LAWS AND REGULATIONS RELATING TO

Licensure in Psychology

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The statutes and regulations provided in this booklet are an *unofficial* version of the Kentucky Revised Statutes and Kentucky Administrative Regulations and are intended for informational purposes only. The official or certified versions of the Kentucky Revised Statutes and Kentucky Administrative Regulations should be consulted for all matters requiring reliance on the statutory text.

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319.005 Practice of psychology and use of title by persons not licensed or certified prohibited.

No person shall engage in the practice of psychology as defined in KRS 319.010 or hold himself or herself out by any title or description of services which incorporates the words "psychological," "psychologist," or "psychology", unless licensed by the board. No person shall engage in the practice of psychology in a manner that implies or would reasonably be deemed to imply that he or she is licensed, unless he or she holds a valid license issued by the board.

319.010 Definitions.

As used in this chapter unless the context requires otherwise:

(1) "Association" means the Kentucky Psychological Association;

(2) "Board" means the Kentucky Board of Examiners of Psychology;

(3) "Credential holder" means any person who is regulated by the board;

(4) "EPPP" means the Examination for Professional Practice in Psychology developed by the Association of State and Provincial Psychology Boards;

(5) "License" means the credential issued by the board to a licensed psychologist, licensed psychological practitioner, certified psychologist with autonomous functioning, certified psychologist, or a licensed psychological associate;

(6) "Practice of psychology" means rendering to individuals, groups, organizations, or the public any psychological service involving the application of principles, methods, and procedures of understanding, predicting, and influencing behavior, such as the principles pertaining to learning, perception, motivation, thinking, emotions, and interpersonal relationships; the methods and procedures of interviewing, counseling, and psychotherapy; of constructing, administering, and interpreting tests of mental abilities, aptitudes, interests, attitudes, personality characteristics, emotion, and motivation. The application of said principles in testing, evaluation, treatment, use of psychotherapeutic techniques, and other methods includes, but is not limited to: diagnosis, prevention, and amelioration of adjustment problems and emotional, mental, nervous, and addictive disorders and mental health conditions of individuals and groups; educational and vocational counseling; the evaluation and planning for effective work and learning situations; and the resolution of interpersonal and social conflicts;

(7) "Psychotherapy" means the use of learning, conditioning methods, and emotional reactions, in a professional relationship, to assist a person or persons to modify feelings, attitudes, and behavior which are intellectually, socially, or emotionally maladjustive or ineffectual; and

(8) "Psychologist" means any person who holds himself or herself out by any title or description of services incorporating the words "psychologic," "psychological," "psychologist," "psychology," "psychopractice," or any other term or terms that imply he or she is trained, experienced, or an expert in the field of psychology.

319.015 Activities not included in practice of psychology.

Nothing in this chapter shall be construed to limit:

(1) The activities, services, and use of title on the part of a person in the employ of the federal government;

(2) Persons in the employ of accredited institutions of higher education from engaging in the teaching of psychology, the conduct of psychological research, the provision of consultation services to organizations or institutions, or the provision of expert testimony, but not including the delivery or supervision of direct psychological services to individuals or groups;

(3) Persons licensed, certified, or registered under any other provision of the Kentucky Revised Statutes from rendering services consistent with the laws regulating their professional practice and the ethics of their profession. They shall not represent themselves to be psychologists or use the term "psychological" in describing their services;

(4) The activities of a student, intern, or resident in psychology, pursuing a course of study approved by the department of psychology of an educational institution rated acceptable

by the board for qualifying training and experience, provided such activities are recognized by transcript as a part of his or her supervised course of study;

(5) The recognized educational activities of teachers in accredited public and private schools, the authorized duties of guidance counselors who are certified by the Education Professional Standards Board, or the activities of persons using psychological techniques in business and industrial organizations for employment placement, promotion, or job adjustment of their own officers and employees;

(6) Persons who are credentialed as school psychologists by the Education Professional Standards Board from using the title "school psychologist" and practicing psychology as defined in KRS 319.010, if their practice is restricted to regular employment within a setting under the purview of the Education Professional Standards Board. These individuals shall be employees of the educational institution and not independent contractors providing psychological services to educational institutions;

(7) A duly ordained minister, priest, rabbi, Christian Science practitioner, or other clergyman from carrying out his or her responsibilities while functioning in a ministerial capacity within a recognized religious organization serving the spiritual needs of its constituency, if he or she does not hold himself or herself out as a psychologist; or

(8) Any nonresident temporarily employed in this state from rendering psychological services for not more than thirty (30) days every two (2) years, if he or she holds a valid current license or certificate as a psychologist in his or her home state or country and registers with the board prior to commencing practice in the Commonwealth.

(9) Persons in subsection (5) of this section pursuing alternative certification as professional counselors pursuant to the provisions of KRS 335.500 to 335.599 who meet the requirements set out in KRS 335.525 shall be exempt from meeting either subsection (1)(e) or (1)(f) of that section.

319.020 Board of Examiners of Psychology.

(1) The board shall consist of nine (9) members appointed by the Governor. Six (6) members shall be licensed psychologists. Two (2) members shall be credentialed by the board as certified psychologists, licensed psychological practitioners, or licensed psychological associates. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated.

(2) Licensed psychologist members shall be appointed by the Governor from a group consisting of the three (3) nominees receiving the most votes for each position to be filled, the nominees to be selected by all licensed psychologists credentialed under this chapter from a list of eligible candidates prepared by the Kentucky Psychological Association. Candidates shall be solicited from all licensed psychologists credentialed according to the provisions of this chapter and each nominee shall be a licensed psychologist credentialed according to the provisions of this chapter. Each licensed psychologist member shall be a resident of this state and shall have engaged in the practice or teaching of psychology as a licensed psychologist for at least three (3) years in this state.

(3) Certified psychologist, licensed psychological practitioner, or licensed psychological associate members shall be appointed by the Governor from a group consisting of the three (3) nominees receiving the most votes for each position to be filled, the nominees to be selected by all certified psychologists, licensed psychological practitioners, and licensed psychological associates credentialed under this chapter from a list of eligible candidates prepared by the Kentucky Psychological Association. Candidates shall be solicited from all certified psychologists, licensed psychological practitioners, and licensed psychological associates credentialed according to the provisions of this chapter. Each nominee shall be a resident of this state, licensed according to the provisions of this chapter, and shall have engaged in the practice or teaching of psychology as a certified psychologist, licensed psychological practitioner, or licensed psychological associate for at least three (3) years in this state.

(4) The term of each board member shall be four (4) years and until a successor is appointed and qualified. No member shall serve more than two (2) consecutive full terms. The Governor shall fill any vacancy occurring in the board in the manner prescribed in subsection (2) of this section. Upon recommendation by a majority of the board members and after notice and a

hearing, the Governor shall remove any member for incompetence, neglect of duty, or malfeasance in office.

(5) Five (5) members of the board shall constitute a quorum. Each member shall receive one hundred dollars ($100) per day for attending each meeting and shall receive his necessary expenses incurred in the performance of the duties required by this chapter. Annually the board shall elect one (1) of its licensed members as chairperson for a term of one (1) year. No person shall serve more than two (2) consecutive full terms as chairperson. The board shall meet at least twice annually and at other times as it determines necessary. Special meetings may be called by the chairperson and shall be called upon the written request of two (2) members.

319.030 Annual report of board -- Principal office -- Register.

(1) On June 30 of each year the board shall submit to the Governor a written report including the names of all persons to whom licenses have been granted as provided in this chapter and any cases heard and decisions rendered.

(2) The board may locate its principal office, meet, or conduct any of its business at any place in this state.

(3) The board shall keep a record of its proceedings and a register of licensed and certified psychologists, licensed psychological practitioners, and licensed psychological associates. The books and records of the board shall be prima facie evidence of the matters therein contained.

319.032 Authority for administrative regulations.

(1) The board shall promulgate administrative regulations:

(a) Establishing requirements, standards, and tests to determine the moral, intellectual, educational, scientific, technical, and professional qualifications of applicants for licensure; and preparing or selecting and administering examinations on general psychological knowledge. Neither certified psychologists, licensed psychological practitioners, nor licensed psychological associates may participate in the examination of applicants for licensure as licensed psychologists;

(b) Establishing and defining the scope of practice within the field of psychology;

(c) Setting the requirements for issuing, denying, suspending, restricting, and revoking licenses, and placing credential holders on probation;

(d) Developing specific guidelines to follow upon receipt of an allegation of sexual misconduct by a person credentialed by the board. The guidelines shall include investigation, hearing officer, and hearing procedures which ensure that the process does not revictimize the alleged victim or cause harm if a credential holder is falsely accused;

(e) Requiring training for the board and investigators hired by the board on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedure in sex offense cases, and effective intervention with victims and offenders;

(f) Establishing requirements for continuing education not to exceed thirty (30) contact hours per three (3) year renewal period as a condition for renewal of licenses;

(g) Establishing and collecting reasonable fees for directories, transcribing, transferring of records, and other services;

(h) Conducting hearings or appointing hearing officers to conduct hearings on any matter under the jurisdiction of the board, in accordance with KRS Chapter 13B;

(i) Entering into reciprocal agreements with boards of examiners of psychology of other states having qualifications and standards at least as high as those of this state providing for reciprocal licensure;

(j) Employing personnel, including hearing officers which it considers necessary for the performance of its functions, determining the duties of personnel, and compensating them within the limits of funds available to the board;

(k) Investigating complaints or suspected violations of this chapter and notifying proper law enforcement authorities. For the purpose of enforcing the provisions of this chapter, the

board shall have the authority to administer oaths, receive evidence, interview persons, issue subpoenas, and require the productions of books, papers, documents, or other evidence;

(l) Governing the supervision of certified psychologists and the supervision and employment of licensed psychological associates and candidates for licensure;

(m) Developing specific guidelines to allow school psychologists who are dually credentialed by the Education Professional Standards Board and the board to obtain supervision acceptable to the board from a licensed psychologist who is neither an employee nor contractor of the school system that employs the school psychologist being supervised; and

(n) Notwithstanding the fee schedules specified in this chapter, increasing or decreasing fees as it deems appropriate.

(2) The board shall have the authority to promulgate other administrative regulations as it deems necessary for the proper administration of this chapter.

(3) The board, at its discretion, may use funds as necessary to purchase liability insurance for members and executive officers of the board, inspectors, examiners, investigators, and staff members exempt from classified service of the state by KRS 18A.115.

319.050 Examination for license -- Fee -- Supervision and temporary licensure -- Designation as "Health Service Provider".

(1) Before granting a license to practice psychology and to use the title "Licensed Psychologist" the board shall require the applicant to pass an examination in psychology and to fulfill all requirements for supervised experience.

(2) The applicant shall:

(a) Pay a fee not to exceed three hundred dollars ($300);

(b) Have received a doctoral degree in psychology from a regionally accredited educational institution; provided, however, the board may grant a license to an individual otherwise qualified under this chapter who has received a doctoral degree in psychology from an educational institution outside the United States, if the educational institution would otherwise be accredited by a regional accrediting body if located in the United States; and

(c) Have had at least two (2) years of supervised professional experience satisfactory to the board, one (1) year of which shall be postdoctoral.

(3) Upon acceptance of the application to sit for the examination in psychology, the applicant may practice psychology under the supervision of a licensed psychologist under conditions of supervision and temporary licensure established by the board. The board shall establish a grace period not to exceed sixty (60) days to allow for the employment and supervision of the applicant by an agency from the time the applicant's degree requirements are completed to the submission of the complete application. During this period of supervision, the applicant for licensure may not supervise certified psychologists, licensed psychological associates, other applicants for licensure, or temporarily licensed persons, nor shall he engage in an independent practice, except under the employment of his supervising psychologist. Upon certification to the board of completion of the one (1) full year of supervision satisfactory to the board, the applicant shall be examined in the practice of psychology.

(4) The board shall grade and keep the examinations and results on file for one (1) year. Upon written request to the board, an applicant may arrange to discuss his or her performance on the examination.

(5) Upon successful completion of the examination process, the applicant may use the title "Licensed Psychologist."

(6) Licensed psychologists may function independently without supervision and may employ and supervise certified psychologists and licensed psychological associates. Licensed psychologists may supervise no more than a total of six (6) certified psychologists, licensed psychological associates, or applicants for licensure at one (1) time.

(7) The board shall after examination issue a license to practice psychology. The designation "Health Service Provider" shall be made on the license of those licensed psychologists who perform activities which include the delivery or supervision of direct health-care services to individual or groups who are intended beneficiaries of such services and who have completed appropriate training and supervised experience, including an internship, in health service delivery at the doctoral level.

319.053 "Licensed psychological practitioner."

(1) A person holding a credential as a certified psychologist or as a licensed psychological associate may apply for a license to perform certain functions within the practice of psychology without supervision and to use the title of "licensed psychological practitioner" when all of the following conditions are met:

(a) Submission of three (3) letters of endorsement to the board to sit for the examination;

1. One (1) of the letters shall be from the applicant's current board-approved supervisor of record and shall include a statement describing the scope of practice demonstrated in the clinical experience of the applicant; and

2. Two (2) letters shall be from licensed mental health professionals who are acceptable to the board and who are familiar with the clinical work of the applicant;

(b) Payment of a fee not to exceed two hundred dollars ($200);

(c) Documentation of at least sixty (60) semester hours of graduate study in psychology or a related field or its equivalent acceptable to the board; and

(d) Completion, after credentialing by the board as a certified psychologist, psychological associate, or licensed psychological associate, of the equivalent of five (5) full-time years of professional experience under the supervision of a board-approved licensed psychologist.

(2) An applicant for licensure under this section shall not have been subject to disciplinary action by the board. An applicant who has been the subject of disciplinary action may appeal to the board for an exception.

(3) An applicant for licensure under this section shall be required by the board to pass the national objective examination known as the EPPP, with a score equal to or exceeding the score required for passage for a licensed psychologist candidate at the doctoral level at the time the examination is taken. The board shall accept the applicant's previous examination results for the objective EPPP examination if the original test score satisfied the licensure requirement at the doctoral level in effect at the time of that test administration. If the applicant's previous score does not meet this criterion, the applicant may retake the examination until the score obtained equals or exceeds the score required for independent practice at the doctoral level at the time the examination is taken.

(4) The board shall require an applicant for licensure under this section to pass an oral examination on psychological practice, ethical principles, and the law. The oral examination shall be conducted by an examination team that is designated by the board and that consists of at least one (1) licensed psychologist and either one (1) certified psychologist with autonomous functioning or one (1) licensed psychological practitioner. The oral examination shall be evaluated using the same criteria as the oral examination for licensed psychologist candidates.

319.056 "Certified psychologist with autonomous functioning" -- "Certified psychologist" -- Practice and title authorization.

(1) A person currently authorized to use the title "certified psychologist with autonomous functioning" may continue to function with that title or may choose to permanently change this title to "licensed psychological practitioner" and notify the board of this choice. The board shall issue a license at the time of renewal to the credential holder with the title of choice.

(2) A certified psychologist with autonomous functioning or a licensed psychological practitioner may continue to function without supervision unless the board revokes his or her license pursuant to KRS 319.082. He or she shall not supervise certified psychologists, licensed psychological practitioners, or licensed psychological associates.

(3) A person currently authorized to use the title "certified psychologist" may continue to function with that title or may choose to permanently change this title to "licensed psychological associate" and notify the board of this choice. The board shall issue a license at the time of renewal to the credential holder with the title of choice.

(4) A certified psychologist or a licensed psychological associate may continue to function under the supervision of a licensed psychologist unless the board revokes his certificate pursuant to KRS 319.082.

(5) A certified psychologist, whether functioning under that title or as a licensed psychological associate, may perform certain functions within the practice of psychology only

under the supervision of a licensed psychologist approved by the board, and shall not employ or supervise other certified psychologists, licensed psychological practitioners, or licensed psychological associates.

319.064 Psychological associate.

(1) An individual credentialed as a psychological associate shall use the title "licensed psychological associate" and the board shall issue a license with that title at the time of renewal.

(2) For an individual with a master's degree in psychology, the board shall issue license to perform certain functions within the practice of psychology and to use the title "licensed psychological associate" to any applicant who:

(a) Pays a fee not to exceed three hundred dollars ($300);

(b) Has received a master's degree in psychology acceptable to the board from a regionally accredited educational institution or from an educational institution outside the United States, if such educational institution would otherwise be accredited by a regional accrediting body if located in the United States; and

(c) Has passed an examination procedure in psychology.

(3) Upon acceptance of the application to sit for the examination in psychology, the applicant may practice psychology under the supervision of a licensed psychologist under conditions of temporary licensure established by the board. The board shall establish a grace period not to exceed sixty (60) days to allow for the employment and supervision of the applicant by an agency from the time the applicant's degree requirements are completed to the submission of the complete application.

(4) The board shall grade and keep the examinations and results for one (1) year. Upon written request to the board, an applicant may arrange to discuss his or her performance on the examination.

(5) Any psychological associate licensed pursuant to this section may perform certain functions within the practice of psychology only under the supervision of a licensed psychologist approved by the board. The licensed psychological associate shall not practice independently, except under the employment and supervision of the board-approved licensed psychologist. A licensed psychological associate shall not represent himself or herself as a licensed or certified psychologist or as a licensed psychological practitioner. A licensed psychological associate shall not employ or supervise certified psychologists, licensed psychological practitioners, or licensed psychological associates.

319.071 Renewal of licenses and certification -- Fee -- Cancellation -- Restoration -- Inactive status.

(1) Licenses must be renewed every three (3) years on or before the anniversary date of issue or renewal. Credential holders shall pay to the board a renewal fee not to exceed one hundred dollars ($100) and shall receive a renewal license. The board shall cancel a license not renewed within three (3) months of the renewal date, but the board may reinstate any canceled license upon payment of the renewal fee and a penalty not to exceed the amount of the renewal fee within three (3) years after cancellation. A credential holder whose license has been canceled shall not practice psychology until the license has been restored.

(2) Any credential holder who has failed to renew his or her license or has been inactive for three (3) or more years may renew his or her license only upon passing an examination procedure and paying the renewal and penalty fees.

(3) Upon petition to the board, credential holders may be granted inactive status for a period of time not to exceed three (3) consecutive years. Credential holders shall not practice psychology while under inactive status and certified psychologists and licensed psychological associates need not be supervised by a licensed psychologist. Inactive credential holders may apply for active licenses as provided for by regulation of the board.

319.082 Disciplinary actions against license and certificate holders.

(1) The board may suspend, revoke, or refuse to issue or renew a license; may accept an assurance of voluntary compliance; restrict, or place a credential holder on probation; or issue an administrative reprimand or private admonishment upon proof that the credential holder has:

(a) Committed any act involving moral turpitude, dishonesty, or corruption, relating to the practice of psychology, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction of such a crime, the judgment and sentence is presumptive evidence at the ensuing disciplinary hearing of the guilt of the licensee or applicant of the crime described in the indictment or information and of the person's violation of the statute on which it is based. For the purpose of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended;

(b) Misrepresented or concealed a material fact in obtaining a license, or in reinstatement thereof;

(c) Committed any unfair, false, misleading, or deceptive act or practice;

(d) Been incompetent or negligent in the practice of psychology;

(e) Practiced psychology while under the suspension, revocation, or restriction of the individual's license to practice by competent authority in any state, federal, or foreign jurisdiction;

(f) Violated any state statute or administrative regulation governing the practice of psychology;

(g) Unlawfully failed to cooperate with the board by:

1. Not furnishing any papers or documents requested by the board;

2. Not furnishing in writing a complete explanation covering the matter contained in the complaint filed with the board;

3. Not appearing before the board at the time and place designated; or

4. Not properly responding to subpoenas issued by the board;

(h) Failed to comply with an order issued by the board or an assurance of voluntary compliance;

(i) Aided or abetted an unlicensed person to practice when a license or certificate is required;

(j) Grossly overcharged for professional services;

(k) Practiced beyond the scope demonstrated by an appropriate combination of knowledge, skill, experience, training, and education;

(l) Failed to provide adequate supervision for certified psychologists, licensed psychological associates, applicants for licensure, or other staff;

(m) Been convicted of any misdemeanor or felony relating to the practice of psychology. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended;

(n) Physically abused or had sexual contact with a patient, client, student, or supervisee;

(o) Been convicted of a misdemeanor offense under KRS Chapter 510 involving a client, patient, or student, or a felony offense under KRS Chapter 510, 530.064, or 531.310, or been found by the board to have had sexual contact as defined in KRS 510.010 with a client, patient, student, or supervisee;

(p) Improperly divulged confidential information;

(q) Exercised undue influence in such a manner as to exploit the client, patient, student, or supervisee for financial or other personal advantage to the practitioner or a third party;

(r) Showed an inability to practice psychology with reasonable skill and safety to patients or clients by reason of illness, misuse of drugs, narcotics, alcohol, chemicals, or any other substance, or as a result of any mental or physical condition; or

(s) Failed to comply with the requirements of the board for continuing education.

(2) Private admonishment shall not be subject to disclosure to the public under KRS 61.878(1)(l) and shall not constitute disciplinary action, but may be used by the board for

statistical purposes or in subsequent disciplinary action against the credential holder or applicant.

(3) No unlawful act or violation of any provision of this chapter by any credential holder employed or supervised by a licensed psychologist shall be cause for the revocation of the supervisor's license, unless the board finds that the licensed psychologist had knowledge of it.

(4) Three (3) years from the date of a revocation, any person whose license has been revoked may petition the board for reinstatement. The board shall investigate his or her petition and may reinstate his or her license upon finding that the former licensee has complied with the provisions of this chapter and administrative regulations promulgated by the board and is again able to engage in the practice of psychology with reasonable skill, competency, and safety to the public.

(5) The board may, at its own discretion, reconsider, modify, or reverse its probations, suspensions, revocations, restrictions, or refusals to issue or renew licenses at anytime.

319.092 Administrative hearing -- Sanctions -- Appeal.

(1) In every proceeding for probation, suspension, or revocation of a license, an administrative hearing shall be conducted in accordance with KRS Chapter 13B.
The board or a hearing officer appointed by the board shall conduct the hearing.

(2) All decisions revoking or suspending a license or placing a credential holder on probation shall be made by the board.

(3) If, after a hearing, a majority of the board finds that a credential holder has violated any provision of this chapter, the board may:

(a) Revoke or suspend the license;

(b) Impose a monetary penalty not to exceed two thousand dollars ($2,000) per violation;

(c) Revoke or suspend the license or impose a monetary penalty, but suspend enforcement thereof by placing the credential holder on probation, which shall be revocable if the board finds the conditions of the probation order are not being followed by the credential holder;

(d) Require the credential holder, as a condition of probation, to submit to care, counseling, or treatment by a professional designated by the board, or require the credential holder to be supervised by a licensed psychologist designated by the board. The expense of this action shall be borne by the credential holder on probation;

(e) Modify the conditions of the probation, with good cause, and may include among them any reasonable condition for the purpose of the protection of the public, or for the purpose of the rehabilitation of the probationer, or both;

(f) Require restitution; and

(g) Assess the costs of the disciplinary proceeding.

(4) If the board substantiates that sexual contact occurred between a credential holder and a patient while the patient was under the care or in a professional relationship with the credential holder, the credential holder's license may be revoked or suspended with mandatory treatment of that individual as prescribed by the board. The board may require the credential holder to pay a specified amount for mental health services for the patient which are needed as a result of the sexual contact.

(5) Final orders of the board suspending or revoking a license or placing a credential holder on probation shall become effective immediately after written notice is served on the credential holder and the credential holder shall not, after notice of same, engage or continue to engage in the practice of psychology unless the board's final order is revoked or modified by the court after judicial review.

(6) The board shall make public its final order in all disciplinary actions.

(7) Any person aggrieved by a final order of the board may appeal to the Franklin Circuit Court in accordance with KRS Chapter 13B.

319.118 Immunity of board members from liability -- Standing to institute and maintain legal actions -- Effect of surrender of license or certificate -- Representation of board by public officers.

