

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the January Meeting

January 13, 2021

Call to Order and Roll Call

The January meeting of the Administrative Regulation Review Subcommittee was held on Wednesday, January 13, 2021, at 8:00 AM, in Room 149 of the Capitol Annex. Senator Stephen West, 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 Julie Raque Adams, Alice Forgy Kerr, and David Yates; Representatives Randy Bridges, Deanna Frazier, and Mary Lou Marzian.

Guests: Leanne Diakov, Board of Medical Licensure; Larry Brandstetter, Cordelia Harbut, Stephanie McCrery, Ann-Tyler Morgan, Board of Architects; Todd Allen, Robin Chandler, David Cook, David Couch, Matthew Courtney, Kelly Foster, Denise Hartsfield, Lisa Moore, Marty Park, Micki Ray, Matt Ross, Department of Education; DJ Wasson, Department of Insurance; Jamie Eads, Marc Guilfoil, Chad Thompson, Jennifer Wolsing, Horse Racing Commission; Max Fuller, Benjamin Siegel, Department of Housing, Buildings, and Construction; Julie Brooks, Department for Public Health; Lee Guice, Lisa Lee, Jonathan Scott, Department for Medicaid Services; Victoria Elridge, Amy Metzger, Marnie Mountjoy, Phyllis Sosa, Tonia Wells, Department for Aging and Independent Living; Laura Begin, Donna Little, Paula Saenz; Department for Community Based Services; Robert Heleringer, Attorney.

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

The Administrative Regulation Review Subcommittee met on Wednesday, January 13, 2021, and submits this report:

The subcommittee determined that the following administrative regulation was deficient pursuant to KRS 13A.030(2)(a):

PUBLIC PROTECTION CABINET: Horse Racing Commission: Licensing
810 KAR 3:020. Licensing of racing participants. Jamie Eads, deputy executive director; Marc Guilfoil, executive director; Chad Thompson, deputy general counsel; and Jennifer Wolsing, general counsel, represented the commission. Robert Heleringer,

attorney and former Kentucky Representative, appeared in opposition to this administrative regulation.

In response to a question by Co-Chair West, Ms. Wolsing stated that this administrative regulation protected the horse-racing industry from insolvent or recalcitrant debtors, especially regarding cases of complaints brought to the attention of the commission after unappealable final judgments. A prior court determination concluded that this administrative regulation only applied to licensee debts payable to other commission-licensed entities. Almost 50 percent of complaints regarding financial irresponsibility were complaints regarding debts payable to nonlicensed entities. Prior to the court's determination, the commission interpreted financial responsibility provisions in this administrative regulation as applying to licensees with debts payable to licensed or nonlicensed, horse-racing industry related entities. This administrative regulation represented a rewrite of provisions to clarify that provisions applied to licensed and nonlicensed, horse-racing industry related entities. The proposed agency amendment to this administrative regulation should remedy past concerns of the subcommittee by specifically listing the nonlicensed entities to be included as those to whom a licensee could be indebted and included in a complaint to the commission.

In response to a question by Co-Chair West, Mr. Heleringer stated that he was opposed to this administrative regulation, which represented a huge expansion of the commission's authority. While this administrative regulation pertained to a former client, Mr. Heleringer was not appearing on behalf of any client. The proposed agency amendment did not remedy concerns that this administrative regulation vastly expanded the commission's scope of enforcement beyond what was statutorily authorized. This was an attempt to circumvent the court's determination. Because the list in the proposed agency amendment included the words, "such as," the list was not exhaustive and represented only examples. Financial disputes between the commission's licensees were the only matters that were appropriate for considerations of financial responsibility.

In response to a question by Co-Chair West, Ms. Wolsing stated that this administrative regulation did not represent an expansion of the commission's authority. If a licensee had a debt with a nonlicensed, horse-racing industry related entity, that debt should be able to be included in matters pertaining to financial irresponsibility, and the commission should be able to take appropriate action. The list of entities in the proposed agency amendment was limited to those entities listed or similar entities in the horse-racing industry. The commission was not retaliating and was cleaning up this administrative regulation to support the agency's original intent.

In response to a question by Co-Chair West, Mr. Heleringer stated that, while the commission had stated that it was not retaliating, this administrative regulation would provide for the possibility of retribution to his former client. The commission should seek

legislation that specifically established this authority. This administrative regulation would put the commission in the collections business and might result in significant litigation.

Co-Chair Hale stated that this subcommittee had considered this administrative regulation at three subcommittee meetings, but none of the agency's proposed amendments had alleviated concerns.

