

# **ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE**

## **Minutes of the December Meeting**

**December 9, 2021**

### **Call to Order and Roll Call**

The December meeting of the Administrative Regulation Review Subcommittee was held on Thursday, December 9, 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 Gordon, and Mary Lou Marzian.

Guests: Becky Gilpatrick, Miles Justice, Kentucky Higher Education Assistance Authority; Natalie Cummins, Office of Adult Education; Cassie Trueblood, Education Professional Standards Board; Johnna Ballinger and Michael Wilson, Department of State; Jenni Scutchfield, Office of Secretary of State; Taylor Brown, State Board of Elections; Chris Chamness, Personnel Cabinet; Eden Davis and Larry Hadley, Board of Pharmacy; Kelly Jenkins and Jeffrey Prather, Board of Nursing; Steven Fields, Kentucky Department of Fish and Wildlife Resources; Carrie Bauer, David Beck, Shawn Hensler, and Tony Schreck, Kentucky State Fair Board; Bradley Arterburn, Amy Barker, Brenn Combs, Dana Peacock, Matt Travis, and Jeremy Triplett, Kentucky State Police; Melissa Beck, Deaidra Douglas, Dr. Frank Kubala, John Moberly, and Kevin Rader, Department of Criminal Justice Training; Wayne Burd, Jerame Brown, Michael Dossett, Jon Johnson, Mark McCoy, Larissa Plecha, Ricky Sizemore, and Mike Smith, Department of Highways; Todd Allen and Matt Ross, Department of Education; Lisa Lang, Kentucky State University; Sam Flynn, Dale Hamblin, and Robert Walker, Department of Workers' Claims; Joshua Newton and Allyson Taylor, Alcoholic Beverage Control; Abigail Gall, Shaun Orme, and Chad Thompson, Department of Insurance; Shan Dutta, Marc Guilfoil, Tim Schmitz, and Jennifer Wolsing, Kentucky Horse Racing Commission; Kim Minter, Kelli Rodman, and Donna Venno, Office of Telehealth Services; Julie Brooks, Andrea Flinchum, Bob Ford, and Dr. Steven Stack, Department for Public Health; Steve Bechtel, Lee Guice, Lisa Lee, Amy Richardson, and Jonathan Scott, Department for Medicaid Services; Laura Begin, Department for Community Based Services; Dr. Sarah Hanover, Department for Community Based Services; Sandy Woodall, EC Learn of Kentucky; Melanie Barker, KACCO; Robin Billingsley, self; Dana Bixler, Notebook Learning Center; and Karen Sullivan, Little Angels Child Care.

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 Thursday, December 9, 2021, and submits this report:

The following effective Administrative Regulation was reviewed pursuant to KRS 13A.030(3):

**CABINET FOR HEALTH AND FAMILY SERVICES:** Department for Community Based Services: Protection and Permanency

922 KAR 2:090. Child-care center licensure. Laura Begin, regulation coordinator; Kelli Rodman, executive director; and Dr. Sarah Vanover, division director, represented the department. Sandy Woodall, executive director, EC Learn of Northern Kentucky, appeared in support of this administrative regulation. Melanie Barker, founder of KACCO and owner and director of ABC Children’s Academy; Dana Bixler, owner, Notebook Learning Center; and Karen Sullivan, office manager, Little Angels Child Care, appeared in opposition to this administrative regulation.

In response to a question by Co-Chair West, Ms. Sullivan stated that there had been a misunderstanding among the department, cabinet officials, and providers regarding CPR certification. Some child care providers believed they had obtained the required certification; however, the department’s electronic system was denying the certification approval. Ms. Sullivan requested that the department accept the certification that these providers had received.

In response to a question by Co-Chair West, Ms. Barker stated that certification was being accepted by some and denied by others in the cabinet. She described a timeline of contact with the cabinet in the process of attempting to verify CPR certification. The department allowed a grace period, ending at the conclusion of 2021, to obtain the proper certification. Ms. Barker requested that the grace period be extended until the end of the current certification period. Providers had not been notified of the change of approved certification providers.

