

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of May 13, 2025

Call to Order and Roll Call

The May meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, May 13, 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, Mike Wilson, and David Yates; and Representatives Deanna Gordon and Mary Lou Marzian.

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

Guests: Jessica Bowman, Christopher Thacker, Office of the Attorney General; Erritt Griggs, Gordon Rowe, Jr., Personnel Cabinet; Todd Allen, Department of Education; Shelby Bevins-Sullivan, John Hardesty, Office of Claims and Appeals; Joshua Newton, Maggie Woods, Department of Alcoholic Beverage Control; Jonathan Scott, Melanie Taylor, Cabinet for Health and Family Services; and Norma Hatfield, Kinship Coalition.

Administrative Regulations Reviewed by this Subcommittee:

DEPARTMENT OF LAW: Kentucky Opioid Abatement Advisory Commission

040 KAR 009:010. General application procedure. Jessica Bowman, executive advisor, and Christopher Thacker, general counsel, represented the commission.

A motion was made and seconded to approve the following amendments: (1) to amend Section 4 to establish a deadline for responding to the commission's request for supplementation or other inquiries; and (2) to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 2, 4, 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.

PERSONNEL CABINET: Personnel Board

101 KAR 001:325. Probationary periods. Erritt Griggs, general counsel, and Gordon Rowe, Jr., executive director, represented the board.

EDUCATION AND LABOR CABINET: Board of Education: Office of Chief State School Officer

701 KAR 005:055. Removal hearing procedures. Todd Allen, deputy commissioner and general counsel, represented the office.

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.

PUBLIC PROTECTION CABINET: Office of Claims and Appeals: Board of Tax Appeals

802 KAR 1:010. Tax appeal procedures. John Hardesty, executive director, and Shelby Bevins-Sullivan, staff attorney, represented the board.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 7, 10, 13, and 14 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Claims

802 KAR 2:010. Negligence claims before the Board of Claims.

In response Senator Yates, Mr. Hardesty stated the filing deadlines in this administrative regulation were being revised to be more consistent with the deadlines established in 802 KAR 001:010. Both administrative regulations establish provisions for adjudicating adversarial claims, typically between state agencies and individual taxpayers. Because the Board of Claims is exempt from the provisions of KRS Chapter 13B, administrative procedures are directly established through administrative regulation. To provide necessary flexibility, this administrative regulation includes the option to waive certain Kentucky Rules of Evidence if the hearing officer and parties agree or if the rules are inappropriate for the type of claim.

A motion was made and seconded to approve the following amendments: (1) to amend Section 13 to include the circumstances under which the board or hearing officer may waive application of the Kentucky Rules of Evidence; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 6, 10, 13, and 17 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (3) to amend Section 6 to delete the option for the board to recommend an order of dismissal if the agency fails to respond to a claim within 30 days, while retaining the option to enter a show cause order or consider the facts of the claim admitted and render a decision. Without objection, and with agreement of the agency, the amendments were approved.

Crime Victims Compensation Board

802 KAR 3:010. Crime victims compensation.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 3 through 8, and 10 through 14 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

802 KAR 3:020. Payment schedule for sexual assault examinations.

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

802 KAR 3:030. Crime victims compensation awards.

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 through 7, 9 through 13, and 16 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

802 KAR 3:040. Additional award requests.

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

802 KAR 3:050. Emergency awards.

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

802 KAR 3:060. Crime victim compensation offender debt collections.

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

Department of Alcoholic Beverage Control: Licensing

804 KAR 004:415. Direct shipper license. Joshua Newton, general counsel, and Maggie Woods, distilled spirits administrator, 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 Section 1 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: Department for Medicaid Services: Hospital Service Coverage and Reimbursement

907 KAR 010:840E. Hospital Rate Improvement Program. Jonathan Scott, legislative and regulatory liaison, represented the department.

Co-Chair Lewis thanked the department for helping hospitals, especially in rural areas, through this administrative regulation.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 4 to: (a) clarify that the quality metrics that hospitals must meet to receive the supplemental payment are established in federal law; and (b) delete an example. Without objection, and with agreement of the agency, the amendments were approved.

Department for Community Based Services: Child Welfare

922 KAR 001:360. Private child care placement, levels of care, and payment. Melanie Taylor, division director, represented the department. Norma Hatfield, Kinship Coalition, appeared in support of this administrative regulation.

