

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the July Meeting July 10, 2019

Call to Order and Roll Call

The July meeting of the Administrative Regulation Review Subcommittee was held on Wednesday, July 10, 2019, at 10:00 AM, 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: Senator Stephen West, Co-Chair; Representative David Hale, Co-Chair; Senators Perry B. Clark and Alice Forgy Kerr; Representatives Deanna Frazier, Mary Lou Marzian, and Tommy Turner.

Guests: Kathryn Gabhart, Executive Branch Ethics Commission; Rosemary Holbrook, Alaina Myers, Personnel Cabinet; Todd Renner, Department of Revenue; Anthony Gray, Larry Hadley, Board of Pharmacy; Marc Manley, Kenneth Urlarge, Board of Licensure for Long Term Administrators; Cindy Castle, Carson Kerr, Board of Ophthalmic Dispensers; Nathan Goldman, Board of Nursing; Tony Cotto, Board of Podiatry; Rick Hessig, Board of Private Investigators; Mike Denney, Michelle Sullivan, Kentucky Lottery, Phillip Dietz, John Wood, Board of Emergency Medical Services; Steven Fields, Chris Garland, John Hast, Karen Waldrop, Department of Fish and Wildlife Resources; Clint Quarles, Department of Agriculture; Bert Gibbons, Michael Mullins, John Small, Department for Natural Resources; Patrick O'Connor, Leah Spears, Eric Stone, Department of Insurance; Ben Bellamy, Gwen Pinson, Karen Wilson, Public Service Commission; Heather Becker, H.E. Corder, Ronald Kirby, Board of Auctioneers; Erica Brakefield, Jan Bright, Julie Brooks, Jessica Davenport, Andy Waters, Department for Public Health; Stephanie Brammer-Barnes, Allen Brenzel, Kara Daniel, Department for Behavioral Health, Developmental and Intellectual Disabilities; Erika Bauford, Sarah Cooper, Bryan Hubbard, Department for Community Based Services; Curt Duff, James Morris, and David Sinclair.

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 Wednesday, July 10, 2019, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

FINANCE AND ADMINISTRATION CABINET: Executive Branch Ethics Commission

9 KAR 1:010 & E. Statement of financial disclosure. Katie Gabhart, executive director, represented the commission.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 2 and 4 to delete outdated language; and (2) to amend Sections 1 through 4 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.

9 KAR 1:040 & E. Executive agency lobbyist, employer or executive agency lobbyist, and real party in interest registration and expenditure statements; financial transactions and termination forms; and enforcement.

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

PERSONNEL CABINET: Personnel Cabinet, Classified

101 KAR 2:180. Employee performance evaluation system. Rosemary Holbrook, general counsel, and Alaina Myers, deputy commissioner of human resources, represented the cabinet.

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

101 KAR 2:190. Employee performance management system.

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

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

103 KAR 15:061. Repeal of 103 KAR 15:060. Todd Renner, executive director, Office of Tax Policy and Regulation, represented the department.

Income Tax; Individual

103 KAR 17:121. Repeal of 103 KAR 17:120.

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 2:010. Schools approved by the board. Anthony Gray, general counsel, and Larry Hadley, executive director, represented the board.

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

201 KAR 2:090. Reference material and prescription equipment.

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

201 KAR 2:100. Security and control of drugs and prescriptions.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 4 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 2 to change “personal supervision” to “supervision” for consistency with KRS 329.010(27). Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 2:116. Substitution of drugs, biologics and biosimilar products.

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 and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 2:225. Special limited pharmacy permit – medical gas.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 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.

201 KAR 2:240. Special limited pharmacy permit – charitable.

In response to questions by Representative Marzian, Mr. Hadley stated that special limited pharmacy permits for charities included, for example, free clinics with a pharmacy

component. The permit was renewed yearly, and charity events were held at various intervals during the year.

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

201 KAR 2:270. Expungement.

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.

201 KAR 2:340. Special limited pharmacy permit – clinical practice.

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.