In response to questions by Co-Chair West, Ms. Rodman stated that this administrative regulation was previously amended based on federal language. Each provider must have at least one (1) person certified to perform CPR for specific age ranges while children were present at the provider’s facility. The department needed to further investigate this matter in order to comment further. Additionally, there was an ongoing credentialing appeal that limited the department’s ability to comment. Ms. Begin stated that this issue was complicated and that the department had allowed a grace period for

proper credentialing, ending at the conclusion of 2021. The cabinet was able to provide free, cabinet approved certification to ameliorate this situation.

In response to a question by Co-Chair West, Ms. Bixler stated that the timing of this situation was unfortunate. If staff needed to be recertified, even if the certification was free of charge, due to staffing shortages, it would not be practical for staff to be absent from work to obtain the certification.

In response to a question by Co-Chair West, Ms. Woodall stated that this administrative regulation was comprised of best practices to keep children as safe as possible. These were potentially matters of life and death.

In response to a question by Co-Chair West, Ms. Rodman stated that there was a difference between CPR training and CPR certification. Certification involved instruction and the performance of CPR techniques, while training was primarily instruction. Only one (1) person must be certified to perform CPR for specific age ranges while children were present at the provider's facility. Ms. Bixler stated that all staff at her facility were required to be certified in order to provide for absences and other needs. Many facilities required that multiple staff be certified.

In response to a question by Co-Chair West, Ms. Barker stated that the course she was involved with taught high quality infant, pediatric, and adult CPR.

Co-Chair West stated that there seemed to be significant confusion and a communication breakdown. Ms. Rodman agreed that the cabinet would continue to work with stakeholders regarding this matter.

#### Administrative Regulations Reviewed by this Subcommittee:

**KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY: Early Childhood Development Scholarship Program**

11 KAR 16:001. Definitions for 11 KAR Chapter 16. Becky Gilpatrick, director of student aid, and Miles Justice, senior associate counsel, represented the authority.

11 KAR 16:010. Early Childhood Development Scholarship Program applicant selection process.

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Council on Postsecondary Education: Adult Education and Literacy**

13 KAR 3:010. GED Testing Program. Natalie Cummins, GED administrator, represented the council.

In response to a question by Co-Chair Hale, Ms. Cummins stated that the fee increases were an error, which the agency amendment corrected.

In response to questions by Co-Chair West, Ms. Cummins stated that KY Skills U had been moved along with the Council on Postsecondary Education, which was reorganized under the Education and Workforce Development Cabinet.

A motion was made and seconded to approve the following amendments: (1) to establish a new Section 1 to add definitions; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to comply with the drafting requirements of KRS Chapter 13A; and (3) to amend Section 5 to decrease the fees to the original amounts of: (a) ten (10) dollars for processing the duplicate transcript request; and (b) twenty-five (25) dollars to issue the duplicate diploma and transcript. Without objection, and with agreement of the agency, the amendments were approved.

13 KAR 3:020. Provision of instruction for individuals sentenced by a court to participate in educational programs.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 1 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 1 to establish the minimum qualification requirements of instructors. Without objection, and with agreement of the agency, the amendments were approved.

13 KAR 3:030. Qualifications for progressing satisfactorily through a GED preparation program.

A motion was made and seconded to approve the following amendments: (1) to establish a new Section 1 to add definitions; and (2) 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.

13 KAR 3:040. GED Incentives Program.

A motion was made and seconded to approve the following amendments: (1) to establish a new Section 1 to add definitions; (2) 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; and (3) to delete material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

13 KAR 3:050. GED eligibility requirements.

A motion was made and seconded to approve the following amendments: (1) to establish a new Section 1 to add definitions; and (2) 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. Without objection, and with agreement of the agency, the amendments were approved.

13 KAR 3:060. High school equivalency diploma awarded for credit hour completion at Kentucky Community and Technical College Systems institutions.

