

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of March 10, 2025

Call to Order and Roll Call

The March meeting of the Administrative Regulation Review Subcommittee was held on Monday, March 10, 2025, at 1:00 p.m. in Room 149 of the Capitol Annex. Senator Stephen West, 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; Senators Julie Raque Adams and Mike Wilson; and Representatives Randy Bridges and Mary Lou Marzian.

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

Guests: Dawn Baase, Wes Jones, Gordon Slone, Department for Natural Resources; Kathryn Adams-Cornett, Marni Gibson, Department of Financial Institutions; Nathan Goodrich, Kentucky Public Pensions Authority (KPPA); Dr. John Park, DVM, Michelle Shane, Board of Veterinary Examiners; Sara Janes, Ciera Sherwood, M.S., Board of Speech-Language Pathology and Audiology; Dr. Andrea Brooks, LPCC-S, Board of Licensed Professional Counselors; Steven Fields, Jenny Gilbert, Department of Fish and Wildlife Resources; Jesse Rowe, Department of Vehicle Regulation; Todd Allen, Matthew Courtney, Department of Education; Jason Hernandez, Robin Maples, Chuck Stribling, Department of Workplace Standards; Ashleigh Bailey, Jamie Eads, Kentucky Horse Racing and Gaming Corporation; Andrea Day, Dr. Leslie Hoffmann, Jay Klein, Jonathan Scott, Cabinet for Health and Family Services; and John Cooper, Timothy Schenk, Kentucky Bankers Association.

The subcommittee determined that the following administrative regulations were deficient pursuant to KRS 13A.030(2)(a) and (3):

ENERGY AND ENVIRONMENT CABINET: Department for Natural Resources: Division of Mine Permits: Bond and Insurance Requirements

[405 KAR 010:001](#). Definitions for 405 KAR Chapter 10. Dawn Baase, environmental scientist consultant; Wes Jones, director; and Gordon Slone, commissioner, represented the department.

In response to Co-Chair West, Mr. Slone stated, beginning in 2012, these administrative regulations required the approval of the US Secretary of the Interior. In 2018, Kentucky was denied approval based on previous requirements. The definition for

"long-term treatment" applied to surface coal mining results, especially acid mine drainage, that created the need for persistent, on-going reclamation. In order to address these long-term treatment needs, the division required a bond to cover treatment costs for approximately 20 years. The US Secretary of the Interior determined the bond provisions were insufficient. For program approval, the US Secretary of the Interior required a bond to cover treatment costs for 75 years. These administrative regulations were amended to change the bonding requirements. Kentucky has approximately 100 active coal mines, of which 10 to 15 would be required to post bond under these new requirements. Mr. Jones stated 88 long-term treatment bonds would be required to comply with these requirements. Of those, only a small number were active coal mines. Individual rate cost increases to these active coal mines would vary significantly and total in aggregate approximately \$100 million statewide. Ms. Baase stated some bond costs had decreased after recalculation.

In response to Co-Chair Lewis, Mr. Slone stated the division was aware of Senate Bill 89 from this Regular Session of the General Assembly, which would have the effect of repealing these administrative regulations, leading to continued disapproval of the program by the US Secretary of the Interior. Mr. Jones stated the division had deferred these administrative regulations pending the resolution of that legislation. If enacted, Mr. Slone and Mr. Jones stated the division would comply with the provisions of Senate Bill 89.

In response to Co-Chair West, Mr. Slone stated three to five surety bonding agencies currently issue these types of bonds. Mr. Jones stated mining operations were reporting that surety bond agencies required a large amount of liquid capital as collateral for issuing these bonds. It is possible the new federal administration will have a different opinion than the previous administration pertaining on bonding requirements.

In response to Representative Bridges, Mr. Slone stated he was unsure of the severance tax levied on coal companies in 2023. Mr. Slone and Mr. Jones stated it would be difficult to determine how these administrative regulations would affect competition with other states because other coal-producing states have very different regulatory frameworks.

