

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of July 14, 2025

Call to Order and Roll Call

The July meeting of the Administrative Regulation Review Subcommittee was held on Monday, July 14, 2025, at 3:00 p.m. in Room 154 of the Capitol Annex. Senator Stephen West, 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 Randy Bridges, Deanna Gordon, and Mary Lou Marzian.

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

Guests: Jon Johnson, Jason Siwula, Transportation Cabinet; Stephen McMurry, Agricultural Experiment Station; Mark Bowman, Department of Veterans' Affairs; Carole Catalfo, Nathan Goodrich, Kentucky Public Pensions Authority (KPPA); Jessica Brown, Dr. Christopher Harlow, PharmD, Board of Pharmacy; Mark Brengelman, Hank Cecil, Board of Social Work; and Representative Jennifer Decker.

The subcommittee considered the following effective administrative regulation for informational review pursuant to KRS 13A.030(3) and (4):

TRANSPORTATION CABINET: Traffic

603 KAR 005:120. Access to highways. Jon Johnson, Assistant General Counsel, and Jason Siwula, Executive Director of Project Management, represented the cabinet. Representative Jennifer Decker appeared in opposition to this administrative regulation.

In response to Chair West, Mr. Johnson stated there are three types of highway-access: access-by-permit, access for partially controlled or heavier-use roadways, and controlled access roadways, such as major highways that require access points as part of a formal engineering design plan. Sometimes a corridor access road is used to create access for multiple properties, and it is possible for areas to become "landlocked." Typically, an application for a new access-by-permit is considered by a local planning and zoning group, then at the district and state level. If an access permit improves the value of a property, the property owner pays the Commonwealth the additional value. Mr. Siwula stated the majority of property purchased for roadway projects is attained through standard, right-of-way acquisition and not through condemnation. Each completed right-

of-way project includes the type of access. Change in access is part of the calculation used to determine compensation by the cabinet to property owners involved in roadway projects during the initial acquisition period. As part of the permit application process, the property owner needs a fair-market-value appraisal of the proposed change in access. A deed conveyance is usually necessary. Mr. Johnson stated fair market value is part of the due process clause of the Constitution of the United States and is applicable to the Commonwealth and to property owners alike based on changing circumstances related to property values.

In response to Chair West, Representative Decker stated roadways included in the access-by-permit process are developed based on the assumption that new access points will be needed to respond to continued community growth. In non-condemnation situations where new access points are expected, fair market value assessments should not apply. The duration for some access permits is onerous and might preclude development. Section 4(6) of this administrative regulation is not specifically authorized by statute. Property owners should not be required to compensate the cabinet for fair-market-value changes if there had been assurances that access would be authorized and if safety and other conditions were met, especially if the access would provide benefits to the general public. Federal requirements are being applied to all roads built in Kentucky, regardless of the initial funding source. The application of federal requirements to roads with only initial state funding should be a policy decision made by the General Assembly. The landowner was already responsible for the cost of construction for any road connected to the access point, appraisal, and other costs involved in the permitting process; therefore, the addition of charging the property owner for fair market value changes seems onerous. Section 4(6) of this administrative regulation should be found deficient by the subcommittee.

In response to Chair West, Mr. Johnson stated the cabinet is a steward of taxpayer money, and KRS 177.081 requires the cabinet to maintain, build, and design roads for public need and use. If the cabinet provides access for private use, the taxpayer needs to be reimbursed for the current value, taking into consideration the initial property rights transfer. Mr. Siwula stated that the federal regulation Representative Decker referenced, pertains to the general basis for determination of fair market value. If the cabinet purchased the right to restrict access to a property and if someone requested a change, a deed would need to change hands in order to maintain the proper chain of title for that property. Mr. Johnson stated it is possible for the General Assembly to create a project to address some of these issues.

