] [The time, location, and cause of damage to the goods if the license is to conduct a fire sale;]
- [(18)] [Whether the sale involves foods or drugs damaged by fire or other casualty. If it does, proof of approval by the Department for Human Resources must be provided before the application may be accepted;]
- [(19)] [The total value of the inventory at cost, with inventory pages from Form GOB-1 attached;]
- [(20)] [The total value of the inventory at retail from the attached GOB-1 inventory pages;]

[(21)] [A sworn and notarized statement from the authorized individual filing the application;]

[(22)] [A notice that the applicant will be charged the actual costs of the Attorney General's investigation. The minimum charge will be twenty-five (25) dollars, and the maximum charge will be \$250.]

Section 2. Incorporation by Reference.

(1) The following material is incorporated by reference:

[(1)] [The "Application for Conducting More Than Two (2) Going-out-of-business Sales in Four (4) Years Form GOB-2" is incorporated by reference.]

(a) "Going Out of Business, Fire, ~~and~~ Removal, and Other KRS 365.415 Sale License Application", form GOB-1, Feb. 2026; and

(b) "Going Out of Business, Fire, ~~and~~ Removal, and Other KRS 365.415 Sale Surety Bond", form GOB-2, Feb. 2026.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law. [Copies of the "Application For Conducting More Than Two (2) Going-out-of-business Sales In Four (4) Years Form GOB-2" may be inspected, copied, or obtained] at the Office of the Attorney General, Capital Complex East [Consumer Protection Division], 1024 Capital Drive, Frankfort, Kentucky 40601 [40602], Monday through Friday, between the hours of 8:00 [8:30] a.m. and 4:30 p.m. [Monday through Friday.] This material is also available on the Office's website, <https://ag.ky.gov/Pages/default.aspx>.

FILED WITH LRC: June 9, 2026

CONTACT PERSON: Stephen B. Humphress, Executive Director, Kentucky Office of Regulatory Relief, Kentucky Office of Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, phone: 502-696-5408, fax: (502) 573-8317, email: steve.humphress@ky.gov.

OFFICE OF ATTORNEY GENERAL
Office of Regulatory Relief
(As Amended at ARRS, June 9, 2026)

40 KAR 12:510. Prior approval to obtain excess going out of business sale license [Application procedure for obtaining going-out-of-business sale permits in excess of two (2) sales in a four (4) year period].

RELATES TO: KRS 365.447

STATUTORY AUTHORITY: KRS 15.180, KRS 367.150(4), 365.447

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

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15.180 authorizes the Attorney General to promulgate administrative regulations that will facilitate performing the duties and exercising the authority vested in the Attorney General and the Department of Law. KRS 367.150(4) requires the Department of Law to study the operation of all laws, rules, administrative regulations, orders, and state policies affecting consumers and to promulgate administrative regulations in the consumers' interest. KRS 365.447 requires [in pertinent part the Office of] the Attorney General to promulgate administrative regulations to establish ~~an~~ [pertaining to] application [applications], procedures, and investigation charges [by any party] for persons seeking prior approval to conduct more than two (2) going out of business sales [going-out-of-business sale permits] during a four (4) year period. This administrative regulation establishes the online approval application, application processes and criteria for investigation, ~~and~~ [sets forth the procedures for applying for a subsequent permit, the investigation to be initiated and conducted by the Attorney General], and the investigation fees for the online approval application [charges to the applicant, pursuant to KRS 365.447].

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Section 1. Online Application for Prior Approval to Obtain Excess Going out of Business Sale License~~[Application Procedure for Excess Permits].~~

(1) A seller shall not acquire more than two (2) going out of business sale licenses from any county clerk during a four (4) year period unless the Attorney General approves the seller's online prior approval application in accordance with this administrative regulation. An applicant shall submit an online prior approval application using the ~~[“]Prior Approval to Obtain Excess Going out of Business Sale License[“]~~ Application portal available at <https://www.ag.ky.gov/Resources/Pages/forms.aspx>

(2) ~~To complete~~~~When submitting~~ an online prior approval application, the applicant shall submit:

(a) The initial seventy-five (75) dollar investigation fee;

(b) Copies of the two (2) or more prior going out of business sale licenses issued to the applicant by any county clerk during the preceding four (4) year period; and

(c) A completed Going out of Business, Fire, Removal, or Other **KRS 365.415** Sale License Application, form GOB-1, as incorporated by reference in 40 KAR 12:500, for the proposed excess going out of business sale for which the applicant seeks approval.

(3) An applicant shall complete ~~the~~~~its~~ application by submitting additional information or documents for its approval application within thirty (30) days of any request by the Attorney General. The Attorney General may deny any approval application if an applicant fails to timely complete the application by not paying the initial investigation fee or providing requested information or documents. ~~When any individual, partnership, corporation or other firm seeks a permit to conduct more than two (2) going out of business sales within a four (4) year period, such party shall obtain, complete, and submit to the Office of the Attorney General, Division of Consumer Protection, an application form to obtain such permit].~~

Section 2. Initial Investigation Fee. The initial investigation fee for an approval application to obtain an excess going out of business sale license shall be seventy-five (75) dollars.

Section 3. Investigation to Determine Legitimate Business Purpose.

(1) Upon submission of a completed online prior approval application, the Attorney General, shall conduct an investigation to determine ~~if there is~~~~whether~~ a legitimate business reason ~~exists~~ for the applicant to conduct more than two (2) going out of business sales within a four (4) year period. The Attorney General shall investigate the circumstances of the prior going out of business sales conducted by the applicant and consider all relevant information in reaching a decision. ~~[Upon receipt of such application, the Office of the Attorney General, Division of Consumer Protection, shall initiate and conduct an investigation to determine if there is a legitimate business reason to conduct more than two (2) going out of business sales within a four (4) year period. The Division of Consumer Protection shall investigate the circumstances of all previous going out of business sales conducted by the applicant within the previous four (4) years and consider all relevant information in reaching its decision. Relevant business records and information shall include information relating to activities and going out of business sales conducted in other jurisdictions. The Attorney General may request additional information and relevant business records from the applicant in determining the legitimacy of the business reason for the application.]~~

(2) The Attorney General shall deny or approve an online prior approval application within thirty (30) days of receiving a completed application. ~~The Attorney General shall determine if there is a legitimate business reason for the applicant's request for any excess permits and deny or grant the permit within thirty (30) days of receiving the application.]~~

(3) Valid business reasons for conducting more than two (2) going out of business ~~going out of business~~ sales within a four (4) year period shall include:

- Insolvency of the business, **owner or owners**~~[or owner(s)]~~;
- Unprofitability or inadequate profitability of the business;
- Retirement of the **owner or owners**~~[owner(s)]~~;
- Intent of the **owner or owners**~~[owner(s)]~~ to engage in other

enterprises or endeavors;

(e) Termination of the business to free assets to pay any judgment of any court;

(f) Death of the **owner or owners**~~[owner(s)]~~, and the representatives of the **estate or estates**~~[estate(s)]~~, or their heirs, distributees, devisees, legatees, or their successors and assigns seek to terminate the business; **and**

(g) ~~If~~~~Where~~ the business is required or compelled to be discontinued because:

1. The premises upon which it is being conducted have been taken by eminent domain; ~~[or]~~

2. The premises upon which it is being conducted **has to**~~[must]~~ be vacated pursuant to court order pursuant to a legal or judicial proceeding; or

3. The business's lease on the premises upon which it is operating has been terminated by the landlord, or the landlord will not renew the lease.

(4) Business reasons **that shall not be considered**~~[which are not]~~ legitimate for conducting more than two (2) going out of business sales within a four (4) year period ~~[the purposes of KRS 365.447]~~ shall include, **for example**~~[but not be limited to]~~:

(a) Opening the business with intent to conduct a going out of business ~~going out of business~~ sale with inventory brought in for that purpose, whether ~~the~~~~such~~ inventory is owned by the business **owner or owners**~~[owner(s)]~~ or not, more than ninety (90) days prior to the application for the permit; **and**

(b) Buying into an existing business with the intent to conduct a going out of business ~~going out of business~~ sale, and bringing in large quantities of goods for that purpose, whether ~~the~~~~such~~ inventory is owned by the business **owner or owners**~~[owner(s)]~~ or not, more than ninety (90) days prior to the application for the permit.

Section 4. **In order to obtain a license authorizing the excess sale, once**~~When~~ the Attorney General approves an applicant's online prior approval application, the applicant shall, **in accordance with 40 KAR 12:500, [thereafter] file with the county clerk:**

(1) The completed Going out of Business, Fire, Removal, or Other **KRS 365.415** Sale License Application, form GOB-1, incorporated by reference in 40 KAR 12:500;

(2) **A copy of the Attorney General's letter of approval; and**

(3) A ~~[satisfactory]~~ surety bond, **with the county clerk in accordance with 40 KAR 12:500 in order to obtain a license authorizing the excess sale.**

Section 5. ~~[Section 3.] Application Investigation Costs.~~ ~~[The applicant may be charged the costs of the investigation.]~~ The Attorney General may charge the applicant for the actual costs of the prior approval application investigation **if costs**~~which~~ exceed the initial investigation fee. ~~The actual costs shall be assessed the applicant by the Attorney General], however [the minimum charge shall be twenty-five (25) dollars, and] the maximum total charge shall not exceed **\$500**~~five hundred dollars (\$500.00)]~~ ~~[\$250].~~~~

Section 6. ~~[Section 4.] An applicant may request an administrative hearing on application denial. If the Attorney General denies an applicant's application for prior approval to obtain an excess license, the applicant may submit a written request to the Attorney General for an administrative hearing on the application denial. **The hearing process shall be** pursuant to KRS Chapter 13B. ~~[Any applicant whose application is denied by the Attorney General following investigation may seek appeal of the denial pursuant to 40-KAR 2:230 and 40-KAR 2:240.]~~~~

Section 7. Incorporation by Reference.

(1) "Prior Approval to Obtain Excess Going Out of Business Sale License Application" ~~[portal]~~, Feb. 2026, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Attorney General, Capital Complex East, 1024 Capital Drive, Frankfort, Kentucky 40601, Monday through Friday, between the hours of 8:00 a.m. and 4:30 p.m. This material is also available on the Attorney General's website, <https://ag.ky.gov/Pages/default.aspx>.

FILED WITH LRC: June 9, 2026

CONTACT PERSON: Stephen B. Humphress, Executive Director, Kentucky Office of Regulatory Relief, Kentucky Office of Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, phone: 502-696-5408, fax: (502) 573-8317, email: steve.humphress@ky.gov.

**OFFICE OF ATTORNEY GENERAL
Office of Regulatory Relief
(As Amended at ARRS, June 10, 2026)**

40 KAR 12:610. Nonresident sellers of visual aid glasses [Visual] aid glasses [seller annual registration requirements].

RELATES TO: KRS 367.680, 367.681, 367.686, 367.688, 367.689, 367.690

STATUTORY AUTHORITY: KRS 15.180, 367.150(4), 367.688, 367.689

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15.180 authorizes the Attorney General to promulgate administrative regulations that will facilitate performing the duties and exercising the authority vested in the Attorney General and the Department of Law. KRS 367.150(4) requires the Department of Law to study the operation of all laws, rules, administrative regulations, orders, and state policies affecting consumers and to recommend administrative regulations in the consumers' interest. KRS 367.688 requires the Attorney General to provide for annual registrations of all nonresident sellers of visual aid glasses. KRS 367.688 requires the Attorney General to charge fees for registrations and investigations of nonresident sellers of visual aid glasses. KRS 367.689 authorizes the Attorney General to promulgate administrative regulations to carry out the provisions of KRS 367.680 to 367.690, pertaining to nonresident sellers of visual aid glasses. **KRS 367.688 requires the Attorney General to charge a fee for investigation and registration of nonresident dispensers of visual aid glasses.** KRS 367.688 requires the Attorney General to charge a fee for investigation and registration of nonresident dispensers of visual aid glasses. [This administrative regulation establishes the online registration application and the online renewal application used by nonresident sellers of visual aid glasses and establishes annual registration and investigation fee. ~~establishes requirements for annual registration required by KRS 367.686 for a person located outside of Kentucky who ships, mails, delivers, sells, or dispenses visual aid glasses to a patient at a Kentucky address.~~

Section 1. Nonresident Seller of Visual Aid Glasses [Seller] Registration Application.

(1) A non-resident seller shall not sell visual aid glasses to Commonwealth of Kentucky residents unless the Attorney General approves the nonresident seller's online registration application in accordance with this administrative regulation. An applicant shall submit an online application using the ["]Nonresident Seller of Visual Aid Glasses Registration Application portal["] available at <https://www.ag.ky.gov/Resources/Pages/Office-of-Regulatory-Relief.aspx>.

(2) To submit [When submitting] an online application, each applicant shall submit:

- (a) Payment of the \$500.00 registration fee;
- (b) The applicant's certificate of existence, ["] authorization certificate from the Kentucky Secretary of State's office, or other evidence of the applicant's authority to transact business in Kentucky; and
- (c) A copy of the applicant's registration or license [registration/license] from the state where applicant's dispensing facility is located.

(3)

(a) An applicant shall complete its application by submitting additional information or documents within thirty (30) days of a request by the Attorney General.

(b) The Attorney General may deny an application if the applicant fails to timely complete the application by not paying the application fee or providing requested information or

documents. [Form. A registrant shall register annually by submitting a complete Visual Aid Glasses Seller Registration, Form G-1, containing all information and the registration fee required by this administrative regulation. The Visual Aid Glasses Seller Annual Registration, Form G-1, shall contain the following:]

- [(1)] [The legal name of the registrant;]
- [(2)] [Other names under which the registrant conducts business;]
- [(3)] [The registrant's contact person including name, title, business address, phone number, [and fax number. The contact person's email address may also be provided;]
- [(4)] [The registrant's principal physical business location, which shall not be a post office box;]
- [(5)] [The registrant's mailing address;]
- [(6)] [The location where the registrant keeps or maintains records of its Kentucky customers;]
- [(7)] [The toll-free phone numbers for questions from customers, optometrists, osteopaths and physicians;]
- [(8)] [The registrant's fax number;]
- [(9)] [The registrant's website;]
- [(10)] [Whether the registrant has been the subject of civil or criminal action by an agency in any state that regulates the sale or dispensing of visual aid glasses, and, if yes, an explanation;]
- [(11)] [A list of each state in which the registrant is registered or licensed to sell or dispense] [visual aid glasses;]

Section 2. Annual Registration and Investigation Fee.

[(12)] [A] The annual registration and investigation fee for a nonresident seller of visual aid glasses shall be [of] \$500.00, [enclosed with each registration in the form of a check made payable to "Kentucky State Treasurer"; and]

[(13)] [The signature of the registrant or a person authorized to sign on behalf of the registrant, the printed name and title of the person signing the registration form, and the date of the signature. The signature shall constitute a certification that the statements contained in the registration form are true and correct to the best of the knowledge and belief of the person signing the registration form.]

Section 3. [Section 2.] Nonresident Seller of Visual Aid Glasses Renewal Application.

(1) An approved nonresident seller of visual aid glasses registration or renewal shall be valid for one (1) year from the date of written confirmation of registration or renewal approval provided by the Attorney General.

(2) Thirty (30) days prior to the expiration of a current registration, a registered nonresident seller of visual aid glasses may renew its registration. Registration renewal shall be accomplished by submitting an online renewal application using the ["]Nonresident Sellers of Visual Aid Glasses Renewal Application portal["] available at <https://www.ag.ky.gov/Resources/Pages/Office-of-Regulatory-Relief.aspx>.

(3) To submit [When submitting] an online renewal application, each registrant shall submit payment of the annual \$500.00 registration fee.

(4) A registrant shall complete its renewal application by submitting additional information or documents for its application within thirty (30) days of a request by the Attorney General.

(b) The Attorney General may deny a renewal application if the registrant fails to timely complete the application by not paying the annual registration fee or not submitting requested information or documents.

(5) Any registration renewal by the Attorney General shall not be construed to waive or condone any violation of law that occurred prior to any registration renewal and shall not prevent subsequent proceedings against a registrant. [The original completed Visual Aid Glasses Seller Registration, Form G-1, and the registration fee, shall be mailed or delivered to the Kentucky Office of the Attorney General, Office of Consumer Protection, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601.]

Section 4. [Section 3.] Written Notification of Material Changes. A registered nonresident seller of visual aid glasses [The registrant] shall notify the Attorney General, in writing, within fourteen (14) [thirty

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(30) days of any material change to information provided in the registrant's original application, any renewal application or application attachments~~[Visual Aid Glasses Seller Registration, Form G-1, in writing at the address shown in Section 2 of this administrative regulation].~~

[Section 4.] [A notice or letter from the Attorney General to a registrant may be sent by first-class regular mail to a last-known address as shown in the registrant's last Visual Aid Glasses Seller Registration, Form G-1, or in the registrant's last notice of material change provided pursuant to Section 3 of this administrative regulation.]

Section 5. Record Requests. A nonresident seller of visual aid glasses shall make requested business records and documents related to an investigation or inquiry readily available to the Attorney General for inspection and copying upon request.~~[The Attorney General may charge a fee for investigation of nonresident dispensers of visual aid glasses based on reasonable expenses incurred during the complaint or investigation process, in accordance with KRS 367.688].~~

Section 6. Incorporation by Reference.

(1) The following material is incorporated by reference:~~["Visual Aid Glasses Seller Registration, Form G-1", 2018, is incorporated by reference.]~~

(a) "Nonresident Seller of Visual Aid Glasses Registration Application"~~[portal]~~, Feb. 2026; and

(b) "Nonresident Seller of Visual Aid Glasses Renewal Application"~~[portal]~~, Feb. 2026;

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the ~~[Kentucky]~~Office of the Attorney General, Capital Complex East~~[Office of Consumer Protection]~~, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material is also available on the Attorney General's website, <https://ag.ky.gov/Pages/default.aspx>.

FILED WITH LRC: June 9, 2026

CONTACT PERSON: Stephen B. Humphress, Executive Director, Kentucky Office of Regulatory Relief, Kentucky Office of Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, phone: 502-696-5408, fax: (502) 573-8317, email: steve.humphress@ky.gov.

BOARDS AND COMMISSIONS Board of Dentistry (As Amended at ARRS, June 9, 2026)

201 KAR 8:533. Licensure of dentists.

RELATES TO: KRS 39A.350-39A.366, 218A.205, 304.40-075, 313.010(9), 313.030, 313.035, 313.254

STATUTORY AUTHORITY: KRS 218A.205, 313.021(1)(a), (b), (c), 313.035(1), (3), 313.254

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 313.035 and 218A.205 require the board to promulgate administrative regulations relating to requirements and procedures for the licensure of dentists. This administrative regulation establishes requirements and procedures for licensure of dentists.

Section 1. General Licensure Requirements. An applicant desiring initial licensure in Kentucky as a general dentist shall:

(1) Understand, read, speak, and write the English language with a comprehension and performance level equal to at least the ninth grade of education, verified by testing as necessary;

(2) Submit a completed and signed~~[signed, and notarized]~~ Application for Dental Licensure or online equivalent with an attached applicant photo taken within the past six (6) months;

(3) Pay the fee required by 201 KAR 8:520;

(4) Not be subject to disciplinary action pursuant to KRS Chapter 313 that would prevent licensure;

(5) Complete and pass the board's jurisprudence exam;

(6) Hold an active certification in cardiopulmonary resuscitation (CPR) or a more comprehensive program which meets or exceeds the American Heart Association Guidelines for CPR and ECC;

(7) Submit to a nationwide state and federal criminal background check by fingerprint through the Department of Kentucky State Police;

(8) Provide verification of any license to practice dentistry held previously or currently in any state or other licensing jurisdiction;

(9) Hold a Doctor of Medicine in Dentistry (DMD) or Doctor of Dental Surgery (DDS) degree from a dental school program~~[college, or department of a university]~~ accredited by the Commission on Dental Accreditation (CODA);

(10) Successfully complete the National Board Dental Examination (NBDE) Part I and Part II or the Integrated National Board Dental Examination (INBDE), conducted by the Joint Commission on National Dental Examinations (JCNDE);

(11) Provide a written explanation for any positive returns on a query of the National Practitioner Data Bank; and

(12) Complete all additional requirements for one (1) of the following:

- Licensure by clinical examination;
- Licensure by credentials; or
- Licensure by foreign training.

Section 2. Requirements for Licensure by Clinical Examination.

(1) An individual desiring initial licensure in Kentucky as a general dentist by clinical examination shall:

(a) Complete all requirements in Section 1 of this administrative regulation; and

(b) Successfully complete all components of one (1) of the following clinical examinations within the five (5) years preceding the filing of the application:

1. The dental examination of the American Board of Dental Examiners (ADEX) or its predecessor agencies~~[The examination of the Council of Interstate Testing Agencies (CITA)];~~

2. The dental examination of the Central Regional Dental Testing Service (CRDTS) or its predecessor agencies; ~~or~~;

~~[3.] [The examination of the Commission on Dental Competency Assessments (CDCA);]~~

~~[4.] [The examination of the States Resources for Testing and Assessments (SRTA);]~~

~~[5.] [The examination of the Western Regional Examining Board (WREB); or]~~

~~3.~~[6.] The Dental Licensure Objective Structured Clinical Examination (DLOSCE) of the JCNDE.

(2) An individual applying more than two (2) years after graduating with a DDS or DMD, shall:

(a) Hold a license to practice dentistry in good standing in another state or other United States~~[U.S.]~~ licensing jurisdiction~~[territory of the United States or the District of Columbia];~~ or

(b) Complete a continuing education plan approved by the board.

(3) An applicant who has taken a clinical examination three (3) times and failed to achieve a passing score shall complete a remediation plan approved by the board.

Section 3. Requirements for Licensure by Credentials. An individual desiring initial licensure in Kentucky as a general dentist by credentials shall:

(1) Complete all requirements in Section 1 of this administrative regulation;

(2) Successfully complete a state, regional, or national clinical examination used to determine clinical competency in dentistry in another~~[a]~~ state or other United States~~[U.S.]~~ licensing jurisdiction~~[territory of the United States or the District of Columbia];~~ and

(3) Be licensed and actively practicing dentistry in another~~[a]~~ state or other United States~~[U.S.]~~ licensing jurisdiction~~[territory of the United States or the District of Columbia]~~ for at~~[a]~~ least five (5)

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of the six (6) years preceding the filing of the application.

Section 4. Requirements for Licensure by International ~~[Foreign]~~ Training.

(1) An individual desiring initial licensure in Kentucky as a ~~general~~ dentist who is a graduate of a non-CODA accredited dental school ~~program~~, ~~college~~, or ~~department of a university~~ shall:

(a) Complete all requirements in Section 1 of this administrative regulation, except for subsection (9);

(b) Pass the Test of English as a Foreign Language (TOEFL) administered by the Educational Testing Service with a score of 650 on the paper-based test (PBT) or a score of 116 on the internet-based test (iBT), if English is not the applicant's primary language;

(c) Successfully complete two (2) years of postgraduate training in a CODA accredited advanced dental education ~~[general dentistry]~~ program;

(d) Submit a letter of satisfactory program completion from the program director of each postgraduate training site; and

(e) Successfully complete a clinical examination required by Section 2(1)(b) of this administrative regulation within five (5) years preceding the filing of the application.

(2) An individual applying for dental licensure more than two (2) years after completing a CODA accredited advanced dental education ~~[general dentistry]~~ program shall:

(a) Hold a license to practice dentistry in good standing in another state or other United States [U.S.] licensing jurisdiction ~~[territory of the United States or the District of Columbia]~~; or

(b) Complete a continuing education plan approved by the board.

(3) Qualified individuals applying for dental licensure under this section who have completed a two (2) year [two-year] Advanced Education in General Dentistry Program (AEGD), General Practice Residency (GPR), or other CODA accredited advanced dental education program in general dentistry shall be issued a general dentist license and shall not practice outside the scope of general dentistry.

(4) Qualified individuals applying for dental licensure under this section who have completed a CODA accredited advanced dental education program in a dental specialty shall be issued a dental specialist license and shall not practice as a general dentist or in any other capacity outside of the scope of their specialty, except as established [provided for] in KRS 313.035(3).

Section 5. Requirements for Student Limited Licensure.

(1) An individual desiring limited licensure in Kentucky as a student shall:

(a) Complete all requirements in Section 1 of this administrative regulation, except for subsections (9) and (10);

(b) Submit a letter from the dean or program director of a postgraduate, residency, or fellowship program in Kentucky stating that the applicant has been accepted into the program and the expected date of completion;

(c) Submit a signed Statement Regarding Student Licensure Limitations; and

(d) Submit an official final transcript of the applicant's dental coursework with the degree posted.

(2) A student limited license holder shall only practice dentistry in conjunction with programs of the dental school where the individual is a student and shall only provide professional services to patients of these programs.

(3) A student limited license may be renewed in accordance with Section ~~11~~ ~~[10]~~ of this administrative regulation, but shall automatically expire if the student graduates from or exits the program.

(4) A program enrolling a student limited license holder shall notify the board in writing of the date the student graduates from or exits the program.

(5) Nothing in this section shall prohibit:

(a) A student from performing a dental procedure under the direct supervision of a competent instructor within the dental school, college, or department of a university or private practice facility approved by the board. The board may authorize a student to practice dentistry within a state or municipal institution, public

school, board of health, public clinic, or charitable entity. A fee shall not be accepted by the student beyond the expenses covered by a stipend;

(b) A student limited license holder from working under the general supervision of a licensed dentist within the confines of the postgraduate training program; and

(c) A volunteer health practitioner from providing services under KRS 39A.350-39A.366.

Section 6. Requirements for Faculty Limited Licensure.

(1) An individual desiring limited licensure in Kentucky as a faculty member shall:

(a) Complete all requirements in Section 1 of this administrative regulation with the exception of subsections (9) and (10);

(b) Submit a letter from the dean or program director of a Kentucky dental school stating that the applicant has received a faculty appointment;

(c) Submit a signed Statement Regarding Faculty Licensure Limitations; and

(d) Submit an official final transcript of the applicant's dental coursework with the degree posted.

(2) A faculty limited license holder shall only practice dentistry in conjunction with programs of the dental school where the individual is a faculty member and shall only provide professional services to patients of these programs.

(3) A faculty limited license may be renewed in accordance with Section ~~11~~ ~~[10]~~ of this administrative regulation, but shall automatically expire if the licensee leaves their faculty position.

(4) A program employing a faculty limited license holder shall notify the board in writing of the date the licensee leaves his or her faculty position.

Section 7. Requirements for Charitable Limited Dental Licensure.

(1) An individual desiring limited licensure in Kentucky to provide charitable dental services shall:

(a) Understand, read, speak, and write the English language with a comprehension and performance level equal to at least the ninth grade of education, verified by testing as necessary;

(b) Submit a completed and signed ~~[signed, and notarized]~~ Application for Charitable Limited Licensure with an attached applicant photo taken within the past six (6) months;

(c) Pay the fee required by 201 KAR 8:520;

(d) Not be subject to disciplinary action pursuant to KRS Chapter 313 that would prevent licensure;

(e) Hold a license to practice dentistry in good standing in another state or other United States [U.S.] licensing jurisdiction ~~[territory of the United States or the District of Columbia]~~; and

(f) Provide a written explanation for any positive returns on a query of the National Practitioner Data Bank.

(2) A charitable limited dental license holder shall:

(a) Work only with charitable entities registered with the Cabinet for Health and Family Services that have met the requirements of KRS 313.254 and 201 KAR 8:581;

(b) Only perform procedures allowed by KRS 313.254(4) and (5) which shall be completed within the duration of the charitable event;

(c) Not prescribe any medications while practicing in Kentucky;

(d) Be eligible for the provisions of medical malpractice insurance procured under KRS 304.40-075; and

(e) Perform these duties without expectation of compensation or charge to the individual, and without payment or reimbursement by any governmental agency or insurer.

Section 8. Requirements for Specialty Licensure. An individual desiring initial licensure as a dental specialist in Kentucky as defined by KRS 313.010(9) shall:

(1) Submit a completed and signed ~~[signed, and notarized]~~ Application for Specialty Dental Licensure or online equivalent with an attached applicant photo taken within the past six (6) months;

(2) Pay the fee required by 201 KAR 8:520;

(3) Hold an active Kentucky license to practice general dentistry prior to being issued a specialty license, except as established [provided for] in Section 4(4) of this administrative

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regulation; and

(4) Successfully complete a CODA accredited advanced dental education~~[graduate or postgraduate]~~ specialty program after graduating from a dental school.

Section 9. Continuing Education Requirements.

(1) A Kentucky licensed dentist shall complete thirty (30) hours of continuing education during the two (2) year licensure period defined by KRS 313.030(2), except in the following cases:

(a) A licensee who was issued a new or reinstated license in the second year of the current biennial license period shall only complete one-half (1/2) the required hours for that period;

(b) A licensee who graduated in the first year of the current biennial license period shall only complete one-half (1/2) the required hours for that period;

(c) A licensee who graduated in the second year of the current biennial license period shall not be required to complete continuing education hours for that period;

(d) A charitable limited license holder shall not be required to complete continuing education hours;[-~~or~~]

(e) A licensee may be granted a medical hardship waiver or deferment if the written request is submitted to and approved by the board; or[-]

(f) A licensee may be granted a limited practice waiver as established provided for in Section 10 of this administrative regulation.

(2) Acceptable continuing education content shall include:

(a) Competency in treating patients who are medically compromised or who experience medical emergencies during the course of dental treatment;

(b) Pharmaceutical products and proper use protocols of medications;

(c) Competence to diagnose oral pathology;

(d) Awareness of currently accepted methods of infection control;

(e) Basic medical and scientific subjects;

(f) Clinical and technological subjects;

(g) Patient management, safety, and oral healthcare;

(h) Mass casualty or mass immunization situations;

(i) Clinical dentistry performed on a charitable or volunteer basis;

(j) Business operations and best practices; and

(k) Dental association or society business meetings.

(3) The thirty (30) hours of continuing education shall include:

(a) A minimum of ten (10) hours taken in a live, interactive presentation format;

(b) A maximum of ten (10) hours that meet the requirements of subsection (2)(i) - (k) of this section; and

(c) A minimum of three (3) hours in the use of the Kentucky All Schedule Prescription Electronic Reporting System (KASPER), pain management, or addiction disorders;[-]

(d) A minimum of one-half (1/2) hour in Pediatric Abusive Head Trauma (PAHT) or Child Abuse and Neglect (CAN); and

(e) A minimum of one (1) hour on the recognition and prevention of pediatric ingestion or inhalation of controlled substances.

(4) Dentists who hold a board-issued sedation permit shall also meet the continuing education requirements of 201 KAR 8:550, Section 8.

(5) All continuing education hours shall be documented by a certificate of completion or attendance bearing:

(a) A signature or other verification of the provider;

(b) The name of the licensee in attendance;

(c) The title of the course or meeting attended or completed;

(d) The date of attendance or completion;

(e) The number of hours earned; and

(f) Evidence of the method of delivery if the course was taken in a live interactive presentation format.

(6) The licensee shall be responsible for obtaining the qualifying documentation of continuing education from the provider or sponsoring organization and to retain those documents for a minimum of five (5) years.

(7) During the license renewal process, licensees shall attest to their compliance with the requirements of this section.

(8) Licensees shall be subject to audit of their compliance with the requirements of this section.

Section 10. Limited Practice Continuing Education Waivers

(1) A licensee who has practiced in Kentucky for at least twenty (20) years and desires to continue practicing only in a relief or emergency capacity may receive a limited practice waiver of their general continuing education requirements if the written request is submitted to and approved by the board.

(2) A licensee who has been granted a limited practice waiver shall:

(a) Not be required to complete continuing education hours if practicing for not more than thirty (30) days in a calendar year;

(b) Only complete one-half (1/2) the continuing education hours if practicing more than thirty (30) days, but not more than ninety (90) days in a calendar year; or

(c) Complete the full thirty (30) hours of continuing education if practicing for more than ninety (90) days in a calendar year.

(3)

(a) A limited practice waiver shall:

1.

a. (a) Be issued for a single two (2) year [two-year] cycle per licensee; and [may]

b. Not be repeated; and

2. (b) Apply to general continuing education requirements only.

(b) Licensees shall still be required to complete all required hours for CPR certification and sedation permits beyond general licensure.

Section 11. Renewal of a Dental License.

(1) All dental licenses issued by the board shall expire on December 31 of odd-numbered years and shall be renewed to remain active. A licensee desiring renewal of an active general, specialty, student limited, or faculty limited dental license shall:

(a) Submit a completed and signed Application for Renewal of Dental Licensure or online equivalent;

(b) Pay the fee required by 201 KAR 8:520;

(c) Maintain an active certification in CPR or a more comprehensive program that meets or exceeds the American Heart Association Guidelines for CPR and ECC; and

(d) Meet the continuing education requirements in Section 9 of this administrative regulation.

(2) A licensee who has not actively practiced dentistry in the two (2) years preceding the filing of the renewal application shall complete a continuing education plan approved by the board prior to resuming the active practice of dentistry.

(3) A licensee desiring renewal of a charitable limited dental license shall repeat the initial licensure process required by Section 7 of this administrative regulation.

Section 12. [Section 14.] Retirement of a Dental License.

(1) A licensee desiring to no longer hold an active dental license in Kentucky shall submit a completed and signed Retirement of License Form or online equivalent.

(2) Upon receipt of this form, the board shall send written confirmation of retirement to the address provided.

(3) A licensee shall not retire a license that has pending disciplinary action against it.

(4) A license that is not properly retired or renewed shall be considered expired for reinstatement purposes.

Section 13. [Section 12.] Reinstatement of a Dental License.

(1) A former licensee desiring reinstatement of an expired or properly retired dental license in Kentucky shall:

(a) Submit a completed and signed[-, signed, and notarized] Application to Reinstatement Dental or Dental Hygiene Licensure or online equivalent with an attached applicant photo taken within the past six (6) months;

(b) Pay the fee required by 201 KAR 8:520;

(c) Hold an active certification in CPR or a more comprehensive program that meets or exceeds the American Heart Association Guidelines for CPR and ECC;

(d) Provide verification of any license to practice dentistry obtained in any state or other licensing jurisdiction since the

applicant was first licensed in Kentucky;

(e) Submit to a nationwide state and federal criminal background check by fingerprint through the Department of Kentucky State Police; and

(f) Provide a written explanation for any positive returns on a query of the National Practitioner Data Bank.

(2) An applicant who has not actively practiced dentistry in the two (2) years preceding the filing of the reinstatement application shall complete a continuing education plan approved by the board prior to resuming the active practice of dentistry.

(3) A former licensee who applies to reinstate an expired license that was not properly retired shall be subject to:

(a) The expired license reinstatement penalties in 201 KAR 8:520 if applying less than two (2) years from when the license was last active; or

(b) The same reinstatement fees as a properly retired license if applying more than two (2) years from when the license was last active.

Section 14.~~[Section 13.]~~ Verification of Licensure. An individual desiring an official verification of a dental license held currently or previously in Kentucky shall:

(1) Submit a completed and signed~~[and completed]~~ Verification of Licensure or Registration Form or online equivalent; and

(2) Pay the fee required by 201 KAR 8:520.

Section 15.~~[Section 14.]~~ Issuance of Initial Licensure. Upon an applicant's completion of all requirements for dental licensure within six (6) months of the date the application was received, the board shall:

(1) Issue a license in sequential numerical order; or

(2) Deny licensure due to a violation of KRS Chapter 313 or 201 KAR Chapter 8.

Section 16.~~[Section 15.]~~ Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Application for Charitable Limited Licensure", January 2024;

(b) "Application for Dental Licensure", January 2024;

(c) "Application for Renewal of Dental Licensure", January 2024;

(d) "Application for Specialty Dental Licensure", January 2024;

(e) "Application to Reinstate Dental or Dental Hygiene Licensure", January 2024;

(f) "Retirement of License Form", January 2024;

(g) "Statement Regarding Faculty Licensure Limitations", January 2024;

(h) "Statement Regarding Student Licensure Limitations", January 2024;

(i) "Verification of Licensure or Registration Form", January 2024; and

(j) "2020 American Heart Association Guidelines for CPR and ECC", 2020.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. through 4:30 p.m. This material is also available on the board's website~~[Web—site]~~ at <http://dentistry.ky.gov>.

FILED WITH LRC: June 9, 2026

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BOARDS AND COMMISSIONS
Board of Dentistry
(As Amended at ARRS, June 9, 2026)

201 KAR 8:540. Dental practices and prescription writing.

RELATES TO: KRS 218A.172, 218A.182, 218A.202, 218A.205(3), 313.035, 313.060, 313.085, 422.317, 42 U.S.C. 300ee-2 note

STATUTORY AUTHORITY: KRS 218A.205(3), 313.060(1)

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 313.060(1) requires the board to promulgate administrative regulations relating to dental practices that shall include minimal requirements for documentation and Centers for Disease Control and Prevention compliance. 42 U.S.C. 300ee-2 note requires each state to institute the guidelines issued by the United States Centers for Disease Control and Prevention or guidelines that are equivalent to those promulgated by the Centers for Disease Control and Prevention concerning recommendations for preventing the transmission of the human immunodeficiency virus and the hepatitis B virus during exposure-prone invasive procedures. KRS 218A.205(3)(a) and (b) require the board, in consultation with the Kentucky Office of Drug Control Policy, to establish mandatory prescribing and dispensing standards related to controlled substances. This administrative regulation establishes requirements for preventing the transmission of the human immunodeficiency virus and the hepatitis B virus during exposure-prone invasive procedures and includes minimal requirements for documentation and Centers for Disease Control and Prevention compliance. This administrative regulation also establishes mandatory prescribing and dispensing standards related to controlled substances.

Section 1. Applicability. A dentist who is authorized to prescribe, dispense or administer a controlled substance shall comply with the standards of acceptable and prevailing dental practice for prescribing, dispensing or administering a controlled substance established in this administrative regulation.

Section 2. Professional Standards for Documentation of Dental Patients.

(1) Each patient's dental records shall be kept by the dentist for a minimum of:

(a) Seven (7) years from the date of the patient's last treatment;

(b) Seven (7) years after the patient's eighteenth birthday, if the patient was seen as a minor; or

(c) Two (2) years following the patient's death.

(2) Each dentist shall comply with KRS 422.317 regarding the release of patient records.

(3) The dentist shall keep accurate, readily accessible, and complete records which include:

(a) The patient's name;

(b) The patient's date of birth;

(c) The patient's medical history and documentation of the physical exam of the oral and perioral tissues;

(d) The date of treatment;

(e) The areas to be treated;

(f) The material used in treatment;

(g) Local or general anesthetic used, route of administration, and the amount;

(h) Sedation medications used, the amount, monitoring techniques, and the names of qualified personnel that monitor the patient;

(i) Diagnostic, therapeutic, and laboratory results, if any;

(j) The findings and recommendations of the dentist and a

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description of each evaluation or consultation, if any;

(k) Treatment objectives;

(l) Any and all treatments performed and provided;

(m) All medications, including date, type, dosage, and quantity prescribed or dispensed; and

(n) Any post treatment instructions.

(4) Prior to prescribing or administering a Schedule II or III controlled substance, the dentist shall obtain the signature of the patient or a legal guardian on a consent form authorizing the treatment plan, including the use of controlled substances.

Section 3. Prescribing and Administration of Controlled Substances.

(1) In accordance with KRS 313.035, a dentist may prescribe, dispense, and administer any non-controlled drug necessary within the scope of the dentist's practice if the dentist is licensed pursuant to KRS Chapter 313.

(2) In accordance with KRS 313.035, a dentist may administer and prescribe controlled substances necessary within the scope of the dentist's practice if the dentist:

(a) Has obtained a registration from the Drug Enforcement Administration; ~~and~~

(b) Complies with KRS 218A.202 regarding the use of ~~Has enrolled with and utilizes~~ the Kentucky All Schedule Prescription Electronic Reporting System (KASPER); ~~and as required by KRS 218A.202.~~

(c) Complies with KRS 218A.182 regarding the electronic prescribing of controlled substances.

(3) A dentist shall not compound any scheduled drugs or dispense controlled substances for use by the patient outside the office setting.

(4) A dentist shall obtain and document all relevant information in a patient's medical and dental records in a legible manner and in sufficient detail to enable the board to determine whether the dentist is conforming to professional standards.

(5) Prior to the initial prescribing or administration of a Schedule II or III controlled substance, each dentist shall:

(a) Obtain and review a KASPER report for the twelve (12) month period immediately preceding the patient encounter and appropriately utilize that data in the evaluation and treatment of the patient.

(b) Document relevant information in the patient's record;

(c) Consider the available information to determine if it is medically appropriate and safe to administer or prescribe a controlled substance;

(d) Obtain a complete medical history and conduct a physical examination of the oral or maxillofacial area of the patient and document the information in the patient's medical record;

(e) Make a written treatment plan stating the objectives of the treatment and further diagnostic examinations required;

(f) Discuss the risks and benefits of the use of controlled substances with the patient, the patient's parent if the patient is an unemancipated minor child, or the patient's legal guardian or health care surrogate, including the risk of tolerance and drug dependence; and

(g) Obtain written consent for the treatment.

(6) Pursuant to KRS 218A.172, the requirements set forth within this section shall not apply when prescribing or administering a controlled substance:

(a) As part of the patient's hospice or end of life treatment;

(b) To a patient admitted to a licensed hospital as an inpatient, or observation patient, during and as part of a normal and expected part of the patient's course of care at that hospital.

(c) For the treatment of pain associated with cancer or with the treatment of cancer;

(d) As necessary to treat a patient in an emergency situation; or

(e) To a patient admitted to a long-term care facility.

(7) A dentist shall not issue a prescription for more than a three (3) day supply of a Schedule II or III controlled substance to treat pain as an acute medical condition unless the following conditions have been met:

(a) The dentist, in his or her professional judgment, believes that more than a three (3) day supply of a Schedule II or III controlled substance is medically necessary to treat the patient's pain as an

acute medical condition;

(b) The dentist has documented in the patient's dental record the acute medical condition and lack of alternative treatment options which justifies deviation from the three (3) day supply limit established in this subsection; and

(c) The patient and the dentist have attested by signature in the patient's dental record that alternative pain relief methods using non-opioid medications were explained to the patient and that the patient understands the risk of dependency when prescribed more than a three (3) day supply of a Schedule II or III controlled substance. This may occur:

1. During, and in addition to, the patient's original consultation and consent process as described in subsection (5) of this section; or

2. As part of a follow-up consultation after the initial three (3) day supply has been prescribed.

(d) A dentist licensed in Kentucky shall not act to avoid the three (3) day supply limit established in subsection (4) of this section by prescribing or administering a Schedule II or III controlled substance to a patient on consecutive or multiple occasions.

(8) A dentist may provide one (1) refill within thirty (30) days of the initial prescription for the same controlled substance for the same amount or less or prescribe a lower schedule drug for the same amount without a clinical reevaluation of the patient by the dentist.

(9) A patient who requires additional prescriptions for a controlled substance shall be clinically reevaluated by the dentist, and the provisions of this section for the prescription of controlled substances shall be followed. If the course of treatment extends beyond three (3) months, the dentist shall obtain and review a new KASPER report. The dentist shall provide any new information about the treatment and modify or terminate treatment as appropriate.

(10) Any violation of this section shall be considered a violation of KRS 218A.205(3), ~~[KRS]~~313.060, and ~~[KRS]~~313.085, and shall constitute a legal basis for disciplinary action pursuant to KRS 313.035.

Section 4. Penalties for Controlled Substances Violations~~and Investigations~~.

(1) A licensee convicted of a felony offense related to a controlled substance shall, at a minimum, be banned from prescribing or dispensing a controlled substance.

(2) A licensee convicted of a misdemeanor offense relating to the prescribing of a controlled substance shall, at a minimum, have a five (5) year ban from prescribing or dispensing a controlled substance.

(3) A licensee disciplined by a licensing board of another state relating to the improper, inappropriate, or illegal prescribing or dispensing of controlled substances shall, at a minimum, have the same disciplinary action imposed by this state or the disciplinary action prescribed in subsection (1) or (2) of this section, whichever is greater.

(4) A licensee who is disciplined in another state or territory for an act or omission which would constitute a violation of ~~[Section 4 of]~~ this section ~~administrative regulation~~ and fails to notify the board in writing of the disciplinary action within thirty (30) days of the finalization of the action shall be subject to a fine of \$1,000 for each failure to report.

(5) If a licensee has been convicted of or has entered a plea of guilt, an Alford plea, or a plea for nolo contendere to any felony offense relating to a controlled substance; has successfully participated in and completed a diversion program; and whose case has been dismissed and the record of that offense expunged; the board may, in its discretion, reinstate the licensee's prescribing and dispensing privileges contingent upon the licensee entering into an agreed order with terms and conditions deemed necessary by the board to implement a minimum five (5) year period of probation.

(6) The board may privately admonish a licensee who fails to register for an account with the Kentucky All Schedule Prescription Electronic Reporting System or who fails to meet the requirements of this administrative regulation. If a licensee is privately admonished by the board under this subsection, the licensee shall be given no more than thirty (30) days to become compliant after which time the dentist may be fined up to \$10,000 for failure to be registered with

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KASPER. A licensee who fails to utilize KASPER prior to prescribing a controlled substance may be fined up to \$250 per incident by the board.

(7) The Law Enforcement Committee of the Board shall produce a charging decision on the complaint within 120 days of the receipt of the complaint, unless:

(a) An investigation pertaining to the prescribing or dispensing of a controlled substance make it impossible to timely present the grievance to the designated review committee, person, or Law Enforcement Committee; or

(b) The board holds a complaint pertaining to the prescribing or dispensing of a controlled substance in abeyance to permit a law enforcement agency, upon the agency's request, to perform or complete an investigation.

(c) If a charging decision is not produced within 120 days of the date of receipt of the complaint under this subsection, the investigative report shall plainly state the circumstances pursuant to paragraphs (a) and (b) of this subsection that prevented the timely production of the charging decision.

Section 5. Administration of Neuromodulators and Dermal Fillers.

(1) A licensed dentist who desires to administer neuromodulators shall:

~~(a)~~ complete ~~at least a minimum of~~ ten (10) hours of training in a board-approved course that includes a minimum of six (6) hours of didactic and four (4) hours of clinical training ~~in that includes the following topics:~~

~~(a)(b)~~ The use of neuromodulators that are derived from Clostridium botulinum or that are biosimilar to or the bioequivalent of such a neuromodulator in the treatment of temporomandibular joint disorder and myofascial pain syndrome; and

~~(b)(c)~~ The use of neuromodulators that are derived from Clostridium botulinum that are biosimilar to or the bioequivalent of such a neuromodulator for dental and facial esthetics.

(2) A licensed dentist who desires to administer dermal fillers shall complete ~~at least a minimum of~~ ten (10) hours of training in a board-approved course that includes a minimum of six (6) hours of didactic and four (4) hours of clinical training.

(3) The course completion certificate for any training received pursuant to this section shall be maintained by the dentist and made available to the board upon request.

(4) Any licensed dentist who has administered neuromodulators or dermal fillers prior to **June 30, 2026** ~~this administrative regulation~~ shall have until December 31, 2027 to comply with this section.

Section 6. Infection Control Compliance.

(1) Each licensed dentist in the Commonwealth of Kentucky shall:

(a) Adhere to the standard precautions outlined in the Guidelines for Infection Control in Dental Health-Care Settings published by the Centers for Disease Control and Prevention; and

(b) Ensure that any person under the direction, control, supervision, or employment of a licensee whose activities involve contact with patients, teeth, blood, body fluids, saliva, instruments, equipment, appliances, or intra-oral devices adheres with those same standard precautions.

(2) If the board becomes aware of a violation or a reliable allegation of a violation of this section which may pose imminent public risk, the board or its designee shall perform an infection control inspection of the dental practice or office utilizing the Infection Control Inspection Checklist, ~~if the board and its staff become aware of a violation, or a reliable allegation of a violation,~~ of the Guidelines for Infection Control in Dental Health-Care Settings or a more comprehensive standard ~~which may pose imminent public risk~~.

(3)

(a) Any dentist who is found deficient upon an initial infection control inspection shall have thirty (30) days to be in compliance with the guidelines and submit a written plan of correction to the board.

(b) The dentist may receive a second inspection after the thirty (30) days have passed and may be required to pay reasonable expenses to the board or its designee to conduct the inspection, not

to exceed the amount of the fine required for failure of a second inspection ~~pursuant to this chapter~~.

(c) If the dentist fails the second inspection, he or she shall be immediately temporarily suspended pursuant to KRS 313.085 until proof of compliance is provided to the board and the dentist pays the fine ~~as prescribed in this chapter~~.

(4) Any licensed dentist, licensed dental hygienist, or dental assistant who performs invasive procedures may seek counsel from the board if he or she tests seropositive for the human immunodeficiency virus, ~~or the~~ hepatitis B virus, or other bloodborne pathogen.

(5) Upon the request of a licensee or registrant, the executive director of the board or designee shall convene a confidential expert review panel to offer counsel regarding under what circumstances, if any, the individual may continue to perform invasive procedures.

Section 7. ~~Section 6.~~ Termination of a Patient-Doctor Relationship. In order for a licensed dentist to terminate the patient-doctor relationship, the dentist shall:

(1) Provide written notice to the patient of the termination;

(2) Provide emergency treatment for the patient for thirty (30) days from the date of termination; and

(3) Retain a copy of the letter of termination in the patient records.

Section 8. ~~Section 7.~~ Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Guidelines for Infection Control in Dental Health-Care Settings", December 2003, or the latest version issued by the Centers for Disease Control on Infection Control in Dental Health Care Setting; and

(b) "Infection Control Inspection Checklist", July 2010.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. through 4:30 p.m. This material is also available on the board's website ~~Web site~~ at <http://dentistry.ky.gov>.

FILED WITH LRC: June 9, 2026

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BOARDS AND COMMISSIONS

Board of Dentistry

(As Amended at ARRS, June 9, 2026)

201 KAR 8:550. Anesthesia and sedation related to dentistry.

RELATES TO: KRS 313.035, 313.060

STATUTORY AUTHORITY: KRS 313.035(1)

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 313.035(1) requires the board to promulgate administrative regulations related to anesthesia and sedation permits. The administration of local anesthesia, sedation, and general anesthesia is an integral part of dentistry and the foundation of pain control. This administrative regulation establishes requirements for permits to perform sedation or anesthesia associated with dentistry.

Section 1. Definitions.

(1) "ADA" means the American Dental Association.

(2) "Analgesia" means the diminution or elimination of pain.

(3) "ASA" means American Society of Anesthesiologists.

(4) "Continual" means repeated regularly and frequently in steady succession.

(5) "Continuous" means prolonged without any interruption.

(6) "Deep sedation" means a drug-induced depression of consciousness during which patients cannot be easily aroused[,] but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function could be impaired. The patient might require assistance in maintaining a patent airway, and spontaneous ventilation could be inadequate. Cardiovascular function is usually maintained.

(7) "Enteral" means a technique of administration in which the agent is absorbed through the gastrointestinal (GI) tract or oral mucosa (oral, rectal, or sublingual).

(8) "General anesthesia" means a drug-induced loss of consciousness during which a patient is not arousable, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation could be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function might be impaired.

(9) "Immediately available" means onsite at the facility and available for immediate use.

(10) "Local anesthesia" means the elimination or diminution of sensation, especially pain, in one (1) part of the body by the topical application or regional injection of a drug.

(11) "Maximum Recommended Dose" or "MRD" means the maximum FDA-recommended dose of a drug for minimal sedation, as printed in FDA-approved labeling for unmonitored home use.

(12) "Minimal sedation" means a minimally depressed level of consciousness produced by a pharmacological method that retains the patient's ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive function and coordination might be modestly impaired, ventilatory and cardiovascular functions are unaffected.

(13) "Moderate sedation" means a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. Intervention is not required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained. This term includes the enteral administration of drugs exceeding the maximum recommended dose during a single appointment.

(14) "Nitrous oxide sedation" or "N2O sedation" means a technique of inhalation sedation with nitrous oxide and oxygen.

(15) "Operating dentist" means a licensed dentist with primary responsibility for providing dental care during a procedure.

(16) "Pediatric patient" means a patient twelve (12) years of age or younger.

(17) "Qualified anesthesia provider" means a licensed anesthesiologist, Certified Registered Nurse Anesthetist, or dentist with an applicable sedation permit.

(18) "Qualified dentist" means a licensed dentist with an applicable sedation permit.

(19) "Time-oriented anesthesia record" means documentation at appropriate time intervals of drugs administered, doses of drugs administered, and physiologic patient data obtained during patient monitoring.

(20) "Trained individual" means personnel with an active certification in Basic Life Support for Healthcare Providers, who has been trained in monitoring EKG's, pulse oximetry, blood pressures, airway management, and capnography. Training, whether formal or internal, is documented in employee records.

Section 2. Scope and Applicability.

(1) The board shall be committed to the safe and effective use of sedation and anesthesia by licensed, educated, and trained dentists.

(2) Because large doses of local anesthetics, especially in combination with sedative agents, carry the risk of central nervous system depression, each licensed dentist shall be aware of the maximum, safe dosage limits for each patient.

(3) Level of sedation shall be independent of the route of administration. Moderate or deep sedation, or general anesthesia, may be achieved via any route of administration.

(4) Because sedation and general anesthesia are a continuum

and it is not always possible to predict how an individual patient will respond, each licensed dentist intending to produce a given level of sedation shall be able to diagnose and manage the physiologic consequences for patients whose level of sedation becomes deeper than initially intended. For all levels of sedation, the qualified dentist shall have the training, skills, drugs, and equipment to identify and manage such an occurrence until either:

(a) Assistance arrives; or

(b) The patient returns to the intended level of sedation without airway or cardiovascular complications.

(5) Because new indications, agents, and techniques lead to changes in anesthesia and sedation practices, the board shall evaluate changes for safety, efficacy, and to what extent changes become accepted practice within the profession of dentistry.

Section 3. Nitrous Oxide Sedation.

(1) Nitrous oxide sedation may be used by a Kentucky-licensed dentist without a sedation permit or by a Kentucky-licensed dental hygienist who is registered to deliver nitrous oxide analgesia under the direct supervision of a dentist pursuant to KRS 313.060(10).

(2) Equipment used in the administration of nitrous oxide sedation shall have functional safeguard measures that:

(a) Limit the minimum oxygen concentration to thirty (30) percent; and

(b) Provide for scavenger elimination of nitrous oxide gas.

(3) The dentist shall:

(a) Ensure that a patient receiving nitrous oxide is constantly monitored; and

(b) Be present in the office while nitrous oxide is being used.

(4) A Kentucky-registered dental assistant shall not independently administer nitrous oxide sedation, but may initiate nitrous oxide sedation if the dentist is in the office and gives the dental assistant specific instructions regarding the mode of administration and the titration, rate, and dosage of the anesthetic agent.

Section 4. Minimal Sedation.

(1) A sedation permit shall not be required for a Kentucky-licensed dentist to provide minimal sedation.

(2) A patient whose only response is reflex withdrawal from repeated painful stimuli shall not be considered to be in a state of minimal sedation.

(3) The enteral administration of drugs exceeding the maximum recommended dose during a single appointment is considered to be moderate sedation, and Section 5 of this administrative regulation shall apply.

(4) Nitrous oxide, if used in combination with a sedative agent, may be considered to produce minimal, moderate, or deep sedation, or general anesthesia.

(5) If more than one (1) drug is administered enterally to achieve the desired sedation effect, with or without the concomitant use of nitrous oxide, Section 5 of this administrative regulation shall apply.

(6) A dentist who administers minimal sedation shall do so within a sufficient margin of safety to avoid an unintended loss of consciousness. The use of the MRD to guide dosing for minimal sedation is intended to create this margin of safety.

(7) If minimal sedation is administered to a patient who is taking another substance known to increase the sedative effects on the patient, Section 5 of this administrative regulation shall apply.

(8) An operating dentist shall not be required to complete additional training to administer minimal sedation.

(9) The administration of minimal sedation by another dentist or qualified anesthesia provider shall require the operating dentist to maintain current certification in Basic Life Support for Healthcare Providers.

(10) Clinical guidelines.

(a) Patient history and evaluation. Patients considered for minimal sedation shall be evaluated prior to the start of any sedative procedure. In healthy or medically stable individuals who are in the patient physical status classification of (ASA I, II) as established in the ASA Physical Status Classification System, this evaluation shall consist of a review of the patient's current medical history and medication use. In addition, patients with significant medical considerations who are in the patient physical status classification of

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(ASA III, IV) as established in the ASA Physical Status Classification System shall, unless otherwise documented by the provider, require consideration of a consultation with their treating physician prior to being administered minimal sedation.

(b) Pre-operative evaluation and preparation.

1. The patient or the patient's parent, legal guardian, or caregiver[,] shall be advised regarding the planned procedure and any other anticipated possible procedures associated with the delivery of any sedative agents. Informed consent for the proposed sedation shall be obtained in writing prior to its administration.

2. Adequate oxygen supply and the equipment necessary to deliver oxygen under positive pressure shall be determined prior to the administration of minimal sedation.

3. The patient shall be physically examined prior to the administration of minimal sedation. Baseline vital signs including body weight, height, blood pressure, and pulse rate shall be obtained unless rendered impractical by the nature of the patient, procedure, or equipment. Body temperature shall be measured if clinically indicated.

4. Preoperative dietary restrictions shall be considered based on the sedative technique prescribed.

5. The patient or the patient's parent, legal guardian, or caregiver, shall be given preoperative verbal and written instructions regarding the patient's sedation and procedure.

(c) Personnel and equipment requirements.

1. Personnel. All clinical staff participating in the care of a minimally sedated patient shall be certified in Basic Life Support for Healthcare Providers.

2. Equipment.

a. A positive-pressure oxygen delivery system suitable for the patient being treated shall be immediately available.

b. All equipment shall be examined for proper performance prior to each administration of sedation.

c. If inhalation equipment is used, it shall have a fail-safe system that shall be examined and calibrated and a functioning device that shall prohibit the delivery of less than thirty (30) percent oxygen, or a calibrated and functioning in-line oxygen analyzer with audible alarm.

d. A scavenging system shall be used if gases other than oxygen or air are delivered to a patient.

3. Monitoring and documentation.

a. Monitoring. The dentist or a trained individual chosen by the dentist, shall remain in the treatment room during active dental treatment to monitor the patient continuously until the patient meets the criteria for discharge to the recovery area. The following shall be monitored unless precluded or invalidated by the nature of the patient:

(i) Consciousness. The patient's level of sedation and responsiveness to verbal commands shall be continually assessed;

(ii) Oxygenation. Oxygen saturation by pulse oximetry shall be continually evaluated;

(iii) Ventilation. The patient's chest excursions shall be monitored and respirations shall be verified; and

(iv) Circulation. Blood pressure and heart rate shall be evaluated pre-operatively and postoperatively.

b. Documentation. A sedative record shall be maintained for each patient to whom sedation is administered. The sedative record shall include the names of all drugs administered including local anesthetics, the time administered, the route of administration, dosages, and monitored physiological parameters.

4. Recovery and discharge.

a. Oxygen and suction equipment shall be immediately available if a separate recovery area is utilized.

b. The dentist or a trained individual chosen by the dentist shall monitor the patient during recovery until the patient is ready for discharge.

c. The dentist shall examine the patient and document the patient's level of consciousness, oxygenation, ventilation, and circulation prior to discharge.

d. The patient, parent, escort, legal guardian, or caregiver shall be given post-operative verbal and written instructions prior to or upon discharge.

(d) Emergency management.

1. If a patient enters a deeper level of sedation than the dentist

is qualified to provide, the dentist shall stop the dental procedure until the patient is returned to the intended level of sedation.

2. The operating dentist shall be responsible for the sedative management, adequacy of the facility and staff, equipment, protocols, and diagnosis and treatment of emergencies related to the administration of minimal sedation and patient rescue.

Section 5. Moderate Sedation.

(1) A Moderate Sedation Permit issued by the board shall be required for a Kentucky-licensed dentist to administer moderate sedation.

(2) A dentist who administers moderate sedation shall do so within a sufficient margin of safety to avoid an unintended loss of consciousness.

(3) A qualified dentist shall be aware that repeated dosing of an agent before the effects of previous dosing can be fully appreciated could result in a greater alteration of the state of consciousness than intended. A dentist who administers moderate sedation shall refrain from administering an additional drug increment before the previous dose has taken full effect.

(4) A patient whose only response is reflex withdrawal from a painful stimulus shall not be considered to be in a state of moderate sedation.

(5) To qualify for a Moderate Sedation Permit, a dentist shall:

(a) Submit completed and signed[an] Application for Sedation or Anesthesia Permit or online equivalent;

(b) Pay the fee required by 201 KAR 8:520; and

(c) Provide documentation that the dentist meets the educational requirements of subsections (6)(a) and (b) of this section.

(6) Education requirements for moderate sedation.

(a) To administer moderate sedation to an adult patient, a dentist shall have current certifications in Basic Life Support for Healthcare Providers and Advanced Cardiac Life Support, and complete:

1. A comprehensive training program in moderate sedation that complies with the requirements established in the Moderate Sedation section of the ADA Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students at the time training was commenced; or

2. An advanced education program accredited by the Commission on Dental Accreditation that provides comprehensive training necessary to administer and manage moderate sedation commensurate with this administrative regulation.

(b) To administer moderate sedation to a pediatric patient, a dentist shall have successfully completed:

1. An advanced education program accredited by the Commission on Dental Accreditation that provides comprehensive training necessary to administer and manage moderate sedation commensurate with this administrative regulation; and

2. Current certifications in Basic Life Support for Healthcare Providers and Pediatric Advanced Life Support.

(c) If authorizing a third-party qualified anesthesia provider to administer moderate sedation to an adult patient, the operating dentist shall confirm that at least two (2) members of the onsite care team maintain current certifications in Basic Life Support for Healthcare Providers and Advanced Cardiac Life Support.

(d) If authorizing a third-party qualified anesthesia provider to administer moderate sedation to a pediatric patient, the operating dentist shall confirm that at least two (2) members of the onsite care team maintain current certifications in Basic Life Support for Healthcare Providers and Pediatric Advanced Life Support.

~~[(e)] [Any valid moderate sedation permits issued prior to this administrative regulation shall have until December 31, 2023 to comply with subsection (6)(a)1. and 2. of this section.]~~

(7) Clinical guidelines; patient history and evaluation.

(a) Patients considered for moderate sedation shall be evaluated prior to the start of any sedative procedure. In healthy or medically stable individuals who are in the patient physical status classification of (ASA I, II) as established in the ASA Physical Status Classification System, this evaluation shall consist of a review of the patient's current medical history, medication use, body mass index, airway evaluation, and ASA status.

(b) Patients with significant medical considerations who are in

the patient physical status classification of (ASA III, IV) as established in the ASA Physical Status Classification System shall, unless otherwise documented by the provider, require consideration of a consultation with their treating physician prior to being administered moderate sedation.

(8) Pre-operative evaluation and preparation.

(a) The patient or the patient's parent, legal guardian, or caregiver, shall be advised regarding the planned procedure and any other anticipated possible procedures associated with the delivery of any sedative agents. Informed consent for the proposed sedation shall be obtained in writing prior to its administration.

(b) Adequate oxygen supply and the equipment necessary to deliver oxygen under positive pressure shall be determined prior to the administration of moderate sedation.

(c) The patient shall be physically examined prior to the administration of minimal sedation. Baseline vital signs including body weight, height, blood pressure, and pulse rate shall be obtained unless rendered impractical by the nature of the patient, procedure, or equipment. Body temperature shall be measured if clinically indicated.

(d) Preoperative dietary restrictions shall be considered based on the sedative technique prescribed.

(e) The patient or the patient's parent, legal guardian, or caregiver, shall be given preoperative verbal and written instructions regarding the patient's sedation and procedure, including pre-operative fasting instructions based on the ADA Guidelines for the Use of Sedation and General Anesthesia by Dentists.

(9) Personnel and equipment requirements.

(a) Personnel. All clinical staff participating in the care of a moderately sedated patient shall be certified in Basic Life Support for Healthcare Providers.

(b) Equipment.

1. A positive-pressure oxygen delivery system suitable for the patient being treated shall be immediately available.

2. All equipment shall be examined for proper performance prior to each administration of sedation.

3. If inhalation equipment is used, it shall have a fail-safe system that shall be examined and calibrated and a functioning device that shall prohibit the delivery of less than thirty (30) percent oxygen, or a calibrated and functioning in-line oxygen analyzer with audible alarm.

4. A scavenging system shall be used if gases other than oxygen or air are delivered to a patient.

5. Equipment necessary to establish intravascular or intraosseous access and a defibrillator or automated external defibrillator shall be immediately available until the patient meets discharge criteria.

(10) Monitoring and documentation.

(a) Monitoring.

1. If leaving the room, a qualified dentist shall have at least one (1) month of general anesthesia training and shall select a trained individual to continuously monitor the patient; or

2. A qualified anesthesia provider shall remain in the treatment room during active treatment until the patient meets the criteria for discharge to the recovery area.

(b) The following shall be monitored:

1. Consciousness. The patient's level of sedation and responsiveness to verbal commands shall be continually assessed;

2. Oxygenation. Oxygen saturation by pulse oximetry shall be continually evaluated;

3. Ventilation: The qualified anesthesia provider shall be responsible for the observation of ventilation and breathing by monitoring end tidal CO₂ unless precluded or invalidated by the nature of the patient. In addition, ventilation shall be monitored by continual observation of qualitative signs, which may include auscultation of breath sounds with a precordial or pretracheal stethoscope, or observation of chest excursions;

4. Circulation. The qualified anesthesia provider shall continually evaluate blood pressure and heart rate unless invalidated by the nature of the patient and noted in the time-oriented anesthesia record; and

5. The patient's pulse oximetry, heart rate, end tidal CO₂, blood pressure, and level of consciousness shall be monitored continually and recorded at least every five (5) minutes.

(c) Documentation. A sedative record shall be maintained for each patient to whom sedation is administered. The sedation record shall include the names of all drugs administered including local anesthetics, the time administered, the route of administration, dosages, and monitored physiological parameters.

(11) Recovery and discharge.

(a) Oxygen and suction equipment shall be immediately available if a separate recovery area is utilized.

(b) When active treatment concludes and the patient recovers to a minimally sedated level, the qualified anesthesia provider or a trained individual chosen by the qualified anesthesia provider shall remain with and continue to monitor the patient until the patient is discharged from the facility. The qualified anesthesia provider shall not leave the facility until the patient is discharged.

(c) The qualified anesthesia provider or a trained individual chosen by the qualified anesthesia provider shall continually monitor the patient's blood pressure, heart rate, oxygenation, and level of consciousness during recovery.

(d) The qualified anesthesia provider shall determine and document the patient's level of consciousness, oxygenation, ventilation, and circulation prior to discharge.

(e) The patient, parent, escort, legal guardian, or caregiver shall be given post-operative verbal and written instructions prior to or upon discharge.

(f) Because re-sedation could occur after the effects of a reversal agent have waned, if a pharmacological reversal agent is administered before the patient's discharge criteria have been met, the patient's escort shall be notified of the risk of re-sedation.

(12) Emergency management.

(a) If a patient enters a deeper level of sedation than the qualified anesthesia provider is qualified to provide, the procedure shall stop until the patient is returned to the intended level of sedation.

(b) The qualified anesthesia provider shall be responsible for the sedative management, adequacy of the facility and staff, equipment, protocols, and diagnosis and treatment of emergencies related to the administration of moderate sedation and patient rescue.

Section 6. Deep Sedation and General Anesthesia.

(1) A Deep Sedation and General Anesthesia Permit issued by the board shall be required for a Kentucky-licensed dentist to administer deep sedation and general anesthesia.

(2) To qualify for a deep sedation and general anesthesia permit, a dentist shall:

(a) Submit a completed and signed Application for Sedation or Anesthesia Permit or online equivalent;

(b) Pay the fee required by 201 KAR 8:520; and

(c) Provide documentation that the dentist meets the educational requirements of subsection (3)(a) of this section.

(3) Education requirements.

(a) To administer deep sedation or general anesthesia, a dentist shall have successfully completed:

1. An advanced education program accredited by the Commission on Dental Accreditation, which provides comprehensive training necessary to administer and manage deep sedation or general anesthesia; and

2. Current certifications in:

a. Basic Life Support for Healthcare Providers;

b. Advanced Cardiac Life Support if administering sedation to adult patients; and

c. Pediatric Advanced Life Support if administering sedation to pediatric patients.

(b) If authorizing a third-party qualified anesthesia provider to administer deep sedation or general anesthesia, the operating dentist shall confirm that at least two (2) members of the onsite care team maintain current certifications in:

1. Basic Life Support for Healthcare Providers;

2. Advanced Cardiac Life Support if sedation is administered to adult patients; and

3. Pediatric Advanced Life Support if sedation is administered to pediatric patients.

(4) Clinical guidelines; for patient history and evaluation. Each patient considered for deep sedation or general anesthesia shall be suitably evaluated prior to the start of any sedative procedure. In

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healthy or medically stable individuals who are in the patient physical status classification of (ASA I, II) as established in the ASA Physical Status Classification System, this evaluation shall consist of a review of the patient's current medical history, medication use, body mass index, airway evaluation, nothing by mouth status, and ASA status. In addition, patients with significant medical considerations who are in the patient physical status classification of (ASA III, IV) as established in the ASA Physical Status Classification System shall, unless otherwise documented by the provider, require consideration of a consultation with their treating physician prior to being administered deep sedation or general anesthesia.

(5) Pre-operative evaluation and preparation.

(a) The patient or the patient's parent, legal guardian, or caregiver, shall be advised regarding the planned procedure and any other anticipated possible procedures associated with the delivery of any sedative agents. Informed consent for the proposed sedation shall be obtained in writing prior to its administration.

(b) Adequate oxygen supply and the equipment necessary to deliver oxygen under positive pressure shall be confirmed prior to the administration of deep sedation or general anesthesia.

(c) The patient shall be physically examined prior to the administration of deep sedation or general anesthesia. Baseline vital signs including body weight, height, blood pressure, blood oxygen saturation, and pulse rate shall be obtained unless rendered impractical by the nature of the patient, procedure, or equipment. Body temperature shall be measured if clinically indicated.

(d) The patient or the patient's parent, legal guardian, or caregiver, shall be given preoperative verbal and written instructions regarding the patient's sedation and procedure, including pre-operative fasting instructions based on the ASA Summary of Fasting and Pharmacologic Recommendations contained within Appendix 1 of the ASA Practice Guidelines for Preoperative Fasting and the Use of Pharmacologic Agents to Reduce the Risk of Pulmonary Aspiration: Application to Healthy Patients Undergoing Elective Procedures.

(e) An intravenous line shall be established and secured throughout the procedure, except for patients with special needs pursuant to subsection (9) of this section.

(6) Personnel and equipment requirements.

(a) Personnel. All clinical staff participating in the care of a deeply sedated patient or a patient who has been administered general anesthesia shall be certified in Basic Life Support for Healthcare Providers.

(b) A minimum of three (3) individuals shall be present while a patient is being treated with deep sedation or general anesthesia. If a pediatric patient is being treated with deep sedation or general anesthesia, in addition to the operating dentist, a separate qualified anesthesia provider shall manage the patient's anesthesia unless the anesthesia is performed by an oral and maxillofacial surgeon.

(c) Equipment.

1. A positive-pressure oxygen delivery system suitable for the patient being treated shall be immediately available.

2. All equipment shall be examined for proper performance prior to each administration of sedation.

3. If inhalation equipment is used, it shall have a fail-safe system that shall be examined and calibrated and a functioning device that shall prohibit the delivery of less than thirty (30) percent oxygen, or a calibrated and functioning in-line oxygen analyzer with audible alarm.

4. A scavenging system shall be used if gases other than oxygen or air are delivered to a patient.

5. Equipment necessary to establish intravenous access and to monitor end tidal CO₂ and auscultation of breath sounds shall be immediately available.

6. Resuscitation medications, a defibrillator, equipment, and drugs necessary to provide advanced airway management and advanced cardiac life support shall be immediately available.

(7) Monitoring and documentation.

(a) Monitoring.

1. If leaving the room, a qualified dentist shall have at least one (1) month of general anesthesia training and shall select a trained individual to continuously monitor the patient; or

2. A qualified anesthesia provider shall remain in the treatment room during active treatment until the patient meets the criteria for

discharge to the recovery area. The following shall be monitored:

3. Oxygenation. Oxygen saturation by pulse oximetry shall be continually evaluated;

4. Ventilation. For an intubated patient, end-tidal CO₂ shall be continually monitored and evaluated. For a non-intubated patient, end-tidal CO₂ shall be continually monitored and evaluated unless precluded or invalidated by the nature of the patient. In addition, ventilation shall be monitored by continual observation of qualitative signs, which may include auscultation of breath sounds with a precordial or pretracheal stethoscope, or observation of chest excursions;

5. Circulation. The qualified anesthesia provider shall continually evaluate heart rate and rhythm by ECG throughout the procedure, as well as the patient's pulse rate by pulse oximetry;

6. Temperature. A device capable of measuring body temperature shall be readily available during the administration of deep sedation or general anesthesia. Equipment necessary to continually monitor body temperature shall be available and used if triggering agents associated with malignant hyperthermia are administered; and

7. The patient's pulse oximetry, heart rate, end tidal CO₂, blood pressure, and level of consciousness shall be monitored continually and recorded at least every five (5) minutes.

(b) Documentation. A sedative record shall be maintained for each patient to whom sedation is administered. The sedative record shall include the names of all drugs administered, including local anesthetics, the time administered, the route of administration, dosages, and monitored physiological parameters.

(8) Recovery and discharge.

(a) Oxygen and suction equipment shall be immediately available if a separate recovery area is utilized.

(b) When active treatment concludes and the patient recovers to a minimally sedated level, the qualified anesthesia provider or a trained individual chosen by the qualified anesthesia provider shall remain with and continue to monitor the patient until the patient is discharged from the facility. The qualified anesthesia provider shall not leave the facility until the patient is discharged.

(c) The qualified anesthesia provider or a trained individual chosen by the qualified anesthesia provider shall continually monitor the patient's blood pressure, heart rate, oxygenation, and level of consciousness during recovery.

(d) The qualified anesthesia provider shall determine and document the patient's level of consciousness, oxygenation, ventilation, and circulation prior to discharge.

(e) The patient, parent, escort, legal guardian, or caregiver shall be given post-operative verbal and written instructions prior to or upon discharge.

(9) Patients with special needs.

(a) Because many dental patients undergoing deep sedation or general anesthesia are mentally or physically challenged, it is not always possible to administer a comprehensive physical examination or appropriate laboratory tests prior to sedation. In this circumstance, the dentist responsible for administering the deep sedation or general anesthesia shall document the reasons preventing the examination of the patient in the patient's medical record.

