

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of December 8, 2025

Call to Order and Roll Call

The December meeting of the Administrative Regulation Review Subcommittee was held on Monday, December 8, 2025, at 1:00 PM in Room 149 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, Cassie Chambers Armstrong, and Mike Wilson; and Representatives Randy Bridges, Deanna Gordon, and Mary Lou Marzian.

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

Guests: Todd G. Allen, Deputy Commissioner/General Counsel, Department of Education (KDE); Chay Ritter, Division Director, KDE; Matt Ross, Associate Commissioner, KDE; Joshua Newton, General Counsel, Department of Alcoholic Beverage Control (ABC); Chad Thompson, General Counsel, Public Protection Cabinet (PPC); Carmela Clark, Program Consultant, Education Professional Standards Board (EPSB); Lauren Graves, Policy Advisor, EPSB; Cassie Trueblood, Counsel, EPSB; Will Adams, Counsel, Department of Employee Insurance (DEI); Chris Chamness, Commissioner, DEI; Colt Sells, Assistant General Counsel, Commission on Human Rights; Cary Bishop, Assistant General Counsel, Finance and Administration Cabinet (FAC); Barbara Dickens, General Counsel, FAC; Jeffrey Allen, Executive Director, Board of Dentistry; Sara Janes, Counsel, Board of Speech-Language Pathology and Audiology (KBSLPA); Cierra Sherwood, Board Member, KBSLPA; Stephen Curley, Executive Director, Board of Physical Therapy; Mark Brengelman, Counsel, Board of Examiners of Psychology; Eddie Slone, Executive Director, Board of Emergency Medical Services (KBEMS); John K. Wood, Counsel, KBEMS; Jenny Gilbert, Legislative Liaison, Department of Fish and Wildlife Resources (KDFWR); Anne Blaylock, General Counsel, Department of Corrections (DOC); Nathan Goens, Assistant General Counsel, Justice and Public Safety Cabinet; Chip White, Assistant Division Director, Department of Criminal Justice Training (DOCJT); Rusty Heckaman, Division Director/State Archivist, Department for Libraries and Archives (KDLA); Dondra Meredith, Deputy General Counsel, KDLA; Drew Preston, Local Records Branch Manager, KDLA; Julie Brooks, Regulations Coordinator, Department for Public Health (DPH); Ashley Marshall, Radiation Health Supervisor, DPH; Justin Dearinger, Division Director, Department of Medicaid Services (DMS); Jonathan Scott, Regulations Coordinator, DMS; David Barron, Attorney; Brian Clark, Executive

Director, Kentucky Petroleum Marketers Association (KPMA); Kevin Sharkey, Staff Attorney, Kentucky Protection and Advocacy (KPA); and Shannon Stiglitz, Senior Vice President of Government Affairs, Kentucky Retail Federation (KRF).

Approval of November 10, 2025 Minutes

A motion was made by Representative Marzian and seconded by Representative Gordon to approve the minutes of the November 10, 2025, meeting. Minutes were approved by voice vote without objection.

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

EDUCATION AND LABOR CABINET: Department of Education: School Administration and Finance

702 KAR 003:030. Insurance requirements.

In response to Chair West, Todd Allen, Deputy Commissioner/General Counsel, KDE, stated KDE is aware of the self-insurance pool option for school districts. If there is a claim, KDE's understanding is the self-insurance pool is first payor and a back-up policy is second payor.

In response to Chair West, Matt Ross, Associate Commissioner, KDE, stated KDE is unaware of constituent concerns that other school districts may be jointly and severally liable if the self-insurance pool reaches its cap. KDE will investigate this matter.

Senator Wilson stated there is liability for the school systems if there is no second payor when the cap is reached.

In response to Chair West, Mr. Allen stated insurance coverage is reviewed through the annual school audit.

In response to Chair West, Chay Ritter, Division Director, KDE, stated the auditors look for material deficiencies, which are communicated to KDE through a finding or recommendation. KDE reviews the overall declaration before signing off on the coverage.

Chair West stated the joint and several liability language in the contract is concerning and requested KDE meet with the Department of Insurance to ensure districts are adequately covered, especially for protection of bondholders.