Board of Licensure for Long-Term Care Administrators

201 KAR 6:030. Temporary permits. Marc Manley, board counsel, and Kenneth Urlage, board vice chair, represented the board.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and STATUTORY AUTHORITY 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.

201 KAR 6:040. Renewal, reinstatement, and reactivation of license.

In response to a question by Representative Marzian, Mr. Manley stated that provisions regarding disciplinary action information sharing were precipitated by a specific incident in which a licensee who was the subject of a complaint left Kentucky and allowed Kentucky licensure to expire. When the licensee applied for licensure in another state, the board was unable to share pertinent information with that state because final action on the complaint or adjudication on the merits had not proceeded. Changes to this administrative regulation allowed a record of a complaint to be shared if another state requested the information. There was reciprocity in that Kentucky could also request similar information from other states.

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 requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Ophthalmic Dispensers

201 KAR 13:040. Licensing. Cindy Castle, chair, and Carson Kerr, board counsel, represented the board.

In response to a question by Representative Marzian, Mr. Kerr stated that comments during the public comment period related primarily to the addition of the ABO-NCLE practical examination.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1, 4, 5, and 8 to comply with the drafting requirements of KRS Chapter 13A; (2) to update the Application for Ophthalmic Dispenser or Apprentice License for consistency with this administrative regulation in referring to the required examinations; and (3) to amend Section 2 to clarify that an applicant shall: (a) pass both the ABO Basic Examination and the NCLE Basic Examination; and (b) pass either the NCSORB National Practical Examination, or both the ABO Practical and the NCLE practical examination. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 13:050. Apprentices.

201 KAR 13:055. Continuing education requirements.

In response to a question by Representative Marzian, Mr. Kerr stated that continuing education changes primarily included clarifying the definition for “in-person contact hours.”

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 6 through 11 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 13:060. Military service; reciprocity; endorsement.

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

Board of Nursing

201 KAR 20:370. Applications for licensure. Nathan Goldman, general counsel, represented the board.

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.

201 KAR 20:506. Nurse licensure compact.

Board of Podiatry

201 KAR 25:090. Prescribing and dispensing controlled substances. Tony Cotto, executive advisor, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Sections 2 and 3 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 5 to: (a) add an exception for admittance to a long-term care facility licensed under KRS Chapter 216B; and (b) delete the reference to KRS 218A.205. Without objection, and with agreement of the agency, the amendments were approved.

Board of Private Investigators

201 KAR 41:020. Application for licensure. Rick Hessig, chair, and Marc Manley, board counsel, represented the board.

201 KAR 41:030. Examination.

A motion was made and seconded to approve the following amendment: to amend Section 1 to delete language, “at least twice annually,” which was duplicative of the language established in KRS 329A.025(2)(c). Without objection, and with agreement of the agency, the amendment was approved.

201 KAR 41:040. Fees.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 1, 6, 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.

201 KAR 41:060. Renewal and reinstatement procedures.

201 KAR 41:065. Inactive status.

A motion was made and seconded to approve the following amendments: to amend Section 1 to: (1) require the written request to the board for inactive licensure status to be prior to the time of renewal; and (2) comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 41:070. Continuing professional education requirements.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 3 through 7, 10, and 11 to comply with the drafting and formatting requirements of KRS

Chapter 13A; and (2) to amend Section 10 to: (a) clarify waiver provisions; and (b) include undue hardship or similar extenuating circumstances that precludes the licensee's completion of the requirements. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 41:080. Complaint procedure.

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 LOTTERY CORPORATION

202 KAR 3:010. Code of ethics. Mike Denney, assistant general counsel, and Michele Sullivan, vice president of human resources, represented the corporation.

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM: Board of Emergency Medical Services

202 KAR 7:560. Ground vehicle staff. Philip Dietz, chair; Michael Poynter, executive director; and John Wood, attorney, represented the board.

