

**ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE**  
**Minutes of April 9, 2024**

**Call to Order and Roll Call**

The April meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, April 9, 2024, at 1:00 p.m. in Room 149 of the Capitol Annex. Representative Derek Lewis, Co-Chair, called the meeting to order, and roll call was taken.

**Present were:**

**Members:** Senator Stephen West, Co-Chair; Representative Derek Lewis, Co-Chair; Senator Damon Thayer; and Representatives Randy Bridges and Daniel Grossberg.

**LRC Staff:** Stacy Auterson, Emily Caudill, Ange Darnell, Emily Harkenrider, Karen Howard, Anna Latek, and Carrie Nichols.

**Guests:** Mark Sipek, Personnel Board; Jane Alexander and Nathan Goldman, Board of Landscape Architects; Jeffrey Prather, Board of Nursing; Sara Boswell Janes, Board of Licensed Professional Counselors; Dave Dreves, Jenny Gilbert, and Steven Fields, Department of Fish and Wildlife Resources; Dawn Baase, Johnna McHugh, and Jay Nelson, Department for Natural Resources; Nathan Goens and Ed Jewell, Internal Investigations Branch; Sarah Peace and Lindsey Swartz, Department of Education; Michael Lawson and Jilnar Masri, Office of Data Analytics; David Lovely and Valerie Moore, Office of Inspector General; Justin Dearing and Jonathan Scott, Department for Medicaid Services; and Dr. Brittany Allen and Rachel Ratliff, Department for Behavioral Health, Developmental and Intellectual Disabilities.

The Administrative Regulation Review Subcommittee met on Tuesday, April 9, 2024, and submits this report:

GENERAL GOVERNMENT CABINET: Personnel Board

[101 KAR 001:325](#). Probationary periods. Mark Sipek, executive director, represented the board.

BOARDS AND COMMISSIONS: Board of Landscape Architects

[201 KAR 010:030](#). Code of ethics. Jane Alexander, executive director, and Nathan Goldman, general counsel, represented the board.

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

[201 KAR 010:040](#). Applications.

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, 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.

[201 KAR 010:050](#). Fees.

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

[201 KAR 010:070](#). Seals.

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.

[201 KAR 010:080](#). Continuing education.

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

Board of Nursing

[201 KAR 020:370](#). Applications for licensure. Jeffrey Prather, general counsel, represented the board.

A motion was made and seconded to approve the following amendments: to amend Sections 1 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 020:506](#). Nurse licensure compact.

Board of Licensed Professional Counselors

[201 KAR 036:100E](#). Counseling compact. Sara Boswell Janes, general counsel, represented the board.

[201 KAR 036:100](#). Counseling compact.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 2 to update the edition date of the rules; to amend Section 2 to add and incorporate by reference a new rule, Chapter 4, Data System Reporting Requirements, adopted by the Counseling Compact Commission on January 10, 2024; to amend Section 2 to list all of the rules adopted so far by the Counseling Compact Commission; and to amend Section 2 to include a more direct Web site address to the Counseling Compact Rules. Without objection, and with agreement of the agency, the amendments were approved.

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

[301 KAR 001:140](#). Special commercial fishing permit for Kentucky and Barkley lakes. Dave Dreves, fisheries director; Jenny Gilbert, legislative liaison; and 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 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.

[301 KAR 001:146](#). Commercial fishing gear.

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.

[301 KAR 001:155](#). Commercial Fishing requirements.

[301 KAR 001:201](#). Taking of fish by traditional fishing methods.

#### Game

[301 KAR 002:178](#). Deer hunting on Wildlife Management Areas, state parks, other public lands, and federally controlled areas.

In response to a question by Co-Chair Lewis, Ms. Gilbert stated that cervid population density was calculated through a herd-health survey of Abomasal Parasite Counts (APCs) in white-tailed deer. The findings of the survey were presented at the December 2023 commission meeting and resulted in revising this administrative regulation to establish preference points for antlerless, rather than female, deer. Button bucks were sometimes left in the field, resulting in waste. One of the department's goals in adjusting preference points from female to antlerless deer was to incentivize harvesting these button bucks.