PUBLIC PROTECTION CABINET: Department of Alcoholic Beverage Control

804 KAR 013:010E. Tobacco enforcement and administration.

804 KAR 013:020E. Tobacco, nicotine, or vapor product license application forms.

804 KAR 013:030E. Causes for denial of tobacco, nicotine, or vapor product license.

804 KAR 013:040E. Notice of intention to apply for tobacco, nicotine, or vapor product transitional license.

In response to Chair West, Shannon Stiglitz, Senior Vice President of Government Affairs, KRF, stated retailers have concerns about the licensing process and criteria for denial, as well as confusion about transitional licensing. By January 1, 2026, 7,000 businesses are required to be licensed. If ABC does not issue a license by this date, these retailers are not going to sell the products, and an immediate solution is needed. The regulations do not specify criteria for a mandatory license denial, and the commissioner possesses overly-broad discretion for other denials, which risks arbitrary decisions. If a retailer sells both alcohol and tobacco products, required data submissions to ABC are duplicative, and documentation requirements are cumbersome.

In response to Chair West, Brian Clark, Executive Director, KPMA, stated instructions for compliance have varied. Notice of this process was not given until the first week of November, the end of the comment period is December 31st, and the deadline for ABC to issue a license is January 1st. Mr. Clark requested the regulations be refiled to give retailers time for compliance.

In response to Co-Chair Lewis, Mr. Clark stated KPMA reached out to ABC and received some clarification, but KPMA plans to file public comments in hopes for a short-term solution.

In response to Representative Bridges, Ms. Stiglitz stated ABC's position is data must be resubmitted, even if duplicative, because the license system is separate.

In response to Representative Bridges, Mr. Clark stated products cannot be sold, nor taxes collected, if a retailer does not have a license on January 1st.

In response to Chair West, Joshua Newton, General Counsel, ABC, stated the requirement to grant licenses by January 1, 2026, is statutory. ABC can only grant a license if an application is submitted. The department is trying to help businesses comply with the statute and avoid a potential criminal penalty.

In response to Chair West, Chad Thompson, General Counsel, PPC, stated the public comment period is still open, and the department will thoughtfully consider every comment.

In response to Chair West, Mr. Thompson stated establishing the new licensing structure required much work and time behind the scenes. ABC did not intend to delay implementation of the regulations.

In response to Senator Chambers Armstrong, Mr. Thompson stated ABC has received approximately 2,500 applications, and 839 licenses have been granted. If all the documentation is submitted, the average turn-around time is less than one day.

In response to Co-Chair Lewis, Mr. Thompson stated ABC staff is working overtime to process applications before the deadline.

In response to Co-Chair Lewis, Mr. Newton stated ABC cannot exceed statutory authority to issue provisional licenses. The department is happy to work with the legislature on a solution.

In response to Representative Bridges, Mr. Thompson stated cross-referencing data from other held licenses is not a practical solution because of the established portal. Existing alcohol licensees can streamline the process by aligning license renewals.

Administrative Regulations Reviewed by this Subcommittee:

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

016 KAR 002:020. Occupation-based career and technical education certification.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 2 through 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

PERSONNEL CABINET: Office of the Secretary: Classified

101 KAR 002:210E. 2025 and 2026 Plan Year Handbooks for the Public Employee Health Insurance Program.

101 KAR 002:210. 2026 Plan Year Handbook for the Public Employee Health Insurance Program.

COMMISSION ON HUMAN RIGHTS

104 KAR 001:010E. Posting, distribution and availability of notices and pamphlets.

FINANCE AND ADMINISTRATION CABINET: Purchasing

200 KAR 005:021. Manual of policies and procedures.

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

BOARDS AND COMMISSIONS: Board of Dentistry

201 KAR 008:563. Licensure of dental hygienists.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 4 and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

Board of Speech-Language Pathology and Audiology

201 KAR 017:120. Audiology and Speech-Language Pathology Interstate Compact.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 and 2 to include an updated edition date of September 20, 2025, which corresponds to the date of the last updated rule; (2) to amend Section 2 to include the latest versions of the Rule on Data System Reporting Requirements adopted on September 20, 2025, and the Rule on the Implementation of Criminal Background Check Requirement adopted on June 30, 2025; and (3) to amend Section 2 and incorporated material to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

