

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the August Meeting

August 8, 2023

Call to Order and Roll Call

The August meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, August 8, 2023, at 2:00 PM, in Room 149 of the Capitol Annex. Representative Derek Lewis, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen West, Co-Chair; Representative Derek Lewis, Co-Chair; Senators Julie Raque Adams, Damon Thayer, and David Yates; Representatives Randy Bridges, Deanna Frazier Gordon, and Daniel Grossberg.

Guests: Cassie Trueblood, Education Professional Standards Board; Jamie Caldwell, Rosemary Holbrook, Robert Long, Jr.; Personnel Cabinet; Carrie Bass, Jessica Beaubien, Liza Welch, Kentucky Public Pensions Authority; Cordelia Harbut, Board of Architects; Kelly Jenkins, Board of Nursing; Sara Boswell Janes, Racheal Kuperus, D.C., Clay Patrick, Board of Chiropractic Examiners; Steven Curley, Board of Physical Therapy; Eddie Sloan, John Wood, Board of Emergency Medical Services; Steven Fields, Jenny Gilbert, Michael Scott, Department of Fish and Wildlife Resources; Nathan Goens, Steve Potts; Justice and Public Safety Cabinet; Amy Barker, Amelia Howell, Department of Corrections; Leah Boggs, Department of Juvenile Justice; Shaun Orme, Benjamin Seigel, Department of Insurance; Drew Conners, Jamie Eads. Dr. Bruce Howard, Horse Racing Commission; Molly Cassady, Max Fuller, Rick Rand, Department of Housing, Buildings, and Construction; Adam Mather, Office of Inspector General; Wesley Duke, Lisa Lee, Jonathan Scott, Department for Medicaid Services; Scott Collins, Victoria Eldridge, Sarah Puttoff, Department for Aging and Independent Living; Joe Barnett, Laura Begin, Kelli Blair, Department for Community Based Services; Emily Beauregard, Melissa Newland, Cara Stewart, Kelly Taulbee, Kentucky Voices for Health, Tiffany Hays, Central Kentucky Cancer Care; Margaret Hill, University of Louisville School of Dentistry, Jeffery Okeson, University of Kentucky School of Dentistry, Pamela Stein, University of Pikeville – College of Dental Medicine; Molly Nichol Lewis, Kentucky Primary Care Association; Alicia Whatley, Kentucky Oral Health Coalition, Dr. Bill Collins and Carrie Collins, Redbird Clinic.

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

Administrative Regulations Reviewed by this Subcommittee:

EDUCATION AND LABOR CABINET: Education Professional Standards Board:
Alternative Routes to Certification

016 KAR 009:080E. University-based alternative certification program. Cassie Trueblood, counsel, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 3 and 6 to clarify that the exception for the Exceptional Children or Interdisciplinary Early Childhood Education candidate only being able to renew two (2) times, only applies to a candidate who is employed in a public school for consistency with Senate Bill 49 from the 2023 Regular Session of the General Assembly and 34 C.F.R. 300.156(c)(2); and (2) to amend the RELATES TO paragraph 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.

016 KAR 009:080. University-based alternative certification program.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 3 and 6 to clarify that the exception for the Exceptional Children or Interdisciplinary Early Childhood Education candidate only being able to renew two (2) times, only applies to a candidate who is employed in a public school for consistency with Senate Bill 49 from the 2023 Regular Session of the General Assembly and 34 C.F.R. 300.156(c)(2); and (2) to amend the RELATES TO paragraph 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.

016 KAR 009:100E. Alternative Route to Certification Program.

A motion was made and seconded to approve the following amendments: (1) to amend Section 7 to clarify that the exception for the Exceptional Children or Interdisciplinary Early Childhood Education candidate only being able to renew two (2) times, only applies to a candidate who is employed in a public school for consistency with Senate Bill 49 from the 2023 Regular Session of the General Assembly and 34 C.F.R. 300.156(c)(2); and (2) to amend Sections 7 and 9 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