In response to Co-Chair West, Mr. Jones stated all states operate differently pertaining to coal mining reclamation. Mr. Slone stated some states have third-party trust programs to offset costs. Ms. Baase stated other states probably do not use the term, "long-term treatment." Other states use "acid mine drainage" or "water pollution discharges." Bond requirements are necessary regardless of the term used. Mr. Slone stated, while it was possible new requirements could cause some coal companies financial strain, permittees are able to appeal fees and tax rates through the Office of Administrative Hearings.

In response to Representative Bridges, Mr. Slone stated the division had not received financial penalties as a result of the disapproval; however, it was possible that

ongoing disapproval might result in federal authorities assuming control of Kentucky's program and developing independent bonding requirements.

In response to Co-Chair West, Mr. Jones stated he would follow up with the subcommittee and submit specific bonding calculations.

Co-Chair West stated these administrative regulations should be found deficient without delay because the requirements would have a significant negative impact on the state's coal industry, including business closures, at a time when energy sources are of an emergent necessity. Senate Bill 89 clearly expresses the General Assembly's will in this matter. Additionally, it is possible the new federal administration will not continue to disapprove Kentucky's program. Co-Chair West made a motion, seconded by Co-Chair Lewis, to find these administrative regulations deficient. A roll-call vote was conducted. With five votes to find 401 KAR 010:001 and 010:015 deficient, these administrative regulations were found deficient by this subcommittee.

Compiler's Note: Pursuant to KRS 13A.335(3)(a), a new Section 2 was added to this administrative regulation to reflect the finding of deficiency.

[405 KAR 010:015](#). General bonding provisions.

Compiler's Note: Pursuant to KRS 13A.335(3)(a), a new Section 13 was added to this administrative regulation to reflect the finding of deficiency.

PUBLIC PROTECTION CABINET: Department of Financial Institutions: Credit Unions

[808 KAR 003:050](#). Conduct of credit unions. Kathryn Adams-Cornett, general counsel, and Marni Gibson, commissioner, represented the department. John Cooper, government affairs consultant, and Timothy Schenk, general counsel, Kentucky Bankers Association, appeared in opposition to this administrative regulation.

In response to Co-Chair West, Ms. Gibson stated this administrative regulation proposed to add a low-income designation for some credit unions. The National Credit Union Administration (NCUA) allows low-income designation credit unions and has established parameters under which low-income designation credit unions can operate. Low-income designation credit unions operate in over 30 states. This proposed amendment would allow exceptions to the statutory cap for member business to allow credit unions to increase business lending programs to underserved members, allow the acceptance of supplemental capital from outside sources to augment retained earnings, and accept non-member deposits.

In response to Co-Chair West, Mr. Schenk stated to join a credit union, a depositor is required to be a part of a specific community, agency, or association. A depositor is considered a shareholder in that credit union. The Kentucky Bankers Association is concerned about statutory conflicts and expansion related to the fees connected with membership in credit unions.

In response to Co-Chair Lewis, Mr. Cooper stated the Kentucky Bankers Association is unable to reach a compromise on this matter unless there are amendments to the authorizing statutes. Mr. Cooper and Mr. Schenk stated the Kentucky Bankers Association will continue to work with the department to reassess the future of these proposed changes during the interim period.

In response to Co-Chair West, Ms. Gibson stated every credit union's fee structure is different, but member fees are generally nominal. The low-income designation would leave existing fields of membership intact, and non-member deposits would still need to fall within a credit union's field of membership to be accepted (subject to limitations including lending, paying shares, or paying interest to members within the guidelines set by the NCUA).

In response to Senator Wilson, Ms. Gibson stated non-members could only utilize IRA or other investment programs at a credit union if the credit union was categorized as a low-income designation. A member of a low-income designation credit union is not required to also be low income.

Co-Chair Lewis stated provisions in this administrative regulation seem to conflict with the authorizing statute. In response, Ms. Adams-Cornett provided an additional statutory citation to support the agency's position. Co-Chair Lewis stated issues of statutory authority were not the subcommittee's only grounds for a finding of deficiency. Co-Chair Lewis made a motion, seconded by Senator Raque Adams, to find this administrative regulation deficient. A roll-call vote was conducted. With five votes for a finding of deficiency and one vote opposed to a finding of deficiency, this administrative regulation was found deficient by this subcommittee.

