

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of August 13, 2024

Call to Order and Roll Call

The August meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, August 13, 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 David Yates; and Representatives Randy Bridges, Deanna Frazier Gordon, and Daniel Grossberg.

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

Guests: Rebecca Gilpatrick, Kentucky Higher Education Assistance Authority; Cassie Trueblood, Education Professional Standards Board; Taylor Brown, State Board of Elections; Amy Burke, Ed Price, Office of the Attorney General; Gordon Rowe, Kentucky Personnel Board; Cary Bishop, Finance and Administration Cabinet; Eden Davis, Board of Pharmacy; Kelly Jenkins, Jeff Prather, Board of Nursing; Clay Patrick, Board of Licensure for Occupational Therapy; Dale Hamblin, Scott Wilhoit, Department of Workers' Claims; Max Fuller, David Moore, Darryl Morgan, Department of Housing, Buildings and Construction; and Andrea Day, Sam Flynn, Shelby Lewis, Oran McFarlan, Cabinet for Health and Family Services.

The Administrative Regulation Review Subcommittee met on Tuesday, August 13, 2024, and submits this report:

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY: Division of Student Financial Aid: Kentucky Higher Education Assistance Authority

[011 KAR 004:080](#). Student aid application. Rebecca Gilpatrick, director of student aid, represented the authority.

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

Kentucky Educational Excellence Scholarship Program

[011 KAR 015:090](#). Kentucky Educational Excellence Scholarship (KEES) program.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Sections 2 through 6 and 12 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 12 to delete an obsolete incorporated form. Without objection, and with agreement of the agency, the amendments were approved.

[011 KAR 015:110](#). Scholarships for Registered Apprenticeship and Qualified Workplace Training programs.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 4 to comply with the drafting requirements of KRS Chapter 13A; and (2) to add a Section 5 to incorporate material. Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION AND LABOR CABINET: Education Professional Standards Board: Teaching Certificates

[016 KAR 002:110](#). Endorsement for teachers for gifted education. Cassie Trueblood, 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 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

[016 KAR 002:140](#). Probationary certificate for teachers of exceptional children and interdisciplinary early childhood education.

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

[016 KAR 002:170](#). Probationary certificate for middle school teachers.

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.

[016 KAR 002:200](#). Probationary endorsement for teachers for English as a second language.

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

Alternative Routes to Certification

[016 KAR 009:030E](#). Professional and provisional certificate for college faculty.

In response to a question by Co-Chair Lewis, Ms. Trueblood stated that this administrative regulation was filed on an emergency basis in response to Senate Bill 265 from the 2024 Regular Session of the General Assembly, which amended KRS Chapter 161 and declared an emergency.

KENTUCKY PERSONNEL BOARD

[101 KAR 001:335](#). Employee actions. Gordon Rowe, executive director, represented the board.

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.

[101 KAR 001:345](#). Disciplinary actions.

[101 KAR 001:375](#). Employee grievances and complaints.

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

[101 KAR 001:396](#). Repeal of 101 KAR 001:395.

FINANCE AND ADMINISTRATION CABINET: Purchasing

[200 KAR 005:021E](#). Manual of policies and procedures. Cary Bishop, general counsel, represented the cabinet.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A; and (2) to update FAP 220-10-00 for clarity and to comply with Senate Bill 91 from the 2024 Regular Session of the General Assembly. Without objection, and with agreement of the agency, the amendments were approved.

BOARDS AND COMMISSIONS: Board of Pharmacy

[201 KAR 002:220](#). Collaborative care agreements. Eden Davis, general counsel, represented the board.

Board of Nursing

[201 KAR 020:320](#). Standards for curriculum of prelicensure registered nurse and practical nurse programs. Kelly Jenkins, executive director, and Jeff Prather, general counsel, represented the board.

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

Board of Licensure for Occupational Therapy

[201 KAR 028:240](#). Occupational Therapy Licensure Compact. Clay Patrick, general counsel, represented the board.

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

EDUCATION AND LABOR CABINET: Department for Workers' Claims

[803 KAR 025:089](#). Workers' compensation medical fee for physicians. Dale Hamblin, assistant general counsel, and Scott Wilhoit, commissioner, represented the department.

PUBLIC PROTECTION CABINET: Department of Housing, Buildings and Construction: Kentucky Building Code

[815 KAR 007:120](#). Kentucky Building Code. Max Fuller, commissioner; David Moore, deputy commissioner; and Darryl Morgan, electrical division director, represented the department.