(1) Members of the board, its agents, and employees shall be immune from personal liability in any action, civil or criminal, which is based upon any official act or acts performed by them in good faith.

(2) Notwithstanding the existence or pursuit of any other remedy, civil or criminal, the board may institute and maintain actions to restrain or enjoin any violation of this chapter, rules and administrative regulations, or order of the board.

(3) The surrender of a license shall not serve to deprive the board of jurisdiction to proceed with disciplinary actions pursuant to this chapter.

(4) The city, county, Commonwealth's attorney, and the Attorney General shall, within their respective jurisdictions and within their legal discretion, represent the board, its agents, and employees, in the enforcement of the provisions of this chapter and the rules and administrative regulations of the board.

319.131 Fees credited to fund for board use.

All fees received by the board of examiners under this chapter shall be placed in the State Treasury to the credit of a trust and agency fund for the use of the board in carrying out its functions.

319.140 Duty of treating psychologist utilizing telehealth to ensure patient's informed consent and maintain confidentiality -- Board to promulgate administrative regulations -- Definition of "telehealth".

(1) A treating psychologist or psychological associate who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conform to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of psychological services and in the provision of continuing education.

(3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

319.990 Penalties.

(1) Any person who violates KRS 319.005 shall be guilty of a misdemeanor and, upon conviction, shall be punished by imprisonment for not more than six (6) months, or by a fine of not more than five hundred dollars ($500), or by both fine and imprisonment, and each violation shall be deemed a separate offense.

(2) Either the Attorney General or the appropriate Commonwealth's or county attorney shall have the authority to prosecute violations of KRS 319.005.

(3) The board may recover the costs of investigative expenses including reasonable attorney fees relating to the prosecution of those found guilty of violating KRS 319.005.

Kentucky Administrative Regulations

201 KAR 26:115. Definition of psychological testing.

RELATES TO: KRS 319.010

STATUTORY AUTHORITY: KRS 319.032

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.010(6) includes in the practice of psychology the administering and interpreting of tests of mental abilities, aptitudes, interests, attitudes, personality characteristics, emotion, and motivation. The intent of this administrative regulation is to provide a definition of psychological testing sufficient to allow this board to regulate effectively this aspect of psychological practice. The ability to administer and interpret psychological testing assumes formal academic training at the graduate level in statistics, test construction, sampling theory, tests and measurement, individual differences, and personality theory. In addition, the interpretation of psychological tests for diagnostic purposes assumes formal academic training in the areas of abnormal psychology, psychopathology, psychodiagnosis and, in the case of neuropsychological diagnosis, training in neuropsychology. Competent administration and interpretation of psychological tests also requires formal supervised practice experience.

Section 1. Definitions. "Psychological testing" means the use of one (1) or more standardized measurement instruments, devices, or procedures including the use of computerized psychological tests, to observe or record human behavior, and which require the application of appropriate normative data for interpretation or classification and includes the use of standardized instruments for the purpose of the diagnosis and treatment of mental and emotional disorders and disabilities, the evaluation or assessment of cognitive and intellectual abilities, personality and emotional states and traits, and neuropsychological functioning.

Section 2. Psychological Tests. (1) Individual tests for the evaluation of cognitive and intellectual abilities, examples of which are:

(a) The Wechsler series;

(b) The Stanford-Binet; and

(c) The Kaufman Assessment Battery for Children.

(2) Individual, objective and projective tests of personality and emotional states and traits, examples of which are:

(a) The Minnesota Multiphasic Personality Inventory; and

(b) The Millon Clinical Multiaxial Inventory;

(c) The Millon Adolescent Clinical Inventory; and

(d) Projective techniques including:

1. The Rorschach Ink Blots;

2. Thematic Apperception Test; and

3. The Holtzman Ink Blots.

(3) Individual tests of neuropsychological functioning, examples of which are:

(a) The Halstead-Reitan Battery;

(b) The Luria-Nebraska Battery;

(c) The "Lezak or Kaplan Battery"; and

(d) The NEPSY.

Section 3. Services which are described as "psychological testing" may only be administered and interpreted by persons credentialed by this board or who meet the formal academic training and experience qualifications described above and who are otherwise exempt by statute.

(1) Persons credentialed by this board, as well as other licensed or certified professionals, may also use tests of language, education and achievement, as well as tests of abilities, interests, and aptitudes. With the exception of the test categories and psychological tests listed in Section 2 of this administrative regulation, the use of these other tests is not exclusively within the scope of this administrative regulation.

(2) Members of other professions may not train or supervise any person in performing psychological testing.

(3) The practice of psychology shall be construed within the meaning of the definition contained in KRS 319.010(6) without regard to whether payment is received for services rendered.

(4) Services which are described as "psychological testing and treatment" may be administered to minor children only upon the notification of and the granting of written permission by the parent or legal guardian, unless otherwise required by the courts subject to specific state or federal law.

201 KAR 26:121. Scope of practice and dual credentialing.

RELATES TO: KRS 319.032(1)(b), 319.050(7)

STATUTORY AUTHORITY: KRS 319.032(1)(b)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.032(1)(b) requires the board to promulgate administrative regulations establishing and defining scope of practice within the field of psychology. This administrative regulation establishes the required scope of practice for licensed psychologists who hold the health service provider designation, certified psychologists, certified psychologists with autonomous functioning, licensed psychological associates, and licensed psychological practitioners. It also provides guidance about scope of practice for credential holders of this board who also hold mental health credentials from another regulatory board.

Section 1. A credential holder shall not practice or present himself or herself outside the area or areas of competency specified in the application for a credential and approved by the board based upon examination and review of qualifications, training and experience, unless the credential holder has obtained additional education, training, experience or supervision appropriate to the new practice area.

Section 2. Scope of Practice. (1) A licensed psychologist who holds the health service provider designation, a certified psychologist with autonomous functioning, a certified psychologist, a licensed psychologist associate, or a licensed psychological practitioner may:

(a) Work in various health care service delivery settings; and

(b) Provide one (1) or more of the following direct or supportive services:

1. Diagnosis of an emotional, mental, or nervous disorder, including substance abuse or an adjustment problem of an individual or group through the use of psychological testing or other technique;

2. Evaluation or assessment of the functioning of an individual, group, or organization;

3. Treatment and amelioration of an emotional, mental, or nervous disorder, substance abuse, or an adjustment problem of an individual or group;

4. Intervention or a preventive technique that facilitates the functioning of an individual, group, or organization;

5. Consultation services;

6. Program planning or development services;

7. Evaluation of a psychological or human service program; or

8. Supervision of health service delivery as described in 201 KAR 26:171.

(2) All credential holders from this board shall restrict their practice to the delivery of specific services for which they are competent based on professional education, training, and experience.

Section 3. Dual Credentialing. (1) An individual who holds both a credential to practice psychology from this board and a mental health credential from another regulatory board authorized by Kentucky statute shall:

(a) Maintain separate and distinct practices in relation to each credential;

(b) Inform the recipient of a particular service under which credential the provider is practicing;

(c) Demonstrate that representations about the practice, including letterhead, signs, invoices, and advertisements, and the activities of the practice, are designed to maintain those distinctions; and

(d) Not deliver psychological services as defined by KRS 319.010 under the auspices of another credential, recognizing that some activities are exempted by KRS 319.015.

(2) Psychological testing, as defined by 201 KAR 26:115, shall not be delivered under a credential other than that issued by the Board of Examiners of Psychology.

201 KAR 26:125. Health service provider designation.

RELATES TO: KRS 319.050(7)

STATUTORY AUTHORITY: KRS 319.032(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.050(7) provides that the designation of "health service provider" shall be granted for a licensed psychologist who delivers or supervises a psychological health care service. This administrative regulation establishes the requirements for the granting of that designation.

Section 1. The designation "health service provider" shall refer to:

(1) A licensed psychologist defined in KRS 319.050(7) who:

(a) Delivers psychological health care services; or

(b) Supervises a certified psychologist, temporarily licensed psychologist, licensed psychological associate, student, intern, or resident pursuing a course of graduate study in psychology; or

(2) An applicant for licensure at the doctoral level who is delivering psychological health care services.

Section 2. Psychological health care services shall include delivery of diagnosis, assessment, psychotherapy, treatment, or other therapeutic services to individuals, couples, families, or groups whose growth, adjustment, or functioning is impaired or who otherwise seek psychological health care services.

Section 3. A health care provider shall be a licensed psychologist who has completed appropriate training and supervised experience in psychological health service delivery at the doctoral level. The training and experience:

(1) Shall include supervised experience within one (1) or more health care settings in which the provider delivered direct psychological health care services, pursuant to Section 2 of this administrative regulation; and

(2) May occur in a variety of psychological health care delivery sites.

Section 4. A licensed psychologist who does not have the designation "health service provider" shall not deliver or supervise psychological health care services.

Section 5. In addition to completion of a doctoral training program in an area of psychological health service delivery, a candidate for health service provider designation shall complete required predoctoral and postdoctoral supervised experience requirements in a health care setting as established in this administrative regulation, consistent with the requirements of 201 KAR 26:190.

201 KAR 26:130. Complaint procedure.

RELATES TO: KRS 319.005, 319.082, 319.118, 319.990

STATUTORY AUTHORITY: KRS 319.032

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.005 prohibits unlicensed persons from engaging in the practice of psychology, or using the title of psychologist, licensed psychologist, certified psychologist, licensed psychological practitioner or licensed psychological associate. KRS 319.082 delineates the causes for which disciplinary action may be taken against a credential holder. KRS 319.118 authorizes the board to institute and maintain actions to restrain or enjoin violations. KRS 319.990 sets forth the criminal penalty for violations and authorizes prosecution of violators. KRS 319.032 authorizes the board to develop guidelines for use in complaints involving alleged sexual misconduct by a credential holder, and for training of investigators in these matters. This administrative regulation is established to protect and safeguard the health and safety of the citizens of Kentucky and to provide procedures for filing, evaluating, and disposing of complaints.

Section 1. Definitions. (1) "Act" means Chapter 319 of the Kentucky Revised Statutes.

(2) "Board" is defined in KRS 319.010(2), and for purposes of this administrative regulation, shall also refer to a hearing panel.

(3) "Charge" means a specific allegation contained in any document issued by the board or hearing panel alleging a violation of a specified provision of the KRS Chapter 319 or the administrative regulations promulgated thereunder.

(4) "Formal complaint" means a formal administrative pleading authorized by the board that sets forth charges against a credential holder or applicant and commences a formal disciplinary proceeding in accordance with KRS Chapter 13B.

(5) "Initiating complaint" means any allegation in whatever form alleging misconduct by a credential holder or applicant or alleging that an unlicensed person is engaging in the practice of psychology or using the title of psychologist.

(6) "Order" means the whole or any part of a final disposition of a hearing.

(7) "Person" means any individual, partnership, corporation, association, or public or private organization of any character other than an agency.

(8) "Presiding officer" means the person appointed by the board to preside at a hearing pursuant to KRS 319.032(1)(h), and shall include either a hearing officer or a member of the hearing panel.

(9) "Respondent" means the person against whom an initiating or a formal complaint has been made.

Section 2. Initiating Complaint. (1) Source of initiating complaint. A complaint may be initiated by the board, by the public or by any state agency. A certified copy of a court record for a misdemeanor or felony conviction relating to the practice of psychology shall be considered a valid complaint.

(2) Form of initiating complaint. Initiating complaints shall be in writing and shall clearly identify the person against whom the complaint is being made. Further, the complaint shall contain the date, and shall identify by signature the person making the complaint, and shall contain a clear and concise statement of the facts giving rise to the complaint.

(3) Receipt of initiating complaint. A complaint may be received by any board member, credential holder designated by the board, by the Office of the Attorney General, or by any staff member.

(4) Consideration of initiating complaint. At the next regularly-scheduled meeting of the board or as soon thereafter as practicable, the board shall review the initiating complaint. At that time, the board shall determine if an investigation is warranted, and if so, the board may appoint one (1) of its members or any agent or representative of the board to conduct an investigation of the complaint.

(5)(a) If there is reasonable cause to believe that a credential holder or applicant for a license is physically or mentally incapable of practicing psychology with reasonable skill and safety to clients, the board may order the credential holder or applicant to submit to an examination by a psychologist or a physician designated by the board to determine the credential holder's or applicant's psychological or physical status to practice psychology.

(b) The expense of this examination shall be borne by the board.

(c) The board shall then consider the findings and conclusion of the examination and the final investigative report at its next regularly-scheduled meeting or soon thereafter.

(6) Investigation.

(a) The person about whom the initiating complaint has been considered shall be contacted. With the consent of the respondent, a meeting may be scheduled at which time he or she may respond to the allegations of the initiating complaint. A copy of the complaint shall be made available to the respondent prior to the meeting. The board and the respondent shall have the right to be represented at the meeting by legal counsel.

(b) Report of investigation. Upon the completion of the investigation, the person or persons making that investigation shall submit a written report to the board containing a succinct statement of the facts disclosed by the investigation.

(c) Consideration of complaint and investigative report. Based on consideration of the complaint, the investigative report, if any, and the psychological or physical examination, if any, the board shall determine if there has been a prima facie violation of the Act. If the investigator is a member of the board, he or she shall not vote. If it is determined that the facts alleged in the complaint or investigative report do not constitute a prima facie violation of the statute or administrative regulations, the board shall notify the person making the complaint and the

respondent that no further action shall be taken at the present time. If it is determined that there is a prima facie violation of KRS 319.082 or administrative regulations, the board shall issue a formal complaint against the credential holder or applicant. In the case of a prima facie violation of KRS 319.005, the board shall file suit to enjoin the violator or shall seek criminal prosecution pursuant to KRS 319.990.

Section 3. Formal Complaint. If the board determines that the initiating complaint shall be made a formal complaint, the following actions shall be initiated:

(1) Issuance of formal complaint. The board shall provide the respondent with a written formal complaint which shall set forth:

(a) Each offense charged;

(b) Notice of the respondent's right to be represented by counsel;

(c) Notice of the respondent's right to subpoena witnesses in the respondent's behalf; and

(d) Notice of the respondent's right to appeal after an adverse adjudication.

(2) Service of formal complaint. Service of process shall be provided in accordance with KRS 13B.050(2).

(3) Issuance of hearing notice. Notice of the hearing shall be provided as required by KRS 13B.050(1) and (3).

Section 4. Formal Response. Within twenty (20) days of service of the formal complaint, the respondent shall file with the board a written response to the specific allegations set forth in the formal complaint. Allegations not properly responded to shall be deemed admitted. The board may, for good cause, permit the late filing of a response.

Section 5. Allegations of Sexual Misconduct by a Credential Holder. (1) To assure confidentiality for the complainant, the alleged victim's name shall not be used in any written document. This individual shall be identified by initials only or by some other mechanism adopted by the board for identification.

(2) Upon request, the testimony of the alleged victim may be taken by deposition in order to assure his or her confidentiality.

(3) To protect the confidentiality of all parties, the board may issue an order restraining all parties and their representatives, including counsel, from any discussion or release of information about the allegations outside of the investigative and hearing processes.

(4) In accordance with the provisions of KRS 319.032(1)(d), the board may hold some or all of the hearing procedures in closed session.

Section 6. Board Member Training for Cases of Sexual Misconduct. (1) Within six (6) months of their appointment, all board members and investigators shall undergo specialized training to cover the content specified by KRS 319.032(1)(e).

(2) No investigator shall be assigned to cases where sexual misconduct has been alleged until such training has been completed.

(3) Training shall consist of a three (3) hour course which includes the content specified by KRS 319.032 and may be delivered by means of either live presentation, individual tutorial, or videotape.

201 KAR 26:140. Procedures for disciplinary hearings.

RELATES TO: KRS 319.092

STATUTORY AUTHORITY: KRS 319.032

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.092 mandates a hearing upon the filing of a complaint alleging a violation of KRS Chapter 319 to be conducted in accordance with the provisions of KRS Chapter 13B. This administrative regulation establishes procedures which supplement the provisions of KRS Chapter 13B.

Section 1. Composition of the Hearing Panel. (1) Disciplinary actions shall be heard by a hearing panel consisting of the hearing officer and at least one (1) board member appointed by the board.

(2) A board member who has participated in the investigation of an initiating complaint or who has personal knowledge of the facts giving rise to the complaint or for other reasons is unable to render a fair and impartial decision shall not sit as a member of the panel hearing that particular complaint.

(3) Separation of functions. No member, officer, or employee of the board who is engaged in the performance of investigative or prosecutorial functions for the board in a particular case or a factually related case, shall participate in or advise in the decision of the disciplinary action, except as a witness or counsel in the hearing.

Section 2. Hearing Fee. If the board finds against the respondent on any charge, or if the hearing is scheduled at the request of a credential holder or applicant for relief from sanctions previously imposed by the board pursuant to the provisions of KRS Chapter 319, a hearing fee in an amount equal to the costs of stenographic services and the costs of the services of a hearing officer, if any, shall be assessed against the respondent. In case of financial hardship, the board may waive all or part of the fee.

Section 3. Notification of Action Taken. A press release describing all final disciplinary actions taken by the board to suspend, revoke, or refuse to issue or renew a license, restrict, or place a credential holder on probation shall be provided as mandated by federal law, to the Association for State and Provincial Psychology Boards for publication in their data base, and at least to the newspapers with the largest circulation in Louisville, Lexington, Frankfort, the city of business of the respondent and to the AP wire service. Nothing in this administrative regulation shall be construed to limit KRS 319.092(5).

201 KAR 26:145. Code of conduct.

RELATES TO: KRS 319.032, 319.082

STATUTORY AUTHORITY: KRS 319.032(1)(c)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.032(1)(c) requires the board to establish requirements for disciplining a credential holder of this board, whether a licensed psychologist, certified psychologist, certified psychologist with autonomous functioning, licensed psychological practitioner, licensed psychological associate, an applicant or a holder of a temporary license. This administrative regulation establishes a code of conduct for a person practicing psychology.

Section 1. Section 1. Definitions. (1) "Client" means a person who meets the requirements established in Section 2 of this administrative regulation.

(2) "Confidential information" means information revealed by a client or clients or otherwise obtained by a credential holder, if there is reasonable expectation that because of the relationship between the client and the credential holder, or the circumstances under which the information was revealed or obtained, the information shall not be disclosed by the credential holder without the informed written consent of the client.

(3) "Court order" means the written or oral communication of a member of the judiciary, or other court magistrate or administrator, if the authority has been lawfully delegated to the magistrate or administrator.

(4) "Credential holder" is defined by KRS 319.010(3).

(5) "Professional relationship" means a mutually agreed upon relationship between a credential holder and a client for the purpose of the client obtaining the credential holder's professional expertise.

(6) "Professional service" means all actions of the credential holder in the context of a professional relationship with a client.

(7) "Supervisee" means a person who functions under the extended authority of the credential holder to provide psychological services.

Section 2. Client Requirements. (1) Identification of a client.

(a) A client shall be a person who receives an evaluation for diagnostic purposes, psychological testing, a counseling, psychotherapeutic, or other professional psychological services for the treatment or amelioration of an emotional, mental, nervous or behavioral disorder or distress or individual-level psychological consultation in the context of a professional relationship.

(b) A corporate entity or other organization shall be considered the client if the professional contract is to provide a psychological service of benefit to the corporate entity or organization.

(c)1. A legal guardian of a minor or legally incompetent adult shall be considered the client for a decisionmaking purpose.

2. The minor or legally incompetent adult shall be considered the client for an issue that:

a. Directly affects the physical or emotional safety of the individual, including a prohibited relationship; or

b. Is specifically reserved to the individual and agreed to by the guardian prior to the rendering of the service.

(2) A person identified as a client pursuant to subsection (1) of this section shall be deemed to continue to be a client for a period of two (2) years following the last date of service rendered to the person.

Section 3. Competence. (1) Limits on practice. The credential holder shall limit practice and supervision to the areas of competence in which proficiency has been gained through education, training, and experience.

(2) Maintaining competency. The credential holder shall maintain current competency in the areas in which he or she practices, through continuing education, consultation, or other procedures, in conformance with current standards of scientific and professional knowledge.

(3) Adding new services and techniques. The credential holder, if developing competency in a service or technique that is either new to the credential holder or new to the profession, shall engage in ongoing consultation with other psychologists or relevant professionals and shall seek appropriate education and training in the new area. The credential holder shall inform a client of the innovative nature and the known risks associated with the service, so that the client can exercise freedom of choice concerning the service.

(4) Referral. The credential holder shall make or recommend referral to other professional, technical, or administrative resources if a referral is clearly in the best interests of the client.

(5) Sufficient professional information. A credential holder rendering a formal professional opinion about a person shall not do so without direct and substantial professional contact with or a formal assessment of that person.

(6) Maintenance and retention of records.

(a) The credential holder rendering professional services to an individual client, or services billed to a third-party payor, shall maintain professional records that include:

1. The presenting problem, purpose or diagnosis;

2. The fee arrangement;

3. The date and substance of each billed or service-count contact or service;

4. Test results or other evaluative results obtained and the basic test data from which the results were derived;

5. Notation and results of a formal consult with another provider; and

6. A copy of all test or other evaluative reports prepared as part of the professional relationship.

(b) The credential holder shall assure that all data entries in the professional records are maintained for a period of not less than five (5) years after the last date that service was rendered.

(c) The credential holder shall store and dispose of written, electronic and other records in a manner which shall insure their confidentiality.

(d) For each person supervised pursuant to KRS Chapter 319, the credential holder shall maintain for a period of not less than five (5) years after the last date of supervision a record of each supervisory session that shall include the type, place, date, and general content of the session.

(7) Continuity of care. The credential holder shall make arrangements for another appropriate professional or professionals to deal with an emergency need of a client, as appropriate, during a period of his or her foreseeable absence from professional availability.

Section 4. Impaired Objectivity and Dual Relationships. (1) Impaired credential holder.

(a) The credential holder shall not undertake or continue a professional relationship with a client if the credential holder is impaired due to a mental, emotional, physiologic, pharmacologic, or substances abuse condition.

(b) If a condition develops after a professional relationship has been initiated, the credential holder shall:

1. Terminate the relationship in an appropriate manner;

2. Notify the client in writing of the termination; and

3. Assist the client in obtaining services from another professional.

(2) Prohibited dual relationships.

(a) The credential holder shall not undertake or continue a professional relationship with a client if the objectivity or competency of the credential holder is impaired because of the credential holder's present or previous familial, social, sexual, emotional, financial, supervisory, administrative, or legal relationship with the client or a relevant person associated with or related to the client.

(b) The credential holder, in interacting with a client, shall not:

1. Engage in verbal or physical behavior toward the client which is sexually seductive, demeaning, or harassing;

2. Engage in sexual intercourse or other physical intimacy with the client; or

3. Enter into a potentially exploitative relationship with the client.

(c) The prohibitions established in paragraph (b) of this subsection shall extend indefinitely if the client is proven to be clearly vulnerable, by reason of emotional or cognitive disorder, to exploitative influence by the credential holder.

Section 5. Client Welfare. (1) Providing explanation of procedures. The credential holder shall give a truthful, understandable, and appropriate account of the client's condition to the client or to those responsible for the care of the client. The credential holder shall keep the client fully informed as to the purpose and nature of an evaluation, treatment, or other procedure, and of the client's right to freedom of choice regarding services provided.

(2) Termination of services.

(a) If professional services are terminated, the credential holder shall offer to help locate alternative sources of professional services or assistance if indicated.

(b) The credential holder shall:

1. Terminate a professional relationship if the client is not benefiting from the relationship; and

2. Prepare the client appropriately for the termination.

(3) Stereotyping. The credential holder shall not impose on the client a stereotype of behavior, values, or roles related to age, gender, religion, race, disability, nationality, sexual preference, or diagnosis which would interfere with the objective provision of psychological services to the client.

(4) Sexual or other dual relationship with a client. The credential holder shall not enter into a sexual or other dual relationship with a client, as specified in Section 4(2) of this administrative regulation.

(5) Solicitation of business by clients. The credential holder providing services to an individual client shall not induce that client to solicit business on behalf of the credential holder.