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

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

301 KAR 2:221. Waterfowl seasons and limits. Steven Fields, staff attorney; Chris Garland, acting director, Wildlife Division; John Hast, bear program coordinator; and Karen Waldrop, deputy commissioner, represented the department.

301 KAR 2:222. Waterfowl hunting requirements on public land.

301 KAR 2:300. Black bear seasons and requirements.

In response to a question by Representative Marzian, Ms. Waldrop stated that the male quota had been removed for bears. Reporting for the purposes of quota tracking was conducted via call-in after 9 p.m. This administrative regulation also adjusted bear zones.

In response to questions by Co-Chair Hale, Ms. Waldrop stated that the quota tracking system was updated daily. Mr. Hast stated that Kentucky was nearly reaching the quotas. Ms. Waldrop stated that the department expected bear harvesting to increase.

GENERAL GOVERNMENT CABINET: Department of Agriculture: Division of Regulation and Inspection: Amusement Rides

302 KAR 16:010. Business identification number required. Clint Quarles, attorney, represented the division.

A motion was made and seconded to approve the following amendments: to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Sections 1 through 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.

302 KAR 16:020. Inspection and operation of amusement rides or amusement attractions.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 2 and 3 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 3 to reduce from \$600 to \$500, the re-inspection fee for wooden roller coasters. Without objection, and with the agreement of the agency, the amendments were approved.

302 KAR 16:040. Correction of safety violations and right to re-inspection.

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

302 KAR 16:070. Reports of injuries involving amusement rides and amusement attractions.

302 KAR 16:091. Rides and attractions not included in the definition of amusement ride or attraction.

302 KAR 16:101. Operate amusement ride or device defined.

302 KAR 16:111. Violations, civil penalties, revocations, and suspensions of business identification number.

In response to a question by Co-Chair Hale, Mr. Quarles stated that changing from eighteen (18) to sixteen (16), the operator age threshold that would constitute a violation, was for consistency with commensurate statutory changes.

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 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 16:121. Inflatable rides or attractions.

In response to questions by Co-Chair Hale, Mr. Quarles stated that private inflatable rides or attractions, such as those for school functions, were regulated and inspected at least once unless a problem occurred, which would result in re-inspection. The device was inflated and anchored to the ground for the purposes of inspection. The serial numbers of the inflatables were recorded, and the blower units received the inspection seal.

A motion was made and seconded to approve the following amendments: to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Sections 3 through 5 to comply with the drafting requirements of KRS Chapter 13A.

302 KAR 16:131. Maintenance and repair of amusement ride or attractions.

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

Regulation and Inspection; Tobacco Sales

302 KAR 78:021. Repeal of 302 KAR 78:020.

Animal Control Officers

302 KAR 101:010. Training requirements for Kentucky Animal Control Officers.

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

ENERGY AND ENVIRONMENT CABINET: Department for Natural Resources:
Division of Mine Safety: Mining Safety Standards

805 KAR 3:110. Employees' personal protection. Bert Gibbons, assistant director; Michael Mullins, regulation coordinator; and John Small, commissioner, represented the division.

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.

PUBLIC PROTECTION CABINET: Department of Insurance: Insurance Fraud

806 KAR 47:010. Fraud prevention. Patrick O'Connor, deputy commissioner; Leah Spears, executive advisor; and Eric Stone, investigator supervisor, represented the department.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 4, 5, and 7 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.

806 KAR 47:021. Repeal of 806 KAR 47:020 and 806 KAR 47:030.

ENERGY AND ENVIRONMENT CABINET: Public Service Commission:
Utilities

807 KAR 005:056. Fuel adjustment clause. Ben Bellamy, staff attorney; Gwen Pinson, executive director; and Karen Wilson, executive advisor, represented the commission. David Sinclair, vice president, Energy Supply and Analysis, represented LG&E and KU Energy in opposition to this administrative regulation.