Co-Chair Lewis and Senator Yates thanked the department for working with stakeholders to develop these administrative regulations.

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

[815 KAR 007:125](#). Kentucky Residential Code.

A motion was made and seconded to approve the following amendments: to amend the Kentucky Residential Code to delay implementation of portions of the 2023 National Electrical Code. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of the Secretary: Medicinal Cannabis Program

[915 KAR 001:010E](#). Initial and renewal applications for cannabis business licenses. Sam Flynn, executive director; Shelby Lewis, executive policy advisor; and Oran McFarlan, deputy executive director, represented the program.

In response to questions by Co-Chair West, Mr. Flynn stated that, while landlords may enter into contingency tenant agreements with multiple potential dispensary agents, each potential applicant would have only one (1) opportunity to apply for a cultivation license in one (1) of the three (3) tiers. A potential applicant could have (1) dispensary license in each of the eleven (11) licensing territories statewide. Corporations operating and applying for licenses under multiple, smaller subsidiaries was prohibited. Each applicant was required to disclose their ownership, corporate structure, and whether or not they have a parent company. If an owner was determined to have more than ten (10) percent ownership of an LLC and filed for multiple licenses, all except for one (1) would be disallowed.

In response to questions by Senator Yates, Mr. Flynn stated that the threshold for ownership stakes in an eligible license applicant was ten (10) percent because any amount beyond that made it more difficult to establish the ownership structure of an individual company.

In response to questions by Co-Chair Lewis, Mr. Flynn stated that this administrative regulation did not provide for multiple license applications from family members or associates. It would be difficult for the program to develop regulatory structures to prohibit intrafamilial applications.

[915 KAR 001:020E](#). Cannabis business licenses.

Department for Community Based Services: Day Care

[922 KAR 002:090E](#). Child-care center licensure. Andrea Day, division director, represented the department.

Other Business: Co-Chair Lewis introduced new subcommittee staff member, regulations analyst, Laura Begin.

The following administrative regulations were deferred or removed from the August 13, 2024, subcommittee agenda:

GENERAL GOVERNMENT CABINET: Council on Postsecondary Education: Public Educational Institutions

[013 KAR 002:120](#). Comprehensive funding model for the allocation of state general fund appropriations to public universities.

[013 KAR 002:130](#). Comprehensive funding model for the allocation of state general fund appropriations to the Kentucky Community and Technical College System institutions.

EDUCATION AND LABOR CABINET: Education Professional Standards Board

[016 KAR 002:160](#). Probationary certificate for teachers of exceptional children.

STATE BOARD OF ELECTIONS: Forms and Procedures

[031 KAR 004:031E](#). Reporting. Taylor Brown, general counsel, represented the board.

Co-Chairs Lewis and West thanked the board for continuing to work with legislative members and stakeholders regarding the issues raised by these administrative regulations.

In response to a question by Co-Chair Lewis, Mr. Brown stated that the board agreed to defer consideration of 031 KAR 004:031E, 031 KAR 004:031, 031 KAR 005:040E, and 031 KAR 5:040 to the September meeting of this subcommittee. Without objection, and with agreement of the agency, 031 KAR 004:031E, 031 KAR 004:031, 031 KAR 005:040E, and 031 KAR 5:040 were deferred.

The following amendments were approved by this subcommittee at the July 9, 2024 meeting: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A.

[031 KAR 004:031](#). Reporting.

The following amendments were approved by this subcommittee at the July 9, 2024 meeting: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A.

[031 KAR 005:040E](#). Questions regarding voter eligibility.

The following amendments were approved by this subcommittee at the July 9, 2024 meeting: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A.

[031 KAR 005:040](#). Questions regarding voter eligibility.

The following amendments were approved by this subcommittee at the July 9, 2024 meeting: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY

paragraphs and Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A.

OFFICE OF THE ATTORNEY GENERAL: Department of Law: Criminal Investigations

[040 KAR 010:010](#). Uniform procedure and timeline for conducting independent election inquiries. Amy Burke, assistant attorney general, represented the department.

In response to a question by Co-Chair Lewis, Ms. Burke stated that the department agreed to defer consideration of this administrative regulation to the September meeting of this subcommittee. Without objection, and with agreement of the agency, this administrative regulation was deferred.

The following amendments were approved by this subcommittee at the July 9, 2024 meeting: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 4 to comply with the drafting requirements of KRS Chapter 13A.

