

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the November Meeting

November 13, 2018

Call to Order and Roll Call

The November meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, November 13, 2018, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Ernie Harris, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Lindsay Hughes Thurston, Secretary of State; Chris Hunt, Farrah Petter, Auditor of Public Accounts; Sharron Burton, Personnel Cabinet; Todd Renner, Lisa Swiger, Department of Revenue; Leanne Diakov, Board of Medical Licensure; Chris Garland, Evan Jones, Department of Fish and Wildlife Resources; Clint Quarles, Department of Agriculture; Amy Barker, Ashley Short, Department of Corrections; Todd Allen, David Cook, Department of Education; Beverly Dearborn, Anthony Hudgins, Division of Unemployment Insurance; Steve Humphress, Lee Walters, Department of Alcoholic Beverage Control; Tim House, Steven Milby, David Startzman, Department of Housing, Buildings and Construction; Cannon Armstrong, Doug Hardin, Department of Charitable Gaming; Lee Guice, Donna Little, Jonathan Scott, Brandon Smith, Department for Medicaid Services; Stephanie Brammer-Barnes, Molly Lewis, Office Inspector General; Suzette Kimbell, Office of Secretary; Julie Brooks, Eric Perry, Department for Public Health; Mary Carpenter, Elizabeth Caywood, Jessica Peay, Brian Hubbard, Maribeth Schneber-Rhemrev, Todd Trapp, Department for Community Based Services; Ervin Klein, Nancy Galvagni, Sheila Schuster, and Ben Carter.

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 Tuesday, November 13, 2018, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

STATE BOARD OF ELECTIONS: Forms and Procedures

31 KAR 4:100 & E. Evaluation of precinct election officers. Lindsay Thurston, senior advisor, represented the Secretary of State.

Senator Kerr congratulated Ms. Thurston on her recent election as a Fayette County judge.

A motion was made and seconded to approve the following amendments: to amend Sections 3 and 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

AUDITOR OF PUBLIC ACCOUNTS: Audits

45 KAR 1:050. Audits of fiscal courts. Chris Hunt, general counsel, and Farrah Petter, audit manager, represented the auditor.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 5, and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PERSONNEL CABINET: Office of the Secretary: Personnel Cabinet, Classified

101 KAR 2:210 & E. Plan Year Handbook for the Public Employee Health Insurance Program. Sharron Burton, general counsel, represented the cabinet.

In response to a question by Co-Chair Harris, Ms. Burton stated that this administrative regulation was a formality to codify requirements already disseminated.

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Income Tax; General Administration

103 KAR 15:050. Filing dates and extensions. Todd Renner, executive director, Office of Tax Policy and Regulation, and Lisa Swiger, tax policy research consultant, represented the department.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 4, and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 15:060. Estimated tax, amended declarations; short years.

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.

103 KAR 15:180. Kentucky new markets development pro-gram tax credit.

In response to questions by Co-Chair Harris, Mr. Renner stated that the new market development program tax credit was part of a federal program to develop underdeveloped areas. Kentucky's program essentially piggybacked onto the federal pro-gram. Because funding was allocated in blocks, this administrative regulation had to be updated to reflect the new time period of the next funding block.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 3 and 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 15:195. Endow Kentucky Tax Credit.

Income Tax; Corporations

103 KAR 16:381. Repeal of 103 KAR 016:380.

Income Tax, Individual

103 KAR 17:010. Residence.

In response to a question by Co-Chair Harris, Mr. Renner stated that this administrative regulation and 103 KAR 17:020 were amended to update definitions for clarity commensurate with House Bill 487 from the 2018 Regular Session of the General Assembly.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 7 for clarity and to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 17:020. Combined individual returns.

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

103 KAR 17:060. Income subject to taxation; portions.

A motion was made and seconded to approve the following amendment: to amend the RELATES TO paragraph and Sections 2 and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Income Tax; Withholding

103 KAR 18:050 & E. Withholding statements.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. With-out objection, and with agreement of the agency, the amendments were approved.

103 KAR 18:081. Repeal of 103 KAR 018:080 and 103 KAR 018:160.

103 KAR 18:110. Voluntary withholding.

103 KAR 18:120. Security for compliance; bonds.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 through 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 18:150. Employer's withholding reporting requirements.