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

Education Professional Standards Board: Teaching Certificates

16 KAR 2:040. Interdisciplinary early childhood education, birth to primary. Cassie Trueblood, counsel, represented the board.

16 KAR 2:050. Certificates for teachers of exceptional children/communication disorders.

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

Certification Procedures

16 KAR 4:020. Certification requirements for teachers of exceptional children.

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.

SECRETARY OF STATE: Trademarks and Service Marks

30 KAR 3:010. Application for registration of trademarks and service marks. Johnna Ballinger, supervisor, Administrative Section, and Michael Wilson, director, represented the Secretary of State.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 through 6 to comply with the drafting requirements of KRS Chapter 13A; (2) to amend Sections 1 and 2 for consistency with the application form; and (3) to amend Section 6 to revise material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

30 KAR 3:020. Application for renewal of registration.

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

30 KAR 3:030. Classification of goods and services for registration of trademarks and service marks.

#### Address Confidentiality Program

30 KAR 6:011. Kentucky address confidentiality program. Jennifer Scutchfield, Assistant Secretary of State, represented the Secretary of State.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 6 and 11 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### STATE BOARD OF ELECTIONS: Statewide Voter Registration

31 KAR 3:010. Current address of Kentucky registered voters and distribution of voter registration lists. Taylor Brown, general counsel, represented the board.

In response to questions by Co-Chair Hale, Mr. Brown stated that the State Board of Elections typically received one or two requests for voter registration outside of the US. The intention of this amendment was to increase data security.

A motion was made and seconded to approve the following amendments: to amend Section 7 and the material incorporated by reference to: (1) update statutory and regulatory references; (2) delete outdated and unnecessary fields; and (3) comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### Forms and Procedures

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

In response to a question by Senator Alvarado, Mr. Brown stated that 31 KAR 4:195E, 31 KAR 4:200E, and 31 KAR 5:025E were filed on an emergency basis in response to House Bill 574 from the 2021 Regular Session of the General Assembly. These were needed in the event of special elections, of which there were three in 2021.

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

In response to questions by Co-Chair West, Mr. Brown stated that this administrative regulation established each procedure related to chain of custody for election documents. The purpose was to encourage confidence in election security. County election boards and sheriff's offices made comments to further enhance this process; therefore, the State Board of Elections intended to revise these procedures based on those comments in the near future.

Voting

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

PERSONNEL CABINET: Personnel Board, Classified

101 KAR 2:210E. 2022 Plan Year Handbook for the Public Employee Health Insurance Program. Christopher Chamness, staff attorney, represented the board.

101 KAR 2:210. 2022 Plan Year Handbook for the Public Employee Health Insurance Program.

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 2:030. License transfer. Eden Davis, general counsel, and Larry Hadley, executive director, 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 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 2:074. Pharmacy services in hospitals.

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

201 KAR 2:412E. Ordering and administering vaccinations.

In response to questions by Senator Alvarado, Ms. Davis stated that the provisions in this administrative regulation were congruent with federal law. There was immunity from liability pertaining to immunization against coronavirus (COVID-19). The federal law provided for epinephrine administration for anaphylactic reactions to immunization. Mr. Hadley stated that there was no specific protocol for each potential reaction; however, the board would consider adding those provisions.

In response to questions by Co-Chair West, Ms. Davis stated that this administrative regulation did not constitute a blanket immunization authorization. These provisions were for immunization against coronavirus (COVID-19) (with FDA approval or an emergency use authorization) and seasonal flu for individuals aged 19 and older. Physicians already had administration authorization pursuant to their scope of practices under physicians' licensure boards. Children were typically immunized in a physician's office; however, many routine adult immunizations were done at pharmacies.