In response to questions by Co-Chair West, Ms. Pinson stated that the Public Service Commission (PSC) was in the process of reviewing all of its administrative regulations as part of the Red Tape Reduction Initiative. This administrative regulation was initially promulgated in 1982 and was a priority for amendment as a result of House Resolution 144 from the 2019 Regular Session of the General Assembly, which urged PSC to consider all costs, including fossil fuel-related economic impacts for the purposes of analyzing coal purchases. Among other changes, the major shift was to Section 3(5), which was revised to exempt coal severance taxes in determining the reasonableness of fuel costs. This administrative regulation also made hearings discretionary, rather than mandatory, in order to limit costs from unnecessary hearings. If the attorney general wished to have a hearing

or if the public requested a hearing or a hearing was in the public interest, the hearing would be held. Additionally, the public was always able to submit comments pertaining to an ongoing PSC case.

In response to a question by Co-Chair Hale, Mr. Sinclair stated that nonprofit regulated utilities were only authorized to recover actual fuel costs. In 2018, LG&E and KU Energy purchased approximately sixty (60) percent of coal used to generate electricity from Kentucky coal producers. The proposed revision to the fuel adjustment clause would change how PSC reviewed fuel procurement decisions from being based on the actual full price paid to the price less any coal severance tax. Customers would still pay the full cost of fuel, including coal severance tax; therefore, the proposed administrative regulation might cause higher consumer costs. The extra cost amount was uncertain; however, estimates could be between ten (10) and twenty (20) million dollars annually, depending on how coal bidding strategies changed. The proposed administrative regulation could be challenged on constitutional grounds, which could result in lengthy and costly litigation, further increasing costs for consumers. The potential benefits to coal producers, employees, and communities were not quantified and might be greater or less than increased costs to consumers.

In response to questions by Co-Chair Hale, Ms. Pinson stated that the cost impact was expected to be minimal. Estimates from Mr. Sinclair were calculated based on an unlikely, worst-case scenario. One (1) commenter during the public comment period stated that the economic benefits of the possible increase outweighed the risks. There could be a consumer cost increase, but it was expected to be very minimal, such as seventy-five (75) cents per year. Numerous utilities submitted public comments during the public comment period.

In response to questions by Co-Chair West, Ms. Pinson stated that worst-case estimates were based on an overall four and five tenths (4.5) percent coal cost increase. PSC did not know if out-of-state coal providers were already “padding” prices. It seemed unlikely that Kentucky coal producers would “pad” prices because it would be in their interests to submit competitive bids. While PSC had not done an independent economic analysis, the Economic Development Cabinet had data regarding job and wage impacts. PSC hoped that any increased costs would be offset by rate-payer base increases resulting from economic growth.

Co-Chairs West and Hale stated that this was a very important administrative regulation. Cost containment for consumers was important, as was economic growth.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 3 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend Section 1 to clarify that

standards for suspension of rate schedules shall be based on the severity and history of nonconformity; and (3) to amend Section 3 to: (a) clarify that standards for suspension of fuel adjustment clauses shall be based on the severity and history of unreasonable fuel charges; and (b) delete language that could have been interpreted as limiting the scope of coal severance taxes. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Real Estate Authority: Kentucky Board of Auctioneers

831 KAR 1:010. Licensing fees and applications. Heather Becker, general counsel; H. E. Corder, executive director; and Ron Kirby, board member, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1, 2, 4, 5, and 8 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 8 to incorporate by reference the License Renewal Form. Without objection, and with agreement of the agency, the amendments were approved.

831 KAR 1:020. Standards of conduct and complaints.

831 KAR 1:030. Education requirements.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to clarify that proof of a high school diploma or equivalent is required, unless waived pursuant to KRS 330.060(1)(b); and (2) to amend Sections 3, 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.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Maternal and Child Health

902 KAR 4:030. Newborn screening program. Jan Bright, branch manager; Julie Brooks, regulation coordinator; and Andrew Waters, assistant division director, represented the department.