(b) Deep sedation or general anesthesia may be administered without first establishing an indwelling intravenous line if the establishment of intravenous access after deep sedation or general anesthesia is rendered necessary because of poor patient cooperation.

(10) Emergency management. The qualified anesthesia provider shall be responsible for the sedative management, adequacy of the facility and staff, equipment, protocols, and diagnosis and treatment of emergencies related to the administration of patient rescue and deep sedation or general anesthesia.

Section 7. Multiple Application Levels. A dentist with the required education and training to provide more than one (1) level of sedation may mark all levels of qualification on the Application for Sedation or Anesthesia Permit without paying additional application fees.

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Section 8. Renewal of a Sedation or Anesthesia Permit.

(1) A qualified dentist applying for renewal of an active permit to administer moderate sedation, or deep sedation or general anesthesia shall:

(a) Submit a completed and signed Application for Renewal of Sedation or Anesthesia Permit or online equivalent;

(b) Pay the fee required by 201 KAR 8:520;

(c) Complete at least four (4) hours of clinical continuing education related to sedation or anesthesia in a live, interactive setting during the two (2) year term of the permit; and

(d) Maintain Advanced Cardiac Life Support or Pediatric Advanced Life Support certification as required by Sections 5 and 6 of this administrative regulation.

(2) The continuing education requirements of this section shall be in addition to the license renewal requirements of 201 KAR ~~8:533~~ 8:532.

(3) Unless properly renewed, each permit issued under this administrative regulation shall expire on December 31 of odd-number years.

Section 9. Location Requirement. A dentist holding a permit in accordance with this administrative regulation shall advise the board of the name and address of each facility where the dentist intends to or has ceased to administer anesthesia and sedation by submitting the completed and signed Sedation or Anesthesia Permit Location Notification Form or online equivalent within ten (10) business days of the change.

Section 10. Facility Certificates.

(1) The owner or operator of a facility shall obtain an Anesthesia or Sedation Facility Certificate from the board for any location at which a dentist holding a sedation or general anesthesia permit provides moderate sedation, deep sedation, or general anesthesia. A facility certificate shall not be required for minimal sedation or nitrous oxide sedation alone.

(2) A facility certificate shall also be required if a dentist allows an independently practicing qualified anesthesia provider to administer sedation or general anesthesia in a dental office.

(3) A facility owner or operator desiring to obtain an Anesthesia or Sedation Facility Certificate shall:

(a) Submit a completed and signed Application for Sedation or Anesthesia Facility Certificate or online equivalent; and

(b) Pay the fee required by 201 KAR 8:520.

(4) The owner or operator of a facility shall not allow an individual to administer anesthesia or sedation unless the individual is permitted to do so as established by this administrative regulation.

(5) The owner or operator of a facility shall maintain for at least seven (7) years, for inspection by the board, the name and license number of each dentist or independently practicing qualified anesthesia provider who has administered anesthesia or moderate sedation at that location.

(6) The owner or operator of a facility shall ensure that the facility remains equipped and staffed for the duration of time that moderate sedation, deep sedation, or general anesthesia is provided at the facility.

(7) The owner or operator of a facility shall ensure that the facility has nonexpired emergency and sedation medications.

Section 11. Renewal of Facility Certificate.

(1) All active facility certificates shall expire on December 31 of odd-numbered years.

(2) To renew a facility certificate, the owner or operator shall:

(a) Submit a completed and signed Application for Renewal of Sedation or Anesthesia Facility Certificate or online equivalent; and

(b) Pay the fee required by 201 KAR 8:520.

Section 12. Facility Criteria.

(1) To qualify for a facility certificate, the owner or operator of a facility shall attest in the completed and signed Application for Sedation or Anesthesia Facility Certificate or online equivalent that the facility has:

- (a) An oxygen and gas delivery system with fail-safe backup;
 - (b) A safety indexed gas system;
 - (c) A suction and backup system;
 - (d) An auxiliary lighting system;
 - (e) An operating room to include:
 - 1. At a minimum, ten (10) feet by eight (8) feet or eighty (80) square feet in size;
 - 2. An operating primary light source and secondary portable back-up source, unless a backup generator is available; and
 - 3. Accessibility by emergency medical staff;
 - (f) A recovery area, including oxygen, suction, and electronic monitoring, which may be a part of the operating room;
 - (g) Preoperative medical history and physical evaluation form; and
 - (h) Anesthesia and monitoring equipment checked to ensure working order and calibration, if applicable.
- (2) The following shall be maintained in working order by the facility or by the qualified individual administering sedation or anesthesia at or on behalf of the facility:
- (a) Drugs for each procedure, all of which shall be unexpired, including reversal agents and emergency medications;
 - (b) Devices to maintain an airway with positive pressure ventilation;
 - (c) Anesthesia records, including monitoring and discharge records;
 - (d) Monitoring equipment, including pulse oximeter, blood pressure monitor, and end tidal CO2 monitor. An electrocardiogram (EKG) shall be required for facilities providing deep sedation or general anesthesia;
 - (e) Defibrillator or automated external defibrillator (AED); and
 - (f) Precordial stethoscope or pretracheal stethoscope for deep sedation or general anesthesia in pediatric patients.

Section 13. Morbidity and Mortality Incident Reports.

(1) A dentist shall report to the board, in writing, any death caused by, ~~or~~ resulting from, or in any way associated with the administration of minimal sedation, moderate sedation, deep sedation, or general anesthesia within seven (7) days after the death.

(2) A dentist shall report to the board, in writing, any incident that occurred at a facility operating under a Sedation or Anesthesia Facility permit that resulted in hospital inpatient admission or emergency room visit caused by, ~~or~~ resulting from, or in any way associated with the administration of minimal sedation, moderate sedation, deep sedation, or general anesthesia within thirty (30) days after the hospitalization or emergency room visit.

(3) The written report to the board required in subsections (1) and (2) of this section shall include:

- (a) The date of the incident;
 - (b) The name, age, and address of the patient;
 - (c) The patient's original complete dental records;
 - (d) The name and permit number of the dentist and the name and address of all other persons present during the incident;
 - (e) The address where the incident took place;
 - (f) The preoperative physical condition of the patient;
 - (g) The type of anesthesia and dosages of drugs administered to the patient;
 - (h) The techniques used in administering the drugs;
 - (i) Any adverse occurrence including:
 - 1. The patient's signs and symptoms;
 - 2. The treatment instituted in response to adverse occurrences;
 - 3. The patient's response to the treatment; and
 - 4. The patient's condition on termination of any procedures undertaken; and
 - (j) A narrative description of the incident including approximate times and evolution of symptoms.
- (4) The duties established in this section shall apply to every dentist who administers any type of sedation or anesthesia.

Section 14. Registered Dental Assistant Duties while Working with Sedation Permit Holders. A registered dental assistant working with a qualified dentist administering sedation or anesthesia in accordance with this administrative regulation may, under direct supervision:

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- (1) Apply noninvasive monitors on the patient;
- (2) Perform continuous observation of patients and noninvasive monitors appropriate to the level of sedation, during the pre-operative, intra-operative, and post-operative (recovery) phases of treatment;
- (3) Report monitoring parameters at pre-determined intervals, and if changes in monitored parameters occur;
- (4) Record vital sign measurements in the sedation record;
- (5) Establish and remove intravenous lines if the registered dental assistant has completed training in intravenous access;
- (6) Assist in the management of a patient emergency; and
- (7) Administer medications into an existing intravenous line upon the verbal order and direct supervision of a qualified dentist in accordance with this administrative regulation.

Section 15. Administration by Qualified Anesthesia Provider.

- (1) An operating dentist may authorize the administration of sedation or anesthesia by a qualified anesthesia provider.
- (2) The administration of anesthesia or sedation by an individual established in subsection (1) of this section shall:
 - (a) Comply with the requirements of this administrative regulation; and
 - (b) Not require board review prior to the administration of sedation or anesthesia.
- (3) Nothing in this section shall preclude a dentist from working with a qualified anesthesia provider to provide care in an ambulatory care center or hospital.

Section 16. Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) "Application for Sedation or Anesthesia Permit", January 2024~~[March 2020]~~;
 - (b) "Application for Sedation or Anesthesia Facility Certificate", January 2024~~[March 2020]~~;
 - (c) "Sedation or Anesthesia Permit Location Notification Form", January 2024~~[March 2020]~~;
 - (d) "ASA Physical Status Classification System", December 2020;
 - (e) "ADA Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students", October 2016;
 - (f) "ADA Guidelines for the Use of Sedation and General Anesthesia by Dentists", October 2016;
 - (g) "ASA Practice Guidelines for Preoperative Fasting and the Use of Pharmacologic Agents to Reduce the Risk of Pulmonary Aspiration: Application to Healthy Patients Undergoing Elective Procedures", March 2017;
 - (h) "Application for Renewal of Sedation or Anesthesia Permit", March 2020; and
 - (i) "Application for Renewal of Sedation or Anesthesia Facility Certificate", January 2024~~[March 2020]~~.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, Kentucky 40222, Monday through Friday 8 a.m. through 4:30 p.m. This material is also available on the board's website~~[Web site]~~ at <http://dentistry.ky.gov>.

FILED WITH LRC: June 9, 2026

CONTACT PERSON: Jeff Allen, Executive Director, Kentucky Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, Kentucky 40222, phone (502) 429-7280, fax (502) 429-7282, email jeffrey.allen@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 OPHTHALMIC DISPENSERS
(As Amended at ARRS, June 9, 2026)**

201 KAR 13:040. Licensing.

RELATES TO: KRS 326.020, 326.035, 326.040, 326.080
STATUTORY AUTHORITY: KRS 326.020(3)~~;~~ ~~326.035, 326.040, 326.080~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 326.020(3) authorizes the board to promulgate administrative regulations to carry out the purposes and provisions of KRS Chapter 326. KRS 326.040 establishes the requirements for the issuance of a license including experience and passage of an examination. KRS 326.080 requires the annual renewal of licensure. This administrative regulation prescribes the forms, required examinations, experience, renewal requirements, and provisions for inactive status required for licensees.

Section 1. Application for License. A person wishing to obtain a license to practice as an ophthalmic dispenser or apprentice shall make application to the Kentucky Board of Ophthalmic Dispensers on the Application for Ophthalmic Dispenser License, DPL-BOD-01~~[or Apprentice]or Application for Apprentice Ophthalmic Dispenser License DPL-BOD-02.~~

Section 2. Required Examinations.

- (1) Passage of the following examinations shall satisfy the requirement established in KRS 326.040(4):
 - (a) Passage of both:
 1. The American Board of Opticians (ABO) Basic Examination; and
 2. The National Contact Lens Examiners (NCLE) Basic Examination; and
 - (b) Passage of either:
 1. The National Commission of State Opticianry Regulatory Boards (NCSORB) National Practical Examination; or
 2. Both the ABO Practical Examination and the NCLE Practical Examination.
- (2)
 - (a) For an applicant who holds an apprentice ophthalmic dispenser license issued by the board, the ABO Basic Examination and the NCLE Basic Examination shall be:
 1. Taken before the expiration of thirty (30) months from the date of the original receipt of the apprentice license; and
 2. Passed within thirty-six (36) months of the date of the original receipt of the apprentice license.
 - (b) An apprentice ophthalmic dispenser licensed by the board shall not take an approved practical examination until all other licensure requirements have been completed.
- (3) For an applicant who is applying for licensure based on credentials and experience, the candidate shall have the following:
 - (a) An active license as a dispensing optician issued by any state or territory of the United States or the District of Columbia that has standards at least as stringent as those required by KRS 326.040; or
 - (b) An active certification as a dispensing optician under the ABO and the NCLE, and at least two (2) years of experience as a dispensing optician, as verified under oath by both the applicant and by a sponsor with personal knowledge of the applicant's work history.

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1. The verifying sponsor shall be licensed either as an ophthalmologist, an optometrist, or an optician.

2. An applicant for licensure based on credentials and experience under this paragraph shall have passed an approved practical examination before application.

Section 3. Experience. The following events are qualifying experience for an applicant for licensure as an ophthalmic dispenser apprentice:

- (1) Attending a recognized school for ophthalmic dispensing; or
- (2) Working in an optical laboratory as an ophthalmic technician.

Section 4. Licensure Renewal.

(1) Each license shall be renewed each year on or before December 31.

(2) Each licensee shall complete and submit one (1) of the following:

- (a) Application for Renewal for a licensed ophthalmic dispenser;
- (b) Application for Apprentice Renewal for a licensed apprentice ophthalmic dispenser; or
- (c) The online version of each form maintained by the Department of Professional Licensing.

(3) For a renewal postmarked on or before December 31, or completed and submitted online before that date, the renewal fee shall be:

(a) ~~\$125~~One hundred twenty-five (125) dollars~~One hundred twenty-five (125) dollars~~~~Seventy-five (75) dollars~~ a licensed ophthalmic dispenser; or

(b) ~~\$100~~One hundred (100) dollars~~One hundred (100) dollars~~~~Fifty (50) dollars~~ for an apprentice ophthalmic dispenser.

(4) For a renewal postmarked or submitted on the Department of Professional Licensing website after December 31, there shall be an additional a thirty-five (35) dollar late fee.

(5) A license that has not been renewed by close of business on March 1 shall expire. Applicants may request an extension of time to renew of up to sixty (60) days for reasons related to medical issues, military service, or family emergencies. The applicant shall submit the request for an extension of time in writing, and send the request to the board by certified mail on or before the March 1 expiration date.

(6) In order to qualify for reinstatement of a license that has expired by operation of subsection (4) of this section, either an Application for Reinstatement or an Application for Apprentice Reinstatement shall be submitted to the board. In addition, a reinstatement fee shall be submitted with the application. The reinstatement requirements shall be:

(a) For an ophthalmic dispenser:

1. ~~Payment of the \$125~~one hundred twenty-five (125) renewal fee~~\$300 reinstatement fee~~ and ~~six (6) hours of continuing education. An additional six (6)~~twelve (12) additional hours of continuing education ~~shall~~te be completed before the end of the current licensure year ~~if~~for reinstatement ~~occurs more than twelve (12) months after license expiration;~~as an active status or inactive status ophthalmic dispenser; or

2. ~~Payment of a thirty-five (35) dollar late fee; and~~

3. ~~Payment of a \$300~~three hundred (300) dollar reinstatement fee.

(b) For an apprentice ophthalmic dispenser:

1. ~~Payment of the \$100~~one hundred (100) dollar renewal fee and ~~four (4) hours of continuing education to be completed before the end of the current licensure year. An additional four (4) hours of continuing education shall be completed before the end of the current licensure year if reinstatement occurs more than twelve (12) months after license expiration;~~

2. ~~Payment of a thirty-five (35) dollar late fee; and~~

3. ~~(b) Sixty (60) dollars for reinstatement~~as an apprentice ophthalmic dispenser;

~~(7)~~(4) The timeline established in Section 2.(2)(a) shall continue to run during the inactive status.

~~(8)~~(7) A revoked and expired license shall be reinstated before the licensee may resume the practice of ophthalmic dispensing.

Section 5. Temporary Permit Application.

(1) The board shall, if requested by the applicant, issue a

temporary permit to a qualified ophthalmic dispenser, who otherwise would qualify for a license, but is in the state on a temporary basis or who has not yet had an opportunity to take an examination to procure a license and whose immediate employment depends upon being licensed by the board.

(2) The permit shall be valid only until the next regular examination date and in no case shall exceed six (6) months following date of issuance.

(3) The fee for a temporary permit shall be fifty (50) dollars, which amount shall accompany the application.

Section 6. Board Action, Notification.

(1) The board shall act only upon those applications that are complete.

(2) Each applicant shall pay the license application and renewal fees required by KRS 326.040 and 326.080 upon submission of the application.

(3) Each applicant shall be notified of the action of the board; and, if favorable, when and where the examination will be held.

(4) If the board considers denying or resolves to deny an application based solely on an applicant's prior conviction of a crime, the board shall follow the notification and procedure requirements in KRS 335B.030(2).

(5) The applicant shall participate in an interview with the application committee upon written request of the board. The application committee shall conduct the interview to determine if the conviction directly relates to the occupation for which the license is sought pursuant to the criteria established in KRS 335B.020(2)(a) through (b) and 335B.030(2)(b).

Section 7. Inactive Status.

(1) Upon application, the board shall grant inactive status to a qualified licensee. While on inactive status, the licensee shall not engage in the practice of ophthalmic dispensing.

(2) The fee for licensure on inactive status shall be thirty-five (35) dollars per year.

(3)

(a) Continuing education requirements shall be waived for a licensee on inactive status during the inactive period.

(b) If the inactive licensee applies to the board to return to active status, the licensee shall submit proof that he or she has completed six (6) hours of continuing education for ophthalmic dispenser licensees and four (4) hours of continuing education for apprentice ophthalmic dispenser licensees within the last twelve (12) month period immediately preceding the date on which the application is submitted.

(c) The licensee may request that he or she be allowed to return to active status immediately, with the provision that the licensee shall receive the appropriate number of continuing education hours within six (6) months of the date on which the licensee returns to active status.

(d) Additionally, the licensee shall be responsible for meeting the requirements established in 201 KAR 13:055 in order to qualify for renewal of the license.

(4) To change from inactive status to active status, the ophthalmic dispenser licensee shall:

(a) Pay a reactivation fee of forty (40) dollars; and

(b) Complete six (6) additional hours of continuing education before the end of the current licensure year.

(5) To change from inactive status to active status, the apprentice ophthalmic dispenser licensee shall:

(a) Pay a reactivation fee of fifteen (15) dollars; and

(b) Complete four (4) additional hours of continuing education before the end of the current licensure year.

Section 8. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Application for Ophthalmic Dispenser ~~or Apprentice~~ License", DPL-BOD-01, December 2025~~[July 2019]~~;

(b) "Application for Apprentice Ophthalmic Dispenser License", DPL-BOD-02, December 2025;

(c) "Application for Renewal ~~as an Ophthalmic Dispenser~~", DPL-BOD-03, December 2025~~[February 2016]~~;

~~(d)~~(e) "Application for ~~Renewal as an Apprentice Ophthalmic~~

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Dispenser[Renewal]", DPL-BOD-04, December 2025[February 2016];

(e)[(d)] "Application for Reinstatement as an Ophthalmic Dispenser", DPL-BOD-05, December 2025[February 2016]; and

(f)[(e)] "Application for Reinstatement as an Apprentice Ophthalmic Dispenser[Reinstatement]", DPL-BOD-06, December 2025[February 2016].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Ophthalmic Dispensers, 500 Mero Street [911 Leawood Drive], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. and is available on the board's website at bod.ky.gov.

FILED WITH LRC: June 9, 2026

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

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 OPHTHALMIC DISPENSERS (As Amended at ARRS, June 9, 2026)

201 KAR 13:055. Continuing education requirements.

RELATES TO: KRS 326.020, 326.035, 326.080

STATUTORY AUTHORITY: KRS 326.020(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 326.020(3)(a) authorizes the board to promulgate administrative regulations to carry out the purposes and provisions of KRS Chapter 326, including the adoption of a program of continuing education for all licensees. KRS 326.020(3)(b) requires licensees of the board to complete continuing education as a condition of license renewal. This administrative regulation establishes a continuing education program for ophthalmic dispenser licensees and apprentice ophthalmic dispenser licensees and the basic requirements, methods of accreditation, and manner of reporting.

Section 1. "Continuing education hour" means fifty (50) minutes of participating in continuing education experiences in person before a live presenter. One (1) semester credit hour is equivalent to six (6) continuing education hours.

Section 2. Continuing education hours in excess of the number required at the time of renewal of license shall not be applied to future requirements.

Section 3.

(1) A minimum of three (3) of the required six (6) continuing education hours for renewal of ophthalmic dispenser licensure and a minimum of two (2) of the required four (4) continuing education hours for renewal of apprentice ophthalmic dispenser licensure shall be obtained through programs sponsored by entities listed in Section 4(1) of this administrative regulation.

(2) Repetitious completion of a program shall not entitle the participant to additional continuing education credit.

(3) Licenses issued after August 1 shall be exempt from the continuing education requirement for renewal by December 31 of the same year.

Section 4. Continuing education hours applicable to renewal of licensure shall be directly related to the professional growth and development of ophthalmic dispensers. They may be earned by

completing any of the following educational activities:

(1) An educational program from any of the following providers shall be deemed relevant to ophthalmic dispensing and shall be approved without further review by the board:

(a) The Opticians Association of Kentucky and the Society of Dispensing Opticians of Kentucky;

(b) The United Opticians Association[~~Opticians Association of America~~], or any of its affiliated state chapters;

(c) The Contact Lens Society of America, or any of its affiliated state chapters;

(d) The National Academy of Opticianry[~~Opticianary~~], or any of its affiliated state chapters;

(e) The American Optometric Association, or any of its affiliated state chapters; or

(f) The American Academy of Ophthalmology, or any of its affiliated state chapters.[- or]

[(g)] [~~The National Association of Optometrists and Opticians.~~]

(2) An educational program from any other source shall be reviewed for relevancy to ophthalmic dispensing and subsequent approval by the board.

(a) Programs shall be submitted to the board for review and approval at least thirty (30) days prior to planned participation so the participants can know the value of the experience prior to actual participation.

(b) Requests for program changes shall be made to and accredited by the board or the evaluation and accreditation of the program becomes null and void.

(c) Sponsors shall maintain for three (3) years records of the names of those participants who complete a program.

(3) Related areas not specifically a part of the field of ophthalmic dispensing may be approved for up to two (2) continuing education hours, if the board believes that the related areas may serve to enhance the licensee's ability to practice.

Section 5. Sponsors and licensees requesting approval of continuing education for ophthalmic dispensers shall submit a completed "Application for Continuing Education Credit", DPL-BOD-09, and any relevant information reasonably requested by the board.

Section 6. Submission of fraudulent statements or certificates concerning continuing education shall subject the licensee to revocation or suspension of his or her license as provided in KRS Chapter 326.

Section 7. Each licensee shall submit, with the annual renewal application, on forms provided by the board, a list of accredited continuing education hours completed by the licensee during the previous license year.

Section 8.

(1) Each person registered with the board shall retain proof of attendance and completion of all continuing education requirements for a period of three (3) years from the end of the calendar year in which the continuing education was acquired.

(2) The board shall annually conduct a randomly selected audit of individual records to assure that the continuing education requirements have been met. Audited individuals shall submit:

(a) Certificates verifying the individual's attendance at the continuing education programs described above; or

(b) An official transcript verifying credit hours earned.

Section 9. Upon proper application to the board, a licensee may be granted a deferral from continuing education requirements on a year-to-year basis at the discretion of the board for reasons of illness, incapacity, or other similar extenuating circumstances.

Section 10. Each licensee shall keep the board informed of his or her correct address and place of employment. The board shall be informed in writing of any changes to the licensee's address or place of employment.

Section 11. Incorporation by Reference.

(1) "Application for Continuing Education Credit", DPL-BOD-09, December 2025, is incorporated by reference.

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(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Ophthalmic Dispensers, 500 Mero St, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:00 p.m. This material is also available on the board's website at www.bod.ky.gov.

FILED WITH LRC: June 9, 2026

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

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**BOARDS AND COMMISSIONS
BOARD OF OPHTHALMIC DISPENSERS
(As Amended at ARRS, June 9, 2026)**

201 KAR 13:065. Complaint Management.

RELATES TO: KRS Chapter 13B, 319A.190, 326.020(5), 326.030, 326.090, 326.100

STATUTORY AUTHORITY: KRS 326.020(3)(a)[~~and (5), 326.030, 326.090, 326.100~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 326.020(3)(a)[Chapter 326] authorizes the board to promulgate administrative regulations to carry out the purposes and provisions of KRS 326.010 through 326.990. This administrative regulation establishes the procedures for filing, investigating, and addressing a complaint filed against an ophthalmic dispenser, apprentice ophthalmic dispenser, ~~or~~ ~~and~~ a person or entity who operates an optical establishment contrary to this chapter.

Section 1. Receipt of Complaints.

(1) A complaint:

(a) May be submitted by an:

- 1. Individual;
- 2. Organization; or
- 3. Entity;

(b) Shall be:

1. In writing and provided on the "Complaint Form with Information Sheet and Authorization for Release of Medical and Client Records", DPL-BOD-10[Complaint Form, DPL-BOD-11];

2. Signed by the person submitting the complaint; and

3. Notarized; ~~and~~[-.]

(c) May be filed by the board based upon information in its possession.

(2)

(a) Upon receipt of a complaint, a copy of the complaint with the address, phone number, and email address of the complainant redacted shall be sent to the individual named in the complaint along with a request for that individual's response to the complaint.

(b) The individual shall be allowed a period of twenty (20) days from the date of receipt to submit a written response.

(3)

(a) Upon receipt of the written response of the individual named in the complaint, a copy of his or her response shall be sent to the complainant.

(b) The complainant shall have seven (7) days from receipt to submit a written reply to the response.

Section 2. Initial Review.

(1) After the receipt of a complaint and the expiration of the period for the individual's response or reply, the complaints

committee shall consider the complaint, the individual's response, the complainant's reply to the response, the preliminary recommendation of the board's attorney, and any other relevant material available to the board. The complaints committee shall determine whether there is enough evidence to warrant a formal investigation of the complaint.

(2) If the complaints committee determines before formal investigation that a complaint is without merit, it shall recommend to the board that the complaint be dismissed and that the complainant and respondent be notified of the board's decision.

(3) If the complaints committee determines that a complaint warrants a formal investigation, it shall recommend that the board authorize an investigation into the matter and for a report to be made to the complaints committee at the earliest opportunity.

Section 3. Results of Formal Investigation; Board Decision on Hearing.

(1) Upon completion of the formal investigation, the investigator shall submit a report to the complaint screening committee of the facts regarding the complaint. The committee shall review the investigative report and make a recommendation to the board. The board shall determine whether there has been a prima facie violation of KRS 326.010 to 326.990 or the administrative regulations promulgated thereunder, and further whether a formal complaint ~~shall~~ ~~should~~ be issued.

(2) If the board determines that a complaint does not warrant issuance of a formal complaint, it shall:

(a) Dismiss the complaint or take action pursuant to KRS 326.090; and

(b) Notify the complainant and respondent of the board's decision.

(3) If the board determines that a complaint warrants the issuance of a formal complaint against a respondent, the complaint screening committee shall prepare a formal complaint, which states clearly the charge or charges to be considered at the hearing. The formal complaint shall be reviewed by the board and, if approved, signed by the chair and served upon the individual as required by KRS Chapter 13B. The hearing shall be held in accordance with KRS Chapter 13B.

(4) If the board determines that a person, or an optical establishment as identified in KRS 326.030 and 201 KAR 13:080, may be in violation, it shall:

(a) Order the individual or the optical establishment, to cease and desist from further violations of KRS 326.030;

(b) Forward information to the county attorney of the county of residence of the person allegedly violating KRS 326.030 with a request that appropriate action be taken under KRS 326.990; or

(c) Initiate action in Franklin Circuit Court for injunctive relief to stop the violation of KRS 326.030.

Section 4. Settlement by Informal Proceedings; Letter of Admonishment.

(1) The board, through counsel and the complaints committee, may, at any time during this process, enter into informal proceedings with the individual who is the subject of the complaint for the purpose of appropriately dispensing with the matter. Any agreed order or settlement reached through this process shall be approved by the board and signed by the individual who is the subject of the complaint and the chair of the board or another member authorized by the board. The board may employ mediation as a method of resolving the matter informally.

(2)

~~(a)~~ The board may, at any time during this process, issue a letter of admonishment to the individual who is named in the complaint as a means of resolving the complaint. The action may be taken if the board determines that this is an appropriate method of dispensing with the complaint. Such letter of admonishment shall be sent to the individual with a copy placed in the individual's permanent file.

~~(b)~~ Within thirty (30) days of the date of the letter, the individual shall have the right to file a written response to the letter and have it attached to the letter of admonishment and placed in the permanent file.

~~(c)~~ The individual shall also, within thirty (30) days of the date of the letter, have the right to appeal the letter of admonishment and

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be granted a full hearing on the complaint. If this appeal is requested, the board shall immediately file a formal complaint in regard to the matter and set a date for a hearing.

Section 5. Notice and Service of Process.

(1) Any notice required by the Act or this administrative regulation shall be in writing, dated and signed by the chair or another member authorized by the board.

(2) Service of notice and other process shall be made by hand-delivery or delivery by certified mail, return receipt requested, to the individual's last known address of which the board has record or, if known, by such service on the named individual's attorney of record, if appropriate. Refusal of service if by certified mail, or avoidance of service if hand-delivered, shall not prevent the board from pursuing proceedings as may be appropriate.

(3) ~~If~~ **When** notice of the initial date for the administrative hearing is given by either the board or the hearing officer, the notice shall be sent to the appropriate person at least twenty (20) days prior to the date of the hearing.

Section 6. Publication. The board shall make public:

(1) Its final order in a disciplinary action under KRS 319A.190 except for a written admonishment issued; and

(2) An action to restrain or enjoin a violation for the unauthorized practice of ophthalmic dispensing.

Section 7. Incorporation by Reference.

(1) "Complaint Form with Information Sheet and Authorization for Release of Medical and Client Records", DPL-BOD-10, December 2025, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Ophthalmic Dispensers, 500 Mero St, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:00 p.m. This material is also available on the board's website at www.bod.ky.gov.

FILED WITH LRC: June 9, 2026

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

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 OPHTHALMIC DISPENSERS
(As Amended at ARRS, June 9, 2026)**

201 KAR 13:075. Administrative hearings.

RELATES TO: KRS ~~Chapter 13B, 326.020(5), 326.090, 326.100~~

STATUTORY AUTHORITY: KRS 326.020(3)(a) ~~—and— (5), 326.090, 326.100]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 326.020(3)(a) ~~authorizes~~ **requires** the board to promulgate administrative regulations necessary to carry out the purposes and provisions KRS 326.010 through 326.990. KRS 326.100 requires the board to conduct administrative hearings in accordance with KRS Chapter 13B. This administrative regulation sets forth the procedures by which such hearings are to be conducted.

Section 1. Right of Administrative Hearing to Appeal the Denial of License or Refusal to Renew or Reinstatement a License.

(1) If the board denies an application for licensure, or refuses to

renew or reinstate a license for failure to meet the regulatory requirements for renewal or reinstatement, the board shall issue a notice of denial informing the applicant of the specific reason for the board's action, including:

- (a) The statutory or regulatory authority the application fails to meet for issuance, renewal, or reinstatement of the license;
- (b) The factual basis on which the denial is based; and
- (c) The right to an appeal through an administrative hearing pursuant to KRS Chapter 13B.

(2) ~~Requirements for Appeal.~~ A written request for an administrative hearing shall be made in writing to the board within twenty (20) calendar days after receipt of this notification, excluding the day the applicant receives notice, or the date that the notification is returned to the board as unclaimed. The request shall identify the specific issues in dispute and the legal basis on which the board's decision on each issue is believed to be erroneous.

(3) If the request for an appeal is not timely filed, the notice of denial shall be effective upon the expiration of the time for the applicant to request an appeal.

(4) If a request for an appeal is made, the board, through counsel, shall prepare the notice of administrative hearing in accordance with KRS Chapter 13B.

(5) The administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(6) The documentary evidence shall be limited to the application and supporting documents submitted to the board during the application process and what was considered as part of the application denial.

(7) A renewal applicant may petition the board, in writing, for a stay of the license denial until completion of the administrative hearing process.

Section 2. Administrative Hearing ~~for~~ **For** Denial, Refusal to Renew or Reinstatement, Suspension, Revocation, or Imposition of Probationary Conditions upon a License Due to Unprofessional Conduct.

(1) All administrative hearings for the board's denial, refusal to renew or reinstate, suspension, revocation, or imposition of probationary conditions upon a license shall be conducted in accordance with KRS Chapter 13B.

(2) The board, through counsel, shall prepare the formal administrative complaint and notice of administrative hearing in accordance with KRS Chapter 13B.

Section 3. Revocation of Probation.

(1) If the board moves to revoke probation, the board shall issue written notice of the revocation to the last known address on file with the board for the licensee and inform the licensee:

- (a) Of the factual basis on which the revocation is based;
- (b) Of each probation term violated;
- (c) Of the sanction to be imposed; and

(d) That the licensee may appeal the revocation to the board within twenty (20) calendar days after receipt of this notification, excluding the day he or she receives notice, or the date that the notification is returned to the board as unclaimed.

(2) A written request for an administrative hearing shall be filed with the board within twenty (20) calendar days after receipt of this notification, excluding the day the licensee receives notice, or the date that the notification is returned to the board as unclaimed. The request shall identify the specific issues in dispute and the legal basis on which the board's decision on each issue is believed to be erroneous.

(3) If the request for an administrative hearing is not timely filed, the revocation shall be effective upon the expiration date for the licensee to request an appeal.

Section 4. **Request for Administrative Hearing.** A request for an administrative hearing shall be sent to the Kentucky Board of Ophthalmic Dispensers by mail to P.O. Box 1360, Frankfort, Kentucky 40602, or by hand-delivery to 500 Mero Street, Frankfort, Kentucky 40601, or by email to bod@ky.gov.

Section 5. **Costs and Fees.** If the final order of the board is adverse to a licensee or applicant, or if the hearing is scheduled at

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the request of a licensee or applicant for relief from sanctions previously imposed by the board, the costs in an amount equal to the cost of stenographic services, the cost of the hearing officer, and the board's attorney fees may be assessed against the licensee or applicant. In a case of financial hardship, the board may waive all or part of the fee.

FILED WITH LRC: June 9, 2026

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

INDEPENDENT ADMINISTRATIVE BODIES
Board of Emergency Medical Services
(As Amended at ARRS, June 9, 2026)

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. Existing Medical Directors Exempt from Initial Certification. A medical director who was approved by the board on or before October 1, 2026, shall be deemed to hold an initial medical director certification and shall not be required to apply for initial certification as an Agency Medical Director or EMS-TEI Primary Medical Director under Sections 2 or 7 of this administrative regulation.

Section 2. [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 Medical Director 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 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 3. 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) Maintains 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 Section 2(1)(b)3. of this administrative regulation, submits evidence of current certification in:

(a) ATLS;

(b) ACLS, through either the AHA or the ASHI; and

(c) Pediatric ALS or PEPP; or

(6) If exempt from initial certification pursuant to Section 1 of this administrative regulation, submits evidence of:

(a) Current certification in Emergency Medical Services (EMS) by the American Board of Emergency Medicine (ABEM) or the American Osteopathic Board of Emergency Medicine (AOBEM);

(b) [.] Current certification in emergency medicine by the ABEM or AOBEM and successful completion of the board-approved Kentucky EMS Medical Director Introductory Course; or

(c) Current certification in:

1. ATLS;

2. ACLS, through either the AHA or the ASHI; and

3. Pediatric ALS or PEPP.

Section 4. [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:

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- (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 5. Associate Medical Director Certification.

- (1) An individual desiring initial certification as an Associate Medical Director shall:
 - (a) Be a physician ~~who~~[that] meets the requirements of Section 1 of this administrative regulation or ~~holds~~[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 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 6. 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) Maintains 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 7. 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 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 8. 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 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. 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 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 10. 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;
- (3) If exempt from initial certification pursuant to Section 1 of this administrative regulation, ~~maintains~~[maintain]evidence of successful completion of the board-approved EMS-TEI Medical Director Course; and
- (4) Submits evidence of current, unrestricted licensure to practice medicine as a physician in Kentucky; or
- (5) 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 11. Expiration of Certifications.

- (1) All certifications issued pursuant to this administrative regulation shall:
 - (a) Be valid for a period of two (2) years upon renewal; and

(b) Expire on April 30 of the second year from its initial issuance.

(2) An initial certification issued to an existing medical director pursuant to Section 1 of this administrative regulation shall expire on April 30, 2028.

Section 12. Certification and Continuing Education Validation and Audits.

(1) The board office may audit a medical director's continuing education record and certifications. The medical director shall submit the documentation requested within ten (10) business days of receipt of the board office's request.

(2) If documentation of certifications or continuing education hours consistent with this administrative regulation are not received using the board-approved submission process within ten (10) business days upon receipt of the board's request, the medical director's certification shall be deemed to have lapsed and the individual shall reapply for certification, if eligible.

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

(4) Each medical director shall maintain documentation of all required certifications and all continuing education for three (3) years from the date of completion.

Section 13. 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 14. Incorporation by Reference.

(1) The following material is incorporated by reference: "EMS Medical Director" application in KEMSIS, August 2025.

(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.]

FILED WITH LRC: June 9, 2026

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
Department of Education
(As Amended at ARRS, June 9, 2026)

702 KAR 5:130. Non-school bus passenger vehicles[Vehicles designed to carry nine (9) passengers or less, standards for].

RELATES TO: KRS 156.153(3), 156.160, 156.990, 158.110, 158.148, 160.310, 160.380, 189.540, 189.550, **281A.010(24)**, 49 C.F.R. pt. 40

STATUTORY AUTHORITY: KRS 156.070, 156.153, 156.160, 189.540

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.070

authorizes the Kentucky Board of Education to have the management and control of the common schools and all programs operated in those schools. KRS 156.160 requires the Kentucky Board of Education to promulgate administrative regulations relating to the transportation of children to and from school and those deemed necessary or advisable for the protection of the physical welfare and safety of public school children. KRS 189.540 requires the Kentucky Board of Education to promulgate an administrative regulation to govern the operation of [~~district-owned~~]passenger vehicles owned, leased, or privately contracted by the district that transport students[~~designed to carry nine (9) passengers or less, including the driver, and used for approved school activities~~] under KRS 156.153(3). KRS 156.153(3)(d) requires the Kentucky Board of Education to promulgate administrative regulations establishing the minimum standards and specifications for non-school bus passenger vehicles; minimum route safety standards and pick-up and drop-off protocols **for transporting students to and from school along a regular bus route using non-school bus passenger vehicles**; and minimum qualifications, training, and drug testing requirements for an individual to be authorized to transport any student [~~to and from school~~]using a non-school bus passenger vehicle. This administrative regulation establishes the requirements relative to the transportation of students[pupils] by local school districts in non-school bus passenger vehicles[~~designed to carry nine (9) passengers or less and which are not classified as school buses~~].

Section 1. **Definitions.**[**Definition.**]

(1) "Non-school bus passenger vehicle" or "vehicle[Vehicle]" means a vehicle owned, leased, or contracted by a school district[board]that is designed and built by the manufacturer for passenger transportation of **ten (10)[nine (9)]** or fewer passengers, including the driver, and used for transporting students[or contracted to the board which is significantly used to transport pupils] to and from school **along regular bus routes** and approved school activities[**under an alternative transportation plan approved by the Kentucky Department of Education**][which is designed by the manufacturer to carry fewer than ten (10) passengers].

(2) "Motor vehicle" is defined by KRS 281A.010(24).

(3) "Serious traffic violation" means a conviction when operating a motor vehicle of:

- (a) Excessive speeding, involving a single charge of any speed fifteen (15) miles per hour or more, above the specified speed limit;
- (b) Reckless driving including conviction of driving a motor vehicle in willful or wanton disregard for the safety of persons or property;
- (c) Improper or erratic traffic lane changes; or
- (d) Following the motor vehicle ahead too closely.

[**Section 2.**] [**Alternative Transportation Plan.**]

(1) **A district shall submit an alternative transportation plan to the Kentucky Department of Education for approval each school year prior to transporting any student in a non-school bus passenger vehicle.**[A vehicle may be used for the transportation of pupils:]

(2) [The alternative transportation plan shall include:]

- (a) [The number of vehicles being used to transport students; and
- (b) [Information regarding why a school bus is not being used.]

(a) [From areas not accessible by a regular school bus to the nearest road available for the safe transfer of pupils to a regular school bus or vice versa;]

(b) [For emergency transportation of students;]

(c) [For approved school activities; or]

(d) [For qualified special needs pupils.]

(2) [A vehicle driver shall be a school district employee or a person contracted by the district.]

Section 2.[Section 3.] Vehicle Requirements.

(1) A vehicle shall not be used to carry more students[pupils] than the manufacturer's designed passenger capacity for that particular vehicle.

(2) [Section 4.] A vehicle shall have occupant restraint systems

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equal in number to the manufacturer's designed passenger capacity and installed in accordance with the [original—equipment]manufacturer's specifications.

(3) A vehicle shall display a sign in clear view in the rear of the vehicle stating:

- (a) "This vehicle is being used to transport school children"; and
- (b) "This vehicle stops at railroad crossings".

(4) A district shall remove all district identification lettering from a non-school bus passenger vehicle before transferring title to another party other than a Kentucky school district. A contract issued by the local board for a non-school bus passenger vehicle shall contain a clause requiring the contractor to remove all district identification lettering when the vehicle is no longer under contract to the local board of education.

(5) The vehicle shall be equipped with:

- (a) A fire extinguisher with a rating of A, B, and C;
- (b) A first aid kit;
- (c) A seatbelt cutter; and
- (d) A body fluid clean up kit.

Section 3.~~[Section 4.]~~ Route Safety Standards and Pick-up and Drop-off Protocols.

(1) **Subsections (2) and (3) of this section shall apply to drivers transporting students to and from school along a regular bus route using a non-school bus passenger vehicle.**

(2) The driver shall stop in a location that does not obstruct traffic while picking up or dropping off any student.

~~(3)~~**(2)** Pursuant to KRS 156.153(3)(d)2, the driver shall not deposit a student at a location that would require the student to cross a road or intersection to reach the student's destination.

~~(4)~~**(3)** The driver shall not use a personal communication device while operating a vehicle with students on board except during an emergency.

Section 4.~~[Section 5.]~~ Driver Qualifications.~~[Liability—or indemnity insurance shall be purchased for each vehicle. The coverage limits shall be at least these amounts:]~~

[Bodily— injury/Property Damage]	[\$1,000,000—per—occurrence combined or\$250,000/\$1,000,000 split]
[Uninsured/Underinsured Motorist Coverage]	[\$500,000]
[“No-Fault” Coverage]	[\$20,000per passenger]

(1) **Pursuant to KRS 156.153 and KRS 189.540, a driver shall have a current valid Class D operator's license.**

(2) An individual shall be disqualified from transporting any student in a non-passenger vehicle for a period of sixty (60) days if convicted of two (2) serious traffic violations or one hundred twenty (120) days consecutively if convicted of three (3) serious traffic violations committed in a motor vehicle arising from separate incidents occurring within a three (3) year period.

(3) An individual shall be disqualified from transporting any student in a non-passenger vehicle for a period of one (1) year for refusing to submit to drug testing required by KRS 160.380 and this administrative regulation.

(4) An individual shall be disqualified from transporting any student in a non-passenger vehicle for five (5) years if convicted of:

(a) Driving or being in physical control of a motor vehicle under the influence of alcohol or a controlled substance; or

(b) A violation of any state or local law related to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal accident.[A local board of education operating under an approved alternative transportation plan shall adopt a policy that establishes the qualifications for drivers regarding:]

(a) [Drug test results;]

(b) [Driving history record;]

(c) [Convictions for a violation under KRS Chapter 189 for which penalty points are assessed; and]

(d) [Any citation or arrest for a violation of any provision

of KRS Chapter 189A.]

(5)~~(2)~~ **An individual [A person]** shall not operate a non-school bus passenger vehicle if convicted within the past five (5) years of driving under the influence (DUI) or driving while intoxicated (DWI).

(6) An individual shall not drive a non-school bus passenger vehicle while having any measurable or detectable amount of alcohol or other controlled substances in their system.

~~(7)~~**(3)** A driver taking medication either by prescription or without prescription shall not drive if that medication affects the driver's ability to safely drive the vehicle or perform other driver responsibilities.

~~(8)~~**(4)** A local board of education shall require a medical examination **[of each driver]** at least once every twenty-four (24) months **of each driver transporting students to and from school along a regular bus route.** The medical examination shall be reported on the form Medical Examination of School Employees, KDESHS001, incorporated by reference in 702 KAR 1:160, Section 6(1)(a), or an electronic medical record that includes all of the data equivalent to that on the **Medical[Media]** Examination of School Employees form.

Section 5.~~[Section 6.]~~ Driver Drug Testing

Requirements.~~[Before a vehicle is initially used to transport pupils, a safety inspection shall be made on the vehicle by an approved school bus inspector to certify the vehicle is in safe operating condition. If the vehicle is found to be in unsafe operating condition, it shall not be used to transport pupils until necessary repairs are made.]~~

(1) Pursuant to KRS 156.153(3)(d)3 and KRS 160.380~~(6)(e)2~~, all drivers transporting any student in a non-school bus passenger vehicle shall submit to drug testing consistent, **to the greatest extent practicable,** with the requirements of 49 C.F.R. pt. 40.

(2) A driver shall be subject to the following:

(a) Controlled substance testing prior to initially transporting students;

(b) Post-accident testing for controlled substances and alcohol;

(c) Random testing for controlled substances and alcohol; and

(d) Reasonable suspicion testing for controlled substances and alcohol.

(3) A driver having a confirmed positive test for a controlled substance shall not be permitted to transport any student in a non-school bus passenger vehicle for five (5) years from the date of the positive test. A driver subject to this subsection shall undergo controlled substance testing prior to operating a non-school bus passenger vehicle again and shall undergo a minimum of six (6) unannounced follow-up tests in the first twelve (12) months.

(4) A driver who tests at 0.02 percent or higher on the confirmation alcohol test immediately before, during, or immediately following operating a non-school bus passenger vehicle shall be relieved of these duties immediately and shall not be eligible to operate a non-school bus passenger vehicle for five (5) years. A driver subject to this subsection shall undergo controlled substance and alcohol use testing prior to operating a non-school bus passenger vehicle again and shall undergo a minimum of six (6) unannounced follow-up tests in the first twelve (12) months.

(5) A district may adopt a policy establishing the frequency of random drug testing for all drivers of non-school bus passenger vehicles. The drug testing requirements a district sets for drivers transporting students along regular bus routes shall meet or exceed the drug testing requirements a district sets for drivers transporting students to and from approved school activities.

Section 6.~~[Section 7.]~~ Driver Training.~~[A vehicle shall be inspected at least once each month that the vehicle is used to transport pupils, utilizing the same criteria for inspection as for school buses on the "Preventive Management Inspection" Form as found in the "Pupil Transportation Management Manual, April 1998".]~~

(1) A driver shall successfully complete an initial three (3) hour training curriculum developed by the Kentucky Department of Education and delivered by a school bus driver trainer certified in accordance with 702 KAR 5:080, Section 4(2).

(2) A school district shall provide to each driver a copy of A driver shall successfully complete a district specific minimum three (3) hour training each school year delivered by a school bus driver trainer certified in accordance with 702 KAR 5:080, Section 4(2). The minimum three (3) hour training shall include information on the local board's transportation services policy and code of acceptable behavior and discipline annually and upon revision.

(3) A driver shall successfully complete basic first aid and cardiopulmonary resuscitation training in accordance with 702 KAR 5:080, Section 5. A driver shall be subject to this training every two (2) years.

(4) A district shall not permit an individual to transport students until the individual has successfully completed the training in this section.

Section 7. [Section 8.] Driver Insurance. [If being used to transport pupils, a vehicle shall display a sign in clear view in the rear of the vehicle stating: "This vehicle is being used to transport school children."]

(1) A local board of education shall obtain indemnity or liability insurance against negligence with a coverage limit of at least 1,500,000 dollars per occurrence for all non-school bus passenger vehicles owned or leased by the district.

(2) For vehicles contracted by the district, the local board shall require the contractor to carry indemnity or liability insurance against negligence with a coverage limit of at least 1,500,000 dollars per occurrence.

Section 8. [Section 9.] Driver Vehicle Inspections. [Incorporation by Reference.]

(1) The driver shall conduct and document a pre-trip inspection using the Non-school Bus Passenger Vehicle Pre-trip Inspection form prior to each time the vehicle is used to transport any student. If the driver determines that the vehicle is not safe to drive, the vehicle shall not be used to transport students until it is inspected and approved by a Kentucky Department of Education approved school bus or vehicle inspector, or a certified Automotive Service Excellence master technician.

(2) The safety inspection required by KRS 156.153(3)(b) shall be performed by a Kentucky Department of Education approved school bus or vehicle inspector, or a certified Automotive Service Excellence master technician. The Preventative Maintenance Inspection Report For Non-school Bus Passenger Vehicle form shall be used to perform the safety inspection. If the vehicle is found to be in an unsafe operating condition, it shall not be used to transport students until necessary repairs are made. [Pupil Transportation Management Manual", April 1998, is incorporated by reference.]

[This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of District Support Services, Department of Education, 15th Floor, Capitol Plaza Tower, 500 Mero Street, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.]

Section 9. [Section 10.] Driver Emergency Transportation.

(1) If a school district transports a student due to an emergency as determined by the superintendent or his or her designee, Section 2(5)3(5), Section 7(2) and (4), and Section 8(1)9(4) of this administrative regulation shall not apply.

(2) The school district shall attempt to obtain verbal consent of a parent or guardian prior to emergency transportation.

Section 10. The transportation of a student pursuant to an agreement between a school district and a parent to reimburse the parent for arranging transportation of his or her own child to and from school or approved school activities shall not be subject to any requirement imposed pursuant to this administrative regulation.

Section 11. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Non-school Bus Passenger Vehicle Pre-trip Inspection", April 2025; and

(b) "Preventative Maintenance Inspection Report For Non-

school Bus Passenger Vehicle", April 2025.

(2) This material may be inspected copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Education, 300 Sower Blvd., Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material may also be viewed at: <https://www.education.ky.gov/districts/legal/Pages/Kentucky-Revised-Statutes.aspx>.

FILED WITH LRC: June 9, 2026

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

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
(As Amended at ARRS, June 9, 2026)**

902 KAR 18:011. Definitions for 902 KAR Chapter 18.

RELATES TO: KRS 194A.050, 194A.505, 241.010[194A.990], 7 C.F.R. Part 246, 278.6, 21 U.S.C. 802

STATUTORY AUTHORITY: KRS 194A.050, 211.180[241.090(3)], 7 C.F.R. Part 246, 42 U.S.C. 1786

NECESSITY, FUNCTION, AND CONFORMITY: 42 U.S.C. 1786 and 7 C.F.R. Part 246 ~~authorize~~provide [for] grants for state operation of the Special Supplemental Nutrition Program for Women, Infants and Children (WIC). KRS 194A.050(1) ~~requires~~authorizes the Cabinet for Health and Family Services to promulgate administrative regulations as necessary to qualify for the receipt of federal funds. KRS 211.180(1)(e) and (f) authorize the cabinet to promulgate administrative regulations for the health of expectant mothers, infants, and preschoolers, and the improvement of health through better nutrition. This administrative regulation establishes definitions for the terms used in 902 KAR Chapter 18.

Section 1. Definitions.

(1) "Above-50-percent vendor" is defined by 7 C.F.R. 246.2 [means a vendor that receives or is expected to receive more than fifty (50) percent of its annual food sales revenue from WIC benefits].

(2) "Alcohol" is defined by KRS 241.010(1).

(3) "Alcoholic beverage" is defined by KRS 241.010(2).

(4) "Approved product listing" or "APL" means an electronic list or file identifying the food items approved by the state WIC agency pursuant to 902 KAR Chapter 18 for purchase with WIC food instruments by food category and subcategory.

(5) "Authorized supplemental food" is defined by 7 C.F.R. 246.2 [means a supplemental food authorized by the state or a local agency for issuance to a particular participant].

(6) "~~Cash-value~~Cash value voucher" is defined by 7 C.F.R. 246.2.

(7) "~~Competent~~Certifying professional authority" means a person authorized to determine eligibility and certify persons for the WIC program.

(8) "Class" means food sale classification.

(9) "Compliance buy" is defined by 7 C.F.R. 246.2 [means a covert, on-site investigation].

(10) "Contract price" means the price for a WIC food item negotiated between the state WIC agency and the vendor.

(11) "Dual participation" is defined by 7 C.F.R. 246.2.

(12) "Electronic Benefit Transfer" (EBT) is defined by 7 C.F.R. 246.2 [means simultaneous participation in the WIC Program and in:]

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~~[(a)] [One (1) or more WIC clinics; or]~~
~~[(b)] [The Commodity Supplemental Food Program].~~
~~(13)[(12)] "Electronic WIC benefits" or "eWIC" means a [Web-based] technology that allows WIC participants to obtain food benefits by using a method that permits electronic access[plastic debit type card with a personal identification number (PIN)] at authorized participating WIC vendors[retailers].~~
~~(14)[(13)] "Exempt infant formula" is defined by 7 C.F.R. 246.2.~~
~~(15)[(14)] "FNS" means Food and Nutrition Services.~~
~~(16)[(15)] "Food instrument" is defined by 7 C.F.R. 246.2.~~
~~(17)[(16)] "Good letter with exceptions" means a written notification letter that:~~
~~(a) An investigation[A compliance buy] has been conducted [in the store];~~
~~(b) A violation occurred; and~~
~~(c) No sanction was applied due to lack of pattern of incidence.~~
~~(18)[(17)] "High risk vendor" means a vendor having a high probability of noncompliance with KRS Chapter 194A, 42 U.S.C. 1786, 7 C.F.R. Part 246, 7 C.F.R. 278.6, or 902 KAR Chapter 18.~~
~~(19)[(18)] "Integrated" means a commercial system that fully incorporates eWIC functionality into an existing electronic cash register (ECR) system.~~
~~(20)[(19)] "Inventory audit" is defined by 7 C.F.R. 246.2[means an examination of food invoices or other proof of purchase to determine if a vendor has purchased sufficient quantities of authorized supplemental food to provide to participants the quantities of food items redeemed by the vendor during a given period of time].~~
~~(21)[(20)] "Investigation" means a method used by the state WIC agency to detect a WIC program violation.~~
~~(22)[(21)] "Local agency" is defined by 7 C.F.R. 246.2[means an applying or participating WIC agency].~~
~~(23)[(22)] "Low variance" means the redemption of the same type of food item at the same price or within a narrow price range.~~
~~[(23)] ["Medical foods"] means enteral products that are specifically formulated to provide nutritional support for individuals with a qualifying condition when the use of conventional foods is precluded, restricted, or inadequate.]~~
~~(24) "Not to exceed" or "NTE" means:~~
~~(a) FNS-approved cost containment methodology with/whereby WIC authorized vendors [are] subject to price limitations; and~~
~~(b) The maximum amount that Kentucky will pay for a specific food item identified by its UPC code.~~
~~(25) "Participant" is defined by 7 C.F.R. 246.2[means:]~~
~~[(a)] [A pregnant, breastfeeding, or postpartum woman or an infant or child who is receiving supplemental food or food instruments;]~~
~~[(b)] [The breastfed infant of a breastfeeding woman who is receiving WIC program benefits;]~~
~~[(c)] [The parent or caretaker of an infant or child receiving a WIC benefit; and]~~
~~[(d)] [The proxy for a person identified in paragraphs (a), (b), or (c) of this subsection].~~
~~(26) "Participant violation" means an intentional, knowing act of a participant that violates KRS Chapter 194A, 42 U.S.C. 1786, 7 C.F.R. Part 246, 7 C.F.R. 278.6, or 902 KAR Chapter 18.~~
~~(27) ["Peer Groups"] means categories into which vendors are assigned based upon sales volume and region.]~~
~~[(28)] "PIN" means a unique four (4) digit personal identification number designated by the WIC participant.~~
~~(28)[(29)] "Point of sale" or "POS" means the combination of hardware and software that enables a vendor to accept payment for[the system supporting] WIC[eWIC] food transactions[in a store checkout lane].~~
~~(29)[(30)] "POS device" means a [physical electronic cash register or] dedicated point of sale [hardware or] terminal that is used for eWIC food transactions[WIC processing].~~
~~(30)[(31)] "Positive buy" means a compliance buy, onsite review, or online[on-site review, or on-line] WIC transaction review that provides evidence that a violation of the vendor agreement or KRS Chapter 194A, 42 U.S.C. 1786, 7 C.F.R. Part 246, 7 C.F.R. 278.6, or 902 KAR Chapter 18 has occurred.~~
~~(31)[(32)] "Price look up" or "PLU" means a four (4) or five (5)~~

digit identifier used to identify individual and bulk produce.
~~(32)[(33)] "Proxy" is defined by 7 C.F.R. 246.2[means a person designated by a female participant or by a parent or caretaker of an infant or child participant to obtain and transact a food instrument or cash value voucher to obtain a supplemental food or foods on behalf of a participant].~~
~~(33)[(34)] "Routine monitoring" is defined by 7 C.F.R. 246.2[means overt, on-site monitoring during which representatives of the WIC program identify themselves to vendor personnel].~~
~~(34)[(35)] "Rural" means any area not defined as urban.~~
~~(35)[(36)] "Shelf price" means the price displayed on the food item, shelf, or display case where the food item is available for purchase[stored].~~
~~(36)[(37)] "SNAP" means the Supplemental Nutrition Assistance Program, formerly known as the Food Stamp Program.~~
~~(37)[(38)] ["Standard bar code"] means a printed series of lines of varying width on a container or product that can be read by an optical scanner to determine product classification and price.]~~
~~[(39)] "Staple food items" means meat, poultry, fish, bread, breadstuff, cereals, vegetables, fruit, vegetable and fruit juices, and dairy products, excluding items, such as coffee, tea, cocoa, carbonated and uncarbonated beverages, condiments, and spices.~~
~~(38)[(40)] "State WIC agency" means the Cabinet for Health and Family Services or its designated representative.~~
~~(39)[(41)] "Systematic review" means a review of electronic WIC transactions by the state WIC agency or its representatives to monitor systematic violations of the program.~~
~~(40)[(42)] "Trafficking" means the redemption or exchange of WIC food instruments for cash, firearms, ammunition, explosives, or controlled substances as defined by 21 U.S.C. 802(6)[a firearm, ammunition, an explosive, or a controlled substance as defined in 21 U.S.C. 802].~~
~~(41)[(43)] "Unauthorized food" means foods not authorized by the state or local agency for issuance to a particular participant.~~
~~(42)[(44)] "Unique customer" means the number of unduplicated WIC households[individuals] that have one (1) or more transactions at a specific authorized WIC[the sanctioned] vendor during a [the] specified time period.~~
~~(43)[(45)] "UPC" or "Universal product code" means a unique barcode consisting of numerical[twelve (12)] digits used for tracking inventory[trade items] in retail stores.~~
~~(44)[(46)] "Urban" means a metropolitan area as defined by the U.S. Office of Management and Budget (OMB) Bulletin No. 23-01 available at <https://www.whitehouse.gov/wp-content/uploads/2023/07/OMB-Bulletin-23-01.pdf>[13-04].~~
~~(45)[(47)] "Vendor" is defined by 7 C.F.R. 246.2[means a sole proprietorship, partnership, cooperative association, corporation, or other business entity operating one (1) or more stores by providing authorized supplemental foods to participants under a retail food delivery system].~~
~~(46)[(48)] "Vendor authorization" is defined by 7 C.F.R. 246.2[means the process by which the state WIC agency assesses, selects, and enters into an agreement or contract with a store that applies or subsequently reapplies to be authorized as a vendor].~~
~~(47)[(49)] "Vendor overcharge" is defined by 7 C.F.R. 246.2.~~
~~(48) "Vendor peer group system" is defined by 7 C.F.R. 246.2.~~
~~(49)[(50)] "Vendor violation" is defined by 7 C.F.R. 246.2[means an intentional or unintentional act of a vendor's current owner, officers, agent, or employee, with or without the][knowledge of management, that violates the vendor agreement or KRS Chapter 194A, 42 U.S.C. 1786, 7 C.F.R. Part 246, 7 C.F.R. 278.6, or 902 KAR Chapter 18].~~
~~(50)[(54)] "WIC agency" means a local health department or agency contracted with the state to deliver WIC services.~~
~~(51)[(52)] "WIC benefits" means a voucher, check, Electronic Benefits Transfer card (EBT), coupon, or document that is used by a participant to obtain supplemental foods.~~
~~(52) "WIC-eligible nutritionals" is defined by 7 C.F.R. 246.2.~~
~~(53) "WIC program" or "WIC" means the Special Supplemental Nutrition Program for Women, Infants[, and Children] authorized by Section 17 of the Child Nutrition Act of 1966, 42 U.S.C. 1786, and administered pursuant to 42 U.S.C. 1786 and 7 C.F.R. Part 246.~~
~~(54) "Written communication" means a letter or email correspondence that can be retrieved and tracked for timeline~~

compliance.

FILED WITH LRC: June 9, 2026

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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
(As Amended at ARRS, June 9, 2026)**

902 KAR 18:021. Eligibility, certification periods, and time frames for processing applicants.

RELATES TO: KRS 194A.050, [194A.505, 194A.990,] 7 C.F.R. Part 246, 278.6[-, 21 U.S.C. 802]

STATUTORY AUTHORITY: KRS 194A.050, 211.180[244.090(3)], 7 C.F.R. Part 246, 42 U.S.C. 1786

NECESSITY, FUNCTION, AND CONFORMITY: 42 U.S.C. 1786 and 7 C.F.R. Part 246 authorize[provide][for] grants for state operation of the Special Supplemental Nutrition Program for Women, Infants[,] and Children (WIC). KRS 194A.050(1) requires[authorizes] the Cabinet for Health and Family Services to promulgate administrative regulations as necessary to qualify for the receipt of federal funds. KRS 211.180(1)(e) and (f) authorize the cabinet to promulgate administrative regulations for the health of expectant mothers, infants, and preschoolers, and the improvement of health through better nutrition. This administrative regulation establishes the application and participation process for participants of the Kentucky Special Supplemental Nutrition Program for Women, Infants[,] and Children (WIC).

Section 1. Eligibility. To be certified as eligible to participate in the WIC program, a person shall:

(1) Be categorically eligible as [- follows]:

(a) A pregnant woman;
(b) A postpartum woman, up to six (6) months after termination of pregnancy;

(c) A breastfeeding woman, up to the infant's first birthday;

(d) An infant, birth to one (1) year of age; or

(e) A child, one (1) to five (5) years of age;

(2) Provide proof of residence in the Commonwealth of Kentucky, such as a utility bill, driver's license, or Supplemental Nutrition Assistance Program (SNAP) identification card;

(3) Provide proof of identity as defined by 7 C.F.R. 246.7(c), such as a driver's license, medical card, birth certificate, or photo identification;

(4) Provide proof of household income, such as the most recent paystub, tax form (W-2), or medical card, and meet the following income criteria:

(a) Receive Kentucky Transitional Assistance Program (KTAP), SNAP, or Medicaid;

(b) A pregnant woman or infant in the household receives Medicaid;

(c) A member of the household receives Medicaid; or

(d) The household income is at or below 185 percent of the federal poverty level;

(5) Meet the required nutritional risk data at certification:

(a) Height or length and weight measurements shall be performed and documented, or referral data performed by a health care provider collected within sixty (60) days of the date of certification, and[-]

(b) Hematological tests shall be performed and documented, or

referral data performed by a health care provider collected within ninety (90) days of the date of certification; and

(6) Meet one (1) of the following nutritional risk criteria:

(a) A detrimental or abnormal nutritional condition detectable by biochemical or anthropometric measurements, such as:

1. Anemia;

2. Underweight;

3. Overweight;

4. Abnormal pattern of weight gain in a pregnant woman;

5. Low birth weight [gain] in an infant; or

6. Stunting in an infant or child; or

(b) A documented nutritionally related medical condition, such as:

1. Clinical signs of nutritional deficiency;

2. Metabolic disorder;

3. Pre-eclampsia in a pregnant woman;

4. Failure to thrive in an infant;

5. Chronic infection;

6. Alcohol or drug abuse or mental retardation in a woman;

7. Lead poisoning;

8. History in a pregnant woman of a high risk pregnancy or an associated factor, such as:

a. Smoking;

b. Conception before sixteen (16) months postpartum;

c. History of low birth weight, premature birth, or neonatal loss;

d. Adolescent pregnancy; or

e. Current multiple pregnancy;[or]

9. Congenital malformation in an infant or child;

10. [or] An infant born to a woman with:

a. A history of alcohol abuse;

b. A history of drug abuse; or

c. Mental retardation;

11. [d-] A dietary deficiency that impairs or endangers health, such as an inadequate dietary pattern as assessed by:

a. [(+)] A twenty-four (24) hour dietary recall;

b. [(#)] Dietary history; or

c. [(##)] Food frequency checklist; or

12. [e-] A condition that predisposes a person to an inadequate nutritional pattern or nutritionally related medical condition, such as homelessness or migrancy.

Section 2. Certification Periods. WIC program benefits shall be based upon certifications established in accordance with the time frames established in this section.

(1) A pregnant woman shall be certified for the duration of her pregnancy and for up to six (6) weeks postpartum.

(2) A postpartum woman shall be certified for up to six (6) months postpartum.

(3) A breastfeeding woman shall be certified up to the infant's first birthday or when the woman ceases breastfeeding, whichever occurs first[at intervals of approximately six (6) months, ending with the breastfed infant's first birthday].

(4) An infant shall be certified up to the infant's first birthday. [or when the woman ceases breastfeeding, whichever occurs first][.] The local WIC agency shall ensure that the infant receives the required health and nutrition assessments pursuant to 7 C.F.R. 246.11(e)(3)[at intervals of approximately six (6) months, except an infant under six (6)][months of age shall be certified for a period extending up to the first birthday if the quality and accessibility of health care services is not diminished].

(5) A child shall be certified at intervals of approximately twelve (12)[six (6)] months, up until the[ending with the end of the issuance month in which a] child reaches their[the] fifth birthday. The local WIC agency shall ensure that the child receives the required health and nutrition assessments in accordance with 7 C.F.R. 246.11(e)(3).

Section 3. Priority System. Vacancies in the WIC program shall be filled as they occur unless maximum participation has been reached. If maximum participation has been reached, vacancies shall be filled by a priority system based upon the nutritional risk of the patient.

Section 4. Time Frames for Processing Applicants.

(1) Pregnant[and breastfeeding] women, infants, and migrant

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farmworkers and their families[migrants] shall be screened and notified of WIC program eligibility or ineligibility within ten (10) days of application.

(2) All other applicants shall be screened and notified of WIC program eligibility or ineligibility within twenty (20) days of application. WIC benefits shall be provided when participants are notified of certification.

(3) In accordance with 7 C.F.R. 246.7(f)(2)(iii)(A), the state agency may provide an extension of the notification period to a maximum of fifteen (15) days for those local agencies that make a written request, including a justification of the need for an extension.

Section 5. Nutrition Education.

(1) Nutrition education shall be made available to the participant or the participant's parent or guardian and shall relate to the participant's nutritional needs, household situation, and cultural preferences.

(2) Tobacco, drug, and other substance abuse information shall be provided to each participant or the participant's parent or guardian.

(3) Breastfeeding information, including the benefits of breastfeeding, shall be provided to each pregnant participant, unless contraindicated.

FILED WITH LRC: June 9, 2026

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CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
(As Amended at ARRS, June 9, 2026)

902 KAR 18:031. Participant violations[abuse].

RELATES TO: KRS 194A.050, 194A.505, 194A.990, 7 C.F.R. Part 246, 278.6, 21 U.S.C. 802[278.6, 21 U.S.C. 802.]
STATUTORY AUTHORITY: KRS 194A.050, 211.180[244.090(3)], 7 C.F.R. Part 246, 42 U.S.C. 1786

NECESSITY, FUNCTION, AND CONFORMITY: 42 U.S.C. 1786 and 7 C.F.R. Part 246 authorize[provide][for] grants for state operation of the Special Supplemental Nutrition Program for Women, Infants[,] and Children (WIC). KRS 194A.050(1) requires[authorizes] the Cabinet for Health and Family Services to promulgate administrative regulations as necessary to qualify for the receipt of federal funds. KRS 211.180(1)(e) and (f) authorize the cabinet to promulgate administrative regulations for the health of expectant mothers, infants, and preschoolers, and the improvement of health through better nutrition. This administrative regulation establishes the sanction schedule for participants who violate the participation requirements[participant abuse] of the Kentucky Special Supplemental Nutrition Program for Women, Infants[,] and Children (WIC).

Section 1. Participant Violation[Abuse] of the Program.

(1) The state WIC agency or a local agency shall issue a written warning for the following suspected acts for which a complaint is received concerning a participant:

- (a) Purchasing unauthorized foods;
- (b) Redeeming WIC benefits at an unauthorized store;
- (c) Making a verbal offer to sell or exchange supplemental food or WIC food instruments with another individual, group, or vendor;[or]

- (d) Returning supplemental foods to a vendor for cash;
- (e) Posting WIC foods, benefits, or eWIC cards for sale in print or online, or allowing someone else to do so; or
- (f) Posting a WIC-issued breast pump for sale in print or online, or allowing someone else to do so.

(2) The state WIC agency or a local agency shall take the following specified actions[action] for an intentional act of violation[abuse] by a participant:

- (a) Redeeming a food instrument before the first day to use or after the last date of use:
 - 1. First offense: written warning;
 - 2. Second offense: monthly pickup of food instruments; and[or]
 - 3. Third or subsequent offense:
 - a. One (1) month suspension; and
 - b. Reinstatement of two (2) or three (3) month issuance shall be at the discretion of the competent[certifying] professional authority;
- (b) Redeeming a food instrument that has previously been reported to the local agency as being lost or stolen and [which] has been replaced:
 - 1. First offense: written warning; and[or]
 - 2. Second and subsequent offenses: claim issued to recoup the WIC benefits that have been redeemed;
- (c) Purchasing unauthorized food:
 - 1. First offense: written warning; and[or]
 - 2. Second and all subsequent offenses: one (1) month suspension from the WIC program;
- (d) Redeeming WIC benefits at an unauthorized store:
 - 1. First offense: written warning; and[or]
 - 2. Second and all subsequent offenses: one (1) month suspension from the WIC program;
- (e) Verbal abuse or threatening physical abuse of clinic or vendor staff:
 - 1. First offense: written warning; and[or]
 - 2. Second and all subsequent offenses: one (1) month suspension from the WIC program;
- (f) Physical abuse of clinic or vendor staff, first and all subsequent offenses; three (3) month suspension from the WIC program;
- (g) Exchanging or selling supplemental food or a WIC food instrument with another individual, group, or vendor, first and all subsequent offenses; three (3) month suspension from the WIC program;
- (h) Exchanging supplemental food or a WIC food instrument for credit, nonfood items, or supplemental food in excess of WIC benefits prescribed, first and all subsequent offenses: three (3) month suspension from the WIC program;
- (i) Posting possible WIC-issued[WIC-issued] foods, benefits, or food instruments for sale in print, online, or allowing another person to do so:
 - 1. First offense: written warning; and[or]
 - 2. Second offense: Three (3) month suspension;
- (j) Dual participation in more than one (1) WIC program or participation in both the WIC program and the Commodities Supplemental Food Program:
 - 1. First offense: written warning and immediate termination from one (1) of the WIC programs. The continuing WIC agency shall be chosen based upon the participant's residence or services; and[or]
 - 2. Second and all subsequent offenses: one (1) year disqualification from the WIC program and a claim to recoup WIC benefits previously redeemed;
- (k) Knowingly and deliberately making a false or misleading statement or misrepresenting, concealing, or withholding a fact in order to obtain program benefits:
 - 1. First offense: three (3) month disqualification from the WIC program and a claim issued to recoup the WIC benefits redeemed; and[or]
 - 2. Second and all subsequent offenses: one (1) year disqualification from the WIC program and a claim issued to recoup the WIC benefits redeemed; or
 - (l) Exchanging or selling supplemental foods [~~in print or online by posting WIC foods~~], WIC benefits, or food instruments [~~for sale~~] or allowing another person to do so:
 - 1. First offense: three (3) month suspension from the WIC

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program; and ~~written warning; or~~

2. Second and all subsequent offenses: One (1) year disqualification from the WIC program and a claim issued to recoup the WIC benefits redeemed ~~Three (3) month suspension from the WIC program~~.

(3) Mandatory disqualification. Except as provided in subsections (4) and (5) of this section, a participant shall be disqualified from the WIC program for one (1) year if the state WIC or local WIC agency assesses:

- (a) A claim of \$~~200~~400 or more; or
- (b) A second or subsequent claim of any dollar amount.

(4) A mandatory disqualification shall not be imposed if, within thirty (30) days of receipt of the claim letter demanding repayment:

- (a) Full restitution is made;
- (b) A repayment schedule is agreed on; or
- (c) The state WIC or local WIC agency approves the designation of a proxy if the participant is an infant, child, or under age eighteen (18).

(5) A participant may reapply to participate in the WIC program before the end of a mandatory disqualification period when if one (1) of the following conditions has been met:

- (a) Full restitution is made;
- (b) A repayment schedule is agreed upon; or
- (c) The state WIC or local WIC agency approves the designation of a proxy if the participant is an infant, child, or under age eighteen (18).

(6) The amount of a claim shall be determined by the value of the WIC benefits redeemed. If the claim is not paid, the participant shall be denied application to the WIC program for the number of months of benefits which were used to calculate the claim amount.

(7) A participant with a pattern of violations~~abuse~~ of the WIC program shall be referred to the Office of the Inspector General for prosecution under KRS 194A.505.

(8) Activities prohibited by KRS 194A.505 apply to participants, vendors, and agency personnel. Penalties in KRS 194A.990 apply to participants, vendors, and agency personnel who have violated KRS 194A.505.

FILED WITH LRC: June 9, 2026

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

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
(As Amended at ARRS, June 9, 2026)**

902 KAR 18:040. Fair hearing procedures for participants.

RELATES TO: KRS ~~Chapter 13B;~~ 15.111, 194A.050, 194A.505, 194A.990, 205.231, 7 C.F.R. Part 246, 278.6, 21 U.S.C. 802

STATUTORY AUTHORITY: KRS 194A.050, 205.231, 211.180~~244.090(3)~~, 7 C.F.R. Part 246, 42 U.S.C. 1786

NECESSITY, FUNCTION, AND CONFORMITY: 42 U.S.C. 1786 and 7 C.F.R. Part 246 authorize~~provide~~ for grants for state operation of the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). KRS 194A.050(1) requires~~authorizes~~ the Cabinet for Health and Family Services to promulgate administrative regulations as necessary to qualify for the receipt of federal funds. KRS 211.180(1)(e) and (f) authorize the cabinet to promulgate administrative regulations for the health of expectant mothers, infants, and preschoolers, and the improvement

of health through better nutrition. This administrative regulation establishes the fair hearing procedures for participants for the Kentucky Special Supplemental Nutrition Program for Women, Infants, and Children (WIC).

Section 1. Fair Hearing Procedures.