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

BOARDS AND COMMISSIONS: Board of Medical Licensure

201 KAR 9:260. Professional standards for prescribing and dispensing controlled substances. Leanne Diakov, general counsel, represented the board.

In response to a question by Senator Clark, Ms. Diakov stated that the National Transportation Safety Board recommended that each state's administrative regulations pertaining to persons who prescribe or dispense controlled substances should establish that the physician, prescriber, or dispenser shall have the duty to inform the patient of the effect on the patient's medical condition and ability to operate any mode of transportation.

In response to a question by Co-Chair Harris, Ms. Diakov stated that other agencies, such as the Board of Nursing and the Board of Podiatry, had made or were making similar changes in their administrative regulations.

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

301 KAR 3:100. Special commission permits. Chris Garland, assistant director, Division of Wildlife, and Evan Jones, assistant general counsel, represented the department.

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

DEPARTMENT OF AGRICULTURE: Industrial Hemp

302 KAR 50:080. Materials incorporated by reference. Clint Quarles, staff attorney, represented the department.

In response to questions by Senator Clark, Mr. Quarles stated that, in addition to hemp oils, other products being researched included liners and interior automobile parts, packaging materials, an additive to plastics (or in lieu thereof), insulation replacement, and an additive to concrete to increase psi. Additionally, hemp roots were sometimes used in items such as salves.

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

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

501 KAR 6:020 & E. Corrections policies and procedures. Amy Barker, assistant general counsel, and Ashley Short, corrections program administrator, represented the department.

A motion was made and seconded to approve the following amendments: to amend Section 1 and the material incorporated by reference to clarify various provisions, update edition dates, and comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 6:999. Corrections secured policies and procedures.

This administrative regulation was reviewed and amended, without objection and with agreement of the agency, by the sub-committee in closed session pursuant to KRS 61.810(1)(k), 61.815(2), and 197.025(6).

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department of Education: Office of Chief State School Officer

701 KAR 5:140. District of innovation. Todd Allen, deputy general counsel, and David Cook, director, Division of Innovation and Partner Engagement, represented the department.

In response to questions by Representative Petrie, Mr. Cook stated that Kentucky currently had six (6) districts of innovation. At the high point of the program, there were ten (10). Amendments to this administrative regulation were for the purpose of allowing individual schools to become schools of innovation in order to promote the program.

In response to a question by Co-Chair Harris, Mr. Cook stated that schools and districts of innovation had broader flexibility for creative instruction.

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

Department of Workforce Investment: Office of Employment and Training: Unemployment Insurance

787 KAR 1:010 & E. Application for employer account; re-ports. Beverly Dearborn, workforce development manager, and Anthony Hudgins, assistant director, represented the office.

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

PUBLIC PROTECTION CABINET: Department of Alcoholic Beverage Control:
Conduct of Business; Employees

804 KAR 5:021. Repeal of 804 KAR 005:020. Steve Humphress, general counsel, and Lee Walters, counsel, represented the department.

Transportation of Alcoholic Beverages

804 KAR 8:050. Identification of vehicles used to transport alcoholic beverages.

Department of Housing, Buildings, and Construction: General Section

815 KAR 2:010. Continuing education. Tim House, deputy commissioner; Steven Milby, commissioner; and David Starts-man, general counsel, represented the department. Ervin Klein, legislative agent, Independent Electrical Contractors of Kentucky and Southern Indiana, appeared in opposition to 815 KAR 35:060 and 35:090.

In response to a question by Co-Chair Harris, Mr. House stated that the department was revising continuing education requirements for consistency among the nine (9) licensure pro-grams. For the plumbing industry, the department believed that six (6) annual continuing education hours were as effective as eight (8).

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

815 KAR 2:020. Continuing education course and provider approval.

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

815 KAR 2:030. Vehicle identification.

815 KAR 2:040. Fees and refunds.

Building Code Enforcement: Elevator Safety

815 KAR 4:030. Elevator licensing.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 3, 5, and 7 through 9 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend the licensure application forms to change: (a) the criminal conviction statement for clarity; and (b) the KHEAA statement. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 4:071. Repeal of 815 KAR 004:040, 815 KAR 004:050, 815 KAR 004:060, and 815 KAR 004:070.

