

# ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

## Minutes of the October Meeting October 12, 2021

### Call to Order and Roll Call

The October meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, October 12, 2021, at 1:00 PM, 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, Ralph Alvarado, and David Yates; Representatives Randy Bridges, Deanna Frazier, and Mary Lou Marzian.

Guests: Todd Allen and Cassie Trueblood, Education Professional Standards Board; Marc Manley, Office of the Attorney General; Bethany Atkins-Rice, Richard Dobson, and Jessica Johnston, Department of Revenue; Cary B. Bishop and Brian Thomas, Finance and Administration Cabinet; Jeffrey Prather, Board of Nursing; August Pozgay, Board of Chiropractic Examiners, Board of Licensure for Professional Art Therapists, Board of Durable Medical Equipment; Keith Poynter, Board of Physical Therapy; Mike Denney, Jennifer Luhrs, and Ellen Benzing, Kentucky Lottery Corporation; Amy Barker and Kristie Willard, Department of Corrections; Erin Bravo and Anthony Hudgins, Department of Workforce Investment; Chuck Stribling, Robin Maples, Sam Flynn, Erin Bravo, and Kim Perry, Department of Workplace Standards; Abigail Gall, Chad Thompson, and Shaun Orme, Department of Insurance; Linda Birdwell, J.E.B. Pinney, and Ben Bellamy, Public Service Commission; Jason Keller, Charter Company; Dan Rhinehart, AT&T Kentucky; Eric B. Langley, LG&E, Kentucky Utilities, Kentucky Power; Marc Guilfoil, Jennifer Wolsing, and Shan Dutta, Kentucky Horse Racing Commission; Julie Brooks, Jennifer Burt, Amber Agee, and Brian Short, Department for Public Health; Jonathan Scott, Veronica Judy-Cecil, and Fatima Ali, Department for Medicaid Services; Steve Veno and Maria Lewis, Department of Income Support; and Laura Begin, Rachael Ratliff, and Dr. Sarah Vanover, Department for Community Based Services.

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 Tuesday, October 12, 2021, and submits this report:

Administrative Regulations Reviewed by this Subcommittee:

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

16 KAR 2:180. One (1) year conditional certificate. Cassie Trueblood, counsel, represented the board.

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

16 KAR 2:220. Emeritus certificate.

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

16 KAR 2:230. Exception certificate.

16 KAR 3:070. Endorsement for individual intellectual assessment.

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

16 KAR 4:050. Dating of certifications.

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

16 KAR 5:010. Standards for accreditation of educator preparation providers and approval of programs.

A motion was made and seconded to approve the following amendments: to amend Sections 2 through 7, 9 through 11, 15, 16, 18 through 21, and 23 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

DEPARTMENT OF LAW: Office of Civil and Environmental Law: Attorney General

40 KAR 1:040E. Standardized Open Records Request Form. Marc Manley, assistant attorney general, represented the office.

40 KAR 1:040. Standardized Open Records Request Form.

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

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

103 KAR 16:320. Claim of right doctrine. Bethany Atkins-Rice, counsel; Richard Dobson, executive director, Sales and Miscellaneous Taxes; and Jessica Johnston, executive director, Income Taxation, represented the department.

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

103 KAR 16:352. Corporation income taxes policies and circulars.

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

Income Tax; Withholding

103 KAR 18:020. Withholding return adjustment.

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.

103 KAR 18:090. Payroll records.

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.

Sales and Use Tax; Miscellaneous Retailer Occupations

103 KAR 27:050. Sourcing of retail sales by florists.

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

103 KAR 27:150. Repairers and reconditioners of tangible personal property.

In response to questions by Co-Chair Hale, Mr. Dobson stated that this administrative regulation was being amended in response to legislation from 2018. Sales tax was now being expanded to include extended warranties, which affected the repair industry.

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.

103 KAR 27:230. Motor vehicle body shops.

Sales and Use Tax; General Exemptions

103 KAR 30:091. Sales to farmers.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1 and 10 through 14 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 30:120. Machinery for new and expanded industry.

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 3 and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 30:140. Energy and energy-producing fields.

In response to a question by Co-Chair West, Mr. Dobson stated that this administrative regulation affected sales and use practices, while previously only addressed authorization and eligibility.

103 KAR 30:190. Interstate and foreign commerce.

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

103 KAR 30:250. Property used in the publication of newspapers.

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.