902 KAR 4:035. Cost reimbursement for specialized food products.

State and Local Confinement Facilities

902 KAR 9:010. Environmental health. Erica Brakefield, section supervisor; Jessica Davenport, program evaluator; and Julie Brooks, regulation coordinator, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to add the definition for “tempered water”; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 12, 14, 16, and 17 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Food and Cosmetics

902 KAR 45:120. Inspection and permit fees for recreational vehicle communities, youth camps, and private water supplies. Erica Brakefield, section supervisor; Jessica Davenport, program evaluator; and Julie Brooks, regulation coordinator, represented the department.

Department for Behavioral Health, Developmental and Intellectual Disabilities:
Division of Behavioral Health: Substance Abuse

908 KAR 1:341. Repeal of 908 KAR 001:340. Stephanie Brammer – Barnes, regulation coordinator; Dr. Allen Brenzel, medical director; and Kara Daniel, division director, represented the division.

In response to a question by Co-Chair West, Ms. Daniel stated that the changes represented in these administrative regulations stemmed from the cabinet’s efforts to implement House Bill 124 from the 2018 Regular Session of the General Assembly, which required the cabinet to perform a comprehensive review of standards for substance abuse treatment facilities statewide. The department worked with Medicaid, the cabinet’s Office of Inspector General, and the Office of Drug Control Policy to develop these revised standards. These changes updated requirements, streamlined licensure, incorporated national standards, and made revisions for the purposes of improving quality of patient care.

908 KAR 1:370. Licensing procedures, fees, and general requirements for nonhospital-based alcohol and other drug treatment entities.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to make conforming changes stemming from a deletion made in the Amended After Comments version that removed differing survey requirements between accredited and non-accredited AODEs; and (2) to amend Section 18 to clarify a provision concerning the biopsychosocial assessment. Without objection, and with agreement of the agency, the amendments were approved.

908 KAR 1:372. Licensure of residential alcohol and other drug treatment entities.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to state that the food requirements apply only to a facility that prepares meals on-site for a client and do not apply to a facility where clients prepare their own meals on-site or are otherwise responsible for their meals; (2) to amend Section 5 to specify that a residential transitional living program shall ensure that each client participates for a minimum of five (5) hours per week in counseling and planned clinical program activities, with counseling comprising at least two (2) hours; and (3) to amend Section 8 to: (a) require all residential AODE programs to have at least one (1) shower or tub per fifteen (15) clients; and (b) to make a technical correction. Without objection, and with agreement of the agency, the amendments were approved.

Substance Abuse

908 KAR 1:374. Licensure of nonhospital-based outpatient alcohol and other drug treatment entities.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 1 through 8 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend Section 7 to establish waiver criteria; and (3) to amend Section 4 to clarify that if clients prepare their own meals on-site or are otherwise responsible for their meals, a food service permit shall not be required. Without objection, and with agreement of the agency, the amendments were approved.

Department for Income Support: Division of Child Support Enforcement: Family Support

921 KAR 1:380. Child support enforcement program application and intergovernmental process. Bryan Hubbard, commissioner, represented the division.

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

Department for Community Based Services: Child Welfare

922 KAR 1:510. Authorization for disclosure of protection and permanency records. Erika Bauford, section supervisor, and Sarah Cooper, staff assistant, represented the department.

A motion was made and seconded to approve the following amendments: to amend Section 4 to revise the authorization form to: (1) include the agency's mailing address; and (2) require form completion and submission within ten (10) days. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred or removed from the July 10, 2019, subcommittee agenda:

STATE BOARD OF ELECTIONS: Forms and Procedures
31 KAR 4:120. Additional and emergency precinct officers.

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

103 KAR 15:050. Filing dates and extensions.

Office of Financial Management: State Investment Commission

200 KAR 14:201. Repeal of 200 KAR 14:200.

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 2:095. Pharmacist interns.