Kentucky Building Code

815 KAR 7:070. The Kentucky Certified Building Inspector Program.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. With-out objection, and with agreement of the agency, the amendments were approved.

Division of Heating, Ventilation, and Air Conditioning: Heating, Ventilation, and Air Conditioning Licensing Requirements

815 KAR 8:010. Licensing requirements for master contractors and journeyman HVAC mechanics.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 through 4, 7, and 10 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend the licensure application forms to change: (a) the criminal conviction statement for clarity; and (b) the KHEAA statement. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 8:030. Apprentice HVAC mechanic registration and certification requirements.

In response to questions by Co-Chair Harris, Mr. House stated that the original requirement established that anyone practicing HVAC work shall register with the cabinet as an apprentice; how-ever, the department did not have statutory authority for an official HVAC apprenticeship program. The department amended this administrative regulation to make the registration voluntary but would prefer not to regulate an apprenticeship program at all due to recordkeeping and processing requirements.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 2 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 8:091. Repeal of 815 KAR 8:020, 815 KAR 8:035, 815 KAR 8:050, 815 KAR 8:060, 815 KAR 8:090, and 815 KAR 8:095.

Division of Plumbing: Boilers and Pressure Vessels

815 KAR 15:080. Boiler and pressure vessel licenses.

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

Plumbing

815 KAR 20:030. Plumbing licenses.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY paragraph, Sections 2 through 4, and material incorporated by reference to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 20:041. Repeal of 815 KAR 20:012, 815 KAR 20:015, 815 KAR 20:018, 815 KAR 20:032, 815 KAR 20:034, and 815 KAR 20:040.

Division of Fire Prevention: Fire Protection, Sprinkler Contractors, and Inspectors

815 KAR 22:011. Repeal of 815 KAR 022:010.

Building Code Enforcement: Manufactured Homes and Recreational Vehicles

815 KAR 25:001. Definitions for 815 KAR Chapter 025.

In response to questions by Co-Chair Harris, Mr. House stated that a B1 seal indicated that an inspection had been conducted on a used manufactured home, the results of which were that the home was habitable. A B2 seal indicated that an inspection had been conducted on a used manufactured home, the results of which were that the home was uninhabitable and for salvage. A new manufactured home would have a HUD seal. A used

manufactured home with a B2 seal may have improvements and be reevaluated for a B1 seal.

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

815 KAR 25:020. Recreational vehicles.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO, STATUTORY AUTHORITY , and NECESSITY, FUNCTION, AND CONFORMITY paragraphs; Sections 2, 3, and 7 through 9; and material incorporated by reference to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 25:040. Fire safety requirements in manufactured and mobile homes.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 3 to comply with the drafting requirements of KRS Chapter 13A. With-out objection, and with agreement of the agency, the amendments were approved.

815 KAR 25:050. Administration and enforcement of manufactured housing construction standards.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs; Sections 1 through 9, 11, and 13; and material incorporated by reference to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 25:060. Licensing and certifications with manufactured homes and mobile homes.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs; Sections 1, 3, and 6; and material incorporated by reference to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 25:081. Repeal of 815 KAR 025:070 and 815 KAR 025:080.

815 KAR 25:090. Site preparation, installation, and inspection requirements.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY and Sections 2 and 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.

815 KAR 25:100. Alternative dispute resolution and mediation program.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 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.

Electrical Division

815 KAR 35:015. Certification of electrical inspectors.

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

815 KAR 35:020. Electrical inspections.

815 KAR 35:060. Licensing of electrical contractors, master electricians, and electricians.

A motion was made and seconded to approve the following amendments: to amend material incorporated by reference to clarify checkbox statements regarding convictions and student loan default. Without objection, and with agreement of the agency, the amendments were approved.