(6) Referrals on request. The credential holder providing services to a client shall make an appropriate referral of the client to another professional if requested to do so by the client.

Section 6. Welfare of Supervisees and Research Subjects. (1) Welfare of supervisees. The credential holder shall not exploit a supervisee.

(2) Welfare of research subjects. The credential holder shall respect the dignity and protect the welfare of his or her research subjects, and shall comply with all relevant statutes and administrative regulations concerning treatment of research subjects.

Section 7. Protecting the Confidentiality of Clients. (1) General. The credential holder shall safeguard the confidential information obtained in the course of practice, teaching, research, or other professional services. Except as provided in this section, the credential holder shall obtain the informed written consent of the client prior to disclosing confidential information.

(2) Disclosure without informed written consent. The credential holder shall disclose confidential information without the informed consent of the client if the credential holder has a duty to warn an intended victim of the client's threat of violence pursuant to KRS 202A.400 or 645.270.

(3) Disclosure if the client is a corporation or other organization. If the client is a corporation or other organization, the requirements for confidentiality established in this section shall:

(a) Apply to information that pertains to:

1. The corporation or organization; or

2. An individual, including personal information, if the information is obtained in the proper course of the contract; and

(b) Not apply to personal information concerning an individual if the individual had a reasonable expectation that the information was:

1. Obtained in a separate professional relationship between the credential holder and the individual; and

2. Subject to the confidentiality requirements established in this section.

(4) Services involving more than one (1) interested party. If more than one (1) party has an appropriate interest in the professional services rendered by the credential holder to a client or clients, the credential holder shall clarify to all parties prior to rendering the services the dimensions of confidentiality and professional responsibility that shall pertain in the rendering of services.

(5) Multiple clients. If service is rendered to more than one (1) client during a joint session, the credential holder shall at the beginning of the professional relationship clarify to all parties the manner in which confidentiality shall be handled.

(6) Legally dependent clients. At the beginning of a professional relationship the credential holder shall inform a client who is below the age of majority or who has a legal guardian, of the limit the law imposes on the right of confidentiality with respect to his or her communications with the credential holder.

(7) Limited access to client records. The credential holder shall limit access to client records to preserve their confidentiality and shall assure that all persons working under the credential holder's authority comply with the requirements for confidentiality of client material.

(8) Release of confidential information. The credential holder shall release confidential information upon court order or to conform with state or federal law or regulation.

(9) Reporting of abuse of children and vulnerable adults. The credential holder shall be familiar with the relevant law concerning the reporting of abuse of children and vulnerable adults, and shall comply with those laws, including KRS 620.030.

(10) Discussion of client information among professionals. If rendering professional services as part of a team or if interacting with other appropriate professionals concerning the welfare of the client, the credential holder may share confidential information about the client if the credential holder takes reasonable steps to assure that all persons receiving the information are informed about the confidential nature of the information and abide by the rules of confidentiality.

(11) Disguising confidential information. If case reports or other confidential information is used as the basis of teaching, research, or other published reports, the credential holder shall exercise reasonable care to insure that the reported material is appropriately disguised to prevent client identification.

(12) Observation and electronic recording. The credential holder shall ensure that diagnostic interviews or therapeutic sessions with a client are observed or electronically recorded with the informed written consent of the client.

(13) Confidentiality after termination of professional relationship. The credential holder shall continue to treat as confidential information regarding a client after the professional relationship between the credential holder and the client has ceased.

Section 8. Representation of Services. (1) Display of credentials. The credential holder shall display his or her current credential to practice psychology on the premises of his or her professional office.

(2) Misrepresentation of qualifications. The credential holder shall not misrepresent directly or by implication his or her professional qualifications such as education, experience, or areas of competence.

(3) Misrepresentation of affiliations. The credential holder shall not misrepresent directly or by implication his or her affiliations, or the purposes or characteristics of institutions and organizations with which the credential holder is associated.

(4) False or misleading information. The credential holder shall not include false or misleading information in a public statement concerning professional services offered.

(5) Misrepresentation of services or products. The credential holder shall not associate with or permit his or her name to be used in connection with a service or product in a way which misrepresents:

(a) The service or product;

(b) The degree of his or her responsibility for the service or product; or

(c) The nature of his or her association with the service or product.

(6) Correction of misrepresentation by others. The credential holder shall correct others who misrepresent the credential holder's professional qualifications or affiliations.

Section 9. Disclosure of Cost of Services. The credential holder shall not mislead or withhold from the client, a prospective client, or third party payor, information about the cost of his or her professional services.

Section 10. Assessment Procedures. (1) Confidential information. The credential holder shall treat an assessment result or interpretation regarding an individual as confidential information.

(2) Protection of integrity of assessment procedures. The credential holder shall not reproduce or describe in a popular publication, lecture, or public presentation a psychological test or other assessment device in a way that might invalidate them.

(3) Information for professional users. The credential holder offering an assessment procedure or automated interpretation service to another professional shall accompany this offering by a manual or other printed material which fully describes the development of the assessment procedure or service, the rationale, evidence of validity and reliability, and characteristics of the normative population. The credential holder shall explicitly state the purpose and application for which the procedure is recommended and identify special qualifications required to administer and interpret it properly. The credential holder shall ensure that the advertisements for the assessment procedure or interpretive service are factual and descriptive.

Section 11. Aiding Illegal Practice. (1) Delegating professional responsibility. The credential holder shall not delegate professional responsibilities to a person not appropriately credentialed or otherwise appropriately qualified to provide psychological services.

(2) Providing supervision. The credential holder shall exercise appropriate supervision over a supervisee, as required by 201 KAR 26:171.

201 KAR 26:155. Licensed psychologist: application procedures and temporary license.

RELATES TO: KRS 319.050

STATUTORY AUTHORITY: 319.032(1)(a), (c)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.032(1)(a) and (c) require the board to promulgate administrative regulations establishing the requirements for an applicant for licensure as a psychologist. This administrative regulation establishes the requirements for applicants for licensure, and the conditions for a temporary license.

Section 1. Application. (1) An application for a credential as a licensed psychologist may be submitted after the requirements established in KRS 319.050(2) are met.

(2) The application required by subsection (1) or (2) of this section shall be made by submitting a completed Form Psy-1 to the board. The application shall:

(a) Include a certification by the applicant that the:

1. Information in the application is true, correct, and complete to the best of his or her knowledge and belief; and

2. Applicant is aware that the board may take disciplinary action if the application contains a misrepresentation or falsification; and

(b) Be accompanied by:

1. A check or money order payable to the Kentucky State Treasurer for the application fee as required by 201 KAR 26:160;

2. Three (3) letters of reference from persons qualified to evaluate the applicant's professional ability, including two (2) persons who have received a doctorate in psychology (Ph.D. PsyD., Ed.D.); and

3. An official transcript for all levels of education required for licensure.

Section 2. Temporary Licensure. (1) Pending successful completion of required examinations, an applicant may request permission to practice psychology at the doctoral level on a temporary basis pursuant to KRS 319.050(3). The request for a temporary credential shall be cosigned by the candidate and the proposed supervisor, who shall be a licensed psychologist approved by the board.

(2) Supervision during the period of temporary licensure shall be a minimum of one (1) hour of individual, face-to-face supervision on a weekly basis.

(3) A report of supervision shall be submitted on a regular basis as required by 201 KAR 26:171, Section 6.

(4) The candidate shall take the Examination for Professional Practice in Psychology (EPPP) within sixty (60) days from the date on the authorization-to-test letter, which comes from the ASPPB examination contractor. Upon receipt of the application for licensure, the candidate shall receive a packet of materials from the board about the EPPP which shall instruct the candidate to contact the ASPPB examination contractor directly for the procedures to follow regarding test application, payment and taking the examination.

(5) The period of temporary licensure shall be terminated upon successful completion of all credentials and examination procedures or upon one (1) of the following:

(a) The candidate's failure to pass the EPPP within one (1) year of the date of the authorization-to-test letter after approval for temporary license.

(b) The candidate's failure to pass the oral examination within one (1) year of completion of the postdoctoral year.

Section 3. Postdoctoral Supervisory Experience. (1) The one (1) year of postdoctoral experience required by KRS 319.050(2)(c) shall be a training-oriented professional experience.

(2) During the year of postdoctoral experience, the candidate shall:

(a) Obtain and maintain a temporary license as required in Section 2 of this administrative regulation;

(b) Be under supervision as required by 201 KAR 26:171; and

(c) Be employed:

1. By a:

a. Regional mental health / mental retardation board;

b. College or university; or

c. Government agency;

2. In the supervisor's independent practice, if the supervisor is responsible for the direction and control of the practice of the candidate; or

3. In an independent practice that is approved by the board after submission of a special application letter.

a. A supervisor and a candidate employed in an independent practice shall submit a special application letter to the board if:

(i) The supervisor of record is not the employer; or

(ii) The employer is not an organization listed in subparagraph 1 of this paragraph.

b. The board shall approve the independent practice before the practice begins.

c. The special application letter shall identify the temporarily-licensed psychologist, supervisor, and employer.

d. The special application letter shall certify that:

(i) The supervising licensed psychologist is not hired, employed or engaged under contract by the candidate and shall not be terminated by the candidate;

(ii) The candidate is not one (1) of the owners of the independent practice or organization, but rather serves as an employee; and

(iii) The candidate has both administrative and clinical supervision which are provided by the independent practice or organization.

(3) The postdoctoral year shall be served:

(a) In a formalized postdoctoral internship program in a health care facility; or

(b) In an informal arrangement that meets the requirements of subsection (5) of this section.

(4) The supervised professional experience shall include a planned and organized sequence of activities that includes explicit training and supervision in the following areas:

(a) Clinical skill development;

(b) Legal and regulatory issues;

(c) Ethical dilemmas and issues; and

(d) Supervisory skill development.

(5) The candidate and the supervisor of record shall design and describe the proposed experience, including the areas listed in subsection (4) of this section, at the time of application for temporary licensure.

(6) To qualify as postdoctoral supervisory experience, a supervisory experience at a university shall:

(a) Be proffered by a full-time faculty member;

(b) Include a plan that contains each of the areas established in subsection (4) of this section; and

(c) Include a minimum of 400 hours of direct and indirect client involvement that:

1. Is supervised by a licensed psychologist; and

2. Includes:

a. Supervising student clinical work;

b. Diagnostic and interviewing activity that occurs within clinical research projects; or

c. Clinical work in the context of teaching psychotherapy, interviewing, or psychological testing.

(7) The board shall not grant a request for temporary licensure if the request does not contain an explicit and acceptable plan for the postdoctoral experience as required by this section.

Section 4. Grace Period for Submission of Credentials. In order to allow for processing of the candidate's materials by the board, there shall be a grace period not to exceed sixty (60) days within which candidates who have completed their degree requirements may begin employment by an agency to practice psychology under supervision of a board-approved supervisor.

(1) Upon acceptance of employment, the candidate and the licensed psychologist who shall serve as his or her supervisor shall immediately submit a letter of notice to the board indicating that he or she has begun to practice in Kentucky and that application materials are forthcoming. Failure to submit this notice shall be deemed as grounds for disciplinary action against the candidate and the supervisor.

(2) It is the responsibility of the candidate to ensure that all materials are forwarded to the board within thirty (30) days from the date of agency employment. Once the application is complete, the board shall review the material at its next scheduled meeting and, if appropriate, issue either a temporary or permanent credential. If the candidate does not meet the requirements for the credential, or if their application material is insufficient to take any action, he or she shall be directed to cease practice until the requirements are met.

(3) Under no circumstances shall the grace period be extended beyond sixty (60) days. Candidates who fail to achieve approval within this timeframe shall not practice psychology until credentialed by the board.

(4) Upon filing the notice set forth in Section 3(1) of this administrative regulation, the candidate is deemed to be practicing psychology under the jurisdiction of the board, and is subject to all relevant laws and regulations.

Section 5. Incorporation by Reference. (1) "Form Psy 1", (January 2002 edition), is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Examiners of Psychology, 700 Louisville Road, Berry Hill Annex, Suite B, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

201 KAR 26:160. Fee schedule.

RELATES TO: KRS 319.050(2)(a), 319.064(1)(a), 319.071(1)

STATUTORY AUTHORITY: KRS 319.032(1)(n), 319.071(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.050(2)(a) and 319.064(1)(a) require an applicant to pay a fee for applying for licensure. KRS 319.071(1) requires a credential holder to pay a renewal fee established by the board. KRS 319.032(1)(n) requires the board to promulgate administrative regulations increasing or decreasing the fees for an applicant or

credential holder as the board deems necessary. This administrative regulation establishes the application and renewal fees for credential holders.

Section 1. (1) Except as provided in subsection (3) of this section, an applicant for licensure as a psychologist shall pay the following:

(a) A $100 nonrefundable application review fee;

(b) The fee for taking the EPPP, which shall be paid directly to the ASPPB examination contractor;

(c) A $100 nonrefundable fee for taking the structured oral examination.

(2) Except as provided in subsection (3) of this section, an applicant for licensure as a psychological associate shall pay the following:

(a) A $100 nonrefundable application review fee;

(b) The fee for taking the EPPP, which shall be paid directly to the ASPPB examination contractor;

(3) The examination fee established in subsection (1)(b) or (2)(b) of this section shall be waived if a candidate has:

(a) Previously taken the EPPP in another state; and

(b) Achieved a score which would be considered as passing in Kentucky.

(4) Upon successful completion of the application and examination processes, the initial licensure fees shall be as follows:

(a) An applicant for licensure as a psychologist or psychological practitioner shall pay $250 for the first three (3) year period;

(b) An applicant for licensure as a psychological associate shall pay $200 for the first three (3) year period.

(5) Every three (3) years a licensed psychologist, certified psychologist with autonomous functioning, or licensed psychological practitioner shall pay to the board a renewal fee of $450.

(6) Every three (3) years a certified psychologist or licensed psychological associate shall pay to the board a renewal fee of $300.

Section 2. (1) If the applicant fails the Examination for Professional Practice in Psychology (EPPP) and applies to retake this examination, the applicant shall submit the examination fee as established by the ASPPB examination contractor directly to the contractor.

(2) If the applicant fails the structured oral examination and applies to retake this examination, the fee shall be fifty (50) dollars.

(3) An application for licensure by reciprocity shall be accompanied by a fee of $100.

Section 3. (1) The board may refund the fee for the EPPP and the fee for the structured oral examination, if applicable, if an application was:

(a) Approved; and

(b) Withdrawn prior to the applicant taking the examination for professional practice in psychology.

(2) The board shall refund the fee for the EPPP or the structured oral examination, if applicable, if the application to sit for the examination is denied.

201 KAR 26:165. Inactive status.

RELATES TO: KRS 319.071

STATUTORY AUTHORITY: KRS 319.032

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.071(3) authorizes the board to grant inactive status for a credential holder for a period of up to three (3) consecutive years. This administrative regulation establishes the requirements for inactive status.

Section 1. Inactive status may be granted to a credential holder pursuant to KRS 319.071(3).

(1) The credential holder shall be relieved of their obligation to pay the renewal fee and of maintaining supervision of their practice, but shall continue to meet the requirements for continuing education.

(2) The credential holder may return to active status within the three (3) year period upon:

(a) Notification to the board;

(b) Payment of the current renewal fee;

(c) Resumption of any required supervisory relationship with a supervisor acceptable to the board; and

(d) Demonstration of compliance with all continuing education requirements during the period of inactive status.

(3) If the credential holder does not reactivate their credential during the three (3) year period of inactive status, then the credential shall be forfeited and the credential holder shall make a new application to the board and be reexamined by the board before a new credential may be issued.

201 KAR 26:171. Requirements for supervision.

RELATES TO: KRS 319.032(1)(l), 319.050(3), (6), 319.056(4), 319.064(3), (4), 319.082(1), 319.092(3)(d), 319.118(1)

STATUTORY AUTHORITY: KRS 319.032(1)(l)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.032(1)(l) requires the board to promulgate an administrative regulation governing the supervision of a certified psychologist, licensed psychological associate, candidate for licensure, or a credential holder sanctioned by the board. This administrative regulation establishes the requirements for supervision.

Section 1. A supervisory arrangement shall have the prior approval of the board, with both supervisor and supervisee petitioning the board in writing. The supervisor and supervisee shall submit to the board the description of the supervisory arrangement or a change in the supervisory arrangement at least thirty (30) days prior to the effective date of the arrangement or change.

Section 2. (1) All supervision requirements shall:

(a) Be met with individual, face-to-face, weekly contact between supervisor and supervisee except as provided in subsection (2) of this section and Section 12 of this administrative regulation; and

(b) Include additional supervision sessions as needed.

(2) An alternative format of supervision, including two (2) way interactive video, may be substituted for the supervisory contact, required by subsection (1) of this section, upon specific approval by the board.

Section 3. (1) A certified psychologist or licensed psychological associate may petition the board to be relieved of his or her obligation to maintain supervision during which period he or she shall not practice psychology.

(2) The certified psychologist or licensed psychological associate shall obtain a supervisor approved by the board before the resumption of practice.

(3) Upon renewal, the certified psychologist or licensed psychological associate shall document compliance with continuing education requirements and shall report on their professional activities and employment during the period without supervision.

Section 4. (1) A licensed psychologist shall attend a board approved training session in supervisory practices within twelve (12) months of obtaining approval as a supervisor.

(2) A board approved supervisor shall obtain a minimum of three (3) continuing education hours as required by 201 KAR 26:175, Section 1(3). The board shall suspend its approval of a supervisor if the supervisor does not complete the required continuing education.

Section 5. (1) The supervisor shall make all reasonable efforts to be assured that each supervisee's practice is in compliance with this administrative regulation.

(2) The supervisor shall report to the board an apparent violation of KRS 319.082(1) on the part of the supervisee.

(3) The supervisor shall inform the board immediately of a change in the ability to supervise, or in the ability of a supervisee to function in the practice of psychology in a competent manner.

(4) The supervisor shall control, direct or limit the supervisee's practice as appropriate to insure that the supervisee's practice of psychology is competent.

(5) The supervisor of record shall be responsible for the practice of psychology by the supervisee. If the board initiates an investigation concerning a supervisee, the investigation shall include the supervisor of record.

(6) For each person supervised pursuant to KRS 319.050(3), (6), 319.056(3), (4), 319.064(2), (4), or 319.092(3)(d), the supervisor shall maintain a record of each supervisory session that shall include the type, place, and general content of the session. This record shall be maintained for a period of not less than five (5) years after the last date of supervision.

Section 6. (1) In calculating the amount of time spent in full-time practice while under supervision, 2,000 hours of supervised practice shall be equivalent to one (1) year of experience if the practice was obtained postlicensure.

(2) The supervisor shall provide reports to the board of the supervision of each supervisee according to the following schedule:

Credential Status	Reporting Period	Report Due Date(s)
(a) Licensed psychological associate or certified psychologist with 4 or less years of full-time practice, or its equivalent)	Yearly	January 15th
(b) Licensed psychological associate or certified psychologist (with 4 or more years of full-time practice or its equivalent)	Every 2 years (with prior board approval)	January 15th
(c) Temporarily Licensed Psychologist	Every 6 Months and 1 month prior to oral exam	
(d) Temporarily licensed certified psychological associate	Every 6 Months	April and October 15th
(e) Sanctioned credential holder	Quarterly	January, April, July and October 15th

(3) The report shall include:

(a) A description of the frequency, format and duration of supervision;

(b) An assessment of the functioning of the supervisee, including the strengths and weaknesses; and

(c) Other information which may be relevant to an adequate assessment of the practice of the supervisee.

Section 7. (1) If a supervisee has more than one (1) board-approved supervisor, the supervisors shall be in direct contact with one another at least once every six (6) months, and they shall provide supervisory plans and reports to the board and copies to one another.

(2) A request to have more than two (2) supervisors at one (1) time shall require a special application to the board which shall include detailed information as to how the supervisors shall communicate and coordinate with each other in providing the required supervision.

Section 8. If the supervisee is a licensed psychological associate or a certified psychologist with less than four (4) years of full-time, postlicensure practice, or its equivalent, or a licensure candidate with temporary permission to practice, the supervisor of record shall:

(1) Read and countersign all psychological assessments;

(2) Review treatment plans, progress notes and correspondence on an as-needed basis to assess the competency of the supervisee to render psychological services;

(3) Jointly establish with the supervisee and submit a supervisory plan to the board at the beginning of the supervisory relationship. The plan shall:

(a) Be updated or revised and submitted to the board with the regular report of supervision;

(b) Include intended format, and goals to be accomplished through the supervisory process; and

(c) Include methods that the supervisor and supervisee shall employ to evaluate the supervisory process.

(4) Have direct observation of the supervisee's work at least once every two (2) months. Direct observation can be accomplished through audiotaping, video camera, videotaping, one (1) way mirror or as a cotherapist;

(5) Have direct knowledge of the size and complexity of the supervisee's caseload;

(6) Limit and control the caseload as appropriate to the supervisee's level of competence;

(7) Have knowledge of the therapeutic modalities and techniques being used by the supervisee; and

(8) Have knowledge of the supervisee's physical and emotional well-being when it has a direct bearing on the supervisee's competence to practice.

Section 9. If the supervisee is a licensed psychological associate or certified psychologist with more than four (4) years of full-time, postlicensure practice, or its equivalent, the supervisor of record shall:

(1) Review and countersign psychological assessments as needed or appropriate;

(2) Review treatment plans, notes, and correspondence as needed or appropriate;

(3) Jointly establish with the supervisee and submit a supervisory plan to the board at the beginning of the supervisory relationship. The plan shall:

(a) Be updated or revised and submitted to the board with the regular report of supervision;

(b) Include intended format, and goals to be accomplished through the supervisory process; and

(c) Include methods that the supervisor and supervisee shall employ to evaluate the supervisory process.

(4) Have direct observation of the supervisee's work on an as-needed basis;

(5) Have direct knowledge of the size and complexity of the supervisee's caseload;

(6) Limit and control the caseload as appropriate to the supervisee's level of competence;

(7) Have knowledge of the therapeutic modalities and techniques being used by the supervisee; and

(8) Have knowledge of the supervisee's physical and emotional well-being when it has a direct bearing on the supervisee's competence to practice.

Section 10. (1) The supervisee shall:

(a) Keep the supervisor adequately informed at all times of his or her activities and ability to function; and

(b) Seek supervision as needed in addition to a regularly scheduled supervisory session.

(2) The supervisee shall:

(a) Participate with the supervisor in establishing supervisory goals and in completing the regular supervisory reports;

(b) Be jointly responsible with the supervisor for ensuring that a supervisory report or plan has been sent to the board in accordance with the reporting schedule established in Section 6(1) of this administrative regulation; and

(c) Report to the board a apparent violation of KRS 319.082(1) on the part of the supervisor.

Section 11. Identification of Provider. The actual deliverer of a service shall be identified to the client. A billing for a rendered service shall identify which service was performed by the certified psychologist, licensed psychological associate, trainee, or other provider and supervised by the licensed psychologist.

Section 12. Frequency of Supervision. (1) A licensed psychological associate or certified psychologist shall have a minimum of one (1) hour of individual face-to-face supervision on a weekly basis for the first two (2) years of full-time practice or its equivalent following certification.

(2) After two (2) years of full-time, postlicensure practice, or its equivalent, the supervisor and supervisee may petition the board to alter the format, frequency or duration of supervision as long as the proposed change includes a minimum of two (2) one (1) hour individual face-to-face meetings every four (4) weeks, and the total amount of supervision is not less than four (4) hours per four (4) week period. This petition may include a request to change the format from individual to group supervision. Supervision requirements for part-time practice may be modified at the discretion of the board upon submission of an approvable plan.

(3)(a) After four (4) years of full-time, postlicensure practice, or its equivalent, the supervisor and supervisee shall petition the board for further modification of the format, frequency, or duration of supervision, with a minimum amount of one (1) hour of face-to-face supervision per month. Board approval of additional modification of the format, frequency or duration of supervision may be reviewed upon request made to the board.