016 KAR 009:100. Alternative Route to Certification Institute.

A motion was made and seconded to approve the following amendments: (1) to amend Section 7 to clarify that the exception for the Exceptional Children or Interdisciplinary Early Childhood Education candidate only being able to renew two (2) times, only applies to a candidate who is employed in a public school for consistency with Senate Bill 49 from the 2023 Regular Session of the General Assembly and 34 C.F.R. 300.156(c)(2); and (2) to amend Sections 7 and 9 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PERSONNEL CABINET: Classified

101 KAR 002:034. Classified compensation administrative regulations. Jamie Caldwell, assistant division director; Rosemary Holbrook, assistant general counsel; and Robert Long, Jr., general counsel, represented the cabinet.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 2, 3, 9, and 13 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

101 KAR 002:095. Classified service general requirements.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1, 9, and 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

101 KAR 002:181. Repeal of 101 KAR 002:180.

Unclassified

101 KAR 003:045. Compensation plan and pay incentives for unclassified service.

A motion was made and seconded to approve the following amendments: to amend Section 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: Kentucky Public Pensions Authority: General Rules

105 KAR 001:220. Periodic disability review. Carrie Bass, staff attorney supervisor; Jessica Beaubien, policy specialist; and Liza Welch, division director, represented the authority.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1, 3 through 8, and 10 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend the STATUTORY AUTHORITY paragraph and Section 2 to clarify the agency's authority. Without objection, and with agreement of the agency, the amendments were approved.

BOARDS AND COMMISSIONS: Board of Architects

201 KAR 019:225. Examinations required; general provisions. Cordelia Harbut, executive director, represented the board.

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

Board of Nursing

201 KAR 020:240. Fees for applications and service. Kelly Jenkins, executive director, represented the board.

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 3 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 021:025. Board; officers, duties, and compensation. Sara Boswell-Janes, staff attorney, and Rachael Kuperus, D.C., board member, represented the board.

201 KAR 021:041. Licensing; standards, fees.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1, 3, 4, and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 7 to update incorporated material. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 021:042. Standards, applications and approval of continuing education.

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

201 KAR 021:075. Peer review committee procedures and fees.

201 KAR 021:095. Licensure, registration, and standards of persons performing peer review.

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

201 KAR 021:105. Telehealth chiropractic services.

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

Board of Physical Therapy

201 KAR 022:045. Continued competency requirements and procedures. Stephen Curley, executive director, represented the board.

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.

Board of Emergency Medical Services

202 KAR 007:510. Air ambulance services. Eddie Sloan, executive director, and John Wood, counsel, represented the board.

In response to a question by Co-Chair Lewis, Mr. Sloan stated that Kentucky was experiencing a staffing shortage pertaining to air ambulance services. There were not enough paramedics for continuous operations statewide.

In response to a question by Senator Yates, Mr. Sloan stated that the board was working to address the staffing shortage by improving educational opportunities, recruitment, retention, and pay for paramedics.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 4 through 7, 9, and 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

202 KAR 007:555E. Ground agencies.

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

301 KAR 006:001. Definitions for 301 KAR Chapter 6. Steven Fields, staff attorney; Jenny Gilbert, legislative liaison; and Michael Scott, division director, 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 requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

301 KAR 006:020. Boating safety equipment.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO, STATUTORY AUTHORITY, and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 4 and 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Administrative

301 KAR 011:020. Procurement of architectural and engineering services.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 3 to clarify department employee responsibilities. Without objection, and with agreement of the agency, the amendments were approved.

JUSTICE AND PUBLIC SAFETY CABINET: Internal Investigation Branch: Special Law Enforcement Officers

500 KAR 002:020. Filing and processing SLEO commissions. Nathan Goens, attorney, and Steve Potts, investigative agent supervisor, represented the branch.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY paragraph and Sections 3, 4, 7, 8, and 11 through 14 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Special Local Peace Officers

500 KAR 003:010. Definitions.

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

500 KAR 003:020. Filing and processing SLPO commissions.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY paragraph and Sections 2 through 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 Corrections: Office of the Secretary

501 KAR 006:150. Eastern Kentucky Correctional Complex policies and procedures. Amy Barker, assistant general counsel; Leah Boggs, general counsel; and Amelia Howell, program administrator, represented the cabinet.