#### ENERGY AND ENVIRONMENT CABINET: Department for Natural Resources

[416 KAR 001:001](#). Definitions for 416 KAR Chapter 1. Dawn Baase, environmental scientist consultant; Johnna McHugh, assistant director; and Jay Nelson, director, represented the department.

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.

[416 KAR 001:010](#). Administration of Kentucky Soil Erosion and Water Quality Cost-share Fund.

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, 5, 6, 7, and 9 to comply with the drafting

requirements of KRS Chapter 13A; and to amend Section 5(1) to clarify the basis for district review to determine applicant eligibility. Without objection, and with agreement of the agency, the amendments were approved.

[416 KAR 001:020](#). Equipment revolving loan program.

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 4 and 6 through 9 to comply with the drafting and formatting requirements of KRS Chapter 13A; to amend Section 3(8) to include the commission's standards for application approval; to amend Section 5(2) to clarify that repayment terms for infrastructure shall be determined by the commission based on the district's financial ability to repay the loan; and to amend Section 8(3)(a)1.a. to clarify that, in the case of equipment repossession, the commission's decision to lease the equipment to another person within the district shall be based on the proposed use of the equipment and the financial ability to repay the loan. Without objection, and with agreement of the agency, the amendments were approved.

JUSTICE AND PUBLIC SAFETY CABINET: Internal Investigations Branch: Abuse Investigation

[500 KAR 013:020](#). Internal Investigations Branch. Nathan Goens, attorney, and Ed Jewell, branch manager, represented the branch.

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

EDUCATION AND LABOR CABINET: Department of Education: Office of Instruction

[704 KAR 003:095](#). The use of a multitiered system of supports. Sarah Peace, policy advisor, and Lindsey Swartz, staff attorney, represented the department.

In response to questions by Co-Chair West, Ms. Peace stated that the department had statutory authority to make the changes in this proposed amendment pursuant to KRS 156.070, 156.160, and 158.305.

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

CONFORMITY paragraphs and Sections 1 through 3 to comply with the drafting 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 Data Analytics: Data Reporting and Public Use Data Sets

[900 KAR 007:030](#). Data reporting by health care providers. Michael Lawson, healthcare data administrator, and Jilnar Masri, executive director, represented the office.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1, 3 through 7, 9, 10, and 12 through 14 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

[900 KAR 007:040](#). Release of public data sets for health facility and services data.

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

Office of Inspector General: Health Services and Facilities

[902 KAR 020:048](#). Operation and services; nursing homes. David Lovely, acting inspector general, and Valerie Moore, policy specialist, represented the office.

A motion was made and seconded to approve the following amendments: to amend Section 2 to change the reference to the registry from the caregiver misconduct registry to the Vulnerable Adult Maltreatment Registry; and 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.

[902 KAR 020:086](#). Operation and services; intermediate care facilities for individuals with intellectual disabilities.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1, 3, and 4 to comply with the drafting requirements of KRS Chapter 13A; and to amend Section 3(12)(b) to change the caregiver misconduct

registry to the Vulnerable Adult Maltreatment Registry. Without objection, and with agreement of the agency, the amendments were approved.

#### Department for Medicaid Services: Medicaid Services

[907 KAR 001:065](#). Payments for price-based nursing facility services. Justin Dearing, division director, and Jonathan Scott, Chief Legislative and Regulatory Officer, represented the department.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 7, 10, and 12 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 001:479. Medical supplies, equipment, and appliances covered benefits and reimbursement.

A motion was made and seconded to approve the following amendments: to amend Section 1 to revise the definition for "Medicaid Program MSEA Fee Schedule" to add that the list is consistent with and informed by this administrative regulation and the applicable Centers for Medicare and Medicaid Services published DMEPOS Fee Schedule; to amend Section 4 to clarify coverage requirements for enteral and oral nutritional supplements; and to amend Section 8 to clarify reimbursement procedures for items that are manually priced. Without objection, and with agreement of the agency, the amendments were approved.

