

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the August Meeting

August 11, 2020

Call to Order and Roll Call

The August meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, August 11, 2020, at 1:00 PM, in Room 171 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 Alice Forgy Kerr and Reginald Thomas; Representatives Deanna Frazier, Mary Lou Marzian, and Tommy Turner.

Guests: Travis Mayo, Office of the Governor; Travis Powell, Council on Postsecondary Education; Dennis Shepherd, Department of Veteran Affairs; Kevin Winstead, Board of Licensure for Long-Term Care Administrators; Morgan Ransdell, Board of Nursing; Benjamin Long, Jacob Walbourn, Office of the Secretary; Bob Swisher, Dale Hamblin, Department of Workers Claims'; Lisa Lee, Jonathan Scott, Department for Medicaid Services; Laura Begin, Department for Community Based Services.

LRC Staff: Stacy Auterson, Emily Caudill, Ange Darnell, Emily Harkenrider, Karen Howard, Carrie Nichols, and Christy Young.

The Administrative Regulation Review Subcommittee met on Tuesday, August 11, 2020, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

GOVERNOR'S OFFICE: Legal Actions

10 KAR 1:011 & E. Defense of employees. Travis Mayo, chief deputy general counsel, represented the Governor's Office.

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

COUNCIL ON POSTSECONDARY EDUCATION: Nonpublic Colleges

13 KAR 1:050. Licensed out-of-state college's eligibility for Kentucky tuition grant. Travis Powell, vice president and general counsel, represented the council.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 4, 6, 7, and 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.

GOVERNOR'S OFFICE: Department of Veterans' Affairs: Tuition Wavier Program

17 KAR 1:030. Nurse Loan Repayment Program. Mark Bowman, executive director, and Dennis Shepherd, general counsel, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2, 3, and 5 through 7 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 2 to include requirements that were established through the material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

BOARDS AND COMMISSIONS: Board of Licensure for Long-Term Care Administrators

201 KAR 6:100. Per Diem compensation of board members. Kevin Winstead, general counsel, represented the board.

Board of Nursing

201 KAR 20:065. Professional standards for prescribing Buprenorphine-Mono Product or Buprenorphine-Combined-with-Naloxone by APRNs for medication assisted treatment for opioid use disorder. Morgan Ransdell, general counsel, represented the board.

In response to questions by Co-Chair Hale, Mr. Ransdell stated that APRN prescribing standards for the use of Buprenorphine-Mono Product and Buprenorphine-Combined-with-Naloxone by patients with opioid abuse disorder were as established by the Substance Abuse and Mental Health Services Administration (SAMHSA). APRNs were also required to be DEA registered (Data 2000 Waiver). DEA registration was not renewed annually; however, individual long-term patients continuing to be treated with Buprenorphine-Mono Product or Buprenorphine-Combined-with-Naloxone were required to be consulted no less than every ninety (90) days and annually.

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

201 KAR 20:110. Licensure by endorsement.

201 KAR 20:411. Sexual Assault Nurse Examiner Program standards and credential requirements.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, and 7 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: Team Kentucky Fund

800 KAR 1:010E. Team Kentucky Fund. Benjamin Long, general counsel, and Jacob Walbourn, deputy general counsel, represented the cabinet.

In response to a question by Representative Marzian, Mr. Walbourn stated that this administrative regulation represented the coronavirus (Covid 19) relief emergency fund. As of the morning of August 11, 2020, the fund had raised \$3,526,767.

In response to questions by Co-Chair Hale, Mr. Walbourn stated that this administrative regulation established four (4) criteria for receiving relief from the fund, including: Kentucky residency; employment as of March 6, 2020; coronavirus (Covid 19)-related unemployment or salary reduction of at least fifty (50) percent of gross salary; and household income at or below 400 percent of federal poverty guidelines. The fund included a mechanism to provide relief to qualified nonprofit organizations that assisted with housing or food insecurity. Thus far, individual applicants had received relief from the fund, but there had not been relief for any qualified non-profit organizations yet. The relief was not distributed monetarily. The fund's partner, Community Action Kentucky, distributed vouchers from the fund for housing, food, and related daily living needs. Approximately \$720,000 had been distributed through the program since its inception.