Mr. Klein stated that Senate Bill 78 from the 2018 Regular Session of the General Assembly authorized a path to electrical licensing if an individual completed two (2) years of verifiable experience in the electrical trade and a minimum of two (2) years in an electrical training course. The licensee shall then complete the remaining electrical training required within four (4) years of licensure. The Independent Electrical Contractors of Kentucky and Southern Indiana requested that language be added to this administrative regulation to clarify that the two (2) years of verifiable experience and the two (2) years in an electrical training course run consecutively, not concurrently. This was the intent expressed with the sponsor during the development of Senate Bill 78. The Independent Electrical Contractors of Kentucky and Southern Indiana also requested that language be added to

this administrative regulation to require those obtaining licensure pursuant to this new pathway to submit information regarding progress toward completion of the remaining electrical training with each application renewal.

In response to a question by Co-Chair Harris, Mr. House stated that it would not be beneficial to defer consideration of this administrative regulation and 815 KAR 35:090 to the December 2018 subcommittee meeting. These were not apprenticeship programs.

815 KAR 35:080. Electrical code of ethics.

815 KAR 35:090. Electrical Training Program standards.

Mr. Klein stated that the Independent Electrical Contractors of Kentucky and Southern Indiana requested that course requirements be revised commensurate with the U.S. Department of Labor's apprenticeship program requirements. This would lead to problems for licensees.

Mr. House stated that the department did not have statutory authority for apprenticeship programs. The program established in 815 KAR 35:090 was an educational program, not an apprenticeship program.

815 KAR 35:101. Repeal of 815 KAR 035:100.

Department of Charitable Gaming

820 KAR 1:001. Definitions. Cannon Armstrong, commissioner, and Doug Hardin, staff attorney, represented the department.

In response to a question by Co-Chair Harris, Mr. Hardin stated that all issues of concern had been worked out with stakeholders.

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

820 KAR 1:005. Charitable gaming licenses and exemptions.

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 through 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

820 KAR 1:011. Repeal of 820 KAR 1:010, 1:015, 1:016, 1:017, 1:026, 1:027, 1:028, 1:029, 1:033, 1:034, 1:036, 1:044, 1:056, 1:058, 1:100, 1:110, 1:120.

820 KAR 1:025. Reports.

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.

820 KAR 1:032. Pulltabs.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 3, 7, 13 through 16, 19 through 21, and 23 through 33 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Sections 26 through 28 to make changes to the point of sale requirements, device construction requirements, and software construction requirements. Without objection, and with agreement of the agency, the amendments were approved.

820 KAR 1:042. Bingo.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 5, 7 through 9, 11 through 17, and 20 to comply with the drafting and formatting requirements of KRS Chapter 13A and make technical changes; and (2) to amend Section 14 to remove the time constraint requirement on the sale of paper or electronic pulltabs prior to the start of a bingo session and replace it with a prior approval requirement. Without objection, and with agreement of the agency, the amendments were approved.

820 KAR 1:050. Raffles.

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

820 KAR 1:055. Charity fundraising event standards.

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

820 KAR 1:057. Recordkeeping.

A motion was made and seconded to approve the following amendment: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 4 through 8, 10, 12, 14, and 15 to comply with the drafting and formatting requirements of KRS Chapter 13A and make technical changes. Without objection, and with agreement of the agency, the amendments were approved.

820 KAR 1:060. Prohibited conduct.

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

820 KAR 1:125. Gaming inspections.

820 KAR 1:130. Administrative actions.

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

820 KAR 1:135. Disposal of gaming supplies.

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

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Medicaid Services: Division of Policy and Operations: Medicaid

895 KAR 1:001. Definitions for 895 KAR Chapter 001. Lee Guice, director, Division of Policy and Operations; Donna Little, deputy executive director, Office of Legislative and Regulatory Affairs; Jonathan Scott, regulatory and legislative adviser; and Brandon Smith, executive director, Office of Legislative and Regulatory Affairs, represented the division. Nancy Galvagni, senior vice president, Kentucky Hospital Association, appeared in support of the subcommittee amendment to 895 KAR 1:050. Dr. Sheila Schuster, executive director, Advocacy Action Network, appeared in opposition to 895 KAR 1:020.

