

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the February

February 12, 2018

Call to Order and Roll Call

The February meeting of the Administrative Regulation Review Subcommittee was held on Monday, February 12, 2018, at 1:00 PM, in Room 149 of the Capitol Annex. Representative David Hale, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative David Hale, Co-Chair; Senators Perry B. Clark and Alice Forgy Kerr; Representatives Mary Lou Marzian, Jason Petrie, and Tommy Turner.

Guests: John Fields, Lauren Graves, Education Professional Standards Board; Tom Crawford, Lisa Swiger, Department of Revenue; Joseph Bowman, Katherine Rupinen, Retirement Systems; Steve Bullard, Wayne Burd, Department of Military Affairs Emergency Management; Leanne Diakov, Board of Medical Licensure; Julie Campbell, Board of Hairdressers and Cosmetologists; Louis Kelly, Board of Physical Therapy; Mary Harville, Rick Kelley, Lottery Corporation; Amber Arnett, Steve Beam, Karen Waldrop, Department of Fish and Wildlife Resources; Joe Bilby, Brent Burchett, Doris Hamilton, Clint Quarles, Department of Agriculture; Amy Barker, Department of Corrections; Todd Allen, Kelly Foster, Department of Education; Mike Pettit, Kristi Redmon, Brooken Smith, Labor Cabinet; Joseph Donohue, Shonita Bossier, Department of Financial Institutions; Drew Conners, Marc Guilfoil, Horse Racing Commission; Stephanie Brammer-Barnes, Donna Little, Alan Sisk, Office of Human Resource Management; Melea Rivera, John Watkins, Office of Health Benefit Exchange; Christa Bell, Doug Decker, Keitha Harris Phillip Smith, Department for Community Based Services.

LRC Staff: Sarah Amburgey, Stacy Auterson, Emily Caudill, Betsy Cupp, Ange Darnell, Emily Harkenrider, Karen Howard, and Carrie Klaber.

The Administrative Regulation Review Subcommittee met on February 12, 2018, and submits this report:

Administrative Regulations Reviewed by the subcommittee:

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Education Professional Standards Board: General Administration

16 KAR 1:016. Standards for certified teacher leader. John Fields, deputy executive director, and Lauren Graves, executive staff advisor, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A; and (2) to add a new section incorporating by reference the Teacher Leader Model Standards. Without objection, and with agreement of the agency, the amendments were approved.

Administrative Certificates

16 KAR 5:040. Admission, placement, and supervision in student teaching.

A motion was made and seconded to approve the following amendment: to amend Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Ad Valorem Tax; Administration

103 KAR 5:230. Information to be provided by the sheriff when transferring delinquent property tax bills to the county clerk. Tom Crawford, director, and Lisa Swiger, tax policy consultant and regulation coordinator, represented the department.

In response to a question by Representative Petrie, Mr. Crawford stated that there had been conflict regarding tax bill processing between vendors that served sheriff's offices and vendors that served county clerks. This administrative regulation established consistency with tax bill processing as delinquent bills moved from sheriff's offices to county clerks.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Kentucky Retirement Systems: General Rules

105 KAR 1:140 & E. Employer's administrative duties. Joseph Bowman, general counsel, and Katherine Rupinen, general counsel, represented the systems.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 7, 9, and 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

DEPARTMENT OF MILITARY AFFAIRS: Division of Emergency Management:
Disaster and Emergency Services

106 KAR 1:350. Rescue squad minimum equipment. Wayne Bird, Colonel, retired, Assistant Director of Operations for Kentucky Emergency Management, and Brigadier General, retired, Steve Bullard, director of administrative services and legislative liaison, represented the division.