A motion was made and seconded to approve the following amendments: to amend Section 1 and the material incorporated by reference to: (1) align provisions with other departmental policies; (2) clarify procedures; and (3) comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department of Juvenile Justice: Child Welfare

505 KAR 001:200E. Cell entry teams, emergency response teams, and emergency response training.

In response to a question by Co-Chair Lewis, Ms. Boggs stated that the three (3) emergency administrative regulations for consideration by the subcommittee implemented specific provisions of Senate Bill 162 from the 2023 Regular Session of the General Assembly, which established a return to a regional model. The department, along with the Kentucky

Department for Public Advocacy, was in the process of developing a plan to transition to the regional model, and the plan would be presented to the General Assembly once it was ready. Nothing in these administrative regulations would prohibit the transition to a regional model once the department was ready.

In response to questions by Senator Yates, Ms. Boggs stated that the department had begun working on oversight and training, including regarding juveniles with disabilities. Developing these protocols was a high priority for the agency.

505 KAR 001:200. Cell entry teams, emergency response teams, and emergency response training.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Sections 2 and 3 to require the training to include how to interact with juveniles with mental or physical disabilities. Without objection, and with agreement of the agency, the amendments were approved.

505 KAR 001:210E. Restraints and control methods.

In response to questions by Co-Chair Lewis, Ms. Boggs stated that authorized force-related equipment was established in Section 1 of this administrative regulation. Incident reports were typically completed by one (1) individual, with statements from each staff person involved. Often, there was video pertaining to the incident, and a medical statement might be part of the incident report, if applicable.

505 KAR 001:220E. Transportation of juveniles.

505 KAR 001:230. Facility, capacity, staffing, and population count.

A motion was made and seconded to approve the following amendment: to amend Section 3 to specify the types of information that a facility may be required to report about its juvenile population. Without objection, and with agreement of the agency, the amendment was approved.

PUBLIC PROTECTION CABINET: Department of Insurance: Health Insurance Contracts

806 KAR 017:570E. Minimum standards for Medicare supplement insurance policies and certifications. Shawn Orme, executive director, and Benjamin Seigel, 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, 6, 7, 10, 11, 13, 14, 16, and 27 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

810 KAR 004:090. Owners. Drew Conners, division director; Jamie Eads, executive director; and Dr. Bruce Howard, equine medical director, represented the commission.

A motion was made and seconded to approve the following amendments: to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Sections 1 through 5, 7, and 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Incentive and Development Funds

810 KAR 007:030. Kentucky Thoroughbred Development Fund.

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

810 KAR 007:060. Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund.

In response to a question by Representative Bridges, Mr. Conners stated that the equitable basis for funding involved allocating funds from each track, based on from where the funds were derived, and using those monies to fund purses. Percentages were determined by the

advisory committee, as approved by the commission.

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

Medication Guidelines

810 KAR 008:020. Drug, medication, and substance classification schedule.

Department of Housing, Buildings and Construction: Division of Building Code Enforcement: Elevator Safety

815 KAR 004:030. Elevator licensing. Molly Cassady, general counsel; Max Fuller, deputy commissioner; and Rick Rand, commissioner, represented the division.

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 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.

Building Code

815 KAR 007:130. Kentucky Industrialized Building Systems.

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, 5, 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.

Heating, Ventilation, and Air Conditioning Licensing Requirements

815 KAR 008:010. Licensing requirements for master HVAC contractors and journeyman HVAC mechanics.

Standards of Safety

815 KAR 010:060. Standards of Safety.

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

Plumbing

815 KAR 020:030. Plumbing licenses.

Manufactured Homes and Recreational Vehicles

815 KAR 025:020. Recreational vehicles.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 3, 5, and 7 through 9 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 025:060. Licensing and certifications with manufactured homes and mobile homes.

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

Electrical

815 KAR 035:060. Licensing of electrical contractors, master electricians, and electricians.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 3, 6, 8, 10, and 11 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General:
Essential Personal Care Visitor Program

900 KAR 014:010. Essential personal care visitor programs; visitation guidelines. Adam Mather, inspector general, represented the office.