Board of Physical Therapy

201 KAR 022:045. Continued competency requirements and procedures.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 3 and incorporated material to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

Board of Examiners of Psychology

201 KAR 026:118E. Psychology interjurisdictional compact.

INDEPENDENT ADMINISTRATIVE BODIES: Board of Emergency Medical Services

202 KAR 007:555. Ground Agencies.

A motion was made and seconded to approve the following amendments: (1) to amend Section 8 to incorporate a new application referenced in the administrative regulation; and (2) to amend the RELATES TO paragraph and Sections 2 through 5 and 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

In response to Chair West, John K. Wood, Counsel, KBEMS, stated the off-duty prohibition in Section 2 does not prohibit off-duty personnel from responding to an emergency. Mr. Wood stated the provision's purpose is to avoid freelancing and skirting of requirements, especially relating to an event medicine provider license.

202 KAR 007:801. Medical directors.

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

301 KAR 003:015. Shooting ranges on department-owned or managed lands.

A motion was made and seconded to approve the following amendments: (1) to

amend Section 2 to clarify that individuals with specific permits are not subject to duplicative requirements and fees; and (2) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 2 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

In response to Co-Chair Lewis, Jenny Gilbert, Legislative Liaison, KDFWR, stated projectiles referenced in the regulation refer to bullets and arrows. The changes are necessary to conform to effective regulations. This regulation provides data to the department regarding who is using shooting ranges.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections

501 KAR 016:310. Pre-execution medical actions.

In response to Senator Chambers Armstrong, Ann Blaylock, General Counsel, DOC, stated the proposed regulation is the result of a Franklin Circuit Court order from April 21, 2025. This order voids the current regulation because it allows DOC to ignore outside, nonmedical records indicating a diagnosis of intellectual disability. The court does not address an insanity diagnosis, leaving no reason to think those provisions are defective. Ms. Blaylock explained the Department of Public Advocacy's concerns result from a misreading of the regulation.

In response to Chair West, Ms. Blaylock stated litigation is ongoing, and the extent of court filing opportunities afforded death row inmates is beyond the scope of DOC's knowledge.

In response to Chair West, David Barron, Attorney, stated the court asked about insanity prior to issuing the order, and he believes the regulation will ultimately be struck down for a third time. The regulation is ambiguous, and DOC should make changes to clarify provisions.

In response to Chair West, Kevin Sharkey, Staff Attorney, KPA, stated the regulation should be found deficient. It allows submission of outside documentation only for intellectual disability, even though the court relied upon a Kentucky Supreme Court case concerning insanity.

In response to Senator Chambers Armstrong, Ms. Blaylock explained the injunction on executions dates back to 2010, and multiple regulations have been promulgated since that time.

Representative Marzian stated executions cost \$1.6 million more than life in prison.

Chair West stated a letter from Attorney General Russell Coleman was submitted to the subcommittee. The letter was read into the record.

Representative Marzian made a motion, seconded by Senator Chambers Armstrong, to find this regulation deficient. After a roll call vote, there were two votes to find the regulation deficient and five votes against deficiency. The motion did not pass.

Senator Chambers Armstrong explained her yes vote. She stated she was concerned about ambiguity and constitutional compliance in the regulation.

Department of Criminal Justice Training: General Training Provision

503 KAR 003:010. Basic law enforcement training course recruit conduct requirements; procedures and penalties.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 2, 3 through 6, 12, 13, 18, and 22 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

EDUCATION AND LABOR CABINET: Department for Libraries and Archives: Archives and Record Management Division

725 KAR 001:050. Records management program.

A motion was made and seconded to approve the following amendments: (1) to amend to update the date on incorporated material for consistency with the administrative regulation; and (2) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 7 and 9 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Radiology

902 KAR 100:130. Dental.

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, 3 through 6, 8, 9, 11, and 12 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

Department for Medicaid Services: Medicaid Services

907 KAR 001:023. Review and approval of selected therapies as ancillary services in nursing facilities.

907 KAR 001:065. Payments for price-based nursing facility services.

A motion was made and seconded to approve the following amendments: (1) to amend Section 7(3)(c)1. on the validation of MDS data to require the department to generate a stratified random sample consisting of the greater of 30% of the Medicaid residents or 15 MDS assessments in a price-based NF; (2) to amend Section 7(3)2. to

require the department to review a minimum of 15 MDS assessments from the sample referenced in Section 7(3)(c)1.; and (3) to amend Sections 1, 3, 6, 7, 12, 13, and 17 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