In response to Representative Bridges, Mr. Siwula stated he would follow up with the subcommittee and provide information on access-by-permit process waivers or waiver special conditions. Representative Bridges stated there should be some balance to fair market value determinations. As indicated by some failed projects across the Commonwealth, there should be consideration for the risk faced by developers because

there is no guarantee of success after highway access is granted. All parties need to consider what will ensure growth and prosperity, which seems to be a matter for consideration by the General Assembly. Mr. Siwula stated the cabinet's core mission is to enhance quality of life and economic opportunities for Kentuckians.

In response to Chair West, Representative Decker stated the access-by-permit process anticipates the need for access permits; therefore, the costs to the applicant should include that consideration. Fair market value may be legally waived for the public good. Chair West stated the purpose of the discussion regarding this administrative regulation was to collect information for further policy consideration.

Administrative Regulations Reviewed by this Subcommittee:

AGRICULTURAL EXPERIMENT STATION: Seed

012 KAR 001:134. Tags available for purchase from the director. Stephen McMurry, Executive Director, represented the Agricultural Experiment Station.

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.

012 KAR 001:144. Registration of agricultural seed dealers, noncertified custom seed conditioners, certified seed growers, and certified seed conditioners.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 3 and 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.

012 KAR 001:149. Stop sale orders.

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.

012 KAR 001:164. Germination standards for vegetable seed.

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.

OFFICE OF THE GOVERNOR: Department of Veterans' Affairs: State Veteran's Nursing Home

017 KAR 003:042. Eligibility requirements to state veterans' nursing homes. Mark Bowman, Executive Director, represented the department.

In response to Chair West, Mr. Bowman stated this administrative regulation reduced some restrictions pertaining to veteran admissions.

In response to Senator Yates, Mr. Bowman stated eligibility requirements would be more flexible regarding admission assessments for veterans with certain, specified conditions.

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

KENTUCKY PUBLIC PENSIONS AUTHORITY (KPPA): General Rules

105 KAR 001:200. Retirement procedures. Carole Catalfo, Policy Specialist, and Nathan Goodrich, Staff Attorney Supervisor, represented the authority.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 through 11 and incorporated material to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 3 to align with current agency procedures. Without objection, and with agreement of the agency, the amendments were approved.

105 KAR 001:202. Notification of retirement.

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 002:416. Pharmacy annual reporting of cost of dispensing data. Jessica Brown, General Counsel, and Dr. Christopher Harlow, PharmD, represented the board.

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 1 through 5 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 1 to include that, as statutorily established, data submission shall be every other year after 2026. Without objection, and with agreement of the agency, the amendments were approved.

Board of Social Work

201 KAR 023:012. Social Work Licensure Compact. Mark Brengelman, Counsel, and Hank Cecil, Chair, represented the board.

201 KAR 023:025. Application for licensure.

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 1 through 4 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 3 for consistency with the material incorporated by reference, which includes: (a) documentation of 150 hours of clinical supervision; and (b) requirements for LCSW applicants in another jurisdiction if licensed for less than two years and if licensed for two years or more. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred or removed from the July 14, 2025, subcommittee agenda:

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 002:045. Technicians.

201 KAR 002:165. Transfer of prescription information.

201 KAR 002:480. Telework and electronic supervision for remote prescription processing.

Board of Medical Licensure

201 KAR 009:270. Professional standards for prescribing, dispensing, or administering Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone.

Board of Cosmetology

201 KAR 012:010. Executive director's duties.

201 KAR 012:030. Licensing and examinations.

201 KAR 012:060. Inspections.

201 KAR 012:082. Education requirements and school administration.

201 KAR 012:100. Infection control, health, and safety.

201 KAR 012:190. Complaint and disciplinary process.

201 KAR 012:260. Fees.

201 KAR 012:280. Esthetic practices restrictions.

201 KAR 012:290. Permits.

Board of Social Work

201 KAR 023:075. Continuing education for renewal.

CABINET FOR ECONOMIC DEVELOPMENT: Economic Development Finance Authority

307 KAR 001:070E. Kentucky Entertainment Incentive Program.

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 005:015. Access and attachments to utility poles and facilities.

The subcommittee adjourned at 4:15 PM The next meeting of this subcommittee was tentatively scheduled for August 12, 2025, at 1 PM in Room 149 of the Annex.