LABOR CABINET: Department of Workers' Claims

803 KAR 25:010. Procedure for adjustments of claims. Dale Hamblin, Jr., assistant general counsel, and Bob Swisher, commissioner, represented the department.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 7, 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.

803 KAR 25:070. Charges for attorneys.

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.

803 KAR 25:075. Attorney fee discount.

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.

803 KAR 25:096. Selection of physicians, treatment plans and statements for medical services.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 6, and 8 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 Services: Payment and Services

907 KAR 3:300 & E. Enhanced and suspended Medicaid services and requirements if there is a declared national or state emergency. Lisa Lee, commissioner, and Jonathan Scott, regulatory and legislative advisor, represented the division.

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

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

922 KAR 1:490E. Background checks for foster and adoptive parents, caretaker relatives, kinship caregivers, fictive kin, and reporting requirements. Laura Begin, regulation coordinator, and Mary Carpenter, assistant director, represented the division.

The following administrative regulations were deferred or removed from the August 11, 2020, subcommittee agenda:

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 2:050. Licenses and permits; fees.

201 KAR 2:311. Compounding for veterinary use.

Board of Nursing

201 KAR 20:225E. Reinstatement of license.

201 KAR 20:320. Standards for curriculum of prelicensure registered nurse and practical nurse programs.

201 KAR 20:470E. Dialysis technician credentialing requirements and training program standards.

Real Estate Appraisers

201 KAR 30:130. Education provider, instructor, and course.

Board of Licensure of Marriage and Family Therapists

201 KAR 32:110 & E. Telehealth.

Board of Medical Imaging and Radiation Therapy

201 KAR 46:010. Definitions for 201 KAR Chapter 046.

201 KAR 46:035. Practice standards, scopes of practice, and ethical standards.

201 KAR 46:040. Medical imaging technologist, advanced imaging professional, radiographer, nuclear medicine technologist, and radiation therapist licenses.

201 KAR 46:050. Provisional training license for medical imaging technologists, radiographers, nuclear medicine technologists, and radiation therapists.

201 KAR 46:060. Continuing education requirements.

201 KAR 46:070. Violations and enforcement.

201 KAR 46:081. Limited X-Ray machine operator.

201 KAR 46:100. Medical Imaging and Radiation Therapy Scholarship and Continuing Education Fund.

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

501 KAR 6:120. Blackburn Correctional Complex.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Department for Libraries and Archives: Division of Library Services: Libraries

725 KAR 2:060. Certification of public librarians.

725 KAR 2:070. Certification renewal of public librarians.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: Division of Certificate of Need: State Health Plan

900 KAR 5:020. State Health Plan for facilities and services.

Division of Health Care: Health Services and Facilities

902 KAR 20:160. Chemical dependency treatment services and facility specifications.

902 KAR 20:440. Facilities specifications, operation and services; residential crisis stabilization units.

Department for Public Health: Division of Maternal and Child Health: Kentucky Early Intervention System

902 KAR 30:010E. Enhanced early intervention services in response to declared national or state public health emergency.

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

907 KAR 1:604 & E. Recipient cost-sharing. Lisa Lee, commissioner, and Jonathan Scott, regulatory and legislative advisor, represented the division.

In response to a question by Co-Chair Hale, Ms. Lee stated that the division agreed to defer consideration of this administrative regulation to the September subcommittee meeting. A motion was made and seconded to defer. Without objection, and with agreement of the agency, this administrative regulation was deferred.

Division of Policy and Operations: Behavioral Health

907 KAR 15:070. Coverage provisions and requirements regarding services provided by residential crisis stabilization units.

907 KAR 15:080. Coverage provisions and requirements regarding chemical dependency treatment center services.

Department for Community Based Services: Division of Protection and Permanency: Rape Crisis Centers

922 KAR 8:010. Standards for rape crisis centers.

The subcommittee adjourned at 1:35 p.m. The next meeting of the subcommittee is tentatively scheduled for September 8, 2020, at 1 p.m.