In response to questions by Co-Chair Hale, Mr. Bird stated that rescue squad equipment was inspected annually to assess compliance with these administrative regulations. There was also a quarterly inventory report. There were currently 114 approved, affiliated teams in Kentucky.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 4, 7, 8, and 12 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

106 KAR 1:390. Search and rescue training requirements.

A motion was made and seconded to approve the following amendments: to amend Section 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT: Board of Medical Licensure

201 KAR 9:480. Fee schedule regarding genetic counselors. Leanne Diakov, general counsel, represented the board.

In response to a question by Senator Clark, Ms. Diakov stated that genetic counselors were a new category of licensees. Genetic counselors were not physicians, but often worked with physicians in affiliation with university medical systems.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 1 to establish the temporary licensure fee as required by KRS 311.695(2)(a)2. Without objection, and with agreement of the agency, the amendments were approved.

Board of Hairdressers and Cosmetologists

201 KAR 12:030. Licensing, permits, and examinations. Julie Campbell, board administrator, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to clarify that the 1,000 hours of curriculum shall apply to all instructors; (2) to amend Section 4 to clarify that a student shall register with the board for the examination date for the given time periods prior to graduation of: (a) eight (8) months for a cosmetology student; (b) seventy-five (75) days for a nail technician student; and (c) six (6) months for an esthetician student; (3) to amend Section 12 to clarify what constitutes good cause for extending the time period of completing an inspection; (4) to amend Section 17 to: (a) add provisions pertaining to demonstration permits removed from 201 KAR 12:060; (b) incorporate by reference the Demonstration Permit Application; and (c) update the Salon Application form; and (5) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 through 4, 8 through 12, and 17 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 12:041. Repeal of 201 KAR 12:020, 201 KAR 12:025, 201 KAR 12:031, 201 KAR 12:040, 201 KAR 12:045, 201 KAR 12:050, 201 KAR 12:055, 201 KAR 12:065, 201 KAR 12:070, 201 KAR 12:080; 201 KAR 12:083; 201 KAR 12:085, 201 KAR 12:088, 201 KAR 12:101, 201 KAR 12:105, 201 KAR 12:110, 201 KAR 12:120, 201 KAR 12:125, 201 KAR 12:130, 201 KAR 12:140, 201 KAR 12:150, 201 KAR 12:180, 201 KAR 12:190, 201 KAR 12:220, 201 KAR 12:230, 201 KAR 12:250, and 201 KAR 12:270.

A motion was made and seconded to approve the following amendments: to amend the TITLE and Section 1 to delete the repeal of 201 KAR 12:085, 201 KAR 12:088, 201 KAR 12:120, 201 KAR 12:140, 201 KAR 12:180, 201 KAR 12:190, 201 KAR 12:230 and 201 KAR 12:250. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 12:060. Compliance.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE to comply with KRS 13A.221; (2) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 and 3 to comply with the drafting and formatting requirements of KRS Chapter 13A; (3) to delete Section 4 pertaining to demonstration permits because those provisions have been added to 201 KAR 12:030; and (4) to delete Sections 6 through 10 containing provisions on different topical areas. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 12:260. Fees.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Sections 2, 5, and 6 to comply with the drafting

and formatting requirements of KRS Chapter 13A; and (2) to amend Section 5 to establish the apprentice instructor restoration fee of seventy-five (75) dollars. Without objection, and with agreement of the agency, the amendments were approved.

Board of Physical Therapy

201 KAR 22:170. Physical Therapy Compact Commission. Louis Kelly, general counsel, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, and CONFORMITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 1 to incorporate by reference the Physical Therapy Compact Commission Rules and Bylaws. Without objection, and with agreement of the agency, the amendments were approved.

LOTTERY CORPORATION

202 KAR 3:030. Retailers. Mary Harville, general counsel, and Rick Kelley, vice president of finance and administration, represented the corporation.

In response to a question by Representative Petrie, Ms. Harville stated that this administrative regulation was being amended to make technical corrections and for compliance with the Red Tape Reduction Initiative. Representative Petrie requested to be recorded as voting in opposition to this administrative regulation.