Health Services and Facilities

902 KAR 020:018. Operation and services; End Stage Renal Disease (ESRD) facilities.

Controlled Substances

902 KAR 055:015. Schedules of controlled substances.

Division of Health Care: Health Care

906 KAR 001:210. Health care services agencies.

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

Department for Medicaid Services

907 KAR 001:038E. Hearing Program coverage and requirements. Wes Duke, general counsel; Lisa Lee, commissioner; and Jonathan Scott, regulation coordinator, represented the department. Emily Beauregard, executive director, Kentucky Voices for Health; Dr. Bill Collins, DMD, Redbird Mission and Redbird Clinic; Carrie Collins, Redbird Mission

and Redbird Clinic; Tiffany Hays, oncology social worker; Dr. Margaret Hill, interim dean, University of Louisville School of Dentistry; Molly Lewis, chief executive officer, Kentucky Primary Care Association; Melissa Newland, caregiver and Medicaid recipient; Dr. Jeff Okeson, professor and dean, University of Kentucky School of Dentistry; Dr. Pamela Sparks Stein, professor and dean, University of Pikeville College of Dental Medicine; Cara Stewart, director of policy advocacy, Kentucky Voices for Health; and Alicia Whatley, policy and advocacy director, Kentucky Oral Health Coalition, appeared in support of 907 KAR 1:038E, 1:126E, and 1:632E.

In response to a question by Co-Chair Lewis, Ms. Beauregard stated that Kentucky Voices for Health supported 907 KAR 1:038E, 1:126E, and 1:632E. Kentucky was safer and had a better workforce with these provisions. Medicaid providers needed assurance of adequate reimbursement, access to participating providers needed improvement, and procedures and processes needed to be streamlined. Managed Care Organizations (MCOs) were allowed to pay reimbursement rates well below the fee schedules; however, if access did not meet statutory requirements, perhaps those lower rates should be reconsidered. This expansion would provide a good return on investment from a health and financial standpoint.

In response to a question by Co-Chair Lewis, Ms. Stewart stated that Kentucky Voices for Health examined data that demonstrated that dental health significantly affected job opportunities. Survivors of domestic violence also needed dental care to heal both physically and emotionally from trauma. Corrective lenses were important for caregiving and driving safety. The department was unable to force MCOs to pay specific reimbursement rates. Networks needed to be effective and tested by the Department of Insurance the same way that private-pay networks were tested.

In response to a question by Co-Chair Lewis, Ms. Newland stated that, as a caregiver and Medicaid recipient, these administrative regulations were life changing. With many health and dental conditions, these services were vital for her. Ms. Newland worried about losing benefits.

In response to a question by Co-Chair Lewis, Ms. Hays stated that, as an oncology social worker, she worked in some of the most impoverished areas of Kentucky. Oral health was probably one of the most common co-morbidities with the cancer patients she treated and further complicated their care. There were also issues with treatment delays due to the shortage of participating providers. Some cancer treatment also created conditions regarding vision.

In response to a question by Co-Chair Lewis, Dr. Sparks Stein stated that the University of Pikeville College of Dental Medicine was concerned with patient access to dental care.

Poor dental hygiene correlated with diabetes, heart attack risk, and stroke. Tooth extraction in lieu of root canal could cause other dental conditions that might cause a cascade of health problems. Those without teeth or dentures had difficulty finding employment, eating a healthy diet, and engaging socially. Kentucky had high rates of toothlessness, and many did not have the resources for dentures. Substance abuse disorder was sometimes related to medication to treat painful dental health conditions. Fifty-four (54) percent of Kentucky's children were insured through Medicaid, and many had unmet dental care needs.

In response to a question by Co-Chair Lewis, Dr. Hill stated that the University of Louisville School of Dentistry had treated more than 50,000 Medicaid patients in the past year. Because of a lack of Medicaid-participating providers, Kentucky's dental schools served as a safety net, and many patients would not be able to receive care were it not for these schools. Dental students typically left school with a lot of debt, which made serving the Medicaid community financially untenable. Dr. Hill asked the subcommittee to allow this program to continue and to make reimbursement rates more reasonable.