(1) In accordance with 7 C.F.R. 246.9, a local agency shall inform an individual in writing of the right to a fair hearing and the method by which a hearing may be requested if when the person is:

- (a) Determined to be ineligible for the program;
- (b) Disqualified or suspended during a certification period; or
- (c) Issued a claim.

(2) ~~(a) [In accordance with 7 C.F.R. 246.9, a] A person shall request a fair hearing by contacting the state WIC agency within sixty (60) days from the date the person receives the adverse action letter by hand delivery, electronic mail, or by certified mail.~~

~~(b) Requests for a hearing shall be forwarded by the cabinet to the Office of Administrative Hearings within the Department of Law in accordance with KRS 15.111(2)(g), within two (2) working days of receipt.~~

~~(c) [In accordance with 7 C.F.R. 246.9,] The hearing shall be accessible to the appellant and shall be conducted as soon as practical/practicable. Notice of the hearing shall be given to all involved parties at least/not less than twenty (20) days in advance of the date set for the hearing unless otherwise required by 7 C.F.R. 246.9 federal law [held within twenty-one (21) days from the date a person requests a hearing, or the next regular work day if the twenty-first day is a holiday or weekend].~~

~~(d) [(e)] The Office of Attorney General hearing official shall provide the person with at least twenty (20) [ten (10)] days advanced written notice of the time and place of the hearing.~~

~~(3) The request for a hearing shall not be denied or dismissed [state WIC agency shall not deny or dismiss a request for hearing] unless:~~

- (a) The request is not received within the time limit established~~set~~ by subsection (2)(a) of this section;
- (b) The request is withdrawn in writing by the appellant or a representative of the appellant;
- (c) The appellant or representative fails, without good cause, to appear at the scheduled hearing; or
- (d) The appellant has been denied participation by a previous hearing and cannot provide evidence that circumstances relevant to the WIC program eligibility have changed in a way that would justify a hearing.

~~(4) The state or local agency shall refer complaints that allege discrimination based on race, color, national origin, sex, handicap, or age to the Secretary of Agriculture or the Director of the Office of Equal Opportunity.~~

~~(5) The hearing shall be conducted in accordance with KRS Chapter 13B, subject to [any specific provisions set forth herein] [the] [partial exemption from that chapter, as certified by the Office of the Attorney General, a copy of which certification is available online at http://chfs.ky.gov/dph/mch/ns/wic.htm].~~

~~(6) [(5)] [(a)] [In accordance with 7 C.F.R. 246.9, The hearing officer shall complete and submit to the cabinet and the appellant or representative a written notification of the recommended order no later than forty-five (45) days after the cabinet's receipt of the request for the hearing, which shall include the findings of fact, conclusions of law, and recommended disposition, including recommended penalties, if any.]~~

~~[(b)] [In accordance with 7 C.F.R. 246.9,] Decisions of the hearing official shall be based upon the application of KRS Chapter 194A, 42 U.S.C. 1786, 7 C.F.R. Part 246, 7 C.F.R. 278.6, or 902 KAR Chapter 18 as related to the facts of the case as established in the hearing record.~~

~~(7) [(6)] (a) Participants who appeal the termination of benefits within the fifteen (15) day~~days~~ advance adverse action notice period provided by 7 C.F.R. 246.7 shall continue to receive WIC program benefits until the hearing officer reaches a decision or the certification period expires, whichever occurs first.~~

(b) WIC program benefits ~~[This]~~ shall not be provided or continued with a filed appeal in the following situations ~~[apply to]~~:

1. Applicants who are denied benefits at initial certification;
2. Participants whose certification periods have expired; or
3. Participants who become categorically ineligible.

(c) If the hearing officer's recommended order concerns disqualification and is in favor ~~of~~ the state WIC agency, as soon as administratively feasible any continued benefits shall be terminated.

(d) If the decision regarding repayment of the benefits by the appellant is in favor of the state WIC agency, efforts to collect the claim shall be resumed, even during pendency of an appeal of a fair hearing decision.

~~(8)~~ ~~(7)~~

~~(a)~~ The appellant may appeal a hearing officer's decision ~~[to the Appeal Board for Public Assistance]~~ by filing exceptions to the recommended order ~~with the~~ ~~[in accordance with KRS 13B.140(4)].~~

~~(b)~~ ~~[Exceptions shall be filed with or mailed to]~~ Cabinet for Health and Family Services, Office of the Secretary, ~~[Appeal Board for Public Assistance]~~ 275 East Main Street, 5W-A, Frankfort, Kentucky 40621.

~~(9)~~ ~~(e)~~ Each party in the hearing shall have fifteen (15) days from the date the recommended order is mailed within which to file exceptions to the recommended order with the cabinet.

~~(10)~~ ~~(d)~~ A party may file a response to an opposing party's exceptions. The response shall be filed within twenty-five (25) days from the date the recommended order is mailed.

~~(11)~~ ~~(e)~~ Exceptions and responses to exceptions shall be considered filed on the date they are received by the cabinet.

~~(12)~~ ~~(b)~~ Any party aggrieved by the decision of the Cabinet for Health and Family Services, Office of the Secretary ~~[Appeal Board for Public Assistance]~~ may seek judicial review of the decision by filing a petition in the circuit court of the county ~~where~~ ~~[in which]~~ the petitioner resides. Judicial review shall be ~~[in accordance with KRS 13B.140, 13B.150, and 13B.160].~~

~~(13)~~ In accordance with 7 C.F.R. 246.8, complaints alleging civil rights discrimination for United States Department of Agriculture (USDA) funded programs, such as the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), WIC Farmers Market Nutrition Program, and WIC Breastfeeding Peer Program, shall be filed with the USDA, Director, Office of Adjudication and Compliance, 1400 Independence Avenue, SW., Washington, DC 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TTY).

FILED WITH LRC: June 9, 2026

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

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
(As Amended at ARRS, June 9, 2026)**

902 KAR 18:050. Vendor authorization criteria.

RELATES TO: ~~KRS Chapter 13B,~~ 194A.050, 194A.505, 194A.990, 7 C.F.R. Part 246, 278.6, 21 U.S.C. 802.

STATUTORY AUTHORITY: KRS 194A.050, 211.180 ~~[244.090(3)],~~ 7 C.F.R. Part 246, 42 U.S.C. 1786

NECESSITY, FUNCTION, AND CONFORMITY: 42 U.S.C. 1786 and 7 C.F.R. Part 246 authorize ~~[provide]~~ ~~[for]~~ grants for state

operation of the Special Supplemental Nutrition Program for Women, Infants[,] and Children (WIC). KRS 194A.050(1) authorizes the Cabinet for Health and Family Services to promulgate administrative regulations as necessary to qualify for the receipt of federal funds. KRS 211.180(1)(e) and (f) authorize the cabinet to promulgate administrative regulations for the health of expectant mothers, infants, and preschoolers, and the improvement of health through better nutrition. This administrative regulation establishes the vendor authorization criteria for the Kentucky Special Supplemental Nutrition Program for Women, Infants[,] and Children (WIC).

Section 1. Vendor Authorization Criteria.

(1) Only a vendor authorized by the state WIC agency pursuant to 902 KAR Chapter 18 shall redeem a food instrument.

(2) Each store operated by a business entity shall be authorized separately from other stores operated by the business entity.

(3) Each store shall have a single, fixed location and redeem the WIC food instruments and provide the WIC foods within the ~~[four (4)]~~ walls of the establishment.

(4) A ~~vendor~~ ~~[retailer]~~ authorized as a pharmacy shall only redeem food instruments for exempt infant formulas and WIC-eligible nutritional ~~[medical foods]~~.

(5) ~~[Food]~~ Vendors shall be authorized in sufficient numbers and with distribution adequate to ensure:

(a) Participant convenience and access; and

(b) Effective management of vendor review by the cabinet ~~[and the local agency].~~

(6) In order to be an authorized WIC vendor, a vendor shall:

(a) Complete the application process established in 7 C.F.R. 246.4, meet authorization criteria, and be approved by the WIC state agency pursuant to 902 KAR Chapter 18 ~~[in accordance with the Kentucky WIC Manual for Applying Retailers];~~

(b) Provide business information ~~[required by the WIC Manual, including sales volume and an updated application,]~~ requested by the state WIC agency;

(c) Stock, at all times, minimum inventory in accordance with the ~~[Quantified]~~ Minimum Stock ~~[Inventory]~~ Requirements established ~~[outlined]~~ in the Kentucky WIC Vendor Agreement ~~[Manual for Applying Retailers]~~ ~~[,];~~

1. ~~[The stock shall be in the store or in the store's stockroom,]~~

2. ~~[Expired foods shall not count towards meeting the minimum stock~~ ~~[inventory]~~ requirement ~~[, and]~~

3. ~~[A pharmacy shall supply exempt formula or WIC-eligible nutritional~~ ~~[medical foods] within forty-eight (48) hours of [the state WIC agency] request;~~

(d) Obtain infant formula only from the listing of Kentucky WIC ~~[Program] Authorized Formula Suppliers~~ ~~[of WIC-Approved Infant Formulas,~~ <http://chfs.ky.gov/dph/mch/Vendor+Management.htm>];

(e) Except for a pharmacy, be in compliance with the Kentucky Food Code, 902 KAR 45:005, and have a valid retail food establishment or retail food store permit in the current owner's name;

(f) Except for a pharmacy, be an authorized SNAP retailer;

(g) Have competitive prices with other authorized WIC vendors in the area ~~[, compared according to the policy outlined in the WIC Manual for Applying Retailers and the Manual for Contracted WIC Vendors];~~

(h) Post the current ~~[Display the]~~ prices of WIC approved foods ~~[food items] on each individual product~~ ~~[item]~~ ~~[or]~~ on the shelf directly in front of the product, or on the refrigerated display case where the items are located. A cost plus ten (10) percent store shall post the final price on the individual product ~~[(WIC price)]~~ on the shelf, or on the refrigerated display case where the items are located ~~[signage in aisle];~~

(i) Be in compliance with the other Food and Nutrition Service programs or the Medicaid program, including:

1. Not be disqualified or withdrawn by the United States Department of Agriculture from participation in another Food Nutrition Service program or the Medicaid program;

2. Not be denied application to participate in SNAP or Medicaid;

3. Not be currently paying a civil money penalty to SNAP or Medicaid; or

4. Not have been assessed a civil money penalty by SNAP or

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Medicaid, and the disqualification period that would otherwise have been imposed has not expired;

(j) Request authorization for a business whose primary purpose is to be a retail grocery.[-];

1. Except for a pharmacy, a direct distribution outlet or wholesale food establishment shall not be eligible.

2. A vendor that/who derives more than fifty (50) percent of annual food sales revenue from the sale of food items that are purchased with WIC food instruments shall not be eligible.

3. A retail grocery shall:

a. Have a separate and distinct grocery department in a stationary location that/which stocks staple food items in addition to WIC approved foods; and

b. Have fifteen (15) percent of gross sales in nontaxable food sales[-, excluding specialty items such as bakery goods for a bakery or produce for a fruit and vegetable stand.]

[4.] [A dairy or home delivery grocery shall not be approved if it operates solely as a mobile operation.]

[5.] [The use of drive-up windows shall not be approved];

(k) Be registered with the Secretary of State and be in good standing, if a corporation or partnership;

(l) Except for a farmers' market, be open for business year round at least eight (8) hours per day, six (6) days per week;

(m) Be accessible to monitoring by state and federal officials without prior notice;

(n) Not be indebted to the WIC program for an unpaid claim or a civil money penalty against a store owned or previously owned by the applying owners; and

(o) Have the capability to accept WIC program benefits electronically. A store shall have the use of an internet cable or a currently Food and Nutrition Services certified system to accept online WIC EBT.

(7) The WIC program shall not authorize a vendor applicant if, during the last six (6) years, an applicant, current owner, officer, or manager has been convicted of or had a civil judgment for:

- (a) Fraud;
- (b) Antitrust violation;
- (c) Embezzlement, theft, or forgery;
- (d) Bribery;
- (e) Falsification or destruction of records;
- (f) Making false statements or claims;
- (g) Receiving stolen property;
- (h) Obstruction of justice; or

(i) Another act reflecting on the business integrity and reputation of the applicant, such as removal from other federal or state programs.

(8) The WIC program shall not authorize a store that has attempted to circumvent a period of disqualification from the program, including a store that has undergone a sale or changes of operation if the transaction involved the following parties:

(a) The seller or transferor is an owner, operator, or manager currently suspended, sanctioned, has outstanding monetary claims, or disqualified from WIC, SNAP, or Medicaid; or/and

(b) The buyer or transferee is related to the seller by marriage or consanguinity within the fourth degree, or was a manager or employee of the seller when the sanction, suspension, outstanding monetary claim, or disqualification was issued or the violation occurred.

(9) A contract shall not be entered into with a vendor if the contract would cause a conflict of interest, real or apparent.

(10) The WIC program shall terminate a vendor contract if [~~it determines~~] the vendor or vendor's employee provided false information in connection with the vendor application.

(11) An authorized WIC vendor shall send appropriate employees (owner, manager, or head cashier) to attend state WIC agency required training.

(12) If an applying vendor[retailer] does not meet the criteria upon review by the[either the local or] state WIC agency:

(a)

1. The applying vendor[retailer] shall be notified in writing; and 2. [(b)] After two (2) reviews, the applying vendor[retailer] shall not apply for the program for at least sixty (60) days from the date of denial;

[(c)] After three (3) reviews, the applying vendor[retailer] shall

not apply for at least 120 days from the date of the denial; and [(c)] [(d)] Each subsequent denial shall result in an additional sixty (60) day waiting period[denial].

(13) A person aggrieved by a decision of the cabinet may file a written request for a hearing with the cabinet within fifteen (15) days after receipt of notice of the adverse action. The hearing shall be conducted in accordance with KRS Chapter 13B.

[Section 2.] [Procedures for Authorized Vendors. Authorized vendors shall comply with the Manual for Contracted WIC Vendors.]

[Section 3.] [Incorporation by Reference.]

[(1)] [The following material is incorporated by reference:]

[(a)] ["Kentucky WIC Manual for Applying Retailers", October 2013; and]

[(b)] ["Manual for Contracted WIC Vendors", October 2013.]

[(2)] [This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.]

FILED WITH LRC: June 9, 2026

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

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**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
(As Amended at ARRS, June 9, 2026)**

902 KAR 18:061. Vendor violations and sanctions.

RELATES TO: 194A.050, 194A.505, 194A.990, 7 C.F.R. Part 246, 278.6, 21 U.S.C. 802

STATUTORY AUTHORITY: KRS 194A.050, 211.180[211.090(3)], 7 C.F.R. Part 246, 42 U.S.C. 1786

NECESSITY, FUNCTION, AND CONFORMITY: 42 U.S.C. 1786 and 7 C.F.R. Part 246 authorize/provide [for] grants for state operation of the Special Supplemental Nutrition Program for Women, Infants[,] and Children (WIC). KRS 194A.050(1) authorizes the Cabinet for Health and Family Services to promulgate administrative regulations as necessary to qualify for the receipt of federal funds. KRS 211.180(1)(e) and (f) authorize the cabinet to promulgate administrative regulations for the health of expectant mothers, infants, and preschoolers, and the improvement of health through better nutrition. This administrative regulation establishes the vendor violations and sanctions for the Kentucky Special Supplemental Nutrition Program for Women, Infants and Children (WIC).

Section 1. Vendor Violations and Sanctions.

(1) In addition to any criminal penalty imposed pursuant to KRS 194A.990, the cabinet shall impose one (1) or more of the following civil sanctions for established/designated violations committed by a vendor or[,] his or her employee[,] or agent:

(a) Failure of a vendor to meet the authorization criteria in 902 KAR 18:050:

- 1. First occurrence: a sixty (60) day disqualification or non-renewal;
- 2. Second occurrence: a ninety (90) day disqualification or non-renewal; or
- 3. Third and subsequent occurrences: a 120 day disqualification or non-renewal;

(b) Failure of a vendor to pay a claim. The state WIC agency

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shall request payment by[as follows]:

1. Written communication[Mail a letter] to the vendor requesting payment by a stated[specified] date;

2. If payment is not received by the stated[specified] date, the state WIC agency shall contact the vendor by either email or telephone, reminding vendor of payment due;

3. If payment is not received within fifteen (15) days of the stated[specified] date, the state WIC agency shall send a second letter by certified mail, return receipt requested, of past due claim; and

4. If payment is not received by the deadline stated[specified] in the second letter, then the following disqualification shall be issued:

a. First occurrence: a six (6) month disqualification; or

b. Second occurrence and subsequent occurrences: a one (1) year disqualification from the WIC program;

(c) Failure of a vendor to return the POS device[WIC vendor authorization stamp and XAC device] (if applicable). The state WIC agency shall request return[receipt] of the POS[stamp and XAC] device (if applicable) by[as follows]:

1. Written communication[Mail a certified letter] to the vendor requesting return of the POS[vendor stamp and XAC] device (if applicable) within seven (7) days of disqualification or termination;

2. If the POS[vendor stamp and XAC] device (if applicable) is[are] not received, the state WIC agency shall contact the vendor by either email or telephone, reminding the vendor that the POS device (if applicable) is[of the vendor stamp and XAC device (if applicable) being] due; and

3. If the POS device (if applicable) is[stamp and XAC device (if applicable) are] not returned within seven (7) days of the effective date of termination or disqualification, then an additional six (6) month disqualification shall be issued;

(d) Store personnel requesting the PIN: two (2) positive buys out of three (3) shall result in a one (1) year disqualification;

(e) Using the integrated or WIC POS[XAC] device Cash-Value[Cash-Value] Benefits (CVB) functionality to provide non-produce food item(s): two (2) positive buys out of three (3) shall result in a one (1) year disqualification from the WIC program;

(f) Providing free merchandise exclusively to WIC participants as an incentive to redeem WIC benefits: one (1) positive buy out of three (3) shall result in a six (6) month disqualification;

(g) Public notice by a WIC vendor of providing free merchandise exclusively to participants as an incentive to redeem WIC benefits: one (1) occurrence shall result in a six (6) month disqualification;

(h) Conviction of trafficking in WIC benefits or selling a firearm, ammunition, an explosive, or controlled substance, as defined by[in] 21 U.S.C. 802, in exchange for a food instrument: one (1) positive buy shall result in a permanent disqualification;

(i) Trafficking in WIC benefits or selling a firearm, ammunition, an explosive, or controlled substance, as defined by[in] 21 U.S.C. 802, in exchange for a food instrument: one (1) positive buy shall result in a six (6) year disqualification;

(j) Sale of alcohol or alcoholic beverage or tobacco product in exchange for a food instrument: one (1) positive buy shall result in a three (3) year disqualification;

(k) Claiming reimbursement for the sale of an amount of a specific supplemental food item, that[which] exceeds the vendor's documented inventory of that supplemental food item for a specific period of time:

1. An inventory audit for a thirty (30) day period, that[which] results in more WIC sales than the documented inventory, shall result in a three (3) year disqualification; or

2. An inventory audit for a ninety (90) day period, that[which] results in more WIC sales than the documented inventory, shall result in a three (3) year disqualification; or

3. An inventory audit for a 180-day period, that results in more WIC sales than the documented inventory, shall result in a three (3) year disqualification;

(l) Charging a participant more for supplemental food than a non-WIC customer is charged or the current shelf price:

1. Two (2) positive compliance buys out of three (3) shall result in a three (3) year disqualification if:

a. The vendor has exhibited a prior pattern of overcharging based upon routine monitoring visits that[which] have resulted in

two (2) letters for price discrepancies; or

b. The vendor has exhibited a pattern of two (2) out of four (4) quarters of low variance in the prior federal fiscal year;

2. The state WIC agency shall:

a. Require a vendor that[who] has received two (2) letters for price discrepancies during the federal fiscal year to receive training provided by the state WIC agency; and

b. Notify a vendor that has exhibited[who exhibits] a pattern of low variance for two (2) or more quarters during the federal fiscal year; and

3. Three (3) positive compliance buys out of three (3) shall result in a three (3) year disqualification for a vendor that[who] does not meet the conditions in subparagraph 1. of this paragraph;

(m) Receiving, transacting, or redeeming food instruments outside of authorized channels, including the use of an unauthorized vendor or unauthorized person: two (2) positive buys out of three (3) shall result in a three (3) year disqualification;

(n) Charging for supplemental food not received by the participant, such as charging for one (1) food item or more listed on the WIC benefits but not purchased by the WIC participant: three (3) positive buys out of three (3) shall result in a three (3) year disqualification;

(o) Providing credit, an IOU, a rain check, a due bill, or a store credit, or providing a nonfood item other than cash, alcohol, tobacco, firearms, ammunition, explosives, or controlled substances, as defined by[in] 21 U.S.C. 802, in exchange for a food instrument[benefits] shall result in the following disqualification: two (2) positive buys out of three (3) shall result in a three (3) year disqualification;

(p) Providing an unauthorized food item or items in exchange for a food instrument: three (3) positive buys out of four (4) shall result in a one (1) year disqualification;

(q) Charging for supplemental food provided in excess of those listed on the food instrument: three (3) positive buys out of four (4) shall result in a one (1) year disqualification;

(r) A vendor that[who] has been disqualified from the SNAP shall be disqualified from the WIC program for the same length of time as the SNAP disqualification; or

(s) A vendor that[who] has been assessed a civil money penalty by SNAP, as established in provided under 7 C.F.R. 278.6, shall be disqualified from the WIC program for the same length of time for which the vendor would have been disqualified from SNAP unless the WIC program determines that disqualification would result in inadequate participant access, in which case a penalty shall not be assessed.

(2) If multiple vendor violations are found during an investigation, the length of the disqualification shall be determined by the most serious violation.

(3) A vendor who has previously received two (2) or more of the mandatory sanctions established[designated] in subsection (1)(h) through (q) of this section, and that[who] receives another sanction for a violation established[designated] in subsection (1)(h) through (q) of this section, shall have the third and all subsequent sanctions be doubled. A civil monetary penalty shall not be assessed for a third or subsequent sanction.

(4) Disqualified vendors,² Even if the decision is later overturned, a disqualified vendor shall not be entitled to receive compensation for revenues lost as a result of a disqualification.

Section 2. Vendor Notification

(1) Except for violations established[identified] in Section 1(1)(a) through (c), (f) through (j), (r), and (s) of this administrative regulation, the state WIC agency shall notify a vendor in writing if an investigation reveals a potential initial violation.

(2) The vendor shall be notified before another violation is documented unless the state WIC agency determines that notifying the vendor would compromise the investigation.

(a) The notification determination shall be made on a case-by-case[case by case] basis based on this administrative regulation.

(b) A notification of a potential initial violation shall not be issued if:

1. The vendor is identified as a high-risk vendor in accordance with 902 KAR 18:090;

2. One (1) or more of the same type of violation occurred within the same federal fiscal year or prior federal fiscal year and the vendor has received prior notification; and

3. Sending a notification letter would divulge the identity of the investigator.

FILED WITH LRC: June 9, 2026

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

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
(As Amended at ARRS, June 9, 2026)**

902 KAR 18:071. Participant access determination and civil money penalty.

RELATES TO: 194A.050, 194A.505, 194A.990, 7 C.F.R. Part 246, 278.6, 21 U.S.C. 802

STATUTORY AUTHORITY: KRS 194A.050, 211.180[244.090(3)], 7 C.F.R. Part 246, 42 U.S.C. 1786

NECESSITY, FUNCTION, AND CONFORMITY: 42 U.S.C. 1786 and 7 C.F.R. Part 246 ~~authorize~~~~provide~~ [for] grants for state operation of the Special Supplemental Nutrition Program for Women, Infants and Children (WIC). KRS 194A.050(1) authorizes the Cabinet for Health and Family Services to promulgate administrative regulations as necessary to qualify for the receipt of federal funds. KRS 211.180(1)(e) and (f) authorize the cabinet to promulgate administrative regulations for the health of expectant mothers, infants, and preschoolers, and the improvement of health through better nutrition. This administrative regulation establishes procedures for WIC vendor disqualification including the participant access determination and civil money penalty.

Section 1. Participant Access Determination.

(1) Except for a violation ~~established~~~~specified~~ in 902 KAR 18:061, Section 1(1)(h) and (i), prior to disqualifying a vendor for a violation ~~established~~~~specified~~ in 902 KAR 18:061, the state WIC agency shall determine if disqualification of the vendor will result in inadequate participant access.

(2) Mileage shall be measured by automobile odometer or geomapping.

(3) The determination and documentation of adequate participant access shall be made based on if the sanctioned vendor using the following criteria:

(a) ~~The sanctioned vendor~~ is located within:

1. A metropolitan area, as defined by the U.S. Office of Management and Budget (OMB) Bulletin No. 23-01[43-04], and there is another authorized vendor located within two (2) miles of the sanctioned vendor; or

2. A nonmetropolitan area and there is another authorized vendor located within seven (7) miles of the sanctioned vendor;

(b) ~~The sanctioned vendor~~ Has redeemed food instruments for ~~WIC nutritional~~~~medical foods~~ or exempt infant formula within thirty (30) days preceding the date of the letter issuing the notice of disqualification, and there is another authorized vendor within the designated mileage as ~~established~~~~defined~~ in paragraph (a) of this subsection ~~that who~~ can supply the products which were previously redeemed; ~~or and~~

(c) ~~The sanctioned vendor~~ Has redeemed food instruments from a minimum number of unique customers within thirty (30) days preceding the date of the letter issuing the notice of disqualification.

1. The ~~following shall be the~~ minimum number of unique customers shall be calculated according to the vendor peer group

system~~[vendor's peer group:]~~

[a.] ~~Class 1: forty (40) or more unique customers;~~

[b.] ~~Class 2: seventy-five (75) or more unique customers;~~

[c.] ~~Class 3: 100 or more unique customers;~~

[d.] ~~Class 4: 200 or more unique customers; or~~

[e.] ~~Class 5: 400 or more unique customers.~~

2. If a sanctioned vendor meets the criteria for unique customers, ~~the state WIC agency shall~~~~then the local agency WIC coordinator or designee shall be consulted to~~ determine if:

a. Conditions exist ~~that which~~ would allow travel using public transportation to another authorized WIC vendor within the designated mileage in paragraph (a)1. of this subsection;

b. Crosswalks exist across multilane highways or railroad tracks if another authorized WIC vendor is located in a metropolitan area; or

c. An impassable mountain or an unbridged river would prevent travel if another authorized WIC vendor is located in a non-metropolitan area.

(4) If the WIC program determines there is adequate participant access, retailers shall be afforded the opportunity to submit written documentation providing evidence of the impact of the adverse action on WIC participants.

(5) If inadequate participant access is determined pursuant to subsection (3) of this section, a civil money penalty shall be assessed for a violation ~~established~~~~listed~~ in 902 KAR 18:061. The civil money penalty shall be calculated in accordance with 7 C.F.R. 246.12(l)(1)(x)~~the procedures outlined in the Manual for Contracted WIC Vendors incorporated by reference in 902 KAR 18:050~~.

(6) The written documentation shall be received by the state WIC agency within fifteen (15) days from the date of receipt of the state WIC agency notification of disqualification. If the written documentation is not received within fifteen (15) days, further consideration shall not be given to participant access.

(7) Upon receipt and the review of the documentation, the WIC program shall send, within thirty (30) days, a written summary of the participant access review to the vendor. The vendor may then request a hearing. The hearing shall be in accordance with 902 KAR 18:081.

Section 2. Civil Money Penalty.

(1) The WIC program may negotiate an installment plan for the collection of a civil money penalty if requested by the vendor in writing prior to the payment due date.

(2) A vendor that fails to pay, partially pay, or timely pay a civil money penalty within the required time frame shall be disqualified for the length of time corresponding to the most serious violation.

FILED WITH LRC: June 9, 2026

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**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
(As Amended at ARRS, June 9, 2026)**

902 KAR 18:081. Local agency fair hearing and vendor hearing process~~[and] administrative review~~~~appeal~~ process.

RELATES TO: KRS ~~Chapter 13B,~~ 15.111, 194A.050, 194A.505, 194A.990, 7 C.F.R. Part 246, 278.6, 21 U.S.C. 802

STATUTORY AUTHORITY: KRS 194A.050, 211.180[244.090(3)], 7 C.F.R. Part 246, 42 U.S.C. 1786

NECESSITY, FUNCTION, AND CONFORMITY: 42 U.S.C. 1786 and 7 C.F.R. Part 246, ~~authorize~~~~provide~~ [for] grants for state

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operation of the Special Supplemental Nutrition Program for Women, Infants and Children (WIC). KRS 194A.050(1) authorizes the Cabinet for Health and Family Services to promulgate administrative regulations as necessary to qualify for the receipt of federal funds. KRS 211.180(1)(e) and (f) authorize the cabinet to promulgate administrative regulations for the health of expectant mothers, infants, and preschoolers, and the improvement of health through better nutrition. This administrative regulation establishes the local agency right to a fair hearing and the vendor right to an administrative review in regard[agency's and vendor's rights to a hearing in regards] to the Kentucky Special Supplemental Nutrition Program for Women, Infants[,] and Children (WIC).

Section 1. Local Agency.

(1) A local agency may request a fair hearing for ~~the following~~ **adverse actions**:

- (a) Denial of a local agency's application;
- (b) Disqualification of a local agency; or ~~and~~
- (c) Any other adverse action that affects a local agency's participation.

(2) The following state WIC agency actions shall not be subject to administrative review via a fair hearing:

- (a) Expiration of the local agency's agreement; and
- (b) Denial of a local agency's application if the state WIC agency has issued a request for bid and followed finance procurement procedures.

(3) The following shall be the effective dates of adverse actions against local agencies:

- (a) Denial of local agency applications shall be effective immediately;
- (b) Adverse actions in subsection (1)(b) and (c) of this section shall be effective no later than sixty (60) days after the date of the notice of adverse action is served by hand delivery or certified mail receipt; and
- (c) Adverse actions that are appealed shall be effective the date that the local agency receives the fair hearing decision.

(4) A local agency may file a request for a fair hearing by electronic mail, hand delivery, or certified mail with the state WIC agency within fifteen (15) days after receipt of notice of the adverse action.

Section 2. Vendor Right to an ~~a Hearing or~~ Administrative Review.

(1) In accordance with 7 C.F.R. 246.18, a vendor aggrieved by a qualifying adverse action may request an administrative review ~~a hearing~~ for ~~the following~~:

- (a) Denial of authorization based on the vendor authorization criteria found in 902 KAR 18:050;
- (b) Termination of an agreement;
- (c) Disqualification in accordance with 902 KAR 18:061; or ~~and~~
- (d) Imposition of a fine or civil money penalty in lieu of a disqualification in accordance with 902 KAR 18:071.

(2) In accordance with 7 C.F.R. 246.18, the following state WIC agency actions shall not be subject to administrative review under this section:

- (a) The validity or appropriateness of the vendor selection criteria for minimum variety and quantity of supplemental foods, business integrity, and current SNAP disqualification or civil money penalty for hardship;
- (b) The validity or appropriateness of the selection criteria for competitive price, including vendor peer group system criteria and the criteria used to identify vendors that are above-50-percent vendors;
- (c) The validity or appropriateness of the participant access criteria and the state WIC agency's participant access determinations;
- (d) The determination to include or exclude an infant formula manufacturer, wholesaler, distributor, or retailer from the list of entities where infant formula can be purchased;
- (e) The validity or appropriateness of the prohibition of incentive items;
- (f) The determination not to notify a vendor in writing if ~~when~~ an investigation reveals an initial violation for which a pattern of violations shall ~~must~~ be established in order to impose a sanction;

(g) The determination that a vendor did not have a policy and program in effect to prevent trafficking and that the ownership of the vendor was not aware of, did not approve of, and was not involved in the conduct of the violation;

- (h) The expiration or non-renewal of a vendor's agreement;
- (i) Disputes regarding food instrument payments and vendor claims; or
- (j) Disqualification of a vendor as a result of disqualification from the SNAP.

(3) A vendor may file a request for an administrative review by electronic mail, hand delivery, or certified mail with the state WIC agency within fifteen (15) days after receipt of notice of the adverse action.

Section 3. Fair Hearing or Administrative Review ~~Appeal~~.

(1) Requests for a fair hearing or an administrative review shall be forwarded by the cabinet to the Office of Administrative Hearings within the Department of Law in accordance with KRS 15.111(2)(g), within two (2) working days of receipt ~~A vendor or local agency may file a written request by hand delivery or certified mail with the state WIC agency within fifteen (15) days after receipt of notice of the adverse action.~~

(2) The fair hearing or an administrative review ~~hearing~~ shall be conducted in accordance with KRS Chapter 13B, except as established in this administrative regulation ~~subject to any specific provisions set forth herein~~.

(3) The hearing or administrative official shall provide notice of the time and place of the fair hearing or administrative review within fifteen (15) days of a request ~~for a hearing, the cabinet shall issue a date of hearing.~~

(4) A request for a fair hearing or administrative review may be dismissed ~~The state WIC agency may dismiss a request for hearing~~ if:

- (a) The request is not received within the time limit established ~~set~~ by this administrative regulation;
 - (b) The request is withdrawn in writing by the appellant or a representative of the appellant; or
 - (c) The appellant or representative fails, without good cause, to appear at the scheduled fair hearing or administrative review.
- (5) To protect the identity of the state WIC agency investigators, cross examinations of these witnesses shall be conducted behind a protective screen or other device in accordance with 7 C.F.R. 246.18(b)(5).

(6) (a) In accordance with 7 C.F.R. 246.18(b)(9), the fair hearing or administrative review official ~~officer~~ shall issue a written recommended order no later than ninety (90) days after the cabinet receives the request for the fair hearing or administrative review, which shall include:

1. The findings of fact;
2. Conclusions of law; and
3. Recommended disposition, including recommended penalties, if any, in accordance with KRS 13B.110.

(b) In accordance with 7 C.F.R. 246.18(b)(8), decisions of the fair hearing or administrative review official shall be based on KRS Chapter 194A, 42 U.S.C. 1786, 7 C.F.R. Part 246, 7 C.F.R. 278.6, or 902 KAR Chapter 18, and the facts of the case as established in the official record ~~of the hearing~~ as established ~~defined~~ in KRS 13B.130.

(c) An official ~~A hearing officer~~ shall not reduce or modify sanctions that are established ~~prescribed~~ by KRS Chapter 194A, 42 U.S.C. 1786, 7 C.F.R. Part 246, 7 C.F.R. 278.6, or 902 KAR Chapter 18.

(7) Exceptions to the official's ~~hearing officer's~~ recommended order shall be filed with or mailed to Cabinet for Health and Family Services, Office of the Secretary, 275 East Main Street, 5W-A, Frankfort, Kentucky 40621.

(8) Each party ~~in the hearing~~ shall have fifteen (15) days from the date the recommended order is mailed within which to file exceptions to the recommended order, as provided in KRS 13B.110.

(9) A party may file a response to an opposing party's exceptions. The response shall be filed within twenty-five (25) days from the date the recommended order is mailed.

(10) Exceptions and responses to exceptions shall be

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considered filed on the date they are received by the cabinet.

(11) Appealing an action shall not relieve an appellant from the responsibility of continued compliance with KRS Chapter 194A, 42 U.S.C. 1786, 7 C.F.R. Part 246, 7 C.F.R. 278.6, or 902 KAR Chapter 18.

(12) The final order shall be issued in accordance with KRS 13B.120.

(13) In accordance with 7 C.F.R. 246.18(e), the state WIC agency shall make denials of authorization and disqualifications imposed under 902 KAR 18:061 effective on the date of receipt of the notice of adverse action.

Section 4. In accordance with KRS 13B.140, any party aggrieved by the final order may seek judicial review of the decision, **Judicial review shall be requested** by filing a petition within thirty (30) days of receipt of final order notice in the Franklin Circuit Court or the circuit court of the county in which the party resides or operates a business.

FILED WITH LRC: June 9, 2026

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**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
(As Amended at ARRS, June 9, 2026)**

902 KAR 18:090. High risk criteria.

RELATES TO: KRS 194A.050, 194A.505, 194A.990, 205.231, 7 C.F.R. Part 246, 278.6, 21 U.S.C. 802

STATUTORY AUTHORITY: KRS 194A.050, 205.231, 211.180[244.090(3)], 7 C.F.R. Part 246, 42 U.S.C. 1786

NECESSITY, FUNCTION, AND CONFORMITY: 42 U.S.C. 1786 and 7 C.F.R. Part 246 **authorize[provide]** [for] grants for state operation of the Special Supplemental Nutrition Program for Women, Infants[,] and Children (WIC). KRS 194A.050(1) authorizes the Cabinet for Health and Family Services to promulgate administrative regulations as necessary to qualify for the receipt of federal funds. **KRS 211.180(1)(e) and (f) authorize the cabinet to promulgate administrative regulations for the health of expectant mothers, infants, and preschoolers, and the improvement of health through better nutrition.** This administrative regulation establishes the high-risk criteria for contracted **vendors[retailers]** with the Kentucky Special Supplemental Nutrition Program for Women, Infants and Children (WIC).

Section 1. High Risk Criteria. In accordance with 7 C.F.R. 246.12, high-risk vendors shall be identified at least once each federal fiscal year. The criteria and points established in this section shall be assessed.

(1) A vendor with low variance[, as defined by 902 KAR 18:014, Section 4,] shall be assessed **one (1) point[five (5) points]** per quarter.

(2) [A vendor who has greater than or equal to twenty (20) percent but less than fifty (50) percent of the vendor's quarterly WIC transactions ending in whole dollar amounts shall be assessed five (5) points per quarter. The transactions shall not include produce and formula.]

[(3)] [A vendor who has greater than or equal to fifty (50) percent of the vendor's quarterly WIC transactions ending in whole dollar amounts shall be assessed ten (10) points per quarter. The

transactions shall not include produce and formula.]

[(4)] A vendor **that redeemed[in which]** six (6) or more gallons of milk [**were redeemed**] in a single transaction, occurring in thirty (30) or more transactions a quarter, shall be assessed five (5) points per quarter.

[(3)][(5)] A vendor with full package redemptions in one (1) transaction occurring in twenty (20) or more transactions per quarter shall be assessed five (5) points per quarter.

[(4)][(6)] [A vendor shall be assessed ten (10) points for every overcharge letter unless the overcharge is justified in writing and accepted by the state WIC agency.]

[(7)] A vendor with a lack of inventory[, as outlined in the Kentucky WIC Manual for Applying Retailers, incorporated by reference in 902 KAR 18:050,] shall be assessed five (5) points per occurrence during a monitoring visit.

[(5)][(8)] A vendor **with[whose]** prices for transactions [**are**] greater than or equal to ninety (90) percent **and** above the NTE shall be assessed five (5) points per quarter.

[(6)][(9)] [A vendor whose percentage of WIC sales to food sales is greater than twenty (20) percent shall be assessed five (5) points for every ten (10) percent increment per federal fiscal year.]

[(10)] A vendor **that[who]** has redeemed more than \$10,000[\$2,000] in transactions per federal fiscal year from out of its contracted **local WIC** agency shall receive one (1) point per federal fiscal year.

[(7)][(11)] A vendor **that[who]** received a Good Letter with Exceptions shall be assessed five (5) points per letter.

Section 2. High Risk Referrals. A vendor [**who is**] assessed thirty (30) points or more per federal fiscal year shall be referred to a federal **agency**, state **agency**, or local law enforcement agency for **an[a compliance]** investigation.

FILED WITH LRC: June 9, 2026

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**CABINET FOR HEALTH AND FAMILY SERVICES
Office of Inspector General
(As Amended at ARRS, June 9, 2026)**

**902 KAR 20:150. Freestanding Birthing Centers.
[Alternative birth centers.]**

RELATES TO: KRS 211.848, 214.155, KRS 216.530, 216B.010-216B.130, 216B.990(1), (2), 216B.198, KRS 304.5-070, 42 U.S.C. 299b-22(a)

STATUTORY AUTHORITY: KRS 216B.042 [**216B.105**], [KRS 216B.198]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 **requires [and 216B.105 mandate that]** the [Kentucky] Cabinet for Health and Family Services [Human Resources] **to promulgate administrative regulations establishing requirements necessary for the proper administration of the licensure function for [regulate] health facilities and health services. KRS 216B.198 requires the cabinet to promulgate administrative regulations establishing requirements relating to freestanding birthing centers.** This administrative regulation **establishes [provides for the] licensure requirements for the operation, [and services, and facility specifications of freestanding birthing centers [alternative birth centers].**

Section 1. Definitions.

(1) " Cabinet" means the Cabinet for Health and Family Services. ~~Center" means alternative birth center.-]~~

(2) "Freestanding birthing center" (FSBC or center) ~~(center)-]is defined in KRS 216B.198.~~

(3) "Low risk" means a normal, uncomplicated prenatal course as determined by adequate prenatal care and prospects for a normal, uncomplicated birth including criteria recognized by the Commission for the Accreditation of Birth Centers (CABC), [American College of Obstetrics and Gynecologists in their Standards for Obstetric Gynecologic Services, as amended.-]

Section 2. Scope of Operations and Services. Freestanding birthing centers [Alternative birth centers-] shall be [are] establishments with permanent facilities, which provide prenatal care to low risk childbearing women. A freestanding birthing center [An alternative birth center-] shall provide [provides-] a home like environment for pregnancy and childbirth and:

(1) Shall include [including-] prenatal, labor and [-] delivery; [-] and

(2) May include prenatal and postpartum care related to medically uncomplicated pregnancies.

Section 3. Administration and Operation.

(1) Licensee.

(a) The licensee shall be responsible for the management and operation of the center and for compliance with federal, state, and local laws and regulations pertaining to its operation.

(b) The licensee shall appoint an administrator whose qualifications, responsibilities, authority, and accountability shall be defined in writing.

~~(c) [Each center shall be accredited and show proof of accreditation by American College of Obstetricians and Gynecologists (ACOG)-].~~

~~(d) Each center shall be accredited and show proof of accreditation by the Commission for the Accreditation of Birth Centers.~~

~~(e) The center shall obtain and maintain professional medical malpractice insurance, in accordance with [as defined in-]KRS 304.5-070.~~

~~(f) Requirement for Service. A center shall not be licensed or relicensed as a center, unless the facility meets the requirements of this administrative regulation.~~

~~(g) Facilities that have [fewer than-]four (4) beds or fewer shall be exempt from Certificate of Need requirements.~~

~~(h) Licensed facilities shall follow general licensure and fee requirements, in accordance with [regulations as laid out in]902 KAR 20:008.~~

(2) Administrator.

(a) The administrator shall be responsible for the daily management and operation of the center.

(b) In the absence of the administrator, responsibility shall be delegated to a similarly qualified staff person.

(3) Administrative records and reports.

(a) Administrative reports shall be established, maintained, and utilized as necessary to guide the operation, measure productivity, and reflect the program of the center. ~~These [Such-] reports shall include financial records and reports, personnel records, inspection reports, and other pertinent reports made in the regular course of business.~~

(b) Licensure inspection reports and plans of correction shall be made available at the center to the public upon request.

(4) Policies.

(a) Administrative policies. The licensee shall adopt written administrative policies covering all aspects of the center's operation, and shall [to-] include:

1. A description of the organizational structure, staffing, and allocation of responsibility and accountability;

2. A description of referral linkages with providers and [physician(s)-], inpatient facilities [and other providers-];

3. Policies and procedures for the guidance and control of personnel performances;

4. A description of services included in the center's program;

5. A description of the administrative and patient care records

and reports;

6. A policy approved by the medical director to specify emergency medical procedures;

7. A policy approved by the medical director, which fully identifies the criteria that [which-] would exclude a patient [pregnant woman or mother-] from the center's program; and

8. A policy approved by the medical director, which fully identifies the criteria that [which-] would preclude management of newborns at the center.

(b) Patients' rights policies. The licensee shall adopt written policies regarding the rights and responsibilities of patients.

1. These [patients' rights-] policies shall assure that each patient is:

a. [1- is-] Informed of these rights and of all rules and administrative regulations governing patient conduct and responsibilities, including a procedure for handling patient grievances;

b. [2- is-] Fully informed of the services and treatment offered at the center and of related charges, separately identifying those charges not covered by third party payor arrangements;

c. [3- is-] Encouraged and assisted to:

(i) Understand and exercise [her-] patient rights;

(ii) [and to this end may-] Voice grievances; and

(iii) Recommend changes in policies and services; [-]

d. [Upon the patient's request the grievances and recommendations will be conveyed within a reasonable time to an appropriate decision making level within the organization which has the authority to take corrective action-];

~~[4- is-] Assured confidential treatment of the patient's [her-] records and afforded the opportunity to approve or refuse [their-] release of these records to any individual not involved in the patient's [her] care, except as required by law or third party payment contract; and~~

~~e. [5- is-] Treated with consideration, respect, and full recognition [recognition-] of the patient's [her-] dignity, [and-] individuality, and [including-] privacy in treatment.~~

2. Upon the patient's request, grievances and recommendations shall be conveyed within a reasonable time to an appropriate decision making level within the organization, which has the authority to take corrective action.

(5) Staffing.

(a) The center shall have a staff that includes:

1. A medical director [-] and [-];

2. [(b)-] At least one (1) Licensed Certified Professional Midwife (LCPM) or Advanced Practice Registered Nurse designated certified nurse-midwife licensed under KRS 314; and [-]

3. [(c)-] Two (2) people certified [trained-] in the Neonatal Resuscitation Program (NRP), which shall include at minimum two (2) licensed midwives [two (2) nurse midwives-] or a licensed midwife and an [a-] NRP certified [trained birth]assistant [and at least one (1) registered nurse. In centers where an obstetrician provides perinatal care, a nurse-midwife is not required-]; and [-]

4. [The center shall employ such-] Other staff or ancillary personnel [that are-] necessary to provide the services essential to the center's operation.

(b) Staffing schedules, time worked schedules, and on-call records shall be maintained for three (3) years and shall be available in the center at all times during that period. [These records shall be maintained for three (3) years.-]

(c)

1. Medical director.

a. The center shall have a medical director who is a licensed physician and who meets the statutory requirements delineated in KRS 216B.198(3)(a) [with experience in obstetrics and newborn care. If the medical director is not a practicing board-eligible or board-certified obstetrician, the center shall have a written agreement with a board-eligible or board-certified obstetrician and pediatrician for consultation, referral, and, if necessary, hospital admission. If the medical director is a practicing obstetrician or a practicing board-eligible or board-certified obstetrician, the center shall have a written agreement with a board-eligible or board-certified pediatrician. Either the medical director, consultant obstetrician or pediatrician shall

have admitting privileges in a local hospital which offers obstetrics services.]

b.

(i) The medical director position shall ~~[- a-]~~ not be vacant for a time period in excess of ninety (90) days. ~~[- and-]~~

(ii) ~~[- b-]~~ **If the birth center is unable to fill the vacancy within ninety (90) days, the birth center may submit a written request for an extension to the Inspector General. The Inspector General may grant an extension of up to ninety (90) days after considering all relevant factors, included those listed in Section 8(5). The birth center may file an appeal pursuant to Section 5 [(4)(b)3.b-] can document that it has been making a good faith attempt to fill the medical director vacancy, an extension may be given to the facility by the Inspector General on a case-by-case basis]**

~~[- c.] [Meet statutory requirements delineated in KRS 216B.198(3)(a)-]~~

2. ~~[- d-]~~ In the interim absence of a medical director, a Certified Nurse Midwife (APRN CNM) licensed by KRS 314.042 [and within their scope of practice] may temporarily fulfill the duties of the medical director, within their scope of practice.

3. Licensed Certified Professional Midwife (LCPM) or Advanced Practice Registered Nurse designated certified nurse midwife (APRN CNM) [Nurse-] [Midwife-] [Nurse-]

a. Midwife services shall be provided within the respective scope of practice pursuant to KRS Chapter 314 and **201 KAR Chapter 20 [administrative regulations promulgated thereunder-]**.

b. There shall be written **policies of the birthing center [protocols-]**:

(i) Developed by the ~~[- nurse-midwife and-]~~ medical director and licensed midwives; and

(ii) Approved by the medical director.

c. These **policies [protocols-]** shall be reviewed **annually [-]** and revised, signed, and dated as necessary ~~[- on an annual basis -]~~.

(6) ~~[- (b)-]~~ In-service training. The licensee shall provide proof of ongoing in-service training programs [for all personnel relating to their respective job activities-] required by their respective professional licensure boards [These programs shall emphasize professional competence and the human relationship necessary for effective health care-].

(7) Personnel.

(a) The licensee shall establish personnel policies for the center. These policies shall be reviewed, revised, and approved on an annual basis.

(b) There shall be an individual personnel record for each person employed by the center, which shall include the following.

Evidence of:

1. ~~[- Evidence of -]~~ Compliance with 902 KAR 20:205; [-] ~~[- Preemployment and annual physical examination to include a tuberculin skin test or chest x-ray and rubella antibody titer. No employee with direct patient contact having an infectious disease shall appear at work until the infectious disease can no longer be transmitted;-]~~

2. ~~[- Evidence of -]~~ Education, training, and experience of the individual, along with a copy of the current license or certification credentials, if applicable; and

3. Completion of new employee [Evidence that employees have received] orientation about [to-] the center's personnel policies and emergency medical procedures during the first week of employment.

(8) [Staffing-]

~~[- (a)] [The center shall have a staff that includes a medical director, at least one (1) nurse midwife and at least one (1) registered nurse. In centers where an obstetrician provides perinatal care, a nurse midwife is not required. The center shall employ such other staff or ancillary personnel that are necessary to provide the services essential to the center's operation. Staffing schedules, time worked schedules and on-call records shall be maintained and available in the center at all times. These records shall be maintained for three (3) years. 1. Medical director. The center shall have a medical director who is a licensed physician with experience in obstetrics and newborn care. If the medical director is not a practicing board-eligible or board-certified obstetrician, the center~~

~~shall have a written agreement with a board-eligible or board-certified obstetrician and pediatrician for consultation, referral, and, if necessary, hospital admission. If the medical director is a practicing obstetrician or a practicing board-eligible or board-certified obstetrician, the center shall have a written agreement with a board-eligible or board-certified pediatrician. Either the medical director, consultant obstetrician or pediatrician shall have admitting privileges in a local hospital which offers obstetrics services-]~~

~~[- (b)] [In-service training. The licensee shall provide ongoing in-service training programs for all personnel relating to their respective job activities. These programs shall emphasize professional competence and the human relationship necessary for effective health care-]~~

(9) Medical records. The center shall maintain a medical record for pregnant women and mothers and shall [to-] include at least the following:

(a) Prenatal history, **including [to include-]** any physical or health problems;

(b) Past medical, menstrual, obstetric, contraceptive, and immunization history, including progress of current pregnancy;

(c) Complete initial physical examination, including:

1. Blood pressure, weight, **and height measurements; and**
2. ~~[-]~~ Examination of skin, eyes, teeth, throat, neck, thyroid, breasts, heart, lungs, abdomen, height of fundus, fetal position and auscultation, ~~[- pelvic adequacy, including rectum and size of uterus,-]~~ fetal heart sounds, edema; ~~[-]~~ and

3. Determination of gestational age;

(d) Initial laboratory tests, **including:**

1. ~~[- to include-]~~ Hemoglobin or hematocrit and white blood count;

2. ~~[-]~~ ~~[- urinalysis for sugar and protein determination, pap smear,-]~~ Serologic tests for syphilis and rubella antibody titer;

3. ~~[-]~~ Blood type;

4. ~~[-]~~ Rh factors and screen for Rh and irregular antibodies; ~~[-]~~ ~~[- when indicated, tuberculin skin test and chest x-ray or evidence of physician follow-up when skin test is positive, sickle cell test when indicated-]~~ and

5. Gonorrhea culture;

(e) Nutritional assessment;

(f) High risk identification and referral;

(g) Records of subsequent visits with recorded:

1. Weight **and** ~~[-]~~ blood pressure;

2. ~~[-]~~ ~~[- urinalysis for protein, sugar,-]~~ Height of fundus;

3. ~~[-]~~ Abdominal findings on palpation;

4. Rate and location of fetal heart tones;

5. ~~[-]~~ Estimation of gestational age;

6. ~~[-]~~ Edema;

7. ~~[-]~~ Unusual signs;

8. ~~[-]~~ Symptoms **of [or-]** quickening;

9. ~~[-]~~ ~~[- Follow-up [third trimester-] hemoglobin or hematocrit; and~~

10. ~~[-]~~ ~~[- repeat venereal disease test,-]~~ Rh and irregular antibody screen for Rh negative unsensitized women; ~~[- and repeat antibody titers at twenty-six (26) weeks, thirty-two (32) weeks, and thirty-six (36) weeks;-]~~

(h) **Physical [Parturient initial record of intercurrent problems, physical-] examination including:**

1. ~~[-]~~ Temperature, pulse, respiration, **and** blood pressure **measurements;**

2. ~~[- and-]~~ ~~[- head, heart, lungs, abdomen for lie-]~~ Presentation position;

3. ~~[- and-]~~ ~~[- fundal height-]~~ Engagement; **and**

4. ~~[-]~~ ~~[- reevaluation of pelvic adequacy,-]~~ Recording of time of ruptured membranes ~~[- record of hemoglobin or hematocrit and urine for protein and sugar-]~~;

(i) Progress of labor, monitoring of contractions and fetal heart rate, dilation, effacement, station, urinary output, medications, complications, and action taken;

(j) Delivery time, newborn's Apgar score, **laceration [episiotomy-]**, placenta delivery time, medications given, abnormalities, and any complications **and [along with-]** actions taken;

(k) Puerperium-time records, ~~[- for at least six (6) hours,-]~~ including postpartum blood pressure, respirations, pulse, temperature, urine output, ~~[- report of breasts and-]~~ breastfeeding status ~~[- legs for thrombophlebitis, hemoglobin or hematocrit-]~~.

appropriate RhD immune globin administration at the center, and ;
]record of follow-up assessment within seventy-two (72) hours; and

(l) A four (4) to six (6) week follow-up examination, including [to include]record of weight, blood pressure, breast, abdominal, and [pelvic including rectal examination,]appropriate cervico vaginal cytologic study [; hematocrit or hemoglobin, and urinalysis].

(10)

(a) A health report of the newborn shall be maintained and shall include the following:

1. [(a)] Duration of ruptured membranes;

2. [(b)] Maternal antenatal blood serology, rubella titer, blood type, Rh factors and if [when] indicated, a Coombs Test;

3. [(c)] [Complete] Description of the progress of labor and delivery, [including complications, if any];

4. [(d)] Condition of the newborn infant, including the Apgar score, resuscitation, time of sustained respirations, if [(where)] indicated, details of physical abnormalities, pathological states observed, and treatments given before transfer to higher level of care [appropriate nursery]];

5. [(e)] Any abnormalities of placenta and cord vessels;

6. [(f)] Date and hour of birth, birth weight, sex, and period of gestation;

7. [(g)] Written verification of eye prophylaxis [pursuant to 902 KAR 4:020 () or documentation of refusal based on religious belief with parent signature ()];

8. [(h)] Report of initial physical examination, including any abnormalities;

9. [(i)] Discharge physical examination including weight, head circumference and body length, unless previously recorded, recommendations and designation of responsible care provider [physician] for care [immediately] upon discharge; [and thereafter; and]

10. [(j)] Progress notes describing [first and subsequent] feedings [type], [time of first] voiding, stools passage, body temperature, medication administration; and [Vitamin K prophylaxis,]

11. [(k)] Newborn screening in accordance with KRS 214.155 and 902 KAR 4:030, [blood metabolic screen for phenylketonuria and hypothyroidism, galactosemia] [() documentation of parental refusal for religious reasons, including parent signature in record ()], notations of abnormal respiratory rate, dyspnea, color, cyanosis, periodic pallor, lethargy, vomiting, condition of eyes, umbilical cord, and other relevant factors as indicated by the condition of the newborn.

(b) If postnatal care is not provided at the FSBC, the FSBC shall [must] document the coordination of postnatal care with qualified staff. Postnatal care coordination is expected to be in place within forty-eight (48) hours.

[(11)] [In the event emergency hospital care is needed during the pregnancy, delivery, or postdelivery period, the pregnant woman or mother's record or a complete copy of the record must accompany the pregnant woman or mother or newborn at the time of transfer.]

[(12)] [All health records shall be safeguarded against loss, destruction or unauthorized use.]

(13) Patient records of mother and newborn shall be maintained at the center for five (5) years, or in case of a minor mother, three (3) years after the patient reaches the age of majority under state law, whichever is the longest.

(14) An up-to-date register of all deliveries shall be maintained and contain the following information:

(a) Infant's full name, sex, date, time of birth, and weight;

(b) Mother's full name, including maiden name, address, birthplace, and age at time of the [this] birth;

(c) Father's full name, birthplace, and age at time of the [this] birth, if provided; and (d) Full name of provider [attending physician or nurse-midwife].

(15) A certificate of birth shall be filed in accordance with [the provisions of] KRS Chapter 213 and 901 KAR Chapter 5 [administrative regulations promulgated thereunder]. [(14) Linkage agreements. The center shall have linkages through written agreements with providers of other levels of care which may be medically indicated to supplement the services

available in the center. These linkages shall include:]

[(a)] [Hospital(s);]

[(b)] [A board eligible or board-certified obstetrician and pediatrician unless the medical director is a practicing board-eligible or board-certified obstetrician;]

[(c)] [A board eligible or board-certified pediatrician if the medical director is a practicing obstetrician or a practicing board-eligible or board-certified obstetrician;]

[(d)] [Registered pharmacist; and]

[(e)] [Licensed emergency medical transportation services with appropriate equipment for transporting pregnant] [woman/] [mother and infant.]

Section 4. Provision of Services.

(1) Medical services.

(a) Perinatal services shall be available twenty-four (24) hours a day, seven (7) days a week, on an on-call basis.

[(b)] [There shall be sufficient staff coverage for all aspects of the center in keeping with the size and scope of the operation.]

(2) Staffing. [Nursing services.]

(a) A licensed midwife [nurse-midwife] or physician and a member of the FSBC clinical staff [registered nurse] shall be on duty at all times if [when] a patient [pregnant woman] is laboring in the center. A member of the center's clinical staff [registered nurse] shall be present at all times if [when] a patient is [woman or mother and newborn are] at the center. The clinical staff member [registered nurse] shall have at least one (1) year of perinatal experience.

(b) The center shall ensure [insure] that a mechanism is in place to receive calls [phones are answered] twenty-four (24) hours a day, seven (7) days a week, [in order] to alert the on-call staff. Telephone numbers of emergency services and staff shall be posted by all telephones in large legible print.

(3) [Laboratory services.]

[(a)] [The center shall provide laboratory services either directly, through arrangement with a laboratory in a licensed hospital or a medical laboratory licensed pursuant to KRS Chapter 333. If laboratory services are provided directly, the laboratory shall be licensed pursuant to KRS Chapter 333.]

[(b)] [If services are provided through arrangement with other providers, a copy of the signed and dated report shall be included in the patient's medical record. Laboratory tests conducted at the center shall be entered in the patient's record, dated, and signed by the individual performing the test.]

[(c)] [Centers shall follow all requirements as set forth in KRS 214.155.]

(4) Radiology services. [Radiology services shall be provided directly or through arrangement. The radiology service and personnel shall have a current license or registration pursuant to KRS 211.848] [KRS 211.842 and 211.890] [and any administrative regulations promulgated thereunder, as applicable.] A signed and dated report of any radiology examination shall be entered into the patient's [pregnant woman's or mother's] record.

(5) Drug distribution.

(a) There shall be a list approved by the medical director of all drugs and biologicals, including intravenous solutions [that] [which] are retained for use in the center.

(b) The list of drugs and biologicals shall include the identity of center staff authorized to administer the drugs, biologicals, and intravenous solutions. Oxytocic drugs shall not be used to induce or augment labor.

(c) Drugs and biologicals shall be administered only by persons legally authorized. (d) A medication shall only be administered by a:

1. Registered nurse;

2. Physician;

3. [Physician [Physicians] Assistant;

4. Advanced Practice Registered Nurse; [or]

5. Licensed Practical Nurse under the supervision of a registered nurse; or

6. Licensed Certified Professional Midwife;

(d) Drugs and biologicals shall be stored in a locked cabinet and, if [when] refrigeration is necessary, they shall be stored in a locked

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container in a refrigerator.

Section 5.

(1) Except for a health facility subject to KRS 216.530, a licensure inspection may be unannounced.

(2)

(a) A representative of the Office of Inspector General shall have access to the health facility pursuant to KRS 216B.042(2).

(b) An applicant for licensure or a current licensee shall not deny access to a representative of the Office of Inspector General, after proper identification, for [to make an] inspection to determine [for determining] compliance with [the requirements of each applicable administrative regulation for which the health facility or health service is licensed under] 902 KAR Chapter 20 or 906 KAR Chapter 1.

(c)

1. Denial of access to the following shall result in disciplinary action, including denial, revocation, modification, or suspension of the license of the health facility or health service:

a. [including] Any effort to delay, interfere with, or obstruct an effort by a representative of the Office of Inspector General to enter the health facility or health service; [or]

b. Denial of [deny] access to records relevant to the inspection, unless deemed confidential by 42 U.S.C. 299b-22(a) [shall result in disciplinary action, including denial, revocation, modification, or suspension of the license of the health facility or health service].

2. Denial, revocation, modification, or suspension of a health facility's or health service's license shall be subject to appeal pursuant to KRS 216B.105.

(3) An inspection of a health facility or health service licensed under 902 KAR Chapter 20 or 906 KAR Chapter 1 shall comply as follows:

(a) The inspection shall be made at any time during the licensee's hours of operation;

(b) The inspection shall be limited to ensure compliance with the standards set forth in 902 KAR Chapter 20, 906 KAR Chapter 1, KRS Chapter 216, or KRS Chapter 216B; and

(c) The inspection of a health facility or health service based on a complaint or a follow-up visit shall not limit the scope of the inspection to the basis of the complaint or the implementation of a plan of correction.

Section 6. Compliance with Building Codes, Ordinances and Regulations.

(1) [Nothing stated herein shall relieve] The licensee shall comply [from compliance] with building codes, ordinances, and administrative regulations that [which] are enforced by city, county, or state jurisdiction.

(2) The following requirements shall apply, if applicable and as adopted by the respective agency authority. Requirements for:

(a) [Requirements for] Safety, pursuant to 815 KAR 10:060 [815 KAR 10:020] [as amended];

(b) [Requirements for] Plumbing, pursuant to 815 KAR 20:010 through 191 [as amended]; and

(c) [Requirements for] Making buildings and facilities accessible to and usable by a person with a disability [the physically handicapped], pursuant to KRS 198B.260 and 815 KAR Chapter 7 [administrative regulations promulgated thereunder].

(3) The facility shall be currently approved by the Fire Marshal's Office, in accordance with the Life Safety Code, before licensing or licensure is granted by the licensing agency.

(4) All facilities shall receive any necessary approval from appropriate agencies prior to occupancy and licensure.

Section 7. Clinical Facilities.

(1) [Examination room(s). At least one (1) examination room shall be provided. Each room shall have a minimum clear floor area of eighty (80) square feet, excluding such other spaces as vestibule, toilet, closet, and work counter. Arrangement shall permit at least thirty (30) inches of clear space at each side and at the foot of examination table. A lavatory or sink with

handwashing facility and counter or shelf space for writing shall be provided.]

(2) Patient [Birthing] rooms [room(s)]. Each patient room shall be private. [There shall be at least two (2) birthing rooms each] with a minimum clear floor area of 120 [225] square feet, excluding [exclusive of] fixed and movable cabinets and shelves and with a minimum dimension of fifteen (15) feet.

(3) Each private patient [birthing] room shall be equipped with the following:

(a) Adequate lighting, including a spotlight suitable for use during delivery;

(b) [Infant warmer with radiant heat source;]

(c) Resuscitation equipment for mother and infant;

(d) Oxygen with a selection of mask sizes; and

(e) Suction equipment for mother and newborn. [;]

[(f)] [Intubation equipment for mother and newborn; and]

[(g)] [Wall clock with a second hand.]

(4) The service areas for the birthing room shall include:

(a) Proper sterilization equipment used for the sterilization of birth instruments [Sterilizing facilities with high speed autoclave(s) conveniently located to serve all birthing rooms];

(b) A lavatory or a sink for handwashing shall be included in every patient's room. [Adequate access to sinks for handwashing should be available] [Scrub facilities provided near the birthing room entrance];

(c) A separate and enclosed area dedicated only [clean holding room] for storage and distribution of clean supply materials; and

(d) A separate and enclosed area dedicated only [soiled holding room as part of a system] for the collection and disposal of soiled materials.

(5) [(5) Formula room. The following shall be provided unless commercially prepared formula is used:]

[(a)] [Work counter with built-in sink with gooseneck-type spout and knee or foot control;]

[(b)] [Lavatory;]

[(c)] [Hot plate;]

[(d)] [Refrigerator;]

[(e)] [Sterilizer (autoclave); and]

[(f)] [Bottle washer.]

(6) Physical and sanitary environment.

(a) The condition of the physical plant and the overall center environment shall be maintained so [in such a manner] that the safety and well being of patients, personnel, and visitors are assured [assure].

(b) A person or persons shall be designated as responsible for each of the following areas:

- 1. Plant maintenance;
- 2. Housekeeping; and
- 3. Laundry operations, [(if applicable)].

(c) The center shall develop written infection control policies and procedures to minimize and control possibilities of infection, which shall include:

- 1. The sterilization of supplies;
- 2. Policies for the protection of patients from employees who have a communicable disease; and
- 3. Infection control measures, including birth room cleaning and waste disposal.

(d) The center building, equipment, and surroundings shall be kept in a condition of good repair, neat, clean, free from all accumulations of dirt and rubbish, and free from foul, stale or musty odors.

1. Written housekeeping procedures shall be established for cleaning of all areas and copies shall be made available to personnel.

2. Equipment and supplies shall be provided for cleaning of all surfaces. This [Such] equipment shall be maintained in a safe, sanitary condition.

3. Hazardous cleaning solutions, compounds, and substances shall be labeled, stored in proper containers, and kept separate from other cleaning materials.

(e) The center shall have available at all times a quantity of linen essential to the proper care and comfort of patients.

1. Linens shall be handled, stored, and processed so as to

control the spread of infection.

2. Clean linen and clothing shall be stored in a separate and enclosed, clean, dry, dust-free areas designated exclusively for this purpose.

3. Soiled linen and clothing shall be placed in suitable bags or closed containers and stored in a separate and enclosed area designated exclusively for this purpose.

(f) The center shall have an emergency source of lighting for exam, labor, and birthing rooms to protect the health and safety of the pregnant woman or mother if the normal supply is interrupted.

(g) The center shall establish a written policy for the handling and disposal of waste materials. Any incinerator used shall be in compliance with 401 KAR 59:020 or 401 KAR 61:010, as applicable.

Section 8. Transfer and Transport Agreements. [Emergency Care.]

(1) As required by KRS 216B.198, a center shall enter into a written agreement with a Kentucky-licensed acute-care hospital that provides obstetrics services and a local, Kentucky-licensed Class I ambulance service for the transport and treatment of a patient with unforeseen complications related to labor and delivery.

(2) Each written agreement shall be filed with the cabinet pursuant to KRS 216B.198 within ten (10) business days of finalization.

(3) A transfer agreement between the center and a Kentucky-licensed acute-care hospital shall:

(a) Be with a hospital located:

[1.] In the same or contiguous county as the facility; or

[2.] Within no further than thirty (30) miles normal driving time from the center;

a. Be a legally binding contractual document;

(b) Be signed by individuals authorized to execute the agreement on behalf of the center and hospital, who shall certify they have this authority;

(c) Require transfer of a patient, if deemed medically necessary by the provider attending to the patient;

(d) Identify responsibilities of the center in which the center shall, at a minimum:

1. At the time of transfer, provide the hospital with complete and accurate information regarding the patient being transferred to the hospital;

2. Notify the hospital of the impending transfer of a patient and receive confirmation of the availability of appropriate facilities, services, and staff necessary for the care of the patient;

3. At the time of transfer, provide the hospital with copies of relevant portions of the patient's clinical record;

4. Transfer with the patient, the patient's medical records, demographic information, insurance information, and other information deemed necessary or otherwise required by law to facilitate the provision of medical care when the patient arrives at the hospital; and

5. Arrange for the immediate transfer of the patient's personal effects, including a document listing of the effects; and

(e) Identify responsibilities of the hospital in which the hospital shall, at a minimum:

1. Provide prompt and appropriate evaluation and treatment of a patient transferred to the hospital pursuant to the transfer agreement;

2. Accept responsibility for the patient's care when the patient is received by the hospital;

3. Direct charges performed by the hospital to the patient or patient's third-party payer; and

4. Acknowledge receipt of the patient's personal effects in writing signed by an authorized representative of the hospital and deliver the receipt to the facility.

(4) A transport agreement between the center and a Kentucky-licensed Class I ambulance service capable of responding immediately to a call for emergency transport shall:

(a) Be with an ambulance service located:

1. In the same or contiguous county as the center; or

2. No further than five (5) miles or ten (10) minutes normal driving time from the center;

(b) Be signed by individuals authorized to execute the

agreement on behalf of the center and ambulance service, who shall certify they have this authority; and

(c) Identify responsibilities of the ambulance service in which the ambulance service shall agree, at a minimum to:

1. Provide services in accordance with all federal and state laws and administrative regulations applicable to emergency service entities;

2. Employ sufficient staff, including paramedics and emergency medical technicians, to provide patient care and operate vehicles and equipment in accordance with industry standards and applicable laws and administrative regulations;

3. Require all responding medical personnel to familiarize themselves with the floor plan of the facility to minimize the time required to locate the patient in the facility and exit the facility with the patient as expeditiously as possible;

4. Acknowledge the existence of, and its familiarity with, the terms of the transfer agreement between the facility and an acute care hospital; and

5. Transport the patient to the hospital that is party to the transfer agreement, unless otherwise directed by the patient.

(5) A licensed facility applying for a renewal license or an applicant for a provisional license may submit a request in writing for extensions of time to comply with the transfer or transport agreement requirements to the cabinet's Office of Inspector General in accordance with the provisions of this subsection.

(a) Any request shall:

1. Be in writing;

2. Contain a certification under oath that the party seeking the extension of time has exhausted all reasonable efforts to obtain an agreement for a continuous ninety (90) business day period prior to the request; and

3. Contain a detailed description of the efforts taken to secure the agreements.

(b) In deciding to grant or deny the request for an extension of time, the Inspector General shall consider all relevant factors under the circumstances, including at a minimum factors:

1. Whether the facility or applicant made, and continues to make, a good faith effort to obtain a transfer or transport agreement;

2. Whether the facility or applicant can provide the same level of patient care and safety through alternative health services during any extension period; and

3. Regulatory compliance history at the facility and at any other health care facility owned, in whole or in part, by the applicant or any other individual or entity having an ownership interest with the facility.

(c) If the request is granted, the extension of time shall be effective for a time-period of ninety (90) business days from the date of issuance.

(d) If the request is granted for a transfer agreement, the transport agreement shall not be required to comply with subsection (4)(c)3. and 4. of this section for the duration of the extension of time.

(e) The inspector general may rescind a previously granted extension of time at any time upon determining that the applicant or facility has not met, or is not meeting, the conditions of paragraph (b) of this subsection.

(f) If at the end of the ninety (90) day extension, the center is unable to secure an agreement with a hospital or ambulance provider, the Inspector General shall determine if a waiver will be granted by considering all relevant factors including those listed in Section 8(5).

(g) If a request for an extension or waiver is denied, an applicant or licensee shall have ten (10) business days to submit a written request for reconsideration to the inspector general, whose decision shall be final. The licensee or applicant for provisional license may appeal a denial in accordance with Section 5 of this administrative regulation.

FILED WITH LRC: June 9, 2026

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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 Long-Term Services and Supports
(As Amended at ARRS, June 9, 2026)**

907 KAR 2:720. 1915(c) Kentucky's Community Health for Improved Lives and Development (CHILD) Waiver Program Requirements.

RELATES TO: KRS 14A.4, 17.165, 189.125, 200.503, 205.520, 205.5605, 205.8451, 209, 217, 218A, 273.182, 309, 314.011, 315, 319, 319A, 335, 369, 387, 500.080, 600.020, 620.030, 620.055, 42 C.F.R. 430.10, 431.53, 440.150, 440.170, 441.301, 441.530, 441.725, 45 C.F.R. Parts 160, 162, and 164, 20 U.S.C. 1400, 1401, 29 U.S.C. 730, 794, 42 U.S.C. 11434a, 12101, 1320d, 1396a, 1396d, 1396n, H.R.34 - 114th Congress (2015-2016)

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

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has the responsibility to administer the Medicaid program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the program and operational requirements to provide expanded services to individuals who have a primary diagnosis of autism, developmental disability, intellectual disability, or serious emotional disturbance.

Section 1. Definitions.

(1) "1915(c) CHILD Waiver" means: the Home and Community-Based Services program titled Community Health for Improved Lives and Development (CHILD) authorized under Section 1915(c) of the Social Security Act, and administered by the Department for Medicaid Services to serve eligible children and youth with intellectual disability or developmental disability including autism.

(2) "1915(c) home and community-based waiver program" means a Kentucky Medicaid program established pursuant to, and in accordance with, 42 U.S.C. 1396n(c).

(3) "Abuse" is defined by KRS 600.020 for children and KRS 209.020(8) for adults.

(4) "Activities of daily living" or "ADLs" means activities that a person normally undertakes in their daily life, including activities such as bathing, eating, dressing, toileting, transferring.

(5) "Allocation" is defined as an individual who has been assigned a slot on the waiver but has not yet started services.

(6) "Americans with Disabilities Act" or "ADA" is defined by 42 U.S.C. 12101.

(7) "Applicant" means an individual applying to receive 1915(c) waiver services.

(8) "Assessment" means the process that authorizes the department or its designee to determine applicant service needs that can be met safely in a community-based setting and determine if the participant is eligible for 1915(c) CHILD waiver services.

(9) "Autism" means autism spectrum disorder (ASD) which is characterized by:

(a) Persistent deficits in social communication and social interaction across multiple contexts;

(b) Restricted, repetitive patterns of behavior, interests, or activities, currently or by history;

(c) Symptoms that shall be present in the early developmental period (but may not become fully manifested until social demands exceed limited capacities, or may be masked by learned strategies in later life);

(d) Symptoms that cause clinically significant impairment in social, occupational, or other important areas of current functioning; and

(e) These disturbances are not better explained by intellectual disability (intellectual developmental disorder) or global developmental delay. Intellectual disability and autism spectrum disorder frequently co-occur; to make comorbid diagnoses of autism spectrum disorder and intellectual disability, social communication shall be below that expected for general developmental level.