201 KAR 2:165. Transfer of prescription information.

201 KAR 2:310. Compounding for a veterinarian's office or institutional administration for veterinary use.

Board of Dentistry

201 KAR 8:581. Charity dental practices.

Board of Social Work

201 KAR 23:150. Complaint procedure, disciplinary action, and reconsideration.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental
Protection: Division of Water: Water Quality

401 KAR 5:010. Operation of wastewater systems by certified operators.

Water Quality Certification

401 KAR 8:030. Water treatment plant and water distribution system classification and staffing.

401 KAR 8:050. Drinking water program fees.

Certified Operators

401 KAR 11:001. Definitions for 401 KAR Chapter 11.

401 KAR 11:030. Wastewater treatment and collection system operators; classification and qualifications.

401 KAR 11:040. Water treatment and distribution system operators; classification and qualifications.

401 KAR 11:050. Operator and training provider certification.

401 KAR 11:060. Operator and training provider certification fees.

Department for Natural Resources: Division of Mine Permits: Bond and Insurance Requirements

405 KAR 10:001. Definitions for 405 KAR Chapter 10.

405 KAR 10:015. General bonding provisions.

JUSTICE AND PUBLIC SAFETY CABINET: Asset Forfeiture

500 KAR 9:011. Repeal of 500 KAR 9:010, 500 KAR 9:020, 500 KAR 9:030, and 500 KAR 9:040.

Motorcycle Safety Education Commission: Motorcycle Safety

500 KAR 15:010 & E. Motorcycle safety education program.

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

601 KAR 2:030 & E. Ignition interlock.

PUBLIC PROTECTION CABINET: Department of Insurance: Agents, Consultants, Solicitors, and Adjustors

806 KAR 9:001. Prelicensing courses of study.

806 KAR 9:020. False or deceptive names, titles, prohibited.

806 KAR 9:030. Adjuster licensing restrictions.

Agents, Consultants, Solicitors, and Adjustors

806 KAR 9:061. Repeal of 806 KAR 9:060.

806 KAR 9:070. Examinations.

806 KAR 9:110. Agent's rights after contract termination.

806 KAR 9:190. Disclosure requirements for financial institutions authorized to engage in insurance agency activities.

806 KAR 9:200. Volume of insurance agent exchange of business.

806 KAR 9:310. Life settlement licenses.

806 KAR 9:321. Repeal of 806 KAR 9:320.

806 KAR 9:341. Repeal of 806 KAR 9:341.

806 KAR 9:350. Recognition of financial planning certification and designation for receipt of fees and commissions.

Life Insurance and Annuity Contracts

806 KAR 15:081. Repeal of 806 KAR 15:080.

LABOR CABINET: Department of Financial Institutions: Administration

808 KAR 1:180. Use of special restricted funds.

CABINET FOR HEALTH AND FAMILY SERVICES: Division of Epidemiology and Health Planning: Communicable Diseases

902 KAR 2:070. Rabies control.

Public Accommodations

902 KAR 7:010. Hotel and motel code.

Division of Public Health Protection and Safety: Mobile Homes and Recreational Vehicles Parks; Facilities Standards

902 KAR 15:010. Manufactured and mobile homes.

Office of Inspector General: Division of Healthcare: Health Services and Facilities

902 KAR 20:036. Operation and services; personal care homes.

Food and Cosmetics

902 KAR 45:065. Tattooing.

Food and Cosmetics

902 KAR 45:070. Body piercing and ear piercing.

902 KAR 45:075. Tanning facilities.

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

907 KAR 1:604 & E. Recipient cost-sharing.

Department for Aging and Independent Living: Division of Guardianship: Guardianship

910 KAR 2:020. Referral process for adult guardianship.

Department for Aging and Independent Living: Division of Guardianship: Guardianship

910 KAR 2:040. Service provisions for adult guardianship.

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

922 KAR 1:310 & E. Standards for child-placing agencies.

Child Welfare

922 KAR 1:350 & E. Requirements for public child welfare agency foster parents, adoptive parents, and respite care providers.

922 KAR 1:470. Central registry.

922 KAR 1:495 & E. Training requirements for foster parents, adoptive parents, and respite care providers for children in the custody of the cabinet.

The subcommittee adjourned at 11:10 a.m. The date, time, and room for the August subcommittee are pending.