(b) Upon a change of supervisor, a new plan for supervision shall be submitted by the supervisor and supervisee to the board for approval. This plan may require additional supervision than was previously approved by the board.

(c) Upon termination of the supervisor-supervisee relationship, the final report of supervision shall be submitted to the board.

Section 13. Supervision of a Disciplined Credential Holder. (1) The board shall appoint an approved supervisor to supervise a disciplined credential holder for the period of time defined by the board.

(2) The disciplined psychologist shall be responsible for paying the fee for supervision.

(3) The supervisor shall have completed the board approved training course in supervision.

(4) The supervisor shall:

(a) Review the originating complaint, agreed order, or findings of the disciplinary hearing;

(b) Meet with the disciplined psychologist and the board liaison to:

1. Summarize the actions and concerns of the board;

2. Review the goals and expected outcomes of supervision submitted by the board liaison;

3. Develop a specific plan of supervision; and

4. Review the reporting requirements that shall be met during the period of supervision;

(c) Meet with the disciplined psychologist at least weekly, on an individual face-to-face basis for a minimum of one (1) hour unless modified by the board;

(d) Submit a quarterly report to the board which reflects progress, problems, and other information relevant to the need for board-mandated supervision;

(e) Make all reasonable efforts to insure that the disciplined credential holder's practice is in compliance with KRS Chapter 319 and 201 KAR Chapter 26;

(f) Report to the board an apparent violation of KRS 319.082(1) on the part of the disciplined credential holder;

(g) Report to the board immediately a change in the ability to supervise, or in the ability of the disciplined credential holder to function in the practice of psychology in a competent manner;

(h) Review and countersign psychological assessments as needed or appropriate;

(i) Review treatment plans, notes, and correspondence as needed or appropriate;

(j) Have direct observation of the disciplined credential holder's work on an as-needed basis;

(k) Have direct knowledge of the size and complexity of the disciplined credential holder's caseload;

(l) Have knowledge of the therapeutic modalities and techniques being used by the disciplined credential holder; and

(m) Have knowledge of the disciplined credential holder's physical and emotional well-being when it has direct bearing on the disciplined credential holder's competence to practice.

(5) The supervisor shall control, direct or limit the disciplined credential holder's practice as appropriate to insure that the disciplined credential holder's practice is competent.

(6) The supervisor shall contact the board liaison with a concern or problem with the disciplined credential holder, his or her practice or the supervision process.

(7) A final meeting shall be scheduled within thirty (30) days of the end of the established supervision period to summarize the supervision. The meeting shall include the supervisor, disciplined credential holder and board liaison. A written summary of the supervision shall be submitted by the supervisor to the board two (2) weeks following this meeting with a copy to the board liaison.

Section 14. Board Liaison for Disciplined Credential Holder. The board shall appoint a board member to serve as a liaison between the board and the approved supervisor. The board liaison shall:

(1) Recruit the supervising psychologist from a list provided by the board;

(2) Provide the supervising psychologist with the originating complaint, agreed order or findings of the hearing and supply other material relating to the disciplinary action as deemed appropriate by the liaison;

(3) Insure that the supervising psychologist is provided with the necessary documentation for liability purposes to clarify that he or she is acting as an agent of the board pursuant to KRS 319.118(1) and has immunity commensurate with that of the board;

(4) Provide the supervising psychologist with a written description of the responsibilities of the supervisor and a copy of the responsibilities of the liaison;

(5) Insure that the board has sent a written notification letter to the disciplined credential holder. The notification letter shall:

(a) State the name of the supervising psychologist; and

(b) Specify that the disciplined credential holder shall meet with the supervising psychologist and the liaison within thirty (30) days of the date of the notification letter;

(6) Meet with the supervising psychologist and disciplined credential holder within thirty (30) days of the date of the notification letter to summarize the actions of the board, review the applicable statutes and administrative regulations regarding supervision requirements for a disciplined credential holder and assist with the development of a plan of supervision. The plan of supervision shall be written at the first meeting;

(7) Submit the report of supervision to the board for approval. The liaison shall place the report of supervision on the agenda for review and approval at the next regularly scheduled board meeting. In the interim, the supervising psychologist and disciplined credential holder shall continue to meet;

(8) Remain available to the supervising psychologist to provide assistance and information as needed;

(9) Report a problem or concern to the board regarding the supervision and communicate a directive of the board to the supervising psychologist;

(10) Review the quarterly report of supervision and forward to the supervision committee of the board for approval; and

(11) Meet with the supervising psychologist and the disciplined credential holder at the end of the term of supervision to summarize the supervision.

Section 15. Psychology Graduate Students. Graduate-level psychology students who are providing services in psychological health care settings including independent practice settings shall:

(1) Be supervised by a psychologist licensed by the board with health service provider status, who is affiliated with either the university training program or the practice setting;

(2) Be registered for credit in his or her course of study;

(3) Clearly identify their status as psychology trainees and noncredential holders to all clients and payors;

(4) Give to all clients and payors the name of the licensed psychologist responsible for their work;

(5) Not accept employment or placement to perform the same or similar activities following the completion of their university-sanctioned placement, regardless of the job title given, unless the student holds a credential from the board.

201 KAR 26:175. Continuing education.

RELATES TO: KRS 319.032(1)(f), 319.050, 319.053, 319.064, 319.071

STATUTORY AUTHORITY: KRS 319.032(1)(f)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.032(1)(f) requires the board to promulgate an administrative regulation establishing a requirement for continuing education as a condition for renewal of a license. This administrative regulation establishes the continuing education requirements for renewal of a license.

Section 1. Definitions. (1) "Continuing education" means participation in an approved program beyond the basic educational requirements that meets the requirements established in Section 2(1) of this administrative regulation.

(2) "Continuing education (CE) hour" means a fifty-five (55) minute clock hour of instruction.

Section 2. (1) Each credential holder shall document the completion of at least thirty (30) continuing education hours approved by the board within each three (3) year renewal period. The continuing education shall:

(a) Provide specific content planned and evaluated to improve the credential holder's professional competence;

(b) Make possible the acquisition of new skills and knowledge required to maintain competence; and

(c) Strengthen the habits of critical inquiry and balanced judgment.

(2) Continuing educational hours shall not carry over from one (1) renewal period to the next.

(3)(a) Except as provided in paragraph (b) of this subsection, a licensed psychologist who provides supervision to a certified psychologist or a licensed psychological associate shall include as part of the thirty (30) hours of continuing education required by subsection (1) of this section a minimum of three (3) continuing education hours in the area of supervision theory or techniques.

(b) The requirement established in paragraph (a) of this subsection shall begin with the renewal period immediately following the period in which the original supervisory training required by 201 KAR 26:171, Section 4(1) and (2), is received.

Section 3. Hours required to satisfy the continuing education requirement shall be completed and reported at the time of credential renewal. The credential holder shall maintain and provide adequate records including a certificate of attendance and documentation of completion of an approved program of continuing education hours.

Section 4. A continuing education activity approved by the board shall satisfy the continuing education requirements for renewal of a credential. A credential holder shall determine prior to attending a specific continuing education program that the program:

(1) Has been approved by the board; or

(2) Is offered or sponsored by an organization approved by the board to sponsor a continuing education program.

Section 5. Approved Sponsoring Organizations and Approved Programs. (1) Participation in a continuing education program that is offered or sponsored by an organization listed in this subsection shall satisfy the requirement for continuing education established in Section 2(1) of this administrative regulation:

(a) The American Psychological Association; American Medical Association; American Psychiatric Association; National Association of Social Workers, or an affiliated state chapter;

(b) A recognized state, regional, national, or international psychological association;

(2) The following programs shall be approved for continuing education:

(a) A course for graduate-level academic credit or a workshop in psychology or psychiatry offered by a national, regional, or state accredited academic institution or an affiliated hospital or medical center;

(b) The Kentucky Mental Health Institute or the Kentucky School of Alcohol and Other Drug Studies sponsored by the Kentucky Department for Mental Health and Mental Retardation Services;

(c) A home study course provided by the American Psychological Association; and

(d) Interactional videoconferencing provided by an organization listed in subsection (1) of this section.

(3)(a) The board shall approve an organization that is not listed in Section 5(1) of this administrative regulation as a sponsor of continuing education if the organization:

1. Files a written request for approval;

2. Pays an application fee of fifty (50) dollars; and

3. Proposes to sponsor a continuing education program that meets the requirements established in Sections 2(1) and 6 of this administrative regulation.

(b) An approved sponsor shall submit an annual report of the continuing education programs offered during that year.

(c) A sponsor that is approved pursuant to paragraph (a) of this subsection may request renewal of its approval by filing a fifty (50) dollar renewal fee.

(4)(a) The board shall approve a specific continuing education program that is not listed in Section 5(2) of this administrative regulation if the sponsor of the program:

1. Files a written request for approval;

2. Pays an application fee of fifty (50) dollars; and

3. Proposes to sponsor a continuing education program that meets the requirements established in Sections 2(1) and 6 of this administrative regulation.

(b) The approval of a program pursuant to paragraph (a) of this subsection shall permit the sponsor to offer the program one (1) time. The sponsor shall submit a request for renewal and a ten (10) dollar renewal fee for each subsequent request to offer the program.

Section 6. A continuing education program which satisfies the requirements for license renewal shall meet the following criteria:

(1) The program shall be:

(a) Offered or sponsored by an organization which has been approved by the board; or

(b) A specific program approved by the board;

(2) The program shall:

(a) Have a clearly-stated purpose and defined content area; and

(b) Be consistent with the overall goals of continuing education as defined in Section 1 of this administrative regulation;

(3) A presenter shall be a professional qualified in the defined content area;

(4) The program's time shall be clearly stated. Actual contact time shall be a minimum of one (1) continuing education hour;

(5) Attendance shall be recorded by the program's sponsor;

(6) Documentation of completion shall be provided to the participant;

(7) A participant shall complete an evaluation of the program.

Section 7. Equivalencies. (1) A graduate-level psychology course taken at an accredited academic institution shall earn continuing education hours on the following basis:

(a) Each one (1) hour semester course shall be the equivalent of fifteen (15) continuing education hours for the purposes of meeting the requirements of this administrative regulation; and

(b) Each one (1) hour quarter course shall be the equivalent of nine (9) continuing education hours for the purposes of meeting the requirements of this administrative regulation.

(2) A person who teaches a three (3) hour semester or quarter graduate-level course in psychology at an accredited academic institution shall:

(a) Earn six (6) continuing education hours for teaching the course; and

(b) Not receive:

1. Credit more than once for teaching a particular course during a renewal period; and

2. More than six (6) continuing education hours for these teaching activities.

(3) A person who teaches an approved continuing education workshop or program shall:

(a) Earn continuing education hours on a one (1) to one (1) basis; and

(b) Not receive:

1. Credit more than once for teaching a particular workshop or program during a renewal period; and

2. More than six (6) continuing education hours for these teaching activities.

(4) A person who completes a home study course shall:

1. Earn six (6) continuing education hours; and

2. Not receive:

a. Credit more than once for completing a particular study course during a renewal period; and

b. More than six (6) continuing education hours through home study in a renewal period.

(b) A person who participates in teleconferencing in an interactive setting shall:

1. Earn one (1) continuing education hour for each clock hour of participation; and

2. Not receive more than six (6) continuing education hours through interactive teleconferencing participation.

201 KAR 26:180. Requirements for granting licensure as a psychologist by reciprocity.

RELATES TO: KRS 319.032(1)(i)

STATUTORY AUTHORITY: KRS 319.032(1)(i)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.032(1)(i) requires the board to promulgate an administrative regulation governing the granting of a license through reciprocity. This administrative regulation establishes the requirements for licensure as a psychologist by reciprocity.

Section 1. The board shall issue a license to an applicant who qualifies for a license as a psychologist pursuant to an agreement of reciprocity entered into by the board of this jurisdiction with the board or boards of any other jurisdiction or multiple jurisdictions.

Section 2. The applicant for licensure as a psychologist by reciprocity shall:

(1) Hold a current valid license in good standing to practice psychology which has been granted by at least one (1) state or the District of Columbia or a Canadian province which maintains a psychology registration board:

(a) That is a constituent member of the Association of State and Provincial Psychology Boards; and

(b) With whom this board has an agreement of reciprocity;

(2) Have a minimum of five (5) years of full-time practice or its equivalent as determined by the board in the other jurisdiction; and

(3) Not have a report of disciplinary action filed with the Association of State and Provincial Psychology Boards.

Section 3. The board shall conduct a face-to-face examination of an applicant for licensure by reciprocity. The applicant shall demonstrate an acceptable level of knowledge of Kentucky mental health law.

Section 4. An applicant for licensure with the health service provider designation shall comply with KRS 319.050(7).

Section 5. If an applicant for licensure does not have a postdoctoral supervised year of experience as required by KRS 319.050(2)(c), the board may determine that the applicant's practice experience is equivalent to the required year of experience.

Section 6. A person holding the Certificate of Professional Qualification in Psychology (CPQ) issued by the Association of State and Provincial Psychology or a successor organization shall:

(1) Be deemed to meet the qualifications for licensure by reciprocity as established in this administrative regulation with the exception of the requirements established in Section 3 of this administrative regulation; and

(2) Meet the requirements established in Section 3 of this administrative regulation.

201 KAR 26:185. Requirements for granting licensure as a psychologist to an applicant licensed in another state.

RELATES TO: KRS 319.032(1)(i)

STATUTORY AUTHORITY: KRS 319.032(1)(i)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.032(1)(i) requires the board to promulgate an administrative regulation governing the granting of a license as a psychologist to an applicant from another jurisdiction. This administrative regulation establishes the requirements for granting a license to an applicant who is licensed in another state which does not have an agreement of reciprocity with this board.

Section 1. (1) The board shall consider an applicant for licensure in psychology in Kentucky who:

(a) Is licensed in another state which does not have an agreement of reciprocity with the Kentucky Board of Examiners of Psychology;

(b) Holds a current valid license or certificate, in good standing, to practice psychology which has been granted by:

1. At least one (1) state;

2. The District of Columbia; or

3. A Canadian province which maintains a psychology registration board that is a constituent member of the Association of State and Provincial Psychology Boards;

(c) Has a minimum of five (5) years of full-time practice or its equivalent as determined by the board in the other jurisdiction; and

(d) Does not have a report of disciplinary action filed with the Association of State and Provincial Psychology Boards.

(2) The board shall consider whether the applicant meets the requirements established in KRS 319.050(2) and 319.064(2). If an applicant for licensure does not have a postdoctoral supervised year of experience as required by KRS 319.050(2)(c), the board may determine that the applicant's practice experience is equivalent to the required year of experience.

(3) An applicant for licensure as a psychologist shall:

(a) Submit to an examination composed of the Examination for Professional Practice in Psychology (EPPP):

1. Developed by the ASPPB examination contractor; and

2. Owned by the Association of State and Provincial Psychology Boards; and

(b) Obtain an ASPPB-recommended passing score for licensure of seventy (70) percent (raw score of 140 on the paper and pencil form until April 1, 2002) or computerized EPPP scaled score of 500. The board shall accept the applicant’s previous examination results for the objective (EPPP) examination if the original test scores satisfied the doctoral licensure requirement as to criterion level at the time of that examination.

(4) The board shall review the applicant's:

(a) Record as to complaints, or hearings held in previous jurisdictions; and

(b) Professional references.

Section 2. An applicant for licensure as a psychologist shall submit to a structured oral examination administered by two (2) licensed psychologists.

(1) The examination shall cover ethical principles, professional practice, and Kentucky mental health law.

(2) Each examiner shall independently rate the applicant's performance.

(3) The applicant shall demonstrate an acceptable level of knowledge in each of the three (3) areas in order to pass the examination.

(4) An applicant who receives a pass rating from the two (2) examiners shall have successfully passed the oral examination.

201 KAR 26:190. Requirements for supervised professional experience.

RELATES TO: KRS 319.050, 319.053, 319.056, 319.064

STATUTORY AUTHORITY: KRS 319.032

NECESSITY, FUNCTION, AND CONFORMITY: Each credential issued by the board requires some type of supervised experience for the applicant. This administrative regulation establishes those requirements.

Section 1. Supervisory Requirements. (1) The predoctoral year, or the first year of a two (2) year postdoctoral supervised professional experience shall be 1,800 hours with at least 100 hours of supervisory sessions distributed over the year.

(2) The postdoctoral year, or the second of a two (2) year postdoctoral supervised professional experience shall be 1,800 hours with at least one (1) hour of individual face-to-face supervision on a weekly basis.

(3) Supervisors shall be licensed psychologists or doctoral-level psychologists approved by the board.

Section 2. For a person applying for licensure as a psychologist with the health service provider designation, the predoctoral internship or first year of a two (2) year postdoctoral program shall meet the following criteria:

(1) The experience shall occur within an organized training program, in contrast to supervised experience or on-the-job training and have a planned, programmed sequence of training experiences;

(2) The training program shall have a clearly designated staff psychologist who shall be:

(a) Responsible for the integrity and quality of the training program;

(b)1. Actively licensed by the Board of Examiners in Psychology; or

2. Licensed at the doctoral level by the State Board of Examiners in the state in which the training program exists or otherwise meets the standards of applicable state law; and

(c) For school psychology doctoral internships, the responsible psychologist director may be from an affiliate agency or from the university training program.

(3) Internship supervision shall be provided by a staff member of the internship agency or by an affiliate of that agency who has clinical responsibility for the cases being supervised. At least half of the internship supervision shall be provided by one (1) or more psychologists with an appropriate doctorate degree;

(4) The internship shall provide training in a range of assessment and treatment activities conducted directly with clients seeking psychological services;

(5) At least twenty-five (25) percent of the trainee's time shall be in direct client contact;

(6) The internship shall include a minimum of two (2) hours per week of regularly scheduled, formal, face-to-face individual supervision. There shall also be at least two (2) additional hours per week in learning activities such as case conferences, seminars dealing with clinical issues, group supervision;

(7) Training shall be postclerkship, postpracticum and postexternship level;

(8) The internship shall have a written statement or brochure which describes the goals and content of the internship, stated clear expectations for quality and quantity the of trainee's work and which is made available to prospective interns;

(9) The internship experience shall be completed within twenty-four (24) months;

(10) The trainee has a title such as "intern", "resident," "fellow," or other designation of trainee status; and

(11) The internship agency, preparing institution, and intern have a written agreement that describes the goals and content of the internship including clearly stated expectations for the nature of experiences offered in the agency and for the quantity and quality of the work.

Section 3. An applicant for licensure as a psychological associate shall complete supervised experience consisting of course-related field experience, practica, and formal internships adding up to a minimum of 600 supervised hours which shall meet the following criteria:

(1) The experience shall occur within an organized training program, and consist of a planned, programmed sequence of training experiences;

(2) The preparing institution’s psychology training program shall have a clearly-designated placement director who shall be responsible for the integrity and quality of the experiential component of the training program;

(3) Weekly practicum and internship supervision shall be provided by a staff member of the placement agency, by an affiliate of that agency, or by a university faculty member. At least half of the supervision shall be provided by one (1) or more psychologists with an appropriate doctorate degree and license;

(4) Field experiences, practica, and internships shall provide training in a range of assessment and treatment activities conducted directly with clients seeking psychological services;

(5) At least twenty-five (25) percent of the trainee's time shall be in direct client contact;

(6) The preparing institution shall maintain a written statement or brochure describing the goals and content of the required field experiences, practica, and internships.

(7) Students participating in university-sanctioned supervised experience shall be clearly identified to clients and payors as trainees.

Section 4. An applicant for licensure as a psychological practitioner shall complete the equivalent of five (5) full-time years of psychological practice under the direct supervision of a licensed psychologist approved by the board, consistent with the requirements of 201 KAR 26:171.

(1) For purposes of this requirement, a candidate shall complete the equivalent of five (5) full-time years of supervised experience from the date of initial credentialing as a psychological associate, with a full-time year comprising at least 1800 hours of supervised experience.

(2) A school psychologist who is employed in a Kentucky school system, credentialed by the Professional Standards Board, and also credentialed as a psychological associate by this

board, may contract for on-going clinical supervision in the school setting with a board-approved licensed psychologist who is neither an employee nor a contractor of the school system.

(a) The supervised experience shall meet the conditions of this administrative regulation and may be used by the licensed psychological associate employed by the school system to meet the requirements for application to become a licensed psychological practitioner.

(b) To fulfill the requirements of 201 KAR 26:171, there shall be an explicit written plan approved by the board between the school system, the school psychologist, and the board-approved supervisor which delineates roles and responsibilities, not restricting the ability of the school district to direct or control the activities of its employee;

(c) A person trained in school psychology, if employed by an agency other than a public school or engaged in practice outside of the school setting, shall obtain clinical supervision in the manner specified by 201 KAR 26:171.

201 KAR 26:200. Definitions of terms used by the Board of Examiners of Psychologists for meeting educational requirements for licensure as a licensed psychologist.

RELATES TO: KRS 319.050

STATUTORY AUTHORITY: KRS 319.032

NECESSITY, FUNCTION, AND CONFORMITY: Certain terms are used in the statute regulating educational requirements for applicants for a credential. This administrative regulation defines those terms as they relate to licensed psychologists.

Section 1. A doctoral degree in psychology shall be:

(1) A doctoral degree from a recognized institution of higher learning as defined in this administrative regulation;

(2) The program, wherever it may be administratively housed, is clearly identified by the granting institution as a psychology program. The program shall specify in pertinent institutional catalogs and brochures its intent to educate and train professional psychologists;

(3) Any dissertation required for the degree is psychological in method and content and an expected product of doctoral training in psychology;

(4) The program stands as a recognizable, coherent, organized entity within the institution;

(5) Within the psychology faculty there is clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines;

(6) The program is an integrated, organized sequence of study;

(7) There is an identifiable psychology faculty and a psychologist responsible for the program;

(8) The program has an identifiable body of students who are matriculated in that program for a degree; and

(9) In areas of training for health service providers, the program includes educational experiences with titles such as practicum, internship or field training.

Section 2. (1) In determining the acceptability of curricular experiences and course work, the following factors shall be considered:

(a) The curriculum shall encompass a minimum of three (3) academic years of full-time graduate study.

(b) In addition to instruction in scientific and professional ethics and standards, research design and methodology, statistics and psychometrics, the core program shall require each student to demonstrate competence in each of the following content areas. This typically will be met by including a minimum of three (3) or more graduate semester hours (five (5) or more graduate quarter hours) in each of these four (4) areas:

1. Biological bases of behavior, including the subject matters of physiological psychology, comparative psychology, neuropsychology, sensation and perception, psychopharmacology.

2. Cognitive-affective bases of behavior, including the subject matters of learning, thinking, motivation, emotion.

3. Social bases of behavior, including the subject matters of social psychology, group process, organizational psychology and systems.

4. Individual differences, including the subject matters of personality theory, human development, abnormal psychology.

(c) In addition to the core program, the curriculum shall include appropriate coursework as determined by the board in the specialty area of training. For candidates who seek health service provider designation, that training shall include specific training in diagnosis and assessment of individual/ organizational differences and the design and implementation of appropriate intervention techniques, e.g., psychotherapy, counseling, consultation, etc.

(2) The applicant shall provide any documentation required by the board in the manner and form prescribed by the board to confirm compliance with or satisfaction of the requirements of this law.

(3) At the discretion of the board, any deficiency in course work or other requirements may be corrected by appropriate remedial work.

Section 3. A regionally accredited educational institution means accreditation by any one (1) of the following: Southern Association of Colleges and Schools, Middle States Association of Colleges and Schools, New England Association of Colleges and Schools, North Central Association of Colleges and Schools, North Western Association of Schools and Colleges, and Western Association of Schools and Colleges.

Section 4. Accreditation means accreditation by one (1) of the aforementioned associations at Level 4 (doctoral degree granting accreditation) or at Level 5 (graduate or professional degree granting accreditation).

201 KAR 26:210. Definitions of terms used by the Board of Examiners of Psychologists for meeting educational requirements for licensure as a licensed psychological associate.