Representative Bridges stated that this administrative regulation gave very broad authority to the commission. The nonlicensed entities listed were only examples; therefore, the list was not exhaustive or specific.

Co-Chair West stated that there were multiple red flags related to this administrative regulation. Did this administrative regulation reflect legislative intent? Was this matter legislative or regulatory? Did this constitute special legislation? Were these requirements aimed at one individual? This seemed to constitute a major change to the commission's authority. This might also be an expansion of the court process in that a debtor, after a final judgment, could face additional action (a second penalty). Will this administrative regulation be applied equally to large and small breeders?

In response to a question by Co-Chair West, Mr. Heleringer stated that he agreed with Co-Chair West's concerns. These provisions could still apply even if payments were being made toward a final judgment. This could result in a loss of occupational income for someone who already had unpaid debt obligations. This was an attempt to circumvent the court's determination. There was the potential for selective enforcement of these provisions. Expressed statutory authority was necessary.

In response to a question by Co-Chair West, Ms. Wolsing stated that this administrative regulation was not special legislation and was not a mechanism for retaliation. The commission had never failed to act upon a verified case of financial irresponsibility, regardless of the influence of the licensee. This was not selective enforcement, and there was no provision for selective enforcement in this administrative regulation. This was not an expansion of the court process. This was a clarification of the procedures the commission had followed for years. The commission did not expect an increase in litigation as a result of this administrative regulation. Mr. Thompson stated that there was no retaliatory intention toward Mr. Heleringer's former client, but that this represented a clarification of procedures resulting from the court's determination in that case. In that case, the debtor was actively subverting the restitution process, which would be an appropriate matter for action by the commission. In that case, Mr. Heleringer's former client was not acting in good faith and had attempted to gain licensure through his wife's application for a license after he was denied. In response, Mr. Heleringer stated that was a misrepresentation of the situation, which further supported the assertion that this was retaliatory on the part of the commission. In response, Mr. Thompson stated that there was no retaliatory intent.

In response to a question by Co-Chair West, Mr. Guilfoil stated that he had previously served as a steward in the horse-racing industry and had addressed these sorts of issues in that capacity. This administrative regulation represented a codification of those procedures at the commission level. Most matters of this type were successfully addressed at the steward level. There was no retaliatory intent pertaining to this administrative regulation.

In response to a question by Co-Chair West, Mr. Heleringer agreed that most debts between licensees were handled by the stewards without full action of the commission. This new version of this administrative regulation was more than a codification of steward procedures but was a significant expansion, which would involve more than disputes between commission licensees.

Senator Yates stated that sometimes powerful entities found ways to use administrative regulations to their advantage. There might be unintended consequences of these provisions. For example, could a mortgage company use this as a way to seek payment? It was necessary to protect the industry, but this administrative regulation might represent an expansion that would give undue advantage to the powerful. The commission should attempt to more narrowly tailor these provisions.

Co-Chair West made a motion, seconded by Representative Frazier, to find this administrative regulation deficient. A roll call vote was conducted, and it was determined that this administrative regulation was found deficient.

As a procedural precaution, Co-Chair West withdrew his motion, and Representative Frazier withdrew her second to find this administrative regulation deficient. Co-Chair West made a motion, seconded by Co-Chair Hale, to find this administrative regulation deficient. A roll call vote was conducted. With five present members voting in support of the motion and two members appearing in their districts via videoconference voting in support of the motion, the motion was approved. This administrative regulation was found deficient.

Compiler's Note: Pursuant to KRS 13A.335(3)(a), a new Section 25 was added to this administrative regulation to reflect the finding of deficiency.

Administrative Regulations Reviewed by this Subcommittee:

BOARDS AND COMMISSIONS: Board of Medical Licensure

201 KAR 9:081. Disciplinary proceedings. Leanne Diakov, general counsel, represented the board.

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, 2, 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.

Board of Architects

201 KAR 19:215. Accredited schools and colleges. Larry Brandstetter, board member; Cordelia Harbut, executive director; Stephanie McCrery, president; and Anne-Tyler Morgan, attorney, represented the board.

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 19:220. Application for examination.

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

201 KAR 19:225. Examinations required; general provisions.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 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 19:230. Reexamination; reconsideration.

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.

201 KAR 19:235. Reciprocity; registration without examination.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 3 to comply with the drafting requirements of KRS Chapter 13A; and (2) to add Section 4 to establish material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 19:240. Resident licensed in another state; reciprocity.