Board of Nursing

201 KAR 20:215. Continuing competency requirements. Jeffrey Prather, general counsel, represented the board.

In response to a question by Co-Chair West, Mr. Prather stated that the board found "implicit bias" studies that demonstrated that there were different outcomes from treatment affected by individual backgrounds, such as race and social class.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 3, 5, and 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

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



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

301 KAR 6:001. Definitions for 301 KAR Chapter 6. Steven Fields, staff attorney, represented the department.

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

Kentucky State Fair Board: Fairgrounds and Exhibition Center

303 KAR 1:005. Vehicle speed. Carrie Bauer, 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 Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

303 KAR 1:010. Vehicle parking.

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.

303 KAR 1:015. Traffic flow.

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.

303 KAR 1:075. Conduct and operation of concessions and exhibits.

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

303 KAR 1:080. Exposition Center, grounds; dissemination of material; demonstrations.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to make clarifications; (2) to add a new Section 2 to establish that these requirements shall not apply during the annual Kentucky State Fair, in accordance with 303 KAR 1:100; (3) to add a new Section 3 to incorporate by reference the diagram of the Fair Grounds and Exposition Center and the Activity Permit Application; and (4) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

303 KAR 1:090. Exhibition Center, dissemination of material; demonstrations.

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

303 KAR 1:100. Exposition Center, grounds; sales and dissemination of real property, fixtures and goods, solicitation of contribution or sales during annual State Fair; rental of space; use of sound amplification equipment.

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

303 KAR 1:110. Procurement procedures.

JUSTICE AND SAFETY CABINET: Department of State Police: Medical Examiner Protocols

502 KAR 12:010. Sexual assault forensic-medical examination protocol. Amy Barker, assistant general counsel, and Jeremy Triplett, forensic lab manager, 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 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.

Automated Fingerprint Identification System

502 KAR 14:010. Provision and maintenance of automated fingerprint identification system equipment and programs in detention centers. Submission of fingerprints by jailers to the Kentucky State Police.

A motion was made and seconded to approve the following amendments: (1) to amend Section 7 to update material incorporated by reference; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 through 4, 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.

#### Polygraph

502 KAR 20:020. Detection of deception examiners.

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

#### Sex Offender Registration System

502 KAR 31:020. Sex Offender Registration System.

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

#### Law Information Network of Kentucky

502 KAR 40:010. Law Information Network of Kentucky.

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.

#### Methamphetamine

502 KAR 47:010. Methamphetamine.

#### Trial Board Proceedings

502 KAR 50:010. Admissibility of evidence.

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

Department of Criminal Justice Training: Kentucky Law Enforcement Council

503 KAR 1:060. Definitions for 503 KAR Chapter 1. Melissa Beck, executive staff advisor, and Deaidra Douglas, assistant general counsel, represented the council.

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

503 KAR 1:080. Certification of schools.

503 KAR 1:090. Approval of course curriculums.

In response to a question by Co-Chair Hale, Ms. Douglas and Ms. Beck stated that course curriculum requirements were the same for Kentucky training facilities as those for out-of-state training facilities.

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

503 KAR 1:100. Certification of instructors.

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

503 KAR 1:110. Department of Criminal Justice Training Basic training: graduation requirements; records.

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

503 KAR 1:120. Professional development in-service training: training requirements; recognized courses; records.

A motion was made and seconded to approve the following amendment: to amend Section 3 to make a technical correction. Without objection, and with agreement of the agency, the amendment was approved.

503 KAR 1:140. Peace officer, telecommunicator, and court security officer professional standards.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 4, 6, 8, 10 through 13, 15, and material incorporated by reference to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

503 KAR 1:170. Career Development Program.

A motion was made and seconded to approve the following amendments: to amend Sections 3, 13 through 17, 25, 26, 28, 29, 31, and 34 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 Training Provision

503 KAR 3:020. Law enforcement training course trainee requirements; misconduct; penalties; discipline procedures.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 5 and 8 through 11 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

503 KAR 3:030. Training charges.

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

503 KAR 3:050. Telecommunications (Public Safety Dispatch) Academy graduation requirements; records.

In response to a question by Co-Chair Hale, Ms. Douglas stated that these academies pertained to informational databases that required specialty training.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 3, 4, 6, 7, and 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

#### Concealed Deadly Weapons

503 KAR 4:010. Definitions for 503 KAR Chapter 4.

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

503 KAR 4:040. Required instructor training.

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 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.