RELATES TO: KRS 319.064

STATUTORY AUTHORITY: KRS 319.032

NECESSITY, FUNCTION, AND CONFORMITY: Certain terms are used in the statute regulating educational requirements for applicants for a credential. This administrative regulation defines those terms as they relate to licensed psychological associates.

Section 1. Educational Requirements. (1) A master's degree from a recognized institution of higher learning in this administrative regulation;

(2) The program, wherever it may be administratively housed, is clearly identified by the granting institution as a psychology program. The program shall specify in pertinent institutional catalogs and brochures its intent to educate and train professional psychologists;

(3) Any thesis required for the degree is psychological in method and content and an expected product of master's training in psychology;

(4) The program stands as a recognizable, coherent, organized entity within the institution;

(5) Within the psychology faculty there is clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines;

(6) The program is an integrated, organized sequence of study;

(7) There is an identifiable psychology faculty and a psychologist responsible for the program;

(8) The program has an identifiable body of students who are matriculated in that program for a degree; and

(9) The program includes educational experiences with titles such as practicum, internship or field training. This accumulated experience must be supervised by a doctoral-level psychologist and shall equal 600 hours.

Section 2. (1) In determining the acceptability of curricular experiences and course work, the following factors shall be considered:

(a) The curriculum shall encompass a minimum of forty-five (45) semester hours of graduate study.

(b) In addition to instruction in scientific and professional ethics and standards, research design and methodology, statistics and psychometrics, the core program shall require each student to demonstrate competence in each of the following content areas. This typically will be met by including a minimum of three (3) or more graduate semester hours (five (5) or more graduate quarter hours) in each of these four (4) areas:

1. Biological bases of behavior, including the subject matters of physiological psychology, comparative psychology, neuropsychology, sensation and perception, psychopharmacology.

2. Cognitive-affective bases of behavior, including the subject matters of learning, thinking, motivation, emotion.

3. Social bases of behavior, including the subject matters of social psychology, group process, organizational psychology and systems.

4. Individual differences, including the subject matters of personality theory, human development, abnormal psychology.

(c) In addition to the core program, the curriculum shall include appropriate course work as determined by the board in the specialty area of training including specific training in diagnosis and assessment of individual/ organizational differences and the design and implementation of appropriate intervention technique, e.g. psychotherapy, counseling, consultation, etc.

(2) The applicant shall provide any documentation required by the board in the manner and form prescribed by the board to confirm compliance with or satisfaction of the requirements of this law.

(3) At the discretion of the board, any deficiency in course work or other requirements may be corrected by appropriate remedial work.

Section 3. A regionally accredited educational institution means accreditation by any one (1) of the following: Southern Association of Colleges and Schools, Middle States Association of Colleges and Schools, New England Association of Colleges and Schools, North Central Association of Colleges and Schools, North Western Association of Schools and Colleges, and Western Association of Schools and Colleges.

Section 4. Accreditation means accreditation by one (1) of the aforementioned associations at Level 3 (master's degree granting accreditation).

201 KAR 26:215. Nonresident status.

RELATES TO: KRS 319.015(8)

STATUTORY AUTHORITY: KRS 319.015(8), 319.032(1)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.015(8) authorizes a nonresident psychologist temporarily employed in the state to render psychological services for no more than thirty (30) days every two (2) years and requires the board to establish a registration process for nonresident psychologists. This administrative regulation establishes the requirements for registering in Kentucky as a nonresident psychologist.

Section 1. (1) Pursuant to KRS 319.015(8), a nonresident licensee holder who seeks to practice temporarily in Kentucky shall file a written registration with the board. The registration shall be a written letter sent to the board:

(a) Indicating his or her desire to practice in Kentucky pursuant to KRS 319.015(8); and

(b) Stating the dates he or she intends to practice in Kentucky.

(2) Board approval shall be contingent upon:

(a) Receipt of documentation that the nonresident psychologist holds a valid license in good standing from another jurisdiction; and

(b) Confirmation that the applicant does not have a report of disciplinary action filed with the Association of State and Provincial Psychology Boards.

(3)(a) Nonresident temporary practice pursuant to KRS 319.015(8) shall be conditionally approved by the chair of the board if:

1. The applicant for temporary practice meets the conditions for practice established by KRS 319.015(8); and

2. The applicant has registered with the board.

(b) The conditional approval shall terminate at the next regularly scheduled meeting of the board. At that meeting, the board shall determine whether to approve the temporary practice.

Section 2. Upon the completion of the thirty (30) day period, the nonresident license holder shall submit a written report to the board of each date on which psychological services were rendered in this state, and the location of the site of those services.

Section 3. For purposes of this administrative regulation, the provision of psychological services on a given date, regardless of the period of time of those services, shall constitute one (1) day.

Section 4. Pursuant to KRS 319.015(8), the provisions of this administrative regulation shall:

(1) Apply to a nonresident psychologist temporarily employed in the state for a period of less than thirty (30) days every two (2) years; and

(2) Not be used to begin practice in Kentucky by an applicant for temporary or regular licensure pending credentials review.

Section 5. A person licensed to practice psychology in another jurisdiction may practice psychology by electronic or telephonic means in Kentucky if he or she registers with the board and receives board approval for this practice. A person seeking this approval shall follow the provisions set forth in Sections 1 through 4 of this administrative regulation.

Section 6. A person licensed to practice psychology in another jurisdiction and who is providing service in response to a declared disaster pursuant to an agreement between the American Red Cross and the American Psychological Association's Disaster Response Network may begin practice in Kentucky upon notification to the board.

Section 7. A person practicing pursuant to the provisions of KRS 319.015(8) shall be subject to the provisions of KRS 319.082 and 201 KAR 26:145.

201 KAR 26:230. Examinations.

RELATES TO: KRS 319.032(1)(a), 319.050, 319.053, 319.064

STATUTORY AUTHORITY: KRS 319.032(1)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.032(1)(a) requires the board to promulgate an administrative regulation establishing the examination requirements for an applicant for licensure. KRS 319.050(1) and 319.064(1)(c) require an applicant to successfully complete the required examination prior to licensure. This administrative regulation establishes the examination requirements.

Section 1. Definitions. (1) The written examination shall be the Examination for Professional Practice in Psychology (EPPP) developed by the ASPPB examination contractor and owned by the Association of State and Provincial Psychology Boards. Prior to April 1, 2002, applicants may choose either the computerized delivery or paper-and-pencil form. After April 1, 2002, the EPPP shall be taken by computer administration.

(a) For those applicants taking a paper-and-pencil form of the EPPP in 2001-2002, the board shall publish instructions which include the examination schedule with place, time and final date by which the applicant shall file the required materials.

(b) For those applicants taking the computerized EPPP examination, the board shall submit to the ASPPB examination contractor a list of applicants eligible to sit for the examination.

(2) The oral examination shall be structured to cover ethical principles, professional practice and Kentucky mental health law.

Section 2. General Requirements. (1) An applicant for examination shall:

(a) Submit a completed application as required by 201 KAR 26:155, Section 1; and

(b) Pay the applicable fee established in 201 KAR 26:160.

(2) Once the application has been approved by the board, the applicant shall sit for the examination within sixty (60) days of the date on the authorization-to-test letter. Applicants may sit for the examination at any approved ASPPB examination contractor testing center in the United States, U.S. Territories and Canada, but shall register and apply in only one (1) jurisdiction.

(3) Failure to take the examination within sixty (60) days of the authorization-to-test date shall lead to a forfeit of application fees and necessitate a reapplication to the board.

(4) If an applicant loses eligibility to sit for the EPPP because of failure to reschedule, cancel or appear to take the examination as stated in subsection (2) of this section:

(a) The applicant shall forfeit all fees paid; and

(b) Any temporary license issued to the applicant shall be terminated on the scheduled date of the examination.

Section 3. Examination for Licensure as a Licensed Psychologist with the Health Service Provider Designation. (1) The applicant shall pass:

(a) The written examination in accordance with subsection (2) of this section; and

(b) The oral examination in accordance with subsection (6) of this section.

(2) On the EPPP, the applicant shall obtain an ASPPB recommended passing score for licensure of seventy (70) percent (raw score of 140 on the paper and pencil form until April 1, 2002) or computerized EPPP scaled score of 500. The applicant shall be notified by the board of the score, as well as of passing or failing the examination.

(3) Pursuant to KRS 319.053(5), an applicant for licensure as a licensed psychologist who has been approved to sit for the objective examination (EPPP) and whose supervisory arrangement has been approved by the board shall be considered to be functioning under a temporary license until all requirements for licensure have been completed.

(4) If an applicant for licensure as a licensed psychologist fails the EPPP examination, the candidate shall reapply to the board, pay the appropriate fees and be deemed eligible by the board to be permitted another sixty (60) day eligibility period. Failure to take the EPPP within sixty (60) days of the authorization-to-test letter will lead to a forfeiture of fees and necessitate a reapplication to the board.

(a) The candidate shall continue to function under the supervision of the board-approved supervisor until:

1. The written and oral examinations are successfully completed; or

2. The temporary license is terminated.

(b) The candidate shall not be scheduled for the oral examination until the objective examination (EPPP) has been successfully passed and the required two (2) years of supervised experience have been approved by the board.

(5) If an applicant for licensure as a licensed psychologist fails the oral examination, the board shall, upon the development of a remediation plan acceptable to the board, reissue the temporary license to function under supervision until the results of the next examination are known. A temporary license shall not be renewed by the board more than two (2) times.

(6) An applicant for licensure as a licensed psychologist shall submit to a structured oral examination administered by two (2) licensed psychologists approved by the board.

(a) This examination shall cover ethical principles, professional practice and Kentucky Mental Health Law. The applicant shall demonstrate an acceptable level of knowledge in each of the three (3) areas in order to pass the examination.

(b) Each examiner shall independently rate the applicant's performance.

(c) An applicant who receives a pass rating from each of the examiners shall have successfully passed the oral examination.

(7) If the applicant fails the first oral examination, the applicant may reapply with a remediation plan.

(a) Upon completion of the remediation plan approved by the board, the applicant shall be administered an oral examination by a second team composed in the same manner as the first team.

(b) If the second oral examination is failed, the applicant may reapply with a remediation plan approved by the board.

(c) Upon completion of the approved remediation plan, the applicant shall be administered an examination by a team of the licensed psychologist members of the board and appointed examiners as needed.

(d) A majority of the examining team shall rate the applicant as having passed in each of the three (3) areas in order to pass the examination.

(8) If the applicant for licensure as a licensed psychologist fails to pass the examination, and wishes to apply to be credentialed as a licensed psychological associate, a completed application and the appropriate fee, as required by 201 KAR 26:160, shall be submitted with the proposed area of competency and supervision indicated. The board shall accept the applicant's previous examination results to satisfy the requirements as to criteria level and area of competency.

Section 4. Examination for Licensure as a Licensed Psychological Practitioner. (1) The applicant shall pass:

(a) A written examination in accordance with subsection (2) of this section unless the applicant's previous examination results for the EPPP examination satisfied the doctoral licensure requirement as to criterion level at the time of that examination; and

(b) An oral examination in accordance with subsection (5) of this section.

(2) On the EPPP, the applicant shall obtain an ASPPB recommended passing score for licensure of seventy (70) percent (raw score of 140 on the paper-and-pencil form until April 1, 2002) or computerized EPPP scaled score of 500. The applicant shall be notified by the board of the score, as well as of passing or failing the examination.

(3) Pursuant to KRS 319.050(3), an applicant for licensure as a licensed psychological practitioner who has been approved to sit for the objective examination (EPPP) shall continue to be supervised until all requirements for licensure as a licensed psychological practitioner have been completed.

(4) If an applicant for licensure as a licensed psychological practitioner fails the EPPP examination, the candidate may reapply to the board, pay the appropriate fees and be deemed eligible by the board to be permitted another sixty (60) day eligibility period. Failure to take the EPPP within sixty (60) days of the authorization-to-test letter will lead to a forfeiture of fees and necessitate a reapplication to the board.

(a) The candidate shall continue to function under the supervision of the board-approved supervisor until the written and oral examinations are successfully completed.

(b) The candidate shall not be scheduled for the oral examination until the objective examination (EPPP) has been successfully passed and the required five (5) years of supervised experience or its equivalent have been approved by the board.

(5) An applicant for licensure as a licensed psychological practitioner shall submit to a structured oral examination administered by an examination team consisting of at least one (1) licensed psychologist and either a certified psychologist with autonomous functioning or a licensed psychological practitioner.

(a) This examination shall cover ethical principles, professional practice and Kentucky mental health law. The applicant shall demonstrate an acceptable level of knowledge in each of the three (3) areas in order to pass the examination.

(b) Each examiner shall independently rate the applicant's performance, using the same criteria as the oral examination for licensed psychologist candidates.

(c) An applicant who receives a pass rating from each of the examiners shall have successfully passed the oral examination.

(6) If the applicant fails the first oral examination, the applicant may reapply and shall be administered an oral examination by a second team composed in the same manner as the first team.

(7) If the applicant fails the second oral examination, the applicant may reapply and shall be administered an oral examination by a team of the licensed members of the board and appointed examiners as needed. A majority of the examining team shall rate the applicant as having passed in each of the three (3) areas in order to pass the examination.

Section 5. Examination for Licensure as a Psychological Associate. (1) The applicant shall obtain on the EPPP a passing score of sixty (60) percent (raw score of 120 on the paper-and-pencil form until April 1, 2002) or computerized scaled score of 400. The applicant shall be notified of the score, as well as of passing or failing the examination by the board.

(2) Pursuant to KRS 319.064(3), an applicant for certification as a licensed psychological associate who has been approved to sit for examination and whose supervisory arrangement has been approved by the board shall be considered to be functioning under a temporary license until the results of the next regularly scheduled examination are known.

(3) If an applicant for licensure as a psychological associate fails the examination, the board shall, upon the development of a remediation plan acceptable to the board, reissue the temporary license to function under supervision until the results of the next regularly scheduled examination are known. A temporary license shall not be renewed by the board more than two (2) times.

(4) If an applicant for certification fails to appear for the scheduled examination and presents a valid reason in writing for missing the examination, such as illness or death in the immediate family, the examination may be deferred until the next scheduled date without

forfeiture of the examination fee and with the approved application still constituting a temporary certificate to function under supervision.

201 KAR 26:250. Employment of a psychological associate.

RELATES TO: KRS 319.032(1)(b), (l), 319.064(5)

STATUTORY AUTHORITY: KRS 319.032(1)(b), (l)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.032(1)(l) requires the board to promulgate an administrative regulation governing the supervision and employment of a licensed psychological associate. KRS 319.064(5) prohibits a licensed psychological associate from practicing independently, except under the employment and supervision of a board approved licensed psychologist. This administrative regulation establishes the requirements for the employment of a licensed psychological associate.

Section 1. Employment of a licensed psychological associate by a regional mental health/mental retardation board, college or university, or government agency shall not be considered independent practice.

Section 2. A licensed psychological associate may be employed in a supervisor's independent practice, if the supervisor is responsible for the direction and control of the practice of the licensed psychological associate.

Section 3. A special application shall:

(1) Be submitted to the board by the supervisor of record and a licensed psychological associate if:

(a)1. The licensed psychological associate is employed in an independent practice; and

2. The supervisor of record is not the employer; or

(b) The employer is not an organization listed in Section 1 of this administrative regulation;

(2) Be approved by the board before the practice begins;

(3) Identify the licensed psychological associate, supervisor, and employer; and

(4) Certify that:

(a) The supervising licensed psychologist is not hired, employed or engaged under contract by the licensed psychological associate and shall not be terminated by the licensed psychological associate;

(b) The licensed psychological associate is not one of the owners of the independent practice or organization, but rather serves as an employee; and

(c) The licensed psychological associate has both administrative and clinical supervision which are provided by the independent practice or organization.

(5) The arrangement described in the application shall be approved by the board before the practice begins.

Section 4. A licensed psychological associate who works as an employee for more than one (1) independent practice or organization shall obtain approval from the board of a supervisor of record for each independent practice or organization and shall comply with 201 KAR 26:171 for approval to have more than two (2) supervisors of record.

Section 5. In all communications and advertising with the public, the licensed psychological associate's relationship with the employer and the supervisor shall be clearly indicated.

Section 6. The licensed psychological associate and the supervisor shall comply with the requirements for supervision established in 201 KAR 26:171.

Section 5. Incorporation by Reference. (1) "Special Application/Employment of a Psychological Associate", (January 2002 edition), is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Examiners of Psychology, 700 Louisville Road, Berry Hill Annex, Suite B, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

201 KAR 26:270. Change of credential status.

RELATES TO: KRS 319.053, 319.056

STATUTORY AUTHORITY: KRS 319.032(1)(c)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.032 requires the board to promulgate administrative regulations to enable persons credentialed by this board to change their credential status upon completion of additional training and experience. This administrative regulation establishes procedures to enable credential holders to change their credential status.

Section 1. Change of Credential Status to Licensed Psychologist. (1) If a person holds a credential as a certified psychologist with or without autonomous functioning, as a licensed psychological practitioner or as a licensed psychological associate and later completes the educational and supervised experience requirements to apply for licensed psychologist status, a new and complete application for licensure shall be submitted with an approved application fee as required by 201 KAR 26:155 and 201 KAR 26:160.

(2) The board shall accept the applicant's previous examination results for the objective (EPPP) examination if the original test score satisfies the doctoral licensure requirement as to criterion level.

(3) If the previous EPPP score does not satisfy the requirements of subsection (2) of this section, the applicant shall successfully complete the written portion of the examination as described in 201 KAR 26:230.

(4) The oral portions of the examination shall be successfully completed by the applicant as described in 201 KAR 26:230.

Section 2. Change of Credential Status to Licensed Psychological Practitioner by Certified Psychologists with Autonomous Functioning. (1) Persons holding a credential as a certified psychologist with autonomous functioning may continue to function with that title.

(2) Any certified psychologist with autonomous functioning may notify the board in writing of their choice to permanently change their title to "licensed psychological practitioner".

(3) The board shall then issue a new license with that title.

Section 3. Change of Credential Status to Licensed Psychological Practitioner by Certified Psychologists and Psychological Associates. (1) If a person holds a credential as a certified psychologist without autonomous functioning or as a licensed psychological associate and later completes the educational and supervised experience requirements to apply for licensed psychological practitioner status, a new and complete application for licensure shall be submitted with an approved application fee as required by 201 KAR 26:155 and 201 KAR 26:160.

(2) The board shall accept the applicant's previous examination results for the objective (EPPP) examination if the original test score satisfies the doctoral licensure requirement as to criterion level at the time of that examination.

(3) If the previous EPPP score does not satisfy the requirements of Section 1(2) of this administrative regulation, the applicant shall successfully complete the written portion of the examination as described in 201 KAR 26:230.

(4) The oral portions of the examination shall be successfully completed by the applicant as described in 201 KAR 26:230.

Section 4. Change of Credential Status to Licensed Psychological Associate by Certified Psychologists. (1) Persons holding a credential as a certified psychologist may continue to function with that title.

(2) At the time of renewal of their credential, any certified psychologist may notify the board in writing of their choice to permanently change their title to "licensed psychological associate".

(3) The board shall then issue a new license with that title.

Section 5. Change of Credential Status to Licensed Psychological Associate by Certified Psychological Associates. (1) Persons holding a credential as a psychological associate shall use the title licensed psychological associate.

(2) The board shall issue a new license with that title.

201 KAR 26:280. Licensed psychological associate: application procedures and temporary license.

RELATES TO: KRS 319.064

STATUTORY AUTHORITY: 319.032(1)(a), (c)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.032(1)(a) and (c) require the board to promulgate administrative regulations establishing the requirements for an applicant for licensure as a psychological associate. This administrative regulation establishes the requirements for applicants for licensure, and the conditions for a temporary license.

Section 1. Application. (1) An application for a credential to perform certain functions as a licensed psychological associate may be submitted after the requirements established in KRS 319.064(2) are met.

(2) The application required by subsection (1) of this section shall be made by submitting a completed Form Psy-1 to the board. The application shall:

(a) Include a certification by the applicant that the:

1. Information in the application is true, correct, and complete to the best of his or her knowledge and belief; and

2. Applicant is aware that the board may take disciplinary action if the application contains a misrepresentation or falsification; and

(b) Be accompanied by:

1. A check or money order payable to the Kentucky State Treasurer for the application fee as required by 201 KAR 26:160;

2. Three (3) letters of reference from persons qualified to evaluate the applicant's professional ability, including two (2) persons who have received a doctorate in psychology (Ph.D. Psy.D., or Ed.D.); and

3. An official transcript for all levels of education required for licensure.

Section 2. Temporary Licensure. (1) An applicant may request permission to perform functions as a licensed psychological associate on a temporary basis pursuant to KRS 319.064(3).

(2) The request for a temporary credential shall be co-signed by the candidate and the proposed supervisor, who shall be a licensed psychologist approved by the board and who holds the health services provider designation.

(3) The period of temporary licensure shall be terminated upon successful completion of all credentials and examination procedures or if the candidate fails to pass the EPPP within one (1) year of the date of the authorization-to-test letter after approval for temporary license.

Section 3. Grace Period for Submission of Credentials. In order to allow for processing of the candidate’s materials by the board, there shall be a grace period not to exceed sixty (60) days within which candidates who have completed their degree requirements may begin employment by an agency to practice psychology under supervision with a board-approved supervisor.

(1) Upon acceptance of employment, the candidate and the licensed psychologist who shall serve as the supervisor shall immediately submit a letter of notice to the board indicating that he or she has begun to practice in Kentucky and that application materials are forthcoming. Failure to submit this notice may be deemed as grounds for disciplinary action against the candidate and the supervisor.

(2) It is the responsibility of the candidate to ensure that all materials are forwarded to the board within thirty (30) days from the date of agency employment. Once the application is complete, the board will review the material at its next scheduled meeting and, if appropriate, issue either a temporary or permanent credential. If the candidate does not meet the requirements for the credential, or if their application material is insufficient to take any action, he or she shall be directed to cease practice until the requirements are met.

(3) The grace period shall not be extended beyond sixty (60) days. A candidate who fails to achieve approval within this timeframe shall not practice psychology until credentialed by the board.

(4) Upon filing the notice set forth in subsection (1) of this section, the candidate is deemed to be practicing psychology under the jurisdiction of the board, and is subject to all relevant laws and regulations.

201 KAR 26:290. Licensed psychological practitioner: application procedures.

RELATES TO: KRS 319.053

STATUTORY AUTHORITY: 319.032(1)(a), (c)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.053 requires the board to promulgate administrative regulations establishing the requirements for an applicant for licensure as a psychological practitioner. This administrative regulation establishes the requirements for applicants.

Section 1. Application. (1) An application for a credential as a licensed psychological practitioner may be submitted on form Psy 1, as incorporated in 201 KAR 26:155, after the requirements established in KRS 319.053(1) are met.

(2) The application shall:

(a) Include a certification by the applicant that the:

1. Information in the application is true, correct, and complete to the best of his or her knowledge and belief;

2. Applicant is aware that the board may take disciplinary action if the application contains a misrepresentation or falsification; and

(b) Be accompanied by:

1. A check or money order payable to the Kentucky State Treasurer for the application fee as required by 201 KAR 26:160;

2. Three (3) letters of reference from persons who are familiar with the clinical work of the applicant. One (1) letter shall be from the current board-approved supervisor of record outlining the candidate's scope of practice and the other two (2) letters shall be from licensed mental health professionals acceptable to the board; and

3. An official transcript for all levels of education required for licensure.

Section 2. Temporary Licensure. Temporary credentials shall not be issued to persons applying for licensed psychological practitioner status. An applicant may continue to practice under board-approved supervision as a licensed psychological associate or as a certified psychologist pending successful completion of requirements for a change of status to a licensed psychological practitioner.