FINANCE AND ADMINISTRATION CABINET: State-owned Buildings and Grounds

200 KAR 3:020. Use of state-owned facilities and grounds. Cary Bishop, assistant general counsel, and Brian Thomas, general counsel, represented the cabinet.

In response to questions by Co-Chair West, Mr. Bishop stated that the previous version of this administrative regulation, which was effective prior to the coronavirus (COVID-19) pandemic, prohibited masks except in certain situations. Due to the pandemic, this administrative regulation was being amended to allow, but not require masks. Prohibitions against livestock at state facilities did not include facilities specifically designed for livestock, such as the state fair site. Livestock would be allowed for specific events if a request was submitted. Firearm safety provisions were established, including that long guns shall be carried with the muzzle point up and that handguns shall be holstered with at least two (2) steps of safety. Those with firearms shall not keep a finger on the trigger. Law enforcement already had at least two steps of safety regarding firearms. Bringing livestock, such as a horse, to state property would require a request. Requests were granted from a policy neutral standpoint.

In response to questions by Representative Bridges, Mr. Thomas stated that those who used horses or horse and buggies for transportation generally used public roads, which were not considered part of state facilities. If a horse were on, for example, the Capitol lawn, a request would be required and the owner would need to clean up after the animal and would be responsible for repairs to any damaged state property.

In response to questions by Senator Alvarado, Mr. Thomas stated that this administrative regulation did not have procedures to impound livestock in situations of noncompliance. This administrative regulation required a request for livestock to be on state-owned property unless otherwise exempted. Livestock used for transportation would be differentiated from others. Because this administrative regulation established provisions for state facility visitation, a clarification of this matter would more appropriately be made in 200 KAR 3:010, which established transportation provisions.

In response to a question by Representative Marzian, Mr. Thomas stated that a request to bring livestock to a state facility would include a review of necessary measures, such as cleaning up after an animal. Mr. Bishop stated that this administrative regulation addressed damage related to visiting a state facility.

In response to questions by Co-Chair West, Mr. Bishop stated that Section 3(1)(q) of this administrative regulation established criteria for the approval of a request to bring livestock to state property. Co-Chair West stated that he hoped that this livestock provision was not directed at any specific person.

A motion was made and seconded to approve the following amendments: to amend (1) Section 1 to add a definition for “face covering”; (2) Sections 1 and 2 to: (a) clarify that the Application to Use State Facilities and Grounds shall be for all state property, not just historic, and that it shall be maintained by the Department for Facilities and Support Services; (b) allow state agencies to individualize the form if it is substantially similar and approved by the department; (c) allow the department to delegate authority to review and approve use applications for specific facilities and grounds to a tenant agency of the facility or grounds; (d) specify the Division of Historic Properties shall continue to oversee use of historic properties; and (e) require any delegation to be posted on the department’s Web site; (3) Section 2 to authorize similar delegation for the Rental Application and Lease Agreement; (4) Section 3 to remove the requirement that face coverings worn to prevent disease shall be department provided if they satisfy the components of the new definition; and (5) Sections 1 through 4 and 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.

#### BOARDS AND COMMISSIONS: Board of Nursing

201 KAR 20:057. Scope and standards of practice of advanced practice registered nurses. Jeffrey Prather, general counsel, represented the board.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2, 6, 7, 9, and 11 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

## Board of Chiropractic Examiners

201 KAR 21:035. Seal. August Pozgay, executive advisor, represented the board.

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.

201 KAR 21:054. Emergency orders.

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

201 KAR 21:070. Licensing examination requirements.

201 KAR 21:090. Pre-chiropractic education requirements.

201 KAR 21:100. Minimum standards for recordkeeping or itemized statement.

## Board of Physical Therapy

201 KAR 22:045. Continued competency requirements and procedures. Keith Poynter, general counsel, represented the board.

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.

## Board of Licensure for Professional Art Therapists

201 KAR 34:070. Inactive status. August Pozgay, executive advisor, represented the board.

A motion was made and seconded to approve the following amendments: to amend (1) Section 1 to: (a) clarify that the board shall notify a licensee that the licensee is relieved of the obligation to pay the license renewal fee if the board has granted a request for inactive status; and (b) add language that a licensee shall have thirty (30) days from inactive status denial to pay the license renewal fee; (2) Section 2 to clarify that the two (2) year inactive status period shall begin when the board notifies a licensee that it has granted

inactive status; (3) Section 3 to add a provision that: (a) a two (2) year extension shall be automatically granted if the required paperwork is received; and (b) the licensee shall have thirty (30) days to resubmit a request for inactive status if the extension is denied; (4) Section 5 to clarify that the reactivation of a license shall be effective upon the date listed in the written notification from the board; and (5) Sections 1 through 3, 6, and 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### Board of Durable Medical Equipment

201 KAR 47:010. Home medical equipment and supplier licenses, requirements, and fees. August Pozgay, executive advisor, represented the board.