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.

201 KAR 19:245. Duplicate certificates.

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.

201 KAR 19:250. Temporary licensing not permitted.

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.

201 KAR 19:255. Fees.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to delete fees relating to the failure to notify the board of a change in information and for duplicate documents; (2) to amend Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A; (3) to amend Section 2 to: (a) clarify methods of payment to include payments by debit and credit card; and (b) delete the requirement for a check to be certified; and (4) to add Section 4 to establish material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 19:260. Professional practice standards; violations, penalties.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 5 to comply with the drafting requirements of KRS

Chapter 13A; and (2) to add Section 7 to establish provisions for advertising through the Internet or other electronic means. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 19:265. Individual seals; office titles.

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

201 KAR 19:270. Plans and specifications standards.

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.

201 KAR 19:275. Use of title “architect”.

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.

201 KAR 19:410. Accredited schools and colleges for certified interior designers.

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.

201 KAR 19:415. Application for certification as an interior designer.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 2 to update material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 19:420. Qualifications for certification.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 3, and 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 19:425. Limited period of certification by prior experience.

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.

201 KAR 19:430. Certification by persons credentialed in other jurisdictions.

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

201 KAR 19:435. Certification renewal.

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 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to add Section 3 to establish material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 19:440. Fees for certification of interior designers.

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.

201 KAR 19:445. Continuing education.

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 4 and 6 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 6 to update material incorporated by

reference. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 19:450. Signature of documents by certified interior designers; use of title.

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

201 KAR 19:455. Unprofessional conduct.

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

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

701 KAR 5:150. Nontraditional instruction program. Todd Allen, general counsel, represented the department.

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

General Administration

702 KAR 1:190E. District employee emergency leave.

In response to questions by Co-Chair Hale, Mr. Allen stated that this emergency administrative regulation provided school districts with the option for paid emergency leave related to the coronavirus (COVID-19) pandemic. Senate Bill 177 from the 2020 Regular Session of the General Assembly had these same provisions, but those provisions had expired. School districts were consulted, and the department received one public comment, which was in support of this emergency administrative regulation.

Facilities Management

702 KAR 4:090. Property disposal.

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

Office of Instruction

704 KAR 3:035. Annual professional development plan.

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

704 KAR 3:305. Minimum requirements for high school graduation.

A motion was made and seconded to approve the following amendments: to amend Sections 3, 4, and 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

704 KAR 3:325. Effective Instructional Leadership Act.

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.

Academic Standards

704 KAR 8:100. Kentucky Academic Standards for Library Media Elective.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph 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: Administration

806 KAR 2:095. Accounting and reporting requirements for collecting local government premium tax. DJ Wasson, deputy commissioner, represented the department.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 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.

Surplus Lines

806 KAR 10:030. Surplus lines reporting and tax payment structure.

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

Trade Practices and Frauds

806 KAR 12:010. Advertising.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 20 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 12:020. Fair disclosure to consumers.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 7 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 12:150. Annuity disclosures.

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

806 KAR 12:180. Military sales practices.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 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.

Rates and Rating Organizations

806 KAR 13:020. Excess rates; consent form.

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

Health Maintenance Organizations

806 KAR 38:100. Risk-based capital for health organizations.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 6 and 8 through 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Insurance Fraud

806 KAR 47:010. Fraud prevention.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 3, 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.

PUBLIC PROTECTION CABINET: Horse Racing Commission: Licensing: Quarter Horse, Paint Horse, Appaloosa, and Arabian Racing

811 KAR 2:120. Kentucky Horse Breeders' Incentive Fund. Jamie Eads, deputy executive director; Marc Guilfoil, executive director; Chad Thompson, deputy general counsel; and Jennifer Wolsing, general counsel, represented the commission.

In response to a question by Co-Chair West, Ms. Wolsing stated that this administrative regulation was initially being amended to make technical corrections to prevent sunset of these provisions. After notification, meetings with stakeholders, and an informal public hearing with a Statement of Consideration, the commission developed the