(10) "Aversive technique" means:

(a) Withholding:

1. Food or hydration as a means to control or impose calm;

2. Access to a:

a. Legal advocate; or

b. Ombudsman;

3. Access to a:

a. Toilet;

b. Bath; or

c. Shower;

4. Access to personal belongings; or

5. Access to natural supports;

(b) Depriving medical attention or prescribed medication;

(c) Depriving sleep;

(d) Dehumanization of the individual, through means such as:

1. Social degradation;

2. Social isolation;

3. Verbal abuse;

4. Techniques inappropriate for the individual's age; or

5. Treatment out of proportion to the target behavior; or

(e) Activities that include:

1. Electric shocking;

2. Sleep or food deprivation;

3. Punitive exercise tasks;

4. Shaming;

5. Yelling;

6. Corporal punishment;

7. Hitting;

8. Sensory triggering;

9. Intimidation; or

10. Use of stress positions.

(11) "Behavior intervention committee" or "BIC" means a group of individuals:

(a) Established to evaluate the technical adequacy of a proposed behavioral intervention for a participant; and

(b) That meets in accordance with the BIC policies established in Section 10 of this administrative regulation.

(12) "Behavioral health practitioner" mean an independently licensed practitioner who is:

(a) An advanced practice registered nurse (APRN);

(b) A certified psychologist with autonomous functioning;

(c) A licensed behavior analyst;

(d) A licensed clinical alcohol and drug counselor;

(e) A licensed clinical social worker (LCSW);

(f) A licensed marriage and family therapist (LMFT);

(g) A licensed professional art therapist;

(h) A licensed professional clinical counselor (LPCC);

(i) A licensed psychological practitioner;

(j) A licensed psychologist;

(k) A physician;

(l) A physician assistant;

(m) A psychiatrist; or

(n) A licensed professional clinical counselor (LPCC).

(13) "Behavioral health practitioner under clinical supervision" means a:

(a) Psychologist certified and practicing in accordance with KRS 319.056;

(b) Licensed psychological associate, practicing as defined by KRS 319.064;

(c) Marriage and family therapist associate as defined by KRS 335.300(3);

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(d) Social worker certified and practicing in accordance with KRS 335.080;

(e) Licensed professional counselor associate as defined by KRS 335.500(4);

(f) Licensed professional art therapist associate as defined by KRS 309.130(3); or

(g) Registered behavior technician under the supervision of a licensed behavior analyst.

(14) "Board" means three (3) meals a day or other full nutritional regimen of a caregiver for the purpose of providing shared living services.

(15) "Case manager" means an individual who meets the personnel and training requirements established in Section 5 of this administrative regulation and is responsible for facilitating person-centered service planning, coordination, and oversight of waiver services.

(16) "Case manager supervisor" means an individual who:

(a) Provides professional oversight of case managers;

(b)

1. Has a bachelor's or higher degree in a human service field from an accredited college or university;

2. Has a bachelor's degree in any other field from an accredited college or university with at least one (1) year of experience in the field of intellectual disability; or

3. Is a registered nurse;

(c) Has at least two (2) years of experience of case management responsibility in an organization that serves individuals with intellectual or developmental disabilities;

(d) Completes a case management supervisory training curriculum approved by the department within six (6) months of beginning supervisory responsibilities; and

(e) Meets all personnel and training requirements established in Section 5 of this administrative regulation.

(17) "Centers for Medicare and Medicaid Services (CMS)" means the federal agency within the U.S. Department of Health and Human Services responsible for approving Medicaid waivers and ensuring compliance with federal regulations.

(18) "Certification" or "recertification" means the authorization received by a Medicaid enrolled provider who:

(a) Has been determined to meet the requirements of the Centers for Medicare and Medicaid Services (CMS) approved 1915(c) CHILD waiver and this administrative regulation; and

(b) Is approved by the department to provide one (1) or more services to 1915(c) CHILD waiver participants.

(19) "Certified psychologist with autonomous functioning" means a person licensed pursuant to KRS 319.056.

(20) "Certified school psychologist" means an individual certified by the Kentucky Education Professional Standards Board under 16 KAR 2:090.

(21) "Child and Adolescent Needs and Strengths Assessment" or "CANS Assessment" means an assessment tool that is:

(a) Designed to give a profile of the specific current needs and strengths of the child or adolescent and caregiver(s);

(b) A person-centered, consensus-based functional needs assessment for young people with developmental disabilities and their families; and

(c) Used to determine level of care for the 1915(c) CHILD Waiver.

(22) "Chemical restraint" means a drug or medication:

(a) Used to restrict an individual's:

1. Behavior; or

2. Freedom of movement; and

(b)

1. That is not a standard treatment for the individual's condition;

or

2. Dosage that is not an appropriate dosage for the individual's condition.

(23) "Child" or "youth" means an individual aged zero ~~[(0)]~~ up to twenty-one (21) years who meets the eligibility criteria specified in this administrative regulation.

(24) "Controlled substance" is defined by KRS 218A.010(8).

(25) "Corrective action plan" or "CAP" means a document submitted by a 1915(c) CHILD waiver provider to the department that:

(a) States the system changes, processes, or other actions that the provider is required to take to prevent a future occurrence of a founded violation stated in a citation or findings report;

(b) States the timeframe in which the provider shall successfully implement or perform a system change, process, or other action required by the corrective action plan; and

(c) Is not valid or effective until approved by the department.

(26) "Covered services and supports" is defined by Section 6 of 907 KAR 2:~~f~~J720.

(27) "Crisis Prevention and Response Plan" means an individualized and proactive[a] document developed as part of the person-centered service plan that is consistent with trauma-informed and evidence-based practices that[te]:

(a) Identifies and anticipates medical, behavioral, or environmental crises[Anticipate];

(b) Mitigates the impact of any crises[Mitigate];

(c) Manages [Manage behavioral][health] crises;[-and]

(d) Promotes[Promote] safety; and

Is reviewed and updated at least annually and revised as needed, including any change in the youth's placement or service region to ensure the plan appropriateness and accessibility of identified supports and services.

(28) "Critical incident" means an alleged, suspected, or actual occurrence of an incident that:

(a) Can reasonably be expected to result in harm to a participant; and

(b) Shall include:

1. Abuse, neglect, or exploitation;

2. A serious medication error;

3. Death;

4. A homicidal or suicidal ideation;

5. A missing person; or

6. Other action or event that the provider determines may result in harm to the participant[is serious in nature and poses an immediate risk to the health, safety, or welfare of a participant. "Critical incident" includes a serious medication error].

(29) "DCBS" means the Kentucky Department for Community Based Services.

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

(31) "Developmental disability" means a disability that:

(a) Is manifested prior to the age of twenty-two (22);

(b) Constitutes a substantial disability to the affected individual; and

(c) Is attributable either to an intellectual disability or a condition related to an intellectual disability that:

[4.] Results in an impairment of general intellectual functioning or[and] adaptive behavior similar to that of a person with an intellectual disability; and

[d][2.] Is a direct result of, or is influenced by, the person's cognitive deficits.

(32) "Direct support professional" means an individual who:

(a) Provides services to a participant in accordance with Section 6 of this administrative regulation;

(b) Has direct contact with a participant when providing services to the participant;

(c) Is at least twenty-one (21) years old;

(d) Meets the personnel and training requirements established in Section 4 of this administrative regulation;

(e) Has the ability to:

1. Communicate effectively with a participant and the participant's family;

2. Read, understand, and implement written and oral instructions;

3. Perform required documentation; and

4. Participate as a member of the participant's person-centered planning team if requested by the participant; and

(f) Demonstrates competence and knowledge on topics required to safely support the participant as described in the participant's person-centered service plan.

(33) "Direct support professional supervisor" means an individual who:

(a) Provides oversight of direct support professionals in the

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provision of services to participants;

(b) Is at least twenty-one (21) years old;

(c) Meets the personnel and training requirements established in Section 4 of this administrative regulation;

(d) Has the ability to:

1. Communicate effectively with a participant and the participant's family;

2. Read, understand, and implement written and oral instructions;

3. Perform required documentation; and

4. Participate as a member of the participant's person-centered team if requested by the participant;

(e) Has at least two (2) years of experience in providing direct support to persons with a developmental disability;

(f) Demonstrates competence and knowledge on topics required to safely support the participant as described in the participant's person-centered service plan; and

(g) Completes a supervisory training curriculum approved by department or its designee within six (6) months of beginning supervisory responsibilities.

(34) "Drug paraphernalia" is defined by KRS 218A.500(1).

(35) "Early and Periodic Screening, Diagnostic, and Treatment" or "EPSDT" is defined by 42 U.S.C. 1396d(r).

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

(37) "Electronic Visit Verification" or "EVV" is an electronic system used to record information when delivering home and community-based personal care services (PCS), as required by the 21st Century Cures Act (Pub. L. No. 114-255, 130 Stat. 1033 (2016)).

(38)~~(37)~~ "Employee" means an individual who is employed by a CHILd provider.

(39)~~(38)~~ "Exploitation" is defined by KRS 209.020(9).

(40)~~(39)~~ "Face-to-face" means in person, in the same location, or via telehealth, as consistent with 907 KAR 3:170.

(41)~~(40)~~ "Functional assessment" means an assessment performed using evidenced based tools, direct observation, and empirical measurement to obtain and identify functional relations between behavioral and environmental factors.

(42)~~(41)~~ "Guardian" is defined by KRS 387.010(3) for a minor and by KRS 387.812(3) for an adult.

(43)~~(42)~~ "Home and Community-Based Services" or "HCBS" means services provided under a 1915(c) waiver to support individuals in community settings as an alternative to institutional care.

(44)~~(43)~~ "Human rights committee" means a group of individuals:

(a) Comprised of representatives from home and community-based waiver provider agencies in the community where a participant resides; and

(b) Who meet:

1. To ensure that the rights of participants are respected and protected through due process; and

2. In accordance with the human rights committee requirements established in Section 9 of this administrative regulation.

(45)~~(44)~~ "Human services field" means:

(a) Psychology;

(b) Behavioral analysis;

(c) Counseling;

(d) Rehabilitation counseling;

(e) Public health;

(f) Special education;

(g) Sociology;

(h) Gerontology;

(i) Recreational therapy;

(j) Education;

(k) Occupational therapy;

(l) Physical therapy;

(m) Speech-language pathology;

(n) Social work;

(o) Family studies; or

(p) A similar area of study consistent with the list in this subsection.

(46)~~(45)~~ "Human services related experience" or "experience in a related human services field" means professional experience

that includes:

(a) Experience as a case manager in a related human services field;

(b) Certified nursing assistant experience;

(c) Certified medical assistant experience;

(d) Certified home health aide experience;

(e) Personal care assistant experience;

(f) Paid professional experience with aging or disabled populations or programs as a case manager, a rehabilitation specialist or health specialist, or a social services coordinator;

(g) Assessment and care planning experience with clients;

(h) Experience in working directly with persons with serious mental illness, serious emotional disturbance, or substance use disorder; or

(i) Work providing assistance to individuals and groups with economically disadvantaged, employment, abuse and neglect, substance abuse, aging, disabilities, prevention, health, or cultural issues.

(47)~~(46)~~ "IDEA" means the Individuals with Disabilities Education Act.

(48)~~(47)~~ "Illicit substance" means:

(a) A drug, prescription or not prescription, used illegally or in excess of therapeutic levels;

(b) A prohibited drug; or

(c) A prohibited substance.

(49)~~(48)~~ "Immediate family member" is defined by KRS 205.8451(3).

(50)~~(49)~~ "Incident" means any occurrence that impacts health, safety, welfare, or lifestyle choices of a participant and include a:

(a) Minor injury;

(b) Medication error without a serious outcome; or

(c) Behavior or situation that is not a critical incident.

(51)~~(50)~~ "Independent functioning" means someone working alone with a participant and who is a fully trained staff.

(52)~~(51)~~ "Instrumental activities of daily living" (IADLs) means actions that require more advanced skills than basic ADLs. IADLs support overall well-being and not just basic physical needs. IADLs include:

(a) Managing money;

(b) Managing a household;

(c) Communicating with healthcare providers;

(d) Preparing meals;

(e) Communicating with others;

(f) Managing transportation; or

(g) Shopping.

(53)~~(52)~~ "Integrated setting" means a setting that:

(a) Enables a participant to interact with non-disabled persons to the fullest extent possible;

(b) Includes access to community activities and opportunities at times, frequencies, and with persons of a participant's choosing; and

(c) Affords a participant choice in the participant's daily activities.

(54)~~(53)~~ "Intellectual disability" or "ID" means a neurodevelopmental disorder as defined by the most current Diagnostic and Statistical Manual of Mental Disorders.

(55)~~(54)~~ "Intermediate Care Facility for Individuals with Intellectual Disabilities" or "ICF/IID" means an institutional setting that provides care to individuals with intellectual or developmental disabilities, as defined in 42 C.F.R. Sec. 440.150.

(56)~~(55)~~ "Legally responsible individual" means an individual who has a duty under state law to care for another person and includes:

(a) A parent, whether biological, step, adoptive, or foster, who provides care to the parent's minor child;

(b) A legal guardian who is a court-appointed person who has the authority to make decisions for the participant; or

(c) A spouse of a participant.

(57)~~(56)~~ "Level of care determination" means a determination by the department that an individual:

(a) Meets patient status criteria for an intermediate care facility for individuals with intellectual disabilities as established in 907 KAR 1:022; or

(b) Meets patient status criteria for inpatient psychiatric hospitalization established in 907 KAR 10:016 and demonstrates requiring direct support as a result of at least one **(1)** of the following:

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1. Has functional psychoses without significant concurrent illness;

2. Requires brief periods of protection from consequences of their behavior during acute disturbance or depression episodes, which may include suicidal or homicidal ideation, or refusal to eat;

3. Is diagnosed with an acute or chronic psychiatric illness;

4. Has a diagnosed chronic mental illness requiring regular and frequent protection, symptom management, and treatment during periods of disruptive behavior;

5. Demonstrates having a neurocognitive disorder, which is unresponsive to medication and cannot be managed in an acute care hospital due to physical aggression or risk of danger to themselves; or

6. Has episodes of agitation or restlessness produced by stressful situations which may require brief hospital treatment.

(58)~~(57)~~ "Licensed clinical social worker" means an individual who meets the licensed clinical social worker requirements established in KRS 335.100.

(59)~~(58)~~ "Licensed marriage and family therapist" or "LMFT" is defined by KRS 335.300(2).

(60)~~(59)~~ "Licensed practical nurse" is defined by KRS 314.011(9).

(61)~~(60)~~ "Licensed professional clinical counselor" or "LPCC" is defined by KRS 335.500(3).

(62)~~(61)~~ "Licensed psychological associate" means an individual who:

(a) Currently possesses a licensed psychological associate license in accordance with KRS 319.010(6); and

(b) Meets the licensed psychological associate requirements established in 201 KAR Chapter 26.

(63)~~(62)~~ "Licensed psychological practitioner" means an individual who meets the requirements established in KRS 319.053.

(64)~~(63)~~ "Licensed psychologist" means an individual who:

(a) Currently possesses a licensed psychologist license in accordance with KRS 319.010(6); and

(b) Meets the licensed psychologist requirements established in 201 KAR Chapter 26.

(65)~~(64)~~ "Management experience" means professional or volunteer work:

(a) In an organization that served individuals with an intellectual or developmental disability; and

(b) That includes experience in the execution of the overall administration of an agency including:

1. Development, implementation, and maintenance of the agency's budget;

2. Development, review, implementation, and revisions as needed of the organization's policies and procedures; and

3. Supervision of employees or volunteers including conducting performance evaluations.

(66)~~(65)~~ "Mechanical or physical restraint" means any manual, physical, or mechanical method, device, material, or equipment that:

(a) Immobilizes or reduces the ability of a person to move his or her arms, legs, body, or head freely; and

(b) Does not include orthopedically prescribed devices or other devices, surgical dressings or bandages, protective helmets, or other methods that involve the physical holding of a person for the purpose of:

1. Conducting routine physical examinations or tests;

2. Protecting the person from falling out of bed; or

3. Permitting the person to participate in activities without the risk of physical harm.

(67)~~(66)~~ "Medically complex" means a child who is determined to have a medical condition as defined by 922 KAR 1:495 and further described in 922 KAR 1:350, Section 6.

(68)~~(67)~~ "MWMA" means the Kentucky Medicaid Waiver Management Application internet portal.

(69)~~(68)~~ "Natural supports" means unpaid relationships and resources that participants rely on within their families and communities that:

(a) Support the participant in the community;

(b) Promote the participant's independence and well-being, including their sense of belonging, dignity, and self-esteem; and

(c) Are based on ordinary social relationships in family, friendships, school, clubs, activities, and in the community.

(70)~~(69)~~ "Neglect" is defined by KRS 209.020(16).

(71)~~(70)~~ "Participant" means a Medicaid recipient who:

(a) Meets level of care/patient status criteria in accordance with this section~~for an intermediate care facility for individuals with intellectual disabilities as established in 907 KAR 1:022 or inpatient psychiatric hospitalization as established in 907 KAR 40:046~~;

(b) Is service authorized by the department to receive CHILD waiver services; and

(c) Utilizes CHILD waiver services and supports in accordance with a person-centered service plan.

(72)~~(71)~~ "Person-centered service plan" or "PCSP" means a written individualized plan of 1915(c) CHILD waiver services developed in accordance with the participant and family's wants, assessed needs, and preferences that may include a transition plan to a more intense or less intense level of services, and that meets the requirements of Section 7 of this administrative regulation.

(73)~~(72)~~ "Person-centered team" means a participant, the participant's legal guardian, family, or representative, and other individuals who are natural or paid supports and who:

(a) Recognize that evidenced-based decisions are determined within the basic framework of what is important for the participant and within the context of what is important to the participant and their family based on informed choice;

(b) Work together to identify what roles they shall assume to assist the participant in gaining stabilization and related skill development; and

(c) Include providers who receive payment for services who shall:

1. Be active, contributing members of the person-centered team meetings;

2. Base their input upon evidence-based information; and

3. Not request reimbursement for person-centered team meetings.

(74)~~(73)~~ "Prohibited drug" means a drug or substance that is illegal under KRS Chapter 218A or other statutes or administrative regulations of the Commonwealth of Kentucky.

(75)~~(74)~~ "Registered agent" means an individual meeting the requirements of KRS 14A.4-010(1)(b).

(76)~~(75)~~ "Registered nurse" is defined by KRS 314.011(5).

(77)~~(76)~~ "Registered office" means an office meeting the requirements of KRS 14A.4-010(1)(a).

(78)~~(77)~~ "Representative" is defined by KRS 205.5605(6).

(79)~~(78)~~ "Rights restriction" means any intervention that restricts a participant's:

(a) Movement;

(b) Access to:

1. Other individuals;

2. Locations; or

3. Activities; or

(c) Rights.

(80)~~(79)~~ "Room" means the aggregate expense of housing costs for the purpose of providing shared living, including:

(a) Rent, lease, or mortgage payments;

(b) Real estate taxes;

(c) Insurance;

(d) Maintenance; and

(e) Utilities.

(81)~~(80)~~ "Seclusion" means the involuntary confinement of a participant alone in:

(a) A room; or

(b) An area from which the participant is physically prevented from leaving.

(82)~~(81)~~ "Serious emotional disability" or "SED" is defined by KRS 200.503.

(83)~~(82)~~ "Serious medication error" means a medication error that requires or has the potential to require a medical intervention or treatment.

(84)~~(83)~~ "State plan" is defined by 42 C.F.R. 430.10.

(85)~~(84)~~ "Subcontractor" means an entity or an individual:

(a) Who is a currently credentialed professional or other service provider;

(b) Who has signed an agreement with a certified CHILD agency to provide CHILD services and supports; and

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(c) To whom the employee requirements in this administrative regulation apply.

~~(86)~~~~(85)~~ "Substance use disorder" or "SUD" means individuals with a diagnosis designated in the latest edition of the Diagnostic and Statistical Manual of Mental Disorders, which reflects an individual's continued use of a substance despite significant substance related problems.

~~(87)~~~~(86)~~ "TB" means tuberculosis.

~~(88)~~~~(87)~~ "Unhoused or at risk of being unhoused" is defined by 42 U.S. Code Sec.11434a.

Section 2. General Coverage Requirements.

(1) To be eligible to receive a service in the CHILD waiver program, an individual shall:

(a) Be a child or youth up to age twenty-one (21), and classified as having a primary diagnosis of autism, developmental disability, intellectual disability, or serious emotional disability;

(b) Be designated as eligible, based on review of the child and adolescent needs and strengths (CANS) assessment;

(c) Have:

1. An approved person-centered service plan (PCSP); and

2. Prior authorization for that service pursuant to the requirements established in this administrative regulation;

(d) Meet the coverage requirements established in this administrative regulation; and

(e) Be provided services by a provider who is enrolled in accordance with this administrative regulation.

(2) The department shall ensure that duplication of services does not occur by prohibiting payment for services without prior authorization.

Section 3. 1915(c) CHILD waiver Participant Eligibility, Enrollment, and Termination.

(1) To be eligible to receive a service in the 1915(c) CHILD waiver, an individual ~~[or an individual's representative]~~ shall:

(a) Meet participant eligibility requirements:

1. Be zero ~~[(0)]~~ to twenty-one (21) years of age;

2. With an intellectual or developmental disability, or both, or ~~serious~~~~[severe]~~ emotional disability; ~~and~~

3. Have been unresponsive to other services and supports enabling them to remain in a community setting and meet one ~~(1)~~ or more of the following criteria:

a. Be currently unhoused or at risk of being unhoused as a direct result of the intensity of their disability and care needs;

b. Have a history (within the last year) of at least two ~~(2)~~ different out-of-home care placements as a direct result of the intensity of their disability and care needs;

c. Within the last year, as a direct result of the intensity of the individual's disability and care needs, the individual has had any incident that involved at least five (5) contacts with:

(i) A police department;

(ii) A sheriff's office;

(iii) Emergency services; or

(iv) A fire department; ~~and~~.

d. Be ~~recently discharged~~, identified for discharge, or recommended for discharge from an inpatient psychiatric hospital, ICF/IID, or other similar institution, as defined in 907 KAR 1:022, Section 4 (5)(a) - (d), within the next forty-five (45) days; ~~or~~~~and~~

e. Require support offered through the CHILD waiver.

(b) Complete an application in MWMA with required supporting documentation to validate that the individual meets criteria for CHILD waiver program. ~~f;~~

(2) Supporting documentation to validate that the individual meets criteria for CHILD waiver shall include:

(a) For individuals aged eight (8) and under with a reported diagnosis of intellectual or developmental disability documentation of the applicant's intellectual disability, developmental disability, or other related developmental condition diagnosis.

(b) For individuals aged nine (9) to eighteen (18) with a reported diagnosis of intellectual or developmental disability, supporting documentation shall include a psychological or psycho-educational report of assessment results that has been signed by the licensed psychologist, licensed psychological associate under supervision of

a board approved licensed psychologist, certified psychologist with autonomous functioning, licensed psychological practitioner, or certified school psychologist who prepared the report. The report shall include at minimum:

1. An individual, standardized test of intelligence or test of non-verbal intelligence, that is not brief or abbreviated in nature, and which results in a Full Scale IQ or equivalent score;

2. The results of a standardized assessment of adaptive behavior abilities; and

3. Documentation ~~that the diagnosis of intellectual or developmental disability is not solely due to the substance use or psychiatric disorder or solely due to a medical disorder not known to cause an intellectual or developmental disability~~~~[ruling out factors or conditions that may contribute to diminished cognitive and adaptive functioning, including applicant's substance use, psychiatric disorders, or medical conditions]~~.

(c) For individuals aged eighteen (18) and above with a reported diagnosis of intellectual or developmental disability, supporting documentation shall include a psychological or psycho-educational report of assessment results that has been signed by the licensed psychologist, licensed psychological associate under supervision of a board approved licensed psychologist, certified psychologist with autonomous functioning, licensed psychological practitioner, or certified school psychologist who prepared the report. The report shall include at minimum:

1. An individual, standardized test of intelligence or non-verbal intelligence that is not brief or abbreviated in nature, and which results in a Full Scale IQ or equivalent score;

2. The results of a standardized assessment of adaptive behavior abilities; and

3. The documentation provides evidence that the condition had an onset prior to age eighteen (18).

(d) For individuals with a reported SED, supporting documentation shall include:

1. A SED checklist completed by a qualified licensed behavioral professional; and

2. Any inpatient psychiatric treatment records within the last year, if applicable.

(3) A participant shall receive notification of potential CHILD funding in accordance with eligibility requirements in Section 2 of this administrative regulation.

(4) Upon receiving notification of potential CHILD funding, the participant's case manager shall upload the following into the MWMA:

(a) The results of a physical examination that was conducted within the last twelve (12) months; and

(b) Documentation of a participant's status change.

(5) To maintain eligibility as a participant, each participant shall:

(a) Maintain Medicaid eligibility requirements established in 907 KAR 20:010; and

(b) Be reassessed and meet ICF-IID or inpatient psychiatric hospitalization level of care determination criteria, in accordance with this section, annually utilizing the CANS assessment tool.

(6) 1915(c) CHILD waiver services shall not be provided to an individual who is:

(a) Receiving a service in another 1915(c) home and community-based program;

(b) Receiving a duplicate service provided through another funding source; or

(c) An inpatient of a hospital, ICF-IID, or other facility.

(7) Involuntary termination and loss of a 1915(c) CHILD waiver service shall:

(a) Be subject to an appeal or hearing in accordance with 907 KAR 1:563; and

(b) Occur when:

1. An applicant fails to access a CHILD waiver service within ~~120~~ ~~[one-hundred twenty (120)]~~ days of receiving notice of potential funding; or

2. A participant:

a. Fails to access any services outlined in the participant's service plan for a period greater than ~~120~~ ~~[one-hundred twenty (120)]~~ consecutive days;

b. Moves to a residence outside of the Commonwealth of

Kentucky; or

c. Does not meet ICF-IID or inpatient psychiatric hospital level of care determination criteria in accordance with this administrative regulation.

(c) If initiated by a 1915(c) CHILD waiver provider:

1. At least thirty (30) days prior to the effective date of the termination, the 1915(c) CHILD waiver provider shall simultaneously notify electronically or in writing the:

- a. Participant or the participant's guardian;
- b. Participant's case manager; and
- c. Department or its designee.

2. The participant's case manager, in conjunction with the 1915(c) CHILD waiver provider, shall immediately act to:

a. Provide the participant or participant's guardian with the name, address, and telephone number of each current 1915(c) CHILD waiver provider in Kentucky;

b. Facilitate contacts and referrals for the participant or participant's guardian in making contact with other 1915(c) CHILD waiver provider(s);

c. Arrange or provide transportation for a requested visit to a 1915(c) CHILD waiver provider site;

d. Provide a copy of pertinent information to the participant or participant's guardian;

e. Ensure the health, safety, and welfare of the participant until another provider is chosen;

f. Continue to provide supports until alternative services or another provider is secured; and

g. Provide assistance to ensure a safe and effective service transition; and

3. The notice referenced in this paragraph shall include:

- a. A statement of the intended action;
- b. The basis for the intended action;
- c. The authority by which the intended action is taken; and
- d. The participant's right to appeal the intended action through the provider's appeal or grievance process.

(8) In the instance of a voluntary termination and loss of a 1915(c) CHILD waiver service:

(a) The department or its designee shall initiate an intent to discontinue a participant's participation in the 1915(c) CHILD waiver services if the participant or participant's guardian submits a written notice of intent to discontinue services to:

- 1. The 1915(c) CHILD waiver provider; and
- 2. The department or its designee.

(b) An action to terminate 1915(c) CHILD waiver participation shall not be initiated until thirty (30) calendar days from the date of the notice referenced in paragraph (a) of this subsection.

(c) A participant or guardian may reconsider and revoke the notice referenced in paragraph (a) of this subsection in writing during the thirty (30) calendar day period.

Section 4. 1915(c) CHILD Waiver Provider Participation Requirements.

(1) A 1915(c) CHILD waiver provider shall comply with:

- (a) 907 KAR 1:671 and 672;
- (b) 907 KAR 7:005;
- (c) The Health Insurance Portability and Accountability Act, 42 U.S.C. 1320d-2, and 45 C.F.R. Parts 160, 162, and 164;
- (d) 42 U.S.C. 1320d to 1320d-8; and
- (e) Local laws and ordinances governing smoke-free environments, as relevant.

(2) To provide a 1915(c) CHILD waiver service, a 1915(c) CHILD waiver provider shall:

(a) Be certified by the department or its designee prior to the initiation of a service;

(b) Be recertified by the department or its designee at least biennially;

(c) In accordance with KRS 273.182, maintain a registered agent and a registered office in Kentucky with the Office of the Secretary of State and file appropriate statement of change documentation with the filing fee with the Office of Secretary of State if the registered office or agent changes;

(d) Be in good standing with the Office of the Secretary of State of the Commonwealth of Kentucky;

(e) Abide by the laws that govern the chosen business or tax

structure of the 1915(c) CHILD waiver provider;

(f) Maintain policy that complies with this administrative regulation concerning the operation of the 1915(c) CHILD waiver provider and the health, safety, and welfare of all people supported or served by the 1915(c) CHILD waiver provider; and

(g) Maintain administrative oversight, which shall include management by a director.

(3) A director shall:

(a) Lead the design, development, and implementation of strategic plans for a CHILD provider;

(b) Maintain responsibility for the day-to-day operation of the CHILD provider organization;

(c) Have at least a bachelor's degree in a human service field or be a registered nurse and have two (2) years of documented experience with the target population, and two (2) years of management experience;

(d) Have at least two (2) years of:

1. Experience in the field of intellectual or developmental disabilities or inpatient psychiatric hospitals; and

2. Management experience;[;]

(e) Meet all personnel and training requirements specified in this section;

(f) If providing professional oversight or supervision of employees, meet the supervisory qualifications specified for each service;

(g) Assume authority and responsibility for the management of the affairs of the 1915(c) CHILD waiver provider in accordance with written policy and procedures that comply with this administrative regulation; and

(h) Participate in all department directed survey initiatives.

(4) A 1915(c) CHILD waiver provider:

(a) Shall ensure that 1915(c) CHILD waiver services are not provided to a participant by a staff person of the 1915(c) CHILD waiver provider who is a guardian, legally responsible individual, or immediate family member of the participant;

(b) Shall not agree to serve a participant whose needs the 1915(c) CHILD waiver provider is unable to meet;

(c) Shall have and follow written criteria that comply with this administrative regulation for determining the appropriateness of a participant for admission to services;

(d) Shall document:

1. Each denial by the provider for a service requested or necessary for the 1915(c) CHILD waiver participant; and

2. The reason for the denial;

(e) Shall maintain documentation of its operations including:

1. A written description of available 1915(c) CHILD waiver services;

2. A current table of organizational structure;

3. Any memorandum of understanding between a participant's case management agency and the participant's service providers;

4. Information regarding participants' satisfaction with services and the utilization of that information;

5. A quality improvement plan that:

a. Includes updated findings and corrective actions, and corrective action plans as a result of department and case management quality assurance monitoring; and

b. Addresses how the provider shall:

(i) Ensure that the participant receives person-centered 1915(c) CHILD waiver services;

(ii) Enable the participant to be safe, healthy, and respected in the participant's chosen community;

(iii) Enable the participant to live in the community with effective, individualized assistance; and

(iv) Enable the participant to enjoy living and working in the participant's community;

6. A written plan of how the 1915(c) CHILD waiver provider shall participate in the human rights committee in the area the 1915(c) CHILD waiver provider is located;

(f) Shall maintain accurate fiscal information including documentation of revenues and expenses;

(g) Shall meet the following requirements, if responsible, for the management of a participant's funds:

1. Separate accounting shall be maintained for each participant or for the participant's interest in a common trust or special account;

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2. Account balance and records of transactions shall be provided to the participant or the participant's guardian on a quarterly basis; and

3. The participant or the participant's guardian shall be notified if a balance is accrued that may affect Medicaid eligibility;

(h) Shall have a written statement of its mission and values, related to the 1915(c) CHILD waiver, which shall:

1. Support participant empowerment and informed decision-making;

2. Support and assist participants to form and remain connected to natural support networks;

3. Promote participant dignity and self-worth;

4. Support team meetings that help ensure and promote the participant's right to choice, inclusion, employment, growth, and privacy;

5. Foster a restraint-free environment where the use of physical restraints, seclusion, chemical restraints, or aversive techniques shall be prohibited; and

6. Support the 1915(c) CHILD waiver goal that all participants:

a. Receive person-centered 1915(c) CHILD waiver services;

b. Are safe, healthy, and respected in the participant's community;

c. Live in the community with effective, individualized assistance; and

d. Enjoy living and working in the participant's community;

(i) Shall have written policy and procedures for communication and interaction with a participant, family, or participant's guardian, which shall include:

1. A response within seventy-two (72) hours of an inquiry;

2. The guidelines for interaction with direct support professionals;

3. Notification timelines surrounding critical and non-critical incidents;

4. Visitation with the participant at any reasonable time, without prior notice, and with due regard for the participant's right to privacy;

5. Involvement in decision making regarding the selection and direction of the person-centered service provided; and

6. Consideration of the cultural, educational, language, and socioeconomic characteristics of the participant and family being supported;

(j) Shall ensure the rights of a participant by:

1. Providing conflict-free services and supports that are person-centered; and

2. Making available a description of the rights and means by which the rights may be exercised and supported including the right to:

a. Live and work in an integrated setting;

b. Time, space, and opportunity for personal privacy;

c. Communicate, associate, and meet privately with the person of choice;

d. Send and receive unopened mail;

e. Retain and use personal possessions including clothing and personal articles;

f. Private, accessible use of a telephone or cell phone;

g. Access accurate and easy-to-read information;

h. Be treated with dignity and respect and to maintain one's dignity and individuality;

i. Voice grievances and complaints regarding services and supports that are furnished without fear of retaliation, discrimination, coercion, or reprisal;

j. Choose among service providers;

k. Accept or refuse services;

l. Be informed of and participate in preparing the PCSP and any changes in the PCSP;

m. Be advised in advance of the:

(i) Provider or providers who shall furnish services; and

(ii) Frequency and duration of services;

n. Confidential treatment of all information, including information in the participant's records;

o. Receive services in accordance with the current PCSP;

p. Be informed of the name, business, telephone number, and business address of the person supervising the services and how to contact the person;

q. Have the participant's property and residence treated with

respect;

r. Be fully informed of any cost sharing liability and the consequences if any cost sharing is not paid;

s. Review the participant's records upon request;

t. Receive adequate and appropriate services without discrimination;

u. Be free from and educated on mental, verbal, sexual, and physical abuse, neglect, exploitation, isolation, and corporal or unusual punishment, including interference with daily functions of living; and

v. Be free from mechanical, chemical, or physical restraints;

3. Having a grievance and appeals system that includes an external mechanism for review of complaints; and

4. Ensuring access to participation in the local human rights committee in accordance with the human rights committee requirements established in Section 9 of this administrative regulation;

(k) Shall maintain, as applicable, fiscal records, service records, investigations, medication error logs, and incident reports for seven (7) years from the date of final payment for services;

(l) Shall make available all records, internal investigations, and incident reports:

1. To the:

a. Department or its designee;

b. Office of Inspector General or its designee;

c. Office of the State Budget Director or its designee;

d. Office of the Auditor of Public Accounts or its designee;

e. Office of the Attorney General or its designee;

f. Department for Community Based Services (DCBS); and

g. Centers for Medicare and Medicaid Services; or

2. Pertaining to a participant to:

a. The participant, the participant's guardian, or the participant's case manager upon request; or

b. Protection and Advocacy upon written request;

(m) Shall cooperate with monitoring visits from monitoring agents;

(n) Shall maintain a record in MWMA for each participant served that shall:

1. Contain all information necessary to support person-centered practices;

2. Be cumulative;

3. Be readily available;

4. Contain the following:

a. The participant's name, Social Security number, and Medicaid identification number;

b. The results of a department approved functional assessment;

c. The current PCSP;

d. The goals and objectives identified by the participant and the participant's person-centered team that facilitates achievement of the participant's chosen outcomes as identified in the participant's PCSP;

e. A list containing emergency contact telephone numbers;

f. The participant's history of allergies with appropriate allergy alerts;

g. The participant's medication record, including a copy of the signed or authorized current prescription or medical orders and the medication administration record if medication is administered at the service site;

h. A recognizable photograph of the participant;

i. Legally adequate consent, updated annually, and a copy of which is located at each service site for the provision of services or other treatment requiring emergency attention;

j. The prior authorization notifications;

k. Incident reports, if any exist;

l. The results of a physical examination that was conducted within the last twelve (12) months; and

m. Documentation of a participant's status change.

5. Be maintained by the provider in a manner that:

a. Ensures the confidentiality of the participant's record and other personal information; and

b. Allows the participant or guardian to determine when to share the information in accordance with law; and

6. Be safe from loss, destruction, or use by an unauthorized person;

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- (o) Shall ensure that an employee or volunteer:
1. Behaves in a legal and ethical manner in providing a service;
 2. Has a valid Social Security number or valid work permit if not a citizen of the United States of America; and
 3. If responsible for driving a participant during a service delivery, has a valid driver's license with proof of current mandatory liability insurance for the vehicle used to transport the participant;
- (p) Shall ensure that an employee or volunteer:
1. Completes a tuberculosis (TB) risk assessment, as defined in 902 KAR 20:205, performed by a licensed medical professional (a physician, an advanced practice registered nurse, a physician assistant, a registered nurse, a licensed practical nurse, or a pharmacist), and, if indicated, a TB skin test with a negative result within the past twelve (12) months as documented on test results received by the provider within thirty (30) days of the date of hire or date the individual began serving as a volunteer; or
 2. Who tests positive for TB or has a history of positive TB skin tests:
 - a. Shall be assessed annually by a licensed medical professional for signs or symptoms of active disease; and
 - b. If it is determined that signs or symptoms of active disease are present, in order for the person to be allowed to work or volunteer, is administered follow-up testing by his or her physician with the testing indicating the person does not have active TB disease;
- (q) Shall maintain documentation:
1. Of an annual TB risk assessment or negative TB test for each employee who performs direct support or a supervisory function; or
 2. Annually for each employee with a positive TB test that ensures no active disease symptoms are present;
- (r) Shall provide a written job description for each staff person that describes the required qualifications, duties, and responsibilities for the person's job;
- (s) Shall maintain an employee record for each employee that includes:
1. The employee's experience;
 2. The employee's training;
 3. Documented competency of the employee;
 4. Evidence of the employee's current licensure or registration if required by law; and
 5. An annual evaluation of the employee's performance;
- (t) Shall require a background check:
1. And drug testing for each employee who is paid with funds administered by the department and who:
 - a. Provides support to a participant who utilizes 1915(c) CHILD waiver services; or
 - b. Manages funds or services on behalf of a participant who utilizes 1915(c) CHILD waiver services; or
 2. For a volunteer recruited and placed by an agency or provider who has the potential to interact with a participant;
- (u)
1. Shall for a potential employee or volunteer obtain:
 - a. The results of a criminal record check from the Kentucky Administrative Office of the Courts and equivalent out-of-state agency if the individual resided or worked outside of Kentucky during the twelve (12) months prior to employment or volunteerism;
 - b. The results of a nurse aide abuse registry check as described in 906 KAR 1:100 and an equivalent out-of-state agency if the individual resided or worked outside of Kentucky during the twelve (12) months prior to employment or volunteerism;
 - c. The results of a vulnerable adult maltreatment registry check as described in 922 KAR 5:120 and an equivalent out-of-state agency if the individual resided or worked outside of Kentucky during the twelve (12) months prior to employment or volunteerism; and
 - d. Within thirty (30) days of the date of hire or initial date of volunteerism, the results of a central registry check as described in 922 KAR 1:470 and an equivalent out-of-state agency if the individual resided or worked outside of Kentucky during the twelve (12) months prior to employment or volunteerism; or
 2. May use Kentucky's National Background Check Program established by 906 KAR 1:190 to satisfy the background check requirements of subparagraph 1 of this paragraph;
- (v) Shall for each potential employee obtain negative results of drug testing for illicit substances or prohibited drugs;
- (w) Shall on an annual basis:
1. Randomly select and perform criminal history background checks, nurse aide abuse registry checks, central registry checks, and vulnerable adult maltreatment registry checks of at least twenty-five (25) percent of employees; and
 2. Conduct drug testing of at least five (5) percent of employees;
- (x) Shall not use an employee or volunteer to provide 1915(c) CHILD waiver services if the employee or volunteer:
1. Has a prior conviction of an offense delineated in KRS 17.165(1) - (3);
 2. Has a prior felony conviction or diversion program that has not been completed;
 3. Has a drug related conviction within the past two (2) years;
 4. Has a positive drug test conducted by the employer within the previous six (6) months for prohibited drugs;
 5. Has a conviction of abuse, neglect, or exploitation;
 6. Has a Cabinet for Health and Family Services finding of:
 - a. Child abuse or neglect pursuant to the central registry; or
 - b. Adult abuse, neglect, or exploitation pursuant to the vulnerable adult maltreatment registry; or
 7. Is listed on the nurse aide abuse registry; or
 8. Is listed on the List of Excluded Individuals and Entities maintained by the Office of Inspector General of the U.S. Department of Health and Human Services;
- (y) Shall not permit an employee to transport a participant if the employee has a driving under the influence conviction, amended plea bargain, or diversion during the past year;
- (z) Shall:
1. Maintain adequate staffing and supervision to implement services being billed; and
 2. Ensure that any direct support professionals are managed by a direct support professional supervisor;
- (aa) Shall establish written guidelines that address and ensure the health, safety, and welfare of a participant, which shall include:
1. A basic infection control plan that includes:
 - a. Universal precautions;
 - b. Hand washing;
 - c. Proper disposal of biohazards and sharp instruments; and
 - d. Management of common illness likely to be emergent in the particular service setting;
 2. Effective cleaning procedures sufficient to maintain a sanitary and comfortable environment that prevents the development and transmission of infection;
 3. Ensuring that each site operated by the provider is equipped with:
 - a. An operational smoke detector placed in all bedrooms and other strategic locations; and
 - b. At least two (2) correctly charged fire extinguishers placed in strategic locations, at least one (1) of which shall be capable of extinguishing a grease fire and have a rating of 1A10BC;
 4. For a site operated by a provider, ensuring the availability of an ample supply of hot and cold running water with the water temperature complying with the safety limits established in the participant's PCSP;
 5. Establishing written procedures concerning the presence of deadly weapons as defined in KRS 500.080, which shall ensure:
 - a. Safe storage and use; and
 - b. That firearms and ammunition are permitted:
 - (i) Only in non-provider owned or leased residences; and
 - (ii) Only if stored separately and under double lock;
 6. Establishing written procedures concerning the safe storage of common household items;
 7. Ensuring that the nutritional needs of a participant are met in accordance with the current recommended dietary allowance of the Food and Nutrition Board of the National Research Council or as specified by a physician;
 8. Ensuring that an adequate and nutritious food supply is maintained as needed by the participant;
 9. Ensuring a smoke-free environment in settings in which the participant is expected to spend any amount of time, including home, a meeting site, or any other location;
 10. Ensuring that:
 - a. Every case manager and any employee who shall be administering medication, unless the employee is a currently

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licensed or registered nurse, has:

(i) Specific training provided by a registered nurse per a department approved medication administration curriculum; and

(ii) Documented competency on medication administration, medication cause and effect, and proper administration and storage of medication; and

b. An individual administering medication documents all medication administered, including self-administered and over-the-counter drugs, on a medication administration record, with the date, time, and initials of the person who administered the medication, and ensure that the medication shall:

(i) Be kept in a locked container;

(ii) If a controlled substance, be kept under double lock and stored separately from other medications, with a documented medication count performed every shift;

(iii) Be carried in a proper container labeled with medication and dosage pursuant to KRS 315.010(9) and 217.182(6);

(iv) Accompany and be administered to a participant at a program site other than the participant's residence if necessary; and

(v) Be documented on a medication administration record and properly disposed of, if discontinued; and

11. Adhering to policies and procedures for ongoing monitoring of medication administration;

(bb) Shall establish and follow written guidelines for handling an emergency or a disaster, which shall:

1. Be readily accessible on site;

2. Include instruction for notification procedures and the use of alarm and signal systems to alert a participant according to the participant's disability;

3. Include documentation of training and competency of staff and training of participants on emergency disaster drills;

4. Include an evacuation drill to be conducted in three (3) minutes or less, documented at least quarterly and, for a participant who receives residential support services, is scheduled to include a time when the participant is asleep; and

5. Mandate that the result of an evacuation drill be evaluated and if not successfully completed within three (3) minutes shall modify staffing support as necessary and repeat the evacuation drill within seven (7) days;

(cc) Shall provide orientation for each new employee, which shall include the mission, goals, organization, and practices, policies, and procedures of the agency;

(dd) Shall require documentation of all face-to-face training, which shall include:

1. The type of training provided;

2. The name and title of the trainer;

3. The training objectives;

4. The length of the training;

5. The date of completion;

6. The signature of the trainee verifying completion; and

7. Verification of competency of the trainee as demonstrated by post-training assessments, competency checklists, or post-training observations and evaluations;

(ee) Shall require documentation of web-based training, which shall include transcripts verifying successful completion of training objectives with scores of 85% or higher; and competency checklist listing date of completion, signature of evaluator, and signature of trainee for all modules required in department approved web-based training within the timeframe specified;

(ff) Shall ensure that each case manager or employee prior to independent functioning and no later than six (6) months from the date of employment successfully completes training that shall include:

1. First aid and cardiopulmonary resuscitation certification by a nationally accredited entity;

2. Successful completion of all required department-approved web-based training for CHILD waiver providers;

3. Individualized instruction about the person-centered service plan of the participant to whom the trainee provides supports including training on behavior support plans, if applicable; and

4. Verification of trainee competency as demonstrated by department-approved training, competency checklists, and post-training observations or evaluations; and

(gg) A provider that accepts placement of a child in DCBS

custody with medical complexity who is in the custody of the cabinet shall:

1. Consult with the cabinet medically complex liaison about the child prior to accepting the placement;

2. Obtain written documentation from a licensed health care provider stating that the direct care staff has received training on meeting the specific needs of the child prior to placement;

3. Submit to the cabinet medically complex liaison written documentation containing the plan to meet the child's specific medical needs based on the licensed health care provider's plan of care and the training required by subparagraph 2. of this paragraph prior to placement;

4. Ensure that services are provided in locations within a one (1) hour drive of a medical hospital with an emergency room and within a thirty (30) minute drive of a local medical facility; and

5. Require designated staff to have attended the cabinet training on children with medical complexity.

(5) A 1915(c) CHILD waiver provider, employee, or volunteer shall:

(a) Not manufacture, distribute, dispense, be under the influence of, purchase, possess, use, or attempt to purchase or obtain, sell, or transfer any of the following in the workplace or while performing work duties:

1. An alcoholic beverage;

2. A controlled substance, except a 1915(c) CHILD waiver provider, employee, or volunteer may use or possess a medically necessary and legally prescribed controlled substance;

3. An illicit substance;

4. A prohibited drug or prohibited substance;

5. Drug paraphernalia; or

6. A substance that resembles a controlled substance, if there is evidence that the individual intended to pass off the item as a controlled substance; and

(b) Not possess a prescription drug for the purpose of selling or distributing it.

(6) If transportation is provided directly, contracted for, or arranged, a provider shall require:

(a) Compliance with state laws pertaining to vehicles, drivers, and insurance;

(b) A separate seat for each child and that the child remain seated while the vehicle is in motion;

(c) That a vehicle used to transport a child provides a seat for each passenger that is manufactured standard equipment for that vehicle is available;

(d) That a **participant[~~child~~]** is never left unattended in a vehicle;

(e) A child under the age of eight (8) who is less than fifty-seven (57) inches tall shall not be transported unless restrained in a safety seat that meets the requirements established in KRS 189.125(3);

(f) That a seat belt or child seat be used to secure each passenger;

(g) That a vehicle shall not pick up and deliver a child under the age of six (6) to a location that requires the child to cross a street or highway unless the child is accompanied by an adult;

(h) If transportation is provided by a means other than licensed public transportation:

1. The vehicle shall be maintained in a safe mechanical and operable condition;

2. A thorough inspection of the vehicle shall be made and documented by a qualified mechanic at least annually; and

3. If the driver is not in his seat, the motor shall be turned off, keys removed, and brake set.

Section 5. Case Management Services Provided within the CHILD Waiver.

(1) Case Management.

(a) Case management activities shall include:

1. Assisting participants in gaining access to waiver services and other needed services through the Medicaid state plan and other non-Medicaid funded community-based programs to support the participant's home and community-based needs.

2. Working with the participant, the participant's legal guardian, or their authorized representative and others who the participant identifies, such as immediate family member(s), in developing a

person-centered service plan (PCSP).

3. Using a person-centered planning process, case managers assist in identifying and implementing support strategies to enable the PCSP to advance the participant's identified goals while meeting assessed community-based needs using waiver and non-waiver funded services. Support strategies incorporate:

- a. The principles of empowerment;
- b. Community inclusion;
- c. Health and safety assurances; and
- d.
 - (i) The use of formal, informal, and community supports; and
 - (ii) Utilizing the resultant PCSP identifies applicable unpaid natural supports and provides for transition plans when a child or youth is expected to age out or otherwise transition from the CHILD waiver program.

(b) In accordance with federal requirements, case managers adhere to the following person-centered principles during all planning, coordination, and monitoring activities that:

1. Activities are documented, and
2. The person-centered service plan is updated at least annually and more often as needed using the person-centered planning processes described in this regulation and in 42 C.F.R. 441.725.

(c) Case management may be provided in-person or virtually via telehealth (as approved in a participant's PCSP) to provide coordination and oversight to assure the following:

1. Conflict-free options counseling to select appropriate services to meet identified needs and HCBS goals, along with education about available HCBS service providers;
 2. The desires and needs of the participant are determined through a person-centered planning process;
 3. The development or review of the PCSP, including monitoring of the effectiveness of the PCSP to advance person-centered goals and objectives and respond to changes in participant goals and objectives;
 4. The coordination of multiple services or among multiple providers;
 5. Linking waiver participants to services that support their home and community-based needs, regardless of funding source;
 6. Monitoring the implementation of the PCSP and participant health and welfare;
 7. Addressing problems in service provision;
 8. Implementing participant crisis mitigation plans and making appropriate referrals to address active or potential crisis, when appropriate;
 9. Detecting, reporting, and mitigating suspected abuse, neglect, and exploitation of participants, including adherence to mandatory reporter laws, and monitoring the quality of the supports and services;
 10. Assisting participants in developing and coordinating access to social networks to promote community inclusion as requested by the participant;
 11. Assess the quality of services, safety of services, and cost-effectiveness of services being provided to a participant to ensure that implementation of the participant's PCSP is successful and completed in a way that is efficient regarding the participant's financial assets and benefits;
 12. Collaborate with involved [MCO]-care teams on:
 - a. Identifying necessary non-waiver (Medicaid and non-Medicaid funded services) to include in PCSPs;
 - b. Coordinate state plan non-emergency medical transportation; and
 - c. Other activities as required to wholly support the child or youth in the community.
- (d) This service:
1. Shall be provided in-person or face-to-face via telehealth.
 - a. This service may be provided via telehealth at the request or benefit of the participant.
 - b. Participation in services via telehealth shall be documented in the PCSP.
 - c. Participants who are offered telehealth by the provider have the right to request and receive in-person services instead.
 - d. Provision of services via telehealth shall be carried out in accordance with KAR 907 3:170.
 2. Shall be provided in-person, at least every other month, and

shall be provided in the participant's residence at least every three (3) months.

(e) Case managers shall document the use of the identified telehealth technology in the PCSP and when appropriate, shall connect participants with trainings.

(f) A 1915(c) CHILD waiver case manager provider shall comply with the following personnel requirements of having or attaining experience or licensure:

1. Bachelor's degree in social work, human services, or a similar relevant field;
2.
 - a. Bachelor's degree in any field not closely related; and
 - b. One (1) year of human services related experience;
3. A registered nurse;
4. A behavioral health practitioner; or
5. A behavioral health practitioner under clinical supervision.

(g) A case manager shall complete department approved case management training within six (6) months of beginning to provide case management services through the CHILD waiver.

(2) A case manager shall:

(a) Be able to identify and meet the needs of the participant through coordination of Medicaid and non-Medicaid services within the participant's home and community to align with the participant's goals as identified in the functional assessment and documented in the PCSP.

(b) Be competent in the participant's language whether through possessing linguistic proficiency, fluency of the language, or through interpretation, and able to communicate effectively with a participant in the participant's preferred manner of communication and with the participant's family.

(c) Demonstrate a heightened awareness of the unique way in which the participant interacts with the world around the participant.

(d) Read, understand, and implement written and oral instructions.

(e) Perform required documentation.

(f) Demonstrate competence and knowledge of topics required to safely support the participant as described in the participant's PCSP.

(g) Ensure that:

1. The participant is educated in a way that addresses the participant's:
 - a. Need for knowledge of the case management process;
 - b. Personal rights; and
 - c. Risks and responsibilities as well as awareness of available services;
2. All individuals involved in implementing the participant's PCSP are informed of changes in the scope of services related to the PCSP as applicable;
3. The participant is educated on how case management services support 1915(c) CHILD waiver; and
4. Case management services are available to a participant by phone or in person:
 - a. Twenty-four (24) hours per day, seven (7) days per week; and
 - b. To assist the participant in obtaining community resources as needed to:
 - (i) Comply with applicable federal and state laws and requirements;
 - (ii) Continually monitor a participant's health, safety, and welfare; and
 - (iii) Complete or revise a PCSP;
- (h) Have a code of ethics to guide the case manager in providing case management, which shall address:
 1. Advocating for standards that promote outcomes of quality;
 2. Ensuring that no harm is done;
 3. Respecting the rights of others to make their own decisions;
 4. Treating others fairly; and
 5. Being faithful and following through on promises and commitments;
- (i) Assist the participant to lead the person-centered service planning team to:
 1. Take charge of coordinating services through team meetings with representatives of all agencies involved in implementing a participant's PCSP;
 2. Include the participant's participation and legal guardian

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participation, if applicable, in the case management process; and

3. Make the participant's preferences and participation in decision making a priority;

(j) Document:

1. Interactions and communications with other agencies involved in implementing the participant's PCSP; and

2. Personal observations;

(k) Advocate for a participant with service providers to ensure that services are delivered as established in the participant's PCSP;

(l) Assess the quality of services, safety of services, and cost effectiveness of services being provided to a participant to ensure that implementation of the participant's PCSP is successful and completed in a way that is efficient regarding the participant's financial assets and benefits;

(m) Utilize the MWMA to fulfill case management responsibilities, including:

1. Documenting that the participant's health, safety, and welfare are not at risk;

2. Gathering data regarding the participant's satisfaction with the services for use in guiding the person-centered planning process; and

3. Recording how the person-centered team shall address the following:

a. Expanding and deepening the participant's relationships;

b. Increasing the participant's presence in local community life; and

c. Helping the participant to have more choice and control; and

4. Document via an entry into the MWMA, when available, if a participant is:

a. Terminated from a waiver program;

b. Admitted to a hospital;

c. Unable to access services;

d. Admitted to an intermediate care facility;

e. Admitted to a nursing facility;

f. Modifying providers and services;

g. Changing the case management agency;

h. Transferred to another Medicaid 1915(c) home and community-based waiver service program; or

i. Relocated to a different address;

(n) ~~Complete the required National Center on Advancing Person-Centered Practices and Systems (NCAPPS) Training;~~

~~(e)~~ Present to or engage with a human rights committee on the participant's behalf as needed; and

~~(o)~~~~(p)~~ Ensure that rights restrictions are reviewed at least every six (6) months or less, as determined necessary by the human rights committee.

(3) Case management for any participant who begins receiving 1915(c) CHILd waiver services after the effective date of this administrative regulation shall be conflict free except as allowed in paragraph (b) of this subsection.

(a) Conflict free case management shall be a scenario in which a provider, including any subsidiary, partnership, not-for-profit, or for-profit business entity that has a business interest in the provider who renders case management to a participant, shall not also provide another 1915(c) CHILd waiver service to that same participant.

(b) An exemption to the conflict free case management requirement shall be granted if:

1. The participant's case manager provides accurate documentation of evidence to the department or its designee that there is a lack of a qualified case manager within thirty (30) miles of the participant's residence; and

2. The participant or participant's representative and case manager shall submit the Conflict Free Case Management Exemption within the MWMA.

(c) If a case management service is approved to be provided despite not being conflict free, the case management provider shall:

1. Document conflict of interest protections;

2. Separate case management and service provision functions within the provider entity; and

3. Demonstrate that the participant is provided with a clear and accessible alternative dispute resolution process.

(d) An exemption to the conflict free case management requirement shall be requested upon re-evaluation or at least

annually.

(4) A case management agency providing case management to a 1915(c) CHILd waiver participant shall not make a referral to any 1915(c) CHILd waiver services provider to provide services for the same participant if the provider agency has an individual with an ownership interest who is an immediate family member of an individual with an ownership interest in the referring case management agency.

(5) Case management shall:

(a) Assist a participant in the identification, coordination, arrangement, and facilitation of the person-centered team and person-centered team meetings;

(b) Assist a participant and the person-centered team to develop an individualized PCSP and update it as necessary based on changes in the participant's medical condition and supports;

(c) Assist a participant to gain access to and maintain employment, membership in community clubs and groups, activities, and opportunities at the times, frequencies, and with the people the participant chooses;

(d) Be provided by a case manager who:

1. Meets the requirements of subsection (1) of this section;

2. Shall provide a participant and legal representative with a listing of each available 1915(c) CHILd waiver provider in the service area;

3. Shall maintain documentation signed by a participant or legal representative of informed choice of a 1915(c) CHILd waiver provider and of any change to the selection of a CHILd waiver provider and the reason for the change;

4. Shall provide a distribution of the crisis prevention and response plan, transition plan, PCSP, and other documents within the first thirty (30) days of the service to the chosen 1915(c) CHILd waiver service provider and as information is updated;

5. Shall provide twenty-four (24) hour telephone access to a participant and chosen 1915(c) CHILd waiver provider;

6. Shall work in conjunction with a 1915(c) CHILd waiver provider selected by a participant to develop a crisis prevention and response plan, which shall be:

a. Individual-specific and person-centered;

b. Updated as a change occurs; and

c. Reviewed and updated as necessary at each recertification; and

(e) Case management under the CHILd 1915(c) waiver shall not duplicate or supplant targeted case management or care coordination offered under the Medicaid state plan ~~or a child's MCO, respectively~~.

(6) A monthly summary for case management shall follow the calendar month, shall be inclusive of all service dates within the calendar month, and shall be written and available for review in the MWMA no later than fifteen (15) business days following the last day of the month. The monthly summary shall contain:

(a) A description of progress toward the participant's outcome(s) as noted by the pertinent waiver requirements;

(b) Reflect the monitoring of the services;

(c) Documentation of pertinent contacts and communications conducted with or on behalf of the participant;

(d) If the participant has a guardian, regular check-ins with the guardian;

(e) Month and year for the time period the note covers; and

(f) Name, date, title, and signature of the person completing the summary.

(7) The case manager shall have these additional PCSP monitoring requirements:

(a) All service documentation shall be reviewed by the case manager to assist with monitoring services for each participant;

(b) A case manager shall address concerns with the quality of services or documentation with a provider as part of managing the PCSP;

(c) A case manager shall ensure that documentation thoroughly addresses:

1. The current status of the client;

2. The services utilized to address specific goals established in the PCSP; and

3. Resolution of any concern expressed by the client or provider.

(8) A case management agency providing case management

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services pursuant to this section shall employ a case manager supervisor to oversee case managers and case management duties pursuant to this administrative regulation.

Section 6. Covered Services. Services shall be covered under this administrative regulation in accordance with the requirements established in this section.

(1) Respite.

(a) Respite services are provided to CHILD waiver participants who are unable to independently care for themselves.

(b) Respite services are provided on a short-term basis due to the absence of or need for relief of the primary caregiver.

(c) Respite may be provided in a variety of settings including:

1. The participant's own residence;
2. In the community; or
3. A CHILD certified residential setting.

(d) A provider may not use another person's bedroom or another person's belongings to provide respite for a different person.

(e) Respite care shall not be furnished for the purpose of compensating relief or to substitute staff for a supervised residential care agency staff member. The costs of any substitute residential care agency staff shall be met from payments for supervised residential care services.

(f) Respite provided under the CHILD waiver shall not supplant educational services available under the IDEA (20 U.S.C. 1401 et seq.).

(g) Respite services made available through the CHILD waiver shall not supplant or duplicate similar services available under the Kentucky Medicaid state plan.

(h) The following limitations shall apply to the respite service as provided under the CHILD waiver:

1. Unit of service: fifteen (15) minutes.
2. Limited to 830 hours per waiver eligibility span, unless otherwise approved through the established exceptional review process pursuant to 907 KAR 2:725.
3. Children and youth currently authorized and receiving supervised residential care shall not receive respite services.
4. Respite shall not be authorized during school hours except when the CHILD waiver participant is unable to attend school or receive educational services due to a disciplinary exclusion, if the CHILD waiver participant attends a partial school day, or when the CHILD waiver participant receives educational services while in a home-hospital setting.

(i) Service documentation requires the use of electronic visit verification and shall align with 21st Century Cures Act.

(j) A respite service shall be documented **via EVV, and in the MWMA by a note which** shall be entered at the time the service is rendered and shall include:

1. The participant's health, safety, and welfare;
2. Type of service provided;
3. Name of the individual receiving the service;
4. The date of the service;
5. Location of the service **[(not specific address)]**;
6. The beginning and ending times of service provision; and
7. The signature and title of the individual providing the service.

(2) Community living supports.

(a) Community living supports assists enrolled children and youth with age-appropriate tasks that would otherwise be accomplished but for the participant's disability.

(b) Community living supports are intended to provide direct one-on-one assistance, including:

1. Assistance, as described in (3)(b);
2. Support, which shall include reminding, observing, and guiding; and
3. Training in activities such as:
 - a. ADLs such as bathing, eating, dressing, toileting, transferring;
 - b. IADLs such as shopping, money management, meal preparation, or light housework;
 - c. Medication monitoring; or
 - d. Non-medical care not requiring nurse or physician intervention.

(c) Community living supports also includes:

1. Socialization;
2. Relationship building; or

3. Leisure choice and participation in generic community activities.

(d) Community living supports facilitates independence and promotes integration into the community.

(e) Community living supports are based upon therapeutic goals, are not diversional in nature, and are not intended to replace other work or day activities.

(f) This service may take place in an individual's home or the community, based on the child or youth's assessed needs and in accordance with the approved PCSP.

(g) Community living supports shall only be authorized for children or youth who are not currently authorized to receive and receiving supervised residential care, unless the conditions noted in paragraphs (p)-(s) of this subsection are otherwise met.

(h) Community living supports shall not be authorized during school hours except:

1. When the CHILD waiver participant is unable to attend school or receive educational services due to a disciplinary exclusion;

2. If the CHILD waiver participant attends a partial school day;

or

3. When the CHILD waiver participant receives educational services while in a home-hospital setting.

(i) Providers of community living supports shall be limited to certified waiver providers.

(j) Legally responsible individuals, relatives (as consistent with 922 KAR 2:160), and guardians shall be prohibited from becoming providers of community living supports for their child, relative, or ward.

(k) Community living supports shall not be available when medically necessary personal care is covered by EPSDT.

(l) Community living supports are limited to additional services intended to avoid institutionalization that are not otherwise covered under the Kentucky Medicaid state plan, including EPSDT.

(m) Community living supports shall not supplant education services available under the IDEA.

(n) Community living supports shall be limited to 448 fifteen (15)-minute units (112 hours) per week, with no more than sixteen (16) hours per day delivered, unless otherwise approved through the established exceptional review process as enumerated in Kentucky 907 KAR 2:725.

(o) Community living supports shall not be authorized for children or youth who are currently authorized and receiving supervised residential care, unless the participant's person-centered service plan includes documented evidence that the individual and their support system are reintegrating the individual back to the individual's family (including foster parent's) residential home. When participants are working to reintegrate into their family (including foster parent's) home, these additional community living supports restrictions shall apply:

1. Authorizations shall be limited to no more than a total of eighty (80), fifteen (15) minute units per week; and

2. Authorization shall expire if the child or youth is no longer actively working towards reintegration.

(p) Documentation requirements for 1915(c) CHILD waiver community living supports providers:

1. Service documentation shall require the use of electronic visit verification as outlined in the 21st Century Cures Act.

2. A community living supports service shall be documented **via EVV, and in the MWMA by a note, which** shall be entered at the time the service is rendered and shall include:

- a. The participant's health, safety, and welfare;
- b. Type of service provided;
- c. Name of the individual receiving the service;
- d. The date of the service;
- e. Location of the service (not specific address);
- f. The beginning and ending times of service provision; and
- g. The signature and title of the individual providing the service.

3. **Community living supports providers shall maintain documentation that** shall be person centered and reflect the support provided to the participant, including:

- a. The goal from the PCSP addressed by the service;
- b. The activity completed to meet the goal and the outcome;
- c. How the participant responded to the service; and
- d. Any progress or lack thereof toward the goals and objectives

reflected on the PCSP.

(3) Environmental and Minor Home Modifications.

(a) Environmental and minor home modifications consist of any necessary adaptations to a private or family residence required to ensure the child or youth's health, welfare, and safety.

(b) Environmental and minor home modifications shall be delineated in the PCSP and may include adaptations to the home such as:

1. Installation of ramps and grab-bars;
2. Wheelchair accessibility modifications, including widening of doorways, lowering of counters ~~or~~ cabinets, and modification of bathroom facilities; or
3. Installation of specialized electric and plumbing systems that are necessary to accommodate those medical equipment and supplies which are necessary for the welfare of the individual.

(c) Environmental and minor home modifications shall not include certain adaptations or improvements to the home that are not of direct medical or remedial benefit to the waiver participant.

(d) Approval from the department shall be required for requested items not included pursuant to paragraph (b) of this subsection when a clinician overseeing the child or youth's care provides documentation of the medical need.

(e) Environmental and minor home modifications may be authorized up to 120 days prior to discharge of a child or youth transitioning from an ICF/IID or an inpatient psychiatric hospital to a family, guardian, or foster care home.

(f) Environmental and minor home modifications shall not be reimbursed by the department until the date a child or youth is enrolled in the waiver following discharge from the institution.

(g) Adaptations that add to the total square footage of the home shall be excluded from this benefit except when necessary to complete an adaptation.

(h)

1. Environmental and minor home modifications may be approved for children and youth living in a family, guardian, or foster care home.

2. Children and youth who are residing in a supervised residential care setting shall not be authorized for environmental and minor home modifications.

(i) Environmental and minor home modifications shall be limited to additional services intended to avoid institutionalization that are not otherwise covered under the Kentucky Medicaid state plan, including EPSDT.

(j) Environmental and minor home modifications, shall be provided:

1. In accordance with applicable state and local building codes; and
2. By a vendor who shall be in good standing with the Office of the Secretary of State.

(k) Environmental and minor home modifications shall have a CHILD waiver lifetime cost limit as established pursuant to 907 KAR 2:725, unless otherwise approved through the established exceptional review process.

(l) Documentation requirements for 1915(c) CHILD waiver environmental and minor home modifications providers shall include:

1. A description of each adaptation purchased;
2. A receipt for every adaptation made, which shall include the:
 - a. Date of purchase;
 - b. Description of the item;
 - c. Quantity and per unit price; and
 - d. Total amount of the purchase.
3. The signature and title of the case manager; and
4. The date the entry was made in the record.

(4) Clinical Therapeutic Services.

(a) Clinical therapeutic services shall be for the purpose of supporting children, youth, and their families, based on assessed needs, in understanding, mitigating, and providing long term solutions for behavior challenges.

(b) This service is designed to provide family crisis prevention and stabilization supports to the waiver enrolled child or youth, primary caregiver, or family (including foster care families).

(c) Clinical therapeutic services may be used to support other waiver providers, ~~with the exception of those providing~~

~~environmental and minor home modifications,~~] working with a child or youth on the types of prevention and stabilization techniques best suited to the child's needs.

(d) Activities provided through clinical therapeutic services to achieve the service's intended outcomes include:

1. Identification of behavioral triggers through review of the CANS assessment and other clinical or therapeutic documentation to identify behavioral triggers that may lead to crisis situations or escalated negative behaviors;
2. Training for primary caregivers in trauma-informed methods for:

- a. Preventing crisis; mitigation and support techniques for when crises occur; and
- b. Implementation of positive coping strategies to directly address crisis or negative behavior escalation.

3. Development and incorporation of individualized wraparound support plans within a PCSP, as informed by the CANS and other clinical or therapeutic documentation to prevent crisis or escalated negative behaviors.

4. Parental and family support (e.g. family-to-family networking).

5. Assistance to the child or youth in the acquisition, retainment, or improvement of age-appropriate behavior and social skills necessary to help avoid institutionalization. Assistance may take the form of:

- a. Training the youth, family, or provider in stabilization techniques;
- b. Working with the individual, family, or provider to identify triggers and developing person-centered approaches for preventing behavioral crisis prior to occurrence; and
- c. Assisting the waiver enrolled individual in acquiring, retaining, and improving areas of self-help and socialization.

6. Additional activities that may occur in situations in which a child or youth is stepping down from institutional care or is otherwise transitioning between residential settings may include:

- a. Support for establishing or re-establishing the child or youth in a family home, foster home, or other community-based residential setting, such as:
 - (i) Development of schedules;
 - (ii) Practices; or
 - (iii) Expectations within the new setting;
- b. Implementation of specialized behavior management techniques focused on mitigating disruptions resulting from the transition; or

c. Other activities as deemed appropriate by the child or youth's family, foster family, and broader care team to effectively mitigate the impacts of transitions out of and between institutional or residential settings.

(e) This service;

1. Shall be provided in-person or face-to-face via telehealth at the request or benefit of the participant.

2. If provided via telehealth:

a. Shall be documented in the PCSP;

b. Shall include the option for a participant to request and receive services in-person instead of via telehealth; and

c. Shall be conducted in accordance with 907 KAR 3:170 [may take place in an individual's home or the community, based on the child or youth's assessed needs and in accordance with the approved PCSP].

(f) The appropriate staffing ratio shall be determined based on assessed needs and unique circumstances of the individual and family with input from the individual's case manager.

(g) Clinical therapeutic services shall be limited to additional services intended to avoid institutionalization that are not otherwise covered under the Kentucky Medicaid state plan, including EPSDT.

(h) Clinical therapeutic services shall be initially limited to 160 units per year, unless otherwise approved through the established exceptional review process pursuant to 907 KAR 2:725.

(i) Documentation requirements for 1915(c) CHILD waiver clinical therapeutic services providers.

1. A clinical therapeutic service shall be documented ~~[in the MWMA]~~ by a note which ~~[shall be entered within seventy-two (72) hours from the date of the service being rendered and]~~ shall include:

- a. The participant's health, safety, and welfare;

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- b. Description of the service provided;
- c. The date of the service;
- d. Location of the service (not specific address);
- e. The beginning and ending times of service provision; and
- f. The signature and title of the individual providing the service.

2. Documentation shall be person centered and reflect the support provided to the participant, including:

- a. The goal from the PCSP addressed by the service;
- b. The activity completed to meet the goal and the outcome;
- c. How the participant responded to the service;
- d. Any progress or lack thereof toward the goals and objectives reflected on the PCSP; and
- e. Family collateral, telephone and other significant contacts, or collateral information shall also be recorded in the staff notes.

(5) Supervised Residential Care.

(a) Supervised residential care shall be focused on children and youth who require twenty-four (24) hour intense residential services.

(b) The supports provided in a supervised residential care setting shall be individually tailored to assist with the acquisition, retention, or improvement in skills related to living in the community.

(c) Supervised residential care shall be intended to support children or youth who are:

1. Discharged from a psychiatric hospital or ICF/IID but are not yet able to return back to their family, guardian, or foster care residence;

2. Unable to be cared for within their family, guardian, or foster care residence due to high-risk behaviors or complex medical conditions, but who do not wish to receive services in an appropriate institutional setting; or

3. Currently unhoused as a result of their disability and care needs and who are unable to access appropriate community-based supports through another funding source.

(d) Supervised residential care supports include:

- 1. Adaptive skill development;
- 2. Assistance with activities of daily living;
- 3. Community inclusion; or
- 4. Social and leisure skill development to assist the child or youth to reside in the most integrated setting appropriate to his ~~or~~ her needs.

(e) Supervised residential care shall be delivered in a home or community setting, which shall not include:

- 1. A nursing facility;
- 2. An institution for mental disease; or
- 3. An intermediate care facility for individuals with intellectual disability.

(f) The supports required for each participant shall be outlined in their PCSP.

(g) Supervised residential care services shall also include:

- 1. Protective oversight and supervision;
- 2. Transportation;
- 3. Personal assistance; or
- 4. The provision of medical and health care services that are integral to meeting the daily needs of residents.

(h) Supervised residential care settings shall have no more than three (3) residents at any given time.

(i) To the extent feasible, supervised residential care settings shall not serve children or youth for whom there is an age difference of more than five (5) years between the oldest and youngest resident, unless the children are siblings, and efforts shall be made to provide children and youth with alternative setting choices where there is not an age difference of more than five (5) years between residents.

(j) Case managers are required to aid in finding supervised residential care settings that meet the individual safety needs of the participant to prevent harm to themselves or others.

1. To meet the requirement in this paragraph, the case manager shall ~~collaborate with~~**conduct a** supervised residential care ~~providers to determine appropriate fit per regulatory criteria~~**provider review of individual PCSPs and health risk screening results,** prior to placement.

2. A child with a history of aggressive behavior or sexual acting out shall be assessed by their treatment team to ensure the safety of the child and other children in the home and community with the appropriate safety measures documented in the PCSP.

(k) The agency providing supervised residential care shall be responsible to arrange for or provide transportation to:

- 1. A family, guardian, or foster care home;
- 2. School, as applicable;
- 3. A place of employment, as applicable; or
- 4. Other community locations when the provision of transportation covered pursuant to 907 KAR 3:066 is unavailable.

(l) Supervised residential care may include the provision of up to five (5) unsupervised hours per day per child or youth who is at least eighteen (18) years of age as identified in the PCSP. Unsupervised hours shall be intended to promote increased independence and are based on the individual needs of a child or youth as reflected in the PCSP. These general restrictions shall apply to any unsupervised time:

1. Participants who cannot safely be unsupervised shall not be unsupervised. For each child or youth approved for any unsupervised time, a safety plan shall be created based upon their assessed needs.