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

201 KAR 47:030. Compliant and disciplinary process.

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

#### KENTUCKY LOTTERY CORPORATION: Kentucky Lottery Corporation

202 KAR 3:020. Procurement procedures. Ellen Benzing, staff attorney; Mike Denney, assistant general counsel; and Jennifer Luhrs, general counsel, represented the corporation.

In response to questions by Co-Chair West, Mr. Denney stated that the corporation was statutorily authorized to establish independent procurement procedures, which were generally structured in accordance with the Model Procurement Code but tailored for the needs of the corporation. This administrative regulation increased the small purchase limit, pursuant to inflation, from \$20,000 to \$30,000. The corporation was not a direct state agency and operated under the authority of a board of directors.

#### JUSTICE AND PUBLIC SAFETY CABINET: Office of Medical Examiner

500 KAR 12:010. Duplicate records request fee schedule. Amy Barker, assistant general counsel, and Kirstie Willard, division director, represented the cabinet.



In response to questions by Senator Alvarado, Ms. Barker stated that duplicate records were typically related to litigation and media needs. Government agencies received free copies of duplicate records. The fees had not been raised for many years, and copying costs had risen. Senator Alvarado stated that this situation was similar to copying costs for medical providers and that he hoped that the General Assembly would consider for future legislation, fee needs for medical provider copying.

Department of Corrections

501 KAR 2:050. Transfer requests.

501 KAR 2:070. Work release.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Department Of Workforce Investment: Unemployment Insurance

787 KAR 1:010. Application for employer account; reports. Erin Bravo, deputy general counsel, and Anthony Hudgins, deputy executive director, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to correct the link to the Unemployment Self Service Web Portal; and (2) to amend Sections 3 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.

787 KAR 1:020. Change of status; discontinuance of business.

A motion was made and seconded to approve the following amendments: to amend Section 1 to: (a) correct the link to the Unemployment Self Service Web Portal; and (b) comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

787 KAR 1:060. Separation for cause; reports.

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.

787 KAR 1:080. Labor dispute or strike; notification.

787 KAR 1:090. Unemployed worker's reporting requirements.

In response to a question by Co-Chair West, Mr. Hudgins stated that Form UI-480 was being deleted in order to make fraud alerts easier to submit. An email or online claim could now be submitted.

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

787 KAR 1:110. Appeals.

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

787 KAR 1:140. Unemployment insurance fund payments.

787 KAR 1:150. Interstate claimants.

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, 4, 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.

787 KAR 1:210. Employer contribution rates.

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

787 KAR 1:220. Required reports and due dates.

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.

787 KAR 1:260. Voluntary election of coverage.

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 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

787 KAR 1:290. Contract construction rates.

787 KAR 1:300. Successorship.

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.

787 KAR 1:310. Claimant profiling.

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.

LABOR CABINET: Department of Workplace Standards: Occupational Safety and Health

803 KAR 2:325. General industry standards. Robin Maples, occupational safety and health standards specialist, and Chuck Stribling, federal – state coordinator, represented the department.

A motion was made and seconded to approve the following amendments: to amend Section 3(3) to remove standards relating to brakes because they are outdated and no longer publicly available; and (2) to amend the RELATES TO paragraph and Sections 2 through 4 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: Health Insurance Contracts

806 KAR 17:240. Data reporting requirements. Abigail Gall, regulation coordinator; Shaun Orme, executive advisor; and Chad Thompson, general counsel, represented the department.

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 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 17:270. Telehealth claim forms and records.

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 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.

806 KAR 17:280. Registration, utilization review, and internal appeal.

In response to a question by Co-Chair West, Ms. Gall stated that this administrative regulation was unrelated to 803 KAR 25:190. This administrative regulation only applied to health benefit plans.