503 KAR 4:050. Required content and conduct of applicant training course.

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

#### Law Enforcement Foundation Program Fund

503 KAR 5:080. Definitions.

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

503 KAR 5:100. Disbursement of salary supplement funds; audits.

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.

#### TRANSPORTATION CABINET: Department of Highways: Maintenance

603 KAR 3:100. Noxious weeds and invasive plants to be eradicated from rights-of-way. Jerame Brown, branch manager; Wayne Burd, assistant director of operations; Jon Johnson, assistant general counsel; Larisa Plecha, staff attorney III; Mark McCoy, engineering assistant; and Ricky Sizemore, branch manager, represented the department.

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.

#### Traffic

603 KAR 5:360. Transportation Cabinet use of interstate and parkway signs to locate missing persons.

In response to questions by Representative Frazier Gordon, Mr. Burd stated that the Amended After Comments version of this administrative regulation added flexibility regarding who could request sign posting related to a missing person. A missing person sign was posted for four hours; however, there was an option to request an extension after four hours. Mr. Johnson stated that leaving a missing person posting too long could mean that other missing person postings would not be possible. Mr. Brown stated that there were less than 40 interstate devices and that a missing person message would go up on all boards.

In response to questions by Co-Chair Hale, Ms. Plecha stated that, after four hours of posting, a request for the posting to continue could be submitted.

Representative Frazier Gordon stated that there should be a way to extend posting before the four hours ends, especially if the posting was during overnight hours.

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

## Billboards

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

603 KAR 10:040E. Advertising devices.

603 KAR 10:040. Advertising devices.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 4, 6, 8, and 9 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**KENTUCKY BOARD OF EDUCATION:** Department of Education: School Terms, Attendance, and Operation

702 KAR 7:125. Pupil attendance. Todd Allen, general counsel, and Matt Ross, executive advisor, represented the department.

In response to questions by Senator Alvarado, Mr. Allen stated that this administrative regulation had been filed as an emergency before the 2021 Special Session of the General Assembly. That session provided funding; therefore, the emergency version was withdrawn. This ordinary administrative regulation remained, due to a data component.

In response to a question by Co-Chair West, Mr. Allen stated that pupil attendance was generally based on the SEEK formula; however, pursuant to Senate Bill 1 from the 2021 Special Session of the General Assembly, attendance was temporarily based on the previous year's data.

**KENTUCKY STATE UNIVERSITY:** Board of Regents

745 KAR 1:035. Procurement procedures. Lisa Lang, general counsel, represented the board.

In response to questions by Co-Chair West, Ms. Lang stated that the purpose of this administrative regulation was to align KSU's procurement procedures with the authorizing statute, which had changed formatting. There was no substantive change to procurement procedures themselves. The authorizing statute that changed formatting applied to all universities.

In response to a question by Representative Frazier Gordon, Ms. Lang stated that she was not prepared to discuss the procurement procedures themselves, but just this administrative regulation.



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

LABOR CABINET: Department of Workers' Claims

803 KAR 25:305E. Workers' compensation expedited hearings pursuant to occupational exposure to COVID-19. Sam Flynn, general counsel; Dale Hamblin, assistant general counsel; and Robert Walker, commissioner, represented the department.

In response to a question by Senator Alvarado, Mr. Walker stated that this administrative regulation was filed as an emergency to comply with an Executive Order that was extended during the 2021 Special Session of the General Assembly and because an ordinary administrative regulation would not be in place in time to expedite hearings.

In response to questions by Co-Chair West, Mr. Walker stated that this administrative regulation was not affected by the liability waiver passed by the General Assembly.

PUBLIC PROTECTION CABINET: Department of Alcoholic Beverage Control:  
Licensing

804 KAR 4:212. In-State Distilled Spirits Supplier License. Joshua Newton, general counsel, and Allyson Taylor, commissioner, 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 3, 7, and 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.