2. Unsupervised hours shall not be authorized solely due to staffing shortages or lack of qualified staff coverage.

3. Unsupervised hours shall be intended to facilitate transition planning and community integration towards developing independence.

(m) The case manager, as well as other team members, shall ensure the child or youth is able to implement the safety plan.

(n) Ongoing monitoring of the safety plan, procedures, or assistive devices required shall be conducted by the case manager to ensure relevance, ability to implement, and functionality of devices if required.

(o)

1. If a child or youth experiences a change in support needs or status, adjustments in supervised residential care shall be made to meet the support needs.

2. If a change in support need or status is anticipated to be chronic (lasting more than three (3) months), the supervised residential care provider may request reassessment to determine if needs have changed.

(p) Any increase in funding based on assessed needs shall be used for provision of additional supports, as outlined in a revised PCSP and approved through the exceptional supports process.

(q)

1. Cameras shall be prohibited in bedrooms and bathrooms.

2. Provider-owned or leased residences where supervised residential care services are furnished shall be compliant with the Americans with Disabilities Act (PL No: 101-336) based on the needs of the persons supported.

(r) Payment shall not be made for the cost of room and board, including the cost of building maintenance, upkeep, and improvement.

1. The method by which the costs of room and board are excluded from payment for supervised residential services is specified in 907 KAR 2:725.

2. Supervised residential services shall be furnished in a provider-owned or leased residence.

(s) Children and youth authorized and receiving supervised residential care may not be authorized to receive respite, community living supports, or environmental and minor home modifications, unless otherwise noted in the service definitions and limitations of these other CHILD waiver services.

(t) Supervised residential care shall be limited to additional services not otherwise covered under the state plan, including EPSDT, but consistent with waiver objectives of avoiding institutionalization.

(u) The participant's guardian shall be notified and approve any changes to the location in which residential services are being provided prior to any changes being made.

(v) The participant and their guardian have the right to have input on choice of roommates and preferences in staff.

(w) The supervised residential care provider shall notify the case manager in advance of any changes and document the discussion and decisions made by the team.

(x) Supervised residential care shall be limited to one (1) unit per participant per calendar day.

(y) These additional documentation requirements for 1915(c)

CHILD waiver supervised residential care shall apply:

1. A daily note which shall be entered within seventy-two (72) hours from the date of the service being rendered and shall describe relevant services and activities in which the participant participated and shall include:

- a. The participant's health, safety, and welfare;
 - b. Description of the service provided;
 - c. The date of the service;
 - d. Location of the service (not specific address);
 - e. The beginning and ending times of service provision; and
 - f. The signature and title of the individual providing the service;
2. Relevant services and activities included in the note shall include:

- a. Skills training, including adaptive skill development;
 - b. Assistance with ADLs;
 - c. Community inclusion;
 - d. Social and leisure development;
 - e. Protective oversight or supervision;
 - f. Transportation;
 - g. Personal assistance provided; **and**
 - h. The provision of medical or health care services; **and**
 - [i.] ~~[A copy of the participant's immunization records as defined in 902 KAR 2:060].~~
3. Documentation shall be person centered and reflect the support provided to the participant, including:
- a. The goal from the PCSP addressed by the service;
 - b. The activity completed to meet the goal and the outcome;
 - c. How the participant responded to the service; and
 - d. Any progress or lack thereof toward the goals and objectives reflected on the PCSP.

Section 7. Person-Centered Service Plan Requirements.

(1) The enrollment notice sent to the child or youth shall advise the CHILD participant and the participant's legal guardian or authorized representative, if applicable, that they shall select a case manager to initiate service planning prior to receiving CHILD waiver services.

(2)

(a) The enrollment notice shall contain instructions on how to access information on case management agencies so that the participant may initiate contact and selection of a case manager.

(b) When a case management agency is selected, that agency is able to be associated with the participant in the MWMA and a case manager can be assigned.

(3) The participant's PCSP shall be developed utilizing completed assessments and screenings, including the CANS and other medical and behavioral assessments as applicable.

(4) The person-centered planning process and development of the PCSP shall take place as follows:

(a) Identify individuals that comprise a participant's support system and their roles on the participant's person-centered team as defined in Section 1 **of this administrative regulation.**

(b) A participant and their legal guardian may designate any family, friends, and other caregivers, both paid and unpaid, to participate in this process.

(c) The case manager shall document the individuals included in the person-centered team on the department approved form and upload it to MWMA.

(d) The case manager shall document when a support is removed from the person-centered planning team.

(e)

1. For the development of the initial PCSP, the full person-centered planning team shall participate.

2. For the annual redetermination of the PCSP, the child or youth and the participant's guardian or authorized representative, if applicable, has final authority to determine whether there is satisfactory team participation to conduct the PCSP annual review meeting.

(f) The case manager shall document how information about the meeting was provided to absent members.

(g) Members of the person-centered planning team who do not attend the annual review meeting or who attend by phone shall provide written attestation that they understand the contents of the PCSP and can support the participant's service needs at the

requested amount, frequency, and duration.

(h) Once the person-centered planning team is confirmed, the case manager shall complete the primary activities:

1. The team shall collectively review the findings of the participant's assessment. This process includes documenting any non-Medicaid paid or unpaid support including information on the access and limitations of such supports and Medicaid state plan services. For annual review meetings, the team shall also review the participant's current PCSP.

2. The team shall work collectively under the leadership of the participant and the participant's legal guardian or authorized representative, if applicable, to complete an additional review of the participant's person-centered planning needs and wishes to establish goals and objectives that enhance health, safety, and welfare, community-based independence, community participation, and quality of life.

3. Not all goals and objectives shall be accomplished using 1915(c) CHILD waiver funded services.

(i) The process of setting goals shall include education and team support for the participant and the participant's legal guardian or the participant's authorized representative, if applicable.

(j) Goals and objectives for all services on the PCSP shall be:

1. Stated clearly;
2. Measurable;
3. Attainable;
4. Relevant;
5. Time-bound; and
6. Adhere to specifications detailed in the approved CMS CHILD waiver application.

(k) Goals and objectives shall be documented, including:

1. An inventory of a participant's personal preferences;
2. Individualized considerations for service delivery; and
3. Information about the participant's needs, wants, and future aspirations.

(l) The results of the conversation or meeting documenting the goals and objectives shall be:

1. Included in the PCSP, which is housed in MWMA; and
2. Signed by the participant and the participant's legal guardian or authorized representative, if applicable.

(m) The case manager, and all other individuals responsible for the implementation of services shall demonstrate this information:

1. Was collected;
2. Was shared with all person-centered team members; and
3. Is accessible to inform ongoing development and implementation of the PCSP.

(n) The case manager shall provide education on available service options to meet a participant's person-centered goals and objectives as established in Section 3(1) **of this administrative regulation**, using the process for educating the participant and other team members on service providers as described in Section 6(2)(e) **of this administrative regulation.**

(o)

1. Once a child or youth and the participant's legal guardian or authorized representative, if applicable, selects providers to deliver services pursuant to the frequency and amount, the case manager shall facilitate the referral process.

2. After the person-centered planning process has taken place, the case manager shall acquire the signatures of all the team members, including:

- a. The participant and the participant's legal guardian or authorized representative, if applicable;
 - b. The case manager; and
 - c. All 1915(c) waiver providers.
- 3.

a. Prior authorization of service shall not be valid without signatures; and

b. Prior authorization of service shall be necessary prior to delivery of service.

4. Services rendered prior to signed attestation of understanding of the contents of the PCSP by all parties required pursuant to subparagraph 2. **of this paragraph** shall not be reimbursed.

(p) The case manager shall:

1. Ensure that the scope, frequency, amount, and duration of services falls within the allowable utilization criteria and limitations

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set by the CMS approved 1915(c) CHILD waiver;

2. Clearly document any planned changes in utilization anticipated over the course of the year, including:

a. Any anticipated change in utilization while a participant under the age of **eighteen (18) [48]** is out of school for the summer; or

b. Anticipated increases due to anticipated changes in caregiver availability; and

3. Maintain documentation showing that all:

a. Needs identified through the functional assessment are addressed via unpaid or paid supports; and

b. Paid services are appropriate in amount, duration, and frequency as identified by the functional assessment.

(5) Initial development of the PCSP for a new participant shall involve these steps and requirements:

(a) Once the assessment is complete and the participant chooses a case manager, the participant and the participant's legal guardian or authorized representative, if applicable, shall begin the process of developing the PCSP with the case manager's assistance.

(b) Upon acceptance of a new participant, the case manager shall conduct an initial in-person visit to begin the person-centered planning process.

(c) Person-centered service planning and development of the PCSP shall follow the steps described pursuant to subsection (4) of this section.

(d) A participant's PCSP shall be updated on at least an annual basis.

(e) If a case manager chooses to attend the functional assessment, the case manager shall support the participant in answering questions and not answer questions on the behalf of the participant or influence the participant's response or lack of response.

(f) Person-centered service planning may begin forty-five (45) calendar days prior to the end of the current level of care period, pending the completed level of care evaluation.

(g) The PCSP shall be completed and uploaded to MWMA at least seven (7) calendar days prior to the end of the current level of care period.

Section 8. Ongoing Management and Use of the PCSP.

(1) A participant and a participant's legal guardian, if applicable, may request a modification to their PCSP due to changes in their condition or service needs at any time.

(2) Throughout the course of plan monitoring, the case manager shall address instances when a modification to the PCSP may be appropriate.

(3)

(a) The case manager shall not initiate any modification to the PCSP without the consent of the participant and the participant's legal guardian, if applicable.

(b) The service providers affected by an event-based modification to the PCSP shall be involved in the modification process as well.

(4) Certain modifications or event-based circumstances may require the completion of an updated CANS assessment of the participant's needs and necessary adjustments to the participant's PCSP. These events or modifications that may merit completion of a functional assessment outside of the annual assessment cycle include:

(a) Inpatient admission to an institutional care setting with changes at discharge in functional ability from previous assessment;

(b) Change in care setting that increases the participant's level of care needs, including transitions between community-based settings such as moving from a participant's own home to a residential setting;

(c) Long-term change in access to or ability of an unpaid caregiver to provide care; and

(d) Observed or reported changes that result in the inability of the participant to meet goals and objectives based on the current PCSP.

(5) If circumstances necessitate initiation of an event-based assessment pursuant to subsection (4) of this section, the case manager shall:

(a) Request an updated CANS assessment in MWMA;

(b) After completion of the updated CANS assessment, review the updated assessment;

(c) Share information about the assessment outcomes with the participant and the participant's legal guardian, if applicable; and

(d) Work with the participant, and any members of the participant's person-centered team as requested by the participant, to modify the PCSP to address any requested or necessary modifications.

(6)

(a) An updated PCSP shall be signed by:

1. The participant and the participant's legal guardian, if applicable;

2. The case manager; and

3.

a. Any new service providers;

b. Providers for whom the scope, amount, or duration of service has been adjusted from what was previously agreed; or

c. Providers for whom services have been impacted.

(b) Any signatures required by paragraph (a) of this subsection shall not be obtained until the person-centered planning process and the PCSP are complete.

(7) The updated PCSP shall remain in effect until the end of the participant's **eligibility[original enrollment]** year.

(8) An event-based functional assessment shall not eliminate the need for a participant's annual PCSP redetermination.

(9) All providers delivering services shall be responsible for reviewing changes and working with the participant's case manager and person-centered team to make any adjustments or deploy mitigation strategies to ensure continuity of care.

(10) A case manager shall not maintain a case load of more than thirty (30) participants during any monthly period.

Section 9. Human Rights Committee.

(1) A human rights committee shall meet on a routine, scheduled basis, no less than quarterly, to ensure that the rights of participants utilizing 1915(c) CHILD waiver services are respected and protected through due process review of any modifications of home and community-based settings as listed under 42 C.F.R. 441.301(c)(4)(vi)(A) through (D).

(2) A human rights committee shall include at least:

(a) One (1) self-advocate;

(b) One (1) member from the community at large with experience in developmental disabilities or SED;

(c) One (1) appointed guardian or family member of a 1915(c) waiver participant;

(d) One (1) professional in the medical field; and

(e) One (1) professional with:

1. A bachelor's degree from an accredited college or university; and

2. Three (3) years of experience in the field of child behavioral health or developmental disabilities.

(3) Each 1915(c) CHILD waiver provider shall:

(a) Actively participate in the human rights committee process of the local human rights committee; and

(b) Provide the necessary documentation to the local human rights committee for review and approval prior to:

1. Implementation of any rights restrictions; or

2. Positive behavior support plans involving rights restrictions.

(4) A human rights committee meeting shall have a quorum of at least three (3) members, including at least one (1) self-advocate and one (1) community at large member.

(5) A human rights committee shall:

(a) Maintain a record of each meeting; and

(b) Send a summary of each PCSP reviewed to the:

1. Relevant participant; or

2. Participant's guardian and case manager.

(6) Each member of a human rights committee shall:

(a) Complete an orientation approved by department or its designee;

(b) Sign a confidentiality agreement; and

(c) Function in accordance with the Health Insurance Portability and Accountability Act codified as 45 C.F.R. Parts 160, 162, and 164.

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(7)

(a) A human rights committee shall ensure that any restriction imposed on a participant is:

1. Temporary in nature;
2. Defined with specific criteria outlining how the restriction is to be imposed;
3. Paired with learning or training components to assist the participant in eventual reduction or elimination of the restriction;
4. Removed upon reaching clearly defined objectives; and
5. Reviewed by the human rights committee at least once every six (6) months if the restriction remains in place for at least six (6) months.

(b) In an emergency where there is imminent danger or potential harm to a participant or other individuals, the participant's 1915(c) CHILD waiver service provider, in consultation with the case manager and participant's guardian, as appropriate, may limit or restrict the participant's rights for a maximum of one (1) week.

(c) If a participant is under the care of a psychologist, counselor, psychiatrist, or behavior support specialist, a restriction plan:

1. Shall be developed with the input of the psychologist, counselor, psychiatrist, or behavior support specialist; and
2. May be implemented for up to two (2) weeks.

(d) A proposed continuation of a restriction shall be immediately reviewed and approved by three (3) members of the local human rights committee while alternative strategies are being developed.

(e) If a rights restriction needs to be continued and addressed in the participant's PCSP, the restriction shall be submitted to the local human rights committee at the next regularly scheduled meeting.

Section 10. Behavior Intervention Committee.

(1) A behavior intervention committee shall include at least:

- (a) One (1) self-advocate, representative, or family member;
- (b) At least one (1) member from the community at large with experience in human rights issues or in the field of intellectual or developmental disabilities;
- (c) One (1) professional in the medical field; and
- (d) At least one (1) of the following:
 1. A positive behavior support specialist;
 2. A licensed psychologist;
 3. A certified psychologist; or
 4. A licensed clinical social worker.

(2)

(a) A behavior intervention committee shall meet at least quarterly to review, approve, and as necessary, make written technical recommendations for each new or revised positive behavior support plan as submitted.

(b) A behavior intervention committee meeting shall have a quorum of at least three (3) members including at least one (1):

1. Self-advocate, representative, or family member; and
2. Member from the community at large with experience in:
 - a. Human rights issues; or
 - b. The field of intellectual or developmental disabilities.

(3) A behavior intervention committee shall ensure that:

(a) Positive behavior supports are clinically sound and based on person-centered values considering what is important for the participant;

(b) Assessments and interventions utilize evidenced based and best practices for treatment of a behavioral health condition as the primary support services when supplemental behavioral interventions are needed;

(c) The use of both behavioral health treatment and positive behavioral supports shall be utilized in a collaborative manner; and

(d) A new or revised positive behavior support plan is not implemented until it is approved by:

1. The behavior intervention committee; and
2. If rights restrictions are recommended, the human rights committee.

(4) A behavior intervention committee shall:

(a) Maintain a record of each meeting; and

(b) Send a summary of each person-centered service plan reviewed to the:

1. Relevant participant; or
2. Participant's guardian and case manager.

(5) Each behavior intervention committee member shall:

(a) Complete an orientation approved by department or its designee;

(b) Sign a confidentiality agreement; and

(c) Function in accordance with the Health Insurance Portability and Accountability Act codified as 45 C.F.R. Parts 160, 162, and 164.

Section 11. Other Assurances Required by Provider.

(1) For each participant to whom it provides services, a 1915(c) CHILD waiver provider shall ensure:

(a) The participant's:

1. Right to privacy, dignity, and respect; and
2. Freedom from coercion or restraint;

(b) The participant's freedom of choice as defined by the experience of independence, individual initiative, or autonomy in making life choices in all matters;

(c) That the participant or participant's representative chooses services, providers, and any service settings;

(d) That the participant is provided with a choice of where to live with as much independence as possible and in the most community-integrated environment;

(e) That the service setting options are:

1. Identified and documented in the participant's PCSP; and
2. Based on the participant's needs and preferences; and

(f) That a provider may not move a participant from one approved location to another without approval from the participant or their legal guardian.

(2) A 1915(c) CHILD waiver provider shall not use an aversive technique with a participant.

(3) Any right restriction imposed by a 1915(c) CHILD waiver provider shall:

(a) Be reviewed at least every six (6) months by a human rights committee;

(b) Be subject to approval by a human rights committee; and

(c) Include a plan to restore the participant's rights.

(4) A participant with a history of aggressive behavior or sexual acting out shall have the following actions taken by the care team to address the needs of the participant:

(a) The care team shall assess the participant's history to ensure the safety of the child and other children in supervised residential services, including any sleeping arrangements;

(b) Information about the appropriate safety measures and the safety measures taken shall be included in the child's PCSP; and

(c) A plan of action shall be developed and implemented.

Section 12. Incident Reporting Process.

(1) The incident reporting process shall follow the processes outlined in the "Incident Reporting Instructional Guide for 1915(c) HCBS Waiver Services" available at: <https://www.chfs.ky.gov/agencies/dms/dca/Documents/irinstructionalguide.pdf>.

(2) The department or its designee shall continually monitor incident trends and patterns and may require additional incident types beyond those listed above as needed.

(3) A provider shall identify individuals and entities, as consistent with KRS 209.030(2) and KRS 620.030, that are required to report critical events and incidents and have a policy that any individual who witnesses or discovers a critical or non-critical incident is responsible to report it.

(4) If an incident occurs that requires reporting, a provider shall:

(a) Notify all pertinent entities including:

1. The case manager or service advisor;
2. Law enforcement; or
3. Protective services;

(b) Ensure that any employee or agent who witnesses or discovers a critical incident shall immediately take steps to:

1. Secure the participant's health, safety, and welfare; and
2. Notify the necessary authorities, including calling law enforcement and reporting any suspected abuse, neglect, or exploitation; and

(c) Comply with existing requirements for reporting of critical and non-critical incidents; and

(d) Complete an investigation report or Risk Mitigation and

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Investigation Report (RMIR) for all critical incident reports.

(5) The department or its designee shall regularly review critical and non-critical incident summary data generated by MWMA to identify systemic issues and conduct follow-up activities as warranted. Actions taken may include corrective action plans or quality improvements plans as needed to enhance performance and ensure safety.

(6) Following the death of a participant receiving services from a CHILD waiver provider:

(a) The CHILD waiver provider shall immediately notify the:

1. County coroner;
2. Child's parent, guardian, or custodian; and
3. Cabinet staff, including any department [~~and BHDID~~] staff contacted during the provider's regular course of business in providing services under the CHILD waiver;

(b) A verbal report of the death shall be made immediately to the:

1. Commissioner of the Department for Medicaid Services or designee; **and**
2. Commissioner of the Department for Community Based Services or designee; ~~and 3. Commissioner of the Department for Behavioral Health, Developmental and Intellectual Disabilities or designee;~~

(c) A written comprehensive report from the director outlining the incident shall be forwarded on the next working day following the verbal report to the Office of the Commissioner of the:

1. Department for Medicaid Services; **and**
2. Department for Community Based Services;

~~[3.] [Department for Behavioral Health, Developmental and Intellectual Disabilities;]~~ and

~~[d][4-]~~ If a child's death occurred as a result of alleged abuse or neglect, the director of the CHILD waiver provider shall make verbal and written reports as required by KRS 620.030(1) and (2).

(7) A child fatality or near fatality shall also participate in the processes established pursuant to KRS 620.055 relating to external child fatality or near fatalities and the process established pursuant to subsection (8) of this section.

(8)

(a) In addition to the process described in subsection (7) of section, following the death of a participant receiving CHILD waiver services, the CHILD waiver provider shall enter mortality data documentation into the MWMA within fourteen (14) days of the death.

(b) Mortality data documentation shall include:

1. The participant's person-centered service plan at the time of death;
2. Any current assessment forms regarding the participant;
3. The participant's medication administration records from all service sites for the past three (3) months along with a copy of each prescription, if applicable;
4. Service documentation regarding the participant from all service elements for the past thirty (30) days, including case management notes;
5. The results of the participant's most recent physical exam;
6. All incident reports, if any exist, regarding the participant for the previous six (6) months;
7. Any medication error log related to the participant for the previous six (6) months;
8. Names and contact information for all staff members who provided direct care to the participant during the last thirty (30) days of the participant's life;
9. Emergency medical services notes regarding the participant, if available;
10. The police report, if available;
11. A copy of:
 - a. The participant's advance directive, medical order for scope of treatment, living will, or health care directive, if applicable;
 - b. Any functional assessment of behavior or positive behavior support plan regarding the participant that is in place over any part of the previous twelve (12) months; and
 - c. The cardiopulmonary resuscitation (CPR) and first aid card for any CHILD waiver provider's staff member who was present at the time of the incident that resulted in the participant's death;
12. A record of all medical appointments or emergency room

visits by the participant within the previous twelve (12) months; and

13. A record of any crisis training for any staff member present at the time of the incident that resulted in the participant's death.

Section 13. CHILD Waiver Waiting List.

(1) If an individual is determined to meet criteria for allocation to the CHILD waiver as identified in Section 3 **of this administrative regulation** but no capacity is available at the time of the review, an individual shall be placed on the CHILD waiver waiting list.

(2) An individual's order of placement on the CHILD waiver waiting list shall be determined by the chronological date of receipt of complete application into the MWMA.

(3) A written notification of placement on the CHILD waiver waiting list shall be mailed to an individual or the individual's guardian and case management provider if identified.

(4)

(a) In determining chronological status, the original date of an individual's complete application information being entered into the MWMA shall be maintained.

(b) The department shall, at a minimum, annually review and update the waiting list information about an individual during the birth month of that individual.

(c) The individual or individual's guardian and case management provider, if identified, shall be contacted annually in writing to verify the accuracy of the information on the CHILD waiver waiting list and the individual's or individual's guardian's continued desire to pursue enrollment in the CHILD waiver.

(d) If a discrepancy in diagnosis or other criteria to qualify for CHILD waiver is noted at the time of the review, the department may request updated supporting documentation to validate that the individual meets CHILD waiver criteria.

(e) The information referenced in paragraph (c) of this subsection shall be received by the department within thirty (30) days from the date of the written request in order to be considered timely.

(f) The criteria for removal from the CHILD waiver waiting list shall be if:

1. After a documented attempt, the department is unable to locate the individual or the individual's guardian;
 2. The individual is deceased;
 3. A review of documentation reveals that the individual no longer meets criteria for the CHILD waiver as defined in Section 3 **of this administrative regulation**;
 4. Information requested during the waiting list maintenance review is not received by the department or its designee within **thirty (30)[20]** days of the written request;
 5. A notification of potential CHILD waiver funding is made and the individual or the individual's guardian does not request to be maintained on the CHILD waiver waiting list; or
 6. Notification of potential CHILD waiver funding is made and the individual or the individual's guardian does not complete the enrollment process with the department or its designee within 120 days.
- (5) The removal of an individual from the CHILD waiting list shall not prevent the submission of a new application at a later date.

Section 14. Use of Electronic Signatures. The creation, transmission, storage, or other use of electronic signatures and documents shall comply with:

- (1) The requirements established in KRS 369.101 to 369.120; and
- (2) All applicable state and federal statutes and regulations.

Section 15. Employee Policies and Requirements Apply to Subcontractors. Any policy or requirement established in this administrative regulation regarding an employee shall apply to a subcontractor.

Section 16. 1915(c) CHILD Waiver Participant Appeal Rights.

(1) An appeal of a department decision regarding a Medicaid beneficiary made pursuant to this administrative regulation shall be in accordance with 907 KAR 1:563.

(2) An appeal of a department decision regarding Medicaid

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eligibility of an individual made pursuant to this administrative regulation shall be in accordance with 907 KAR 1:560.

Section 17. Federal Approval and Federal Financial Participation. The department's reimbursement for services pursuant to this administrative regulation shall be contingent upon:

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

FILED WITH LRC: June 9, 2026

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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 Long Term Services and Supports
(As Amended at ARRS, June 9, 2026)**

907 KAR 2:725. 1915(c) Kentucky's Community Health for Improved Lives and Development (CHILD) Waiver Reimbursement.

RELATES TO: KRS 205.520

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

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has the responsibility to administer the Medicaid program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the reimbursement provisions to provide expanded services to individuals who have a primary diagnosis of Autism, Developmental Disability, Intellectual Disability, or Serious Emotional Disturbance.

Section 1. Definitions.

- (1) "Assessed or Assessment" means the process that authorizes department or its designee to determine applicant service needs that can be met safely in a community-based setting and determine if the participant is eligible for 1915(c) CHILD Waiver services.
- (2) "Autism Spectrum Disorder" (ASD) **[which]** is characterized by:
 - (a) Persistent deficits in social communication and social interaction across multiple contexts;
 - (b) Restricted, repetitive patterns of behavior, interests, or activities, currently or by history;
 - (c) Symptoms **that shall [must]** be present in the early developmental period (but may not become fully manifest until social demands exceed limited capacities, or may be masked by learned strategies in later life);
 - (d) Symptoms **that** cause clinically significant impairment in social, occupational, or other important areas of current functioning; and
 - (e) **[These]** Disturbances **that** are not better explained by intellectual disability (intellectual developmental disorder) or global developmental delay. Intellectual disability and autism spectrum disorder frequently co-occur; to make comorbid diagnoses of autism spectrum disorder and intellectual disability, social communication should be below that expected for general developmental level.
- (3) "Case Manager" means an individual who meets the

personnel and training requirements established in Section 5 of 907 KAR 2:720 and is responsible for facilitating person-centered planning, coordination, and oversight of **all waiver and other state plan services as well as medical, social, educational, and other services, regardless of the funding source for the services to which access is gained[waiver services]**.

- (4) "Department" means the Kentucky Department for Medicaid Services or its designee.
- (5) "Incident" means any occurrence that impacts health, safety, welfare, or lifestyle choice of a participant which can include a:
 - (a) Minor injury;
 - (b) Medication error without a serious outcome; or
 - (c) Behavior or situation that is not a critical incident.
- (6) "Person-centered service plan" or "PCSP" means a written individualized plan of 1915(c) CHILD Waiver services developed in accordance with the participant and family's wants, assessed needs, and preferences that may include a transition plan to more intense or less intense level of services.
- (7) "Serious Emotional Disability" or "SED" is consistent with KRS 200.503.

Section 2. Coverage.

- (1) The department shall reimburse a participating 1915(c) CHILD waiver provider for a covered service provided to a participant.
- (2) **[In order]** To be reimbursable by the department, a service shall be:
 - (a) Provided in accordance with the terms and conditions established in 907 KAR 2:720; and
 - (b) Prior authorized by the department.

Section 3. General Reimbursement Requirements.

- (1) For the department to reimburse for a service or item, the requirements of 907 KAR 2:720 shall be met.
- (2) The department shall reimburse a participating provider for a covered service as established pursuant to the 1915(c) Fee Schedule as available at: <https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>.

Section 4. Exceptional Supports Process.

- (1) A service listed in 907 KAR 2:720 that includes benefit limitations, regardless of delivery method, shall qualify for review as an exception to the benefit limitations:
 - (a) Based on the needs of the participant for whom the exception is requested;
 - (b) For a limited period of time;
 - (c) If the service meets the requirements for an exception in accordance with the Kentucky 1915(c) CHILD Exceptional Supports Protocol found on the 1915(c) CHILD waiver website located at: <https://www.chfs.ky.gov/agencies/dms/dca/Pages/default.aspx>; and
 - (d) If approved by the department or designee to be an exception.
- (2) An exception granted pursuant to this section shall be for the sole purpose of ensuring the health, safety, and welfare of the 1915(c) CHILD Waiver participant.
- (3) Each exceptional supports request shall be agreed upon by a consensus vote of the person-centered team by a person-centered team meeting.
- (4) Within one (1) day of the person-centered team meeting in which an exceptional supports request is approved, the case manager shall submit the exception request through the Medicaid Waiver Management Application (MWMA), including:
 - (a) The name and identifying information of the participant;
 - (b) A description of the exceptional support being requested;
 - (c) Specific challenges presented by the participant and interventions provided that have resulted in the request, including dates, times, and locations of occurrences;
 - (d) Summary notes of the person-centered team meeting held to determine if the request for the requested exception was appropriate, including signatures of the team members and date, time, and location of the meeting;
 - (e) Documentation of any intervention attempted to stabilize the challenges and the resulting outcomes for any repeat exception

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requests; and

(f) Submission of a modified plan with the exceptional support request.

(5) The department or designee shall:

(a) Review the exception request submission within three (3) business days; and

(b) Approve, deny the request, or request additional information.

(6) An approved exception request shall be for a limited period of time, not to exceed a full person-centered plan year~~prior authorized for a period of up to six (6) months or until the end of the participant's eligibility year, whichever is shorter~~.

(7) The prior authorization shall follow the participant if a transition to another provider occurs through an amendment to the prior authorization.

(8) A new exception request that will continue an existing exception shall be submitted no later than fifteen (15) days prior to the end of a prior authorization period.

Section 5. Auditing and Reporting. A CHILd provider shall maintain fiscal records and incident reports in accordance with the requirements established in 907 KAR 2:720.

Section 6. Appeal Rights. A CHILd provider may appeal a department decision regarding the application of this administrative regulation. An appeal shall be in accordance with 907 KAR 1:563.

Section 7. Federal Approval and Federal Financial Participation. The department's reimbursement of services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the reimbursement; and

(2) Centers for Medicare and Medicaid Services' approval for the reimbursement.

FILED WITH LRC: June 9, 2026

Contact Person: Krista Quarles/ Jonathan Scott Phone Number: (502) 564-7476/(502) 564-4321, ext. 2015 Email: CHFSregs@ky.gov/ jonathant.scott@ky.gov.

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**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
(As Amended at ARRS, June 9, 2026)**

911 KAR 1:010. Application for Clinical Programs~~to clinical programs~~.

RELATES TO: KRS 13B, 15.111(2)(g), 200.460, 200.470, 200.654(13), Chapters 311, 314,

STATUTORY AUTHORITY: KRS 194A.030(3)~~194A.030(5)~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.030(3)~~194A.030(5)~~ authorizes the Department for Public Health~~Office for Children with Special Health Care Needs~~ to promulgate administrative regulations to implement and administer its responsibilities, which include oversight of the Office for Children with Special Health Care Needs(OCSHCN). This administrative regulation establishes application forms used for clinical programs, procedures for application and reapplication, eligibility criteria, assignment of pay category, and processes used to determine initial and continuing eligibility for services, as well as a process for reconsideration of an adverse decision.

Section 1. Definitions.

(1) [~~"Affordable Care Act" is defined by 42 U.S.C. 9902(2);~~]

[~~2~~] "Applicant" means a person in need of services offered by

the Office for Children with Special Health Care Needs clinical program.

~~2~~[~~3~~] "Clinical program" means an established clinical service by which OCSHCN delivers care to treat conditions listed on the OCSHCN-10g, Medical Eligibility List for Clinical and Case Management Services, through a provider:

(a) Contracted in accordance with 911 KAR 1:060; or

(b) Employed by OCSHCN as an audiologist.

~~3~~[~~4~~] "Eligibility Committee" means an OCSHCN committee that is charged with:

(a) Clarifying financial eligibility questions that arise during:

1. The application review process; and

2. Ongoing eligibility reviews;

(b) Evaluating appeal requests for reconsideration pursuant to Section 13 of this administrative regulation;

(c) Clarifying medical eligibility questions that arise during the application review process; and

(d) Determining if a diagnosis qualifies for inclusion in the clinical program.

~~4~~[~~5~~] "Income" means money received from:

(a) Statutory benefits, such as~~(for example,~~ Social Security, Veterans Administration pension, black lung benefits, or railroad retirement benefits)];

(b) Military housing;

(c) Clerical housing;

(d) Farm or business operations;

(e) Pensions;

(f) Wages for labor or services;

(g) Royalties;

(h) Alimony, maintenance, or child support;

(i) Miscellaneous income as defined by the Internal Revenue Service at <https://www.irs.gov/forms-pubs/about-form-1099-misc>; [~~www.irs.gov/form1099misc~~];

(j) Retirement Survivors Disability Insurance;

(k) Disability benefits;

(l) Unemployment benefits;

(m) Supplemental Security Income;

(n) Workers' compensation;

(o) Annuities; or

(p) Interest and dividends.

~~5~~[~~6~~] "OCSHCN" means Office for Children with Special Health Care Needs.

~~6~~[~~7~~] "Responsible adult" means a person who is:

(a) Responsible for making decisions about an OCSHCN clinical program applicant or recipient of services; or

(b) Required to provide financial support for an OCSHCN clinical program applicant or recipient of services.

Section 2. Criteria for Application to an OCSHCN Clinical Program.

(1) In order to be eligible to apply to an OCSHCN clinical program, an applicant shall:

(a) Be under twenty-one (21) years of age;

(b) Live in Kentucky;

(c) Provide a Kentucky physical mailing address at which the applicant receives mail; and

(d) Declare Kentucky as permanent domicile and residency.

(2) An applicant to the OCSHCN Autism~~Spectrum Disorder~~ Diagnostic Service shall be referred by:

(a) A physician, licensed in accordance with KRS Chapter 311;

(b) An advanced practice registered nurse, licensed in accordance with KRS Chapter 314;

(c) A licensed behavioral analyst, licensed in accordance with KRS Chapter 319;

(d) A therapist, licensed in accordance with KRS Chapter 334A;

(e) A qualified service provider with the Kentucky Early Intervention System, as defined by KRS 200.654(13); or

(f) School personnel, based on testing results.

(3) An applicant to the OCSHCN Autism ~~Spectrum Disorder~~ Medical Service shall be:

(a) Referred by a:

1. Physician, licensed in accordance with KRS Chapter 311;

2. Psychologist, licensed in accordance with KRS Chapter 319;

or

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3. Speech-Language pathologist, licensed in accordance with KRS Chapter 334A, if an Autism Diagnostic Observation Schedule assessment tool was used; and

(b) Diagnosed with [an] autism[spectrum disorder].

(4) An applicant to the OCSHCN Hearing Aid Only Service shall be:

(a) Diagnosed to have a permanent childhood hearing loss; and

(b) Under the care of a licensed otorhinolaryngologist.

(5) An applicant to clinical services not established in subsections (2), (3), or (4) of this section may be referred by any person or provider.

(6) An individual shall be ineligible for application to clinical programs if a write-off balance for services is owed to OCSHCN for clinical services delivered to the individual.

(7) Any balances owed pursuant to subsection (6) of this section shall be paid in accordance with the:

(a) Individual's pay category status; and

(b) Provisions of 911 KAR 1:020.

(8) OCSHCN may consider reapplication[shall allow up to three (3) ~~reapplications~~] for an applicant if the applicant has been discharged for failure to:

(a) Complete financial update in accordance with Section 12 of this administrative regulation;

(b) Cooperate with medical care;

(c) Make payments on a past due account balance;

(d) Pay OCSHCN for services received; or

(e) Reimburse OCSHCN if an insurance payment has been received by the applicant.

(9) Exceptions to subsections (7) and (8) this section shall be determined by the OCSHCN request for reconsideration process in accordance with Section 13 of this administrative regulation.

Section 3. Initial Application.

(1) If an individual who meets the criteria established in Section 2 of this administrative regulation expresses interest in submitting an application to OCSHCN's clinical program, designated staff shall provide the relevant application packet[~~indicated for the~~][individual's situation], in accordance with Section 4 of this administrative regulation:

(a) At a scheduled intake appointment with the individual;

(b) By postal mail; or

(c) Electronically.

(2) An application shall be made by:

(a) The parent or other legally appointed guardian, if the individual is:

1. A minor who is not legally emancipated; or

2. An adult who is in custodial care; or

(b) The individual, if the individual is:

1. An adult; and

2. Not in the custodial care of another person or entity.

(3) OCSHCN may require the signature of both the applicant and responsible adult if:

(a) The applicant is over the age of eighteen (18); and

(b) There is a question of the applicant's competence to make decisions regarding self-care.

Section 4. Application Forms.

(1) An applicant to an OCSHCN clinical program shall provide to the agency within thirty (30) days of application:

(a) A copy of the applicant's insurance card, or documentation of insurance[~~thereof~~], if the applicant is not receiving Medicaid or K-CHIP;

(b) OCSHCN-10b, Consent for Care Agreement;

(c) OCSHCN-10c, Guaranty of Payment Agreement;

(d) OCSHCN-10d1, Coordination of Benefits Agreement;

(e) OCSHCN-10a1, Application for Service Legal Guardian (Medicaid), if the application is made by a legal guardian on behalf of a child or adult who is:

1. Under the age of twenty-one (21); and

2. Not legally emancipated;

(f) OCSHCN-10a2, Application for Service Legal Guardian (private insurance), if the application is made by a legal guardian on behalf of a child or adult who is:

1. Under the age of twenty-one (21); and

2. Not legally emancipated:

(g) OCSHCN-10e1, Application for Service Young Adult, if the application is made by an individual who is:

1. Not legally emancipated; or

2.

a. Between the ages of eighteen (18) and twenty-one (21); and

b. A full-time student; and

(h)[(g)] OCSHCN-10f1, Application for Service Head of Household, if the application is made by an individual who is:

1. Under the age of eighteen (18) and legally emancipated; or

2. Between the ages of eighteen (18) and twenty-one (21) and financially emancipated.

(2) OCSHCN may request that the applicant submit additional information or documentation concerning medical history within thirty (30) days, based on:

(a) Medical staff request; and

(b) Specific medical need.

Section 5. Limited English Proficiency.

(1) OCSHCN shall provide[~~ensure the availability of~~] foreign language interpretation services[~~in order~~] to ensure[~~assure~~] that families, staff, and providers have an opportunity to communicate effectively.

(2) OCSHCN shall arrange sign language interpreter services for persons who are deaf or hard of hearing, pursuant to 920 KAR 1:070.

Section 6. Proof of Custody for Applicants.

(1) OCSHCN shall require a signed and dated legal court filing establishing custody rights of a minor if:

(a) The parents of a minor are divorced;

(b) The minor is adopted or in the legal custody of the commonwealth; or

(c) The legal guardianship of the minor is in question.

(2) OCSHCN shall require a signed and dated legal court filing establishing custody rights of an adult if the adult is said to be in custodial care of another individual.

(3) OCSHCN may require that the application be signed by the responsible adult if:

(a) The applicant is his or her own legal guardian; and

(b) There is a legitimate concern as to the applicant's ability to make decisions regarding self-care.

Section 7. Application Review Process.

(1) Upon receipt of an application for the OCSHCN clinical program, designated staff shall review the packet to ensure all materials have been completed in accordance with Sections 3 and 4 of this administrative regulation.

(2) Designated staff shall notify the applicant of:

(a) Missing information or clarification needed; and

(b) The timeframe for submitting requested information.

(3) Complete applications shall be processed in accordance with Sections 8, 9, and 10 of this administrative regulation.

(4) If an applicant fails[~~Failure~~] to submit requested information to OCSHCN within the specified timeframe, the application process shall be[~~result in the application~~][~~process being~~] closed.

Section 8. Medical Eligibility Determination.

(1) In order to be eligible for an OCSHCN clinical program, the applicant shall have a documented condition that is treated by OCSHCN.

(2) An application shall be eligible for expedited review if designated OCSHCN staff determine that recent medical records exist documenting that a contracted provider staffing an OCSHCN clinical program has:

(a) Diagnosed the applicant with a condition on the OCSHCN-10g, Medical Eligibility List for Clinical and Case Management Services; and

(b) Agreed to a treatment plan for the child's condition that is supported by the OCSHCN services offered.

(3) If records established in subsection (2) of this section are not available for OCSHCN review, designated OCSHCN staff shall schedule an onsite clinical evaluation:

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(a) By:

- 1. A contracted provider staffing an OCSHCN clinical program;
- or
- 2. An OCSHCN clinic employee; and
- (b) To obtain documentation needed to confirm medical eligibility.
- (4) Upon receipt of documentation pursuant to this section, designated staff shall determine an applicant's medical eligibility for the OCSHCN clinical program.

Section 9. Financial Eligibility Determination and Pay Category Assignment.

(1) Each applicant shall undergo a financial review process upon:

- (a) Application;
 - (b) Confirmation of medical eligibility;
 - (c) Change in income or household size prior to annual financial review; and
 - (d) Annual financial review.
- (2) The OCSHCN process to determine pay category assignment shall:

- (a) Be based on the household income of the responsible adult requesting services; and
- (b) Include income of:
 - 1. The applicant, if the applicant is:
 - a. An adult; or
 - b. Not in the custodial care of another person or entity;
 - 2. Parents, step-parents, or legal guardians, if the applicant is:
 - a. A minor who is not legally emancipated; or
 - b. An adult who is in custodial care; and
 - 3. Spouse of the applicant, if the applicant is married.

(3) Designated OCSHCN staff shall establish a household size based on family composition, including:

- (a) The applicant;
- (b) If the applicant is a minor:
 - 1. Parents;
 - 2. Step-parents;
 - 3. Siblings, including:
 - a. Half siblings; and
 - b. Step-siblings; and
 - 4. Any other dependent child claimed by the applicant on a federal tax return; and
- (c) If the applicant is an emancipated minor or adult:
 - 1. Spouse;
 - 2. Children, including:
 - a. Half children; and
 - b. Step-children; and
 - 3. Any other dependent child claimed by the applicant on a federal tax return.

(4) The documents required for income verification shall be the most recent:

- (a) Federal tax return of the applicant or the responsible adult; and
- (b) Paycheck statement with year-to-date gross earnings for each currently held job.

(5) An applicant or responsible adult without a paycheck containing the criteria established in subsection (4)(b) of this section shall provide ~~the two (2) most recent~~, consecutive ~~and the most recent~~ pay stubs or a written statement from the employer that shows:

- (a) Gross amount earned; and
 - (b) Frequency of pay.
- (6) An applicant who is covered by Kentucky Medicaid shall be:
 - (a) Exempt from income verification;
 - (b) Considered financially eligible; and
 - (c) Placed in the zero percent pay category.

(7) If household income suggests that an applicant is possibly Medicaid- eligible, a Medicaid application shall be completed within thirty (30) days.

(8) If a Medicaid application completed pursuant to subsection (7) of this section is denied for a reason other than being over income, the applicant shall:

- (a) Be considered financially eligible;
- (b) Meet medical eligibility criteria pursuant to Section 8 of this

administrative regulation; and

(c) Be assigned a pay category in accordance with Section 10 of this administrative regulation.

(9) If a Medicaid application completed pursuant to subsection (7) of this section is denied for being over income, the applicant shall be:

- (a) Considered financially eligible; and
- (b) Assigned a pay category in accordance with Section 10 of this administrative regulation.

(10) If an application for Medicaid is not completed as requested within the specified timeframe, the application process shall be closed.

Section 10. Family Participation Scale.

(1) An eligible applicant shall be assigned a pay category, which is determined based on:

- (a) Annual gross income; and
 - (b) Household size.
- (2) OCSHCN shall:

(a) Calculate minimum and maximum annual gross income limits annually, utilizing:

1. The federal poverty level established annually by the United States Department of Health and Human Services pursuant to 42 U.S.C. 9902(2); and

2. Modified adjusted gross income-based methods established in 42 C.F.R. 435.603; and

(b) Post the current Family Participation Scale at <https://www.chfs.ky.gov/agencies/ocshcn>. [<https://chfs.ky.gov/agencies/ocshcn>.]

(3) Except as established in subsection (5) of this section, pay categories shall:

(a) Represent eligibility requirements at income levels for the Kentucky Children's Health Insurance program established in 907 KAR 4:030; and

(b) Be established at:

- 1. Zero Percent;
- 2. Twenty (20) percent;
- 3. Forty (40) percent;
- 4. Sixty (60) percent;
- 5. Eighty (80) percent; and
- 6. 100 percent.

(4) In accordance with KRS 200.470(1), an applicant who is placed in the 100 percent pay category shall be eligible for acceptance only if access to adequate care and treatment is limited as evidenced by:

(a) Service needed is not otherwise available within a fifty (50) mile radius of where the patient resides;

(b) Treatment requires a multi-disciplinary team, which may include a physician, RN care coordinator, social worker, nutritionist, and therapist;

(c) Service is needed for the purchase of hearing aids;

(d) The patient is:

- 1. Uninsured; and

2. A member of a religious sect that is exempt from the requirement to maintain minimum essential coverage as required by **26 U.S.C. 5000A**[*the Affordable Care Act*];

(e) The patient is:

1. Uninsured;

2. Not eligible for Medicaid or the Kentucky Children's Health Insurance Program (KCHIP); and

3. Is exempt from the requirements[requirement] to maintain minimum essential coverage as required by **26 U.S.C. 5000A**[*the Affordable Care Act*]; or

(f) The medical care or service ordered by an OCSHCN-contracted specialist as treatment for a qualifying condition:

1. Is a non-covered benefit or excluded under the patient's insurance policy; and

2. The patient would benefit from the OCSHCN negotiated rate.

(5) An exception to subsection (3) of this section shall be determined by the OCSHCN request for reconsideration process in accordance with Section 13 of this administrative regulation.

Section 11. Notice of Eligibility Determination.

(1) If an applicant is determined to be eligible in accordance with

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Sections 8 and 9 of this administrative regulation, designated staff shall notify the applicant in writing of the:

- (a) Acceptance into the OCSHCN clinical program;
- (b) Effective date of eligibility;
- (c) Pay category assigned and a description of family participation fees and responsibilities;
- (d) Annual review date;
- (e) Name of the OCSHCN contact person assigned to:
 1. Manage medical care;
 2. Schedule appointments; and
 3. Discuss services available; and
- (f) Right to request reconsideration of pay category assignment, in accordance with Section 13 of this administrative regulation.

(2) If an applicant is determined to be ineligible for acceptance into the OCSHCN clinical program, designated staff shall notify the following individuals, in writing, of the reason for denial:

- (a) The applicant, enumerating a right to request reconsideration of the adverse decision; and
- (b) The applicant's primary care or referring physician, if applicable.

Section 12. Continuing Eligibility and Reapplication.

(1) A responsible adult shall advise OCSHCN if there is a change in:

- (a) Employment;
- (b) Contact information;
- (c) Insurance coverage; or
- (d) Family composition.

(2) A financial recertification shall be completed annually.

(3) During the financial recertification, designated OCSHCN staff shall:

- (a) Verify continued Medicaid enrollment; or

(b) If the recipient of services is not enrolled in Kentucky Medicaid, send the responsible adult written notice pursuant to Section 4 of this administrative regulation, requesting completion of:

1. The financial portion of the application form; and
2. The OCSHCN-10c, Guaranty of Payment Agreement form.

(4) If the forms requested pursuant to subsection (3)(b) of this section are not returned in accordance with the requested timeframe, designated staff shall follow up in writing.

(5) If the requested forms are not returned subsequent to a written follow up pursuant to subsection (4) of this section, designated staff shall:

(a) Initiate discharge of the recipient from the OCSHCN clinical program; and

(b) Notify the responsible adult or person receiving services, providing the:

1. Date of discharge;
2. Referral to primary care physician;
3. Option to reapply for OCSHCN services, and contact phone number; and

4. Courtesy copies of notifications of discharge sent to:

- a. Primary care physician;
- b. Dental provider, if applicable; and
- c. Pharmacy provider, if applicable.

(6) Financial recertification shall occur if there is:

- (a) A loss of Medicaid;
- (b) Change in circumstances, such as income or household size; or
- (c) Change in guardianship.

(7) Upon receipt of documentation related to this section's continuing eligibility and reapplication, designated staff shall notify the responsible adult in writing of the:

- (a) Acceptance into the OCSHCN clinical program;
- (b) Effective date of eligibility;
- (c) Pay category assigned and a description of family participation fees and responsibilities;
- (d) Annual review date;
- (e) Name of OCSHCN contact person assigned to:
 1. Manage medical care;
 2. Schedule appointments; and
 3. Discuss services available; and
- (f) Right to request reconsideration of pay category assignment, pursuant to Section 13 of this administrative regulation.

Section 13. Request for Reconsideration.

(1) An individual who is aggrieved by an adverse decision regarding initial eligibility, termination of services, or pay category assignment in accordance with the procedures established in Section 10 of this administrative regulation may request a reconsideration. A request for reconsideration shall be filed within thirty (30) days of receipt of the adverse decision.

(2) A request for reconsideration of pay category assignment shall be directed to the Eligibility Committee for resolution.

(3) Once a request for reconsideration of the pay category assigned is received, the applicant shall be provided with an OCSHCN-10h, Medical Expense Worksheet, which shall be completed and returned to OCSHCN within thirty (30) days.

(4) An applicant shall submit with the OCSHCN-10h, Medical Expense Worksheet, and written proof of out of pocket payment for allowable medical expenses as established in subsection (5) of this section and paid for:

- (a) By the applicant or a member of the applicant's household; and
- (b) Within the last twelve (12) months from the date of the letter of the pay category assignment.

(5) Allowable medical expenses shall include:

- (a) Insurance premiums;
- (b) Medical office or clinic visits;
- (c) Medical supplies;
- (d) Nutritional supplies;
- (e) Prescription medications;
- (f) Over the counter medications;
- (g) Durable medical equipment;
- (h) Hearing aids;
- (i) Dental or orthodontia;
- (j) Vision or Eye;
- (k) Hospitalizations;
- (l) Additional expenses for consideration; and
- (m) OCSHCN payments in accordance with 911 KAR 1:020.

(6) Upon receipt of the OCSHCN-10h, Medical Expense Worksheet, and documentation established in subsection (4) of this section, OCSHCN staff shall:

- (a) Verify expenses;
- (b) Present to the OCSHCN Eligibility Committee for review; and
- (c) Notify the applicant in writing of the determination.

Section 14. Request for Hearing. An individual who has received a notice of adverse action following a reconsideration may request an administrative hearing from the Office of Administrative Hearings within the Department of law in accordance with KRS 15.111(2)(g) and KRS 13B. ~~[A request for an administrative hearing shall be:]~~

~~[(1)] [In accordance with KRS Chapter 13B; and]~~

~~[(2)] [Received by OCSHCN within thirty (30) days of the notice of adverse action.]~~

Section 15. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) OCSHCN-10a1[OCSHCN-10a], "Application for Service Legal Guardian (Medicaid)", 01/2025[04/2019];

(b) OCSHCN-10a2, "Application for Service Legal Guardian (Private Insurance)", 01/2025;

~~(c)~~[(b)] OCSHCN-10b, "Consent for Care Agreement",01/2019;

~~(d)~~[(e)] OCSHCN-10c, "Guaranty of Payment Agreement",01/2019;

~~(e)~~[(d)] OCSHCN-10d1[OCSHCN-10d], "Coordination of Benefits Agreement",01/2025[04/2019];

~~(f)~~[(e)] OCSHCN-10e1[OCSHCN-10e], "Application for Service Young Adult",01/2025[04/2019];

~~(g)~~[(f)] OCSHCN-10f1[OCSHCN-10f], "Application for Service Head of Household",01/2025[04/2019];

~~(h)~~[(g)] OCSHCN-10g, "Medical Eligibility List for Clinical and Case Management Services",08/2019; and

~~(i)~~[(h)] OCSHCN-10h, "Medical Expense Worksheet",01/2019; and

~~(j)~~[(i)] "Family Participation Scale," 04/01/2019.

(2) This material may be inspected, copied, or obtained, subject

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to applicable copyright law, at the Office for Children with Special Health Care Needs, 310 Whittington Parkway, Suite 200, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m. or online at the agency's Web site at <https://chfs.ky.gov/agencies/ocshcn>. [~~<https://chfs.ky.gov/agencies/ocshcn>]~~]

FILED WITH LRC: June 9, 2026

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

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
(As Amended at ARRS, June 9, 2026)**

911 KAR 1:085. Early Hearing Detection and Intervention Program.

RELATES TO: KRS 13B.050, 15.111(2)(g), 194A.030(5), 200.460

STATUTORY AUTHORITY: KRS 194A.030(3)[~~194A.030(5)~~], 194A.050(1), 211.647(3), 216.2970(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate the programs and fulfill the responsibilities vested in the cabinet, to implement programs mandated by federal law, or to qualify for federal funds. KRS 194A.030(3) authorizes the Department for Public Health[~~Office for Children with Special Health Care Needs (OCSHCN)~~] to promulgate administrative regulations as may be necessary to implement and administer its responsibilities under KRS 200.460 to 200.490, which include oversight of the Office for Children with Special Health Care Needs (OCSHCN). KRS 211.647(3) authorizes OCSHCN to promulgate administrative regulations establishing standards for infant audiological assessments and diagnostics centers. KRS 216.2970(1) requires the OCSHCN to promulgate administrative regulations establishing approved methods for auditory screening for all infants born in health facilities[~~hospitals~~] offering obstetric or midwifery services[~~and alternative birthing centers with at least forty (40) births per year~~]. This administrative regulation establishes standards, eligibility criteria, application processes, reporting requirements, and appeal rights for entities seeking designation as approved infant audiological assessment and diagnostic centers, and identifies approved methods for auditory screening for newborn infants in health care facilities offering obstetric or midwifery services[~~hospitals and alternative birthing centers~~].

Section 1. Definitions.

(1) "AAA Guidelines" means the "Clinical Guidance Document Assessment of Hearing in Infants and Young Children" published by the American Academy of Audiology.

(2) "ASHA Guidelines" means the "Guidelines for the Audiologic Assessment of Children from Birth to 5 Years of Age" published by the American Speech-Language-Hearing Association.

(3) "Audiologist" is defined by KRS 334A.025(2)[~~334A.020(5)~~].

(4) "Audiology extern" means a student engaged in the clinical experience component of an audiology doctoral degree program.

(5) "Auditory brainstem response" or "ABR" means an objective electrophysiologic measurement of the brainstem's response to the ear when stimulated with a click sound or tone burst.

(6) "Automated auditory brainstem response" or "AABR" means an automatic ABR resulting in a pass/refer outcome.

(7) "Center" means Infant Audiological Assessment and Diagnostic Center.

(8) "JCIH Guidelines" means "Year 2019 Position Statement: Principles and Guidelines for Early Hearing Detection and Intervention Programs" published by the Joint Committee on Infant Hearing.

(9)[~~(8)~~] "Office" or "OCSHCN" is defined by KRS 211.645(2).

(10)[~~(9)~~] "Otoacoustic emissions" means an objective physiological test method for measuring responses elicited directly from the cochlea.

Section 2. Eligibility Criteria for Centers.

(1) In order to be eligible for designation as a Level 1 infant audiological assessment and diagnostic center, an entity located in Kentucky shall:

(a) Employ at least one (1) audiologist who:

1. Is currently licensed pursuant to KRS Chapter 334A;

2. Has experience testing children in the age range newborn to three (3) years; and

3.

a. Performs all evaluations; or

b. Directly supervises audiology externs performing evaluations;

(b) Possess[~~Possesses~~][~~Possesses~~] the capacity to complete the following tests:

1. Otoscope examination;

2. Tympanometry;

3. Ipsilateral acoustic reflex measurement;

4. Contralateral acoustic reflex measurement;

5. Ear-specific behavioral observation audiometry;

6. Speech awareness threshold;

7. Speech recognition or reception threshold;

8. Play audiometry; and

9. Either:

a. Otoacoustic emissions with diagnostic or screening capabilities; or

b. ABR screening;

(c) Annually calibrate all measuring and testing equipment; and

(d) Submit a complete application and assurance packet in accordance with Section 3 of this administrative regulation.

(2) In order to be eligible for designation as a Level 2 infant audiological Assessment and diagnostic center, an entity located in Kentucky shall:

(a) Meet the requirements specified in subsection (1) of this section; and

(b) Possess the capacity to complete:

1. Otoacoustic emissions with diagnostic or screening capabilities;

2. Frequency-specific ABR;

3. Bone conduction ABR; and

4. Real ear measures.

Section 3. Application Process.

(1) An entity seeking designation as an infant audiological assessment and diagnostic center shall submit to OCSHCN a completed application packet containing:

(a) Completed and signed form OCSHCN-E106, Potential Infant Audiological Assessment and Diagnostic Center Questionnaire;

(b) Copies of current professional licenses for audiologists performing evaluations;

(c) Copies of current calibration certificates for audiological testing equipment; and

(d) Copies of policies and procedures for tests and measures requested on the OCSHCN-E106, Potential Infant Audiological Assessment and Diagnostic Center Questionnaire.

(2) OCSHCN shall review an entity's application within thirty (30) calendar days of receiving a complete packet submitted in accordance with subsection (1) of this Section.

(3) Upon review of an entity's application packet, OCSHCN's executive director or designee shall approve the entity as a Level 1 Infant Audiological Assessment and Diagnostic Center if:

(a) The entity meets the requirements specified in Section 2(1) of this administrative regulation; and

(b) OCSHCN determines that the entity's policies and procedures conform to best practice standards as described in JCIH

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Guidelines and:

1. AAA Guidelines; or
2. ASHA Guidelines.

(4) Upon review of an entity's application packet, OCSHCN's executive director or designee shall approve the entity as a Level 2 Infant Audiological Assessment and Diagnostic Center if:

(a) The entity meets the requirements specified in Section 2(2) of this administrative regulation; and

(b) OCSHCN determines that the entity's policies and procedures conform to best practice standards as described in JCIH Guidelines and:

1. AAA Guidelines; or
2. ASHA Guidelines.

(5) If OCSHCN's executive director or designee determines that the entity does not meet the requirements specified in Section 2 of this administrative regulation, OCSHCN shall:

(a) Advise the entity and request clarifying information; or

(b) Deny the designation as an Infant Audiological Assessment and Diagnostic Center and notify the entity of appeal rights pursuant to Section 8 of this administrative regulation.

(6) Approvals shall expire on December 31 of odd-numbered years. All entities seeking continued approval shall re-apply by December 1 of that year in accordance with this section.

Section 4. Publication of Approved List.

(1) In accordance with KRS 211.647, OCSHCN shall maintain a current listing of all approved [~~Infant Audiological Assessment and Diagnostic~~] centers, with contact information.

(2) OCSHCN shall make the listing public through the following methods:

(a) Posting the listing on its agency Web site, <https://chfs.ky.gov/agencies/ocshcn> [~~http://chfs.ky.gov/agencies/ccs hen~~];

(b) Providing to the Cabinet for Health and Family Services, Office of Administrative and Technology Services, a listing for inclusion on the KY-CHILD electronic information system used by birthing hospitals and centers;

(c) Enclosing a listing as an attachment to correspondence with parents; and

(d) Mailing a listing to birthing hospitals and centers upon request.

Section 5. Removal from Approved List and Updates Required.

(1) OCSHCN shall remove an entity from the approved list and notify the entity of the removal if the entity requests removal.

(2) If OCSHCN receives a complaint that an entity no longer meets the requirements of Section 2 of this administrative regulation, OCSHCN shall:

(a) Advise the entity of the complaint;

(b) Request clarifying information from the entity;

(c) Review any information received; and

(d) Determine whether the entity meets the eligibility requirements of Section 2 of this administrative regulation.

(3) If OCSHCN determines that the entity no longer meets the eligibility requirements, the office shall:

(a) Notify the entity of appeal rights pursuant to Section 8 of this administrative regulation; and

(b) Remove the entity from the approved list.

(4) Following approval, a [~~an Infant Audiological Assessment and Diagnostic~~] center shall provide documentation using [~~via~~] form OCSHCN-E107, Infant Audiological Assessment and Diagnostic Center Program Modification, if any of the following changes in circumstances occur:

(a) Employment or termination of employment of an audiologist;

(b) Change in licensure status of an audiologist;

(c) Relocation of agency, name change, or addition of a location;

or

(d) Modification to policy or procedure with regard to evaluations described in Section 2 of this administrative regulation.

Section 6. Reporting Requirements.

(1) Upon completion of diagnostic testing of an infant or child aged birth to three (3) years described in KRS 211.647(5), an approved [~~Infant Audiological Assessment and Diagnostic~~]

center shall report the following to OCSHCN using [~~via~~] form OCSHCN-E3:

(a) Identifying and demographic information;

(b) Results of the follow-up audiological evaluation; and

(c) Documentation of the referral required by KRS 211.647(5).

(2) An approved Infant Audiological Assessment and Diagnostic Center shall submit information specified in subsection (1) of this section electronically via the KY-CHILD electronic information system for permanent hearing loss, within forty-eight (48) hours of evaluation, in accordance with KRS 211.647, using [~~via~~] form OCSHCN-E3.

(3) Scheduled appointments which are not kept by families shall be marked in the KY-CHILD electronic information system as no-show within four (4) calendar days if not rescheduled.

Section 7. Resource and Informational Materials. OCSHCN shall make available information provided by the Kentucky Commission on the Deaf and Hard of Hearing to families of all newborns and children ages birth to three (3) years identified as having permanent hearing loss [~~information provided by the Kentucky Commission on the Deaf and Hard of Hearing~~].

Section 8. Appeal Rights. An entity denied designation as an Infant Audiological Assessment and Diagnostic Center or which has been removed from the approved list may request an administrative hearing from the Office of Administrative Hearings within the Department of Law in accordance with KRS 15.111(2)(g) and KRS 13B [~~in accordance with 911 KAR 1:090~~].

Section 9. Approved Methods of Auditory Screening for Newborn Infants and Children Ages Birth to Three (3) Years.

(1) Auditory screenings pursuant to KRS 216.2970(1) shall include at least one (1) of the following physiological tests:

(a) AABR; or

(b) Otoacoustic emissions.

(2) Auditory screening reports shall:

(a) Document the results of physiological tests conducted;

(b) Document the presence of any risk factors pursuant to KRS 211.645(5); and

(c) Be submitted via the KY-CHILD electronic information system.

Section 10. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Clinical Guidance Document Assessment of Hearing in Infants and Young Children", 1/2020;

(b) "OCSHCN-E106, Potential Infant Audiological Assessment and Diagnostic Center Questionnaire", 03/2025[6/2022];

(c) "OCSHCN-E107, Infant Audiological Assessment and Diagnostic Center Program Modification", 03/2025[6/2022];

(d) "Guidelines for the Audiologic Assessment of Children From Birth to 5 Years of Age" 2004 American Speech-Language-Hearing Association;

(e) "Year 2019 Position Statement: Principles and Guidelines for Early Hearing Detection and Intervention Programs" Joint Committee on Infant Hearing; and

(f) "OCSHCN-E3 Audiology Update Form (AUF) Worksheet", 04/2026[03/2025][6/2022][6/2022].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office for Children with Special Health Care Needs, 310 Whittington Parkway, Suite 200, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m. or online at the agency's Web site at <https://chfs.ky.gov/agencies/ocshcn> [~~https://chfs.ky.gov/agencies/ee shcn~~].

(3)

(a) The material in paragraph (a) is available online at <https://www.audiology.org/practice-guideline/clinical-guidance-document-assessment-of-hearing-in-infants-and-young-children>.

(b) The materials in paragraph (b), (c), (d), (e), and (f) is available online at the agency's website at <https://www.chfs.ky.gov/agencies/ocshcn/Pages/Incorporated.aspx>

- FILED WITH LRC: June 9, 2026

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

ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING
OR RECEIPT OF WRITTEN COMMENTS

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

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Public Health Protection and Safety
(Amended After Comments)

902 KAR 1:400. Administrative ~~conference~~hearings.

RELATES TO: KRS ~~15.111~~Chapter 13B, 211.180, 211.190, 211.210, 211.357, 211.360, 211.760, 211.844, ~~[211.870,]~~211.925, ~~[211.964, 212.470,]~~212.210, 212.230, 212.620, 212.627, 217.125, ~~[216.920, 217.075,]~~217.126, 217.809, ~~[217.950,]~~217C.040, 217C.050, 219.031, 219.370, 223.070~~[, 7 C.F.R. 246]~~

STATUTORY AUTHORITY: KRS 13B.170, ~~211.025~~[EO 96-862]

NECESSITY, FUNCTION, AND CONFORMITY: ~~KRS 13B.170 authorizes~~[allows] an agency to enact administrative ~~hearing procedures by~~[through] administrative regulation that supplement the provisions of KRS Chapter 13B. ~~KRS 211.025 requires~~[authorizes] the cabinet to administer all provisions of law relating to public health and to enforce all public health laws and all administrative regulations of the secretary. This~~[Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Public Health with the Cabinet for Health Services. KRS Chapter 13B establishes a uniform procedure to be followed by administrative agencies in conducting agency hearings. The function of this] administrative regulation establishes~~[is to establish, consistent with the requirements of KRS Chapter 13B,] the procedures for requesting an administrative conference~~[to be followed] by the Department for Public Health [in hearing appeals of actions taken under the public health laws of the Commonwealth].~~

Section 1. Notice of Enforcement.

(1) ~~The Department for Public Health (DPH) shall provide the opportunity for an administrative conference to any regulated entity aggrieved by the issuance of a Notice of Enforcement (DFS-214).~~

(2) ~~The Notice of Enforcement (DFS-214) shall be sent by:~~

(a) ~~United States first-class mail to the registered permit holder or responsible party's last address on file;~~

(b) ~~Electronic mail to the registered permit holder or responsible party's last electronic mail address on file; or~~

(c) ~~Hand delivered or other means, as appropriate.~~

(3) ~~The notice shall contain:~~

(a) ~~A description of the proposed action or action taken;~~

(b) ~~The reasons for the action;~~

(c) ~~The statutory or regulatory authority for the action; and~~

(d) ~~The timeline required to submit a Request for Administrative Conference (DFS-212).~~

(4) ~~Upon receipt of a Notice of Enforcement (DFS-214), the permit holder or responsible party may submit a Request for Administrative Conference (DFS-212) within ten (10) business days to the Department for Public Health or local health department of jurisdiction.~~

(5) ~~Upon receipt of a request for a conference, the Department for Public Health or local health department of jurisdiction shall schedule an administrative conference and send a Notice of Administrative Conference (DFS-213).~~

(6) ~~The Notice of Administrative Conference (DFS-213) shall:~~

(a) ~~Be sent to the permit holder or responsible party who requested a conference at least ten (10) business days prior to the conference; and~~

(b) ~~Include the date, time, and location of the administrative conference.~~

~~Section 2. [Notice of Enforcement for Food or Cosmetic Manufacturing Plant.]~~

~~(1) [The Department for Public Health shall provide the opportunity for an administrative conference to a food or cosmetic manufacturing plant aggrieved by the issuance of a Food or Cosmetic Plant Enforcement Notice (DFS-263), incorporated by reference in 902 KAR 45:160.]~~

~~(2) [The Food or Cosmetic Plant Enforcement Notice (DFS-263) shall be sent by:]~~

~~(a) [United States first-class mail to the registered permit holder or responsible party's last address on file;]~~

~~(b) [Electronic mail to the registered permit holder or responsible party's last electronic mail address on file; or]~~

~~(c) [Hand delivered or other means, as appropriate.]~~

~~(3) [The notice shall contain:]~~

~~(a) [A description of the proposed action or action taken;]~~

~~(b) [The reasons for the action;]~~

~~(c) [The statutory or regulatory authority for the action; and]~~

~~(d) [The timeline required to submit a Request for Conference (DFS-267), incorporated by reference in 902 KAR 45:160.]~~

~~(4) [Upon receipt of a Food or Cosmetic Plant Enforcement Notice (DFS-263), the permit holder or responsible party may submit a Request for Conference (DFS-267) within ten (10) business days to the Department for Public Health.]~~

~~(5) [Upon receipt of a request for a conference, the Department for Public Health shall schedule an administrative conference and send a Food or Cosmetic Plant Notice of Administrative Conference (DFS-268).]~~

~~(6) [The Food or Cosmetic Plant Notice of Administrative Conference (DFS-268) shall:]~~

~~(a) [Be sent to the permit holder or responsible party who requested a conference at least ten (10) business days prior to the conference; and]~~

~~(b) [Include the date, time, and location of the administrative conference.]~~

~~Section 3.] Administrative Conference.~~

~~(1) The administrative conference shall be conducted by a representative of the Department for Public Health.~~

~~(2) The permit holder or responsible party may examine any evidence or information in the agency's possession to be used at the administrative conference at least five (5) days prior to the conference.~~

~~(3) The permit holder or responsible party may arrange an independent transcription of the administrative conference proceedings at its own expense.~~

~~(4) During the administrative conference, the permit holder or responsible party may:~~

~~(a) Be represented by counsel; and~~

~~(b) Present documentation in his or her favor.~~

~~(5)[(3)] The purpose of the administrative conference is to:~~

~~(a) Clarify the issues and positions[position] of the parties; and~~

~~(b) Attempt to resolve any dispute over the proposed action or action taken.~~

~~Section 3.[Section 4.] Administrative Conference Decision.~~

~~(1) Within ten (10) business~~working~~ days of the conclusion of the administrative conference, the Department for Public Health representative shall:~~

~~(a) Send a written decision to the director of the local health department of jurisdiction; and~~or~~~~

~~(b) Send a written decision to the permit holder or responsible party, with a copy to the appropriate program staff, when the notice of enforcement is issued directly by the Department for Public Health.~~

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(2) The director of the local health department of jurisdiction or appropriate program staff shall forward a copy of the decision to the permit holder or responsible party within five (5) business days.

(3) The decision shall:

(a) Be sent by:

1. United States first-class mail to the registered permit holder or responsible party's last address on file; and

2. Electronic mail to the registered permit holder or responsible party's last electronic mail address on file; and

(b) Contain the:

1. Results of the administrative conference; and

2. Permit holder or responsible party's right to appeal pursuant to KRS Chapter 13B.

Section 4.~~[Section 5.]~~ Appeals. The permit holder or responsible party may request a hearing within ten (10) days of receipt of the administrative conference decision by:

(1)

(a) Mailing a request for a hearing to the Division of Public Health Protection and Safety, Department for Public Health, 275 E. Main Street, Mailstop HS1E-A, Frankfort, Kentucky 40621;

(b)~~(2)~~ Faxing a request for a hearing to 502-564-9523; or

(c)~~(3)~~ Emailing a request for hearing to environmentalappeals@ky.gov~~[CHFS.Listens@ky.gov].~~

(2)~~(4)~~ Requests for a hearing shall be forwarded by the division to the Office of Administrative Hearings within the Department of Law in accordance with KRS 15.111(2)(g), within two (2) working days of receipt.

Section 5.~~[Section 6.]~~ Nothing in this administrative regulation shall be construed to prevent the Department for Public Health from taking emergency action to protect the public health and safety under the provisions of KRS 13B.125.

Section 6.~~[Section 7.]~~ Material Incorporated by Reference.

(1) The following material is incorporated by reference:

(a) "Request for Administrative Conference (DFS-212)", ~~5/2026~~~~[4/2025]~~ edition;

(b) "Notice of Administrative Conference (DFS-213)", ~~5/2026~~ edition; and~~[4/2025 edition];~~

(c) "Notice of Enforcement (DFS-214)", ~~5/2026~~~~[4/2025]~~ edition;~~;~~

and
(d) "~~Food or Cosmetic Plant Notice of Administrative Conference (DFS-268)~~", ~~4/2025~~ edition].

(2) This material may be inspected, copied or obtained at the Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621. Office hours are 8 a.m. to 4:30 p.m.

(3) This material is also available online at: ~~For forms listed in:~~

(a) ~~Subsections (1)(a)-(c) of this section, see~~ <https://chfs.ky.gov/agencies/dph/dafm/Pages/lhddocuments.aspx>;~~;~~
and

(b) ~~Subsection (1)(d) of this section, see~~ [\[https://www.chfs.ky.gov/agencies/dph/dphps/fsb/Pages/foodmanufacturing.aspx\]](https://www.chfs.ky.gov/agencies/dph/dphps/fsb/Pages/foodmanufacturing.aspx).~~[Scheduling the Conference.]~~

(1) [The Department for Public Health shall provide the opportunity for a conference to any regulated entity aggrieved by any action of the Department for Public Health by issuing a notice of proposed action by letter or by use of Form DFS-214.]

(2) [The notice of action by the department shall contain:]

(a) [A description of the proposed action or action taken;]

(b) [The reasons for the action;]

(c) [The statutory or regulatory authority by which action is taken; and]

(d) [An explanation of the right to a conference if requested within ten (10) days of the date of mailing by letter or by use of Form DFS-212.]

(e) [Notice of conference time, date and place shall be made by letter to the requester's last known address or by use of Form DFS-213.]

[Section 2.] [Conference.]

(1) [The conference shall be conducted by a representative of the agency taking the action.]

(2) [During the course of the conference, the appellant may:]

(a) [Be represented by counsel;]

(b) [Cross-examine witnesses against him; and]

(c) [Present evidence in his favor.]

(3) [The purpose of the conference is to:]

(a) [Clarify the position of the parties; and]

(b) [To resolve any dispute over the pending action.]

[Section 3.] [Conference Report.]

(1) [Within five (5) days of the conclusion of the conference, the agency representative shall issue a report to the administrative agency detailing any settlement of the action appealed.]

(2) [The report shall contain the appellant's further right to appeal pursuant to KRS Chapter 13B and a copy of the report shall be mailed to the appellant's last known address.]

[Section 4.] [Appeals.]

(1) [The appellant may file an appeal with the Cabinet for Health Services within ten (10) days of receipt of the conference report by mailing a letter of appeal to the Commissioner for Public Health, Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621.]

(2) [Upon receipt of an appeal, the commissioner shall set the date, time and place for the hearing requested.]

(3) [The notice of appeal hearing shall conform to KRS 13B.050;]

(4) [The appeal hearing shall be conducted by a hearing officer appointed by the secretary and in accordance with KRS 13B.080, 13B.090, and 13B.110.]

(5) [An official record of the appeal hearing complying with KRS 13B.130 shall be retained by the Cabinet for Health Services.]

(6) [The secretary shall issue a final order complying with the requirements of KRS 13B.120.]

[Section 5.] [Nothing in this administrative regulation shall be construed to prevent the Department for Public Health from taking emergency action to protect the public health and safety under the provisions of KRS 13B.125.]

[Section 6.] [Material Incorporated by Reference.]

(1) [The following material is incorporated by reference:]

(a) [DFS-212, revised 10/96;]

(b) [DFS-213, revised 8/96;]

(c) [DFS-214, revised 8/96.]