A motion was made and seconded to approve the following amendments: to amend (1) Section 1 to: (a) add a definition for “health benefit plan”; and (b) use a broader definition for “insurer”; and (2) the RELATES TO paragraph and Sections 1, 2, 4, 6 through 8, and 12 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

806 KAR 17:470. Data reporting to an employer-organized association health benefit plan.

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

ENERGY AND ENVIRONMENT CABINET: Public Service Commission:  
Utilities

807 KAR 5:015. Access and attachments to utility poles and facilities. Ben Bellamy, staff attorney; Linda Birdwell, executive director; and Jeb Pinney, executive advisor, represented the commission. Jason Keller, Charter Company and cable providers, and Eric Langley, utilities companies, appeared in support of this administrative regulation. Daniel

Rhinehart, director AT&T National Regulatory Organization, appeared in opposition to this administrative regulation.

In response to a question by Co-Chair West, Mr. Pinney stated that, as it pertains to issues of pole attachments, Kentucky preempted the Federal Communications Commission (FCC) in 1983. This administrative regulation establishes a comprehensive, uniform system for pole attachments by streamlining processes, establishing deadlines, and providing for cost equity. Pole replacement and overlashing, which is the doubling up of lines, were issues of particular interest to many stakeholders.

In response to a question by Co-Chair West, Mr. Rhinehart stated that this administrative regulation was discriminatory against Incumbent Local Exchange Carriers (ILECs), such as AT&T, and represented as disincentive for the expansion of broadband. This administrative regulation defined “broadband internet provider” so that a provider with a joint use agreement with a utility would not be considered a broadband internet provider and would be governed by less advantageous requirements. AT&T requested two amendments to rectify the problem. AT&T requested that the definition for “new attacher” be amended to make clarifications and remove the exclusion of joint use agreements, and to amend Section 3(7) to correlate rates in the case of joint use agreements with tariff terms.

In response to a question by Co-Chair West, Mr. Langley stated that he represented a group of utility providers that supported this administrative regulation. The Public Service Commission had historically treated parties of joint use agreements differently pertaining to pole attachments, and it was necessary to treat them differently because terms varied significantly, agreements would become unmanageable, and other types of providers might be put at a disadvantage.

In response to a question by Co-Chair West, Mr. Keller stated that, in his capacity with representing many cable providers, Charter Company supported this administrative regulation. Pole attachment provisions were vital in efforts to expand broadband access in Kentucky. Uniform provisions would help the process of expanding broadband be more timely and efficient.

In response to a question by Senator Alvarado, Mr. Pinney stated that it was probably not necessary to define “overlashing” because it was a common term in the industry; however, the commission would take the matter under advisement.

In response to questions by Co-Chair West, Mr. Rhinehart stated that time frames for joint use agreements varied and were often valid for one to five years with automatic renewal options. New rates were developed on a case-by-case basis. Mr. Pinney stated that 21 other states had established pole attacher requirements independently of the FCC. ILECs had been established in Kentucky for many years with successful agreements reached. Mr.

Rhinehart stated that addressing pole attachment complaints was a tedious, expensive, and complex process. ILECs should have just and reasonable rates, as statutorily required.

In response to a question by Co-Chair Hale, Mr. Rhinehart stated that AT&T requested two amendments, including that the definition for “new attacher” be amended to make clarifications and remove the exclusion of joint use agreements, and to amend Section 3(7) to correlate rates in the case of joint use agreements with tariff terms.

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.

**PUBLIC PROTECTION CABINET: Kentucky Horse Racing Commission: Flat and Steeplechase Racing**

810 KAR 4:040. Running of the race. Shaun Dutta, deputy general counsel; Marc Guilfoil, executive director; and Jennifer Wolsing, general counsel, represented the commission.

In response to a question by Co-Chair West, Mr. Wolsing stated that this administrative regulation represented a compromise between the jockey’s guild and legislators regarding the use of riding crops. Specific requirements for how and when a riding crop could be used were established, along with fines and suspension provisions. Riding crops were allowed in the event of an emergency.

A motion was made and seconded to approve the following amendments: to amend Section 15 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: Lead Abatement**

902 KAR 48:010. Definitions for 902 KAR Chapter 48. Amber Agee, compliance and accreditation coordinator; Julie Brooks, regulation coordinator; and Jennifer Burt, branch manager, represented the cabinet.

In response to a question by Senator Alvarado, Ms. Agee stated that lead was a legal product, including in paint if the paint was not intended to be used in areas that children frequented.

902 KAR 48:020. Training and certification requirements for persons who perform lead-hazard detection or abatement.

902 KAR 48:030. Accreditation of training programs and providers of educational programs for individuals who perform lead-hazard detection and abatement.

902 KAR 48:040. Lead-hazard abatement permit fees, permit requirements and procedures, and standards for performing lead-hazard detection and abatement.