804 KAR 4:251. Special temporary licenses.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 and 3 through 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

804 KAR 4:480. License surrender.

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.

Department of Insurance: Kinds of Insurance; Limits of Risk; Reinsurance

806 KAR 5:025. Credit for reinsurance. 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 paragraph and Sections 1, 3, 5 through 8, 10, 11, 13, 14, and 16 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 Horse Racing Commission: Standardbred Racing

810 KAR 5:030. Claiming races. Shan Dutta, deputy general counsel; Tim Schmitz, Chief Standardbred Judge; and Jennifer Wolsing, general counsel, represented the commission.

810 KAR 5:060. Entries and starters.

810 KAR 5:070. Running of the race.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Communicable Diseases

902 KAR 2:020. Reportable disease surveillance. Julie Brooks, regulation coordinator; Andrea Flinchum, contract supervisor; Kelli Rodman, executive director; and Dr. Steven Stack, commissioner, represented the department.

902 KAR 2:230E. COVID-19 antibody administration center.

902 KAR 2:240E. COVID-19 test acquisition and distribution.

A motion was made and seconded to approve the following amendment: to amend Section 2 to make a correction. Without objection, and with agreement of the agency, the amendment was approved.

902 KAR 2:250E. COVID-19 vaccine storage.

Department for Medicaid Services: Medicaid Services

907 KAR 1:030. Home health agency services. Lisa Lee, deputy commissioner, represented the department.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1 and 11 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 1:604. Cost-sharing prohibited within the Medicaid program

Hospital Services Coverage and Reimbursement

907 KAR 10:815. Per Diem inpatient hospital reimbursement.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1, 17, and 23 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 10:830. Acute care inpatient hospital reimbursement.

Department for Community Based Services: Protection and Permanency

922 KAR 1:565. Service array for a relative or fictive kin caregiver. Laura Begin, regulation coordinator, and Kelli Rodman, executive director, represented the department.

The following administrative regulations were deferred or removed from the December 9, 2021, subcommittee agenda:

DEPARTMENT OF LAW: Medical Examination of Sexual Abuse Victims

40 KAR 3:020. Protocol for operation of local multidisciplinary teams on child sexual abuse.

PERSONNEL CABINET: Personnel Board

101 KAR 1:335. Employee actions.

101 KAR 1:345. Disciplinary actions.

101 KAR 1:365. Appeal and hearing procedures.

101 KAR 1:367. Standards of conduct and technology governing recording board proceedings.

101 KAR 1:375. Employee grievances and complaints.

101 KAR 1:395. Restoration from military duty.

101 KAR 1:400. Promotion.

Kentucky Retirement Systems: General Rules

105 KAR 1:210. Disability procedures.

105 KAR 1:310. Fred Capps Memorial Act.

105 KAR 1:330. Purchase of service credit.

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 2:430. Emergency orders and hearings.

Board of Cosmetology

201 KAR 12:082E. Education requirements and school administration.

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 20:471. 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.