(2) [This material may be inspected, copied or obtained at the Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621. Office hours are 8 a.m. to 4:30 p.m.]

JOHN R. LANGFELD, MD, Commissioner
STEPHEN J. STACK, M.D., MBA. Secretary

APPROVED BY AGENCY: June 15, 2026

FILED WITH LRC: June 15, 2026 at 9:45 a.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Julie Brooks, Krista Quarles Phone Number: (502) 229-3377, (502) 564-7476 Email: julied.brooks@ky.gov, CHFSregs@ky.gov

Subject Headings: Administrative Hearings, Local Health Departments, Public Health

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation outlines the procedures for administrative conferences conducted by the Department for Public Health.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide all regulated entities a right to due process in response to an action initiated by the Department for Public Health staff or its duly authorized agents.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 13B.170 allows an agency to provide administrative procedures through administrative regulation that

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supplement KRS Chapter 13B proceedings. KRS 211.025 authorizes the department to enforce all public health laws and regulations of the secretary.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures all those permitted or licensed by the department are afforded an opportunity to an administrative conference before averse action is taken against the permit or license and protects their right to due process proceedings.

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

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation clarifies the notification requirements, updates the administrative conference procedures, ensures a conference decision is provided in a timely manner, and updates the material incorporated by reference. The amended after comments version clarifies that the request for a conference may be submitted to the department or the local health department, removes the newly added language regarding administrative conferences for food and cosmetic manufacturing plants as those requirements will be added to the applicable administrative regulation, removes the food and cosmetic plant related material incorporated by reference as this material will be incorporated by reference in the food manufacturing administrative regulation, and makes other changes necessary for KRS Chapter 13A compliance. The remaining material incorporated by reference has been amended to reflect suggested changes.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to ensure all those who are issued a permit or license from the department are aware of the process to request an administrative conference should they receive an enforcement notice. Upon further discussion with program staff and regulated entities it was determined that an administrative conference is not needed for enforcement actions against a food or cosmetic manufacturing plant. Any enforcement actions will go directly to an administrative hearing under KRS Chapter 13B.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment to this administrative regulation protects permit holders' and licensees' due process rights when the department or its duly authorized agent has discovered a violation of the applicable administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation ensures a consistent process is followed by all programs that issue permits or licenses.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? The amendment to this administrative regulation implements the requirements of 2023 Ky. Acts ch. 124, sec. 4.

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation impacts all entities issued a permit or license by the department. This includes hotels, motels, youth camps, food service establishments, tattoo artists and studio owners, body piercers and studio owners, and swimming pool operators. It also impacts all local health departments and state staff who are responsible for inspection and enforcement procedures to determine compliance with the applicable 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: Local health department and state program staff will need to be aware of the revised forms and the timelines associated with the administrative conference procedures. Permit holders and licensees will need to be aware of the timelines required for requesting an administrative conference.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): The amendment to this administrative regulation does not impact costs for the regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Permit holders and licensees will be assured consistent administrative conference proceedings.

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

(a) Initially: This is an ongoing process procedure, there will be no initial cost to implement these changes.

(b) On a continuing basis: Continuing costs to implement this administrative regulation include costs associated with staff who conduct the administrative conference. This will be absorbed as part of their salary.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: State general fund dollars are the source of funding for the activities associated with implementing this administrative 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: An increase in fees or funding is not needed to implement the changes in 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 associated with this administrative regulation.

(10) TIERING: Is tiering applied? Tiering is not applied as the requirements of this administrative regulation are applied equally to all regulated entities.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 13B.170 and 211.025.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Cabinet for Health and Family Services, Department for Public Health, Division of Public Health Protection and Safety, is the promulgating agency.

(a) Estimate the following for the first year:

Expenditures: This administrative regulation does not impact expenditures for the promulgating agency.

Revenues: This administrative regulation does not generate revenue for the promulgating agency.

Cost Savings: This administrative regulation does not result in cost savings for the promulgating agency.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no change in expenditures, revenues, or cost savings in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities include local health departments.

(a) Estimate the following for the first year:

Expenditures: This administrative regulation does not impact expenditures for the affected local entities.

Revenues: This administrative regulation does not generate revenue for the affected local entities.

Cost Savings: This administrative regulation does not result in cost savings for the affected local entities.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no change in expenditures, revenues, or cost savings in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3): Additional regulated entities include all entities issued a permit or a license from the Department for Public Health.

(a) Estimate the following for the first year:

Expenditures: Additional regulated entities may incur minimal cost associated with submitting a request for an administrative conference.

Revenues: This administrative regulation does not generate revenue for the additional regulated entities.

Cost Savings: This administrative regulation does not result in cost savings for the additional regulated entities.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no change in expenditures, revenues, and cost savings in subsequent years.

(5) Provide a narrative to explain the:

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(a) Fiscal impact of this administrative regulation: The amendment to this administrative regulation will have minimal fiscal impact.

(b) Methodology and resources used to determine the fiscal impact: The costs to implement this administrative regulation will be absorbed in the salary of the program staff person responsible for overseeing the administrative conference. On average, the department participates in 100 administrative conferences per year. The conference meeting may last between two to six hours. Staff that preside over the conference are responsible for writing the conference report, which can take up to five (5) days to complete.

(6) Explain:

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

(b) The methodology and resources used to reach this conclusion: Not applicable.

PROPOSED AMENDMENTS

Public comment periods for ordinary, non-emergency regulations are at least two months long. For other regulations with open comment periods, please also see last month's *Administrative Register of Kentucky*.

**GENERAL GOVERNMENT CABINET
Registry of Election Finance
(Amendment)**

32 KAR 2:050. Conciliation.

RELATES TO: KRS 121.140

STATUTORY AUTHORITY: KRS 121.120(1)(g)

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

NECESSITY, FUNCTION, AND CONFORMITY: KRS 121.120(1)(g) authorizes the Registry of Election Finance to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 121. This administrative regulation establishes conciliation procedures.

Section 1. Negotiations.

(1) Upon a registry finding of probable cause, the general counsel and executive director shall attempt to correct or prevent the violation by informal methods of conference, conciliation, and persuasion and shall attempt to reach a tentative conciliation agreement with the respondent.

(2) During conciliation negotiations, the general counsel and executive director shall consider as a mitigating factor the attendance by a candidate or treasurer at one (1) or more training sessions sponsored by the registry, directly preceding the election during which the violation occurred. Based upon this and any other mitigating factors, the general counsel and executive director may reduce a fine, if proposed by the registry.

(3) A conciliation agreement shall not be binding upon either party until it is signed by the respondent, the general counsel, and the executive director and approved by the registry.

(4) If the probable cause to believe finding is made within forty-five (45) days preceding an election, the conciliation attempt shall continue for at least fifteen (15) days from the date of the finding. In all other cases, conciliation attempts by the registry shall continue for at least thirty (30) days, not to exceed ninety (90) days.

(5) If a conciliation agreement is reached between the registry and the respondent, the general counsel shall send a copy of the signed agreement to both complainant and respondent.

JOHN R. STEFFEN, Executive Director

APPROVED BY AGENCY: June 10, 2026

FILED WITH LRC: June 10, 2026 at 2:12 p.m.

CONTACT PERSON: Leslie Saunders, General Counsel, Kentucky Registry of Election Finance, 140 Walnut Street, Frankfort, Kentucky 40601, phone (502) 573-2226, fax (502) 573-5622, email LeslieM.Saunders@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Leslie Saunders, General Counsel, Kentucky Registry of Election Finance, Phone: (502) 573-2226, Email: LeslieM.Saunders@ky.gov.

Subject Headings: Election Finance, Elections and Voting, Administrative Hearings

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes Registry of Election Finance ("Registry") conciliation procedures.

(b) The necessity of this administrative regulation: This administrative regulation is necessary because, while KRS 121.140 contemplates a conciliation process for violators, the statute

describes no procedures for doing so with any detail.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 121.120(1)(g) grants the Registry the authority to "promulgate administrative regulations necessary to carry out the provisions of this chapter[.]" This administrative regulation establishes procedures for conciliation under KRS 121.140.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets procedures for the conciliation process thereby assuring that the mandates of KRS 121.140 are effectively carried out.

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

(a) How the amendment will change this existing administrative regulation: This amended administrative regulation inserts a previously deleted timeframe to engage in conciliation by providing that, "...conciliation attempts by the registry shall continue for at least thirty (30) days, not to exceed ninety (90) days."

(b) The necessity of the amendment to this administrative regulation: This amended administrative regulation is necessary as it provides a timeframe for the Registry and violators to engage in conciliation and attempt to reach an agreement without the necessity of a formal hearing.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 121.120(1)(g) authorizes the Registry to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 121. KRS 121.140 mandates that the Registry engage in conciliation with violators to resolve violations. This amended administrative regulation provides the Registry and violators with a timeframe for engaging in conciliation.

(d) How the amendment will assist in the effective administration of the statutes: By providing a timeframe for engaging in conciliation, this amended administrative regulation provides the Registry and violators with certainty as to the length of conciliation proceedings and thereby allows them to make decisions in a more efficient manner and eliminates unnecessary delay.

(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: Anyone who is party to a conciliation negotiation with the Registry is 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: Regulated entities will use this regulation to navigate the conciliation process with the Registry.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Compliance will allow for the orderly resolution and closing of enforcement matters before the Registry without the need for formal hearings.

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

(a) Initially: There will be no initial cost to the administrative body to implement this administrative regulation.

(b) On a continuing basis: There will be no cost on a continuous basis to the administrative body to implement 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: While no additional funding will be required for the implementation and enforcement of this administrative regulation, the administrative body operates solely on 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: It will not be necessary to increase fees or funding to implement this administrative regulation.

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees will be established or increased.

(10) TIERING: Is tiering applied? This administrative regulation does not apply tiering because these general provisions apply equally to any regulated individual or entity who has violated applicable statutes and regulations and seeks to enter into conciliation with the Registry.

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 121.120(1)(g) and 121.140

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: Yes, 1992 SB 22, (1992 Ky. Acts Ch. 288)

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Registry of Election Finance 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: This administrative regulation will not result in any additional expenditures for the first year.

For subsequent years: This administrative regulation will not result in any additional expenditures for subsequent years.

2. Revenues:

For the first year: This administrative regulation will not generate revenue for the first year. Note, however, that the conciliation process does provide a small amount of revenue to the general fund through collection of penalties.

For subsequent years: This administrative regulation will not generate revenue for subsequent years subject to the note about collection of penalties, above.

3. Cost Savings:

For the first year: This administrative regulation will not generate any cost savings for the first year.

For subsequent years: This administrative regulation will not generate any cost savings for subsequent years.

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): This amendment will not affect local entities

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

1. Expenditures:

For the first year: This administrative regulation will not result in any additional expenditures for the first year.

For subsequent years: This administrative regulation will not result in any additional expenditures for subsequent years.

2. Revenues:

For the first year: This administrative regulation will not generate revenue for the first year.

For subsequent years: This administrative regulation will not generate revenue for subsequent years.

3. Cost Savings:

For the first year: This administrative regulation will not generate any cost savings for the first year.

For subsequent years: This administrative regulation will not generate any cost savings for subsequent years.

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): The amendment will affect only those entities who choose to engage in the conciliation process with the Registry.

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

1. Expenditures:

For the first year: This administrative regulation will not result in any additional expenditures for the first year.

For subsequent years: This administrative regulation will not result in any additional expenditures for subsequent years.

2. Revenues:

For the first year: This administrative regulation will not generate revenue for the first year.

For subsequent years: This administrative regulation will not generate revenue for subsequent years.

3. Cost Savings:

For the first year: This administrative regulation will not generate any cost savings for the first year.

For subsequent years: This administrative regulation will not generate any cost savings for subsequent years. (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: There are no fiscal impacts as the amendment only provides a timeframe in which the Registry and violators may engage in conciliation and attempt to reach an agreement without the necessity of a formal hearing.

(b) Methodology and resources used to reach this conclusion: A review of the criteria of the administrative regulation: the only changes do not have any fiscal impacts to any entity, including the Registry.

(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 has no fiscal impact thus no methodology was applied nor resource analysis undertaken to determine that there is not a "major economic impact."

**GENERAL GOVERNMENT CABINET
Registry of Election Finance
(Amendment)**

32 KAR 2:200. Allowable campaign expenditures.

RELATES TO: KRS 121.150, 121.175

STATUTORY AUTHORITY: KRS 121.120(1)(g), 121.175

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

NECESSITY, FUNCTION, AND CONFORMITY: KRS 121.175[; as amended by the General Assembly in extraordinary session in 1993.] requires the Registry of Election Finance to promulgate administrative regulations to specifically define those expenditures that may lawfully be made from a candidate's committee's, or contributing organization's campaign account. It is therefore necessary to promulgate this administrative regulation so that the agency may fulfill its statutory mandate.

Section 1. Allowable Expenditures. In addition to the general categories of allowable campaign expenditures provided by law, the following expenditures shall be considered allowable:

(1) Expenditures made or items donated to charitable and civic organizations such as clubs, neighborhood organizations, schools, and churches, provided that the expenditure furthers a candidacy through advertising;

(2) Expenditures for items of personal property bearing the name or likeness of the candidate in a conspicuous manner for distribution by a candidate which are distributed for the purpose of advertising that individual's candidacy. These items include ~~but are not limited to,~~ hats, shirts, calendars, magnets, holiday greeting cards, and similar items. The purchase of tickets for general

distribution for the purpose of influencing an[and] election, either directly or indirectly, shall not be allowed under the subsection;

(3) Reasonable expenditures for services such as distribution of campaign literature, staff services, and similar services which are primarily and directly related to the individual's candidacy;

(4) Expenditures for the purchase of transportation services, including ~~but not limited to~~ the transportation of voters to the polls, provided that the expenditures are reasonable in light of the number of persons transported, mileage driven, and time spent. All transportation expenditures shall be primarily and directly related to the candidacy of the individual on whose behalf the expenditures are made;

(5) Expenditures for tickets to political and other events to be attended by the candidate, his spouse, or a campaign staff representative, and from which the candidate derives a direct benefit to his candidacy. The burden shall be on the candidate to prove to the registry that representation at the event provided a direct benefit to his candidacy;

(6) The purchase of American, state, or other flags which are donated to schools, civic, or charitable organizations;

(7) The purchase or rental of items such as cellular telephones, copiers, computers, automobiles, facsimile machines, and similar items. Only that use attributable to the campaign may be paid for with campaign funds and the burden shall be on the candidate to prove that an expenditure is allowable under this subsection.[-]

(8) The purchase of food and drink to be served at an event directly related to the candidacy of the individual on whose behalf the expenditures are made;

(9) Expenditures made or items donated for a door prize that anyone who is attending an event directly related to the candidacy of the individual has the opportunity to win; and

(10) Expenditures made or items donated for a silent auction-type fundraising event where items are bid on independently for the purpose of raising funds to directly benefit the campaign account.

Section 2. Unlawful Campaign Expenditures. In addition to the expenditures specifically prohibited by law, the following categories of campaign expenditures shall not be considered allowable expenditures from a campaign account:

(1) Payment of dues to professional, civic, or other organizations to which the individual belongs or desires to join, unless membership in the organization provides the candidate with a direct benefit to his candidacy. The burden shall be on the candidate to prove to the registry that membership in the organization provided a direct benefit to his candidacy;

(2) Expenditures made to defray the costs associated with an individual's performance of his official duties as an officeholder, except for those otherwise expressly permitted in KRS 121.175.[-]

(3) Expenditures for food and drink to be served at events unrelated to the individual's candidacy;

(4) Expenditures for items of personal property for distribution by a candidate that do not advertise nor promote that individual's candidacy; and

(5) Expenditures made or items donated to hold a raffle or other game of chance which require a person to pay for the chance to win a prize.

Section 3. If the registry staff, in the course of reviewing a candidate's, committee's, or contributing organization's[or incumbent's] campaign finance statements, determines that a questionable expenditure has been made, whether or not the expenditure was made during an election year, the burden shall be on the candidate, committee, or contributing organization[or incumbent] to prove that the expenditure was directly and primarily related to a [his-]candidacy.

JOHN R. STEFFEN, Executive Director

APPROVED BY AGENCY: June 10, 2026

FILED WITH LRC: June 10, 2026 at 2:12 p.m.

CONTACT PERSON: Leslie Saunders, General Counsel, Kentucky Registry of Election Finance, 140 Walnut Street, Frankfort, Kentucky 40601, phone (502) 573-2226, fax (502) 573-5622, email LeslieM.Saunders@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Leslie Saunders, General Counsel, Kentucky Registry of Election Finance, Phone: (502) 573-2226, Email: LeslieM.Saunders@ky.gov

Subject Headings: Election Finance, Elections and Voting, Administrative Hearings

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation helps define those expenditures that may lawfully be made from a candidate's, committee's, or contributing organization's campaign account.

(b) The necessity of this administrative regulation: This administrative regulation is necessary because KRS 121.175(3) requires the Registry of Election Finance ("Registry") to promulgate administrative regulations to implement and enforce the provisions of KRS 121.175(1), which pertains to allowable campaign expenditures.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 121.120(1)(g) grants the Registry the authority to "promulgate administrative regulations necessary to carry out the provisions of this chapter[.]" KRS 121.175(3) requires the Registry to promulgate administrative regulations to implement and enforce the provisions of KRS 121.175(1), which pertains to allowable campaign expenditures. This administrative regulation addresses allowable campaign expenditures.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in implementing and enforcing the provisions of KRS 121.175(1), as required by KRS 121.175(3).

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

(a) How the amendment will change this existing administrative regulation: This amended administrative regulation addresses questions often asked of the Registry regarding additional specific campaign expenditures that were previously not addressed in the regulation. It will also correct a typo as well as specifically include all entities to which the relevant statute, KRS 121.175, pertains.

(b) The necessity of the amendment to this administrative regulation: This amended administrative regulation is necessary as it will provide additional guidance to candidates, committees, and contributing organizations regarding allowable campaign expenditures, while making it clear that the regulation pertains to committees and contributing organizations, along with candidates, as contemplated in KRS 121.175.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 121.120(1)(g) authorizes the Registry to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 121. KRS 121.175(3) requires the Registry to promulgate administrative regulations to implement and enforce the provisions of KRS 121.175(1), which pertains to allowable campaign expenditures. This administrative regulation addresses additional allowable campaign expenditures.

(d) How the amendment will assist in the effective administration of the statutes: By providing additional guidance to candidates, committees, and contributing organizations regarding allowable campaign expenditures, as well as making it clear to which entities the regulation pertains, consistent with KRS 121.175.

(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: Candidates, committees, and contributing organizations are 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: Regulated entities will use this regulation

as guidance while making campaign expenditures.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Compliance will allow for the proper use of funds in campaign accounts.

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

(a) Initially: There will be no initial cost to the administrative body to implement this administrative regulation.

(b) On a continuing basis: There will be no cost on a continuous basis to the administrative body to implement 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: While no additional funding will be required for the implementation and enforcement of this administrative regulation, the administrative body operates solely on 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: It will not be necessary to increase fees or funding to implement this administrative regulation.

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees will be established or increased.

(10) TIERING: Is tiering applied? This administrative regulation does not apply tiering because these general provisions apply equally to any regulated individual or entity who has a campaign account.

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 121.120(1)(g) and 121.175

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: Yes, 1993 1st Ex. Sess. SB 7, (1993 1st Ex. Sess. Acts Ch. 4)

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Registry of Election Finance 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: This administrative regulation will not result in any additional expenditures by the Registry for the first year.

For subsequent years: This administrative regulation will not result in any additional expenditures by the Registry for subsequent years.

2. Revenues:

For the first year: This administrative regulation will not generate revenue for the Registry for the first year.

For subsequent years: This administrative regulation will not generate revenue for the Registry for subsequent years.

3. Cost Savings:

For the first year: This administrative regulation will not generate any cost savings for the Registry for the first year.

For subsequent years: This administrative regulation will not generate any cost savings for the Registry for subsequent years.

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): This amendment will not affect local entities

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

1. Expenditures:

For the first year: No local entities are affected.

For subsequent years: No local entities are affected.

2. Revenues:

For the first year: No local entities are affected.

For subsequent years: No local entities are affected.

3. Cost Savings:

For the first year: No local entities are affected.

For subsequent years: No local entities are affected.

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): The amendment will affect candidates, committees, and contributing organizations as defined in KRS 121.015.

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

1. Expenditures:

For the first year: This administrative regulation will not result in any additional expenditures for the first year.

For subsequent years: This administrative regulation will not result in any additional expenditures for subsequent years.

2. Revenues:

For the first year: This administrative regulation will not generate revenue for the first year.

For subsequent years: This administrative regulation will not generate revenue for subsequent years.

3. Cost Savings:

For the first year: This administrative regulation will not generate any cost savings for the first year.

For subsequent years: This administrative regulation will not generate any cost savings for subsequent years. (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: There are no fiscal impacts as the amendment only provides additional guidance regarding allowable campaign expenditures.

(b) Methodology and resources used to reach this conclusion: A review of the criteria of the administrative regulation: the only changes do not have any fiscal impacts to any entity, including the Registry.

(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 has no fiscal impact thus no methodology was applied nor resource analysis undertaken to determine that there is not a "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.

FINANCE AND ADMINISTRATION CABINET Department of Revenue (Amendment)

103 KAR 27:030. Brokers, lienors and fiduciaries.

RELATES TO: KRS 139.010, 139.200

STATUTORY AUTHORITY: KRS 131.130(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the Department of Revenue to promulgate regulations for the administration of all tax laws. This administrative regulation interprets the sales and use tax law as it applies to sales by brokers, lienors, and fiduciaries.

Section 1. Brokers such as food or produce brokers, grain brokers, lumber brokers, and other brokers not having possession of tangible personal property for sale shall[are] not be retailers. Marketplace providers defined in KRS 139.010 shall not be considered brokers under this administrative regulation.

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Section 2. Pawnbrokers selling tangible personal property shall be[are] retailers and shall report and pay the tax on the gross receipts from the sale of the[such] property. The sale of property forfeited to them by reason of the pawner's failure to redeem shall be included in the gross receipts.

Section 3. Lienors such as storage operators, mechanics, artisans, and others selling tangible personal property to enforce a lien thereon shall be[are] retailers with respect to sales of the property to consumers and the tax shall apply[applies] to the gross receipts from the[such] sales.

Section 4. Fiduciaries having possession of tangible personal property for the purpose of sale shall be[are] retailers with respect to sales of the property to consumers and the tax shall apply[applies] to the gross receipts from the[such] sales.

THOMAS B. MILLER, COMMISSIONER

APPROVED BY AGENCY: June 2, 2026

FILED WITH LRC: June 2, 2026 at 3:15 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public comment on this administrative regulation shall be held on August 26, 2026, at 10:00 a.m. in Room 11A, State Office Building, 501 High Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing at least 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. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 31, 2026. 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: Gary Morris, Executive Director, Office of Tax Policy and Regulation, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky 40601, (502) 564-0424 (telephone), (502) 564-3875 (fax), DORTAXPOLICY@ky.gov (email).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Gary Morris, Phone: (502) 564-0424, Email: DORTAXPOLICY@ky.gov

Subject Headings: Finance and Administration; Taxation; Retail and Sales

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation amends 103 KAR 27:030 to exclude from the definition of brokers those entities operating under the definition of marketplace providers as defined in KRS 139.010 and makes amendments to be compliance with KRS Chapter 13A.

(b) The necessity of this administrative regulation: This amendment clarifies the 2019 change to 139.010 that includes qualifying marketplace providers in the category of retailers.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 131.130(1) grants the Department of Revenue the authority to promulgate administrative regulations it deems necessary for the administration of Kentucky's tax laws.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: See (1)(b).

(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: See (1)(a).

(b) The necessity of the amendment to this administrative regulation: See (1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: See (1)(c).

(d) How the amendment will assist in the effective administration

of the statutes: See (1)(d) for how the amendment will assist in the effective administration of the statutes.

(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: Any taxpayer or taxpayer representative seeking guidance on the proper sales tax treatment of brokers, lienors, or fiduciaries will find appropriate guidance in this 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: There are no actions required.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There are no costs associated with this change.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Taxpayers and taxpayer representatives will be able to locate current guidance regarding the treatment of marketplace providers.

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

(a) Initially: There will be no additional costs anticipated with this amendment. Current staff and budgeted funding will absorb any cost associated with implementation.

(b) On a continuing basis: The Department of Revenue should not incur additional costs on an ongoing basis due to 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: Current budgeted funding for the Department of Revenue will be used to implement and enforce this amendment to the 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: This amendment does not establish any fees.

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

(10) TIERING: Is tiering applied? Tiering is not applied. The updating of this administrative regulation will impact all affected taxpayers 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 131.130(1)

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 131.130(1) allows the Department to promulgate regulations for administration of Kentucky tax laws.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Department of Revenue is the promulgating agency and the only agency impacted by this administrative regulation.

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

1. Expenditures:

For the first year:

For subsequent years:

2. Revenues:

For the first year:

For subsequent years:

3. Cost Savings:

For the first year:

For subsequent years:

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): The amendment to this administrative regulation will not impact local entities.

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

1. Expenditures:

For the first year:

For subsequent years:

2. Revenues:

For the first year:

For subsequent years:

3. Cost Savings:

For the first year:

For subsequent years:

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): The amendment to this administrative regulation is not anticipated to impact regulated entities.

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

1. Expenditures:

For the first year:

For subsequent years:

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: The Department does not anticipate that the amendment to this regulation will have a fiscal impact.

(b) Methodology and resources used to reach this conclusion: This amendment removes marketplace providers from the definition of brokers due to a statutory change.

(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): The amendment to this administrative regulation will not have a major economic impact.

(b) The methodology and resources used to reach this conclusion: This amendment updates language to comply with a statutory change.

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.

**FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(Amendment)**

103 KAR 28:051. Leases and rentals.

RELATES TO: KRS 138.460, 138.463, 139.010, 139.105, 139.200, 139.210, 139.270, 139.280, 139.290, 139.310, 139.330, 139.340, 139.430, 139.471, 139.484, 139.600, 139.620

STATUTORY AUTHORITY: KRS 131.130(1), 139.710

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the department to make administrative regulations for the administration and enforcement of all tax laws in this state, and KRS 139.710 requires the department to administer the provisions of KRS Chapter 139, regarding sales and use taxes. This administrative regulation sets forth requirements for leases and rentals of tangible personal property or digital property relating to the sales and use tax law.

Section 1. Definitions.

(1) "Department" is defined by KRS 139.010(6).

(2) "Extended warranty services" is defined by KRS 139.010(15).

(3)(4) "Primary property location" means the location as

indicated by an address for the property provided by the lessee that is available to the lessor from the lessor's records maintained in the ordinary course of business, if use of this address does not constitute bad faith. This location shall not be altered by intermittent use of the property at different locations.

(4)(2) "Transportation equipment" means any of the following:

(a) Locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce;

(b) Trucks and truck-tractors with a gross vehicle weight rating (GVWR) of 10,001 pounds or greater, trailers, semi-trailers, or passenger buses that are:

1. Registered through the International Registration Plan; and

2. Operated under authority of a carrier authorized and certificated by the U.S. Department of Transportation or another federal authority to engage in the carriage of persons or property in interstate commerce;

(c) Aircraft that are operated by air carriers authorized and certificated by the U.S. Department of Transportation or another federal authority or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce; and

(d) Containers designed for use on and component parts attached or secured on the items set forth in paragraphs (a) through (c) of this subsection.~~[section-]~~

Section 2. Registrants.

(1) A person engaged in leasing or renting tangible personal property or digital property for use in Kentucky ~~shall be~~ ~~[is-]~~ a retailer and shall:

(a) Complete a "Kentucky Tax Registration Application", Revenue Form 10A100; and

(b) Report and pay the applicable tax derived from the gross lease or rental receipts utilizing the "Sales and Use Tax Return", Revenue Form 51A102.

(2) Each period for which a lease or rental is payable shall be considered a complete transaction in determining a retailer responsible for the tax pursuant to ~~[in accordance with-]~~ KRS 139.010.

Section 3. Gross Receipts.

~~[(4)]~~ Gross receipts from the lease or rental of tangible personal property or digital property shall include:

~~(1)(a)~~ The total amount of payments, or consideration received by the lessor from the lessee;

~~(2)(b)~~ Payments paid by the lessee to a third party for the benefit of the lessor which are required by the terms of the agreement;~~and]~~

~~(3)(c)~~ All itemized charges for costs incurred by the lessor and passed on to the lessee as separate charges in the lease or rental agreement including finance or interest charges, property tax, and insurance charges;~~and[-]~~

~~(4)~~ Charges for extended warranty services if included as part of the lease agreement or sold separately.

~~[(2)]~~ ~~[Charges by a lessor to a lessee for a separately-executed maintenance agreement, which is not a part of the lease or rental agreement, shall not be subject to tax.]~~

Section 4. Tax Responsibility.

(1) The ~~retailer or lessor~~~~[retailer/lessor]~~ leasing or renting tangible personal property or digital property within Kentucky shall be required to collect the sales tax from the ~~customer or lessee~~~~[customer/lessee]~~.

(2) Every out-of-state retailer leasing or renting tangible personal property or digital property for storage, use, or other consumption in this state shall be required to collect the use tax from the purchaser and remit the tax on gross lease or rental receipts to the ~~department~~~~[Department of Revenue]~~.

(3) The lessee's responsibility for the use tax shall not be relieved until payment of the amount due has been made to the ~~department~~~~[Department of Revenue]~~ or to a ~~retailer or lessor~~~~[retailer/lessor]~~ authorized to collect the Kentucky tax.

Section 5. Resale.

(1) A lessor may claim a resale exemption for tangible personal property or digital property purchased exclusively for lease or rental.

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(2) Parts and accessories purchased by the lessor which become part of the leased or rented property may also be purchased under a resale exemption. However, property purchased by a lessee to maintain leased or rented property of a lessor shall be subject to the sales and use tax.

(3) Tangible personal property or digital property purchased for resale without payment of the tax and to be utilized exclusively for lease or rental, and so used, but subsequently used by the retailer or lessor~~[retailer/lessor]~~ for some purpose other than lease or rental shall become subject to tax upon this subsequent use. The tax shall be measured by purchase price of the property and shall be in addition to the tax due on the lease or rental receipts.

(4) Tangible personal property or digital property purchased in part for lease or rental and in part for use shall not be purchased from a seller or retailer under a resale exemption and shall be subject to tax.

(5) A retailer who purchases tangible personal property or digital property for outright sale, but, while holding the property in the retailer's inventory, makes use of the property in the retailer's business through lease or rental shall be responsible for the applicable tax to the lease or rental receipts.

(6) Tangible personal property or digital property purchased by a retailer engaged exclusively in leasing or renting the property may be eligible for a deduction from the retailer's gross lease or rental receipts for an amount equal to the purchase price of the property used exclusively for lease or rental if the retailer has paid the sales or use tax applicable to the purchase price of the property.

Section 6. Lease with an Exemption Certificate. A lessor of tangible personal property or digital property shall not include within the measure of the tax gross receipts from a lease or rental if the lessor takes from the lessee a fully completed certificate of exemption as evidence that the property leased will be used in an exempt manner under the sales and use tax law.

Section 7. Motor Vehicles.

(1) The lease or rental of motor vehicles, which are for use on the public highways and upon which any applicable tax levied under KRS 138.460 or KRS 138.463 has been paid, shall not be subject to the sales or use tax.

(2) Motor vehicles, which are not subject to the motor vehicle usage tax established in KRS 138.460 or the U-Drive-It tax, established in KRS 138.463, shall be subject to the sales and use tax unless another applicable exemption applies.

Section 8. Reciprocity.

(1) The sales and use tax law shall provide for credit against any Kentucky use tax for state sales tax paid in another state which imposes a sales tax substantially identical to that of Kentucky.

(2) Out-of-state lessors who have collected sales tax on a lump-sum basis for their state shall be able to receive credit for the amount paid to that other state up to the amount due to Kentucky.

(3) Kentucky shall tax any excess lease or rentals, relating to the lump-sum tax amounts.

(4) Reciprocity shall apply to any tax due to Kentucky on lease or rental receipts only if the reciprocal state has levied and is legally due the sales or use tax paid on the lease or rental receipts.

Section 9. Lease of Real, Tangible, Digital and Intangible Property.

(1) If lease or rental activity involves the lease or rental of real property, in combination with tangible personal property, digital property or intangible property, as in the lease or rental of a business operation or establishment, the total amount of the lease or rental shall be subject to the sales and use tax unless the amount applicable to the tangible personal property or digital property is separately stated.

(2) The amount separately stated for the tangible personal property and digital property shall not be less than the fair market lease or rental value for like property for a like rental or lease period.

(3) The lease or rental of tangible personal property and digital property between separate entities owned by the same or similar stockholders shall be subject to the tax unless otherwise exempted by the sales and use tax law.

(4) The tax shall be levied on the lease or rental amount charged or the fair market lease or rental amount, whichever is greater.

Section 10. General Sourcing Rules.

(1) The lease or rental of tangible personal property or digital property, other than property identified in subsection (5) of this section, shall be sourced pursuant to~~[according to the provisions of]~~ KRS 139.105(1).

(2) For a lease or rental that requires recurring periodic payments, the first periodic payment shall be sourced as follows pursuant to~~[according to the provisions of]~~ KRS 139.105(1). Periodic payments made subsequent to the first payment shall be sourced to the primary property location for each period covered by the payment. The primary property location shall not be altered by intermittent use at different locations. Intermittent use shall include business property that accompanies employees on business trips and service calls.

(3) For a lease or rental that does not require recurring periodic payments, the payment shall be sourced the same as a retail sale pursuant to~~[in accordance with the provisions of]~~ KRS 139.105(1).

(4) This subsection shall not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

(5) The lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment shall be sourced as follows:

(a) For a lease or rental that requires recurring periodic payments, each periodic payment shall be sourced to the primary property location.

(b) For a lease or rental that does not require recurring periodic payments, the payment shall be sourced pursuant to~~[in accordance with the provisions of]~~ KRS 139.105(1).

(c) This subsection shall not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

Section 11. Forms. The forms listed within this administrative regulation may be inspected, copied, or obtained, subject to applicable copyright law:

(1) At the Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40620;

(2) At a Kentucky Taxpayer Service Center; or

(3) On the department's~~[department]~~ Web site at <http://revenue.ky.gov>.

THOMAS B. MILLER, COMMISSIONER

APPROVED BY AGENCY: June 2, 2026

FILED WITH LRC: June 2, 2026 at 3:15 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public comment on this administrative regulation shall be held on August 26, 2026, at 10:00 a.m. in Room 11A, State Office Building, 501 High Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing at least 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. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 31, 2026. 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: Gary Morris, Executive Director, Office of Tax Policy and Regulation, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky 40601, (502) 564-0424 (telephone), (502) 564-3875 (fax), DORTAXPOLICY@ky.gov (email).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Gary Morris, Phone: (502) 564-0424, Email: DORTAXPOLICY@ky.gov

Subject Headings: Finance and Administration; Taxation; Retail

and sales.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation amends 103 KAR 28:051 to clarify that charges for extended warranty services as defined in KRS 139.010, whether sold as part of a lease agreement or sold separately, are now subject to sales and use tax. Amendments also include minor changes to make this administrative regulation compliant with KRS Chapter 13A.

(b) The necessity of this administrative regulation: It clarifies the 2018 change to KRS 139.200 that adds extended warranty service charges to the sales tax base.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 131.130(1) grants the Department of Revenue the authority to promulgate administrative regulations it deems necessary for the administration of Kentucky's tax laws.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: See (1)(b)

(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: See (1)(a)

(b) The necessity of the amendment to this administrative regulation: See (1)(b)

(c) How the amendment conforms to the content of the authorizing statutes: See (1)(c)

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d) for how the amendment will assist in the effective administration of the statutes.

(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: Any taxpayer or taxpayer representative seeking guidance on the proper sales tax treatment of extended warranty services related to rentals and leases will find appropriate guidance in this 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: The provider of extended warranty services as a part of a rental or lease will need to charge sales and use tax on their receipts. This has been the case since July 1, 2018.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There are no costs associated with this change.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Taxpayers and taxpayer representatives will be able to locate current guidance regarding the treatment of extended warranty charges related to leases and rentals.

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

(a) Initially: There will be no additional costs associated with this amendment. Current staff and budgeted funding will absorb any cost associated with implementation.

(b) On a continuing basis: The Department of Revenue should not incur additional costs on an ongoing basis due to 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: Current budgeted funding for the Department of Revenue will be used to implement and enforce this amendment to the 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: This amendment does not establish any fees.

(9) State whether or not this administrative regulation

establishes any fees or directly or indirectly increases any fees: This amendment does not directly or indirectly increase any fees.

(10) TIERING: Is tiering applied? Tiering is not applied. The updating of this administrative regulation will impact all affected taxpayers 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 131.130(1)

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 131.130(1) authorizes the department to promulgate regulations for the administration of Kentucky tax laws.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Department of Revenue is the promulgating agency and the only agency impacted by this administrative regulation.

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

1. Expenditures:

For the first year:

For subsequent years:

2. Revenues:

For the first year:

For subsequent years:

3. Cost Savings:

For the first year:

For subsequent years:

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): The amendment to this administrative regulation will not impact local entities.

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

1. Expenditures:

For the first year:

For subsequent years:

2. Revenues:

For the first year:

For subsequent years:

3. Cost Savings:

For the first year:

For subsequent years:

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): The amendment to this administrative regulation is not anticipated to impact regulated entities.

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

1. Expenditures:

For the first year:

For subsequent years:

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: The Department does not anticipate that the amendment to this regulation will have a fiscal impact.

(b) Methodology and resources used to reach this conclusion: This amendment clarifies the current treatment of extended warranty services for rentals and leases for sales tax purposes.

(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): The amendment to this administrative regulation will not have a major economic impact.

(b) The methodology and resources used to reach this conclusion: This amendment clarifies the sales tax treatment of

extended warranty charges as they are currently enforced.

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.

**FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(Amendment)**

103 KAR 30:280. Sales to water haulers.

RELATES TO: KRS 139.010, 139.200, 139.270, 139.470

STATUTORY AUTHORITY: KRS 131.130(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the Department of Revenue to promulgate administrative regulations necessary for the administration and enforcement of all tax laws in Kentucky. This administrative regulation establishes requirements for the exemption of water used for residential purposes when purchased from water haulers.

Section 1. Definition. "Water hauler" means a person in the business of transporting water by truck for sale to a customer.

Section 2.

(1) A water hauler shall issue a resale certificate in the form described in 103 KAR 31:111 to a water company when purchasing water for resale.

(2) Gross receipts from the sale of water by a water hauler to customers for:

(a) Residential use shall not be subject to the sales and use tax, Pursuant to KRS 139.470(7), the resident shall declare the water as used in his or her place of domicile on "Declaration of Domicile for Purchase of Residential Utilities," Form 51A380; and

(b) Use other than residential shall be subject to sales and use tax unless another exemption pursuant to KRS Chapter 139 is applicable.

Section 3. Forms.

(1) The Department form applicable to this regulation is "Declaration of Domicile for Purchase of Residential Utilities," Form 51A380.

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

(a) The Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40620;

(b) A Kentucky Taxpayer Service Center, Monday through Friday, 8:00 a.m. to 4:30 p.m.; or

(c) The Department of Revenue's web site at www.revenue.ky.gov.

Section 4.

(1) This administrative regulation shall replace Revenue Policy 51P261.

(2) Revenue Policy 51P261 is hereby rescinded and shall be null, void and unenforceable.

THOMAS B. MILLER, Commissioner

APPROVED BY AGENCY: June 2, 2026

FILED WITH LRC: June 2, 2026 at 3:15 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public comment on this administrative regulation shall be held on August 26, 2026, at 10:00 a.m. in Room 11A, State Office Building, 501 High Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing at least 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. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you

do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 31, 2026. 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: Gary Morris, Executive Director, Office of Tax Policy and Regulation, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky 40601, (502) 564-0424 (telephone), (502) 564-3875 (fax), DORTAXPOLICY@ky.gov (email).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Gary Morris, Phone: (502) 564-0424, Email: DORTAXPOLICY@ky.gov

Subject Headings: Finance and Administration; Taxation; Water Supply

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation amends 103 KAR 30:280 to clarify the documentation necessary to identify residential water customers.

(b) The necessity of this administrative regulation: It clarifies the 2022 change to KRS 139.470(7) that implements Form 51A380 regarding the Declaration of Domicile for Purchase of Residential Utilities.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 131.130(1) grants the Department of Revenue the authority to promulgate administrative regulations it deems necessary for the administration of Kentucky's tax laws.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: See (1)(b)

(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: See (1)(a)

(b) The necessity of the amendment to this administrative regulation: See (1)(b)

(c) How the amendment conforms to the content of the authorizing statutes: See (1)(c)

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d) for how the amendment will assist in the effective administration of the statutes.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes, 2022 HB 8.

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Any taxpayer or taxpayer representative seeking guidance on the proper sales tax treatment of residential customers of commercial water haulers will find appropriate guidance in this 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: The commercial water hauler will need to seek the appropriate form from his residential customers.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There are no costs associated with this change.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Taxpayers and taxpayer representatives will be able to locate current guidance regarding the treatment of water haulers residential customers.

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

(a) Initially: There will be no additional costs associated with this amendment. Current staff and budgeted funding will absorb any cost associated with implementation.

(b) On a continuing basis: The Department of Revenue should

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not incur additional costs on an ongoing basis due to 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: Current budgeted funding for the Department of Revenue will be used to implement and enforce this amendment to the 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: This amendment does not establish any fees.

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

(10) TIERING: Is tiering applied? {Explain why or why not} Tiering is not applied. The updating of this administrative regulation will impact all affected taxpayers 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 131.130(1)

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 131.130(1) authorizes the Department of Revenue to promulgate regulations for the administration of Kentucky's tax laws.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Department of Revenue is the promulgating agency and the only agency impacted by this administrative regulation.

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

1. Expenditures:

For the first year:

For subsequent years:

2. Revenues:

For the first year:

For subsequent years:

3. Cost Savings:

For the first year:

For subsequent years:

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): The amendment to this administrative regulation will not impact local entities.

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

1. Expenditures:

For the first year:

For subsequent years:

2. Revenues:

For the first year:

For subsequent years:

3. Cost Savings:

For the first year:

For subsequent years:

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): The amendment to this administrative regulation is not anticipated to impact regulated entities.

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

1. Expenditures:

For the first year:

For subsequent years:

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: The Department does not anticipate that the amendment to this

regulation will have a fiscal impact.

(b) Methodology and resources used to reach this conclusion: This amendment clarifies the documentation required to identify residential customers for commercial water haulers.

(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): The amendment to this administrative regulation will not have a major economic impact.

(b) The methodology and resources used to reach this conclusion: This amendment updates document requirements to comply with a statutory change.

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.

FINANCE AND ADMINISTRATION
Department of Revenue
(Amendment)

103 KAR 44:060. Motor vehicle usage tax valuation.

RELATES TO: KRS 138.450-138.470

STATUTORY AUTHORITY: KRS 131.130(1), 138.450, 138.460(7)(12)(b)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the department to promulgate administrative regulations for the administration of all tax laws. This administrative regulation prescribes the automotive reference manual and procedures to establish the retail price and trade-in allowance of motor vehicles as required by KRS 138.460(7). [establishes the procedures to determine the retail value.]

Section 1. Definitions.

(1) "Department" is defined by KRS 138.450(21).

(2) "Gift" means the transfer of a motor vehicle from one (1) party to another for no consideration or nominal consideration.

(3) [(2)] "MSRP" means the manufacturer's suggested retail price.

(4) "Reference manual" is defined by KRS 138.450(23).

(5) "Retail price" is defined by KRS 138.450(12)-(19).

(6) "Total consideration given" is defined by KRS 138.450(9).

(7) "Trade-in allowance" is defined by KRS 138.450(10).

Section 2. The following special valuation procedures shall be followed:

(1) For purposes of establishing retail price for used motor vehicles if a notarized affidavit signed by both the buyer and the seller is not available, retail price shall be the average retail value as listed in the appropriate automotive reference manual prescribed in Section 3 of this administrative regulation.

(2) For purposes of establishing retail price for used motor vehicles whose values do not appear in the automotive reference manual prescribed by the department, and if a notarized affidavit signed by both the buyer and the seller is not available, retail price shall be determined by the department based upon relevant, available information.

(3) For purposes of establishing retail price for used vehicles of the current model year for which an average retail value has not been published in one of the reference manuals prescribed by the department, retail price shall be eighty-five (85) percent of the MSRP, including the MSRP of all standard and optional equipment and accessories, [standard and optional,] and transportation charges.

(4) For purposes of establishing retail price for used vehicles of the current model year for which a trade-in value has not been published in one of the reference manuals prescribed in Section 3

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of this administrative regulation, retail price shall be eighty (80) percent of the MSRP, including the MSRP of all standard and optional equipment and accessories and transportation charges.

Section 3. The JD Power Valuation Services [following] automotive reference manuals, electronic or paper versions, shall be followed for the valuation of the motor vehicles contained therein for motor vehicle usage tax [~~listed in order of prescribed use:~~]

- [(1)] [~~Automobiles and light trucks:~~]
- [(a)] [~~NADA Official Used Car Guide®;~~]
- [(b)] [~~NADA Official Older Used Car Guide; or~~]
- [(c)] [~~NADA Classic Collectible and Special Interest Car Appraisal Guide;~~]

- [(2)] [~~Other trucks: NADA Official Commercial Truck Guide®;~~]
- [(3)] [~~Miscellaneous vehicles:~~]
- [(a)] [~~NADA Recreational Vehicle Appraisal Guide;~~]
- [(b)] [~~NADA Van/Truck Conversion and Limousine Appraisal Guide; or~~]
- [(c)] [~~NADA Motorcycle/Snowmobile/ATV/Personal Watercraft Appraisal Guide;~~]
- [(4)] [~~General use: Automotive Invoice Service New Car Cost Guide].~~

Section 4.

(1) If an affidavit of total consideration given is not available and a retail price based on MSRP is prescribed by statute, a copy of the window sticker or other documentation from the manufacturer showing MSRP and listing the base price, all standard and optional equipment and accessories [~~—standard and optional,~~] and transportation charges shall be provided to the county clerk when a new automobile is presented for registration.

(2) An itemized statement showing the MSRP of any additional equipment and accessories installed by the dealer and not reflected on the window sticker shall also be provided to the county clerk.

(3) If the manufacturer's documentation does not include complete MSRP information, the department shall obtain MSRP information from available sources.

(4) If the manufacturer's invoice to the dealer does not contain MSRP information, the dealer shall provide the county clerk a copy of the manufacturer's invoice and provide an itemized list of all equipment and accessories, whether installed by the manufacturer or dealer, plus transportation charges.

(5) Taxable valuation shall then be determined through the use of MSRP information listed in this section provided in the price reference manual, prescribed in Section 3 of this administrative regulation, or other source of MSRP information.

Section 5. Forms.

(1) The department form[s] applicable to this regulation is [~~are:~~]

- [(a)] [~~Revenue Form 71A100,~~] "Affidavit of Total Consideration Given for a Motor Vehicle", Revenue Form 71A100, [~~and~~]
- [(b)] [~~Revenue Form 71F001, "Kentucky's Taxation of Motor Vehicles for Motor Vehicle Usage Tax", Revenue Form 71AF001;~~]

(2) This form [~~These forms~~] may be inspected, copied, or obtained, subject to applicable copyright law, at:

- (a) The Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40620;
- (b) A Kentucky Taxpayer Service Center, Monday through Friday, 8:00 a.m. to 4:30 p.m.; or
- (c) The department's [~~department~~] Web site at www.revenue.ky.gov [~~http://revenue.ky.gov~~].

THOMAS B. MILLER, Commissioner

APPROVED BY AGENCY: June 2, 2026
FILED WITH LRC: June 2, 2026 at 3:15 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public comment on this administrative regulation shall be held on August 26, 2026, at 10:00 a.m. in Room 11A, State Office Building, 501 High Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing at least 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. A transcript of the public hearing will

not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 31, 2026. 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: Gary Morris, Executive Director, Office of Tax Policy and Regulation, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky 40601, (502) 564-0424 (telephone), (502) 564-3875 (fax), DORTAXPOLICY@ky.gov (email).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Gary Morris, Phone: (502) 564-0424, Email: DORTAXPOLICY@ky.gov

Subject Headings: Finance and Administration; Taxation; Motor Vehicles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation updates the automotive valuation manuals used for motor vehicle usage tax purposes to those issued by JD Power Valuation Services. This amendment also adds additional definitions to clarify terms used and removes a form that is no longer in use.

(b) The necessity of this administrative regulation: The regulation is necessary to provide guidance on the accepted automotive valuation manuals used for motor vehicle usage tax purposes.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation prescribes the automotive valuation manuals to be used for motor vehicle usage tax purposes.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation prescribes the accepted automotive valuation manuals to be used for motor vehicle usage tax purposes.

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

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

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary because JD Power purchased NADA.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 138.460 allows the Department of Revenue to promulgate an administrative regulation to establish a method to determine the retail price of motor vehicle.

(d) How the amendment will assist in the effective administration of the statutes: The amendment to this regulation will ensure consistency in the valuation of motor vehicles for motor vehicle usage tax purposes.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? No, KRS 138.460 was enacted more than five years ago.

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The same valuation manuals will be used for all taxpayers required to pay motor vehicle usage tax. County Clerks offices will be required to use JD Power Valuation Services.

(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: JD Power Valuation Services is required to be used for all taxpayers subject to motor vehicle usage tax.

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

(c) As a result of compliance, what benefits will accrue to the

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entities identified in question (4): Vehicles will be valued consistently for motor vehicle usage tax.

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

(a) Initially: There will be no additional costs associated with implementing the amendment to this administrative regulation.

(b) On a continuing basis: See answer (6)(a).

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: No additional funding will be required to implement the amendment to this administrative 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 necessary to implement this administrative regulation.

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased by this administrative regulation.

(10) TIERING: Is tiering applied? {Explain why or why not} Tiering is not applied. Motor vehicles will be valued using the same automotive valuation guides for all taxpayers.

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 138.450(23), KRS 138.460(7)

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: This administrative regulation is not expressly authorized by an act of the General Assembly.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: This administrative regulation will impact the Department of Revenue and the Kentucky Transportation Cabinet.

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

1. Expenditures:

For the first year:

For subsequent years:

2. Revenues:

For the first year:

For subsequent years:

3. Cost Savings:

For the first year:

For subsequent years:

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): The amendment to this administrative regulation will not impact local entities. County clerks already use JD Power.

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

1. Expenditures:

For the first year:

For subsequent years:

2. Revenues:

For the first year:

For subsequent years:

3. Cost Savings:

For the first year:

For subsequent years:

(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:

For subsequent years:

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: The Department does not anticipate that the amendment to this regulation will have a fiscal impact.

(b) Methodology and resources used to reach this conclusion: This amendment removes the language permitting tax credits for trusts and estates due to a statutory change.

(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): The amendment to this administrative regulation will not have a major economic impact.

(b) The methodology and resources used to reach this conclusion: This amendment updates language to correct the name of the valuation guide to be used.

BOARDS AND COMMISSIONS

State Board of Licensure for Professional Engineers and Land Surveyors (Amendment)

201 KAR 18:120. Replacement of [Reissuance of] license certificates and business entity permit certificates.

RELATES TO: KRS 322.170

STATUTORY AUTHORITY: KRS 322.170(1), KRS 322.290(4)

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8. The Board of Licensure for Professional Engineers and Land Surveyors 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 322.170 authorizes the board to issue [reissue] licenses and business entity permits to replace any license or business entity permit that was lost, destroyed, or mutilated. KRS 322.290(4) authorizes the board to promulgate administrative regulations necessary for the proper performance of its duties. This administrative regulation establishes the procedure for obtaining replacement license certificates [reissuance of licenses] and replacement business entity permit certificates [permits] in the event of the loss, destruction, or mutilation of the original, and obtaining replacement license certificates and replacement business entity permit certificates in the event of an official name change.

Section 1. Replacement license certificate or business entity permit certificate due to loss, destruction, or mutilation [Reissuance of License]. To obtain a replacement license certificate or business entity permit certificate due to the loss, destruction, or mutilation of the original, a licensed professional engineer or professional land surveyor or a business entity holding a valid business entity permit to engage in the practice of engineering or land surveying in the Commonwealth of Kentucky [The fee charged for the reissuance of a license or permit shall be as set out in 201 KAR 18:040. A replacement license or permit] shall:

(1) Request a replacement license certificate or business entity permit certificate from the board [Bear the signatures of the current chairman]; and

(2) Submit to the board the reissuance fee, as required by 201 KAR 18:040 [Secretary-treasurer of the board and shall be identified as a replacement certificate].

Section 2. Replacement license certificate due to official name change of a licensee. To obtain a replacement license certificate due to an official name change of a licensee, a professional engineer or professional land surveyor who is licensed in the Commonwealth of Kentucky shall:

(1) Request a replacement license certificate in the licensee's new name from the board;

(2) Submit to the board a legal document that authorizes the

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name change, such as an updated passport, driver's license, marriage certificate, divorce decree, or court order showing the new name; and

(3) Submit to the board the reissuance fee, as required by 201 KAR 18:040.

Section 3. Replacement business entity permit certificate due to official name change. To obtain a replacement business entity permit certificate due to an official name change of a business entity, a business entity holding a valid business entity permit to engage in the practice of engineering or land surveying in the Commonwealth of Kentucky shall:

(1) Request a replacement business entity permit certificate in the business entity's new name from the board;

(2) Submit to the board a legal document that demonstrates the name change, such as corporate minutes or a filing with a Secretary of State showing the new business entity name; and

(3) Submit to the board the reissuance fee, as required by 201 KAR 18:040.

Section 4. Replacement license certificates and replacement business entity permit certificates issued by the board pursuant to this administrative regulation shall bear the board's seal and the signatures of the current chair of the board and secretary-treasurer of the board.

KYLE L. ELLIOTT, Executive Director

APPROVED BY AGENCY: April 10, 2026

FILED WITH LRC: June 2, 2026 at 8:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 27, 2026, at 3:00 p.m., Eastern Standard Time, at the Kentucky Engineering Center, 160 Democrat Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 31, 2026. 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: Jake R. Miller, General Counsel, Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601, phone: (502) 573-2680, facsimile: (502) 573-6687, email: jake.miller@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jake R. Miller, Phone:(502) 573-2680, Email: jake.miller@ky.gov

Subject Headings: Boards and Commissions, Engineers and Land Surveyors, Occupations and Professions

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the procedure for obtaining a replacement license certificate and replacement business entity permit certificate in the event of the loss, destruction, or mutilation of the original, and in the event of an official name change.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide the procedure by which to obtain a replacement license certificate or business entity permit certificate.

(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 adopting the procedure that must be complied with in order to obtain a replacement license certificate or business entity permit.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by setting forth a clear procedure that must be complied with in order to obtain a replacement license certificate or business entity permit.

(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 update this already existing administrative regulation to reflect the current procedures in place and modernize the administrative regulation. The amendment also makes minor grammatical corrections to enhance clarity of the regulation.

(b) The necessity of the amendment to this administrative regulation: The amendment to this already existing administrative regulation is necessary to clarify the process that must be complied with in order to obtain a replacement license certificate or business entity permit.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment to this already existing administrative regulation conforms to the authorizing statute, KRS 322.170, by adopting a clear procedure that can be followed by licensed individuals or business entities wishing to replace any license or permit that was lost, destroyed, or mutilated. The amendment also conforms to the authorizing statute, KRS 322.290(4), because the authorizing statute gives the board authority to promulgate administrative regulations reasonably necessary for the performance of its duties.

(d) How the amendment will assist in the effective administration of the statutes: The amendment to this already existing administrative regulation will assist in the effective administration of the statutes by putting licensees and permitted business entities on notice of the clear procedures and requirements for those wishing to obtain a replacement license certificate or business entity permit certificate in order to expedite the process of issuing replacement license or business entity permit certificates.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? The amendment to this already existing administrative regulation does not 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: The amendment to this already existing administrative regulation is expected to only affect approximately 25 individuals/firms per year, who are either individuals licensed as professional engineers or professional land surveyors or business entities holding a permit to engage in the practice of engineering or land surveying in the Commonwealth of Kentucky that have had a license certificate or business entity permit certificate lost, destroyed, or mutilated or wish to change the name on a license certificate or business entity permit certificate and wish to obtain a replacement certificate. No other businesses, organizations, or state and local governments are anticipated to be affected by the amendment to 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: In order to comply with the amendment to this administrative regulation, individuals licensed as a professional engineer or professional land surveyor or business entities holding a permit to engage in the practice of engineering or land surveying in the Commonwealth of Kentucky that have had a license certificate or business entity permit certificate lost, destroyed, or mutilated or wish to change the name on the license certificate or business entity permit certificate will need to comply with the procedure and submit the appropriate information to the board as set forth in the administrative regulation in order to obtain a replacement certificate.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There are no expected additional costs for individuals

licensed as a professional engineer or professional land surveyor or business entities holding a permit to engage in the practice of engineering or land surveying in the Commonwealth of Kentucky in complying with the amendment to this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): As a result of complying with the amendment to this administrative regulation, individuals licensed as a professional engineer or professional land surveyor or business entities holding a permit to engage in the practice of engineering or land surveying in the Commonwealth of Kentucky that have had a license certificate or business entity permit certificate lost, destroyed, or mutilated or wish to change the name on a license certificate or business entity permit certificate will have the benefit of being able to obtain a replacement license certificate or business entity permit certificate.

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

(a) Initially: No additional cost.

(b) On a continuing basis: No additional cost.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: No additional funds are needed for the implementation and enforcement of the amendment of this administrative regulation. However, to the extent any funds are needed for the implementation and enforcement of the amendment of this already existing administrative regulation, the funds would be from restricted agency funds. The Kentucky State Board of Licensure for Professional Engineers and Land Surveyors does not receive any general or federal 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: An increase in fees or funding will not be necessary to implement the amendment to this already existing administrative regulation.

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The amendment to this existing administrative regulation does not establish any fees. Nor does the amendment directly or indirectly increase any fees.

(10) TIERING: Is tiering applied? Tiering is not applied to the amendment of this already existing administrative regulation as the amendment applies equally to all licensed professional engineers, professional land surveyors, and business entities holding permits to engage in the practice of engineering and land surveying that wish to obtain a replacement license certificate or business entity permit certificate.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: Kentucky Revised Statutes 322.170 and 322.290(4).

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: This administrative regulation is expressly authorized by KRS 322.170.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The promulgating agency is the Kentucky State Board of Licensure for Professional Engineers and Land Surveyors.

(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): No local entities (cities,

counties, fire departments, school districts) are affected by the amendment of this already existing administrative regulation.

(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): Potential affected regulated entities may include individuals licensed as a professional engineer or professional land surveyor or business entities holding a permit to engage in the practice of engineering or land surveying in the Commonwealth of Kentucky that have had a license certificate or business entity permit certificate lost, destroyed, or mutilated and wish to obtain a replacement.

(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: The amendment to this already existing administrative regulation will not have a fiscal impact on state or local government or regulated entities.

(b) Methodology and resources used to reach this conclusion: Not applicable.

(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): The amendment to this already existing administrative regulation will not have a "major economic impact."

(b) The methodology and resources used to reach this conclusion: Not applicable.

BOARDS AND COMMISSIONS
Board of Physical Therapy
(Amendment)

201 KAR 22:130. Per diem of board members.

RELATES TO: KRS 327.030, 327.080

STATUTORY AUTHORITY: KRS 327.030(11)(40)

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 327.030(11)(40) authorizes the board to promulgate administrative regulations establishing a per diem for board members not to exceed \$250[\$120] per day for each day the member is actually engaged in the discharge of official duties. This administrative regulation outlines the per diem members will receive when required to represent the board or attend its meetings.

Section 1. Each member of the board shall receive a per diem of \$200[\$120] for attending each meeting of the board or otherwise representing the board.

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STEPHEN CURLEY, Executive Director

APPROVED BY AGENCY: May 29, 2026

FILED WITH LRC: June 11, 2026 at 11:25 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 26, 2026, at 3:30 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 August 31, 2026. 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, (502) 429-7140 and Fax (502) 429-7142, Stephen.Curley@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Stephen Curley, Executive Director, (502) 429-7140, Stephen.curley@ky.gov.

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 outlines the Per diem of board members.

(b) The necessity of this administrative regulation: This administrative regulation was necessary to implement provisions of KRS 327.030.

(c) How this administrative regulation conforms to the content of the authorizing statutes: It provides the per diem amounts as required by the statute.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It provides the outlines for Per diem's of board members.

(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 would update the cap for Board per diems and Board per diem's. This update is according to the update to the statute under HB 48.

(b) The necessity of the amendment to this administrative regulation: This update is required according to the update to the statute under HB 48.

(c) How the amendment conforms to the content of the authorizing statutes: This update is required according to the update to the statute under HB 48.

(d) How the amendment will assist in the effective administration of the statutes: This update is required to comply with KRS 327.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 7

(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: Per diem payment will increase.

(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): potentially attract additional Board members.

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

(a) Initially: approximately \$3,000 a year

(b) On a continuing basis: approximately \$3,000 a year

(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.

(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 327.030.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 327.030.

(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: approximately \$3,000 a year

For subsequent years: approximately \$3,000 a year

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: approximately \$3,000 a year.

(b) Methodology and resources used to reach this conclusion:

this regulation would raise the per diem for Board members \$80 a year

(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: this regulation would only raise per diem approximately \$3,000 a year.

BOARDS AND COMMISSIONS
Board of Physical Therapy
(Amendment)

201 KAR 22:135. Fees.

RELATES TO: KRS 61.874(4), 327.050(2), (8), 327.075(1), 327.080[(+)]

STATUTORY AUTHORITY: KRS 327.040(1)[(+)], (12)[(+)], 327.050(2), (8), 327.075(1)

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(11) authorizes the board to promulgate and enforce reasonable administrative regulations for the effectuation of the purposes of KRS Chapter 327. KRS 327.050(2) and (8) require the board to establish fees for application and renewal of licenses for physical therapists, and KRS 327.075(1) requires the board to establish a reinstatement fee. KRS 327.040(13) authorizes the board to establish reasonable fees for the certification, renewal, and endorsement of physical therapist assistants. This administrative regulation establishes the fees required to apply for a credential by application, reinstatement, or renewal.

Section 1. Payment of Fees.

(1) Except as provided in subsection (2) of this section, an application fee shall be:

(a) Made payable as required by KRS 327.080[(+)] and

(b) Paid by:

1. Cashier's check;
2. Certified check;
3. Money order;
4. Credit card;
5. Debit card; or
6. Cash.

(2) A renewal application fee shall be paid:

- (a) As required by subsection (1) of this section; or
- (b) By personal check.

Section 2. Licensure fees shall be:

(1) \$225 for initial credentialing by application;

(2) \$205 for a reinstatement application plus the twenty (20) dollar impaired practitioner's assessment as set forth in 201 KAR 22:140, Section 1; and

(3) \$170 for a renewal application plus the twenty (20) dollar impaired practitioner's assessment as set forth in 201 KAR 22:140, Section 1.

Section 3. Other administrative fees shall be:

- (1) Verification of licensure forty (40) dollars;
- (2) Billfold license fifteen (15) dollars;
- (3) Wall certificate twenty-five (25) dollars;
- (4) Licensure mailing list on a CD or by email \$150; and
- (5) Licensure mailing labels \$150.

STEPHEN CURLEY, Executive Director

APPROVED BY AGENCY: May 29, 2026

FILED WITH LRC: June 11, 2026 at 11:25 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 26, 2026, 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 June 30, 2026. 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, (502) 429-7140 and Fax (502) 429-7142, Stephen.Curley@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Stephen Curley Phone:(502) 429-7140 Email: Stephen.curley@ky.gov

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 outlines Fees.

(b) The necessity of this administrative regulation: This administrative regulation was necessary to implement provisions of KRS 327.050, 327.075, and 327.080.

(c) How this administrative regulation conforms to the content of the authorizing statutes: It provides the fees as established in the statutes.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It provides the fees as established in the statutes.

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

(a) How the amendment will change this existing administrative regulation: This amendment would move the \$20 assessed Impaired Practitioners fee to the regulation as changed in HB 48.

(b) The necessity of the amendment to this administrative regulation: This update is required according to the update to the statute under HB 48.

(c) How the amendment conforms to the content of the authorizing statutes: This update is required according to the update to the statute under HB 48.

(d) How the amendment will assist in the effective administration of the statutes: This update is required to comply with KRS 327.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 7,000

(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: This fee is tied to the renewal fee for licensees.

(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. This fee was already established in the statute.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): These funds are set aside in a Impaired Practitioners fund to assist licensees with mental health or substance use issues.

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

(a) Initially: None

(b) On a continuing basis: None

(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.

(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 327.050, 327.075, 327.080.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 327.050, 327.075, 327.080.

(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: this fee already exists this regulation would move it from statute to 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): No

(b) The methodology and resources used to reach this conclusion: this fee already exists this regulation would move it from statute to regulation

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 Social Work

(Amendment)

201 KAR 23:020. Fees.

RELATES TO: KRS 335.080(1)(d), (g), 335.090(1)(d), (g), 335.100(1)(c), (f), 335.130(1), 335.135 Section 2 R., Section 3 D, Section 4 A 2, Section 7 B 1

STATUTORY AUTHORITY: KRS 335.070(3), 335.080(1)(d), (g), 335.090(1)(d), ~~[(g),]~~335.100(1)(c), (f), 335.130(1), 335.135 Section 3 D

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.080(1)(d), 335.090(1)(d), and 335.100(1)(c) require the board to establish examination fees by promulgation of an administrative regulation. KRS 335.080(1)(g), 335.090(1)(g), and 335.100(1)(f) require the board to establish initial license fees by promulgation of an administrative regulation. KRS 335.130(1) requires the board to establish renewal fees by promulgation of an administrative regulation. KRS335.070(3) allows the board to promulgate administrative regulations to carry out the provisions of KRS 335.010 to 335.160 and KRS 335.990. This administrative regulation establishes the application, [these] examination, initial license, and license renewal fees.

Section 1. The fee for the licensed clinical social worker examination shall be the amount set by the Association of Social Work Boards.

Section 2. The fee for the certified social worker examination shall be the amount set by the Association of Social Work Boards.

Section 3. The fee for the licensed social worker examination shall be the amount set by the Association of Social Work Boards.

Section 4. The initial license fee and the renewal fee for a licensed clinical social worker license shall be \$200.

Section 5. The initial license fee and the renewal fee for a certified social worker license shall be \$125.

Section 6. The initial license fee and the renewal fee for a licensed social worker shall be seventy-five (75) dollars.

Section 7. The initial license and renewal fee shall be fifty (50) dollars for the following licenses:

(1) The temporary licensed social work license;

(2) The temporary certified social work license;

(3) The renewal of the temporary licensed social work license;

(4) The renewal of the temporary certified social work license;

(5) The out-of-state temporary 90-day license for licensed social work, certified social work and licensed clinical social work.

Section 8. The initial license fee and the renewal fee for the multistate license shall be seventy-five (75) dollars for licensed social work, \$125 dollars for certified social work and \$200 for licensed clinical social work, inclusive of the portion the board pays to the Social Work Compact Commission as set forth in 201 KAR 23:012.

Section 9. The application fee for a license requested from the board shall be twenty-five (25) dollars.

(1) The fee applies to:

(a) The licensed social work license;

(b) The certified social work license;

(c) The licensed clinical social worker license;

(d) The temporary licensed social work license;

(e) The temporary certified social work license;

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- (f) The renewal of the temporary licensed social work license;
- (g) g. The renewal of the temporary certified social work license;
- (h) h. The out-of-state temporary 90-day license for licensed social work, certified social work, and licensed clinical social work; and
- (i) The multistate license.
- (2) The fee is payable at the time of application and is non-refundable.

Section 10. Equivalency. The application fee for an equivalency license requested from the board shall be twenty-five (25) dollars.

HANK CECIL, LCSW, Board Chair

APPROVED BY AGENCY: June 15, 2026

FILED WITH LRC: June 15, 2026 at 10:35 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 31, 2026 at 1:00 p.m., at the Kentucky Board of Social Work, 125 Holmes St., Suite 310, 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 cancelled. 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 the proposed administrative regulation. Written comments shall be accepted through August 31, 2026. 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: Marc Kelly, Executive Director, Kentucky Board of Social Work, 125 Holmes St., Suite 310, Frankfort Kentucky 40601, phone (502) 564-2350, email marc.kelly@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Marc Kelly Phone: (502) 564-2350 Email: marc.kelly@ky.gov

Subject Headings: Social Work, Fees, Boards and Commissions

- (1) Provide a brief summary of:
 - (a) What this administrative regulation does: This administrative regulation establishes fees for license application, licensure and renewal of credentials issued by the Board.
 - (b) The necessity of this administrative regulation: This regulation is necessary to establish application, license and renewal fees for the credentials issued by the Board.
 - (c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 335.070(3) authorizes the board to promulgate administrative regulations to carry out the provisions of KRS 335.010 to 335.160 and KRS 335.990.
 - (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in effective administration of the statutes by establishing fees by administrative regulation as directed by KRS 335.080(1)(d), 335.090(1)(d), 335.100(1)(c), 335.080(1)(g), 335.090(1)(g), and 335.100(1)(f), 335.130(1), and 335.070(3).
- (2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
 - (a) How the amendment will change this existing administrative regulation: This amendment will change the existing administrative regulation by establishing a fifty (50) dollar fee for initial license and renewal of the temporary licensed social work license, the temporary certified social work license, the temporary licensed social work license, and the out-of-state temporary 90-day license for licensed social work, certified social work and licensed clinical social work; establishing the initial license fee and the renewal fee for the multistate license fee at one-hundred fifty (150) dollars; establishing a twenty-five (25) application fee for credentials issued by the Board; and establishing a twenty-five (25) application fee for an equivalency license.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to comply with the statutes referenced above in 1 (d).

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes by establishing fees by administrative regulation as directed by KRS 335.080(1)(d), 335.090(1)(d), 335.100(1)(c), 335.080(1)(g), 335.090(1)(g), and 335.100(1)(f), 335.130(1), and 335.070(3).

(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 fees by administrative regulation as directed by KRS 335.080(1)(d), 335.090(1)(d), 335.100(1)(c), 335.080(1)(g), 335.090(1)(g), and 335.100(1)(f), 335.130(1), and 335.070(3).

(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes, 2026 RS HB 424; KRS 335.135.

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect approximately 8,266 social workers, future applicants, and the Kentucky Board of Social Work.

(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 have to pay the application, licensure, and renewal fees in order to achieve and maintain licensure status.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): Future applicants will pay a twenty-five (25) dollar application fee. Temporary licensees will pay fifty (50) dollars for licensure and renewal. Applicants for multi-state licensure will pay a licensing fee determined by their level of licensure and varying from seventy-five (75) dollars for licensed social workers, one hundred (100) dollars for certified social workers and two hundred (200) dollars for licensed clinical social workers.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): The Board will continue to review and approve or deny applications for licensure and renewals. Licensees will have more flexibility to practice across state lines.

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

(a) Initially: No costs are anticipated.

(b) On a continuing basis: No costs are anticipated.

(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 is self-funded by revenue generated from fees. No general fund dollars will be expended.

(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 any costs associated solely with the implementation of this administrative regulation.

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation establishes a fifty (50) dollar fee for initial license and renewal of the temporary licensed social work license, the temporary certified social work license, the temporary licensed social work license, and the out-of-state temporary 90-day license for licensed social work, certified social work and licensed clinical social work; establishes the initial license fee and the renewal fee for the multistate license fee at one-hundred fifty (150) dollars; establishes a twenty-five (25) application fee for credentials issued by the Board; and establishes a twenty-five (25) application fee for an equivalency license.

(10) TIERING: Is tiering applied? Yes. Fees are tied to licensure classification, and higher costs are generally associated with more advanced licenses.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 335.080(1)(d), 335.090(1)(d), 335.100(1)(c), 335.080(1)(g), 335.090(1)(g), and 335.100(1)(f), 335.130(1), and 335.070(3) authorize the action taken by this administrative regulation.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: 2026 RS HB 424 and KRS 335.080(1)(d), 335.090(1)(d), 335.100(1)(c), 335.080(1)(g), 335.090(1)(g), and 335.100(1)(f), 335.130(1), and 335.070(3).

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Board of Social Work. 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: No additional revenue is expected.

For subsequent years: No additional revenue is expected.

3. Cost Savings:

For the first year: No cost savings are anticipated.

For subsequent years: No cost savings are anticipated.

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No local entities are affected.

(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): No additional entities are identified.

(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: This administrative regulation is expected to be revenue neutral for the Board. New fees or fee increases are expected to be offset by a loss of out of state residents seeking licensure only in Kentucky.

(b) Methodology and resources used to reach this conclusion: The Board has surveyed Kentucky licensees with regard to their likelihood of seeking a multistate license and projected the probable loss of out of state applicants seeking licensure in Kentucky.

(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): (\$500,000 over a two-year period): This administrative regulation will not have a major economic impact as defined.

(b) The methodology and resources used to reach this conclusion: The combined implementation and compliance costs of this administrative regulation will not have a major economic impact because implementation costs are expected to be zero and

compliance costs are not projected to approach \$500,000 over a two-year period. Stay informed about developments in digital practice standards.

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 Social Work
(Amendment)**

201 KAR 23:120. Equivalency standard.

RELATES TO: KRS 335.070, 335.080, 335.090, 335.100, 335.135

STATUTORY AUTHORITY: KRS Chapter 13A, 335.070
NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.070(5) authorizes the Kentucky Board of Social Work to promulgate administrative regulations to carry out the provisions of KRS Chapter 335. KRS 335.080(1)(c) and 335.090(1)(c)2 authorize the board to approve educational institutions and determine equivalent course requirements for applicants seeking licensure as a certified social worker or licensed social worker. This administrative regulation establishes the equivalency standards for single-state licensure under KRS 335.080 and KRS 335.090. In accordance with the strict educational mandates of KRS 335.100(1)(a) and the Social Work Licensure Compact in KRS 335.135, these equivalency standards do not apply to applicants for a licensed clinical social worker license or a multistate license, both of which require a degree from an institution accredited by the Council on Social Work Education. [This administrative regulation clarifies what the board will consider as equivalent education to that of a baccalaureate degree in social work or a social welfare program.]

Section 1. In determining equivalency, the board will compare any program to that of a master's or bachelor's degree from a Council on Social Work Education (CSWE) [CSWE (council of social work educators)] accredited school. In determining equivalency, the board will require that the educational content of a program shall include:

- (1) Human behavior and the social environment;
- (2) Social welfare policy and service;
- (3) Research;
- (4) Social work practice; and
- (5) Educational practicum.