In response to a question by Co-Chair Lewis, Dr. Okeson stated that Medicaid dental providers were becoming difficult to access in Kentucky because of dwindling providers. Ninety-five (95) percent of the funding the University of Kentucky School of Dentistry received was used for dentistry education. Caring for Medicaid patients was threatening to affect educational funding. Reimbursement rates of thirty (30) percent were unsustainable. For the sake of Medicaid patients and for the quality of dentistry education, Dr. Okeson requested that this program of expansion continue and become permanent.

In response to a question by Co-Chair Lewis, Ms. Lewis stated that the Kentucky Primary Care Association was a significant provider that had provided care to over 1,000,000 unique clients last year. High quality, cost-effective care was important, and savings could be generated by helping patients get and maintain good health through taking care of the whole patient. Dental care wait lists were long, and access was limited. Kentucky Primary Care Association was dedicated to working with the General Assembly to find creative solutions to Kentucky's Medicaid health care concerns.

In response to a question by Co-Chair Lewis, Ms. Whatley stated that Kentucky Oral Health Coalition's primary goal was optimal oral health. Emergency room visit costs related to dental health conditions could be resolved by access to dental care. Reimbursement rate increases had helped, and the coalition hoped that it would also bring more providers into the networks. Ms. Whatley read a letter from Dr. Kayla Fields, DMD, which reiterated concerns about access and the need for restorative dentistry in the context of substance abuse disorder.

In response to a question by Co-Chair Lewis, Dr. Collins stated that, as a Medicaid dentist and dental director at Redbird Mission and Clinic, he identified problems that non-Medicaid providers did not experience. Funding was always challenging. Reaching prior-authorization standards was also a hurdle for some patients. The department needed to work with Medicaid dentists to develop appropriate reimbursement rates. Dr. Collins asked that the subcommittee not find these administrative regulations deficient.

Representative Frazier Gordon stated that, as an audiology provider, she was unsure during treatment planning when funding should come from the Office of Vocational Rehabilitation and when it should come from this Medicaid expansion. Each MCO had a different process for handling pre-authorization requests, and many claims went without reimbursement. Providers were leaving the Medicaid program because of reimbursement issues. In response to questions by Representative Frazier Gordon, Ms. Lee stated that the department would work with the MCOs involved to resolve specific reimbursement problems. The department also planned to work on access and reimbursement issues in general.

In response to questions by Representative Bridges, Ms. Lee stated that \$15 million had already been spent on this expansion, with \$24 million remaining. The federal matching fund was eighty-five (85) percent. Representative Bridges stated that matters pertaining to these Medicaid expansion administrative regulations should have first gone through the Interim Joint Committee or Standing Committees on Appropriations and Revenue or the Budget Review Subcommittee on Health and Family Services. These administrative regulations were found deficient by this subcommittee, not because of the policies involved, but because of problems with circumventing the appropriation process. In response to questions by Representative Bridges, Mr. Duke stated that the previous versions of these administrative regulations were found deficient by this subcommittee and nullified by Senate Bill 65 from the 2023 Regular Session of the General Assembly. That bill authorized the department to refile these administrative regulations if they were substantively distinct from the previous versions. In order to comply with the bill's requirements, the new versions of these administrative regulations were significantly different than the previous versions. This expansion had already helped many Kentuckians, and the funding was from an appropriation that had already taken place.

Senator Yates stated that Kentucky's health challenges had been mounting for many years. He thanked the department for its leadership in developing this package of administrative regulations. Future budgets should fund these programs, and these programs should not be stopped due to technicalities. A budget represented the General Assembly's moral compass, and a small amount of state expenditure was having a tremendous impact, including getting citizens back to work. Legislators all had the same goal of a healthier,

more work-ready Kentucky.

Representative Bridges stated that the department should have brought this matter to the General Assembly during this past legislative session, rather than waiting and filing them immediately thereafter. The department should utilize the appropriate process for this to become a permanent, sustainable program. If other agencies followed this process precedent, Kentucky would quickly become financially dismantled. In response, Ms. Lee stated that the department had these funds already appropriated and budgeted and would be ending under budget.