In response to questions by Representative Marzian, Mr. Smith stated that there had been litigation regarding these administrative regulations and the division was currently involved in a waiver reauthorization process with CMS. Proceeding with this package of

administrative regulations was not premature because these administrative regulations would only become effective if CMS approved Kentucky's waiver and a funding source was available. If only a portion of the requirements were approved by CMS, the division would file an emergency administrative regulation.

Representative Marzian requested to be recorded as voting in opposition to 895 KAR 1:001, 1:010, 1:015, 1:020, 1:025, 1:030, 1:035, 1:040, 1:045, 1:050, and 1:055.

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

895 KAR 1:010. Eligibility for Kentucky HEALTH program.

A motion was made and seconded to approve the following amendments: to amend Sections 3 through 6, 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.

895 KAR 1:015. Premium payments within the Kentucky HEALTH programs.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 4 through 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

895 KAR 1:020. PATH requirement for the Kentucky HEALTH program.

Dr. Schuster stated that the Advocacy Action Network was opposed to this administrative regulation, which relied entirely on an internet-based system for reporting community engagement compliance. Broadband was not accessible in all parts of Kentucky, and users had limited financial resources. Kentucky had stopped non-emergency transportation services, which might have enabled users to have internet access via local libraries. Recipients might be denied benefits and services for failure to report due to lack of internet access. While the cabinet stated there would be other communication options, this administrative regulation did not have reporting provisions other than via internet. The Advocacy Action Network requested that language be added to include alternative provisions.

In response to a question by Co-Chair Harris, Dr. Schuster stated that Medicaid recipients were not required to report community engagement compliance until these requirements become effective.

In response to a question by Senator Raque Adams, Dr. Schuster stated that the Advocacy Action Network supported a written format as an alternative to internet reporting.

In response to questions by Representative Marzian, Mr. Smith stated that the division did not believe there was a need to defer consideration of this matter. Studies demonstrated that internet access was a key feature for improving health outcomes. Rather than removing internet reporting requirements, the division planned to have training opportunities for users. Medically frail individuals were exempt from these reporting requirements. DCBS offices were being prepared to respond in person and via telephone to assist users. If a user misses a compliance reporting deadline, a three (3) month notice would be sent to the recipient to address the issue. Additional outreach by telephone was an additional possibility.

In response to questions by Co-Chair Harris, Mr. Smith stated that home visits to assist users were a possibility but were not directly mandated. Telephonic and written correspondence was also available.

In response to questions by Representative Petrie, Mr. Smith stated that assistance would also be available from Workforce Development career centers. Users who were homebound and did not have readily available internet access were exempt from internet reporting requirements. The number of users who might need access was currently indeterminable. This administrative regulation did not expressly provide for alternatives to internet reporting for those not exempted. If a user missed a reporting deadline, there was an outreach process to assist with compliance.

A motion was made and seconded to approve the following amendments: to amend Sections 3 through 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

895 KAR 1:025. Beneficiary premiums.

A motion was made and seconded to approve the following amendments: to amend the TITLE, the RELATES TO paragraph, and Sections 1 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

895 KAR 1:030. Establishment and use of the MyRewards program.

A motion was made and seconded to approve the following amendment: to amend Sections 3 and 6 through 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

895 KAR 1:035. Covered services within the Kentucky HEALTH program.

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

895 KAR 1:040. Deductible accounts within the Kentucky HEALTH program.

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

895 KAR 1:045. Accommodation, modifications, and appeals for beneficiaries participating in the Kentucky HEALTH program.

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

895 KAR 1:050. Enrollment and reimbursement for providers in the Kentucky HEALTH program.

Senator Raque Adams stated that the proposed subcommittee amendment was at the request of the cabinet in conjunction with the Kentucky Hospital Association for the purposes of clarifying requirements.

Ms. Galvagni stated that the Kentucky Hospital Association was in strong support of the subcommittee amendment.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Sections 1, 2, 5, and 7 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 4(2) to establish that: (a) a hospital seeking reimbursement for non-covered services may use its consent for services form to comply with the written agreement requirement if it provides informed consent and is signed and dated by the beneficiary; and (b) the beneficiary reimbursement procedures for non-covered services do not apply if complying with 42 U.S.C. 1395dd until the beneficiary has been stabilized and do apply after a beneficiary has been stabilized if billing a suspended Kentucky HEALTH beneficiary. Without objection, and with agreement of the agency, the amendments were approved.