In response to Chair West, Jonathan Scott, Regulations Coordinator, DMS, explained 907 KAR 1:065 expands 907 KAR 1:023 by including a per diem rate per bed for ancillary services. This rate is part of the fee paid to a nursing facility, and a provider is reimbursed at the same or an increased amount. DMS considered repealing 907 KAR 1:023 but retained it to define covered, medically-necessary ancillary services. Mr. Scott stated the industry appears to favor this change.

Payment and Services

907 KAR 003:062. Public Ground Ambulance Supplemental Payment Program.

Occupational, Physical, and Speech Therapy

907 KAR 008:020. Independent physical therapy service coverage provisions and requirements.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

907 KAR 008:040. Coverage of occupational therapy, physical therapy, and speech-language pathology services provided by various entities.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

Hospital Service Coverage and Reimbursement

907 KAR 010:016. Coverage provisions and requirements regarding inpatient psychiatric hospital services.

Behavioral Health

907 KAR 015:022. Coverage provisions and requirements regarding services provided by behavioral health services organizations for substance use disorder treatment and co-occurring disorders.

Other Business: Senator Raque Adams introduced a University of Louisville student, who was shadowing for the day.

Chair West introduced the newest member of the subcommittee, Senator Cassie Chambers Armstrong.

The following administrative regulations were DEFERRED OR REMOVED from the December 8, 2025, subcommittee agenda:

AGRICULTURAL EXPERIMENT STATION: Feed

012 KAR 002:006. Definitions for 12 KAR Chapter 2.

012 KAR 002:011. Label format.

012 KAR 002:018. Guaranteed analysis.

012 KAR 002:026. Ingredients.

012 KAR 002:041. Drug and feed additives.

012 KAR 002:046. Poisonous or deleterious substances.

012 KAR 002:051. Manufacturing conditions.

Pet Food

012 KAR 003:012. Label format and labeling.

012 KAR 003:022. Expression of guarantees.

012 KAR 003:027. Ingredients.

012 KAR 003:028. Descriptive terms.

012 KAR 003:032. Feeding directions.

012 KAR 003:037. Drugs and pet food additives.

012 KAR 003:039. Nutritional adequacy.

012 KAR 003:042. Statements of calorie content.

BOARDS AND COMMISSIONS: Board of Licensure for Long-Term Care Administrators

201 KAR 006:030. Temporary permits.

201 KAR 006:071. Continuing education requirements.

Board of Veterinary Examiners

201 KAR 016:730. Approved allied animal professional (AAHP) programs; education requirements.

201 KAR 016:731. Examination requirements for AAHP providers.

201 KAR 016:732. Application requirements for AAHP licenses – reinstatement.

201 KAR 016:735. Renewal requirements for AAHP licenses – 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 016:767. Registered veterinary facilities – duties of registered responsible parties and veterinarian managers.

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.

201 KAR 016:777. Registered AAHP facilities – duties of registered responsible parties and AAHP managers.

Board of Licensure for Professional Engineers and Land Surveyors

201 KAR 018:072. Experience.

Board of Examiners of Psychology

201 KAR 026:160. Fee schedule.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Juvenile Justice

505 KAR 001:140E. Department of Juvenile Justice Policies and Procedures Manual: detention services.

505 KAR 001:410E. Restrictive housing and protective custody.

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

701 KAR 005:170. Waiver requests.

Pupil Transportation

702 KAR 005:130. Non-school bus passenger vehicles.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: Controlled Substances

902 KAR 055:015. Schedules of controlled substances.

Department for Medicaid Services: Payment and Services

907 KAR 003:320. Beneficiary Advisory Council and modifications to the Advisory Council for Medical Assistance to establish the Kentucky Medicaid Advisory Committee.

Outpatient Pharmacy Program

907 KAR 023:010. Outpatient Pharmacy Program.

The subcommittee adjourned at 3:25 PM. The next meeting of this subcommittee is tentatively scheduled for January 12, 2026, at 1 PM in Room 149 of the Annex.