#### Board of Licensure for Massage Therapy

201 KAR 42:010. Goals for massage therapy sessions.

201 KAR 42:020. Fees.

201 KAR 42:030. Licensee's change of name, home address, or place of business.

201 KAR 42:035. Application process, exam, and curriculum requirements.

201 KAR 42:040. Renewal and reinstatement.

201 KAR 42:050. Complaint procedure and disciplinary action.

201 KAR 42:060. Code of ethics and standards of practice for massage therapists.

201 KAR 42:070. Endorsement.

201 KAR 42:110. Continuing education requirements.

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

301 KAR 2:082. Transportation and holding of live exotic wildlife.

#### Hunting and Fishing

301 KAR 3:010. Public use of Wildlife Management Areas.

301 KAR 3:026. Access to Wildlife Management Areas for mobility-impaired individuals.

## Wildlife

301 KAR 4:001. Selection of Fish and Wildlife Resources Commission nominees.

301 KAR 4:010. Districts.

301 KAR 4:020. Ballard Wildlife Management Area restrictions.

301 KAR 4:100. Peabody Wildlife Management Area use requirements and restrictions.

301 KAR 4:110. Administration of drugs to wildlife.

## Licensing

301 KAR 5:001. Definitions for 301 KAR Chapter 5.

301 KAR 5:030. Purchasing licenses and permits.

301 KAR 5:100. Interstate Wildlife Violators Compact.

JUSTICE AND SAFETY CABINET: Department of State Police: Driver Training

502 KAR 10:010. Definitions.

502 KAR 10:020. Department facilities; facility inspection; conflict of interest.

502 KAR 10:030. Instructor's license.

502 KAR 10:035. Commercial driver's license skill testing.

502 KAR 10:040. Training school facilities.

502 KAR 10:050. Contracts and agreements.

502 KAR 10:060. School advertising.

502 KAR 10:070. Training vehicle, annual inspection.

502 KAR 10:080. License suspension, revocation, denial.

502 KAR 10:090. Procedure for denial, suspension, nonrenewal or revocation hearings.

502 KAR 10:110. Third-party CDL skills test examiner standards.

502 KAR 10:120. Hazardous materials endorsement requirements.

#### Concealed Deadly Weapons

502 KAR 11:010. Application for license to carry concealed deadly weapon.

502 KAR 11:060. License denial and reconsideration process.

502 KAR 11:070. License revocation and suspension notice and reinstatement process.

#### Law Enforcement Officers Safety Act of 2004

502 KAR 13:010. Application for certification under the Law Enforcement Officers Safety Act of 2004 (“LEOSA”), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers.

502 KAR 13:030. Range qualification for certification under the Law Enforcement Officers Safety Act of 2004 (“LEOSA”), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers.

502 KAR 13:040. Issuance, expiration, and renewal of certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 (“LEOSA”), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers.

502 KAR 13:050. Replacement of licenses to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 (“LEOSA”), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers.

502 KAR 13:060. Change of personal information regarding certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 (“LEOSA”), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers.

502 KAR 13:080. Incomplete application for certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 (“LEOSA”), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers.

#### General Traffic

502 KAR 15:010. Traffic collision.

502 KAR 15:020. Abandoned vehicles.

#### Criminal History Record Information System

502 KAR 30:010. Criminal History Record Information System.

502 KAR 30:020. Arrest and disposition reporting procedure.

502 KAR 30:030. Audit of Criminal History Record Information System.

502 KAR 30:050. Security of centralized criminal history record information.

502 KAR 30:060. Dissemination of criminal history record information.

502 KAR 30:070. Inspection of criminal history record information by record subject.

#### Kentucky Missing Child Information Center

502 KAR 35:010. Definitions.

502 KAR 35:020. Capabilities of the Missing Child Information Center computer system.

502 KAR 35:030. Quality of information reported to the Kentucky Missing Child Information Center.

502 KAR 35:040. Reporting of missing children by law enforcement agencies.

502 KAR 35:050. Statistical analysis of information related to missing children.

#### Candidate Selection

502 KAR 45:005. Definitions.

502 KAR 45:015. Qualifications.

502 KAR 45:035. Application and selection process.

502 KAR 45:045. Aptitude examination.



502 KAR 45:075. Register.

502 KAR 45:085. Medical examination.

502 KAR 45:105. Appointment.

502 KAR 45:115. Appeals.

502 KAR 45:150. Physical Fitness Test (PFT).

TRANSPORTATION CABINET: Department of Highways: Right-of-way

603 KAR 4:035. Logo sign panels; placement along fully controlled and partially controlled access highways.

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

702 KAR 1:191. District Employee Quarantine Leave.

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 01:040. 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.