(1) The candidate shall obtain an acceptable score on the objective (EPPP) examination;

(a) The board shall accept the applicant's previous examination results for the objective (EPPP) examination if the original test scores satisfied the doctoral licensure requirement as to criterion level at the time of that examination or

(b) If the previous examination score does not satisfy the requirements of paragraph (a) of this subsection, the candidate shall take the Examination for Professional Practice in Psychology (EPPP) within sixty (60) days from the date on the authorization-to-test letter, which comes from the ASPPB examination contractor. Upon receipt of the application for licensure, the candidate will receive a packet of materials from the board about the EPPP which will instruct the candidate to contact the ASPPB examination contractor directly for the procedures to follow regarding test application, payment and taking the examination.

(2) The applicant shall pass the structured oral examination established in 201 KAR 26:230, Section 4(5).

201 KAR 26:300. Educational requirements for licensure as a licensed psychological practitioner.

RELATES TO: KRS 319.053

STATUTORY AUTHORITY: KRS 319.032

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.053(1)(f) requires an applicant for licensure as a licensed psychological practitioner to document at least sixty (60) hours of graduate study in psychology or a related field acceptable to the board. This administrative regulation establishes requirements for the hours of graduate study.

Section 1. Educational Requirements. (1) Graduate course work shall be related to psychological practice and may include independent study and distance learning. All graduate course work shall have been offered by a regionally accredited university meeting the standards described in Sections 2 and 3 of this administrative regulation. Continuing education credits shall not qualify to meet this requirement.

(2) The applicant shall provide any documentation required by the board in the manner and form prescribed by the board to confirm compliance with or satisfaction of the requirements of this law.

(3) At the discretion of the board, any deficiency in course work or other requirements may be corrected by appropriate remedial work.

Section 2. A regionally-accredited educational institution shall be accredited by any one (1) of the following: Southern Association of Colleges and Schools, Middle States Association of Colleges and Schools, New England Association of Colleges and Schools, North Central Association of Colleges and Schools, North Western Association of Schools and Colleges, and Western Association of Schools and Colleges.

Section 3. Accreditation shall be by one (1) of the aforementioned associations at Level 3 (master's degree granting accreditation).

Selected

KENTUCKY MENTAL HEALTH LAW

Relating to KRS Chapter 319

13B.050 Notice of administrative hearing.

(1) In any administrative hearing, the agency shall conduct the hearing as soon as practicable and shall give notice of the hearing to the parties not less than twenty (20) days in advance of the date set for the hearing, unless otherwise required by federal law. An agency shall make reasonable effort to schedule a hearing on a date that is convenient to the parties involved.

(2) The notice required by subsection (1) of this section shall be served on the parties by certified mail, return receipt requested, sent to the last known address of the parties, or by personal service, with the exception of notices of Personnel Board hearings and all board orders which may be served by first-class mail. Service by certified mail shall be complete upon the date on which the agency receives the return receipt or the returned notice.

(3) The notice required by this section shall be in plain language and shall include:

(a) A statement of the date, time, place, and nature of the hearing;

(b) The name, official title, and mailing address of the hearing officer;

(c) The names, official titles, mailing addresses, and, if available, telephone numbers of all parties to the hearing, including the counsel or representative of the agency;

(d) A statement of the factual basis for the agency action along with a statement of issues involved, in sufficient detail to give the parties reasonable opportunity to prepare evidence and argument;

(e) A reference to the specific statutes and administrative regulations which relate to the issues involved and the procedure to be followed in the hearing;

(f) A statement advising the person of his right to legal counsel;

(g) A statement of the parties' right to examine, at least five (5) days prior to the hearing, a list of witnesses the parties expect to call at the hearing, any evidence to be used at the hearing and any exculpatory information in the agency's possession; and

(h) A statement advising that any party who fails to attend or participate as required at any stage of the administrative hearing process may be held in default under this chapter.

(4) If an agency decides not to conduct an administrative hearing in response to a petition, the agency shall notify the petitioner of its decision in writing, with a brief statement of the agency's reasons and any administrative review available to the petitioner.

13B.080 Conduct of hearing.

(1) A hearing officer shall preside over the conduct of an administrative hearing and shall regulate the course of the proceedings in a manner which will promote the orderly and prompt conduct of the hearing. When a prehearing order has been issued, the hearing officer shall regulate the hearing in conformity with the prehearing order.

(2) The hearing officer, at appropriate stages of the proceedings, shall give all parties full opportunity to file pleadings, motions, objections, and offers of settlement. The hearing officer, at appropriate stages of the proceedings, may give all parties full opportunity to file briefs, proposed findings of fact and conclusions of law, and proposed recommended or final orders. The original of all filings shall be mailed to the agency, and copies of any filed item shall be served on all parties and the hearing officer by mail or any other means permitted by law or prescribed by agency administrative regulation. The agency shall when it is received stamp the time and date upon a document.

(3) The hearing officer may issue subpoenas and discovery orders when requested by a party or on his own volition. When a subpoena is disobeyed, any party may apply to the Circuit Court of the judicial circuit in which the administrative hearing is held for an order requiring obedience. Failure to comply with an order of the court shall be cause for punishment as a contempt of the court.

(4) To the extent necessary for the full disclosure of all relevant facts and issues, the hearing officer shall afford all parties the opportunity to respond, present evidence and argument, conduct cross-examination, and submit rebuttal evidence, except as restricted by limited grant of intervention or a prehearing order.

(5) Any party to an administrative hearing may participate in person or be represented by counsel. In informal proceedings, a party may be represented by other professionals if appropriate and if permitted by the agency by administrative regulation.

(6) If a party properly served under KRS 13B.050 fails to attend or participate in a prehearing conference, hearing, or other stage of the administrative hearing process, or fails to comply with the orders of a hearing officer, the hearing officer may adjourn the proceedings and issue a default order granting or denying relief as appropriate, or may conduct the proceedings without the participation of the defaulting party, having due regard for the interests of justice and the orderly and prompt conduct of the proceedings. A default order shall be considered a recommended order and shall be processed as provided in KRS 13B.110.

(7) A hearing officer may conduct all or part of an administrative hearing, or a prehearing conference, by telephone, television, or other electronic means, if each party to the hearing has an opportunity to hear, and, if technically feasible, to see the entire proceeding as it occurs, and if each party agrees. (8) An administrative hearing shall be open to the public unless specifically closed pursuant to a provision of law. If an administrative hearing is conducted by telephone, television, or other electronic means, and is not closed, public access shall be satisfied by giving the public an opportunity, at reasonable times, to hear or inspect the agency's record.

13B.090 Findings of fact -- Evidence -- Recording of hearing -- Burdens of proof.

(1) In an administrative hearing, findings of fact shall be based exclusively on the evidence on the record. The hearing officer shall exclude evidence that is irrelevant, immaterial, unduly repetitious, or excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this Commonwealth. Hearsay evidence may be admissible, if it is the type of evidence that reasonable and prudent persons would rely on in their daily affairs, but it shall not be sufficient in itself to support an agency's findings of facts unless it would be admissible over objections in civil actions.

(2) All testimony shall be made under oath or affirmation. Any part of the evidence may be received in written form if doing so will expedite the hearing without substantial prejudice to the interests of any party. The hearing officer may make a recommended order in an administrative hearing submitted in written form if the hearing officer determines there are no genuine issues of material fact in dispute and judgment is appropriate as a matter of law.

(3) Any party shall have the right to inspect, at least five (5) days prior to the hearing, a list of all witnesses every other party expects to call at the hearing, and the available documentary or tangible evidence relating to an administrative hearing either in person or by counsel. Copies of documentary evidence may be obtained upon the payment of a fee, except documents protected from disclosure by state or federal law. Nothing in this section shall be construed as giving a party the right to examine or copy the personal notes, observations, or conclusions of the agency staff, unless exculpatory in nature, nor shall it be construed as allowing access to the work product of counsel for the agency. Conditions for examining and copying agency records, fees to be charged, and other matters pertaining to access to these records shall be governed by KRS 61.870 to 61.884. To the extent required by due process, the hearing officer may order the inspection of any records excluded from the application of KRS 61.870 to 61.884 under KRS 61.878 that relate to an act, transaction, or event that is a subject of the hearing, and may order their inclusion in the record under seal.

(4) Objections to evidentiary offers may be made by any party and shall be noted in the record.

(5) The hearing officer may take official notice of facts which are not in dispute, or of generally-recognized technical or scientific facts within the agency's specialized knowledge. The hearing officer shall notify all parties, either before or during the hearing, or in preliminary reports or otherwise, of any facts so noticed and their source. All parties shall be given an opportunity to contest facts officially noticed.

(6) The agency shall cause all testimony, motions, and objections in a hearing to be accurately and completely recorded. Any person, upon request, may receive a copy of the recording or a copy of the transcript, if the hearing has been transcribed, at the discretion of the agency, unless the hearing is closed by law. The agency may prepare a transcript of a hearing or a portion of a hearing upon request but the party making the request shall be responsible for the transcription costs. The form of all requests and fees charged shall be consistent with KRS 61.870 to 61.884.

(7) In all administrative hearings, unless otherwise provided by statute or federal law, the party proposing the agency take action or grant a benefit has the burden to show the propriety of the agency action or entitlement to the benefit sought. The agency has the burden to show the propriety of a penalty imposed or the removal of a benefit previously granted. The party asserting an affirmative defense has the burden to establish that defense. The party with the burden of proof on any issue has the burden of going forward and the ultimate burden of persuasion as to that issue. The ultimate burden of persuasion in all administrative hearings is met by a preponderance of evidence in the record. Failure to meet the burden of proof is grounds for a recommended order from the hearing officer.

194A.540 Training courses for mental health professionals and health-care providers.

(1) The secretary for health services shall, in consultation with the applicable licensure board, develop domestic violence-related training courses that are appropriate for the following professions:

(a) Mental health professionals licensed or certified under KRS Chapters 309, 319, and 335;

(b) Alcohol and drug counselors certified under KRS Chapter 309;

(c) Physicians who practice primary care, as defined in KRS 164.925, or who meet the definition of a psychiatrist under KRS 202A.011, and who are licensed under KRS Chapter 311;

(d) Nurses licensed under KRS Chapter 314;

(e) Paramedics certified under KRS Chapter 311;

(f) Emergency medical technicians certified under KRS Chapter 211; and

(g) Coroners as defined in KRS 72.405 and medical examiners as defined in KRS 72.240.

(2) The courses shall include the dynamics of domestic violence, effects of domestic violence on adult and child victims, legal remedies for protection, lethality and risk issues, model protocols for addressing domestic violence, available community resources and victim services, and reporting requirements. The training shall be developed in consultation with legal, victim services, victim advocacy, and mental health professionals with an expertise in domestic violence.

(3) Any health-care or mental health professional identified in subsection (1) of this section shall successfully complete a three (3) hour training course that meets the requirements of subsection (2) of this section. Health care or mental health professionals identified in subsection (1) of this section who are granted licensure or certification after July 15, 1996, shall successfully complete the training within three (3) years of the date of initial licensure or certification.

202A.006 Title.

This chapter may be cited as the "Kentucky Mental Health Hospitalization Act."

202A.008 Authority for administrative regulations.

The cabinet may promulgate administrative regulations in accordance with KRS Chapter 13A in order to carry out the provisions of this chapter.

202A.011 Definitions for chapter.

As used in this chapter, unless the context otherwise requires:

(1) "Authorized staff physician" means a physician who is a bona fide member of the hospital's medical staff;

(2) "Danger" or "threat of danger to self, family, or others" means substantial physical harm or threat of substantial physical harm upon self, family, or others, including actions which

deprive self, family, or others of the basic means of survival including provision for reasonable shelter, food, or clothing;

(3) "Cabinet" means the Kentucky Cabinet for Health Services;

(4) "Psychiatric facility" means a crisis stabilization unit or any facility licensed by the cabinet and which provides inpatient, outpatient, psychosocial rehabilitation, emergency, and consultation and education services for the diagnosis and treatment of persons who have a mental illness;

(5) "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary for the purpose and function of providing inpatient evaluation, care, and treatment for mentally ill or mentally retarded persons who have been charged with or convicted of a felony;

(6) "Hospital" means:

(a) A state mental hospital or institution or other licensed public or private hospital, institution, health-care facility, or part thereof, approved by the Kentucky Cabinet for Health Services as equipped to provide full-time residential care and treatment for mentally ill or mentally retarded persons;

(b) A hospital, institution, or health-care facility of the government of the United States equipped to provide residential care and treatment for mentally ill or mentally retarded persons;

(7) "Judge" means any judge or justice of the Court of Justice or a trial commissioner of the District Court acting under authority of SCR 5.030;

(8) "Least restrictive alternative mode of treatment" means that treatment which will give a mentally ill individual a realistic opportunity to improve the individual's level of functioning, consistent with accepted professional practice in the least confining setting available;

(9) "Mentally ill person" means a person with substantially impaired capacity to use self-control, judgment, or discretion in the conduct of the person's affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior, or emotional symptoms can be related to physiological, psychological, or social factors;

(10) "Patient" means a person under observation, care, or treatment in a hospital pursuant to the provisions of this chapter;

(11) "Petitioner" means a person who institutes a proceeding under this chapter;

(12) "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A psychologist licensed at the doctoral level or a psychologist or psychological associate certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under this chapter;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse, with a bachelor's degree in nursing from an accredited institution, who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community mental health and mental retardation program; or

(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a

general hospital or a private agency or company engaged in the provision of mental health services or a regional community mental health and mental retardation program;

(13) "Residence" means legal residence as determined by applicable principles governing conflicts of law;

(14) "Respondent" means a person alleged in a hearing under this chapter to be a mentally ill or mentally retarded person;

(15) "Secretary" means the secretary of the Cabinet for Health Services.

202A.012 Application of KRS Chapter 202A.

This chapter shall not apply to persons under eighteen (18) years of age unless specifically authorized by the Kentucky Unified Juvenile Code.

202A.014 Jurisdiction.

All proceedings for the involuntary hospitalization of mentally ill persons shall be initiated in the District Court of the county where the person to be hospitalized resides or in which he may be at the time of the filing of a petition.

202A.016 Duty of county attorney.

In all proceedings under this chapter, it shall be the duty of the county attorney to assist the petitioner and represent the interest of the Commonwealth and to assist the court in its inquiry by the presentation of evidence.

202A.021 Hospitalization of minors -- Admission or discharge of voluntary patients.

(1) The hospitalization of minors alleged to be mentally ill, except those provided for in KRS Chapter 640, shall be governed by KRS Chapter 645.

(2) An authorized staff physician of a hospital may admit for observation, diagnosis, care and treatment any person who is mentally ill or who has symptoms of mental illness and who applies voluntarily therefor.

(3) An authorized staff physician of a hospital shall discharge any voluntary patient who has recovered or whose hospitalization the staff physician determines to be no longer necessary or advisable.

(4) A voluntary patient shall be released upon the patient's written request unless further detained under the applicable provisions of this chapter.

202A.026 Criteria for involuntary hospitalization.

No person shall be involuntarily hospitalized unless such person is a mentally ill person:

(1) Who presents a danger or threat of danger to self, family or others as a result of the mental illness;

(2) Who can reasonably benefit from treatment; and

(3) For whom hospitalization is the least restrictive alternative mode of treatment presently available.

202A.028 Hospitalization by court order -- Transportation -- Release.

(1) Following an examination by a qualified mental health professional and a certification by that professional that the person meets the criteria for involuntary hospitalization, a judge may order the person hospitalized for a period not to exceed seventy-two (72) hours, excluding weekends and holidays. For the purposes of this section, the qualified mental health professional shall be a staff member of a regional community mental health or mental retardation program, unless the person to be examined is hospitalized and under the care of a licensed psychiatrist, in which case the qualified mental health professional shall be the psychiatrist if the psychiatrist is ordered, subject to the court's discretion, to perform the required examination.

(2) Any person who has been admitted to a hospital under subsection (1) of this section shall be released from the hospital within seventy-two (72) hours, excluding weekends and holidays, unless further held under the applicable provisions of this chapter.

(3) Any person admitted to a hospital under subsection (1) of this section or transferred to a hospital while ordered hospitalized under subsection (1) of this section shall be transported

from the person's home county by the sheriff of that county or other peace officer as ordered by the court. The sheriff or other peace officer may, upon agreement of a person authorized by the peace officer, authorize the cabinet, a private agency on contract with the cabinet, or an ambulance service designated by the cabinet to transport the person to the hospital. The transportation costs of the sheriff, other peace officer, ambulance service, or other private agency on contract with the cabinet shall be paid by the cabinet in accordance with an administrative regulation promulgated by the cabinet, pursuant to KRS Chapter 13A.

(4) Any person released from the hospital under subsection (2) of this section shall be transported to the person's county of discharge by a sheriff or other peace officer, by an ambulance service designated by the cabinet, or by other appropriate means of transportation which is consistent with the treatment plan of that person. The transportation cost of transporting the patient to the patient's county of discharge when performed by a peace officer, ambulance service, or other private agency on contract with the cabinet shall be paid by the cabinet in accordance with an administrative regulation issued by the cabinet pursuant to KRS Chapter 13A.

(5) No person who has been held under subsection (1) of this section shall be held in jail pending evaluation and transportation to the hospital.

202A.031 Seventy-two hour emergency admission.

(1) An authorized staff physician may order the admission of any person who is present at, or is presented at, a hospital. Within twenty-four (24) hours (excluding weekends and holidays) of the admission under this section, the authorized staff physician ordering the admission of the individual shall certify in the record of the individual that in his opinion the individual should be involuntarily hospitalized.

(2) Any individual who has been admitted to a hospital under subsection (1) of this section shall be released from the hospital within seventy-two (72) hours (excluding weekends and holidays) unless further detained under the applicable provisions of this chapter.

202A.041 Warrantless arrest and subsequent proceedings.

(1) Any peace officer who has reasonable grounds to believe that an individual is mentally ill and presents a danger or threat of danger to self, family, or others if not restrained shall take the individual into custody and transport the individual without unnecessary delay to a hospital or psychiatric facility designated by the cabinet for the purpose of an evaluation to be conducted by a qualified mental health professional. Upon transport of the person to the hospital or psychiatric facility, the peace officer shall provide written documentation which describes the behavior of the person which caused the peace officer to take the person into custody. If, after evaluation, the qualified mental health professional finds that the person does not meet the criteria for involuntary hospitalization, the person shall be released immediately and transported back to the person's home county by an appropriate means of transportation as provided in KRS 202A.101. If, after evaluation, the qualified mental health professional finds that the person meets the criteria for involuntary hospitalization, appropriate proceedings under this chapter shall be initiated. The person may be held pending certification by a qualified mental health professional and implementation of procedures as provided in KRS 202A.028, 202A.031, or 202A.051 for a period not to exceed eighteen (18) hours.

(2) If, after the evaluation, the qualified mental health professional finds that the person does not meet the criteria for involuntary hospitalization and the peace officer has probable cause to believe that the person has committed a criminal offense, the peace officer may swear out a warrant and take the arrested person without unnecessary delay before a judge.

202A.051 Proceedings for 60-day and 360-day involuntary hospitalizations -- Petition contents.

(1) Proceedings for sixty (60) days or three hundred sixty (360) days of involuntary hospitalization of an individual shall be initiated by the filing of a verified petition in District Court.

(2) The petition and all subsequent court documents shall be entitled: "In the interest of (name of respondent)."

(3) The petition shall be filed by a qualified mental health professional, peace officer, county attorney, Commonwealth's attorney, spouse, relative, friend, or guardian of the individual concerning whom the petition is filed, or any other interested person.

(4) The petition shall set forth:

(a) Petitioner's relationship to the respondent;

(b) Respondent's name, residence, and current location, if known;

(c) The name and residence of respondent's parents, if living and if known, or respondent's legal guardian, if any and if known;

(d) The name and residence of respondent's husband or wife, if any and if known;

(e) The name and residence of the person having custody of the respondent, if any, or if no such person is known, the name and residence of a near relative or that the person is unknown;

(f) Petitioner's belief, including the factual basis therefor, that the respondent is mentally ill and presents a danger or threat of danger to self, family or others if not restrained; and

(g) If the petition seeks a three hundred sixty (360) day involuntary hospitalization of the respondent, the petition shall further set forth that the respondent has been hospitalized in a hospital or a forensic psychiatric facility for a period of thirty (30) days under the provisions of this chapter or KRS Chapter 504 within the preceding six (6) months.

(5) Upon receipt of the petition, the court shall examine the petitioner under oath as to the contents of the petition. If the petitioner is a qualified mental health professional, the court may dispense with the examination.

(6) If after reviewing the allegations contained in the petition and examining the petitioner under oath, it appears to the court that there is probable cause to believe the respondent should be involuntarily hospitalized, the court shall, unless either the court or one (1) of the parties objects, implement the procedures provided in KRS 202A.028 and order the individual to be examined without unnecessary delay by a qualified mental health professional. If the person is not being held under the provisions of this chapter, the court may order that the sheriff of the county or other peace officer transport the person to a hospital or psychiatric facility designated by the cabinet for the purpose of the evaluation. The sheriff or other peace officer may, upon agreement of a person authorized by the peace officer, authorize the cabinet, a private agency on contract with the cabinet, or an ambulance service designated by the cabinet to transport the person to a hospital or psychiatric facility. Following that, the procedures as set forth in KRS 202A.028 shall be carried out. Otherwise, the court shall:

(a) Set a date for a preliminary hearing within six (6) days from the date of holding the person under the provisions of this section (excluding holidays and weekends) to determine if there is probable cause to believe the person should be involuntarily hospitalized;

(b) Notify the respondent, the legal guardian, if any, and if known, and the spouse, parents, or nearest relative or friend of the respondent concerning the allegations and contents of the petition and the date and purpose of the preliminary hearing; and the name, address, and telephone number of the attorney appointed to represent the respondent; and

(c) Cause the respondent to be examined without unnecessary delay by two (2) qualified mental health professionals, at least one (1) of whom is a physician. The qualified mental health professionals shall certify within twenty-four (24) hours (excluding weekends and holidays) their findings.

(7) (a) If the respondent is being presently held under the provisions of this chapter, the court may order further holding of the respondent to accomplish the examination ordered by the court.

(b) If the respondent is not being presently held under the provisions of this chapter, the court may order that the sheriff of the county or a peace officer transport the respondent to a hospital or a psychiatric facility designated by the cabinet so that the respondent shall be examined without unnecessary delay by two (2) qualified mental health professionals, at least one (1) of whom is a physician. The sheriff or other peace officer may authorize, upon agreement of a person authorized by the peace officer, the cabinet, a private agency on contract with the cabinet, or an ambulance service designated by the cabinet to transport the person to a hospital or psychiatric facility.

(8) When the court is authorized to issue an order that the respondent be transported to a hospital or psychiatric facility, the court may, in its discretion, issue a summons. A summons so issued shall be directed to the respondent, shall command the respondent to appear at a time and place therein specified where the respondent shall be there examined by two (2) qualified mental health professionals, at least one (1) of whom is a physician, and shall command the respondent's appearance at the preliminary hearing. If a respondent who has been summoned fails to appear for such examination or at the preliminary hearing, the court may order that the sheriff of the county or a peace officer transport the respondent to a hospital or psychiatric facility designated by the cabinet for the purpose of an evaluation.

(9) If upon completion of the preliminary hearing, the court finds there is probable cause to believe the respondent should be involuntarily hospitalized, the court shall order a final hearing within twenty-one (21) days from the date of holding the respondent under the provisions of this section to determine if the respondent should be involuntarily hospitalized.

(10) If the court finds there is no probable cause, the proceedings against the respondent shall be dismissed, and the respondent shall be released from any holding.

(11) If upon completion of the final hearing, the court finds the respondent should be involuntarily hospitalized, the court shall order the respondent hospitalized in a hospital for a period not to exceed sixty (60) consecutive days from the date of the court order or a period not to exceed three hundred sixty (360) consecutive days from the date of the court order, whatever was the period of time that was requested in the petition.

202A.053 Venue.

(1) A respondent who has been ordered involuntarily hospitalized following the preliminary hearing shall have venue for all subsequent proceedings, including the final hearing, transferred to the court of the county where the respondent is hospitalized.

(2) The court of the county where the preliminary hearing was held may, upon its own motion, or shall, upon motion of one (1) of the parties, retain venue over proceedings subsequent to the preliminary hearing.