Compiler's Note: Pursuant to KRS 13A.335(3)(a), a new Section 10 was added to this administrative regulation to reflect the finding of deficiency.

Administrative Regulations Reviewed by this Subcommittee:

KENTUCKY PUBLIC PENSIONS AUTHORITY (KPPA): General Rules

[105 KAR 001:451](#). Quasi-governmental employer reports on independent contractors and leased employees. Nathan Goodrich, staff attorney supervisor, represented the authority.

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

BOARDS AND COMMISSIONS: Board of Veterinary Examiners

[201 KAR 016:510](#). Fees for veterinarians. Dr. John Park, DVM, chair, and Michelle Shane, executive director, represented the board.

[201 KAR 016:513](#). Fees for Allied Animal Health Professional (AAHP) permits.

[201 KAR 016:515](#). Fees for veterinary facility registrations.

[201 KAR 016:517](#). Fees for AAHP facility registrations.

[201 KAR 016:730](#). Approved Allied Animal Health Professional (AAHP) programs; education requirements.

[201 KAR 016:731](#). Examination requirements for AAHP providers.

[201 KAR 016:732](#). Application requirements for AAHP permits - reinstatement.

[201 KAR 016:735](#). Renewal requirements for AAHP permits – renewal notice – expiration.

[201 KAR 016:737](#). Responsibilities for AAHP providers; limitations on practice.

[201 KAR 016:762](#). Application requirements for Veterinary facility registration; veterinarian managers; registered responsible parties.

[201 KAR 016:765](#). Veterinary facilities – renewal notice – requirements for renewal and reinstatement.

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

[201 KAR 016:767](#). Registered veterinary facilities – duties of registered responsible parties and veterinarian managers.

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

[201 KAR 016:772](#). Application requirements for AAHP facility registration; AAHP managers; registered responsible parties.

[201 KAR 016:775](#). AAHP facilities – renewal notice – requirements for renewal and reinstatement.

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

[201 KAR 016:777](#). Registered AAHP facilities - duties of registered responsible parties and AAHP managers.

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

Board of Speech-Language Pathology and Audiology

[201 KAR 017:120](#). Audiology and Speech-Language Pathology Interstate Compact. Sara Janes, staff attorney, and Ciera Sherwood, M.S., board member, represented the board.

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

Board of Licensed Professional Counselors

[201 KAR 036:050](#). Complaint management process. Dr. Andrea Brooks, LPCC-S, chair, and Sara Janes, board counsel, represented the board.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 3, 5, 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.

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

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 2 to add the newly adopted Rulemaking on Fees. Without objection, and with agreement of the agency, the amendments were approved.

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

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 2 to add the newly adopted Rulemaking on Fees. Without objection, and with agreement of the agency, the amendments were approved.

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

[301 KAR 002:132](#). Elk hunting seasons, permits, zones, and requirements. Steven Fields, staff attorney, and Jenny Gilbert, legislative liaison, represented the department.

In response to Co-Chair Lewis, Ms. Gilbert stated the elk population is strong, and the agency is monitoring the bull versus cow population. Changes to the baiting requirements would help make the hunting fairer and would improve population tracking programs.

A motion was made and seconded to approve the following amendments: to amend Sections 8 and 16 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

[301 KAR 002:172](#). Deer hunting seasons, zones, and requirements.

In response to Co-Chair Lewis, Ms. Gilbert stated the expansion in hunting dates is to allow youth a better opportunity to hunt and more chances for success, as well as a means to assist in controlling deer populations.

[301 KAR 002:300](#). Black bear seasons and requirements.

Licensing

[301 KAR 005:022](#). License, tag, and permit fees.