895 KAR 1:055. Designation or determination of medically frail status or accommodation due to temporary vulnerability in the Kentucky HEALTH program.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1 and 3 through 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Division of Certificate of Need: State Health Plan

900 KAR 5:020 & E. State Health Plan for facilities and services. Molly Lewis, deputy inspector general, represented the di-vision.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to update the edition date of the State Health Plan; and (2) to amend the State Health Plan incorporated by reference to insert the review criteria for magnetic resonance imaging equipment under Diagnostic and Therapeutic Equipment and Procedures. Without objection, and with agreement of the agency, the amendments were approved.

Certificate of Need

900 KAR 6:020. Certificate of need application fee schedule.

Medical Review Panels

900 KAR 11:010 & E. Medical review panels. Suzette Kimbell, branch coordinator, and Donna Little, deputy executive director, Office of Legislative and Regulatory Affairs, represented the di-vision.

Department for Public Health: Division of Health Care: Health Services and Facilities

902 KAR 20:300. Operation and services; nursing facilities. Stephanie Brammer – Barnes, regulation coordinator, represented the Office of Inspector General.

Department for Public Health: Division of Public Health Protection and Safety: Radiology

902 KAR 100:018. Repeal of 902 KAR 100:017, 902 KAR 100:060, and 902 KAR 100:090. Julie Brooks, regulation coordinator, and Eric Perry, radiation health specialist, represented the division.

In response to a question by Co-Chair Harris, Ms. Brooks and Mr. Perry stated that this package of administrative regulations was for compliance with federal updates from the Nuclear Regulatory Commission.

902 KAR 100:022. Licensing requirements for land disposal of radioactive waste.

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.

902 KAR 100:052. Specific domestic licenses of broad scope for by-product material.

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.

902 KAR 100:070. Packaging and transportation of radioactive material.

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

902 KAR 100:072. Medical use of byproduct material.

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

902 KAR 100:100. Licenses for industrial radiography and radiation safety requirements for industrial radiographic operations.

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

902 KAR 100:142. Licenses and radiation safety requirements for well logging.

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

Department for Medicaid Services: Division of Policy and Operations: Medicaid Services

907 KAR 1:025 & E. Payment for nursing facility services provided by an intermediate care facility for individuals with an intellectual disability, a dually-licensed pediatric facility, an institution for mental diseases, or a nursing facility with an all-inclusive rate unit. Jonathan Scott, regulatory and legislative adviser, represented the division.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend the TITLE to clarify the subject matter; and (3) to amend Section 7(1)(c) to require a nursing facility with a distinct part brain injury unit to be accredited after the first year of participation by the Commission on Accreditation of Rehabilitation Facilities (CARF) or the Joint Commission. Without objection, and with agreement of the agency, the amendments were approved.

Department of Community Based Services: Division of Family Support: Supplemental Nutrition Assistance Program

921 KAR 3:025. Technical requirements. Elizabeth Caywood, deputy commissioner; Bryan Hubbard, commissioner; and Maribeth Schneber-Rhemrev, director, represented the division. Ben Carter, senior litigation and advocacy counsel, Kentucky Equal Justice Center, appeared in opposition to these administrative regulations.

In response to questions by Representative Petrie, Mr. Hubbard stated that a non-custodial parent meant the parent who did not have custody of the child and who likely did not reside with the child. The noncustodial parent had been shown to be the parent of the child and had a legal obligation to remit money to support the child. Interaction with the noncustodial parent and the child was varied, depending on family dynamics. These administrative regulations were in compliance with recent changes to domestic law.

Mr. Carter stated that the Kentucky Equal Justice Center, as well as Kentucky Voices for Health, Kentucky Center for Economic Policy, ACLU, and Catholic Conference of Kentucky were opposed to these administrative regulations because this was the wrong approach. The listed stakeholders advocated ensuring that noncustodial parents paid child support; however, these requirements actually incentivized noncustodial parents not to pay. Failure to pay child support was already a crime; therefore, these requirements were redundant. These requirements would increase food insecurity in areas that were already suffering. This program would increase pressure on the poor but have little impact on child-support payments. This program would have a disproportional impact on Eastern Kentucky. These requirements might also have a negative impact on those who were or had been incarcerated because incarcerated people are often behind on child-support payments. A three (3) month compliance window was inadequate. This program was not expected to prove successful from a cost – benefit calculation.