In response to Senator Raque Adams, Ms. Taylor stated the cost to implement the proposed per-diem rate increases was approximately \$10 million per biennium. The increases were not required by statute. Ms. Taylor stated she was unsure whether this funding was specifically included in budget legislation and did not know how the discretionary funding was identified other than the increases would be funded through existing cabinet funds. The cabinet did not promulgate administrative regulations to implement Senate Bill 151 from the 2024 Regular Session of the General Assembly because dedicated funds were not appropriated in the biennium budget legislation. Senator Raque Adams stated the cabinet was implementing per diem increases in this administrative regulation that were not statutorily required or included in budget legislation; however, the cabinet was failing to implement Senate Bill 151, which was statutorily mandated. The Governor was not following the law, and discretionary funds were clearly available. While the increases in this administrative regulation were appropriate, the cabinet was demonstrating its ability but failure to implement Senate Bill 151.

Senator Wilson stated he concurred with Senator Raque Adams and it is the duty of the Executive Branch to implement statutory requirements.

In response to Co-Chair West, Ms. Taylor stated, because she was not involved in the cabinet's budget processes, she was unaware as to how the \$10 million for this administrative regulation was allocated. Co-Chair West stated this administrative regulation demonstrates the Governor's hypocrisy by appropriating discretionary funds for a program not statutorily mandated, while simultaneously failing to implement a statutorily mandated program based on lack of funding.

In response to Co-Chair West, Ms. Hatfield stated, while she could not speak to the details of the discussions regarding Senate Bill 151, she agreed these were conversations that needed to be conducted. Ms. Hatfield stated Kinship Coalition is in full support of this proposed administrative regulation. According to a report from earlier this year, Kentucky has twice the national rate of child maltreatment cases. In October of 2023, the cabinet secretary stated the cabinet would address the issues raised by Senate Bill 151, which would give caregivers more time to review placement options for vulnerable children. Many caregivers were unknowingly waiving per-diem payments because Senate Bill 151 remained unimplemented.

Co-Chair West stated subcommittee members' comments regarding Senate Bill 151 were not intended to reflect on the per-diem increases in this administrative regulation, which he supported. He requested the cabinet examine whether there is discretionary funding available to fully fund Senate Bill 151.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph; Sections 1, 5, and 18; 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.

Other Business

Co-Chair West stated subcommittee members had been reappointed and it was necessary to elect Co-Chairs for this two-year term. The Speaker of the House, on January 7, 2025, appointed Representative Derek Lewis as Co-Chair of this subcommittee. A motion was made and seconded to renew Representative Lewis as House Co-Chair. Without objection, Representative Lewis was so endorsed.

Co-Chair Lewis stated the President of the Senate, on January 7, 2025, appointed Senator Stephen West as Co-Chair of this subcommittee. A motion was made and seconded to renew Stephen West as Senate Co-Chair. Without objection, Senator West was so endorsed.

The following administrative regulations were deferred or removed from the May 13, 2025, subcommittee agenda:

DEPARTMENT OF LAW: Kentucky Opioid Abatement Advisory Commission

040 KAR 009:020. Local government application procedure.

PERSONNEL CABINET: Classified

101 KAR 002:034. Classified compensation administrative regulations.

101 KAR 002:102. Classified leave general requirements.

Unclassified

101 KAR 003:015. Leave requirements for unclassified service.

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

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 002:416. Pharmacy annual reporting of cost of dispensing data.

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

806 KAR 009:360. Pharmacy Benefit Manager License.

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 Medicaid Services

907 KAR 001:039. Hearing program reimbursement provisions and requirements.

907 KAR 001:835. Michelle P. waiver services and reimbursement.

Payments and Services

907 KAR 003:100. Reimbursement for acquired brain injury waiver services.

907 KAR 003:210. Acquired brain injury long-term care waiver services and reimbursement.

Certified Provider Requirements

907 KAR 007:015. Reimbursement for home and community based waiver services version 2.

Home and Community Based Services 1915(i) State Plan Initiatives

907 KAR 016:005. Definitions for 1915(i) Recovery, Independence, Support and Engagement (RISE) Initiative.

907 KAR 016:010. 1915(i) RISE Initiative Home and Community-Based Services (HCBS); Participant Eligibility.

907 KAR 016:015. Recovery, Independence, Support and Engagement (RISE) Initiative 1915(i) Home and Community-Based Services (HCBS); provider participation and enrollment.

907 KAR 016:020. 1915(i) Home and Community-Based Services (HCBS) Recovery, Independence, Support and Engagement (RISE) Initiative; covered services.

907 KAR 016:025. Recovery, Independence, Support and Engagement Initiative (RISE) Program reimbursement provisions and requirements.

The subcommittee adjourned at 1:30 PM. The next meeting of this subcommittee was tentatively scheduled for June 10, 2025, at 1 PM in Room 149 of the Annex.