In response to a question by Co-Chair Hale, Mr. Kelley stated that this administrative regulation gave retailers the ability to pay larger cash outs of up to \$25,000 for certain retailers. Consumers would have less distance to travel to collect cash outs.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1 through 6, 8, 9, and 12 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

TOURISM, ARTS AND HERITAGE CABINET: Department of Fish and Wildlife Resources: Game

301 KAR 2:195. Falconry, raptor take, and raptor propagation. Amber Arnett, counsel, and Karen Waldrop, deputy commissioner, represented the department.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT: Department of Agriculture: Office of Agricultural Marketing

302 KAR 50:011. Repeal of 302 KAR 50:010. Joe Bilby, general counsel; Brent Burchett, director; and Clint Quarles, staff attorney, represented the department.

In response to questions by Senator Clark, Mr. Bilby stated that the department currently had approximately 250 licensed industrial hemp growers and fifty-seven (57) licensed industrial hemp processors, all licensed pursuant to Senate Bill 218 of the Regular Session of the 2017 General Assembly.

302 KAR 50:020. Policies and procedures for growers.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 31 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

302 KAR 50:030. Policies and procedures for processors and handlers.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 25 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

302 KAR 50:040. Affiliated universities and colleges.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 9 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

302 KAR 50:050. THC sampling and testing; post-testing actions.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 3 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

302 KAR 50:060. Fees and forms.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

302 KAR 50:070. Prohibited products.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

302 KAR 50:080. Materials incorporated by reference.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 6:280. Risk and needs assessment. Amy Barker, assistant general counsel, represented the department.

In response to questions by Representative Petrie, Ms. Barker stated that an assessment was established in 2012 to address issues associated with inmate reentry. This administrative regulation revised assessment tools and included matters related to home incarceration.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department of Education: Office of Instruction

704 KAR 3:540. Uniform academic course codes. Todd Allen, deputy general counsel; Amanda Ellis, associate commissioner, Office of Teaching and Learning; and Kelly Foster, associate commissioner, Office of Continuous Improvement Support, represented the department.

In response to a question by Senator Clark, Ms. Ellis stated that this administrative regulation applied to traditional public and charter schools.

A motion was made and seconded to approve the following amendments: to amend

the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Office of Learning Support Services

704 KAR 7:090. Homeless Children and Youth Education Program.

In response to questions by Senator Clark, Ms. Foster stated that the McKinney – Vento Homeless Education Act was a federal program. For the 2016 – 2017 academic year, Kentucky had 26,826 students who met the definition for homelessness.

In response to questions by Representative Petrie, Ms. Foster stated that the department would follow up with information regarding the percentage of Kentucky students who met the definition for homelessness.

In response to questions by Co-Chair Hale, Ms. Foster stated that the homeless census was based on numbers from the local school districts. The department believed the census was accurate because there were criteria and training for the counting.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, and 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

DEPARTMENT OF WORKPLACE STANDARDS: Division of Occupational Health and Safety Compliance: Division of Occupation Safety and Health Education and Training: Occupational Safety and Health

803 KAR 2:505 & E. Cranes and derricks in construction. Mike Pettit, standards safety specialist, and Brooken Smith, chief of staff, represented the division.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 3 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department of Financial Institutions: Division of Securities

808 KAR 10:082. Repeal of 808 KAR 10:080 and 808 KAR 10:310. Shonita Bossier, director, and Joseph Donohue, general counsel, represented the division.

Kentucky Horse Racing Commission: Harness Racing

811 KAR 1:215. Kentucky Standardbred Development Fund and Kentucky Standardbred Breeders' Incentive Fund. Drew Conners, program coordinator, and Marc Guilfoil, executive director, represented the commission.

Representative Petrie requested to be recorded as voting in opposition to this administrative regulation and 811 KAR 1:220.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 3, 5, 8, 11, 12, 15, 16, 18, 19, and 21 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

811 KAR 1:220. Harness racing at county fairs.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph, and Sections 10 and 11 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Human Resource Management: Administration

900 KAR 1:009. Employee Access to Federal Tax Information (FTI). Stephanie Brammer-Barnes, regulation coordinator, and Alan Sisk, executive director, represented the office.