proposed agency amendments, which primarily provided for independent certification of the number of horses of a given breed. If a Kentucky affiliate was unable to find an independent third party, commission staff were able to perform the certification at a fee of \$120 per hour. Additionally, for a horse to be included in the certification, the horse had to be the offspring of a DNA-verified sire or dam, with a three generation pedigree on either side of parentage.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to add a definition for “show horse”; (2) to amend Section 2 to require: (a) Kentucky affiliates to have an IRS 501(c) designation; (b) one (1) member of the advisory committee to have established knowledge of gaited horses; (c) re-registration of Kentucky affiliates; (d) a Kentucky affiliate who is the national breed organization to obtain certification by an independent third party, or by the commission at a fee of \$120 per hour; (e) certified horses to have parentage verified by DNA; and (f) certification data to be provided to the commission electronically; (3) to amend Section 3 to require: (a) the commission to notify the Kentucky affiliate of the total dollars allocated to that affiliate; (b) a Kentucky affiliate to notify the commission of the names of incentive winners, the horses registered to that affiliate, and the date of each registration; (c) the commission to generate claim forms within 30 days of notification; (d) a Kentucky affiliate to provide the forms to its incentive winners and to certify that the required notification has occurred; (4) to amend Section 4 to require the semiannual report to include a list of all horses registered, current board members, and current contact information; and (5) to amend Section 6 to allow the commission to bar registration for violations from one to twenty years based on the severity and repetition of violations. Without objection, and with agreement of the agency, the amendments were approved.

Department of Housing, Buildings and Construction: Electrical

815 KAR 35:015. Certification of electrical inspections. Benjamin Siegel, general counsel, represented the department.

A motion was made and seconded to approve the following amendments: to amend Sections 2 through 8 to comply with the drafting and formatting 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: Food and Cosmetics

902 KAR 45:180. Permits and fees for food manufacturing plants, food storage warehouses, salvage processors and distributors, cosmetic manufacturers, and certificate of free sale. Julie Brooks, regulation coordinator, represented the department.

In response to a question by Co-Chair West, Ms. Brooks stated that the proposed agency amendment to this administrative regulation restored the fee structure based on a facility's square footage and the risk level of the food being processed or stored.

Co-Chair West thanked the department for working with stakeholders to come to a consensus regarding this administrative regulation. In response, Co-Chair Hale agreed with Co-Chair West and stated that this was the way the system was intended to work.

A motion was made and seconded to approve the following amendments: to amend Section 3 to revise the fee structure so that fees are based on the facility's square footage and the risk level of the food being processed or stored. Without objection, and with agreement of the agency, the amendments were approved.

Department for Medicaid Services: Payments and Services

907 KAR 3:250. Programs of All-Inclusive Care for the Elderly (PACE). Lisa Lee, commissioner; Lee Guice, director of policy and operations; and Jonathan Scott, regulatory and legislative advisor, represented the department.

Department for Aging and Independent Living: Aging Services

910 KAR 1:151. Repeal of 910 KAR 001:150 and 910 KAR 001:160. Victoria Elridge, commissioner; Amy Metzger, division director; Marnie Mountjoy, assistant director; Phyllis Sosa, staff assistant; and Tonia Wells, division director, represented the department.

Guardianship

910 KAR 2:060. Guardianship Trust Fund.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 4, and 6 through 9 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Community Based Services: Supplemental Nutrition Assistance Program

921 KAR 3:020. Financial requirements. Laura Begin, regulation coordinator; Donna Little, deputy executive director, Office of Legislative and Regulatory Affairs; and Paula Saenz, branch manager, represented the department.

In response to questions by Senator Yates and Co-Chair West, Ms. Begin stated that provisions for SNAP benefits to be terminated after lottery or gambling winnings were included in order to conform with federal guidelines. Ms. Begin stated that SNAP benefits were prohibited from use in purchasing lottery chances. Senator Yates stated his concerns that many with limited means were spending excessive amounts on lottery chances. It was important to educate citizens about this matter.

921 KAR 3:030. Application process.

A motion was made and seconded to approve the following amendments: to amend Section 9 and material incorporated by reference to make technical corrections. Without objection, and with agreement of the agency, the amendments were approved.

921 KAR 3:042. Supplemental Nutrition Assistance Program Employment and Training Program.

Child Welfare

922 KAR 1:500. Educational and training vouchers.

Other Business: Co-Chair West welcomed new subcommittee members, Senator David Yates and Representative Randy Bridges.