202A.056 Certificate contents -- Fee.

(1) The certificate referred to in this chapter shall be in the form prescribed by the cabinet. The certificate shall state that the respondent has been examined by each of the qualified mental health professionals making the certificate within twenty-four (24) hours (excluding weekends and holidays) prior to the date of the certificate. It shall state the facts and circumstances upon which the judgment of the examining physician is based and shall be sworn to before a notary or the clerk or judge of the court.

(2) The examiner shall be entitled to a fee for such examination and certification, to be paid by the county in which the petition is filed, upon a certified copy of an order of allowance made by the court holding the hearing.

202A.061 Two certifications required.

In any proceeding for involuntary hospitalization under the applicable provisions of this chapter, if the criteria for involuntary hospitalization are not certified by at least two (2) examining qualified mental health professionals, the court shall, without taking any further action, terminate the proceedings and order the release of the person. The qualified mental health professionals shall certify to the court within twenty-four (24) hours (excluding weekends and holidays) of the examination, their findings and opinions as to whether the person shall be involuntarily hospitalized.

202A.066 Qualified mental health professional retained by respondent.

A qualified mental health professional retained by the respondent shall be permitted to witness and participate in any examination of the respondent.

202A.071 Timing of preliminary and final hearings.

(1) The preliminary hearing shall be held not later than six (6) days (excluding weekends and holidays) from the time of respondent's holding under these proceedings. If the respondent

is not held under these proceedings, the preliminary hearing shall be held not later than six (6) days (excluding weekends and holidays) from the time of the examination of the respondent.

(2) The final hearing shall be held within twenty-one (21) days of the date of the holding or from the date of the examination, if not held.

202A.076 Conduct of hearings.

(1) The preliminary hearing need not be formal and may include the receiving of the qualified mental health professionals' reports as evidence. The hearing may be held by the court in chambers, at a hospital, or other suitable place. The respondent shall be afforded an opportunity to testify, to present, and cross-examine witnesses who appear and testify against him. The court may exclude all persons not necessary for the conduct of the hearing. The respondent and his attorney may waive respondent's right to a preliminary hearing.

(2) The final hearing may be conducted in an informal manner, consistent with orderly procedures, and in a physical setting not likely to have a harmful effect on the mental or physical health of the respondent. The hearing may be held by the court in chambers, at a hospital, or other suitable place. The respondent shall be afforded an opportunity to testify, to present, and cross-examine witnesses against him. The manner of proceeding and rules of evidence shall be the same as those in any criminal proceeding including the burden of proof beyond a reasonable doubt. Proceedings shall be heard by a judge unless a party requests a jury trial. Neither the respondent nor the respondent's attorney may waive the respondent's right to a final hearing.

202A.081 Court-ordered community-based outpatient treatment.

(1) Following the preliminary hearing but prior to the completion of the final hearing, the court may order the person held in a hospital approved by the cabinet for such purpose for the committing judicial district, or released, upon application and agreement of the parties, for the purpose of community-based outpatient treatment. No person held under this section shall be held in jail unless criminal charges are also pending.

(2) A hospital shall discharge a patient there held and notify the court and attorneys of record if any authorized staff physician determines that the patient no longer meets the criteria for involuntary hospitalization.

(3) If a patient is discharged by the hospital pursuant to subsection (2) of this section, then the proceedings against the patient shall be dismissed.

(4) The release of the person pursuant to subsection (1) of this section for the purpose of community-based outpatient treatment does not terminate the proceedings against the person, and the court ordering such release may order the immediate holding of the person at any time with or without notice if the court believes from an affidavit filed with the court that it is to the best interest of the person or others that the person be held pending the final hearing, which shall be held within twenty-one (21) days of the person's further holding.

(5) If the person is released pursuant to subsection (1) of this section for the purpose of community-based outpatient treatment, the final hearing may be continued for a period not to exceed sixty (60) days if a provider of outpatient care accepts the respondent for specified outpatient treatment. Community-based outpatient treatment may be ordered for an additional period not to exceed sixty (60) days upon application and agreement of the parties.

202A.091 Confidentiality of court records -- Expungement.

(1) The court records of a respondent made in all proceedings pursuant to KRS Chapter 202A are hereby declared to be confidential and shall not be open to the general public for inspection except when such disclosure is provided in KRS 202A.016.

(2) Following the discharge of a respondent from a treatment facility or the issuance of a court order denying a petition for a commitment, a respondent may at any time move to have all court records pertaining to the proceedings expunged from the files of the court. The county attorney shall be given notice of any such motion and shall have five (5) days in which to respond to same or request a hearing thereon.

(3) Any person seeking information contained in the court files or the court records of proceedings involving persons under this chapter may file a written motion in the cause setting out why the information is needed. A District Judge may issue an order to disclose the

information sought if he finds such order is appropriate under the circumstances and if he finds it is in the best interest of the person or of the public to have such information disclosed.

202A.096 Disclosure of communications.

There shall be no privilege as to any relevant communications between qualified mental health professionals and patients. Qualified mental health professionals are authorized to disclose communications relating to diagnosis and treatment of the patient's mental condition in proceedings under this chapter.

202A.101 Notification of receiving hospital or psychiatric facility -- Transportation of patient.

(1) The court which orders any person to the receiving hospital or psychiatric facility, under the provisions of this chapter, shall at once notify the receiving hospital or psychiatric facility that such order has been made, advising of the sex and condition of the person.

(2) After the facility has been so notified, the court shall order the sheriff of the county or other peace officer to transport the patient within forty-eight (48) hours (excluding weekends and holidays) from the county in which the person is located to the hospital or psychiatric facility designated by the cabinet. The sheriff or other peace officer may, upon agreement of a person authorized by the peace officer, authorize the cabinet, a private agency on contract with the cabinet, or an ambulance service designated by the cabinet to transport the person to the hospital.

(3) The transportation costs of transporting a person to a hospital or psychiatric facility, when performed by a peace officer, an ambulance service, or other private agency on contract with the cabinet shall be paid by the cabinet in accordance with administrative regulation promulgated by the cabinet under the provisions of KRS Chapter 13A.

(4) In returning any patient to the county from which the patient is sent, the transportation cost of the sheriff or other peace officer, the ambulance service, or the other agency on contract with the cabinet transporting the patient shall be paid as provided in KRS 202A.028(4), when necessary.

(5) Whenever an individual is involuntarily hospitalized by a court order the patient shall be transported to the hospital designated by the cabinet and accompanied by the following documents:

(a) A copy of the petition for involuntary hospitalization, unless hospitalization takes place pursuant to KRS 202A.041;

(b) The certificate of qualified mental health professionals; and

(c) The order of involuntary hospitalization.

(6) The hospital may refuse to receive any person who has been ordered to be involuntarily hospitalized by a court order if the papers presented with such person at the hospital do not comply with the provisions of this chapter or if it does not receive notification of the order of involuntary hospitalization as required by this chapter.

202A.121 Right to counsel.

Upon the appearance of the person detained pursuant to KRS 202A.041 or upon the filing of a petition pursuant to KRS 202A.051, the court shall appoint an attorney to represent the respondent with such appointment and representation to continue unless the respondent retains private counsel. The appointed attorney shall be forthwith notified by the clerk of the allegations in the petition and the date and purpose of the preliminary hearing.

202A.131 Right to be present.

The respondent shall be present at all hearings unless the respondent and his attorney intelligently waive respondent's right to be present, or unless the court makes a specific finding after the respondent has been brought to the place of the hearing that the respondent should be removed from the hearing because his conduct is so disruptive that the proceedings cannot continue in any reasonable manner.

202A.141 Clarification of court orders -- Appeals.

(1) Hospitals ordered to receive an involuntarily hospitalized person shall have standing to petition the District Court for any necessary clarification or modification of orders or judgments entered in proceedings under this chapter and to appeal to the Circuit Court from final judgments or orders entered in proceedings which have not complied with the provisions of this chapter. A copy shall be sent to the involuntarily hospitalized person and the person's attorney of record, if any, of whatever pleadings are filed by the hospital.

(2) Appeals from the final orders or judgments of the District Court made and entered in proceedings under this chapter shall be taken in the same manner as other appeals from District Court to Circuit Court. This appeal shall be advanced on the Circuit Court docket without motion or notice.

202A.151 Writ of habeas corpus.

At any time, and without notice, a person detained at a facility, or a relative, friend, guardian, representative, or attorney on behalf of such person, may petition for a writ of habeas corpus to question the cause and legality of such detention and request that the Circuit Court issue a writ for release.

202A.161 Timing of initial examination and report.

Any person admitted to a hospital pursuant to the provisions of this chapter shall be initially examined by an authorized staff physician of the hospital or, with permission of the facility's governing body and in accordance with the applicable provisions of the facility's medical staff bylaws, policies, and procedures, a physician assistant as defined in KRS 311.550, or an advanced registered nurse practitioner licensed under KRS Chapter 314 as soon as practicable but not later than thirty-six (36) hours (excluding weekends and holidays) and a report entered into the medical record not later than forty-eight (48) hours (excluding weekends and holidays) after his admission.

202A.171 When discharge is required.

An authorized staff physician of a hospital shall discharge an involuntary patient when he no longer meets the criteria for involuntary hospitalization.

202A.181 Convalescent leave status.

(1) An authorized staff physician may release an involuntary patient on convalescent leave status when the physician concludes that the patient would not present a danger or a threat of danger to self or others if provided with continued medical supervision in a less restrictive alternative mode of treatment. Release on convalescent leave status shall include notification to the hospitalizing court. Release on convalescent leave status does not terminate the involuntary hospitalization order and shall include provisions for the development of a treatment plan jointly by the hospital and by a provider of outpatient care for follow-up care by the provider and for the continual monitoring of that patient's condition by the provider.

(2) The hospital from which such patient is given convalescent leave status may at any time readmit the patient without additional court proceedings. If there is reason to believe that it is to the best interest of the patient to be rehospitalized, the secretary or an authorized staff physician of the hospital may issue an order for the immediate rehospitalization of the patient. Such an order, if not voluntarily complied with, shall, upon the endorsement by a judge of any court of the county in which the patient is a resident or is present, authorize any health or police officer to take the patient into custody and transport him to the responsible hospital. Notice of rehospitalization under this section shall be given to the originating court as soon as practicable and simultaneously with the order directing the rehospitalization if possible.

(3) Release on convalescent leave status shall not apply to persons held under hospitalization orders arising out of KRS Chapter 504 unless consent of the appropriate court is obtained.

202A.185 Peace officer authorized to arrest and return patient to hospital.

If a patient undergoing involuntary treatment on an inpatient basis is absent from the hospital without, or in excess of authorization from the hospital staff, the person in charge or that person's designee may contact the appropriate sheriff or other peace officers who shall take the patient into custody and return the patient to the hospital.

202A.191 Rights of hospitalized patients.

(1) Each and every patient hospitalized under this chapter shall have the following rights:

(a) The right to be adequately informed as to their individual treatment program;

(b) The right to assist in the planning of their treatment program;

(c) The right to refuse treatment subject to the provisions of KRS 202A.196;

(d) The right to maintain, keep, and use personal possessions and money;

(e) The right to receive visitors;

(f) The right to receive payment for work performed on behalf of the hospital;

(g) The right to refuse intrusive treatment subject to the provisions of KRS 202A.196;

(h) The right to be free from unreasonable use of seclusion and restraint;

(i) The right to seek relief from participating in their treatment plan.

(2) The secretary shall adopt rules and regulations for the proper administration and enforcement of this chapter. Such regulations shall be filed with the Legislative Research Commission as provided in KRS Chapter 13A.

202A.196 Hospital review committee -- Treatment plan.

(1) Every hospital approved under the provisions of this chapter shall have a review committee of three (3) qualified mental health professionals appointed by the hospital director. This review committee shall have the authority to review the appropriateness of a patient's individual treatment plan.

(2) Upon the refusal of an involuntary patient to participate in any or all aspects of his treatment plan, the review committee shall examine the appropriateness of the patient's individual treatment plan. Within three (3) days of the refusal, the review committee shall meet with the patient and his counsel or other representative to discuss its recommendations.

(3) If the patient still refuses to participate in any or all aspects of his individual treatment plan, the hospital may petition the District Court for a de novo determination of the appropriateness of the proposed treatment. Within seven (7) days, the court shall conduct a hearing, consistent with the patient's rights to due process of law, and shall utilize the following factors in reaching its determination: (a) Whether the treatment is necessary to protect the patient or others from harm; (b) Whether the patient is incapable of giving informed consent to the proposed treatment;

(c) Whether any less restrictive alternative treatment exists; and

(d) Whether the proposed treatment carries any risk of permanent side effects.

(4) Upon the completion of the hearing, the court shall enter an appropriate judgment.

202A.201 Mentally ill inmates.

(1) When an inmate of any penal and correctional institution is reported by the staff of that institution to the Department of Corrections as being so mentally ill that he cannot be properly treated with the facilities at the disposal of the staff, the Department of Corrections shall have an examination conducted on the inmate by a mental health professional.

(2) If this examination reveals that the inmate is mentally ill and appropriate treatment cannot be properly carried out in the institution in which he is incarcerated or within the facilities at the disposal of the Department of Corrections, the commissioner of the Department of Corrections may then request of the secretary of the Cabinet for Health Services the inmate's transfer to a hospital or forensic psychiatric facility. If the secretary of the Cabinet for Health Services agrees that a transfer is necessary, the person shall be transferred to a Cabinet for Health Services facility designated by the secretary of the Cabinet for Health Services, where the person shall remain until the staff of the facility which received him advises the commissioner of the Department of Corrections that the person's condition is such that he may be returned to the

institution from which he came. No transfer shall be made to a correctional facility located on the grounds of a state mental hospital. The commissioner of the Department of Corrections shall then authorize his return. If the prisoner's sentence expires during his stay in the facility and he is still in need of involuntary hospitalization, the staff of the facility shall petition the applicable District Court for further involuntary hospitalization of the patient under provisions of this chapter.

(3) Prior to the issuance of an order of transfer and unless the prisoner voluntarily agrees to the transfer, the commissioner shall:

(a) Send written notice to the prisoner that a transfer to a hospital or forensic psychiatric facility is being considered in sufficient time to permit the prisoner to prepare for the hearing;

(b) Hold a hearing at which time the prisoner is made aware of the evidence being relied upon for the transfer and at which an opportunity to be heard in person and to present documentary evidence is given;

(c) Provide an opportunity at the hearing to the prisoner to present testimony of witnesses and to confront and cross-examine witnesses called by the Department of Corrections, except upon a finding, not arbitrarily made, of good cause for not permitting the presentation;

(d) Provide an independent decision maker who has not participated in the request for transfer to a hospital or forensic psychiatric facility;

(e) Issue a written statement by the fact finder as to the evidence relied on and the reasons for transferring the prisoner; and

(f) Provide effective and timely notice of all the foregoing rights.

(4) During the time of the prisoner's stay in a facility, his legal status as a prisoner shall remain unchanged until the termination of his sentence. The facility staff shall have no authority to parole, grant permission to visit relatives or friends outside the facility, or discharge the individual unless otherwise agreed to by the Department of Corrections. The time the prisoner spends in the facility shall be counted as a part of the prisoner's sentence.

202A.202 Transfer of mentally ill or mentally retarded patients between facilities.

(1) The cabinet may transfer mentally ill or mentally retarded patients between hospitals, between hospitals and forensic psychiatric facilities, between hospitals and mental retardation residential treatment centers, between mental retardation residential treatment centers, and between mental retardation residential treatment centers and forensic psychiatric facilities. A transfer shall be made upon the mutual agreement of the administrative officer, the officer's designated representative or an authorized staff physician of each facility, if the agreement is based upon one (1) of the following findings by the officers, representatives or physicians:

(a) That the transfer will improve the opportunities of the patient to receive care and treatment most likely to be of benefit to the patient;

(b) That the transfer will permit the patient to receive care and treatment in the least restrictive alternative mode of treatment, considering the degree of danger or threat of danger to self or others which the patient presents; or

(c) That the transfer is part of an individual treatment plan which has been reviewed and approved by a court.

(2) The patient or his guardian or designated family member prior to transfer, shall receive notice of said proposed transfer and shall be allowed to challenge the transfer as part of his individual treatment plan under the provisions of KRS 202A.191, 202A.196, and KRS 210.270.

(3) In an emergency situation where the patient presents a danger of serious injury or death to self or others within the institution so as to require immediate transfer to a more secure facility and which condition cannot be treated or resolved within a reasonable period of time in the present facility, the secretary may immediately transfer the patient to a more secure facility while the appeal provisions described in subsection (2) of this section are being carried out. In this event counsel shall be provided to the patient within three (3) days.

202A.211 Return of Kentucky residents from other states.

(1) Legal residents of the state who have become public charges in other states and have been returned to Kentucky because they have been involuntarily hospitalized may be immediately admitted to a hospital at the request of the secretary or his designated representative.

(2) Within seventy-two (72) hours (excluding weekends and holidays) of the admission date, the staff of the hospital shall determine the need of the person for further hospitalization. If two (2) qualified mental health professionals, at least one (1) of whom is a physician, conclude that the patient shall be involuntarily hospitalized, they shall file in the appropriate court a certification requesting involuntary hospitalization procedures be initiated under the provisions of this chapter unless the patient has agreed to remain voluntarily.

202A.221 Hospital care or treatment by agency of United States.

(1) If an individual ordered to be hospitalized pursuant to this chapter is eligible for hospital care or treatment by any agency of the United States, the court, upon receipt of certificate from such agency showing that facilities are available and that the individual is eligible for care or treatment therein, may order him to be placed in the custody of such agency for hospitalization. When any such individual is admitted pursuant to the order of such court to any hospital or institution operated by any agency of the United States within or without the state, he shall be subject to the rules and regulations of such agency. The authorized staff physician of any hospital or institution operated by such agency and in which the individual is so hospitalized shall with respect to such individuals be vested with the same powers as the authorized staff physicians of hospitals within the state with respect to detention, custody, transfer, conditional release or discharge of patients. Jurisdiction is retained in the appropriate courts of this state at any time to inquire into the mental condition of an individual so hospitalized and to determine the necessity for continuance of the hospitalization, and every order of hospitalization issued pursuant to this section is so conditioned.

(2) An order of court of competent jurisdiction of another state or the District of Columbia authorizing hospitalization of an individual by any agency of the United States shall have the same force and effect as to the individual while in this state as in the jurisdiction in which is situated the court entering the order; the courts or the district issuing the order shall be deemed to have retained jurisdiction of the individual so hospitalized for the purpose of inquiring into his mental condition and determining the necessity for continuance of his hospitalization as is provided in subsection (1) of this section with respect to individuals ordered hospitalized by the courts of this state. Consent is hereby given to the application of the law of the district in which is located the court issuing the order for hospitalization with respect to the authority of the chief officer of any hospital or institution operated in this state by any agency of the United States to retain custody, transfer, conditionally release, or discharge the individual hospitalized.

202A.231 Transfer to agency of United States.

(1) Upon receipt of a certificate of the United States Public Health Service or such other agency of the United States government that facilities are available for the care or treatment of any person heretofore hospitalized in any mental hospital or other institution in this state for the care of mentally ill persons and that such person is eligible for such care or treatment, the secretary, upon recommendation by any such hospital or institution in this state, is hereby authorized to cause the transfer of any such person to the United States Public Health Service or other agency of the United States government for care or treatment. Upon effecting any such transfer, the hospitalizing court shall be notified thereof by the secretary.

(2) Any person transferred as provided in this section shall be deemed to be placed in the custody of the United States Public Health Service or other agency of the United States government pursuant to the original hospitalization the same as if he had been originally so hospitalized.

(3) No person shall be transferred to any agency of the United States if he be confined pursuant to conviction of any felony or misdemeanor or if he has been acquitted of the charge solely on the ground of mental illness unless prior to transfer the court issuing the confining order shall enter an order to transfer after the motion and hearing. Any person transferred as provided in this section to any agency of the United States shall be hospitalized by such agency pursuant to the original order of hospitalization.

202A.241 Use of least restrictive level of restraint -- Guidelines for restrained person's need for privacy and ability to use telephone.

All individuals transporting or holding persons under KRS Chapter 202A, 202B, or 645, shall use the least restrictive level of restraint consistent with the person's needs. The Cabinet for Health Services shall promulgate administrative regulations subject to the provisions of KRS Chapter 13A which shall include guidelines addressing the person's need for privacy, particularly when being restrained, and the person's ability to communicate by phone at the earliest opportunity available.

202A.251 Prohibition against detention in jail without criminal charges pending -- Criminal charges not to be placed to avoid transportation.

No person held under the provisions of this chapter shall be detained in jail unless criminal charges are also pending. No peace officer or any other person shall place criminal charges against a person who is mentally ill and in need of hospitalization pursuant to this chapter solely or primarily for the purpose of avoiding transporting the person to a hospital or psychiatric facility.

202A.261 Certain hospitals not to be required to provide services.

No public or private hospital, other than a state-operated or contracted mental hospital or institution, shall be required to provide services under KRS 202A.008, 202A.011, 202A.028, 202A.041, 202A.051, 202A.071, 202A.081, 202A.101, 202A.141, 202A.241, 202A.251, 202A.261, 202A.271, 202B.170, 202B.200, 387.540, 504.085, 600.020, 645.020, 645.120, and 645.280 unless the hospital agrees to provide the services. Any hospital shall make every reasonable attempt to cooperate with the implementation of KRS 202A.008, 202A.011, 202A.028, 202A.041, 202A.051, 202A.071, 202A.081, 202A.101, 202A.141, 202A.241, 202A.251, 202A.261, 202A.271, 202B.170, 202B.200, 387.540, 504.085, 600.020, 645.020, 645.120, and 645.280.

202A.271 Rates for payment for provision of hospital services.

Each public or private hospital, other than a state-operated or contracted mental hospital or institution, which provides services under KRS 202A.008, 202A.011, 202A.028, 202A.041, 202A.051, 202A.071, 202A.081, 202A.101, 202A.141, 202A.241, 202A.251, 202A.261, 202A.271, 202B.170, 202B.200, 387.540, 504.085, 600.020, 645.020, 645.120, and 645.280 shall be paid for the services at the same rates the hospital negotiates with the Department for Mental Health and Mental Retardation Services or the regional community mental health and mental retardation program.

202A.301 Exemption from personal liability.

Persons carrying out duties or rendering professional opinions as provided in this chapter shall be free of personal liability for such actions, provided that such activities are performed in good faith within the scope of their professional duties and in a manner consistent with accepted professional practices.

202A.400 Duty of qualified mental health professional to warn intended victim of patient's threat of violence.

(1) No monetary liability and no cause of action shall arise against any qualified mental health professional for failing to predict, warn of or take precautions to provide protection from a patient's violent behavior, unless the patient has communicated to the qualified mental health professional an actual threat of physical violence against a clearly identified or reasonably identifiable victim, or unless the patient has communicated to the qualified mental health professional an actual threat of some specific violent act.

(2) The duty to warn of or to take reasonable precautions to provide protection from violent behavior arises only under the limited circumstances specified in subsection

(1) of this section. The duty to warn a clearly or reasonably identifiable victim shall be discharged by the qualified mental health professional if reasonable efforts are made to communicate the threat to the victim, and to notify the police department closest to the patient's and the victim's residence of the threat of violence. When the patient has communicated to the

qualified mental health professional an actual threat of some specific violent act and no particular victim is identifiable, the duty to warn has been discharged if reasonable efforts are made to communicate the threat to law enforcement authorities. The duty to take reasonable precaution to provide protection from violent behavior shall be satisfied if reasonable efforts are made to seek civil commitment of the patient under this chapter.

(3) No monetary liability and no cause of action shall arise against any qualified mental health professional for confidences disclosed to third parties in an effort to discharge a duty arising under subsection (1) of this section according to the provisions of subsection (2) of this section.

202A.410 Duty of administrator to warn law enforcement agency, prosecutor, and Department of Corrections upon discharge, transfer, or escape of involuntarily committed patient charged or convicted of a violent crime -- Immunity for acting in good faith -- Notification of victim -- Administrative regulations.