In response to a question by Representative Petrie, Ms. Brammer-Barnes stated that this administrative regulation was not being amended in response to a particular problem, but for compliance with a federal mandate.

Office of Health Policy: Certificate of Need

900 KAR 6:130. Certificate of Need criteria for physician exemption. Stephanie Brammer-Barnes, regulation coordinator, represented the office.

Office of Health Benefit Exchange: Kentucky Health Benefit Exchange

900 KAR 10:031. Repeal of 900 KAR 10:030 and 900 KAR 10:100. Melea Rivera, assistant director, and John Watkins, acting executive director, represented the office.

Department for Community Based Services: Division of Family Support: K-TAP, Kentucky Works, Welfare to Work, State Supplementation

921 KAR 2:040 & E. Procedures for determining initial and continuing eligibility. Christa Bell, director, Division of Childcare, and Deck Decker, director, Office of Technology Services, represented the division.

Division of Family Support: Division of Child Care: Daycare

922 KAR 2:160 & E. Child Care Assistance Program. Christa Bell, director, and Phillip Smith, branch manager, represented the division.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1 and 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

922 KAR 2:260 & E. Child care service appeals.

The following administrative regulations were deferred or removed from the February 12, 2018, subcommittee agenda:

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Education Professional Standards Board: Teaching Certificates

16 KAR 2:010. Kentucky Professional and Provisional Teacher Certificates.

Administrative Certificates

16 KAR 5:030. Proficiency evaluation.

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: General Administration

103 KAR 1:010. Protests and appeals.

Board of Podiatry

201 KAR 25:090. Prescribing and dispensing controlled substances.

COMMUNITY AND TECHNICAL COLLEGE SYSTEM: Board of Emergency Medical Servicers

202 KAR 7:501. Ambulance agency licensure.

202 KAR 7:545. License classifications.

202 KAR 7:550. Required equipment and vehicle standards.

202 KAR 7:555. Ground agencies.

202 KAR 7:560. Ground vehicle staff.

202 KAR 7:565. Clinical pilot programs.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Division of Driver Licensing: Administration

601 KAR 2:030 & E. Ignition interlock.

PUBLIC PROTECTION CABINET: Department of Alcoholic Beverage Control: Quotas

804 KAR 9:051. Repeal of 804 KAR 9:010, 804 KAR 9:040, and 804 KAR 9:050.

PUBLIC PROTECTION CABINET: Department of Insurance: Commissioner's Office: Insurance Contract

806 KAR 14:006. Property and casualty insurance form filings.

Casualty Insurance Contracts

806 KAR 20:010. Declination, cancellation, and nonrenewal of property and casualty insurance.

806 KAR 20:021. Repeal of 806 KAR 20:020.

ENERGY AND ENVIRONMENT CABINET: Public Service Commission: Utilities

807 KAR 5:022. Gas service.

807 KAR 5:026. Gas service; gathering systems.

807 KAR 5:027. Gas pipeline safety; reports of leaks; drug testing.

807 KAR 5:081. Repeal of 807 KAR 5:023 and 807 KAR 5:031.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Office of Inspector General: Division of Healthcare: Health Services and Facilities

902 KAR 20:016. Hospitals; operations and services.

902 KAR 20:058. Operation and services; primary care center.

902 KAR 20:145. Operations and services; rural health clinics.

Department for Medicaid Services: Managed Care

907 KAR 17:005. Definitions for 907 KAR Chapter 17.

907 KAR 17:010. Managed care organization requirements and policies relating to enrollees.

907 KAR 17:015. Managed care organization requirements and policies relating to providers.

907 KAR 17:020. Managed care organization service and service coverage requirements and policies.

907 KAR 17:026. Repeal of 907 KAR 17:026 and 907 KAR 17:030.

907 KAR 17:035. External independent third-party.

Division of Family Support: Division of Child Care: Daycare

922 KAR 2:280 & E. Background checks for child care staff members, reporting requirements, and appeals.

The subcommittee adjourned at 1:45 p.m. until March 12, 2018, at 1 p.m.