#### Department for Medicaid Services: Outpatient Pharmacy Program

907 KAR 23:020E. Reimbursement for outpatient drugs. Fatima Ali, assistant pharmacy director; Veronica Judy-Cecil, deputy commissioner; and Jonathan Scott, regulation coordinator, represented the department.

In response to questions by Co-Chair West, Ms. Judy-Cecil stated that copays would no longer be assessed in accordance with recent legislation.

#### Department for Community Based Services: Family Support

921 KAR 1:400. Establishment, review, and modification of child support and medical support orders. Maria Lewis, assistant director, and Steve Veno, commissioner, 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 through 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### K-TAP, Kentucky Works, Welfare to Work, State Supplementation

921 KAR 2:015. Supplemental programs for persons who are aged, blind, or have a disability. Laura Begin, regulation coordinator; Rachael Ratliff, social services specialist; Dr. Sarah Vanover, division director, represented the program.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 17 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### Supplemental Nutrition Assistance Program

921 KAR 3:060. Administrative disqualification hearings and penalties.

#### Energy Assistance Program/Weatherization

921 KAR 4:116. Low Income Home Energy Assistance Program or “LIHEAP”.

Child Welfare

922 KAR 1:300. Standards for child-caring facilities.

In response to a question by Co-Chair West, Ms. Begin stated that the cabinet received one public comment from the Children’s Alliance. Additionally, the Children’s Alliance requested the changes made by the agency amendment.

A motion was made and seconded to approve the following amendments: to amend (1) Section 3 to: (a) provide an exception to the age requirement for employees of a child-caring facility if there is an agreement between the agency and a college or university to employ students; and (b) delete language that had been added in the Amended After Comments version related to how long an employee shall be removed from direct contact with all children if being investigated for child abuse or neglect, and retaining the original language that the employee removal shall be for the duration of the investigation; and (2) Section 5 to: (a) allow a licensed, qualified health care professional to be consulted by the facility if there is evidence that the child might require medical attention and to provide for a child’s medical needs; and (b) to make clarifications. Without objection, and with agreement of the agency, the amendments were approved.

922 KAR 1:380. Standards for emergency shelter child-caring facilities.

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

922 KAR 1:390. Standards for residential child-caring facilities.

Division of Child Care

922 KAR 2:160E. Child Care Assistance Program.

The following administrative regulations were deferred or removed from the October 12, 2021, subcommittee agenda:

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Education Professional Standards Board: Administrative Certificates**



16 KAR 6:010. Assessment prerequisites for teacher certification.

STATE BOARD OF ELECTIONS: Statewide Voter Registration

31 KAR 3:010. Current address of Kentucky registered voters and distribution of voter registration lists.

Forms and Procedures

31 KAR 4:195E. Consolidation of precincts and precinct election officers.

31 KAR 4:195. Consolidation of precincts and precinct election officers.

31 KAR 004:200E. Chain of custody for records during an election contest.

31 KAR 4:200. Chain of custody for records during an election contest.

Voting

31 KAR 5:025E. Ballot standards and election security.

31 KAR 5:025. Ballot standards and election security.

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

103 KAR 8:090. Classification of property; public service corporations.

Income Tax; Corporations

103 KAR 16:270. Apportionment; receipts factor.

Kentucky Infrastructure Authority

200 KAR 17:110. Guidelines for Kentucky Infrastructure Authority Drinking Water and Wastewater Grant Program.

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

201 KAR 6:020. Other requirements for licensure.

Board of Dentistry

201 KAR 8:520. Fees and fines.

Board of Embalmers and Funeral Directors

201 KAR 15:030E. Fees.

201 KAR 15:030. Fees.

201 KAR 15:040. Examination.

201 KAR 15:050. Apprenticeship and supervision requirements.

201 KAR 15:110. Funeral establishment criteria.

201 KAR 15:125. Surface transportation permit.

Board of Nursing

201 KAR 20:215. Continuing competency requirements.

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

201 KAR 20:471. Repeal of 201 KAR 020:470.

201 KAR 20:472. Initial approval for dialysis technician training programs.

201 KAR 20:474. Continuing approval and periodic evaluation of dialysis technician training programs.

201 KAR 20:476. Dialysis technician credentialing requirements for initial credentialing, renewal, and reinstatement.

201 KAR 20:478. Dialysis technician scope of practice, discipline, and miscellaneous requirements.

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

301 KAR 2:015. Feeding of wildlife.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections

501 KAR 2:020. Definitions for 501 KAR Chapter 2.

501 KAR 2:060. Procedures for housing of Class C and D felons.

TRANSPORTATION CABINET: Department of Highways: Billboards

603 KAR 10:011E. Repeal of 603 KAR 010:002, 010:010, and 010:021.

603 KAR 10:040E. Advertising devices.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of  
Education: General Administration