Department of Workforce Investment: Office of Vocational Rehabilitation

781 KAR 1:010. Office of Vocational Rehabilitation appeal procedures.

781 KAR 1:020. General provisions for operation of the Office of Vocational Rehabilitation.

781 KAR 1:030. Order of selection and economic need test for vocational rehabilitation services.

781 KAR 1:040. Rehabilitation technology services.

781 KAR 1:050. Carl D. Perkins Vocational Training Center.

Office for the Blind

782 KAR 1:010. Kentucky Business Enterprises.

782 KAR 1:070. Certified driver training program.

Kentucky Commission on Proprietary Education

791 KAR 1:010. Applications, permits, and renewals.

791 KAR 1:020. Standards for licensure.

791 KAR 1:025. Fees.

791 KAR 1:027. School record keeping requirements.

791 KAR 1:030. Procedures for hearings.

791 KAR 1:035. Student protection fund.

791 KAR 1:040. Commercial driver license training school curriculum and refresher course.

791 KAR 1:050. Application for license for commercial driver license training school.

791 KAR 1:060. Application for renewal of license for commercial driver license training school.

791 KAR 1:070. Commercial driver license training school instructor and agency application and renewal procedures.

791 KAR 1:080. Maintenance of student records, schedule of fees charged to students, contracts and agreements involving licensed commercial driver license training schools.

791 KAR 1:100. Standards for Kentucky resident commercial driver training school facilities.

791 KAR 1:150. Bond requirements for agents and schools.

791 KAR 1:155. School closing process.

791 KAR 1:160. Transfer of ownership, change of location, change of name, revision of existing programs.

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.

Labor Standards; Wages and Hours

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.

PUBLIC PROTECTION CABINET: Department of Alcoholic Beverage Control:  
Licensing

804 KAR 4:221. Alternating proprietorship agreements.

Department of Insurance: Health Insurance Contracts

806 KAR 17:350. Life insurance and managed care.

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

900 KAR 12:005. Telehealth terminology and requirements. Kim Minter, staff assistant; Kelli Rodman, executive director; and Donna Veno, division director, represented the office.

In response to questions by Senator Alvarado, Ms. Veno stated protocols for an emergent situation included that a provider obtain the location and contact information for the patient. The provider would then use that information to contact emergency services if necessary. Ms. Rodman stated that to add further specificity to these protocols, the office would need to work in coordination with the appropriate licensure boards.

Senator Alvarado stated that Kentucky was ranked as the highest state in terms of medical liability. This protocol would add further liability concerns for providers and might stifle the use of telehealth. Additionally, there were questions as to exactly what constituted telehealth. For example, would a message left on a provider's voicemail constitute telehealth and create a liability concern related to voicemail?

In response to a question by Co-Chair West, Ms. Rodman stated that this administrative regulation had an accompanying emergency administrative regulation, which was filed in order to include telehealth terminology in the insurance packets for the 2022 plan year.

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

In response to a question by Co-Chair West, Ms. Veno stated that the office would agree to defer this administrative regulation because there was no federal funding that would be negatively impacted by deferral. A motion was made and seconded to defer consideration of this administrative regulation, as amended, to the January 10, 2022,

meeting of this subcommittee. Without objection, and with agreement of the agency, the deferral was approved.

Department for Public Health: Sanitation

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

902 KAR 10:121. Plan review, annual permitting, and inspection fees for public swimming and bathing facilities, including splash pads operated by local governments.

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

Health Services and Facilities

902 KAR 20:081. Operations and services; home health agencies.

902 KAR 20:460E. Essential visitor programs; visitation guidelines for long-term care facilities.

Office of Inspector General: Division of Health Care

906 KAR 1:180. Operation and services; personal services agencies.

Department for Medicaid Services: Medicaid Services

907 KAR 1:005. Nonduplication of payments.

Outpatient Pharmacy Program

907 KAR 23:020. Reimbursement for outpatient drugs.

Department for Aging and Independent Living: Office of Dementia Services

910 KAR 4:010. Alzheimer's and dementia services curriculum review and approval.

The subcommittee adjourned at 3:10 p.m. The next meeting of this subcommittee was tentatively scheduled for January 10, 2022, at 1 p.m.