The following administrative regulations were deferred or removed from the January 13, 2021, subcommittee agenda:

TRANSPORTATION CABINET: Department of Vehicle Regulation:
Administration

601 KAR 2:231. Repeal of 601 KAR 002:030.

601 KAR 2:232 & E. Kentucky Ignition Interlock Program.

LABOR CABINET: Department of Workers' Claims

803 KAR 25:091. Workers' compensation hospital fee schedule.

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

806 KAR 9:025. Licensing process.

806 KAR 9:360. Pharmacy benefit manager license.

Trade Practices and Frauds

806 KAR 12:120. Suitability in annuity transactions.

Horse Racing Commission: Thoroughbred Racing

810 KAR 1:001. Definitions for 810 KAR Chapter 001.

810 KAR 1:011. Pari-mutuel wagering.

810 KAR 1:120. Exotic wagering.

Harness Racing

811 KAR 1:005. Definitions.

811 KAR 1:125. Pari-mutuel wagering.

811 KAR 1:250. Exotic wagering.

Quarter Horse, Paint Horse, Appaloosa, and Arabian Racing

811 KAR 2:010. Definitions.

811 KAR 2:060. Pari-mutuel wagering.

811 KAR 2:160. Exotic wagering.

Department of Housing, Buildings and Construction: Plumbing

815 KAR 20:150. Inspections and tests. Benjamin Siegel, general counsel, represented the department.

In response to questions by Representative Frazier, Mr. Siegel stated that remote inspections applied mostly to water heaters and a few rough-in inspections. Remote inspections were only conducted at the request of a master plumber after consideration and approval by the department. These provisions were not intended to expire after the coronavirus (COVID-19) pandemic. The department would not authorize a remote inspection if there was a possibility of fraud or a cross-connection between water and sewer lines.

Representative Frazier stated that she had concerns about this administrative regulation because, even for a water heater inspection, there seemed to be the potential for fraud. Representative Frazier made a motion to find this administrative regulation deficient.

In response to a question by Co-Chair West, Representative Frazier withdrew her motion to find this administrative regulation deficient.

In response to a question by Co-Chair West, Mr. Siegel agreed to defer consideration of this administrative regulation to the February 2021 meeting of this subcommittee. A motion was made and seconded to defer consideration of this administrative regulation to the February 2021 meeting of this subcommittee. Without objection, and with agreement of the agency, this administrative regulation was deferred.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: Health Services and Facilities

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

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

Department for Public Health: Food and Cosmetics

902 KAR 45:190. Hemp-derived cannabidiol products and labeling requirements.

Department for Medicaid Services: Behavioral Health

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

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

Department for Community Based Services: Supplemental Nutrition Assistance Program

921 KAR 3:035 & E. Certification process. Laura Begin, regulation coordinator; Donna Little, deputy executive director, Office of Legislative and Regulatory Affairs; and Paula Saenz, branch manager, represented the department.

In response to questions by Co-Chair West, Ms. Begin stated that this administrative regulation lengthened the certification period for SNAP benefits, especially during the

coronavirus (COVID-19) pandemic. Certification errors might have caused SNAP benefits to be terminated inappropriately during a time of food scarcity. This administrative regulation made a conforming amendment to delete a cross-reference citation related to the administrative regulation that allowed a noncustodial parent who owed child support to continue to receive SNAP benefits. That administrative regulation had been found deficient by the Interim Joint Committee on Health, Welfare, and Family Services on September 23, 2020. The intent of the legislature was that noncustodial parents who owed child support were to stop receiving SNAP benefits; however, that administrative regulation, although it had been found deficient, was still effective. This administrative regulation included a citation deletion related to the one found deficient, but was filed prior to the finding of deficiency.

In response to questions by Co-Chair Hale, Ms. Begin stated that she did not readily have information regarding how many new Kentuckians became eligible for SNAP during the coronavirus (COVID-19) pandemic; however, she would provide the subcommittee with that information. Ms. Little stated that this administrative regulation included a deleted cross-reference citation related to the administrative regulation that was found deficient. This administrative regulation was filed prior to the finding of deficiency. Subcommittee staff previously stated that this cross reference could not be corrected via the technical amendment process because it would constitute a substantive change; therefore, this administration had been filed through the standard process to make this correction.

In response to a question by Co-Chair West, Ms. Little stated that the department agreed to defer consideration of this administrative regulation to the February 2021 meeting of the subcommittee.

A motion was made and seconded to approve the following amendments: to amend Section 8 and material incorporated by reference to make technical corrections. Without objection, and with agreement of the agency, the amendments were approved.

A motion was made and seconded to defer consideration of this administrative regulation to the February 2021 meeting. Without objection, and with agreement of the agency, this administrative regulation was deferred.

Department for Community Based Services: Daycare

922 KAR 2:120. Child-care center health and safety standards.

The subcommittee adjourned at 10:15 a.m. The next meeting of this subcommittee is tentatively scheduled for February 8, 2021, at 10 a.m.