In response to a question by Co-Chair Harris, Mr. Hubbard stated that in order for a SNAP benefit suspension to apply, there had to be an active current support order and the noncustodial parent would not have paid the current full support for the present month and would have had an arrearage obligation of \$500 or greater. The age of the youngest child shall be less than eighteen (18) years. In order to have SNAP benefits reinstated, the non-custodial parent shall no longer have a child-support case, the youngest child shall reach eighteen (18) years, the non-custodial parent shall pay the full balance due (including arrear-age), or the arrearage balance is below \$500. There were exemptions, such as for those in a drug treatment program, certain phases of incarceration, etc.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 3 through 6 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 3 to add additional exemptions for participation by individuals who are delinquent in court-ordered support payments. Without objection, and with agreement of the agency, the amendments were approved.

921 KAR 3:035. Certification process.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 4, 5, and 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Division of Protection and Permanency: Child Welfare

922 KAR 1:411. Repeal of 922 KAR 001:410. Laura Begin, regulation coordinator and liaison; Mary Carpenter, manager, Adoption Branch; and Elizabeth Caywood, deputy commissioner, represented the division.

Child Welfare

922 KAR 1:560 & E. Putative father registry and operating procedures.

A motion was made and seconded to approve the following amendments: to amend Sections 2 through 4 and 6 to comply with the drafting requirements of KRS Chapter 13A and make technical changes. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred or re-moved from the November 13, 2018, subcommittee agenda:

DEPARTMENT OF STATE: Kentucky Registry of Election Finance: Electronic Voting Systems

32 KAR 1:030 & E. Election finance statement forms; campaign contributions or expenditures in excess of \$3,000.

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Income Tax; Miscellaneous

103 KAR 19:010. Computation of income; estates and trusts.

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 2:370. Pharmacy services in long-term care facility (LTCF).

Board of Chiropractic Examiners

201 KAR 21:015. Code of ethical conduct and standards of practice.

201 KAR 21:045. Specialties.

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

301 KAR 2:095. Importation of cervid carcasses and parts.

ENERGY AND ENVIRONMENT: Department for Environmental Protection: Division for Air Quality: Permits, Registrations, and Prohibitory Rules

401 KAR 52:050. Permit application forms.

401 KAR 52:070. Registration of air contaminant sources.

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

601 KAR 2:030 & E. Ignition interlock.

PUBLIC PROTECTION CABINET: Workers' Compensation Funding Commission

803 KAR 30:010. Special fund assessments.

803 KAR 30:021. Repeal of 803 KAR 030:020.

Real Estate Authority: Board of Home Inspectors

815 KAR 6:001. Definitions for 815 KAR Chapter 6.

815 KAR 6:010. Licensing requirements.

815 KAR 6:030. Standards of conduct, complaints, and discipline.

815 KAR 6:040. Education requirements and providers.

815 KAR 6:101. Repeal of 815 KAR 006:020, 815 KAR 006:080, 815 KAR 006:090, and 815 KAR 006:100.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: Long-term Care

900 KAR 2:021. Repeal of 900 KAR 002:020.

900 KAR 2:040. Citations and violations; criteria and specific acts.

Food and Cosmetics

902 KAR 45:005. Kentucky food code.

902 KAR 45:007. Repeal of 902 KAR 045:006 and 902 KAR 045:140.

902 KAR 45:090. Home-based processors and farmers market home-based micro-processors.

Department of Community Based Services: Division of Protection and Permanency: Child Welfare

922 KAR 1:010. Independent non-relative adoptions.

922 KAR 1:100 & E. Public agency adoptions.

922 KAR 1:360 & E. Private child care placement, levels of care, and payment.

The subcommittee adjourned at 2:50 p.m. The next meeting of the subcommittee is tentatively scheduled for December 11, 2018, at 1 p.m.