Section 2.

(1) In human behavior and the social environment emphasis should be placed on the psychosocial situation. Six (6) hours of such courses should be at the upper division, or three (3) hours if such is built on a base of psychological and sociological courses.

(2) Social welfare policy and service courses shall include at least three (3) hours at the upper division social work or social welfare courses, built on courses in political science and economics. In the absence of political science and economics, there shall be at least six (6) hours in the social welfare policies and services area.

(3) Research courses shall be one three (3) hour social research course based on some kind of basic research.

(4) Social work practicum shall include six (6) hours of social work practice courses taught by an individual with an advanced degree in social work. In the absence of classes in lower division social work methods, three (3) additional hours shall be required in a lower division course, totaling nine (9) hours.

(5) Practicum shall be taught by an individual with an advanced degree in social work for at least 450 hours. Two (2) hours per week of supervision shall be required by an individual with an advanced degree in social work.

Section 3. Limitations on Equivalency.

(1) Equivalency established in Sections 1 and 2 of this administrative regulation only qualifies an applicant for a Kentucky single-state license as a licensed social worker under KRS 335.090 or a certified social worker under 335.080.

(2) Equivalency established in this administrative regulation shall not apply to applicants for a licensed clinical social worker license under KRS 335.100.

(3) To qualify for a multistate license under KRS 335.135, an applicant shall hold a bachelor's or master's degree in social work from a program that is:

(a) Accredited by the CSWE; or

(b) In candidacy with CSWE at the time of the applicant's graduation and subsequently becomes accredited; and

(c) Meets all other requirements for the multistate license as set forth in KRS 335.135.

Section 4. Background Check.

(1) Equivalency applicants shall complete a background check in accordance with KRS 335.160.

(2) Pay the application fee of twenty-five (25) dollars required by 201 KAR 23:020 and the cost of the background check.

HANK CECIL, LCSW, Board Chair

APPROVED BY AGENCY: June 15, 2026

FILED WITH LRC: June 15, 2026 at 10:35 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 31, 2026, at 1:00 p.m., at the Kentucky Board of Social Work, 125 Holmes St., Suite 310, 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 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 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 the proposed administrative regulation. Written comments shall be accepted through August 31, 2026. 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: Marc Kelly, Executive Director, Kentucky Board of Social Work, 125 Holmes St., Suite 310, Frankfort Kentucky 40601, phone (502) 564-2350, email marc.kelly@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Marc Kelly Phone: (502) 564-2350 Email: marc.kelly@ky.gov

Subject Headings: Social Work, Boards and Commissions, Licensing

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes equivalency requirements for credential holders.

(b) The necessity of this administrative regulation: This regulation is necessary to establish equivalency standards as authorized by KRS 335.070, 335.080 and 335.090.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 335.070 authorizes the board to promulgate administrative regulations to carry out the provisions of KRS Chapter 335. KRS 335.080(1)(c) and 335.090(1)(c) 2 authorize board to approve educational institutions and determine equivalent course requirements for applicants seeking licensure as a certified social worker or licensed social worker.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in effective administration by establishing equivalency requirements for qualified applicants.

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

(a) How the amendment will change this existing administrative regulation: This amendment establishes limitations on equivalency and requirements for background checks.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to specify limitations on equivalency as required by statute.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 335.070 authorizes the board to promulgate administrative regulations to carry out the provisions of KRS Chapter 335. KRS 335.080(1)(c) and 335.090(1)(c) 2 authorize board to approve educational institutions and determine equivalent course requirements for applicants seeking licensure as a certified social worker or licensed social worker.

(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 approved educational institutions and determining equivalent course requirements for applicants seeking licensure as a certified social worker or licensed social worker.

(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: Applicants for licensure with the Board.

(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: Future applicants will take the examinations as specified by this administrative regulation.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Future applicants will know which test they are required to take and will benefit from a uniform examination procedure.

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

(a) Initially: No costs are anticipated.

(b) On a continuing basis: No costs are anticipated.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Existing agency funds. This administrative regulation does not establish fees. Funding for the KBSW comes from licensure and certification fees; the board does not receive any 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: There is no anticipation of an increase in fees or needed funding to implement this administrative regulation.

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased by this administrative regulation.

(10) TIERING: Is tiering applied? No. All regulated entities have the same requirements according to their application status.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: .: KRS 335.070.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 335.070.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Board of Social Work.

(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): 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
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): None.

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

1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None

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

(a) Fiscal impact of this administrative regulation: There is no fiscal impact from this administrative regulation.

(b) Methodology and resources used to reach this conclusion: This administrative regulation establishes examination requirements and has no costs, fees, or revenues associated with it.

(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.

(b) The methodology and resources used to reach this conclusion: This administrative regulation establishes examination requirements and has no costs, fees, or revenues associated with it.

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 Social Work
(Amendment)**

201 KAR 23:140. Per diem compensation for board members.

RELATES TO: KRS 335.060

STATUTORY AUTHORITY: KRS 335.060, 335.070(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.060 provides that a board member shall receive per diem compensation, not to exceed \$125, to be established by administrative regulation promulgated by the board. This administrative regulation establishes this per diem compensation.

Section 1. The per diem compensation for a board member shall be \$125~~[\$100]~~.

HANK CECIL, LCSW, Board Chair

APPROVED BY AGENCY: June 15, 2026

FILED WITH LRC: June 15, 2026 at 10:35 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 31, 2026, at 1:00 p.m., at the Kentucky Board of Social Work, 125 Holmes St., Suite 310, 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 cancelled. 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 the proposed administrative regulation. Written comments shall be accepted through August 31, 2026. 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: Marc Kelly, Executive Director, Kentucky Board of Social Work, 125 Holmes St., Suite 310, Frankfort Kentucky 40601, phone (502) 564-2350, email marc.kelly@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Marc Kelly Phone: (502) 564-2350 Email: marc.kelly@ky.gov

Subject Headings: Social Work, Occupations and Professions, Boards and Commissions

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes per diem compensation for board members.

(b) The necessity of this administrative regulation: This regulation is necessary to establish per diem compensation as directed by KRS 335.060.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 335.060 directs that board members shall receive per diem compensation, not to exceed one hundred twenty-five dollars (\$125), to be established by administrative regulation promulgated by the board.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in effective administration of the statutes by establishing a per diem rate to the extent authorized by KRS 335.060.

(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 raising the per diem rate from one hundred dollars (\$100) to one hundred twenty-five dollars (\$125).

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to adequately compensate board members to the extent allowed by statute.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes by raising the per diem rate to the extent authorized by KRS 335.060.

(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 a uniform per diem rate for board members.

(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 will affect members of the board.

(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 individuals identified in question (4) will receive an additional twenty-five dollars (\$25) in per diem compensation.

(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 cost to board members.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Individuals identified in question (4) will receive increased compensation for per diem allocations.

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

(a) Initially: Minimal costs are anticipated

(b) On a continuing basis: Minimal costs are anticipated.

(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 is self-funded through application, license and renewal fees. No general fund dollars will be expended.

(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 change.

(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.

(10) TIERING: Is tiering applied? No. All board members are compensated uniformly.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 335.060.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 335.060.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Board of Social Work.

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

1. Expenditures:

For the first year: Minimal.

For subsequent years: Minimal.

2. Revenues:

For the first year: None.

For subsequent years: None.

3. Cost Savings:

For the first year: 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.

For subsequent years: None.

2. Revenues:

For the first year: None.

For subsequent years: None

3. Cost Savings:

For the first year: None

For subsequent years: None.

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): None.

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

1. Expenditures:

For the first year: None.

For subsequent years: None.

2. Revenues:

For the first year: None.

For subsequent years: None.

3. Cost Savings:

For the first year: None.

For subsequent years: None.

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

(a) Fiscal impact of this administrative regulation: The fiscal impact of this administrative regulation is expected to be minimal upon the board.

(b) Methodology and resources used to reach this conclusion: Most members receive a per diem monthly. Assuming a twenty-five-dollar monthly increase for a full board over twelve months the cost would be \$2,100.

(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.

(b) The methodology and resources used to reach this conclusion: Most members receive a per diem monthly. Assuming a twenty-five dollar monthly increase for a full board over twelve months, the cost would be \$2,100.

**TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(Amendment)**

301 KAR 2:222. Waterfowl hunting requirements on public lands.

RELATES TO: KRS 150.010(42), 150.305(1), 150.330, 150.340(1), (3), 150.990

STATUTORY AUTHORITY: KRS 150.025(1), 150.360, 150.600(1), 50 C.F.R. 20, 21

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 establish open seasons for the taking of wildlife and to regulate bag limits. KRS 150.360 authorizes the department to restrict methods of taking wildlife. KRS 150.600(1) authorizes the department to regulate the taking of waterfowl on public and private land. This administrative regulation establishes requirements for the taking of waterfowl within reasonable limits and within the frameworks established by 50 C.F.R. Parts 20 and 21.

Section 1. Definitions.

(1) "Blind" means a:

(a) Concealing enclosure;

(b) Pit; or

(c) Boat.

(2) "Department blind" means a permanently fixed blind structure built by the department.

(3) "Drawn hunter" means a hunter who applied for a limited-access hunt and was selected by the department to participate in the hunt.

(4) "Guest hunter" means a hunter invited by a waterfowl permit holder to participate in a limited-access hunt.

(5) "Hunt site" means a specific location where waterfowl hunting is allowed, as assigned by the department or the U.S. Army Corps of Engineers and marked with a sign.

(6) "Hunt unit" means a tract of land with defined boundaries

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where a party may hunt waterfowl as approved by the department.

(7) "Limited-access hunt" means a hunting opportunity where public access is limited by the department to those who are selected in a random drawing.

(8) "Party" means:

(a) A person hunting alone; or

(b) Two (2) to four (4) people who share a department blind, hunt unit, or hunt site.

(9) "Permanent blind" means a blind left in place by a waterfowl hunter longer than twenty-four (24) hours.

(10) "Quota hunt" means a class of limited-access hunt that includes the word quota in the name of the hunt as established in administrative regulation.

(11) "Regular waterfowl season" means the open waterfowl season that does not include the Light Geese Conservation Order season, special youth waterfowl season, special veterans and active military personnel waterfowl season, or the September wood duck, teal, and Canada goose seasons as established in 301 KAR 2:221 and 2:225.

(12) "Special commission waterfowl permit holder" means a person who has been assigned a special commission permit for waterfowl, issued pursuant to 301 KAR 3:100, which allows the permit recipient to participate in the waterfowl quota hunt and receive priority selection for hunting dates during hunts at Ballard and Sloughs WMAs.

(13) "Waterfowl permit holder" means a special commission waterfowl permit holder or drawn hunter who has been assigned to a limited-access department blind, hunt unit, or hunt site by the department or the U.S. Army Corps of Engineers.

(14) "Wildlife Management Area" or "WMA" means a tract of land:

(a) Controlled by the department through ownership, lease, license, or cooperative agreement; and

(b) That has "Wildlife Management Area" or "WMA" as part of its official name.

Section 2. Waterfowl Seasons on Wildlife Management Areas.

(1) Waterfowl season provisions shall apply, as established in 301 KAR 2:221 and 301 KAR 2:225, except as established in this section or in Section 3 of this administrative regulation.

(2) On a wildlife management area, a person hunting waterfowl shall not:

(a) Establish or hunt from a permanent waterfowl blind;

(b) Hunt within 200 yards of another legal waterfowl hunting party;

(c) Hunt in a designated recreation area or access point;

(d) Hunt on an area marked by sign as closed to hunting;

(e) Enter an area marked by signs as closed to public access; or

(f) Hunt a species on an area marked by signs as closed to hunting for that species.

(3) More than one (1) party shall not occupy a waterfowl blind or hunt site.

(4) A party shall remove decoys and personal items daily, except that a party assigned a multi-day hunt may choose to leave decoys in place for the duration of the hunt.

(5) A permanent blind, department blind, or blind site not occupied by the waterfowl permit holder one (1) hour before sunrise shall be available to another hunter on a first-come, first-served basis.

(6) Restrictions established in this section shall not apply to a falconer if regular waterfowl season, special youth waterfowl season, or special veteran's active military personnel season, as established in 301 KAR 2:221, are not open.

Section 3. Wildlife Management Area Requirements.

(1) The provisions of this section shall not apply to a waterfowl hunting season that opens prior to October 15, as established in 301 KAR 2:225.

(2) On wildlife management areas in Ballard County:

(a) The shotgun shell possession limit shall be twenty-five (25);

(b) At least one (1) person in each party shall be eighteen (18) years of age or older; and

(c) A person hunting waterfowl shall:

1. Not hunt on Monday, Tuesday, Christmas Eve, Christmas Day, or New Year's Day;

2. Hunt in a party that includes a waterfowl permit holder;

3. Hunt in the department blind, hunt unit, or hunt site assigned to that waterfowl permit holder through a drawing as established in Section 4 of this administrative regulation;

4. Not be assigned to more than one department blind, hunt unit, or hunt site in a day;

5. Hunt in close proximity to other party members so that each member of the party is within twenty-five (25) feet of another party member and no two (2) party members are more than seventy-five (75) feet apart;

6. [5.] Stop hunting and exit the hunting area by 2 p.m. during the regular waterfowl season, except as authorized by the department as necessary due to flooding, weather, or other safety concerns; and

7. [6.] Check out of the area by accurately completing the Daily Post-hunt Survey provided by the department and submitting the survey at the department-designated drop point by 3 p.m. the day of the hunt or be declared ineligible to hunt in a department limited-access waterfowl hunt for the remainder of the current and following waterfowl season.

(3) Ballard WMA.

(a) Ballard WMA shall be closed to the public from October 15 through March 15, except for persons participating in department-managed activities.

(b) During periods of high water or flood, the public shall not enter upon the premises of the Ballard WMA by boat for any purpose. High water or flood conditions shall not affect or change the management area boundary.

(c) A person hunting waterfowl shall not hunt waterfowl on the Ohio River from fifty (50) yards upstream of the northern border of Ballard WMA to fifty (50) yards downstream from the southern border of Ballard WMA from October 15 through March 15.

(4) Boatwright WMA.

(a) The Swan Lake Unit shall be closed to the public from October 15 through March 15, except for persons participating in department-managed activities.

(b) The area open to hunting during the regular waterfowl season shall be open for the Light Geese Conservation Order season as established in 301 KAR 2:221.

(c) Blind, hunt unit, or hunt site restrictions shall not apply to the Light Geese Conservation Order season.

(d) Boatwright WMA shall be closed to boats from December 1 through January 31, except for persons participating in department-managed activities.

(5) Lake Barkley WMA.

(a) A permanent blind shall only be established within ten (10) yards of a hunt site.

(b) Waterfowl refuge areas:

1. The area west of the Cumberland River channel, as marked by buoys, between river mile 51, at Hayes Landing Light, south to the Tennessee Valley Authority's power transmission lines at river mile 55.5, shall be closed from November 1 through February 15; and

2. The area within Honker Bay and Fulton Bay, as marked by buoys and signs, shall be closed from November 1 through March 15.

(c) A person shall not hunt from October 15 through March 15:

1. On Duck Island; or

2. Within 200 yards of Duck Island.

(6) ~~[Barren River Lake WMA. A person hunting waterfowl:]~~

~~[(a)] [May use a breech-loading shotgun along the shoreline of the Peninsula Unit; and]~~

~~[(b)] [Shall not use a breech-loading firearm elsewhere on the area.]~~

~~[(7)] Big Rivers WMA.~~

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(7) Blackford Oaks WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(8) Cedar Creek WMA.

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(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(9) Miller Welch-Central Kentucky WMA. A person shall not hunt waterfowl from October 15 through January 14.

(10) Clear Creek WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(11) Lake Cumberland WMA. The following sections shall be closed to the public from October 15 through March 15:

(a) The Wesley Bend area, bounded by Fishing Creek, Beech Grove Road, and Fishing Creek Road; and

(b) The Yellowhole area, bounded by Fishing Creek Road and Hickory Nut Road.

(12)~~(14)~~ Dix River WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(13)~~(12)~~ Doug Travis WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(c) A person hunting waterfowl shall stop hunting and exit the hunting area by 2 p.m. during the regular waterfowl season, except as authorized by the department as necessary due to flooding, weather, or other safety concerns.

(d) On Black Lake, Fish Lake, Forked Lake, Indian Camp Lake, Number Four Lake, Town Creek Moist Soil Unit, Twin Ponds Moist Soil Unit, and Upper Goose Pond Field, all waterfowl hunting shall be from a permanent blind or within ten (10) yards of a hunt site assigned by the department through a drawing as established in Section 4 of this administrative regulation.

(14)~~(13)~~ Grayson Lake WMA. A person shall not hunt waterfowl:

(a) Within the no-wake zone at the dam site marina;

(b) From the shore of Camp Webb;

(c) On Deer Creek Fork; or

(d) Within three-quarters (3/4) of a mile from the dam.

(15)~~(14)~~ Green River Lake WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(16) Harris-Dickerson WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(17)~~(15)~~ Kaler Bottoms WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(18)~~(16)~~ Kentucky River WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(19)~~(17)~~ Land Between the Lakes National Recreation Area.

(a) The following portions shall be closed to the public from November 1 through March 15:

1. Long Creek Pond;

2. The eastern one-third (1/3) of Smith Bay, as marked by buoys; and

3. The eastern two-thirds (2/3) of Duncan Bay, as marked by buoys.

(b) The following portions shall be closed to waterfowl hunting:

1. The Environmental Education Center; and

2. Energy Lake.

(c) A person shall possess an annual Land Between the Lakes Hunting Permit if hunting waterfowl:

1. Inland from the water's edge of Kentucky Lake or Barkley Lake; or

2. From a boat on a flooded portion of Land Between the Lakes when the lake level is above an elevation of 359 feet.

(d) A person shall not hunt waterfowl on inland areas during a quota deer hunt.

(e) A person shall not establish or use a permanent blind:

1. On an inland area; or

2. Along the Kentucky Lake shoreline of Land Between the Lakes.

(20)~~(18)~~ Obion Creek WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(21)~~(19)~~ Ohio River Islands WMA.

(a) A person shall not hunt from October 15 through March 15 on the Kentucky portion of the Ohio River from Smithland Lock and Dam upstream to the power line crossing at approximately river mile 911.5.

(b) Stewart Island shall be closed to public access from October 15 through March 15.

(c) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(d) A person shall not enter a hunting area prior to 4 a.m. daily.

(22)~~(20)~~ Peabody WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(c) The following areas, as posted by signs, shall be closed to the public from October 15 through March 15:

1. The Sinclair Mine area, bounded by Hwy 176, the haul road, and Goose Lake Road; and

2. The Ken area, bounded by Wysox Road, H2 Road, H1 Road, and H6 Road.

(23)~~(24)~~ Pioneer Weapons WMA. A person hunting waterfowl:

(a) May use a breech-loading shotgun along the shoreline of Cave Run Lake; and

(b) Shall not use a breech-loading firearm elsewhere on the area.

(24)~~(22)~~ Robinson Forest WMA. The main block of the WMA shall be closed to waterfowl hunting.

(25)~~(23)~~ Sloughs WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(c) A person hunting waterfowl shall stop hunting and exit the hunting area by 2 p.m. during the regular waterfowl season, except as authorized by the department as necessary due to flooding, weather, or other safety concerns.

(d) If hunting waterfowl on the Crenshaw and Duncan Tracts of the Sauerheber Unit or the Jenny Hole Unit:

1. A person shall not hunt on a Monday or Tuesday~~(or Wednesday)~~;

2. A person shall not possess more than twenty-five (25) shotgun shells;

3. At least one (1) person in each party shall be eighteen (18) years of age or older;

4. Hunt in a party that includes a waterfowl permit holder;

5. Hunt in the department blind, hunt unit, or hunt site assigned to that waterfowl permit holder through a drawing as established in Section 4 of this administrative regulation;

6. Hunt in close proximity to other hunt party members so that each member of the party is within twenty-five (25) feet of another party member and no two (2) party members are more than seventy-five (75) feet apart;~~and~~

7. Check into the area before hunting by completing the Daily Pre-hunt Survey provided by the department and submitting the survey at the department-designated drop point; and

8. Check out of the area by accurately completing the Daily Post-Hunt Survey provided by the department and submitting the survey at the designated drop point by 3 p.m. the day of the hunt or be ineligible to hunt in department limited-access waterfowl hunts for the remainder of the current and following waterfowl season.

(e) The Sauerheber Unit shall be closed to the public from November 1 through March 15, except for persons participating in department-managed activities.

(f) The Jenny Hole Unit shall be closed to boats from Thanksgiving Day through January 31, except for persons participating in department-managed activities.

(g) The area open to hunting during the regular waterfowl

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season shall be open for the Light Geese Conservation Order season as established in 301 KAR 2:221.

(h) Blind, hunt unit, or hunt site restrictions shall not apply to the Light Geese Conservation Order season.

~~(26)~~~~(24)~~ South Shore WMA. The WMA shall be closed to hunting from November 15 through January 15, except for waterfowl and dove hunting.

~~(27)~~~~(25)~~ Taylorsville Lake WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

~~(28)~~~~(26)~~ Yatesville Lake WMA. The following areas shall be closed to waterfowl hunting, unless authorized by Yatesville Lake State Park:

(a) The Greenbrier Creek embayment; and

(b) The lake area north from the mouth of the Greenbrier Creek embayment to the dam, including the island.

~~(29)~~~~(27)~~ Yellowbank WMA. The area designated by a sign and painted boundary marker shall be closed to the public from October 15 through March 15.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

~~(30)~~~~(28)~~ J.C. Williams WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

Section 4. Limited-Access Waterfowl Hunts.

(1) Permanent waterfowl blinds or hunt sites on Lake Barkley, Barren River Lake, Green River Lake, or Doug Travis Wildlife Management Area.

(a) The department shall announce the time and location of drawings on the department's Web site at fw.ky.gov at least two (2) weeks prior to the drawing.

(b) Applicants:

1. Shall apply in person;

2. Shall fill out the provided index card with the requested information completely and accurately;

3. Shall not mark or mutilate the index card in an attempt to increase the probability of being selected;

4. Shall not apply more than once per drawing;

5. Be at least eighteen (18) years of age; and

6. Possess:

a. A valid Kentucky hunting license;

b. A valid Kentucky migratory game bird and waterfowl permit; and

c. A valid federal duck stamp.

(c) Drawing.

1. The department or U.S. Army Corps of Engineers shall conduct a random drawing of applicants.

2. A drawn hunter shall choose from available hunt sites before the next drawn hunter may select a hunt site.

3. Selected hunt sites shall not be available for the next drawn hunter.

4. If a drawn hunter is not present, or does not select a hunt site, then the next drawn hunter may select a hunt site.

5. The drawing shall continue until all available hunt sites are selected or all applicants have been drawn.

(d) The department or U.S. Army Corps of Engineers shall designate the drawn hunter as the waterfowl permit holder for the selected hunt site.

(e) The drawn hunter may designate one (1) additional applicant to be a waterfowl permit holder for the selected hunt site.

(f) An applicant shall not be a waterfowl permit holder for more than one (1) permanent blind or hunt site at Doug Travis WMA.

(g) Waterfowl permit holders for hunt sites shall:

1. Construct permanent blinds, if desired, before the start of any special or regular waterfowl season as established in 301 KAR 2:221;

2. Not lock a waterfowl blind; and

3. Remove the blind and blind materials within thirty (30) days after the close of the regular waterfowl season or be ineligible for a permit the following year unless an extension of time is granted by

the department due to weather or water level conflicts.

(h) Waterfowl permit holders may take guest hunters to their assigned permanent blind or hunt site, but the total number of people in the party shall not exceed four (4).

(i) A permanent blind or blind site not occupied by a waterfowl permit holder one (1) hour before sunrise shall be available to another hunter on a first-come, first-served basis.

(2) Ballard WMA and Sloughs WMA waterfowl quota hunts.

(a) General procedures. A person applying to hunt in waterfowl quota hunts on Ballard WMA or Sloughs WMA shall:

1. Apply by completing the Ballard or Sloughs Waterfowl Quota

Hunt online application on the department's Web site at fw.ky.gov;

2. Apply from September 1 through September 30;

3. Pay a fee as referenced at <https://fw.ky.gov/Licenses/Pages/Fees.aspx> and established in 301 KAR 5:022 [three (3) dollar application fee for each application];

4. Select preferred hunts or select the no-hunt option; and

5. Not apply more than one (1) time for each hunt.

(b) Preference points.

1. A quota hunt applicant who is not selected shall be given one (1) preference point.

2. A quota hunt applicant who selects the no-hunt option shall be given one (1) preference point.

3. A person who applies for the no-hunt option shall not be drawn for a waterfowl quota hunt.

4. An applicant may accumulate preference points across years.

5. For each hunt:

a. A random selection of applicants with the highest number of preference points shall be made; and

b. If there are still openings, a random selection of applicants with the next highest number of preference points shall be made.

6. If selected for a quota hunt, a person shall lose all accumulated preference points.

7. A person shall forfeit all accumulated preference points if the person does not apply or is ineligible to apply for:

a. A waterfowl quota hunt; or

b. The no-hunt option.

(c) If technical difficulties with the automated application system prevent applications from being accepted for one (1) or more days during the application period, the commissioner may extend the application deadline.

(d) Ballard WMA waterfowl quota hunts.

1. A drawn hunter and special commission waterfowl permit holder shall check in the morning of their hunt in person by 5 a.m. CST.

2. A drawn hunter and special commission waterfowl permit holder shall fill out the Daily Pre-Hunt Survey [provided check-in] card completely and accurately.

3. A random drawing of all drawn hunters and special commission waterfowl permit holders shall begin after the check-in period.

4. A selected drawn hunter or special commission waterfowl permit holder shall choose from available hunting units or department blinds before the next applicant is drawn.

5. A drawn hunter or special commission waterfowl permit holder who selects a hunting unit or department blind becomes the waterfowl permit holder for that hunting unit or department blind.

6. Waterfowl permit holders may take up to three (3) guest hunters.

7. Selected hunting units or department blinds shall not be available for the next drawn hunter.

8. Waterfowl hunt units or department blinds not claimed by drawn hunters shall be available in a stand-by drawing.

(e) Sloughs WMA waterfowl quota hunts.

1. A drawn hunter shall be assigned a department blind or hunting unit and become waterfowl permit holders at the time of the drawing.

2. A waterfowl permit holder shall check in by midnight CST on the Sunday prior to their hunt by sending an email to sloughsquotahunt@ky.gov that includes the waterfowl permit holder's name, hunt unit, hunt dates, and hunt confirmation number or forfeit their spot.

3. A waterfowl permit holder may take up to three (3) guest hunters.

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4. Waterfowl hunt units or department blinds forfeited by waterfowl permit holders shall be available in a stand-by drawing.

(3) Boatwright WMA limited-access waterfowl hunts.

(a) A person applying to hunt waterfowl on Boatwright WMA shall:

1. Apply by completing the online Boatwright WMA Waterfowl Quota Hunt Form process on the department's Web site at <https://app.fw.ky.gov/HuntDraw/Index>;

2. Apply during the period Wednesday through Sunday before their intended hunt period; and

3. Be eighteen (18) years of age or older.

(b) A drawn hunter shall be assigned a department blind or hunting unit and become a waterfowl permit holder at the time of the drawing.

(c) A waterfowl permit holder may surrender a Boatwright WMA department blind or hunting unit on the department's Web site at <https://app.fw.ky.gov/HuntDraw/Index>.

(d) A surrendered department blind or hunting unit shall be available in a stand-by drawing [assigned by the department to a new drawn hunter].

(e) A waterfowl permit holder shall check in the morning of their hunt in person by 4:45 a.m. CST.

(f) A waterfowl permit holder shall fill out the provided Daily Pre-Hunt Survey [check-in] card completely and accurately.

(g) A waterfowl hunt unit or department blind not claimed by a drawn hunter shall be available in a stand-by drawing.

(h) A waterfowl permit holder may take up to three (3) guest hunters.

(4) Stand-by drawings.

(a) Ballard WMA.

1. An applicant shall apply in person before 5 a.m. CST the day of their intended hunt.

2. An applicant shall fill out the provided Daily Pre-Hunt Survey [check-in] card completely and accurately.

3. A random drawing for unclaimed department blinds or hunting units shall be conducted following the drawing for drawn hunters.

4. A selected applicant shall choose an available department blind or hunting unit and be designated as a waterfowl permit holder.

(b) Boatwright WMA.

1. An applicant shall apply in person at a time specified on the department's Web site at <https://fw.ky.gov/Hunt/Pages/Waterfowl-Quota-Hunts.aspx> [before 4:45 a.m. CST the day of their intended hunt].

2. An applicant shall fill out the provided Daily Pre-Hunt Survey [check-in] card completely and accurately.

3. A random drawing for an unclaimed department blind or hunting unit shall occur after the application period closes [4:45 a.m. CST].

4. Selected applicants shall choose an available department blind or hunting unit and be designated waterfowl permit holder.

(c) Sloughs WMA.

1. An applicant shall apply in person before 6 p.m. CST the Monday before their intended hunt.

2. An applicant shall fill out the provided Daily Pre-Hunt Survey [check-in] card completely and accurately.

3. A random drawing for an unclaimed department blind or hunting unit shall occur after 6:00 p.m. CST.

4. Selected applicants shall choose an available department blind or hunting unit and be designated as a waterfowl permit holder.

~~[(5)] [A person shall be declared ineligible to hunt in department limited-access waterfowl hunts during the remaining portion of the regular waterfowl season and declared ineligible to hunt in or apply for any department limited-access hunt or department quota hunt the following year if the hunter violates state or federal regulations while waterfowl hunting on WMAs during a limited-access waterfowl hunt.]~~

Section 5. State Parks. Waterfowl hunting shall be prohibited, except there shall be an open waterfowl hunt December 7 through January 31 on designated areas of state parks at:

- (1) Greenbo Lake;
- (2) Nolin Lake;
- (3) Paintsville Lake; and
- (4) Yatesville Lake.

Section 6. Youth-Mentor and Mobility-Impaired Waterfowl Hunts.

(1) There shall be youth-mentor waterfowl hunts on the Minor Clark and Peter W. Pfeiffer fish hatcheries each Saturday and Sunday in January.

(2) There shall be a mobility-impaired waterfowl hunt at Minor Clark Fish Hatchery that is held concurrently with each youth-mentor hunt.

(3) There shall be a waterfowl blind at Doug Travis WMA assigned by a random pre-season electronic drawing among all mobility-impaired applicants.

(4) A youth or mobility-impaired person shall:

(a) Apply on the department's Web site at fw.ky.gov between November 1 and November 15; and

(b) Carry a department-provided selection notification on the day of the hunt.

(5) A mobility-impaired person shall carry a mobility-impaired access permit pursuant to 301 KAR 3:026.

(6) Each youth shall be accompanied by an adult who is eighteen (18) years or older.

(7) At the youth-mentor hunts:

(a) Each youth shall not be accompanied by more than one (1) adult; and

(b) One (1) adult may accompany two (2) youths.

(8) A person shall:

(a) Hunt from an established blind; and

(b) Not change blinds.

(9) A blind shall not be used by more than four (4) individuals.

(10) A person shall only discharge a firearm from a blind.

(11) A person shall not possess more than twenty-five (25) shotshells.

(12) A waterfowl hunter, mentor, or assistant shall immediately retrieve downed birds.

(13) A person shall encase a firearm if traveling to or from a blind.

(14) A hunter at Minor Clark or Peter Pfeiffer Fish Hatcheries shall:

(a) Cease hunting by noon; and

(b) Exit the area by 1 p.m.

(15) All decoys and equipment shall be removed at the end of each day's hunt.

(16) A hunter at Minor Clark or Peter Pfeiffer Fish Hatcheries shall report harvest by depositing a completed hunt permit at the designated location.

Section 7. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Daily Pre-Hunt Survey", 2026 edition;

(b) [(a)] "Daily Post-hunt Survey", 2023 edition;

(c) [(b)] "Ballard or Sloughs Waterfowl Quota Hunt Form", 2014 edition;

(d) [(c)] "Boatwright WMA Waterfowl Quota Hunt Form", 2023 edition;

(e) [(d)] "Hatcheries Youth-Mentor/Mobility-Impaired Canada Goose Hunt Application", 2017 edition; and

(f) [(e)] "Doug Travis WMA Mobility-Impaired Waterfowl Hunt Application", 2017 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.

(3) This material may also be found on the department's Web site at fw.ky.gov.

APPROVED by the Fish and Wildlife Commission
RICH STORM, Commissioner

APPROVED BY AGENCY: June 12, 2026

FILED WITH LRC: June 15, 2026 at 9:30 am.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 28, 2026, at 11:00 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

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writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 31, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jenny Gilbert Phone: 502-564-3400 Email: fwpubliccomments@ky.gov

Subject Headings: Fish and Wildlife, Hunting, Conservation

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes waterfowl seasons, bag limits and requirements on public lands within federal migratory bird hunting frameworks established in 50 C.F.R. Part 20 and 21 according to the U.S. Fish and Wildlife Service (USFWS).

(b) The necessity of this administrative regulation: The necessity of this administrative regulation is to establish the waterfowl hunting requirements on public lands in accordance with the USFWS frameworks and Department management objectives.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025(1) authorizes the department to establish hunting season dates, bag limits and other hunting requirements. KRS 150.360 authorizes the department to restrict methods and hunting hours for taking wildlife. KRS 150.600(1) authorizes the department to regulate the taking of waterfowl on public and private land.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists the above statutes by managing waterfowl populations and hunting opportunity consistent with state and national management requirements and strategies.

(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: Functional changes to the regulation include 1) Limits public land hunters in Ballard County to applying for/being assigned to a single hunting unit, 2) Removes primitive weapons restrictions for waterfowl hunters at Barren River Lake WMA, 3) Adds a 2pm closure of hunting and limits entry before 4 am daily on Blackford Oaks, Clear Creek, and Harris-Dickerson WMAs, 4) Changes closed rest days at Sloughs WMA from Tuesday and Wednesday to Monday and Tuesday, 5) Requires hunters hunting on Sloughs WMA to check into the area before hunting each day, 6) Removes the automatic online assignment of surrendered blinds at Boatwright WMA, 7) Changes the time people shall apply for stand-by drawings at Boatwright WMA, and 8) Removes the forfeiture of hunting privileges and the ability to apply for limited access hunts for anyone cited for violating state of federal law while participating in a limited access waterfowl hunt.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to improve the experience of waterfowl hunters utilizing public land hunts in Kentucky. It will also rule by making more WMAs similar in rules. Also, to provide quality public hunting opportunity with minimal area use conflict that is consistent with meeting state and federal waterfowl management objectives.

(c) How the amendment conforms to the content of the authorizing statutes: See 1(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See 1(d) above.

(3) 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 approximately 20,000 waterfowl hunters in Kentucky that may be affected by this administrative regulation. There should be no impact on businesses or local governments.

(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: Hunters will need to comply with all application procedures and hunting requirements established for public lands in this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There will be no additional or amended costs to those identified in question (4).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): This amendment keeps hunters from applying for multiple hunting areas in Ballard County and then choosing the perceived "best" spot and leaving the perceived "lesser" spot to be empty. Now the spot that would have not been hunted may be claimed by someone who would like to use that spot. Addition of closure thresholds (2pm) allows rest time for the ducks and has been proven to improve the overall quality of hunts. Limiting access before 4am keeps individuals from going in extremely early and staking out the best hunting spots. Changing closed/rest days at Sloughs WMA makes it similar to Ballard County WMAs that also have closed days. Requiring hunters to check in at Sloughs allows the Department to know how many people are utilizing the area and to better understand harvest. Finally, removing the loss of hunting privileges and ability to apply for future quota hunts removes an extra penalty for those hunters which have already received a citation.

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

(a) Initially: There will not be an additional cost to the agency to implement this administrative regulation initially.

(b) On a continuing basis: There will not be an additional cost to the agency 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 is the State Game and Fish 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: It will not be necessary to increase a fee or funding 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 nor does it indirectly increase any fees.

(10) TIERING: Is tiering applied? Tiering is not applied because the same requirements and restrictions apply equally to all persons participating in waterfowl hunting activities regulated under this administrative regulation.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 150.025(1), 150.360, 150.600(1), and 50 C.F.R. Parts 20 and 21.

(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 authorized by KRS 150.025(1), KRS 150.360, and KRS 150.600.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The 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: No additional expenditures

For subsequent years: No additional expenditures

2. Revenues:

For the first year: No additional revenues

For subsequent years: No additional revenues

3. Cost Savings:

For the first year: No expected cost savings

For subsequent years: No expected cost savings

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No local entities should be impacted by the changes to this regulation.

(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 expected.

(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: None Expected.

(b) Methodology and resources used to reach this conclusion: Experience and assessment of professional KDFWR staff.

(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): These amendments will not have a "Major Economic Impact"

(b) The methodology and resources used to reach this conclusion: Experience and assessment of professional KDFWR staff.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. Wildlife and Fisheries, Federal Code of Regulations, 50 C.F.R. Part 20, Migratory Bird Hunting; Part 21, Migratory Bird Permits.

(2) State compliance standards. The Department of Fish and Wildlife Resources sets migratory bird hunting seasons within the frameworks established by the U.S. Fish and Wildlife Service and published in 50 C.F.R. Parts 20 and 21.

(3) Minimum or uniform standards contained in the federal mandate. 50 C.F.R. Part 20 contains season frameworks for the earliest opening and latest closing date, the maximum number of days a species is open to hunting, and daily bag and possession limits. 50 C.F.R. Part 21 defines permits and the necessary requirements to hold and possess migratory game birds before, during and after periods open for hunting.

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

(5) Justification for the imposition of the stricter standard, or

additional or different responsibilities or requirements. The federal mandate defines the regulatory frameworks that a state may allow. States are permitted to be more restrictive but not more liberal in their respective regulations. State management objectives necessitate more restrictive regulations to protect local, regional and/or state populations of birds important to Kentucky's migratory bird hunters. Restricting bag limits provides the state the ability to protect populations that may be of concern on the state level but not on a national scale. The greatest concentrations of migratory birds and the greatest hunting pressure often occur on public lands managed by the Department. The Department imposes more restrictive regulations on these lands in effort to meet migratory bird management objectives while still providing quality hunting opportunity.

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.

**TRANSPORTATION CABINET
Department of Vehicle Regulation
(Amendment)**

601 KAR 9:085. Procedures for becoming a certified motor vehicle inspector.

RELATES TO: KRS 70.30, 186A.115, 516, 523

STATUTORY AUTHORITY: KRS 70.030, 186A.115(2)(a)(~~4~~)(a))

NECESSITY, FUNCTION, AND CONFORMITY: KRS 70.030, and 186A.115(2)(a)(~~4~~)(a)) requires the department to promulgate an administrative regulation establishing the certification requirements for a certified motor vehicle inspector or special inspector. This administrative regulation establishes the requirements necessary to become a certified motor vehicle inspector or special inspector and the process required for a motor vehicle inspector to be recertified.

Section 1. Requirements.

(1) The sheriff of the county for which the individual is to be certified shall submit the information established in paragraphs (a) through (g) of this subsection to the commissioner of the Department of Vehicle Regulation:

(a) Name of sheriff;

(b) Designation of sheriff or sheriff elect;

(c) County in which sheriff was elected;

(d) County Originating Agency Identifier (ORI) or assigned number from the Kentucky Transportation Cabinet for the county[Sheriff's Social Security number];

(e) Sheriff's signature;

(f) Date the document was executed by the sheriff; and

(g) The proposed inspector's:

1. Name;

2. Business mailing address;

3. County and state of residence;

4. Business and residence telephone numbers;

5. Current designation as certified inspector or special inspector including inspector number and county, if applicable;

6. Prior inspector training and date, if applicable; and

7. Certification that he or she has attended the training to become a certified motor vehicle inspector.

(2) If a sheriff has vacated his or her office and a certified motor vehicle inspector is not available in the county, the commissioner of the Department of Vehicle Regulation shall designate a temporary certified inspector until a new sheriff takes office.

(3) An applicant for certification as a motor vehicle inspector shall:

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

(b) Not have a felony criminal record or pending felony charge[Be a resident of the Commonwealth of Kentucky]; and

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(c) ~~Not have a misdemeanor conviction or pending charge related to KRS 516 or KRS 523. [Not have a felony criminal record or pending felony charge; and]~~

~~[(d)] [Not have a misdemeanor conviction or pending charge related to KRS Chapter 516 or 523.]~~

(4) A licensed motor vehicle dealer or an employee in his or her dealership ~~may~~[shall not] be eligible to become a certified motor vehicle inspector or special inspector.

(5) An applicant shall attend a training program conducted by the Department of Vehicle Regulation in conjunction with the Kentucky State Police.

(6) An applicant who attends the training program shall receive a certificate from the commissioner of the Department of Vehicle Regulation certifying the applicant as a certified motor vehicle inspector or special inspector.

(7) A certificate shall be valid for four (4) years.

(8) Six (6) months prior to the expiration of the four (4) year certificate, ~~a~~[an] certified motor vehicle inspector or special inspector may be recertified. Recertification shall require attending a training program pursuant to subsection five (5) of this section.

Section 2. Revocation.

(1) If a notification of withdrawal of designation is received by the Department of Vehicle Regulation from the county sheriff, the commissioner shall revoke the individual's certification.

(2) A certified motor vehicle inspector or special inspector whose certification has been suspended or revoked shall not be eligible to inspect a motor vehicle.

(3) The commissioner of the Department of Vehicle Regulation shall revoke or suspend the certification of a certified motor vehicle inspector or special inspector if the inspector:

(a) Is convicted of a felony or has a pending felony charge;

(b) Is convicted of a misdemeanor or has a pending misdemeanor charge relating to perjury or forgery as established in Section 1(3) of this administrative regulation; or

(c) Fails to satisfactorily complete the training required in Section 1(5) of this administrative regulation.

Section 3. Appeal.

(1) At least thirty (30) days prior to revoking or suspending a certificate, the department shall notify the certified motor vehicle inspector or special inspector in writing of the action the department proposes to take and the reasons.

(2) A certified motor vehicle inspector or special inspector may appeal the action. Appeal shall be within forty-five (45) days.

(3) The notice of appeal shall be in writing to the Commissioner of Vehicle Regulation and shall state the basis for the appeal.

(4) An appeal shall be conducted in accordance with KRS Chapter 13B.

APPROVED BY TRANSPORTATION CABINET:
REBECCA GOODMAN, Secretary
MATT COLE, Commissioner

APPROVED BY AGENCY: June 15, 2026

FILED WITH LRC: June 15, 2026 at 10:15 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 24, 2026, at 10:30 a.m. EST, at the Kentucky Transportation Cabinet, 200 Mero Street, Frankfort, Kentucky 40622. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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 11:59 PM on August 31, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Jon Johnson, Staff Attorney Manager/Assistant General Counsel, Transportation Cabinet Office of Legal Services. 200 Mero Street Frankfort, Kentucky 40622.

Telephone: (502) 782-8180; Fax: (502) 564-5238; Email: jon.johnson@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jon Johnson Phone: (502) 782-8180 Email: jon.johnson@ky.gov

Subject Headings: Transportation; Inspections; Motor Vehicles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This amendment adds provisions to allow dealerships or their employees to apply to become special inspectors for purposes of vehicle inspection. Specific requirements regarding training and applicants' criminal history will be taken into consideration in the application process and any subsequent revocation. In addition, this amendment eliminates the requirement of being a Kentucky resident.

(b) The necessity of this administrative regulation: This amendment was required by amendments to KRS 186A.115 to allow sheriffs to appoint up to two employees of a motor vehicle dealer licensed under KRS Chapter 190 and doing business in the sheriff's county.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This amendment adds provisions to allow dealerships or their employees to apply to become special inspectors for purposes of vehicle inspection. Specific requirements regarding training and applicants' criminal history will be taken into consideration in the application process and any subsequent revocation. In addition, this amendment eliminates the requirement of being a Kentucky resident.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This amendment will increase the number of inspectors in each county that will be able to inspect motor vehicles by including non-sheriff employed persons that qualify by training and application process to be become special inspectors.

(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: Amendments include the removal of the requirements for inspectors to live in the county or state. This amendment expands the group of people that can inspect vehicles for KYTC to include out-of-state persons. This amendment was required by amendments to KRS 186A.115 to allow sheriffs to appoint up to two employees of a motor vehicle dealer licensed under KRS Chapter 190 and doing business in the sheriff's county.

(b) The necessity of the amendment to this administrative regulation: This amendment was required by amendments to KRS 186A.115 to allow sheriffs to appoint up to two employees of a motor vehicle dealer licensed under KRS Chapter 190 and doing business in the sheriff's county.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment adds provisions to allow dealerships or their employees to apply to become special inspectors for purposes of vehicle inspection. Specific requirements regarding training and applicants' criminal history will be taken into consideration in the application process and any subsequent revocation. In addition, this amendment eliminates the requirement of being a Kentucky resident. This amendment was required by KRS 70.030 and KRS 186A.115.

(d) How the amendment will assist in the effective administration of the statutes: This amendment was required by amendments to KRS 70.030 and KRS 186A.115 to allow sheriffs to appoint up to two employees of a motor vehicle dealer licensed under KRS Chapter 190 and doing business in the sheriff's county.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes, this amendment implements Ky Acts Chapter 103, HB 833 of the 2024 Regular Session.

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Sheriffs Offices and Auto Dealerships (5) Provide an analysis of how the entities identified in the 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:

(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: Sheriffs' offices may appoint up to two employees of a motor vehicle dealer that is licensed under KRS Chapter 190 as a special inspector.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): This will benefit the inspection process by allowing more persons to do inspections in the county. This will assist sheriffs, auto dealerships and their constituents.

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

(a) Initially: There will be no cost associated with this amendment.

(b) On a continuing basis: There will be no cost associated 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: N/A

(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: N/A

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

(10) TIERING: Is tiering applied? No, tiering does not apply.

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 70.30, KRS 186A.115, KRS 190

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: This amendment is authorized by Ky Acts Chapter 103, HB 833 of the 2024 Regular Session.

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

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

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): Sheriffs' Offices

(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): Auto Dealerships

(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: No fiscal impact to any entity listed.

(b) Methodology and resources used to reach this conclusion: No fiscal impact to any entity listed.

(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 major economic impact to any entity listed.

(b) The methodology and resources used to reach this conclusion: No major economic impact to any entity listed.

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.

TRANSPORTATION CABINET
Department of Vehicle Regulation
(Amendment)

601 KAR 9:090. Procedures for inspecting vehicles.

RELATES TO: KRS 186A.020, 186A.115, 186A.500-555[550], 189.010-210

STATUTORY AUTHORITY: KRS 186A.020, 186A.115

NECESSITY, FUNCTION, AND CONFORMITY: KRS 186A.020 authorizes the cabinet to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 186A. This administrative regulation establishes a[an alternate] procedure for inspecting vehicles by [~~Kentucky~~]certified motor vehicle inspectors or special inspectors.

Section 1. Definitions.

(1) "Roadworthiness" means "roadworthy condition" as defined by KRS 186A.510(8).

(2) "Salvage title" is defined by KRS 186A.520(1)[~~means the certificate of title for a vehicle that is not driven on a highway~~].

Section 2. Inspection of Vehicles Brought into Kentucky.

(1) If an owner of a vehicle brought into the state as established in KRS 186A.115 does not have the title to that vehicle available upon the vehicle's physical inspection for roadworthiness, the certified motor vehicle inspector or special inspector shall be allowed to inspect the vehicle and complete the certified inspector section of the application for title.

(2) A certified motor vehicle inspector or special inspector shall not sign or date the application for title of a vehicle brought into this state until the title for the vehicle being inspected is surrendered to the certified motor vehicle inspector or special inspector for examination and verification.

(3)

(a) If the federal safety standard label on the door of the vehicle is missing or illegible, the certified motor vehicle inspector or special inspector shall document this discrepancy on the application.

(b) The certified motor vehicle inspector or special inspector shall certify the inspection by using the vehicle identification number plate and the corresponding number on the vehicle title document.

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Section 3. Inspection of Rebuilt or Reconstructed Vehicles.

(1) A certified motor vehicle inspector or special inspector shall inspect and certify a specially constructed or reconstructed vehicle if an outstanding motor vehicle title or manufacturers statement of origin document does not exist.

(2) A motor vehicle owner applying for a salvage title shall not be required to have a certified motor vehicle inspection.

Section 4. Procedures of Inspector.

(1) A certified motor vehicle inspector or special inspector shall not inspect a vehicle if the inspector has an interest or ownership in the vehicle, or if the vehicle is owned by the inspector's immediate family.

(2)

(a) Before signing the certificate of inspection for a specially constructed or reconstructed vehicle, a certified motor vehicle inspector or special inspector shall perform a physical inspection of the vehicle.

(b) A certified motor vehicle inspector or special inspector shall insure that the vehicle complies with the equipment and safety requirements of KRS 189.010 through 189.210.

(c) The certified motor vehicle inspector or special inspector shall execute a certificate of inspection if the vehicle complies with the equipment and safety requirements established by KRS 189.010 through 189.210.

APPROVED BY TRANSPORTATION CABINET:

REBECCA GOODMAN, Secretary

MATT COLE, Commissioner

APPROVED BY AGENCY: June 15, 2026

FILED WITH LRC: June 15, 2026 at 10:15 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 24, 2026, at 10:30 a.m. EST, at the Kentucky Transportation Cabinet, 200 Mero Street, Frankfort, Kentucky 40622. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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 11:59 p.m. on August 31, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Jon Johnson, Staff Attorney Manager/Assistant General Counsel, Transportation Cabinet Office of Legal Services, 200 Mero Street Frankfort, Kentucky 40622. Telephone: (502) 782-8180, Fax: (502) 564-5238, Email: jon.johnson@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jon Johnson Phone: (502) 782-8180 Email: jon.johnson@ky.gov

Subject Headings: Transportation; Inspections; Motor Vehicles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes procedures for inspecting vehicles by certified motor vehicle inspectors and special inspectors.

(b) The necessity of this administrative regulation: KRS 186A.020 requires the cabinet to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 186A. This amendment was required by amendments to KRS 186A.115 to allow sheriffs to appoint up to two employees of a motor vehicle dealer licensed under KRS Chapter 190 and doing business in the sheriff's county.

(c) How this administrative regulation conforms to the content

of the authorizing statutes: This amendment adds provisions to allow dealerships or their employees to apply to become special inspectors for purposes of vehicle inspection. Specific requirements regarding training and applicants' criminal history will be taken into consideration in the application process and any subsequent revocation. In addition, this amendment eliminates the requirement of being a Kentucky resident.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This amendment will increase the number of inspectors in each county that will be able to inspect motor vehicles by including non-sheriff employed persons that qualify by training and application process to be become special inspectors.

(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 expands the group of people that can inspect vehicles for KYTC to include out-of-state persons. This amendment was required by amendments to KRS 186A.115 to allow sheriffs to appoint up to two employees of a motor vehicle dealer licensed under KRS Chapter 190 and doing business in the sheriff's county.

(b) The necessity of the amendment to this administrative regulation: This amendment was required by amendments to KRS 186A.115 to allow sheriffs to appoint up to two employees of a motor vehicle dealer licensed under KRS Chapter 190 and doing business in the sheriff's county.

(c) How the amendment conforms to the content of the authorizing statutes: It will comply with HB833/24RS, KRS 70.030 and KRS 186A.115.

(d) How the amendment will assist in the effective administration of the statutes: This amendment was required by amendments to KRS 70.030 and KRS 186A.115 to allow sheriffs to appoint up to two employees of a motor vehicle dealer licensed under KRS Chapter 190 and doing business in the sheriff's county.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes, HB833/24RS, KRS 70.030, and KRS 186A.115.

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: KYTC, Sheriffs' Offices, Auto Dealerships (5) Provide an analysis of how the entities identified in the 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:

(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: Sheriffs' offices may appoint up to two employees of a motor vehicle dealer that is licensed under KRS Chapter 190 as a special inspector.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): This will benefit the inspection process by allowing more persons to do inspections in the county. This will assist sheriffs, auto dealerships and their constituents.

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

(a) Initially: No costs associated with this amendment.

(b) On a continuing basis: No costs associated 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: N/A

(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: N/A

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This amendment does not establish any fees or directly or indirectly increase any fees.

(10) TIERING: Is tiering applied? No, tiering does not apply.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: HB833/24RS, KRS 70.030, KRS 186A.115

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: HB833/24RS

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Transportation Cabinet, Sheriffs' Offices

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

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): Sheriffs' Offices

(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): Auto Dealerships

(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: No fiscal impact to any entity listed.

(b) Methodology and resources used to reach this conclusion: No fiscal impact to any entity listed.

(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 major economic fiscal impact to any entity listed.

(b) The methodology and resources used to reach this conclusion: No major economic fiscal impact to any entity listed.

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
Board of Education
Department of Education
(Amendment)

701 KAR 5:090. Teacher disciplinary hearings.

RELATES TO: KRS 161.770, 161.790

STATUTORY AUTHORITY: KRS 156.070, 161.770, 161.790(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.790(4) and 161.770 require[s] the commissioner of education to appoint an impartial three (3) member tribunal to conduct an administrative hearing and issue a[make—the] final decision when[determination on charges concerning] a local school district seeks[district's proposal] to discipline [or place on involuntary leave] a teacher or place a[if—the] teacher on involuntary leave, if the teacher timely requests a hearing[gives timely notice of his or her intent to answer the charges]. This administrative regulation establishes the[administrative and hearing] procedures governing tribunal hearings and sets the qualifications and training requirements for tribunal members[with respect to the tribunal process and identifies the required training for tribunal members designated to serve as tribunal members on an ongoing basis].

Section 1. Definitions.

(1) "Commissioner" means the commissioner of the Kentucky Department of Education.

(2) "Department" means the Kentucky Department of Education.

(3) "Hearing officer" means the attorney member of the tribunal appointed by the commissioner.

(4) "Timely request" means written notification from a teacher meeting all requirements of KRS 161.790(3), and received by the commissioner within ten (10) days following the receipt of written charges by teacher.

(5) "Tribunal" means the three (3) member panel appointed pursuant to KRS 161.790(4).

(6) "Written charges" means the written rationale provided by a school district to an employee supporting:

(a) Contract termination, suspension without pay, or public reprimand pursuant to 161.790; or

(b) Involuntary leave pursuant to KRS 161.770.

Section 2.[Section 4.] Notification to the Commissioner of Discipline or Involuntary Leave. If a[A][local school district] superintendent proposes[proposing to] discipline of a teacher pursuant to KRS 161.790, other than private reprimand, or a board of education places[placing] a teacher or superintendent on involuntary leave pursuant to KRS 161.770, the district shall immediately send[, after notice to the employee, transmit a copy of the notice of the action to] the commissioner [of education] a copy of the written charges and documentation of the date the employee received the written charges[, along with advice as to the date of the receipt of the notice by the employee].

Section 3.[Section 2.] Hearing Officer Qualifications. Upon receipt of a timely request, the commissioner shall appoint a hearing officer who shall hold the following qualifications[notification from a teacher pursuant to KRS 161.790(3) of the teacher's intention to answer the charges against him or her, the commissioner shall appoint a hearing officer in accordance with KRS 161.790(4) who meets the following qualifications]:

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(1) ~~Be~~~~[The hearing officer shall be]~~ an attorney licensed to practice law in the Commonwealth of Kentucky and in good standing with the state licensing authority for attorneys~~[Kentucky Bar Association]~~;

(2) ~~Completed~~~~[The hearing officer shall complete]~~ biennial training ~~[as]~~ approved by the department~~[Kentucky Department of Education]~~ on the following topics:

(a) Teacher employment law; and

(b) The Professional Code of Ethics in 16 KAR 1:020; and

(3) Satisfies all training requirements in 40 KAR 5:010~~[related to the employment of teachers;]~~

~~[(3)]~~ ~~[The hearing officer shall complete biennial training as approved by the Kentucky Department of Education related to the professional code of ethics for Kentucky school certified personnel set forth in 16 KAR 1:020; and]~~

~~[(4)]~~ ~~[The hearing officer shall meet the training requirements set forth in 40 KAR 5:010].~~

Section 4.~~[Section 3.]~~ Teacher and Administrator Tribunal Members~~[Qualifications].~~

(1) Every~~[Beginning in 2019 and every]~~ four (4) years~~[thereafter]~~, the department~~[Kentucky Department of Education]~~ shall establish and maintain a pool consisting of not more than twenty (20) teacher members and not more than twenty (20) administrator members who may be assigned to a tribunal. The department shall solicit applications for the purpose of identifying qualified individuals to serve as potential tribunal members.

(2) Any individual seeking consideration for inclusion in the pool shall submit a completed Teacher and Administrator Tribunal Member Application in accordance with procedures established by the department~~[to establish a pool of potential teacher or administrator tribunal members. Individuals who wish to be considered for the pool of potential teacher or administrator tribunal members shall apply using the Teacher and Administrator Tribunal Member Application. The Kentucky Department of Education shall select no more than twenty (20) potential teacher tribunal members for the pool using procedures developed by the Kentucky Department of Education for the receipt, review, and selection of applicants. The Kentucky Department of Education shall select no more than twenty (20) potential administrator tribunal members for the pool using procedures developed by the Kentucky Department of Education for the receipt, review, and selection of applicants].~~

~~[(2)]~~ Teacher~~[To be a member of the pool of potential teacher tribunal] members of the tribunal~~~~[designated to serve as a teacher tribunal member on an ongoing basis, a person]~~ shall:

(a) Hold a valid Kentucky teaching certificate issued by the Education Professional Standards Board and be in good standing; or

(b) Be retired and previously~~[have]~~ held a valid Kentucky teaching certificate issued by the Education Professional Standards Board that was not revoked or surrendered as a result of disciplinary~~[revocation]~~ proceedings.

~~[(3)]~~ Administrator~~[To be a member of the pool of potential administrator tribunal] members of the tribunal~~~~[designated to serve as an administrator tribunal member on an ongoing basis, a person]~~ shall:

(a) Hold a valid Kentucky teaching certificate for the performance of administrative duties issued by the Education Professional Standards Board and be in good standing; or

(b) Be retired and previously~~[have]~~ held a valid Kentucky teaching certificate for the performance of administrative duties issued by the Education Professional Standards Board that was not revoked or surrendered as a result of disciplinary~~[revocation]~~ proceedings.

~~[(4)]~~ Teacher and administrator tribunal members shall complete~~[Individuals selected for the pool of potential teacher or administrator tribunal members designated to serve as a teacher or administrator tribunal member on an ongoing basis shall complete]~~ training approved by the department~~[Kentucky Department of Education]~~ on the following topics at least once every four (4) years:

(a) The hearing process;

(b) Roles of tribunal members and the hearing officer~~[The role of the tribunal];~~

(c) Fact-finding and deliberation~~[The role of the hearing officer];~~

~~[(d)]~~ ~~[How to determine facts;]~~

~~[(e)]~~ ~~[Fundamental fairness;]~~

~~[(f)]~~ ~~[The law on teacher disciplinary actions set forth at] KRS 161.790; and~~

~~[(g)]~~ ~~[The professional code of ethics for Kentucky school certified personnel set forth in 16 KAR 1:020; and]~~

~~[(h)]~~ ~~[The deliberative process].~~

~~[(5)]~~ For attending training approved by the department~~[Kentucky Department of Education]~~, teacher and administrator tribunal members~~[required to be a member of the pool of potential teacher or administrator tribunal members, a person]~~ shall receive a \$100 per diem~~[of \$100]~~ and travel reimbursement~~[of travel expenses]~~ from the department~~[Department of Education]~~.

Section 5.~~[Section 4.]~~ Expenses~~[Reimbursement].~~

(1) The local school district shall be responsible for paying the assigned hearing officer's costs as billed by the department, including~~[pay all]~~ travel expenses of the hearing officer~~[tribunal member]~~pursuant to~~[in accordance with]~~ 200 KAR 2:006.

(2) No later than the convening of the tribunal hearing, the local school district shall advise the teacher and administrator tribunal members how to claim their per diem and travel expenses, to be paid by the school district.

Section 6.~~[Section 5.]~~ Conduct of Hearing.

(1) Hearings~~[A hearing before the tribunal]~~ shall be conducted in accordance with KRS Chapter 13B.

(2) The tribunal shall be presented with the written charges~~[notification described in Section 1, which sets forth the charges for discipline or involuntary leave].~~

(3) The hearing officer shall instruct the tribunal regarding the burden of proof, including which party bears the burden of proof.

(4) If, for any reason and after testimony has commenced, a tribunal member becomes unavailable to complete the hearing of the evidence of both parties, an appropriate substitute tribunal member shall be appointed by the commissioner ~~[of education]~~ and provided by the school district with a written transcript of all prior proceedings at the hearing unless waived under subsection (5) of this section.

(5) A hearing may be concluded and a decision rendered by a two (2) member tribunal upon express agreement of both parties so long as one (1) of the two (2) tribunal members is a hearing officer ~~[member in accordance with Section 2 of this administrative regulation].~~

Section 7.~~[Section 6.]~~ Continuances.

(1)

(a) If, after a requested hearing has been scheduled by the commissioner~~[of education or his or her designee]~~, a continuance is requested by the teacher, the teacher shall specifically and in writing waive the statutory hearing deadlines and any subsequent backpay award for the period of the requested continuance. A continuance initiated by the teacher shall not be granted without the appropriate waiver.

(b) If the continuance request was initiated by the school district, a waiver shall not be required.

(2) A continuance requested by the teacher may be granted for good cause shown, including pending criminal charges making it inadvisable for the employee to testify at an administrative hearing or late entry of an attorney into the case on behalf of the employee.

(3) A continuance requested by the school district, and not agreed to by the employee, may be granted upon documentation of good cause making it impossible or prejudicially impractical for the district to adequately present its case at the scheduled hearing.

(4) A request for continuance made prior to the~~[three (3) member]~~ tribunal hearing commencing~~[convening]~~ shall be submitted in writing to the hearing officer.

Section 8.~~[Section 7.]~~ Incorporation by Reference.

(1) The "Teacher and Administrator Tribunal Member Application", June 2026~~[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

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Friday, 8 a.m. to 4:30 p.m.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

DR. ROBBIE FLETCHER, Commissioner
SHARON PORTER ROBINSON, Chair

APPROVED BY AGENCY: June 8, 2026

FILED WITH LRC: June 8, 2026 at 12:35 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 25, 2026, at 10 am, in the State Board Room, Fifth Floor, 300 Sower Boulevard, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 31, 2026. 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 G. Allen, Phone: 502-564-4474, Email: todd.allen@education.ky.gov

Subject Headings: Education, Education: Elementary, Education: Secondary

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes administrative and hearing procedures regarding the teacher tribunal process and provides training requirements for tribunal members.

(b) The necessity of this administrative regulation: KRS 161.790 and KRS 161.770 require the commissioner of education to appoint an impartial three-member tribunal to conduct an administrative hearing when a teacher appeals a district's proposal for discipline or the placement of a teacher on involuntary leave. This administrative regulation also provides guidelines for the required training of tribunal members.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 156.070 provides that the Kentucky Board of Education shall have the management and control of the common schools. KRS 161.770 allows teachers or superintendents the right to a hearing and appeal if they receive an unrequested leave of absence in accordance with hearing and appeal provisions in KRS 161.790. Further, KRS 161.790 provides the requirements for teacher tribunal hearings and required training for tribunal members.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 161.790 provides that local school districts shall establish, pursuant to Kentucky Board of Education administrative regulations, a process to hold administrative hearings when a teacher requests an appeal of discipline from the local school district. This administrative regulation also provides guidelines for the training of tribunal members.

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

(a) How the amendment will change this existing administrative regulation: The regulation amendment adds a definition section for clarity, makes the regulation more concise and clearer, aligns the regulation with current practice, and updates a form incorporated by reference.

(b) The necessity of the amendment to this administrative

regulation: The regulation amendment is necessary to clarify the process for teacher tribunal hearings; the amendment establishes timeliness requirements and provides clarification of training and hearing requirements.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 156.070 provides that the Kentucky Board of Education shall have the management and control of the common schools. KRS 161.770 allows teachers or superintendents the right to a hearing and appeal if they receive an unrequested leave of absence in accordance with hearing and appeal provisions in KRS 161.790. Further, KRS 161.790 provides the requirements for teacher tribunal hearings and required training for tribunal members.

(d) How the amendment will assist in the effective administration of the statutes: KRS 161.790 provides that local school districts shall establish, pursuant to Kentucky Board of Education administrative regulations, a process to hold administrative hearings when a teacher requests an appeal of discipline from the local school district. This administrative regulation also provides guidelines for the training of tribunal members.

(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: School districts, Kentucky Department of Education, and Kentucky Attorney General's office.

(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 regulation amendment requires school districts to provide certain notice to the Kentucky Department of Education, and governs the administrative hearing process. The regulation amendment requires the Kentucky Department of Education to establish training requirements for tribunal members and to receive appeal documents and schedule hearings for each requested administrative hearing. The regulation amendment also governs training requirements for hearing officers provided by the Kentucky Office of the Attorney General.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): The anticipated cost to school districts is dependent upon how many tribunals they have involving district employees. The most substantial cost is that of the hearing officer supplied by the Office of Attorney General. Other costs include the statutorily required \$100 per diem for teacher and administrator tribunal members. The anticipated cost to the Kentucky Department of Education is minimal, as the department funds the training for tribunal members, once every four years. There is no anticipated cost for the Attorney General's office as this office bills by the hour for hearing officer services.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): School districts will be in compliance with KRS 160.790 and 160.770 which provides that local school districts shall comply with the due process rights of teachers that appeal the districts' discipline and will establish, pursuant to Kentucky Board of Education administrative regulations, a procedure for teacher tribunal hearings. The Kentucky Department of Education will be in compliance with KRS 160.790 and 160.770 by establishing requirements for administrative hearings and providing guidelines for timeliness and required training of tribunal members.

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

(a) Initially: There will be no additional cost to local school districts, the Kentucky Department of Education, or the Office of Attorney General as a result of this amendment.

(b) On a continuing basis: There will be no additional cost to local school districts, the Kentucky Department of Education, or the Office of Attorney General as a result of 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 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: None.

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(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The costs associated with this regulation are dependent upon how many tribunal hearings are requested per each district.

(10) TIERING: Is tiering applied? Tiering is not applied. The regulation applies uniformly.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 156.070, 161.770, and 161.790.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 161.790.

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

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

1. Expenditures:

For the first year: Any expenditures are expected to be minimal.

For subsequent years: Any expenditures are expected to be minimal.

2. Revenues:

For the first year: This regulation is not expected to generate revenue.

For subsequent years: This regulation is not expected to generate revenue.

3. Cost Savings:

For the first year: No cost savings are anticipated.

For subsequent years: No cost savings are anticipated.

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): School districts.

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

1. Expenditures:

For the first year: Any expenditures are dependent upon the number of requests for tribunal hearings for each district.

For subsequent years: Any expenditures are dependent upon the number of requests for tribunal hearing for each district.

2. Revenues:

For the first year: This regulation is not expected to generate revenue.

For subsequent years: This regulation is not expected to generate revenue.

3. Cost Savings:

For the first year: No cost savings are anticipated.

For subsequent years: No cost savings are anticipated.

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): None.

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

1. Expenditures:

For the first year: Not applicable.

For subsequent years: Not applicable.

2. Revenues:

For the first year: Not applicable.

For subsequent years: Not applicable.

3. Cost Savings:

For the first year: Not applicable.

For subsequent years: Not applicable.

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

(a) Fiscal impact of this administrative regulation: Any expenditure is expected to be minimal for the Kentucky Department of Education. The regulation is not expected to generate revenue, and no cost savings are anticipated. Expenditure for each school district will vary dependent upon how many teachers from their district request a tribunal hearing.

(b) Methodology and resources used to reach this conclusion: The estimates herein are based on prior program operations.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): The administrative regulation is not expected to have a major economic impact.

(b) The methodology and resources used to reach this conclusion: The estimates herein are based on prior program operations.

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
Board of Education
Department of Education
(Amendment)

701 KAR 5:170. Waiver requests.

RELATES TO: KRS 156.070, 156.160, 156.161, 157.360, 158.854

STATUTORY AUTHORITY: KRS 156.070, 156.161

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.070 authorizes the Kentucky Board of Education to manage and control the common schools, including prescribing administrative regulations the Kentucky Board of Education deems necessary for the efficient management, control and operation of public schools. KRS 156.161 authorizes the Kentucky Board of Education to promulgate administrative regulations to establish procedures for processing requests to waive statutes or administrative regulations pursuant to KRS 156.161. This administrative regulation sets forth the procedures for processing requests to waive statutes or administrative regulations pursuant to KRS 156.161.

Section 1. Definitions.

(1) "Amendment application" means a waiver request wherein a school district board of education seeks to amend the waiver of a statute or administrative regulation previously granted to the requestor by the Kentucky Board of Education and still in effect as of the date of the waiver request.

(2) "Commissioner" means the commissioner of the department.

(3) "Department" means the Kentucky Department of Education.

(4) "Facility project application" means a waiver request wherein a school district board of education seeks a waiver of a statute or administrative regulation governing the acquisition or disposal of real property, school facility planning, or the construction, renovation, maintenance, or demolition of school facilities.

(5) [(4)] "New application" means a waiver request wherein a school district board of education seeks a waiver of a statute or administrative regulation not related to a facility project and not previously granted to the requestor by the Kentucky Board of Education, or previously granted to the requestor by the Kentucky Board of Education but expired or terminated as of the date of the waiver request.

(6) [(5)] "Renewal application" means a waiver request wherein a school district board of education seeks renewal of a waiver of a statute or administrative regulation previously granted to the requestor by the Kentucky Board of Education and still in effect as of the date of the waiver request.

(6) ["Special education maximum class size application" means a waiver request wherein a superintendent or school-based decision-making council seeks a waiver of the special education class sizes prescribed in 707 KAR 1:350, or to renew a waiver of the special education class sizes prescribed in 707 KAR 1:350 previously granted to the requestor by the Kentucky Board of Education and still in effect as of the date of the waiver request.]

(7) "Waiver request" means a request to waive statutes or administrative regulations made pursuant to KRS 156.161 and this administrative regulation.

Section 2. Waiver Request Application.

(1) A waiver request shall be in the form of a new application, a renewal application, an amendment application, or a facility project~~[special education maximum class size]~~ application, and shall comply with the requirements of this section.

(2) A waiver request shall be submitted by U.S. mail to the department with the phrase "Attn: Waiver Request" in the address. The Commissioner may allow email submission of waiver requests at his or her discretion to an email address selected by the Commissioner.

(3) A new application shall include an Application Cover Sheet, and attached thereto a Specific Waiver Request Form for each statute or administrative regulation from which the requestor seeks a waiver.

(4) A renewal application shall include an Application Cover Sheet, and attached thereto a Renewal Application Form.

(5) An amendment application shall include an Application Cover Sheet, and attached thereto an Amendment Request Form.

(6) A facility project application shall include a Facility Project Request Form.~~[A special education maximum class size application shall include a Special Education Maximum Class Size Request Form.]~~

(7) A waiver request shall be deemed incomplete if:

(a) The request fails to include all forms required for the waiver request as provided in subsections (3) – (6) of this section;

(b) The forms required for the waiver request as provided in subsections (3) – (6) of this section contain missing or incomplete responses; or

(c) Attachments prescribed within the forms required for the waiver request as provided in subsections (3) – (6) of this section are missing or incomplete.

Section 3. Receipt and Technical Review.

(1) Upon receipt of a waiver request, the department shall:

(a) Note the date the department received the request;

(b) Assign a number to identify the request;

(c) Notify the Kentucky Board of Education of the meeting date that the waiver request will appear on its agenda for review and decision. The meeting date shall be the date of a~~[on its next]~~ regular meeting occurring within thirty (30) calendar days of the date set forth in paragraph (a) of this subsection, unless a later meeting date is requested by the party submitting the waiver request~~[for review and decision];~~ and

(d) Perform a technical review of the waiver request as set forth in subsection (2) of this section; and~~[-]~~

(e) If the waiver request seeks waiver from the requirements of an administrative regulation promulgated by the Education Professional Standards Board, forward the request to the Education Professional Standards Board for consultation pursuant to KRS 156.161(1).

(2) The department shall perform the following technical review for each waiver request received:

(a) Calculate the number of calendar days from the date noted on the waiver request pursuant to subsection (1)(a) of this section and the meeting date determined pursuant to subsection (1)(c) of this section~~[next regular meeting of the Kentucky Board of Education following that date];~~

(b) Determine whether the waiver request seeks waiver of any statute or administrative regulation set forth in KRS 156.161(1)(a)-(j); and

(c) Determine whether the waiver request meets the requirements of KRS 156.161(2) and Section 2 of this administrative regulation; and~~[-]~~

(d) If the waiver request seeks waiver from the requirements of an administrative regulation promulgated by the Education Professional Standards Board, determine the meeting date on which the Education Professional Standards Board will review the request and provide consultation.

(3) Following the technical review performed pursuant to subsection (2) of this section, the department shall notify the party submitting the waiver request of the following:

(a) The date the department received the waiver request;

(b) The number assigned by the department to identify the waiver request;

(c) The Kentucky Board of Education meeting date when the waiver request will be acted upon;

(d) If the number of calendar days calculated pursuant to subsection (2)(a) of this section is less than twenty (20)~~[forty-five (45)]~~, that~~[denial of the waiver request shall be recommended to]~~ the Kentucky Board of Education will be notified the department did not have sufficient~~[due to insufficient]~~ time to conduct a meaningful review of the request to provide the benefits and disadvantages of approving the request, unless the Commissioner determines the waiver request is narrowly tailored to address an emergency situation requiring timely action by the Kentucky Board of Education;

(e) If the waiver request seeks waiver of any statute or administrative regulation set forth in KRS 156.161(1)(a)-(j), that~~[denial of those portions of the request shall be recommended to]~~ the Kentucky Board of Education will be notified the request is inconsistent with~~[-]~~ the request is inconsistent with the requirements of KRS 156.161(1);

(f) If the waiver request does not meet the requirements of KRS 156.161(2) or Section 2 of this administrative regulation, that ~~[denial of the request shall be recommended to]~~ the Kentucky Board of Education will be notified the request is inconsistent with~~[-]~~ along with a description of how the request does not meet the requirements of KRS 156.161(2) or Section 2 of this administrative regulation;

(g) If the waiver request seeks waiver from the requirements of an administrative regulation promulgated by the Education Professional Standards Board and the meeting date determined pursuant to subsection (2)(d) of this section is on or after the meeting date set forth in paragraph (c) of this subsection, that the Kentucky Board of Education will be notified that meaningful consultation with the Education Professional Standards Board could not be achieved as required by KRS 156.161(1);

(h) Instructions on how the party submitting the waiver request may voluntarily withdraw its request from Kentucky Board of Education review prior to the date set forth in paragraph (c) of this subsection; and

~~(i)~~(h) Instructions on how the party submitting the waiver request may request that the Kentucky Board of Education act upon the request on a date different from that set forth in paragraph (c) of this subsection.