In response to a question by Co-Chair Lewis, Ms. Lee stated that Secretary Friedlander had met with several legislators concerning these administrative regulations. Co-Chair Lewis stated that he supported the department's goals and had some concerns about certain, specific expenditures. All stakeholders and key legislators needed to work together to develop this program to meet the health care needs of Kentuckians.

907 KAR 001:126E. Dental services' coverage provisions and requirements.

907 KAR 001:632E. Vision program coverage provisions and requirements.

Payment and Services

907 KAR 003:190. Reimbursement for treatment related to clinical trials.

Medicaid Eligibility

907 KAR 020:010E. Medicaid procedures for determining initial and continuing eligibility other than procedures related to a modified adjusted gross income eligibility standard or related to former foster care individuals.

907 KAR 020:010. Medicaid procedures for determining initial and continuing eligibility other than procedures related to a modified adjusted gross income eligibility standard or related to former foster care individuals.

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

907 KAR 020:045E. Special income requirements for hospice and 1915(c) home and community based services.

907 KAR 020:045. Special income requirements for hospice and 1915(c) home and community based services.

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

907 KAR 020:075E. Eligibility provisions and requirements regarding former foster care individuals, and individuals who were in out-of-state equivalents to foster care.

907 KAR 020:075. Eligibility provisions and requirements regarding former foster care individuals, and individuals who were in out-of-state equivalents to foster care.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 4 and 8 through 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 020:100E. Modified Adjusted Gross Income (MAGI) Medicaid eligibility standards.

907 KAR 020:100. Modified Adjusted Gross Income (MAGI) Medicaid eligibility standards.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 4 and 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Aging and Independent Living: Brain Injury

910 KAR 003:030. Traumatic brain injury trust fund operations program. Joe Barnett, branch manager, and Kelli Blair, procedures development specialist, represented the department.

Department for Community-Based Services: Child Support

921 KAR 001:400. Establishment, review, and modification of child support and medical support orders. Laura Begin, regulation coordinator, represented the department.

Day Care

922 KAR 002:180. Requirements for registered relative child care providers in the Child Care Assistance Program.

A motion was made and seconded to approve the following amendments: to amend Section 2 to clarify that cabinet approval for certification for age-appropriate CPR and first aid training shall be based on research-based, scientific best practices. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred or removed from the August 8, 2023, subcommittee agenda:

BOARDS AND COMMISSIONS: Kentucky State Board of Accountancy

201 KAR 001:050. License application.

Board of Nursing

201 KAR 020:700. Medication aide training programs and credentialing of medication aides.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Justice: Capital Punishment

501 KAR 016:310. Pre-execution medical actions.

Department of Juvenile Justice: Child Welfare

505 KAR 001:010. Definitions.

505 KAR 001:100. Admissions.

505 KAR 001:180. Day treatment admissions.

505 KAR 001:185. Day treatment programs.

505 KAR 001:210. Restraints and control methods.

505 KAR 001:220. Transportation of juveniles.

PUBLIC PROTECTION CABINET: Horse Racing Commission: General

810 KAR 002:100. Self-exclusion.

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

900 KAR 005:020. State Health Plan for facilities and services.

Division of Certificate of Need

900 KAR 006:075. Certificate of need nonsubstantive review.

900 KAR 006:080E. Certificate of Need emergency circumstances.

Department for Medicaid Services

907 KAR 001:038. Hearing Program coverage provisions and requirements.

907 KAR 001:126. Dental services' coverage provisions and requirements.

907 KAR 001:632. Vision program coverage provisions and requirements.

Department for Community Based Services: Child Welfare

922 KAR 001:360E. Private child care placement, levels of care, and payment.

922 KAR 001:360. Private child care placement, levels of care, and payment.

Day Care

922 KAR 002:245. Kentucky infant and toddler credential.

922 KAR 002:255. Kentucky school-aged youth development credential.

The subcommittee adjourned at 4:15 p.m. The next meeting of this subcommittee was tentatively scheduled for September 12, 2023, at 1 p.m.