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.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Driver's License

[601 KAR 012:120E](#). Testing applicants for initial or renewal instruction permit, initial or renewal operator's license, or reinstatement. Jesse Rowe, assistant general counsel, represented the department.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 5 to make technical corrections. Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION AND LABOR CABINET: Department of Education

[704 KAR 003:315](#). Certification of nonpublic schools. Matthew Courtney, policy advisor, and Todd Allen, deputy commissioner and general counsel, represented the department.

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

Department of Workplace Standards: Occupational Safety and Health

[803 KAR 002:300](#). General. Jason Hernandez, general counsel; Robin Maples, occupational safety and health specialist; and Chuck Stribling, deputy commissioner, represented the department.

[803 KAR 002:320](#). Toxic and hazardous substances.

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

KENTUCKY HORSE RACING AND GAMING CORPORATION: General

[810 KAR 002:070](#). Thoroughbred and other flat racing associations. Ashleigh Bailey, chief legal officer, and Jamie Eads, president and CEO, represented the corporation.

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 3 through 6, 8, 10, 13 through 16, 20, 21, 23, 25 through 32, 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.

Flat and Steeplechase Racing

[810 KAR 004:030](#). Entries, subscriptions, and declarations.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2 through 4, 6, 11 through 13, and 15 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Medicaid Services

[907 KAR 001:595E](#). Model Waiver II service coverage and reimbursement policies and requirements. Dr. Leslie Hoffmann, deputy commissioner, and Jonathan Scott, regulation coordinator, represented the department.

Payments and Services

[907 KAR 003:100E](#). Reimbursement for acquired brain injury waiver services.

Certified Provider Requirements

[907 KAR 007:015E](#). Reimbursement for home and community-based waiver services version 2.

Supports for Community Living Waiver

[907 KAR 012:020E](#). Reimbursement for New Support for Community Living Waiver Services.

Eligibility

[907 KAR 020:005E](#). Medicaid technical eligibility requirements not related to a modified adjusted gross income standard or former foster care individuals.

Office of Human Resource Management: Administration

[920 KAR 001:090](#). Client Civil Rights complaint process. Jay Klein, assistant director, represented the office.

Department for Community Based Services: Daycare

[922 KAR 002:020](#). Child Care Assistance Program (CCAP) improper payments, claims, and penalties. Andrea Day, division director, represented the department.

In response to Co-Chair West, Ms. Day stated claims \$10,000 and above are rare, but the existing administrative regulation does not address claims of this size. The department worked with the Office of the Inspector General to develop these changes. The department worked directly with providers prior to an escalation of a case (including payment arrangements), but the proposed revisions were aimed at cases in which mediation failed to result in a solution. These cases consisted primarily of fraud.

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

The following administrative regulations were deferred or removed from the March 10, 2025, subcommittee agenda:

BOARDS AND COMMISSIONS: Board of Pharmacy

[201 KAR 002:416E](#). Pharmacy annual reporting of cost dispensing data.

Board of Optometric Examiners

[201 KAR 005:010](#). Application for licensure; endorsement.

ENERGY AND ENVIRONMENT CABINET: Department for Natural Resources: Division of Mine Permits: Bond and Insurance Requirements

[405 KAR 010:001](#). Definitions for 405 KAR Chapter 10.

[405 KAR 010:015](#). General bonding provisions.

TRANSPORTATION CABINET: Department of Vehicle Regulation

[601 KAR 012:120](#). Testing applicants for initial or renewal instruction permit, initial or renewal operator's license, or reinstatement.

PUBLIC PROTECTION CABINET: Department of Insurance: Agents, Consultants, Solicitors, and Adjusters

[806 KAR 009:360](#). Pharmacy Benefit Manager License.

Department of Financial Institutions: Credit Unions

[808 KAR 003:050](#). Conduct of credit unions.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Medicaid Services

[907 KAR 001:835E](#). Michelle P. waiver services and reimbursement.

Payments and Services

[907 KAR 003:210E](#). Acquired brain injury long-term care waiver services and reimbursement.

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

[908 KAR 001:410](#). Recovery housing.

The subcommittee adjourned at 2:20 PM. The next meeting of this subcommittee was tentatively scheduled for April 8, 2025, at 1 PM in Room 149 of the Annex.