(4) Following the notice provided in subsection (3) of this section, the department shall take the following steps in processing the waiver request:

(a) If, pursuant to subsection (3)(d) of this section, the Kentucky Board of Education is to be notified the department did not have sufficient time to conduct a meaningful review of the request, such notification shall be forwarded to the Kentucky Board of Education, along with notice of the disadvantage of approving a request that has not undergone a meaningful review, and the department shall terminate further review of the waiver request, in its entirety, pursuant to this administrative regulation;

(b) If, pursuant to subsection (3)(e)-(g) of the section, the Kentucky Board of Education is to be notified that any portion of the request is inconsistent with KRS 156.161(1), 156.161(2), or Section 2 of the administrative regulation, or meaningful consultation with the Education Professional Standards Board could not be achieved as required by KRS 156.161(1), such notification shall be forwarded to the Kentucky Board of Education, along with notice of the disadvantage of approving the request for inconsistency with these requirements, and the department shall terminate further review of those portions of the request forming the basis for such notification;

~~[(a)]~~ [(a)] [If the waiver request is recommended to the Kentucky Board of Education for denial as set forth in paragraph (d) or (f) of subsection (3) of this section, the recommendation shall be forwarded to the Kentucky Board of Education and the department shall terminate further review of the waiver request pursuant to this administrative regulation;]

~~[(b)]~~ [(b)] [If portions of the waiver request are recommended to the Kentucky Board of Education for denial as set forth in paragraph (e) of subsection (3) of this section, the recommendation shall be forwarded to the Kentucky Board of Education and the department shall terminate further review of those portions of the waiver request pursuant to this administrative regulation;] and

(c) The review of any~~[Any]~~ waiver request, or portion thereof, not terminated pursuant to paragraphs (a)-(b) of this subsection~~[not recommended for denial to the Kentucky Board of Education as set~~

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forth in paragraphs (d) – (f) of subsection (3) of this section] shall proceed to substantive review pursuant to Section 4 of this administrative regulation.

Section 4. Substantive Review.

(1) A waiver request, or portion thereof, that proceeds to substantive review pursuant to subsection (4)(c) of Section 3 of this administrative regulation shall be reviewed and ~~evaluated~~~~[recommended]~~ by the Commissioner, ~~and presented~~ to the Kentucky Board of Education for approval or denial following the ~~Commissioner's review and evaluation~~.

(2) In reviewing and evaluating the waiver request~~[for a recommendation]~~ pursuant to subsection (1) of this section, the Commissioner shall consider the following factors:

(a) The entirety of the waiver request as set forth in subsections (3) – (6) of Section 2 of this administrative regulation;

(b) Student academic achievement for the past three (3) full school years for which data is available in the schools and programs identified in the waiver request;

(c) Whether and to what extent the waiver request describes processes the requesting party will utilize to measure success as a result of the waiver, if granted, using data and accountability;

(d) The likelihood of the schools and programs identified in the waiver request realizing meaningful operational efficiency improvements if the waiver is granted;

(e) The likelihood of the students enrolled in the schools and programs identified in the waiver request realizing improved academic achievement if the waiver is granted;

(f) Whether and to what extent the waiver request reasonably anticipates potential adverse impacts on student academic achievement and addresses those potential adverse impacts;

(g) Whether and to what extent the waiver request demonstrates the establishment of high expectations for student learning and evidence based best practices for learning in the schools and programs identified in the request; and

(h) For waiver requests seeking identification as a school of innovation, the likelihood of improving student outcomes in a manner that would be difficult or impossible without a waiver~~[For special education maximum class size applications, any additional factors to be considered pursuant to 707 KAR 1:350 for waiver or exemption of special education maximum class sizes].~~

(3) Following review and evaluation as provided in subsection (2) of this section, the Commissioner shall provide an analysis to the Kentucky Board of Education, including the benefits and disadvantages of approving the request, along with the Commissioner's determination whether~~[recommend approval of a waiver request, or portion thereof, only if] he or she finds the requested waiver is more likely than not:~~

(a) To improve school or program operations without hindering student academic achievement; or

(b) To improve student academic achievement at the school or program.

Section 5. Notification of Kentucky Board of Education Action.

(1) Within ten (10) business days following action by the Kentucky Board of Education on any waiver request, the department shall notify the requesting party of:

(a) The action taken by the Kentucky Board of Education on the waiver request; and

(b) If any portion of the waiver request was granted:

1. The specific statutes or administrative regulations waived;

2. The schools or programs to which the waiver applies;

3. The expiration date of the waiver granted, if applicable;

4. The process to file a renewal application to avoid expiration of the waiver granted, if applicable; and

5. The process to file an amendment application to seek future amendments to the waiver granted.

(2) The department shall maintain a list of waiver requests granted by the Kentucky Board of Education. The department shall remove from the list any waivers that are no longer effective due to expiration or termination.

Section 6. Termination of Waiver.

(1) A party to whom a waiver request is granted may request

voluntary termination of the waiver by submitting an amendment application using the procedures set forth in Section 2 of this administrative regulation.

(2) The Kentucky Board of Education may terminate a waiver it previously granted as provided in KRS 156.161 ~~(11)~~~~(9)~~. No less than twenty (20) calendar days prior to a meeting of the Kentucky Board of Education to consider termination of a waiver pursuant to this subsection, the department shall provide written notice to the party to whom the waiver was granted of the following:

(a) That the Kentucky Board of Education will consider termination of a previously granted waiver as provided in KRS 156.161 ~~(11)~~~~(9)~~;

(b) The Kentucky Board of Education meeting date when consideration and action shall occur;

(c) The reasons for potential termination of the previously granted waiver along with copies of any documents that will be considered by the Kentucky Board of Education as evidence in support of the reasons for potential termination; and

(d) That any written response of the party to whom the waiver was granted, received by the department within fifteen (15) calendar days following the date of the notice, shall be provided to the Kentucky Board of Education for its consideration prior to any action to terminate a previously granted waiver as provided in KRS 156.161 ~~(11)~~~~(9)~~.

(3) Within five (5) business days following any action by the Kentucky Board of Education pursuant to subsection (2) of this section, the department shall provide written notice to the party granted a waiver subject to termination action of the outcome of the Kentucky Board of Education's action pursuant to KRS 156.161 ~~(11)~~~~(9)~~.

Section 7. Request for Technical Assistance. To request technical assistance from the department in identifying the statutes and administrative regulations under the authority of the Kentucky Board of Education or Education Professional Standards Board that must be waived to engage in practices proposed by the school district, a school district board of education shall complete and submit the Waiver Technical Assistance Form.

Section 8. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Application Cover Sheet", June 2026~~(October 2025)~~;

(b) "Specific Waiver Request Form", June 2026~~(2025)~~;

(c) "Renewal Application Form", June 2026~~(2025)~~;

(d) "Amendment Request Form", June 2026~~(2025)~~; ~~and~~

(e) "Facility Project Request Form", June 2026; and~~"Special Education Maximum Class Size Request Form", October 2025.~~

(f) "Waiver Technical Assistance Form", June 2026.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Kentucky Department of Education, 300 Sower Blvd. 5th Floor, Frankfort, Kentucky, Monday through Friday, 8:00 a.m. to 4:30 p.m. eastern time. This material may also be accessed on the Kentucky Department of Education website at: <https://www.education.ky.gov/districts/legal/Pages/Kentucky-Revised-Statutes.aspx>.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

DR. ROBBIE FLETCHER, Commissioner
SHARON PORTER ROBINSON, Chair

APPROVED BY AGENCY: June 8, 2026

FILED WITH LRC: June 8, 2026 at 12:35 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 25, 2026, at 10am in the State Board Room, Fifth Floor, 300 Sower Boulevard, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you

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do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 31, 2026. 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 G. Allen, Phone: 502-564-4474, Email: todd.allen@education.ky.gov

Subject Headings: Board of Education; Waivers; Forms and Applications.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets forth the procedures for processing requests to waive statutes or administrative regulations pursuant to KRS 156.161.

(b) The necessity of this administrative regulation: KRS 156.161 authorizes the Kentucky Board of Education to promulgate administrative regulations to establish the procedures for processing requests to waive statutes or administrative regulations. Without this regulation, no procedure will exist for local boards of education to utilize KRS 156.161 to request that the Kentucky Board of Education waive statutes or administrative regulations.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 156.161 specifically authorizes the Kentucky Board of Education to promulgate administrative regulations to establish the procedures for processing requests to waive statutes or administrative regulations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets forth the procedures for processing requests to waive statutes or administrative regulations pursuant to KRS 156.161.

(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 regulation to comply with changes to KRS 156.161 made by Senate Bill 263 from the 2026 legislative session.

(b) The necessity of the amendment to this administrative regulation: This amendment updates the regulation to comply with changes to KRS 156.161 made by Senate Bill 263 from the 2026 legislative session.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment updates the regulation to comply with changes to KRS 156.161 made by Senate Bill 263 from the 2026 legislative session.

(d) How the amendment will assist in the effective administration of the statutes: This amendment updates the regulation to comply with changes to KRS 156.161 made by Senate Bill 263 from the 2026 legislative session.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes. See 2025 Ky. Acts ch. 113, sec. 1 and Senate Bill 263 from the 2026 legislative session.

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Kentucky Department of Education and 171 public school districts.

(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 Kentucky Department of Education must follow the procedures listed in the regulation for review and processing of any waiver request received from a local board of

education. Local boards of education are not required to take any action as a result of the administrative regulation. However, if they choose to apply to the Kentucky Board of Education for a waiver pursuant to KRS 156.161, they must utilize the forms and comply with the procedures set forth in the regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): Costs to the Kentucky Department of Education are in the form of staff time processing waiver requests. These costs depend on the volume of requests received. Costs to local boards of education are in the form of staff time completing required forms if the school district chooses to pursue a waiver request. These costs are estimated to be minimal.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): The Kentucky Department of Education will be guided by clear procedures that are uniform to all applicants. Local school boards will have access to fillable forms and instructions to guide them through the process of requesting a waiver pursuant to KRS 156.161.

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

(a) Initially: Costs to the Kentucky Department of Education are in the form of staff time processing waiver requests. These costs depend on the volume of requests received. At this time, costs to the Kentucky Department of Education are estimated to be moderate.

(b) On a continuing basis: Costs to the Kentucky Department of Education are in the form of staff time processing waiver requests. These costs depend on the volume of requests received. At this time, costs to the Kentucky Department of Education are estimated to be moderate.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: 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: The administrative regulation does not establish or increase any fees. Costs to the Kentucky Department of Education are in the form of staff time processing waiver requests. These costs depend on the volume of requests received. At this time, costs to the Kentucky Department of Education are estimated to be moderate. In the future, the Kentucky Department of Education will explore the need for additional funding.

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees associated with this administrative regulation.

(10) TIERING: Is tiering applied? Tiering is not applied. The regulation applies uniformly.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 156.070, 156.161.

(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 156.161.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Education and Kentucky Department of Education.

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

1. Expenditures:

For the first year: Costs to the Kentucky Department of Education are in the form of staff time processing waiver requests. These costs depend on the volume of requests received. At this time, costs to the Kentucky Department of Education are estimated to be moderate.

For subsequent years: Costs to the Kentucky Department of Education are in the form of staff time processing waiver requests. These costs depend on the volume of requests received. At this time, costs to the Kentucky Department of Education are estimated to be moderate.

2. Revenues:

For the first year: This regulation is not expected to generate revenue.

For subsequent years: This regulation is not expected to generate revenue.

3. Cost Savings:

For the first year: This regulation is not expected to result in cost savings to the Kentucky Department of Education.

For subsequent years: This regulation is not expected to result in cost savings to the Kentucky Department of Education.

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): Local school districts.

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

1. Expenditures:

For the first year: Costs to local school districts are in the form of staff time completing required forms if the school district chooses to pursue a waiver request. These costs are estimated to be minimal.

For subsequent years: Costs to local school districts are in the form of staff time completing required forms if the school district chooses to pursue a waiver request. These costs are estimated to be minimal.

2. Revenues:

For the first year: This regulation is not expected to generate revenue.

For subsequent years: This regulation is not expected to generate revenue.

3. Cost Savings:

For the first year: Local school districts may realize cost savings depending on the specific waivers requested and granted.

For subsequent years: Local school districts may realize cost savings depending on the specific waivers requested and granted.

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): None.

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

1. Expenditures:

For the first year: Not applicable.

For subsequent years: Not applicable.

2. Revenues:

For the first year: Not applicable.

For subsequent years: Not applicable.

3. Cost Savings:

For the first year: Not applicable.

For subsequent years: Not applicable.

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

(a) Fiscal impact of this administrative regulation: Costs to the Kentucky Department of Education are in the form of staff time processing waiver requests. These costs depend on the volume of requests received. At this time, costs to the Kentucky Department of Education are estimated to be moderate. Costs to local school districts are in the form of staff time completing required forms if the school district chooses to pursue a waiver request. These costs are estimated to be minimal. This regulation is not expected to generate revenue. Local school districts may realize cost savings depending on the specific waivers requests and granted.

(b) Methodology and resources used to reach this conclusion: The agency considered the procedures called for by this administrative regulation, as well as historical volume of requests from school district to waive administrative regulations.

(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 regulation will not have a "major economic impact" as defined by KRS 13A.010(14).

(b) The methodology and resources used to reach this conclusion: As previously stated, local boards of education are not required to take any action as a result of the administrative regulation. However, if they choose to apply to the Kentucky Board of Education for a waiver pursuant to KRS 156.161, they must utilize the forms and comply with the procedures set forth in the regulation.

Costs to local school districts are in the form of staff time completing required forms if the school district chooses to pursue a waiver request. These costs are estimated to be minimal. Costs to the Kentucky Department of Education are in the form of staff time processing waiver requests. These costs depend on the volume of requests received. At this time, costs to the Kentucky Department of Education are estimated to be moderate based on historical volume of requests from school districts to waive administrative regulations.

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.

**PUBLIC PROTECTION CABINET
Department of Alcoholic Beverage Control
(Amendment)**

804 KAR 4:400. Applications incorporated by reference.

RELATES TO: KRS 241.060(1), 243.090, 243.380, 243.390, 243.403, 243.405, 243.630

STATUTORY AUTHORITY: KRS 241.060(1), 243.380, 243.390, 243.401, 243.630

NECESSITY, FUNCTION, AND CONFORMITY: KRS 241.060(1) authorizes the board to promulgate administrative regulations regarding matters over which the board has jurisdiction, including applications for alcoholic beverage and cannabis-infused beverage licenses. KRS 243.380(2) and 243.390 require the board to promulgate an administrative regulation to establish the form of license applications. KRS 243.401 mandates the department promulgate regulations to establish the rules and procedures for distribution and sale of cannabis-infused beverages. KRS 243.630(5) and (6) require licensees to apply in writing for department approval of the transfer of a license or a licensed business to a different premises or for the transfer of ten (10) percent or more ownership interest to a new person or entity. This administrative regulation prescribes the form of license applications utilized by the department.

Section 1. Definition. "Online portal" means the department's online licensing management portal located at <https://abcportal.ky.gov/BELLEExternal>.

Section 2. Online Application for Alcoholic Beverage or Cannabis-Infused Beverage License.

(1) An applicant for an alcoholic beverage or cannabis-infused beverage license shall complete the New License Application at the online portal.

(2) To renew a license pursuant to KRS 243.090 and 804 KAR 4:390, a licensee shall complete the License Renewal Application at the online portal.

Section 3. Transfer of Ownership Interest Application.

(1) A buyer seeking to acquire, or a licensee seeking to transfer ten (10) percent or more ownership interest in a licensed business shall complete the Transfer of Ownership Application at the online portal.

(2) Although a licensee is not required to file an application for ownership interest transfers of less than ten (10) percent, a licensee shall notify the department in writing of all ownership interest transfers of less than ten (10) percent of the licensed business at the online portal.[]

Section 4. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "New License Application", June 2025;
- (b) "[]License Renewal Application", November 2024;
- (c) "Add Company Form"["forms package"], November 2024;
- (d) "Affidavit", November 2024;

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- (e) "Instructions", November 2024;
- (f) "Temporary License Application", November 2024;
- (g) "Additional License Application", November 2024;
- (h) "Transfer of Ownership Application", November 2024; and
- (i) "License Types List", June 2026[2025].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Alcoholic Beverage Control, 500 Mero St. [2NE33], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the department's Web site, <http://www.abc.ky.gov/>.

SCOTTY TRACY, Commissioner
DJ WASSON, Secretary

APPROVED BY AGENCY: June 11, 2026

FILED WITH LRC: June 11, 2026 at 2:30 pm.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 27, 2026, at 10:00 a.m. EDT, at 500 Mero Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 31, 2026. 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: Joshua Newton, General Counsel, Alcoholic Beverage Control, 500 Mero Street, Frankfort, Kentucky 40601; Joshua.Newton@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Joshua Newton Phone: 502-727-0770 Email: joshua.newton@ky.gov

Subject Headings: Alcoholic Beverages, Cannabis and Cannabinoids, Licensing

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation prescribes the form of alcoholic beverage and cannabis-infused beverage license application forms on the department's online portal.

(b) The necessity of this administrative regulation: The promulgation of this administrative regulation is mandated by KRS 241.060(1), 243.380, 243.390, and 243.401 to authorize and prescribe the application form of alcoholic beverage and cannabis-infused beverage license application forms.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation includes only information and instructions necessary for orderly application to determine eligible alcoholic beverage and cannabis-infused beverage licensees

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in effective administration of statutes by providing prompts for applicants for alcoholic beverage or cannabis-infused beverage license(s) to demonstrate eligibility or ineligibility for the license(s) they are seeking.

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

(a) How the amendment will change this existing administrative regulation: This amendment updates the administrative regulation to include the statutory authority for promulgating regulations regarding cannabis-infused beverages and amends the material incorporated by reference, specifically the License Types List, to include the application for the cannabis-infused beverage retail package license and the cannabis-infused beverage distributor's license.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to provide a pathway for

businesses seeking to be licensed to sell cannabis-infused beverages at retail or wholesale to be licensed to do so in accordance with law.

(c) How the amendment conforms to the content of the authorizing statutes: Regarding cannabis-infused beverages, this amendment to an administrative regulation includes only information and instructions necessary for orderly application to determine eligible cannabis-infused beverage licensees

(d) How the amendment will assist in the effective administration of the statutes: This amendment to an existing administrative regulation assists in effective administration of statutes by providing prompts for applicants cannabis-infused beverage license(s) to demonstrate eligibility or ineligibility for the license(s) they are seeking.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes, 2025 Kentucky Laws Chapter 82 (SB 202) (2025).

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect all businesses seeking to continue selling cannabis-infused beverages at retail or wholesale after July 1, 2026. Under KRS 243.403, a cannabis-infused beverage retail package license is a supplemental license to a quota retail package license. Therefore, the number of retail businesses impacted by this amendment will not be greater than the number of quota retail package licenses able to be issued. As of this writing, that number is 1,888. The Department estimates fewer than 100 businesses will seek a cannabis-infused beverage distributor's license.

(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: Businesses selling cannabis-infused beverages either at retail or wholesale under a permit issued by the Department of Public Health, who desire to continue to sell cannabis-infused beverages as such when, after July 1, 2026 those permits expire, will need to apply for a cannabis-infused beverage retail package license or a cannabis-infused beverage distributor's license, respectively, and pay the statutory application and license fees.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): It will cost these businesses statutorily prescribed amounts listed in KRS 243.030, which are offset by the statutorily prescribed, nonrefundable application fee of \$50, also provided under KRS 243.030.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Compliance with the change to this administrative application will give these entities their best opportunity to be licensed and continue to sell cannabis-infused beverages at retail or wholesale depending on the license they're seeking

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

(a) Initially: It will not cost the Department to implement this amendment to an administrative regulation, as it is an application form.

(b) On a continuing basis: N/A

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Statutory license and application 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: There will be no need to increase fees or funding 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 neither establishes fees nor increases fees.

(10) TIERING: Is tiering applied? Tiering is not applied because

each license has the same statutory requirements regardless of the entity seeking to hold 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 241.060(1), 243.380, 243.390, 243.401, 243.630

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: This amendment to an administrative regulation is authorized by 2025 Kentucky Laws Chapter 82 (SB 202) (2025).

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Alcoholic Beverage Control

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

1. Expenditures:

For the first year: None. Any additional expenditures are the result of statutory mandates, not this regulation.

For subsequent years: None.

2. Revenues:

For the first year: None. Any additional revenues are the result of statutory fees, not this regulation.

For subsequent years: None.

3. Cost Savings:

For the first year: None. Any cost savings are the result of statutory savings, not this regulation.

For subsequent years: None.

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): N/A

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

1. Expenditures:

For the first year: N/A

For subsequent years: N/A

2. Revenues:

For the first year: N/A

For subsequent years: N/A

3. Cost Savings:

For the first year: N/A

For subsequent years: N/A

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): Cannabis-infused beverage retailers and distributors

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

1. Expenditures:

For the first year: None. Any additional expenditures are the result of statutory mandates, not this regulation.

For subsequent years: None.

2. Revenues:

For the first year: None. Any additional revenues are the result of statutory fees, not this regulation.

For subsequent years: None.

3. Cost Savings:

For the first year: None. Any cost savings are the result of statutory savings, not this regulation.

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 regulation creates a statutorily mandated application form. It does not create costs, revenues, or savings.

(b) Methodology and resources used to reach this conclusion: N/A

(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" because any economic impacts are the result of statutory requirements, not regulatory ones.

(b) The methodology and resources used to reach this conclusion: N/A

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](#).

**GENERAL GOVERNMENT CABINET
Registry of Election Finance
(New Administrative Regulation)**

32 KAR 2:240. Administrative hearing procedures.

RELATES TO: KRS 121.140(5)

STATUTORY AUTHORITY: KRS 121.120(1)(g)

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

NECESSITY, FUNCTION, AND CONFORMITY: To determine whether there has been a violation of KRS Chapter 121, KRS 121.140(5) authorizes the Registry of Election Finance to initiate an administrative hearing pursuant to KRS Chapter 13B after an alleged violator declines to accept a conciliation agreement or fails to respond within the time allowed. KRS 121.140(5) exempts the registry from KRS 13B.030(2)(b). KRS 121.120(1)(g) requires the registry to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 121. This administrative regulation establishes procedures to govern administrative hearings before the registry.

Section 1. Definitions.

(1) "Executive director" means the executive director appointed by the registry pursuant to KRS 121.120.

(2) "Initiating order" means the document issued by the registry to initiate an administrative proceeding to determine whether there has been a violation as provided by KRS 121.140(5).

Section 2. Initiating Order.

(1) If the registry and the respondent fail to reach a conciliation agreement, the registry shall initiate an administrative proceeding by issuing an initiating order to the alleged violator, who shall be referred to as the respondent during the course of the administrative proceeding.

(2) The initiating order shall:

(a) Be served on the respondent by certified mail, return receipt requested, or registered mail sent to the last known address of the respondent, or by personal service. Service by certified or registered mail shall be complete upon the date on which the registry receives the return receipt or the returned notice;

(b) Include a statement that conciliation negotiations have been extended for the maximum period allowed by 32 KAR 2:050 and that the conciliation negotiations were unsuccessful;

(c) Include a statement of the allegations contained in the original complaint or notice of noncompliance;

(d) Include the registry's findings of fact and conclusions of law in support of a finding of probable cause, or its notice of noncompliance with reporting requirements pursuant to 32 KAR 2:040, Section 8;

(e) Include all other information required by KRS 13B.050(3), except for the information required in KRS 13B.050(3)(a) and (b);

(f) State that all material submitted to the registry by the respondent or the respondent's attorney shall be addressed to the registry;

(g) State the deadline for submitting an answer and the ramifications of failing to file an answer as provided in Section 4 of this administrative regulation; and

(h) State that the procedural schedule will be set by a subsequent order after the designation of a hearing officer.

Section 3. Answer.

(1) The respondent shall file a written answer to the initiating order with the registry within twenty (20) days of service of the initiating order.

(2) The answer shall be filed by the:

(a) Respondent, if no counsel has been retained; or

(b) Respondent's attorney, if counsel has been retained.

(3) The answer shall be signed by the respondent or by counsel for respondent.

(4) The executive director may grant reasonable extensions of time to file an answer at the respondent's request.

Section 4. Default. If the respondent fails to file a timely answer, the registry may:

(1) Accept the failure to answer as an admission of the allegations in the initiating order;

(2) Find that the respondent has engaged in the alleged conduct in violation of KRS Chapter 121;

(3) Enter a final order of default against the respondent; and

(4) Levy the appropriate possible penalty allowed under KRS 121.140(5).

Section 5. Counsel.

(1) If a respondent has retained counsel, the attorney shall file an entry of appearance with the registry.

(2) If a respondent has retained counsel, notices, correspondence, and orders relating to the administrative proceeding shall thereafter be transmitted to the attorney instead of the respondent.

Section 6. Assignment of a Hearing Officer.

(1) If the respondent files a timely answer, then the registry shall designate a hearing officer.

(2) The registry shall designate a roster of hearing officers as provided by KRS 13B.030(2)(a) and as dictated by KRS Chapter 45A.

(3) A person qualified to serve as a hearing officer for the registry shall:

(a) Maintain the qualifications required by KRS 13B.040;

(b) Be an attorney in good standing with the Kentucky Bar Association or otherwise have approval by the Kentucky Bar Association to practice law in the Commonwealth of Kentucky;

(c) Comply with the provisions of 32 KAR 2:080; and

(d) Not be a current member of the registry board or staff.

(4) Once the roster of hearing officers is established, the executive director shall randomly assign administrative proceedings initiated by the registry pursuant to KRS 121.140(5) to a hearing officer from the roster of hearing officers.

Section 7. Hearing Officer.

(1) After the hearing officer is designated by the registry, the hearing officer shall within ten (10) days of the designation send notice to the parties of the date and time of the first telephonic prehearing conference.

(2) The hearing officer shall follow the requirements of KRS Chapter 13B for the conduct of administrative hearings.

(3) All hearings shall be held in person at a location designated by the registry.

Section 8. Settlement.

(1) At any time during the proceedings, the registry's counsel may enter into informal settlement procedures pursuant to KRS 13B.070 with the respondent.

(2) An agreed order or settlement reached through this process shall be reviewed by the registry and, upon approval by the registry, shall be signed by the registry chairman and the respondent.

(3) The registry shall not approve a settlement that provides for the confidentiality of:

(a) The existence of the settlement; or

(b) Any of the terms of the settlement.

Section 9. Ex Parte Communications. Once an administrative proceeding has commenced, the registry, its executive director, registry counsel, the respondent, respondent's counsel, or other

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person acting on behalf of the respondent shall not initiate, participate in, or consider ex parte communications concerning the subject matter of a hearing or a related issue of fact or law, except upon notice and opportunity for all parties to participate.

Section 10. Record to be Maintained.

(1) The hearing shall be transcribed by a court stenographer or recorded by means of electronic media.

(2) A transcript or electronic media copy of the testimony taken during the hearing shall:

(a) Be kept by the registry;

(b) Be available to the respondent upon request and payment of the appropriate fee; and

(c) Be available to all registry board members.

(3) Any documents or exhibits introduced into evidence shall be kept with the transcript or copy of the electronic media recording of the hearing or as ordered by the hearing officer.

JOHN R. STEFFEN, Executive Director

APPROVED BY AGENCY: June 10, 2026

FILED WITH LRC: June 10, 2026 at 2:12 p.m.

CONTACT PERSON: Leslie Saunders, General Counsel, Kentucky Registry of Election Finance, 140 Walnut Street, Frankfort, Kentucky 40601, phone (502) 573-2226, fax (502) 573-5622, email LeslieM.Saunders@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Leslie Saunders, General Counsel, Kentucky Registry of Election Finance, Phone: (502) 573-2226, Email: LeslieM.Saunders@ky.gov

Subject Headings: Election Finance, Elections and Voting, Administrative Hearing Procedures

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes procedures to govern administrative hearings before the Registry of Election Finance ("Registry").

(b) The necessity of this administrative regulation: This administrative regulation is necessary because KRS 121.140(4) requires the Registry to conduct an administrative hearing if an alleged violator declines to accept a conciliation agreement or fails to respond within the time allowed.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 121.120(1)(g) grants the Registry the authority to "promulgate administrative regulations necessary to carry out the provisions of this chapter[.]" KRS 121.140(4) requires the Registry to conduct administrative hearings when necessary pursuant to the provisions of KRS Chapter 13B. This administrative regulation establishes procedures to govern those hearings.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the administrative hearing process under KRS Chapter 13B, which is used to determine whether KRS Chapter 121 has been violated. While this administrative regulation is new, it replaces 32 KAR 2:210, which established procedural guidelines for the Registry's prior hearing process, which was amended by 2024 HB 595 (2024 Ky. Acts Ch. 107). The provisions of KRS Chapter 13B now apply to all Registry administrative hearings.

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

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

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

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

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

(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes. 2024 HB 595 (2024 Ky. Acts Ch. 107).

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Candidates, committees, and contributing organizations charged with violating KRS Chapter 121 are potentially 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: Regulated entities charged with violating KRS Chapter 121 will use this regulation as guidance during the administrative hearing process.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Compliance will assist the entities with the administrative hearing process.

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

(a) Initially: There will be no initial cost to the administrative body to implement this administrative regulation.

(b) On a continuing basis: There will be no cost on a continuous basis to the administrative body to implement 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: While no additional funding will be required for the implementation and enforcement of this administrative regulation, the administrative body operates solely on 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: It will not be necessary to increase fees or funding to implement this administrative regulation.

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees will be established or increased.

(10) TIERING: Is tiering applied? This administrative regulation does not apply tiering because these general provisions apply equally to any regulated individual or entity who is charged with violating KRS Chapter 121.

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 121.120(1)(g) and 121.140

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: Yes, 2024 HB 595 (2024 Ky. Acts Ch. 107).

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Registry of Election Finance 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: This administrative regulation will not result in any additional expenditures by the Registry for the first year.

For subsequent years: This administrative regulation will not result in any additional expenditures by the Registry for subsequent years.

2. Revenues:

For the first year: This administrative regulation will not generate revenue for the Registry for the first year.

For subsequent years: This administrative regulation will not generate revenue for the Registry for subsequent years.

3. Cost Savings:

For the first year: This administrative regulation will not generate any cost savings for the Registry for the first year.

For subsequent years: This administrative regulation will not generate any cost savings for the Registry for subsequent years.

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): This administrative regulation will

not affect local entities

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

1. Expenditures:

For the first year: No local entities are affected.

For subsequent years: No local entities are affected.

2. Revenues:

For the first year: No local entities are affected.

For subsequent years: No local entities are affected.

3. Cost Savings:

For the first year: No local entities are affected.

For subsequent years: No local entities are affected.

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): The administrative regulation will affect candidates, committees, and contributing organizations as defined in KRS 121.015 who are charged with violating KRS Chapter 121.

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

1. Expenditures:

For the first year: This administrative regulation will not result in any additional expenditures for the first year.

For subsequent years: This administrative regulation will not result in any additional expenditures for subsequent years.

2. Revenues:

For the first year: This administrative regulation will not generate revenue for the first year.

For subsequent years: This administrative regulation will not generate revenue for subsequent years.

3. Cost Savings:

For the first year: This administrative regulation will not generate any cost savings for the first year.

For subsequent years: This administrative regulation will not generate any cost savings for subsequent years. (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: There are no fiscal impacts as the regulation only establishes procedures to govern administrative hearings before the Registry.

(b) Methodology and resources used to reach this conclusion: A review of the criteria of the administrative regulation: the regulation does not have any fiscal impacts to any entity, including the Registry.

(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 has no fiscal impact thus no methodology was applied nor resource analysis undertaken to determine that there is not a "major economic impact."

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

**BOARDS AND COMMISSIONS
Board of Social Work
(New Administrative Regulation)**

201 KAR 23:072. Examination requirements.

RELATES TO: KRS 335.070, 335.080, 335.090, and 335.100

STATUTORY AUTHORITY: KRS 335.070

NECESSITY, FUNCTION, AND CONFORMITY: KRS

319A.300(2) requires the board to promulgate an administrative regulation to implement telehealth in occupational therapy, including to establish procedures to prevent abuse and fraud through the use of telehealth, prevent fee-splitting through the use of telehealth, and utilize telehealth in the provision of occupational therapy services

and in the provision of continuing education. Additionally, KRS 319A.300(1) requires an occupational therapist utilizing telehealth to ensure a client's [patient's] informed consent and to maintain confidentiality. This administrative regulation establishes the requirements for telehealth for occupational therapy services.

Section 1. Examination for Licensed Social Worker. The national examination shall be the Bachelors Examination developed and owned by the Association of Social Work Boards (ASWB) and administered by the ASWB or its designated examination contractor.

Section 2. Examination for Certified Social Worker. The national examination shall be the Masters Examination developed and owned by the Association of Social Work Boards (ASWB) and administered by the ASWB or its designated examination contractor.

Section 3. Examination for Licensed Clinical Social Worker. The national examination shall be the Clinical Examination developed and owned by the Association of Social Work Boards (ASWB) and administered by the ASWB or its designated examination contractor.

Section 4. Administration of examinations.

(1) The applicable examinations set forth in Sections 1, 2, and 3 of this administrative regulation shall be taken by computer administration.

(2) The board shall submit to the ASWB or its examination contractor a list of applicants eligible to sit for the applicable examination.

Section 5. Time of examinations.

(1) The applicant shall sit for the applicable examination set forth in Sections 1, 2, and 3 of this administrative regulation within one (1) year of the notice of the application being approved by the board. An applicant may sit for the referenced examinations at any approved ASWB examination contractor testing center in the United States, U.S. Territories, or Canada.

(2) If an applicant loses eligibility to sit for the applicable examination because of failure to reschedule, cancel, or appear to take the applicable examination as stated in subsection (1) of this section:

(a) The applicant shall forfeit all fees paid; and

(b) Any temporary license issued to the applicant shall be terminated.

Section 6. Examination for licensure as a social worker.

(1) The applicant shall pass the Bachelors Examination in accordance with section (1) of this administrative regulation.

(2) The applicant shall obtain a scaled score of seventy percent or greater or shall have obtained a previous national passing score as set by the ASWB which satisfied the licensure requirement at the time of that examination. The applicant shall be notified by the board of the score, as well as of passing or failing the examination.

Section 7. Examination for certification as a social worker.

(1) The applicant shall pass the Masters Examination in accordance with section (2) of this administrative regulation.

(2) The applicant shall obtain a scaled score of seventy percent or greater or shall have obtained a previous national passing score as set by the ASWB which satisfied the certification requirement at the time of that examination. The applicant shall be notified by the board of the score, as well as of passing or failing the examination.

Section 8. Examination for licensure as a clinical social worker.

(1) The applicant shall pass the Clinical Examination in accordance with section (3) of this administrative regulation.

(2) The applicant shall obtain a scaled score of seventy percent or greater or shall have obtained a previous national passing score as set by the ASWB which satisfied the licensure requirement at the time of that examination. The applicant shall be notified by the board of the score, as well as of passing or failing the examination.

HANK CECIL, LCSW, Board Chair

APPROVED BY AGENCY: June 15, 2026

FILED WITH LRC: June 15, 2026 at 10:35 a.m.

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PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 31, 2026, at 1:00 p.m., at the Kentucky Board of Social Work, 125 Holmes St., Suite 310, 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 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 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 the proposed administrative regulation. Written comments shall be accepted through August 31, 2026. 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: Marc Kelly, Executive Director, Kentucky Board of Social Work, 125 Holmes St., Suite 310, Frankfort Kentucky 40601, phone (502) 564-2350, email marc.kelly@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Marc Kelly Phone: (502) 564-2350 Email: marc.kelly@ky.gov

Subject Headings: Social Work, Boards and Commissions, Licensing

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the examination requirements for credentials issued by the Board.

(b) The necessity of this administrative regulation: This regulation is necessary to establish examination requirements for credentials issued by the Board as authorized by KRS 335.070.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 335.070 authorizes the board to promulgate administrative regulations establishing examination requirements for a license to practice as a licensed social worker, certified social worker, and a licensed clinical social worker. This administrative regulation establishes those examination requirements.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in effective administration by establishing defined examination requirements for applicants.

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

(a) How the amendment will change this existing administrative regulation: 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: Applicants for licensure with the Board.

(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: Future applicants will take the examinations as specified by this administrative regulation.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Future applicants will know which

test they are required to take and will benefit from a uniform examination procedure.

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

(a) Initially: No costs are anticipated.

(b) On a continuing basis: No costs are anticipated.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Existing agency funds. This administrative regulation does not establish fees. Funding for the KBSW comes from licensure and certification fees; the board does not receive any 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: There is no anticipation of an increase in fees or needed funding to implement this administrative regulation.

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased by this administrative regulation.

(10) TIERING: Is tiering applied? No. All regulated entities have the same requirements according to their application status.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 335.070.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 335.070.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Board of Social Work.

(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): 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

For subsequent years: None

2. Revenues:

For the first year: None

For subsequent years: None

3. Cost Savings:

For the first year: None

For subsequent years: None

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): None.

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

1. Expenditures:

For the first year: None

For subsequent years: None

2. Revenues:

For the first year: None

For subsequent years: None

3. Cost Savings:

For the first year: None

For subsequent years: None

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

(a) Fiscal impact of this administrative regulation: There is no

fiscal impact from this administrative regulation.

(b) Methodology and resources used to reach this conclusion: This administrative regulation establishes examination requirements and has no costs, fees, or revenues associated with it.

(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.

(b) The methodology and resources used to reach this conclusion: This administrative regulation establishes examination requirements and has no costs, fees, or revenues associated with it.

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 Medical Cannabis
(New Administrative Regulation)**

915 KAR 2:050. Qualifying Medical Conditions.

RELATES TO: KRS Chapter 218B

STATUTORY AUTHORITY: KRS 218B.020; KRS 218B.140(1)(c); KRS 218B.010(26)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218B.020 charges the Cabinet for Health and Family Services with the implementation, operation, oversight, and regulation of the medicinal cannabis program established in KRS Chapter 218B. KRS 218B.140(1)(c)21 authorizes the Cabinet for Health and Family Services to promulgate administrative regulations that establish standards, procedures, or restrictions that the cabinet deems necessary to ensure the efficient, transparent, and safe operation of the medicinal cannabis program. This administrative regulation provides clarification regarding the definition of "qualifying medical condition" contained in KRS 218B.010(26).

Section 1. The definition of "qualifying medical condition."

(1) The definition of "qualifying medical condition" contained in KRS 218B.010(26) may encompass additional medical conditions if an underlying symptom of those conditions is:

(a) Expressly defined as a "qualifying medical condition" in KRS 218B.010(26); and

(b) Properly diagnosed by a medical cannabis practitioner or the medical cannabis practitioner properly confirms the diagnosis provided by another health care provider.

(2) The following list of medical conditions have been recommended for express inclusion within the definition of "qualifying medical condition" by the Kentucky Board of Physicians and Advisors and are recognized as having at least one (1) underlying symptom that is defined as a "qualifying medical condition" under KRS 218B.010(26):

- (a) Amyotrophic Lateral Sclerosis;
- (b) Parkinson's Disease;
- (c) Crohn's Disease;
- (d) Ulcerative Colitis;
- (e) Sickle Cell Anemia;
- (f) Cachexia or Wasting Syndrome;
- (g) Neuropathies;
- (h) Severe Arthritis;
- (i) Muscular Dystrophy;
- (j) Huntington's Disease;
- (k) Human Immunodeficiency Virus (HIV);
- (l) Acquired Immunodeficiency Syndrome (AIDS);
- (m) Glaucoma; and
- (n) Terminal Illness.

CANNON ARMSTRONG, Executive Director
STEVEN J. STACK, MD, MBA

APPROVED BY AGENCY: May 28, 2026

FILED WITH LRC: June 2, 2026 at 3:20 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on August 24, 2026, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by August 17, 2026, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation through August 31, 2026. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Oran S. McFarlan, III, Krista Quarles, Phone Number: (502) 564-5313/ (502) 564-7476, Email: oran.mcfarlan@ky.gov/ CHFSregs@ky.gov

Subject Headings: Cannabis and Cannabinoids, Health and Medical Services, and Physicians and Practitioners

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation clarifies that the definition of "qualifying medical condition" contained in KRS 218B.010(26) may encompass additional medical conditions if an underlying symptom of those conditions is (1) expressly defined as a "qualifying medical condition" and (2) properly diagnosed by a medical cannabis practitioner.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide clarification regarding the definition of "qualifying medical condition" contained in KRS 218B.010(26).

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 218B.020 charges the Cabinet for Health and Family Services with the implementation, operation, oversight, and regulation of the medicinal cannabis program established in KRS Chapter 218B. KRS 218B.040(1)(c)21 authorizes the Cabinet for Health and Family Services to promulgate administrative regulations that establish standards, procedures, or restrictions that the cabinet deems necessary to ensure the efficient, transparent, and safe operation of the medicinal cannabis program. This administrative regulation provides clarification regarding the definition of "qualifying medical condition" contained in KRS 218B.010(26).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides clarification regarding the definition of "qualifying medical condition" contained in KRS 218B.010(26).

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

(a) How the amendment will change this existing administrative regulation: Not applicable. This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: Not applicable. This is a new administrative regulation.

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(c) How the amendment conforms to the content of the authoring statutes: Not applicable. This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: Not applicable. This is a new administrative regulation.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? This administrative regulation provides clarification regarding the definition of "qualifying medical condition" contained in KRS 218B.010(26). KRS Chapter 218B codifies the provisions of 2023 Senate Bill 47 (Ky. Acts Chapter 146).

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects qualified patients, medical cannabis practitioners, and the Office of Medical Cannabis within the Cabinet for Health and Family Services.

(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 additional action must be taken by the regulated entities. This administrative regulation clarifies the definition of "qualifying medical condition" contained in KRS 218B.010(26).

(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 cost to comply with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Qualified patients and medical cannabis practitioners will have a greater understanding of the definition of "qualifying medical condition" contained in KRS 218B.010(26).

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

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

(b) On a continuing basis: There is no anticipated cost to implement this administrative 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 Office of Medical Cannabis receives general funds provided by the commonwealth as well as 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: It is not anticipated that an increase in 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 or increase any fees.

(10) TIERING: Is tiering applied? Tiering is not applied. All individuals and entities will be treated equally.

subsequent years? It is not anticipated that expenditures, revenues, or cost savings will differ in subsequent years.

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

(a) Estimate the following for the first year:

Expenditures: None

Revenues: None.

Cost Savings: None.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? It is not anticipated that expenditures, revenues, or cost savings will differ in subsequent years.

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

(a) Estimate the following for the first year:

Expenditures: None.

Revenues: None.

Cost Savings: None.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? It is not anticipated that expenditures, revenues, or cost savings will differ in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: There is no anticipated fiscal impact arising from this administrative regulation.

(b) Methodology and resources used to determine the fiscal impact: This administrative regulation clarifies that the definition of "qualifying medical condition" contained in KRS 218B.010(26) may encompass additional medical conditions if an underlying symptom of those conditions is (1) expressly defined as a "qualifying medical condition" and (2) properly diagnosed by a medical cannabis practitioner.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate). No.

(b) The methodology and resources used to reach this conclusion: This administrative regulation clarifies that the definition of "qualifying medical condition" contained in KRS 218B.010(26) may encompass additional medical conditions if an underlying symptom of those conditions is (1) expressly defined as a "qualifying medical condition" and (2) properly diagnosed by a medical cannabis practitioner.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 218B.020; KRS 218B.140.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: This administrative regulation is promulgated by the Office of Medical Cannabis within the Cabinet for Health and Family Services.

(a) Estimate the following for the first year:

Expenditures: There are no anticipated expenditures arising from this administrative regulation.

Revenues: There are no anticipated revenues arising from this administrative regulation.

Cost Savings: There are no anticipated cost savings arising from this administrative regulation.

(b) How will expenditures, revenues, or cost savings differ in

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of June 9, 2026

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of June 9, 2026

Call to Order and Roll Call

The June meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, June 9, 2026, at 1:12 PM ET/12:12 PM CT in Room 149 of the Capitol Annex. Representative Stephen West, Chair, called the meeting to order, and roll call was taken.

Present were:

Members: Senator Stephen West, Co-Chair; Senator Mike Wilson; and Representatives Randy Bridges, Deanna Gordon, and Mary Lou Marzian.

LRC Staff: Emily Harkenrider, Carrie Nichols, Stacy Auterson, Laura Begin, Ange Darnell, Anna Latek, and Callie Lewis.

Guests: Steve Humphress, Executive Director, Office of Regulatory Relief (KORR), Office of Attorney General (OAG); Cary Bishop, Assistant General Counsel, Finance and Administration Cabinet (FAC); Anna Haydon, Executive Director, Office of Statewide Accounting Services (OSAS), Office of the Controller (OC), FAC; Joe McDaniel, State Controller, OC, FAC; Jeff Allen, Executive Director, Board of Dentistry (KBD); Catherine Falconer, General Counsel, Department of Professional Licensing (DPL); Chad McCarty, Board Secretary/Treasurer, Board of Ophthalmic Dispensers (BOD); Jeff Prather, General Counsel, Board of Nursing (KBN); Eddie Slone, Executive Director, Board of Emergency Medical Services (KBEMS); John Wood, Counsel, KBEMS; Todd Allen, General Counsel/Deputy Commissioner, Kentucky Department of Education (KDE); Matt Ross, Associate Commissioner, Office of Finance and Operations (OFO), KDE; Lindsey Schwartz, Policy Advisor, Office of Legal Services (OLS), KDE; Julie Brooks, Regulations Coordinator, Department for Public Health (DPH), Cabinet for Health and Family Services (CHFS); Kelli Darland, Program Supervisor, DPH, CHFS; Kevin Byrd, Assistant Director, Division of Healthcare (DHC), Office of Inspector General (OIG), CHFS; Valerie Moore, Regulations Coordinator, OIG, CHFS; Peyton Sands, Deputy Inspector General, OIG, CHFS; Carmen Hancock, Director, Division of Long-Term Services and Supports (LTSS), Department for Medicaid Services (DMS), CHFS; Leslie Hoffman, Deputy Commissioner, DMS, CHFS; Jonathan Scott, Regulations Coordinator, DMS, CHFS; Ivanora Alexander, Executive Director, Office for Children with Special Health Care Needs (OCSHCN), DPH, CHFS; Emily Allen, Regulations Coordinator, OCSHCN, DPH, CHFS; Mary Kathryn DeLodder, Director, Kentucky Birth Coalition (KBC); and Lucy Heskins, Attorney Supervisor, Kentucky Protection and Advocacy (P&A).

Approval of May 12, 2026 Minutes

A motion was made by Representative Gordon and seconded by Representative Marzian to approve the minutes of the May 12, 2026, meeting. Minutes were approved by voice vote without objection.

Administrative Regulations Reviewed by this Subcommittee:

OFFICE OF ATTORNEY GENERAL: Steve Humphress, Executive Director, KORR, OAG, represented the office.

Consumer Protection

040 KAR 002:201. Repeal of 040 KAR 002:200.

Regulatory Relief

040 KAR 012:441. Health Spas.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION,

AND CONFORMITY paragraph and Sections 1, 2, and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

040 KAR 012:500. Going out of business, fire, removal and other KRS 365.415 sales.

A motion was made and seconded to approve the following amendments: to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

040 KAR 012:510. Prior approval to obtain excess going out of business sale license.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 3 through 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

040 KAR 012:610. Nonresident sellers of visual aid glasses.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 3, and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

FINANCE AND ADMINISTRATION CABINET: Office of the Controller. Joe McDaniel, State Controller, OC, FAC; Cary Bishop, Assistant General Counsel, FAC; and Anna Haydon, Executive Director, OSAS, OC, FAC, represented the office.

200 KAR 038:080E. Account Validation Standards.

BOARDS AND COMMISSIONS: Board of Dentistry. Jeff Allen, Executive Director, KBD, represented the board.

201 KAR 008:533. Licensure of dentists.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Sections 2 through 10 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 9 to comply with House Bill 778 from the 2026 Regular Session of the General Assembly and include the minimum required continuing education on the recognition and prevention of pediatric ingestion or inhalation of controlled substances. Without objection, and with agreement from the agency, the amendments were approved.

201 KAR 008:540. Dental practices and prescription writing.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 3 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

201 KAR 008:550. Anesthesia and sedation relating to dentistry.

A motion was made and seconded to approve the following amendments: to amend Sections 5, 6, 8, 9, and 12 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

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Board of Ophthalmic Dispensers. Catherine Falconer, General Counsel, DPL; and Chad McCarty, Secretary/Treasurer, BOD, represented the board.

201 KAR 013:010. Board; powers, duties, meetings.

201 KAR 013:040. Licensing.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY paragraph and Section 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

201 KAR 013:050. Apprentices.

201 KAR 013:055. Continuing education requirements.

A motion was made and seconded to approve the following amendments: to amend Section 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

201 KAR 013:065. Complaint Management.

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, 3, 4, and 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

201 KAR 013:071. Repeal of 201 KAR 013:070.

201 KAR 013:075. Administrative hearings.

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, 4, and 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

Board of Nursing. Jeff Prather, General Counsel, KBN, represented the board.

201 KAR 020:472. Initial approval for dialysis technician training programs.

201 KAR 020:474. Continuing approval and periodic evaluation of dialysis technician training programs.

INDEPENDENT ADMINISTRATIVE BODIES: Board of Emergency Medical Services. Eddie Slone, Executive Director, KBEMS; and John Wood, Counsel, KBEMS, represented the board.

202 KAR 007:801. Medical directors.

A motion was made and seconded to approve the following amendments: to amend Sections 2 through 5, 7, and 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

EDUCATION AND LABOR CABINET: Department of Education: Pupil Transportation. Todd Allen, General Counsel/Deputy Commissioner, KDE; Matt Ross, Associate Commissioner, OFO, KDE; and Lindsey Schwartz, Policy Advisor, OLS, KDE, represented the department.

702 KAR 005:130. Non-school bus passenger vehicles.

In response to Chair West, Mr. Allen stated the Agency Amendment brings the regulation into compliance with 2026 RS SB 46, relating to van transportation. Mr. Allen requested an oral amendment to make technical changes to comply with 2026 RS HB 253.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and

NECESSITY, FUNCTION, AND CONFORMITY paragraphs, and Sections 2 through 10 to comply with 2026 RS SB 46; (2) to amend Section 1 to add definitions; (3) to amend Section 6 to comply with 2026 RS HB 253; and (4) to amend Sections 2 through 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: WIC Program. Julie Brooks, Regulations Coordinator, DPH, CHFS; and Kelli Darland, Program Supervisor, DPH, CHFS, represented the department.

902 KAR 018:011. Definitions for 902 KAR Chapter 18.

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 from the agency, the amendments were approved.

902 KAR 018:021. Eligibility, certification periods, and time frames for processing applicants.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

902 KAR 018:031. Participant violations.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

902 KAR 018:040. Fair hearing procedures for participants.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

902 KAR 018:050. Vendor authorization criteria.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

902 KAR 018:061. Vendor violations and sanctions.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

902 KAR 018:071. Participant access determination and civil money penalty.

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 from the agency, the amendments were approved.

902 KAR 018:081. Local agency fair hearing and vendor administrative review process.

A motion was made and seconded to approve the

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following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

902 KAR 018:090. High risk criteria.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

Office of Inspector General: Health Services and Facilities. Kevin Byrd, Assistant Director, DHC, OIG, CHFS; Valerie Moore, Regulations Coordinator, OIG, CHFS; and Peyton Sands, Deputy Inspector General, OIG, CHFS, represented the office. Mary Kathryn DeLodder, Director, KBC, appeared in favor of the regulation.

902 KAR 020:150. Freestanding Birthing Centers.

In response to Representative Marzian, Ms. Moore stated the regulation is based on 2025 RS HB 90, which was sponsored by Representative Nemes.

In response to Chair West, Ms. DeLodder stated after multiple discussions with the cabinet, the KBC and Kentucky Voices for Health are pleased with the final product of this regulation. She confirmed all concerns are satisfied, and she thanked OIG for working with stakeholders.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph, the NECESSITY, FUNCTION, AND CONFORMITY paragraph, and Sections 1 through 8 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend Section 3 to: (a) require two NRP-certified staff, which includes "at a minimum two licensed midwives" or a "licensed midwife and an NRP-certified assistant"; (b) specify requirements for obtaining an extension to fill a medical director vacancy and for appeal; and (c) change the term "protocols" to "policies"; (3) to amend Sections 3 and 8 to replace the term "physician" with "provider"; (4) to amend Section 4 to allow a member of the center's clinical staff to be present when a patient is at the center, instead of requiring a registered nurse; (5) to amend Section 7 to: (a) remove outdated language; (b) replace the term "birthing rooms" with "patient rooms"; (c) require each patient's room to be private; (d) require lavatories or sinks in every patient's room; (e) require a separate and enclosed area dedicated to storage and distribution of clean supply materials, as well as one for clean linen and clothing; and (f) require a separate and enclosed area dedicated to the collection and disposal of soiled materials, as well as one for soiled linen and clothing; and (6) to amend Section 8 to: (a) replace the term "calendar days" with "business days"; (b) delete county and distance requirements for hospitals that have a transfer agreement with the center; (c) delete requirements requiring confirmation that the hospital has appropriate facilities, services, and staff available for the care of the transferred patient; (d) allow an ambulance service to be located in a county contiguous to the county location of the center; and (e) allow the Inspector General to grant a waiver if a center is unable to secure a hospital or ambulance service agreement by the end of a 90-day extension period. Without objection, and with agreement from the agency, the amendments were approved.

Department for Public Health: Office for Children with Special Health Care Needs. Ivanora Alexander, Executive Director, OCSHCN, DPH, CHFS; Emily Allen, Regulations Coordinator, OCSHCN, DPH, CHFS, represented the department.

911 KAR 001:010. Application for Clinical Programs.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph, the STATUTORY AUTHORITY paragraph, the NECESSITY, FUNCTION, AND CONFORMITY paragraph, and Sections 1, 3 through 5, 7, and 9 through 11 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection,

and with agreement from the agency, the amendments were approved.

911 KAR 001:085. Early Hearing Detection and Intervention Program.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph, the NECESSITY, FUNCTION, AND CONFORMITY paragraph, and Sections 1, 2, and 4 through 7 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 1 to add a definition for "center". Without objection, and with agreement from the agency, the amendments were approved.

911 KAR 001:091. Repeal of 911 KAR 001:090.

The following administrative regulations were DEFERRED OR REMOVED from the June 9, 2026, subcommittee agenda:

OFFICE OF THE ATTORNEY GENERAL: Regulatory Relief

040 KAR 012:400. Debt adjusters.

040 KAR 012:600. Nonresident sellers of contact lenses.

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 002:440. Legend drug repository.

Board of Optometric Examiners

201 KAR 005:021. Licensure Compliance Review.

Board of Veterinary Examiners

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

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Parole Board

501 KAR 001:030. Determining parole eligibility.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Division of Driver Licensing

601 KAR 012:130. Third-party issuance of identity documents.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Public Health Protection and Safety

902 KAR 001:400. Administrative conference.

Department for Medicaid Services: Division of Long-Term Services and Supports. Carmen Hancock, Division Director, LTSS, DMS, CHFS; Leslie Hoffman, Deputy Commissioner, DMS, CHFS; and Jonathan Scott, Regulations Coordinator, DMS, CHFS, represented the department. Lucy Heskins, Attorney Supervisor, P&A, appeared in opposition to the regulation.

907 KAR 002:720. 1915(c) Kentucky's Community Health for Improved Lives and Development (CHILD) Waiver Program Requirements.

In response to Chair West, Ms. Heskins stated she appreciated changes made by the cabinet, but a significant concern remains. The waiver does not allow for participant-directed services (PDS) as required by KRS 205.5606, which establishes the Kentucky Independence Plus Through Consumer-Directed Services Program. The waivers are tailored to assist aging or disabled individuals who have long-term needs, including children with high intensity needs, that can be served by the community. PDS results in better and more cost-effective living situations. The Centers for Medicare and Medicaid Services (CMS) report it is 62% cheaper to provide care in a community. According to the cabinet, PDS is not included because the Independence Plus program was short term and providing PDS in the waiver would create a substantial administrative burden. Ms. Heskins explained the statute requires PDS in each of the home and community-based waivers. The

regulation is deficient.

In response to a question from Representative Marzian, Ms. Hancock stated the statutory language is outdated, and CMS no longer recognizes the Independence Plus designation.

In response to Chair West, Ms. Hancock stated that five out of seven 1915(c) waivers allow PDS. Ms. Hoffman explained two waivers without PDS are medical, while PDS is nonmedical. Waivers for children with acute, severe, and complex conditions mostly reside in institutions or state custody, and PDS is not usually requested in this population.

In response to Chair West, Ms. Hancock stated the state cannot mandate or select services for a participant.

In response to Chair West, Ms. Heskins stated waivers with PDS offer a fluid level of support, aiding in successful transition back to the community and home. Under this regulation, community-living supports and respite services are not available to children in residential placement.

In response to Senator Wilson, Ms. Hoffman stated no children will lose services under the current regulation.

In response to Representative Bridges, Ms. Heskins stated she predicts some parents will not be able to receive community-living supports or respite services because traditional providers are not available, especially in rural areas.

In response to Representative Bridges, Ms. Hancock explained PDS is a service delivery option, which often includes untrained individuals, such as family, friends, and neighbors. It is not a service itself.

Representative Gordon stated the statute is currently in operation and would need to be changed. Until then, the law must be followed.

Chair West stated the statutory conflict is a ground for deficiency under KRS Chapter 13A.

In response to Chair West, Ms. Hoffman stated the Independence Plus program no longer exists. Mr. Scott explained the department complied with the statute when it became law in 2004, but the Medicaid program evolved. The Independence Plus program cannot be approved anymore. Ms. Hancock stated CMS has approved the department's recommendation to leave out PDS at this time. Mr. Scott explained the Medicaid program and substantial federal dollars are at risk if the department loses the

federal CMS approval from August 2025.

In response to Chair West, Ms. Heskins clarified P&A's request, which is to allow parents or guardians the option to select providers and not require them to use an agency to obtain community-living supports and respite care. Even if the Independent Plus Program no longer exists under that name, the statute still requires consumers to have the option of PDS. Ms. Heskins stated the statutory requirements could be satisfied if the department allowed PDS within federal limitations.

Ms. Hoffman stated if the department goes back to CMS to amend the approved program, state appropriations are not sufficient to add services to the waiver.

Ms. Heskins explained the request is not for the addition of services, but for how those services are provided and by whom.

Mr. Scott requested deferral of consideration of 907 KAR 2:720 and 907 KAR 2:725 to the July subcommittee meeting. The subcommittee agreed to the department's request to defer consideration of these regulations to the July subcommittee meeting. Without objection, and with agreement of the subcommittee, these regulations were deferred.

A motion was made and seconded to approve the following amendments: to amend 1, 3 through 7, and 13 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

907 KAR 002:725. 1915(c) Kentucky's Community Health for Improved Lives and Development (CHILD) Waiver Reimbursement.

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 from the agency, the amendments were approved.

The subcommittee adjourned at 2:15 PM. The next meeting of this subcommittee is tentatively scheduled for July 8, 2026, at 1:00 PM ET/12:00 PM CT 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 EDUCATION
Meeting of June 2, 2026**

The Interim Joint Committee on Education met on June 2, 2026 and a quorum was present. The following administrative regulations were available for consideration having been referred to the Committee on April 1, 2026 and May 6, 2026, pursuant to KRS 13A.290(6):

- 702 KAR 003:130
- 704 KAR 003:370
- 704 KAR 003:410
- 781 KAR 001:001E
- 781 KAR 001:010E
- 781 KAR 001:020E
- 781 KAR 001:030E
- 781 KAR 001:040E

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:

- 704 KAR 003:410

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the June 2, 2026 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

**INTERIM JOINT COMMITTEE ON NATURAL RESOURCES &
ENERGY
Meeting of June 4, 2026**

The Interim Joint Committee on Natural Resources and Energy met on June 4, 2026, and a quorum was present. The following administrative regulations were available for consideration having been referred to the Committee on April 1, 2026, and May 6, 2026, pursuant to KRS 13A.290(6):

- 301 KAR 003:013
- 301 KAR 003:012
- 301 KAR 006:030
- 301 KAR 004:112
- 301 KAR 002:176

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(8) and 13A.030(2):

none

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

none

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300:

none

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the June 4, 2026, meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

**INTERIM JOINT COMMITTEE ON HEALTH SERVICES
Meeting of June 16, 2026**

The Interim Joint Committee on Health Services met on June 16, 2026 and a quorum was present. The following administrative regulations were available for consideration having been referred to the Committee on April 1, 2026, pursuant to KRS 13A.290(6):

- 201 KAR 002:010 Proposed
- 201 KAR 002:050 Proposed
- 201 KAR 002:090 Proposed
- 201 KAR 002:116 Proposed
- 201 KAR 002:160 Proposed
- 201 KAR 002:180 Proposed
- 201 KAR 002:185 Proposed
- 201 KAR 002:190 Proposed
- 201 KAR 002:205 Proposed
- 201 KAR 002:250 Proposed
- 201KAR 002:260 Proposed
- 201 KAR 002:280 Proposed
- 201 KAR 002:300 Proposed
- 201 KAR 002:330 Proposed
- 201 KAR 006:030 Proposed
- 201 KAR 006:061 Proposed
- 201 KAR 006:071 Proposed
- 201 KAR 009:360 Proposed
- 201 KAR 028:240 Proposed
- 201 KAR 036:100 Emergency
- 201 KAR 036:100 Proposed

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the June 16, 2026 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 53rd year of the *Administrative Register of Kentucky*, from July 2026 through June 2027.

Locator Index - Effective Dates A – 2

Lists all administrative regulations published or continuing through the KRS Chapter 13A review process during this Register year. It also lists the page number on which each regulation is published, the effective date of the regulation after it has completed the review process, and other actions that may affect the regulation.

NOTE: Regulations originally promulgated and published in previous years' issues of the *Administrative Register of Kentucky* but had not yet gone into effect when the last *Register* year ended will have an earlier *Register* year or "Ky.R." citation. To view versions of regulations published in prior *Registers*, please visit our online [Administrative Registers of Kentucky](#).

KRS Index A – 8

A cross-reference listing of the statutes to which administrative regulations relate. These statute numbers are derived from the RELATES TO line of each regulation submitted for publication during this *Register* year.

Certifications IndexA – 10

A list of administrative regulations for which certification letters have been filed pursuant to KRS 13A.3104 during this *Register* year.

Technical Amendment Index A – 12

A list of administrative regulations that have had technical, non-substantive amendments made during this *Register* year. These technical changes have been made by the Regulations Compiler pursuant to KRS 13A.040(9) and (10), 13A.2255(2), 13A.312(2), or 13A.320(1)(e). Because these changes were not substantive in nature, administrative regulations appearing in this index are not published in the *Administrative Register of Kentucky*; however, they are usually available on the Legislative Research Commission's website.

Subject Index A – 13

A general index of administrative regulations published during this *Register* year, and is mainly broken down by agency.

LOCATOR INDEX - EFFECTIVE DATES

Administrative regulations published in previous Register years may appear in this index if a regulation had not completed the KRS Chapter 13A review process by the beginning of this Register year. The "Register number" or "Ky.R. number" is listed the first time a regulation is published during that Register year. Once the regulation has been published in another Register year, the new Ky.R. number will appear next to the page number entry. To view versions of regulations published in prior Registers, please visit the online [Administrative Registers of Kentucky](#).

SYMBOL KEY:

- * Statement of Consideration not filed by deadline
- ** Withdrawn, deferred more than twelve months (KRS 13A.300(2)(e) and 13A.315(1)(d))
- *** Withdrawn before being printed in Register
- IJC Interim Joint Committee
- (r) Repealer regulation: KRS 13A.310(3)-on the effective date of an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.

EMERGENCY ADMINISTRATIVE REGULATIONS

NOTE: Pursuant to KRS 13A.190, emergency regulations expire after 270 days (or 270 days plus the number of days an accompanying ordinary is extended) or upon replacement by an ordinary regulation, whichever occurs first. This index reflects the KRS Chapter 13A-established expiration dates. Other statutes or legislation may affect a regulation's actual end date.

031 KAR 004:240E	52 Ky.R.	2037	04-15-2026
103 KAR 043:341E	52 Ky.R.	2039	05-05-2026
104 KAR 001:010E	52 Ky.R.	683	09-19-2025
200 KAR 038:080E	52 Ky.R.	1791	03-20-2026
201 KAR 005:010E	52 Ky.R.	2042	04-15-2026
201 KAR 005:021E	52 Ky.R.	1501	02-05-2026
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201 KAR 028:240E	52 Ky.R.	1086	12-08-2025
201 KAR 036:100E	52 Ky.R.	1088	12-08-2025
Replaced	52 Ky.R.	1194	06-16-2026
501 KAR 006:420E	52 Ky.R.	1090	11-19-2025
501 KAR 006:460E	52 Ky.R.	1092	11-19-2025
501 KAR 006:470E	52 Ky.R.	1095	11-19-2025
501 KAR 006:510E	52 Ky.R.	1098	11-19-2025
501 KAR 006:530E	52 Ky.R.	1100	11-19-2025
505 KAR 001:140E	52 Ky.R.	687	09-25-2025
Replaced		1525	06-02-2026
505 KAR 001:410E	52 Ky.R.	690	09-25-2025
Am Comments		1108	12-12-2025
Replaced		1526	06-02-2026
781 KAR 001:001E	52 Ky.R.	1267	12-31-2025
Am Comments		1636	03-13-2026
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781 KAR 001:020E	52 Ky.R.	1273	12-31-2025
Am Comments		1641	03-13-2026
781 KAR 001:030E	52 Ky.R.	1281	12-31-2025
781 KAR 001:040E	52 Ky.R.	1284	12-31-2025
Am Comments		1648	03-13-2026
787 KAR 001:370E	52 Ky.R.	1105	12-15-2025
803 KAR 002:241E(r)	52 Ky.R.	154	07-01-2025
Expired			03-08-2026
804 KAR 013:011E	52 Ky.R.	2044	05-15-2026
804 KAR 013:025E	52 Ky.R.	1295	12-29-2025
902 KAR 055:015E	52 Ky.R.	539	08-18-2025
As Amended		938	11-10-2025
907 KAR 003:320E	52 Ky.R.	542	09-09-2025
Replaced		1529	03-12-2026
915 KAR 002:050E	53 Ky.R.	7	06-02-2026

ORDINARY ADMINISTRATIVE REGULATIONS

012 KAR 002:006			
Amended	52 Ky.R.	569	
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012 KAR 002:011			
Amended	52 Ky.R.	570	
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012 KAR 002:018			
Amended	52 Ky.R.	572	
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012 KAR 002:026			
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012 KAR 002:046			
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012 KAR 002:051			
Amended	52 Ky.R.	581	
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012 KAR 003:012			
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012 KAR 003:022			
Amended	52 Ky.R.	584	
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012 KAR 003:027			
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012 KAR 003:039			
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012 KAR 003:042			
Amended	52 Ky.R.	596	
Am Comments		1361	
As Amended		1675	
013 KAR 002:140	52 Ky.R.	1968	
016 KAR 004:090			
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020 KAR 001:020			
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020 KAR 001:030			
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020 KAR 001:090 Amended	52 Ky.R. 2114		103 KAR 044:060 Amended	53 Ky.R. 69	
031 KAR 005:026 Amended	52 Ky.R. 820	05-05-2026	104 KAR 001:010 Amended	52 Ky.R. 852	
032 KAR 001:050 Amended	52 Ky.R. 2115		105 KAR 001:001 Amended	52 Ky.R. 1881	
032 KAR 001:080 Amended	52 Ky.R. 2117		105 KAR 001:020 Amended	52 Ky.R. 997	
032 KAR 002:020 Amended	52 Ky.R. 2119		As Amended	1505	06-02-2026
032 KAR 002:040 Amended	52 Ky.R. 2121		105 KAR 001:150 Amended	52 Ky.R. 1000	
032 KAR 002:050 Amended	53 Ky.R. 60		As Amended	1507	06-02-2026
032 KAR 002:200 Amended	53 Ky.R. 61		105 KAR 001:160 Amended	52 Ky.R. 1373	
032 KAR 002:240 Amended	53 Ky.R. 101		As Amended	1796	
040 KAR 001:001 Recodified from 921 KAR 001:001		06-22-2026	105 KAR 001:170 Amended	52 Ky.R. 1377	
040 KAR 001:020 Recodified from 921 KAR 001:120		06-22-2026	As Amended	1797	
040 KAR 001:380 Recodified from 921 KAR 001:380		06-22-2026	105 KAR 001:261	52 Ky.R. 1464	
040 KAR 001:390 Recodified from 921 KAR 001:390		06-22-2026	105 KAR 001:300 Amended	52 Ky.R. 1006	06-02-2026
040 KAR 001:400 Recodified from 921 KAR 001:400		06-22-2026	105 KAR 001:330 Amended	52 Ky.R. 1380	
040 KAR 001:410 Recodified from 921 KAR 001:410		06-22-2026	As Amended	1798	
040 KAR 001:420 Recodified from 921 KAR 001:420		06-22-2026	105 KAR 001:340 Amended	52 Ky.R. 1009	06-02-2026
040 KAR 001:430 Recodified from 921 KAR 001:430		06-22-2026	105 KAR 001:350 Amended	52 Ky.R. 1011	
040 KAR 002:201 (r)	52 Ky.R. 1769		As Amended	1511	06-02-2026
040 KAR 012:300 Amended	52 Ky.R. 1872		105 KAR 001:380 Amended	52 Ky.R. 1385	
040 KAR 012:310 Amended	52 Ky.R. 1874		Am Comments	1837	
040 KAR 012:400 Amended	52 Ky.R. 1720		As Amended	2050	
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040 KAR 012:420 Amended	52 Ky.R. 1878		105 KAR 001:430 Amended	52 Ky.R. 1393	
040 KAR 012:430 As Amended	52 Ky.R. 1238		105 KAR 001:440 Amended	52 Ky.R. 1885	
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040 KAR 012:441 As Amended	52 Ky.R. 1770		As Amended	1512	06-02-2026
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040 KAR 012:500 Amended	52 Ky.R. 1724		201 KAR 002:010 Amended	52 Ky.R. 1164	06-16-2026
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040 KAR 012:510 Amended	52 Ky.R. 1726		As Amended	1680	06-16-2026
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103 KAR 027:030 Amended	53 Ky.R. 63		201 KAR 002:190 Amended	52 Ky.R. 1176	
103 KAR 028:051 Amended	53 Ky.R. 65		As Amended	1682	06-16-2026
103 KAR 030:280 Amended	53 Ky.R. 68		201 KAR 002:205 Amended	52 Ky.R. 1178	
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			201 KAR 002:250 Amended	52 Ky.R. 1180	
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As Amended	1684	06-16-2026	Am Comments	982	
201 KAR 002:280			201 KAR 016:772		
Amended	52 Ky.R. 1184	06-16-2026	Amended	52 Ky.R. 446	
201 KAR 002:300			As Amended	1516	06-02-2026
Amended	52 Ky.R. 1186	06-16-2026	201 KAR 016:775		
201 KAR 002:330			Amended	52 Ky.R. 449	
Amended	52 Ky.R. 1187		As Amended	1518	06-02-2026
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201 KAR 002:440			Amended	52 Ky.R. 452	
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201 KAR 008:533			Amended	52 Ky.R. 1758	
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201 KAR 013:010			Amended	52 Ky.R. 1192	06-16-2026
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Amended	52 Ky.R. 1555		Amended	52 Ky.R. 2131	
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Amended	52 Ky.R. 1557		Amended	52 Ky.R. 2132	
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Amended	52 Ky.R. 433		Amended	52 Ky.R. 2143	
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201 KAR 046:035			As Amended	1525	06-02-2026
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301 KAR 002:178			601 KAR 009:085		
Amended	52 Ky.R. 1907		Amended	53 Ky.R. 87	
301 KAR 002:222			601 KAR 009:090		
Amended	53 Ky. R. 81		Amended	53 Ky.R. 89	
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Amended	52 Ky.R. 2154		Am Comments	1843	
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Amended	52 Ky.R. 1913		Amended	53 Ky.R. 91	
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Amended	52 Ky.R. 1397		Amended	53 Ky.R. 94	
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SYMBOL KEY:

- * Statement of Consideration not filed by deadline
- ** Withdrawn, deferred more than twelve months (KRS 13A.300(2)(e) and 13A.315(1)(d))
- *** Withdrawn before being printed in Register
- IJC Interim Joint Committee
- (r) Repealer regulation: KRS 13A.310(3)-on the effective date of an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.

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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.

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103 KAR 001:150	06-05-2026	To be amended; filing deadline 12-05-2027
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103 KAR 005:230	06-02-2026	Remain in Effect without Amendment
103 KAR 008:130	06-02-2026	Remain in Effect without Amendment
103 KAR 027:030	06-02-2026	To be amended; filing deadline 12-02-2027
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103 KAR 028:130	06-02-2026	Remain in Effect without Amendment
103 KAR 030:160	06-02-2026	Remain in Effect without Amendment
103 KAR 030:235	06-02-2026	Remain in Effect without Amendment
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810 KAR 002:040	05-19-2026	Remain in Effect without Amendment
810 KAR 002:050	05-19-2026	Remain in Effect without Amendment

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810 KAR 005:050	05-19-2026	Remain in Effect without Amendment
810 KAR 005:080	05-20-2026	Remain in Effect without Amendment
810 KAR 008:030	05-20-2026	Remain in Effect without Amendment
810 KAR 008:040	05-20-2026	Remain in Effect without Amendment
810 KAR 008:050	05-20-2026	Remain in Effect without Amendment
815 KAR 015:026	06-02-2026	Remain in Effect without Amendment
831 KAR 001:010	05-20-2026	To be amended; filing deadline 11-20-2027
831 KAR 001:020	05-20-2026	To be amended; filing deadline 11-20-2027
831 KAR 001:030	05-20-2026	To be amended; filing deadline 11-20-2027

TECHNICAL AMENDMENT INDEX

The Technical Amendment Index is a list of administrative regulations that have had technical, nonsubstantive amendments made during the 53rd 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
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