#### Payment and Services

[907 KAR 003:066](#). Nonemergency medical transportation waiver services and payments.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3, 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.

#### Private Duty Nursing

[907 KAR 013:010](#). Private duty nursing service coverage provisions and requirements.

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

[907 KAR 013:015](#). Private duty nursing service or supply provisions and requirements.

Department for Behavioral Health, Developmental and Intellectual Disabilities: Substance Abuse

[908 KAR 001:410](#). Recovery housing. Dr. Brittany Allen, director, and Rachael Ratliff, regulation coordinator, represented the department.

In response to questions by Co-Chair West, Dr. Allen stated that this administrative regulation mandated requirements for the operation of recovery housing facilities, including requirements for institutional rules, protection policies regarding access to medications, treatment access, support meetings for residents, and safety provisions. The department used, and was the affiliate for, the National Alliance for Recovery Residency to establish certification standards. Dr. Allen stated that these guidelines were previously established on a voluntary basis. Additional provisions would be promulgated by the agency to establish fines and disciplinary actions for violations.

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

The following administrative regulations were deferred or removed from the April 9, 2024, subcommittee agenda:

OFFICE OF THE GOVERNOR: Department of Veterans' Affairs: Veterans' Programs

[017 KAR 006:020](#). Kentucky Women Veterans Program and coordinating committee, administrative procedures.

[017 KAR 006:030](#). Kentucky Wounded or Disabled Veterans Program, administrative procedures.

KENTUCKY COMMISSION ON HUMAN RIGHTS



[104 KAR 001:010](#). Posting, distribution and availability of notices and pamphlets.

[104 KAR 001:040](#). Guidelines for advertising employment or licensing opportunities.

[104 KAR 001:050](#). Standards and procedures for providing equal employment opportunities.

[104 KAR 001:080](#). Guidelines on fair housing.

[104 KAR 001:100](#). Nondiscrimination on the basis of disability by a place of public accommodations, licensing agencies and trade organizations.

BOARDS AND COMMISSIONS: Board of Dentistry

[201 KAR 008:533](#). Licensure of dentists.

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

[301 KAR 001:150](#). Waters open to commercial fishing.

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

[902 KAR 020:036](#). Operation and services; personal care homes.

Department for Medicaid Services

[907 KAR 001:044](#). Coverage provisions and requirements regarding community  
mental health center behavioral health services.

Behavioral Health

[907 KAR 015:005](#). Definitions for 907 KAR Chapter 015.

[907 KAR 015:090](#). Crisis continuum services provided or mediated by an administrative  
service organization.

Office of the Secretary: General

[915 KAR 001:001](#). Definitions for 915 KAR Chapter 1.

[915 KAR 001:030](#). Cultivator.

[915 KAR 001:040](#). Processor.

[915 KAR 001:050](#). Producer.

[915 KAR 001:060](#). Safety compliance facility.

[915 KAR 001:070](#). Dispensary.

[915 KAR 001:080](#). Transportation and delivery of medicinal cannabis.

[915 KAR 001:090](#). Advertising.

[915 KAR 001:100](#). Packaging and labeling of medicinal cannabis.

[915 KAR 001:110](#). Medicinal cannabis testing.

Department for Community Based Services: K-TAP, Kentucky Works, Welfare to Work, State Supplementation

[921 KAR 002:015](#). Supplemental programs for persons who are aged, blind, or have a disability.

Protection and Permanency: Child Welfare

[922 KAR 001:140](#). Permanency services.

[922 KAR 001:145](#). Subsidized permanent custody.

[922 KAR 001:495](#). Training requirements for foster parents, adoptive parents, and respite care providers for children in the custody of the cabinet.

[922 KAR 001:565](#). Service array for a relative or fictive kin caregiver.

## Adult Services

[922 KAR 005:120](#). Vulnerable adult maltreatment registry and appeals.

The subcommittee adjourned at 1:30 p.m. The next meeting of this subcommittee was tentatively scheduled for May 14, 2024, at 1 p.m. in Room 149 of the Annex.