702 KAR 1:191E. District employee quarantine leave.

School Terms, Attendance, and Operation

702 KAR 7:125E. Pupil attendance.

702 KAR 7:150. Home or hospital instruction.

Office of Learning Support Services

704 KAR 7:121. Repeal of 704 KAR 007:120.

Department for Libraries and Archives: Archives

725 KAR 1:010. Records officers; duties.

725 KAR 1:020. Recording and reproducing public records.

725 KAR 1:025. Transfer of public records.

725 KAR 1:030. Scheduling public records for retention and disposal; procedures.

725 KAR 1:040. Collection and distribution of reports and publications.

725 KAR 1:050. Records management program.

725 KAR 1:061. Records retention schedules; authorized schedules.

Libraries

725 KAR 2:015. Public library facilities construction.

725 KAR 2:080. Interstate Library Compact.

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEMS:  
Commission on Fire Protection Personnel Standards and Education

739 KAR 2:060. Certification and qualifications of fire and emergency services instructors.

LABOR CABINET: Department of Workplace Standards: Labor Standards; Wages and Hours

803 KAR 1:005. Employer - employee relationship.

803 KAR 1:025. Equal pay provisions, meaning and application.

803 KAR 1:060. Overtime pay requirements.

803 KAR 1:063. Trading time.

803 KAR 1:065. Hours worked.

803 KAR 1:066. Recordkeeping requirements.

803 KAR 1:070. Executive, administrative, supervisory or professional employees; salesmen.

803 KAR 1:075. Exclusions from minimum wage and overtime.

803 KAR 1:080. Board, lodging, gratuities and other allowances.

803 KAR 1:090. Workers with disabilities and work activity centers' employee's wages.

Department of Workplace Standards: Occupational Safety and Health

803 KAR 2:330E. Occupational exposure to COVID-19.

Department of Workers' Claims

803 KAR 25:190. Utilization review – Medical Bill Audit – Medical Director – Appeal of Utilization Review Decisions.

PUBLIC PROTECTION CABINET: Department of Insurance: Unauthorized Insurers' Prohibitions, Process and Advertising

806 KAR 11:020. Multiple employer welfare arrangements.

Health Insurance Contracts

806 KAR 17:350. Guaranteed Acceptance Program (GAP) reporting requirements.

Motor Vehicle Repairs (No-fault)

806 KAR 39:070. Proof of motor vehicle insurance.

Department of Housing, Buildings and Construction: Elevator Safety

815 KAR 4:010. Annual inspection of elevators, chairlifts, fixed guideway systems, and platform lifts.

815 KAR 4:025. Permit and inspection fees for new and altered elevators, chairlifts, fixed guideway systems, and platform lifts.

815 KAR 4:027. Reporting incidents involving personal injury or death.

Kentucky Building Code

815 KAR 7:080. Licensing of fire protection sprinkler contractors.

815 KAR 7:110. Criteria for expanded local jurisdiction.

Standards of Safety

815 KAR 10:060. Kentucky standards of safety.

815 KAR 10:070. Consumer fireworks retailer registration and fees.

Plumbing

815 KAR 20:050. Installation permits.

815 KAR 20:195. Medical gas piping installations.

## Hazardous Materials

815 KAR 30:010. LP gas license; financial responsibility required.

815 KAR 30:060. Certification of underground petroleum storage tank contractors.

## CABINET FOR HEALTH AND FAMILY SERVICES: Office of Telehealth Services: Telehealth

900 KAR 12:005E. Telehealth terminology and requirements.

## Sanitation

902 KAR 10:120. Kentucky public swimming and bathing facilities.

902 KAR 10:190. Splash pads operated by local governments.

## Department for Medicaid Services: Outpatient Pharmacy Program

907 KAR 23:020. Reimbursement for outpatient drugs.

## Department for Community Based Services: Division of Child Care

922 KAR 2:160. Child Care Assistance Program.

The subcommittee adjourned at 3:10 p.m. The next meeting of the subcommittee was tentatively scheduled for November 9, 2021, at 1 p.m.