A motion was made and seconded to approve the following amendments: (1) to amend Section 4(12)(b) and (c) for consistency with KRS 117.076; and (2) to amend Section 4(12)(d) to make a technical correction. Without objection, and with agreement of the agency, the amendments were approved.

BOARDS AND COMMISSIONS: Board of Pharmacy

[201 KAR 002:015](#). Continuing education.

[201 KAR 002:030](#). License transfer and Non-resident Pharmacist License.

[201 KAR 002:050](#). License and permits; fees.

[201 KAR 002:465](#). Non-Resident Pharmacy Applications and Waivers.

Boxing and Wrestling Commission

[201 KAR 027:006](#). Powers and duties of inspector.

[201 KAR 027:023](#). Drug testing for boxing, kickboxing, mixed martial arts, wrestling, and elimination event shows.

[201 KAR 027:041](#). Managers.

[201 KAR 027:106](#). Violations, penalties, and appeals.

**ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection:
Air Quality - General Administrative Procedures**

[401 KAR 050:038](#). Air emissions fee.

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections: Office of the Secretary**

[501 KAR 006:021](#). Repeal of 501 KAR 006:020.

[501 KAR 006:280](#). Risk and needs assessment.

[501 KAR 006:300](#). News media.

[501 KAR 006:310](#). Monitoring and operation of private prisons.

[501 KAR 006:320](#). Corrections policies and procedures: inmate funds.

[501 KAR 006:330](#). Corrections policies and procedures: personnel.

[501 KAR 006:340](#). Corrections policies and procedures: research and information.

[501 KAR 006:350](#). Inmate or offender or supervision record request.

[501 KAR 006:360](#). Corrections policies and procedures: safety and critical incident notification.

[501 KAR 006:370](#). Corrections policies and procedures: security and control.

[501 KAR 006:380](#). Corrections policies and procedures: special management and restrictive housing inmates, safekeepers, and contract prisoners.

[501 KAR 006:390](#). Corrections policies and procedures: inmate diet.

[501 KAR 006:400](#). Corrections policies and procedures: inmate health care.

[501 KAR 006:410](#). Corrections policies and procedures: inmate life and issues.

[501 KAR 006:420](#). Corrections policies and procedures: inmate rules and discipline.

[501 KAR 006:430](#). Corrections policies and procedures: communication, mail, and visiting.

[501 KAR 006:440](#). Corrections policies and procedures: inmate reception, orientation, and personal property.

[501 KAR 006:450](#). Corrections policies and procedures: classification.

[501 KAR 006:460](#). Corrections policies and procedures: inmate work programs.

[501 KAR 006:470](#). Corrections policies and procedures: inmate education and training.

[501 KAR 006:480](#). Library services.

[501 KAR 006:490](#). Corrections policies and procedures: inmate recreation and activities.

[501 KAR 006:500](#). Religious programs.

[501 KAR 006:510](#). Corrections policies and procedures: release preparation and temporary release.

[501 KAR 006:520](#). Citizen involvement, volunteer, and reentry mentor service programs.

[501 KAR 006:530](#). Corrections policies and procedures: programs and sentence credits.

[501 KAR 006:540](#). Inmate record.

ENERGY AND ENVIRONMENT CABINET: Public Service Commission: Utilities

[807 KAR 005:015E](#). Access and attachments to utility poles and facilities.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Food and Cosmetics

[902 KAR 045:001E](#). Definitions for hemp-derived cannabinoid products.

[902 KAR 045:001](#). Definitions for hemp-derived cannabinoid products.

[902 KAR 045:012E](#). Hemp-derived cannabinoid product retail and food service establishment requirements.

[902 KAR 045:012](#). Hemp-derived cannabinoid product retail and food service establishment requirements.

[902 KAR 045:021E](#). Hemp-derived cannabinoid products registration, processing, manufacturing, storage and distribution requirements.

[902 KAR 045:021](#). Hemp-derived cannabinoid products registration, processing, manufacturing, storage and distribution requirements.

[902 KAR 045:031E](#). Hemp-derived cannabinoid product sampling and testing requirements.

[902 KAR 045:031](#). Hemp-derived cannabinoid product sampling and tasting requirements.

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.

Office of the Secretary: Medicinal Cannabis Program

[915 KAR 001:010](#). Initial and renewal application for cannabis business licenses.

[915 KAR 001:020](#). Cannabis business licenses.

The subcommittee adjourned at 1:40 p.m. The next meeting of this subcommittee was tentatively scheduled for September 10, 2024, at 1 p.m. in Room 149 of the Annex.