(1) When a patient who has been involuntarily committed to a psychiatric facility or forensic psychiatric facility and who has been charged with or convicted of a violent crime as defined in KRS 439.3401 is discharged or transferred from the facility, the administrator shall notify the law enforcement agency in the county to which the person is to be released, the prosecutor in the county where the violent crime was committed, and the Department of Corrections.

(2) If a patient who has been involuntarily committed to a psychiatric facility or forensic psychiatric facility and who has been charged with or convicted of a violent crime as defined in KRS 439.3401 escapes from the facility, the administrator shall notify the law enforcement agency in the county in which the facility is located, the prosecutor in the county where the violent crime was committed, and the Department of Corrections.

(3) The administrator of a psychiatric facility or forensic psychiatric facility, or the administrator's designee, who acts in good faith in making the notifications required in this section or is unable to provide the release information required, is immune from any civil liability.

(4) The Department of Corrections shall notify, or contract with a private entity to notify, victims of crime who have made a notification request of the discharge or escape of a patient from a psychiatric facility or forensic psychiatric facility.

(5) The Department of Corrections and the Cabinet for Health Services shall each promulgate administrative regulations under KRS Chapter 13A to carry out the duties set forth in this statute.

202A.991 Penalties.

(1) Any person who willfully causes or conspires with or assists another in causing:

(a) The unwarranted hospitalization of any individual under the provisions of this chapter; or

(b) The denial of any individual of any of the rights accorded to him under the provisions of this chapter shall be guilty of a Class A misdemeanor.

(2) Any person who violates the confidentiality of any mental health record under the provisions of this chapter shall be guilty of a Class B misdemeanor.

202B.010 Definitions for chapter.

As used in this chapter, unless the context otherwise requires:

(1) "Authorized staff physician" means a person who is employed as a physician of an ICF/MR;

(2) "Interdisciplinary team" means the group of persons responsible for the diagnosis, evaluation, and individualized program planning and service implementation for the resident. The team is composed of a physician, a psychologist, a registered nurse, a social worker, and other professionals, at least one (1) of whom is a qualified mental retardation professional, and may include the resident, the resident's family, or the guardian;

(3) "Cabinet" means the Kentucky Cabinet for Health Services;

(4) "Danger" or "threat of danger to self, family, or others" means substantial physical harm or threat of substantial physical harm upon self, family, or others, including actions which deprive self, family, or others of the basic means of survival including provision for reasonable shelter, food, or clothing;

(5) "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary for the purpose and function of providing inpatient evaluation, care, and treatment for mentally ill or mentally retarded persons who have been charged with or convicted of a felony;

(6) "Hospital" means:

(a) A state mental hospital or institution or other licensed public or private hospital, institution, health-care facility, or part thereof, approved by the Kentucky Cabinet for Health Services as equipped to provide full-time residential care and treatment for mentally ill or mentally retarded persons;

(b) A hospital, institution, or health-care facility of the government of the United States equipped to provide residential care and treatment for mentally ill or mentally retarded persons;

(7) "Judge" means any judge or justice of the Court of Justice or a trial commissioner of the District Court acting under authority of SCR 5.030;

(8) "Least restrictive alternative mode of treatment" means that treatment given in the least confining setting which will provide a mentally retarded person appropriate treatment or care consistent with accepted professional practice. For purposes of this section, least restrictive alternative mode of treatment may include an institutional placement;

(9) "Mentally retarded person" means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period;

(10) "ICF/MR" means an intermediate-care facility approved by the cabinet for the evaluation, care, and treatment of mentally retarded persons;

(11) "Petitioner" means a person who institutes a proceeding under this chapter;

(12) "Qualified mental retardation professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

(b) A psychologist licensed at the doctoral level or a psychologist or psychological associate certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under this chapter;

(c) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience of which one

(1) year is with mentally retarded persons; or a licensed registered nurse, with a bachelor's degree in nursing from an accredited institution, who has three (3) years of inpatient or outpatient clinical experience of which one (1) year is in the field of mental retardation and is currently employed by an ICF/MR licensed by the cabinet, a hospital, a regional community mental health and mental retardation program, or a private agency or company engaged in the provision of mental retardation services; and

(d) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with two (2) years of inpatient or outpatient clinical experience in social work of which one (1) year shall be in the field of mental retardation and is currently employed by an ICF/MR licensed by the cabinet, a hospital, a regional community mental health and mental retardation program, or a private agency or company engaged in the provision of mental retardation services;

(13) "Residence" means legal residence as determined by applicable principles governing conflicts of law;

(14) "Resident" means a person under care or treatment in an ICF/MR pursuant to the provisions of this chapter;

(15) "Respondent" means a person alleged in a hearing under this chapter to be a mentally retarded person; and

(16) "Secretary" shall mean the secretary of the Cabinet for Health Services.

202B.018 Venue for involuntary admission.

All proceedings for the involuntary admission of mentally retarded persons shall be initiated in the District Court of the county where the person to be treated resides or in which the person may be at the time of the filing of a petition.

202B.019 County attorney's duties.

In all proceedings under this chapter, it shall be the duty of the county attorney to assist the petitioner and represent the interest of the Commonwealth and to assist the court in its inquiry by the presentation of evidence.

202B.021 Voluntary admission to an ICF/MR -- Discharge of voluntarily admitted resident -- Release of voluntarily admitted resident upon written request.

(1) Mentally retarded minors and adult persons may be voluntarily admitted for care and treatment in an ICF/MR under the applicable provisions of this section.

(2) Upon the recommendation or approval of the interdisciplinary team of an ICF/MR, a physician may admit for care and treatment a mentally retarded minor upon application of a parent or guardian. Upon recommendation or approval of the interdisciplinary team of an ICF/MR, the physician may also admit a mildly or moderately mentally retarded adult person who applies voluntarily therefor and who, in the opinion of the physician, possesses the mental capacity to give informed consent for admission.

(3) Upon recommendation or approval of the interdisciplinary team of an ICF/MR, the physician shall discharge any voluntarily admitted resident whose care and treatment in the ICF/MR is determined to be no longer necessary or advisable.

(4) If an adult resident who has been admitted voluntarily requests his or her release in writing, or if the release of a minor resident is requested in writing by the minor's parent or guardian, the resident shall be released unless further detained under the applicable provisions of this chapter.

202B.025 Temporary admission by authorized staff physician at ICF/MR.

(1) An authorized staff physician may order the admission of any person who is present at, or is presented at, an ICF/MR. Within twenty-four (24) hours, excluding weekends and holidays, of the admission under this section, the authorized staff physician ordering the admission of the person shall certify in the record of the individual that in the opinion of the physician, the individual should be involuntarily admitted.

(2) Any person who has been admitted to an ICF/MR under subsection (1) of this section shall be released from the ICF/MR within seventy-two (72) hours, excluding weekends and holidays, unless further detained under the applicable provisions of this chapter.

202B.030 Placement of involuntarily admitted mentally retarded individual.

When mentally retarded individuals are involuntarily hospitalized under this chapter, the cabinet may place them in an ICF/MR. No mentally retarded person may be involuntarily placed in a hospital without the consent of the secretary, except when the determination of concurrent mental illness is made under the provisions of KRS Chapter 202A. No mentally retarded person may be involuntarily admitted to a hospital or ICF/MR when the cabinet determines that appropriate programs and space are not available.

202B.040 Criteria for involuntary admission.

When a person who is alleged to be mentally retarded is involuntarily admitted, there shall be a determination that:

(1) The person is a mentally retarded person;

(2) The person presents a danger or a threat of danger to self, family, or others;

(3) The least restrictive alternative mode of treatment presently available requires placement in an ICF/MR; and

(4) Treatment that can reasonably benefit the person is available in an ICF/MR.

202B.045 Requirements for admission -- Discharge planning.

(1) Admission:

(a) Residents shall be admitted only upon the approval of an interdisciplinary team. The facility shall admit only persons who have a physical or mental condition which requires developmental nursing services and a planned program of active treatment;

(b) The interdisciplinary team shall:

1. Conduct a comprehensive evaluation of the individual, not more than three (3) months before admission, covering physical, emotional, social, and cognitive factors; and

2. Prior to admission define the need for service without regard to availability of those services. The team shall review all available and applicable programs of care, treatment, and training and record its findings;

(c) If admission is not the best plan but the individual must be admitted nevertheless, the facility shall clearly acknowledge that the admission is inappropriate and initiate plans to actively explore alternatives;

(d) Before admission, the resident and a responsible member of his family or guardian shall be informed in writing of the established policies of the facility and fees, reimbursement, visitation rights during serious illness, visiting hours, type of diets offered, and services offered; and

(e) The facility shall provide and maintain a system for identifying each resident's personal property and facilities for safekeeping of his declared valuables. Each resident's clothing and other property shall be reserved for the resident's own use.

(2) Discharge planning. Prior to discharge the facility shall have a postinstitutional plan which identifies the residential setting and support services which would enable the resident to live in a less restrictive alternative to the current setting. Before a resident is released, the facility shall:

(a) Offer counseling to parents or guardians who request the release of a resident concerning the advantages and disadvantages of the release;

(b) Plan for release of the resident, to assure that appropriate services are available in the resident's new environment, including protective supervision and other follow-up services; and

(c) Prepare and place in the resident's record a summary of findings, progress, and plans.

202B.050 Rights guaranteed.

All rights guaranteed by KRS Chapter 210 to mentally ill persons shall apply to mentally retarded persons.

202B.060 Rights of mentally retarded -- Adoption of regulations.

The secretary shall adopt administrative regulations for the proper administration and enforcement of this chapter. The regulations shall include, but shall not be limited to:

(1) Rights of mentally retarded residents and their families to be adequately informed as to the individual treatment program of the resident;

(2) Rights of residents and their families to assist in the planning of the treatment program of the resident;

(3) Rights of residents and their families under certain conditions to refuse treatment offered to the resident by the hospital or ICF / MR;

(4) Rights of residents to maintain, keep, and use personal possessions and money;

(5) Rights of residents to meet with friends and relatives;

(6) Rights of residents to receive payment for work performed on behalf of the hospital or ICF / MR;

(7) Rights of residents to refuse intrusive treatments, including electroshock or psychosurgery;

(8) Rights of residents to seek relief from participating in their treatment plans;

(9) Rights of residents who are minors to seek relief from actions, approved by their parents or guardians, for or against admission and discharge;

(10) The use of seclusion and other mechanical restraints in hospitals and ICF / MR's;

(11) The release of residents to less restrictive alternative modes of treatment on convalescent status; and

(12) Provisions for alternative methods for involuntary admission.

202B.070 Exemption from personal liability.

Persons carrying out duties or rendering professional opinions as provided in this chapter shall be free of personal liability for such actions provided that such activities are performed in good faith within the scope of their official duties and in a manner consistent with accepted professional practices.

202B.080 Title.

This chapter may be cited as the "Kentucky Mental Retardation Admission Act".

202B.100 Proceedings for involuntary admission -- Petition -- Duties of court -- Disposition.

(1) Proceedings for involuntary admission of a person to an ICF/MR shall be initiated by the filing of a verified petition in District Court.

(2) The petition and all subsequent court documents shall be entitled: "In the interest of (name of respondent)."

(3) The petition shall be filed by a qualified mental retardation professional, peace officer, county attorney, Commonwealth's attorney, spouse, relative, friend, or guardian of the person concerning whom the petition is filed.

(4) The petition shall set forth:

(a) Petitioner's relationship to the respondent;

(b) Respondent's name, residence, and current location, if known;

(c) The name and residence of respondent's parents, if living and if known, or respondent's legal guardian, if any and if known;

(d) The name and residence of respondent's husband or wife, if any, and if known;

(e) The name and residence of the person having custody of the respondent, if any, or if no such person is known, the name and residence of a near relative or that such person is unknown; and

(f) Petitioner's belief, including the factual basis therefor, that the respondent is mentally retarded and presents a danger or threat of danger to self, family, or others if not admitted to an ICF/MR.

(5) Upon receipt of the petition, the court shall examine the petitioner under oath as to the contents of the petition. If the petitioner is a qualified mental retardation professional, the court may dispense with the examination.

(6) If, after reviewing the allegations contained in the petition and examining the petitioner under oath, it appears to the court that there is probable cause to believe the respondent should be involuntarily admitted, the court shall:

(a) Set a date for a preliminary hearing;

(b) Notify the respondent, the respondent's legal guardian, if any, and if known, and the respondent's spouse, parents, or nearest relative or friend concerning the allegations and contents of the petition and the date and purpose of the preliminary hearing; and the name, address, and telephone number of the attorney appointed to represent the respondent; and

(c) Cause the respondent to be examined without unnecessary delay by two (2) qualified mental retardation professionals, at least one (1) of whom is a physician. The qualified mental retardation professionals shall certify their findings within twenty-four (24) hours, excluding weekends and holidays.

(7) (a) If the respondent is presently residing in an ICF/MR under the provisions of this chapter, the court may allow continued further residence therein for the respondent to accomplish the examination ordered by the court.

(b) If the respondent is not currently residing in an ICF/MR under the provisions of this chapter, the court may order the respondent, the respondent's guardian, or any person or entity exercising custodial control of the respondent to submit the respondent to an examination, without unnecessary delay, by two

(2) qualified mental retardation professionals, at least one (1) of whom is a physician.

(8) If, upon completion of the preliminary hearing, the court finds there is probable cause to believe the respondent should be involuntarily admitted, the court shall order a final hearing to determine if the respondent should be involuntarily admitted.

(9) If the court finds there is no probable cause, the proceedings against the respondent shall be dismissed, and the respondent shall be released from the ICF/MR.

(10) If, upon completion of the final hearing, the court finds the respondent should be involuntarily admitted, the court shall order the respondent admitted in an ICF/MR for an indeterminate period. The order shall also specify the period within which the initial review pursuant to KRS 202B.250.

202B.110 Venue for proceedings subsequent to preliminary hearing.

A respondent who has been ordered involuntarily admitted following the preliminary hearing shall have venue for all subsequent proceedings, including the final hearing, transferred to the court of the county where the respondent is admitted; however, the court of the county where the preliminary hearing was held may, upon its own motion, or shall, upon motion of one (1) of the parties, retain venue over proceedings subsequent to the preliminary hearing.

202B.120 Certificate contents -- Fee.

(1) The certificate referred to in this chapter shall be in the form prescribed by the cabinet. The certificate shall state that the respondent has been examined by each of the qualified mental retardation professionals making the certificate within twenty-four (24) hours, excluding weekends and holidays, prior to the date of the certificate. It shall state the facts and circumstances upon which the judgment of the examining physician is based and shall be sworn to before a notary or the clerk or judge of the court.

(2) The examiner shall be entitled to a fee for the examination and certification, to be paid by the county in which the petition is filed, upon a certified copy of an order of allowance made by the court holding the hearing.

202B.130 Number of certifications required for involuntary admission -- Time limit.

In any proceeding for involuntary admission under the applicable provisions of this chapter, if the criteria for involuntary admission are not certified by at least two (2) examining qualified mental retardation professionals, at least one (1) of whom is a physician, the court shall, without taking any further action, terminate the proceedings and order the release of the person. The qualified mental retardation professionals shall certify to the court, within twenty-four (24) hours of the examination, excluding weekends and holidays, their findings and opinions as to whether the person shall be involuntarily admitted.

202B.140 Witnesses to examination.

A qualified mental retardation professional retained by the respondent, or the respondent's parent or guardian, at the expense of the parent or guardian, shall be permitted to witness and participate in any examination of the respondent and may submit findings, if any, to the court.

202B.150 Time of preliminary and final hearings.

(1) The preliminary hearing shall be held not later than fifteen (15) days, excluding weekends and holidays, from the date of the filing of the petition.

(2) The final hearing shall be held within twenty (20) days of the date of the preliminary hearing or within thirty (30) days of the date of filing of the petition if the preliminary hearing is waived.

202B.160 Hearing procedures -- Rights of guardians and immediate family members.

(1) The preliminary hearing need not be formal and shall include the receiving of the qualified mental retardation professionals' reports as evidence. The hearing may be held by the court in chambers, at an ICF/MR, or other suitable place. The respondent shall be afforded an opportunity to testify, to present witnesses, and to cross-examine any witnesses. The respondent and the attorney for the respondent may waive respondent's right to a preliminary hearing.

(2) The final hearing may be conducted in an informal manner, consistent with orderly procedures, and in a physical setting not likely to have a harmful effect on the mental or physical health of the respondent. The hearing may be held by the court in chambers, at an ICF/MR, or other suitable place. The respondent shall be afforded an opportunity to testify, to present, and cross-examine any witnesses. The manner of proceeding and the rules of evidence shall be the same as those in any criminal proceeding, except that the standard of proof shall be by clear and convincing evidence. Proceedings shall be heard by a judge unless a party requests a jury trial. Neither the respondent nor the respondent's attorney may waive the respondent's right to a final hearing.

(3) Guardians and immediate family members of the respondent shall be allowed to attend all hearings, conferences or similar proceedings; may be represented by private counsel, if desired; may participate in the hearings or conferences as if a party to the proceedings; may cross-examine witnesses if desired; and shall have standing to appeal any adverse decision.

202B.170 Interim determination and possible dismissal.

(1) Following the preliminary hearing but prior to the completion of the final hearing, the court may order the respondent to reside in an ICF/MR approved by the secretary for that purpose for the committing judicial district in a community program approved by the secretary or in a hospital. The respondent may be released, upon application and agreement of the parties, for the purpose of community-based outpatient treatment.

(2) A physician of an ICF/MR or a hospital shall discharge a respondent residing therein and notify the court and attorneys of record, if the interdisciplinary team of the ICF/MR or an authorized staff physician of the hospital determines that the respondent no longer meets the criteria for involuntary admission.

(3) If a respondent is discharged by the ICF/MR or hospital pursuant to subsection (2) of this section, the proceedings against the respondent shall be dismissed.

202B.180 Confidentiality of court records -- Expungement -- Disclosure by court order.

(1) The court records of a respondent made in all proceedings pursuant to this chapter shall be confidential and shall not be open to the general public for inspection except when the disclosure is provided in KRS 202B.190.

(2) Following the discharge of a respondent from an ICF/MR or hospital or the issuance of a court order denying a petition for admission, a respondent may at any time move to have all court records pertaining to the proceedings expunged from the files of the court. The county attorney shall be given notice of any motion and shall have five (5) days in which to respond to same or request a hearing thereon.

(3) Any person seeking information contained in the court files or the court records of proceedings involving persons under this chapter may file a written motion in the appropriate court setting out why the information is needed. A District Judge may issue an order to disclose the information sought if the judge finds the order is appropriate under the circumstances and if the judge finds it is in the best interest of the person or of the public to have the information disclosed.

202B.190 Disclosure of professional communications.

In proceedings under this chapter, there shall be no privilege as to any relevant communications between qualified mental retardation professionals and patients. Qualified mental retardation professionals may disclose communications relating to diagnosis and treatment of the patient's mental condition.

202B.200 Court to notify cabinet of admission ordered to ICF/MR -- Refusal to receive by ICF/MR -- Transport of person.

(1) The court which orders any person to an ICF/MR under the provisions of this chapter, shall at once notify the cabinet that the order has been made, advising of the sex and condition of the person.

(2) The ICF/MR may refuse to receive any person who has been ordered to be involuntarily admitted by a court order if appropriate programs and space are not available or

the papers presented with the person at the ICF/MR do not comply with the provisions of this chapter or if it does not receive notification of the order of involuntary admission as required by this chapter.

(3) After the cabinet has been so notified, the court may order the sheriff of the county to transport the person from the county in which the person is located to the ICF/MR designated by the cabinet. The actual traveling expenses of persons transporting the person to the institution shall be paid by the cabinet. Each female admitted to an ICF/MR shall be accompanied by a female attendant, unless accompanied by her mother, father, sister, brother, husband, daughter, or son.

(4) In returning any person to the county from which that person is sent, the cost of returning the person shall be paid in the same manner, when necessary.

(5) If a person is involuntarily admitted by a court order, the person shall be transported to the ICF/MR designated by the cabinet and accompanied by the following documents:

(a) A copy of the petition for involuntary admission;

(b) The certificate of qualified mental retardation professionals; and

(c) The order of involuntary admission.

202B.210 Right to counsel.

Upon the filing of a petition for involuntary admission pursuant to KRS 202B.045, the court shall appoint an attorney to represent the respondent with the appointment and representation to continue unless the respondent retains private counsel. The appointed attorney shall be forthwith notified by the clerk of the allegations in the petition and the date and purpose of the preliminary hearing. When it is necessary to appoint counsel, the District Court shall endeavor to appoint private counsel, if available, to represent respondents, from a list of attorneys who have volunteered to represent such respondents. The list shall be maintained by the District Court clerk. Private counsel appointed by the court shall be compensated in the manner set forth in KRS 620.100(1)(a). If no other method of appointing counsel for the respondent is available, the respondent shall be represented by the public advocate pursuant to KRS Chapter 31.

202B.220 Right to be present.

The respondent shall be present at all hearings unless the respondent and the respondent's attorney waive the respondent's rights to be present, or unless the court makes a specific finding after the respondent has been brought to the place of the hearing that the respondent should be removed from the hearing because the person's conduct is so disruptive that the proceedings cannot continue in any reasonable manner.

202B.230 Appeals -- Manner -- Parties who may appeal.

Appeals from the final orders or judgments of the District Court made and entered in proceedings under this chapter shall be taken in the manner as other appeals from District Court to Circuit Court. Appeals may be taken by the Commonwealth, the individual who is subject to the proceedings, or the individual's guardian, limited guardian, or other authorized representative. This appeal shall be advanced on the Circuit Court docket without motion or notice.

202B.240 Annual review -- Interdisciplinary evaluation report -- Discharge.

(1) Every resident admitted under the provisions of this chapter shall have an annual review conducted by an interdisciplinary team of the ICF/MR to determine the appropriateness of and the necessity for care and treatment provided the resident in the ICF/MR. On or before the anniversary date of an involuntary admission order entered for a resident pursuant to KRS 202B.190, and every year thereafter for as long as the resident resides in the ICF/MR, the ICF/MR shall file with the admitting court an interdisciplinary evaluation report on behalf of the resident whose continued placement in the ICF/MR is required. The report shall detail the social, psychological, medical, and other considerations requiring continued placement of the resident in the ICF/MR, a description of the treatment or habilitation programs which will benefit the resident as a result of such placement, and a statement that the criteria for involuntary admission

set forth in KRS 202B.040 are satisfied. The interdisciplinary report shall list the name and address of the guardian or limited guardian or, if none, an immediate family member of the resident.

(2) The physician shall discharge a resident whose admission is pursuant to court order when it is determined by the interdisciplinary team that the resident no longer meets the criteria for involuntary admission as provided in KRS 202B.040. When a resident is discharged, the ICF/MR shall send notice of the discharge to the court.

202B.245 ICF/MR review committee -- Procedure when involuntary resident refuses to participate in treatment plan.

(1) Every ICF/MR approved under the provisions of this chapter shall have a review committee of three (3) qualified mental retardation professionals appointed by the facility director. This review committee shall have the authority to review the appropriateness of a resident's individual treatment plan.

(2) Upon the refusal of an involuntary resident to participate in any aspect of the resident's treatment plan, the review committee shall examine the appropriateness of the resident's individual treatment plan. Within three (3) days of the refusal, the review committee shall meet with the resident and the resident's counsel or other representative to discuss their recommendations.

(3) If the resident still refuses to participate in any aspect of the resident's individual treatment plan, the ICF/MR may petition the District Court for a de novo determination of the appropriateness of the proposed treatment. Within seven (7) days, the court shall conduct a hearing, consistent with the resident's rights to due process of law, and shall utilize the following factors in reaching its determination:

(a) Whether the treatment is necessary to protect other residents or the resident himself from harm;

(b) Whether the resident is incapable of giving informed consent to the proposed treatment;

(c) Whether any less restrictive alternative treatment exists; and

(d) Whether the proposed treatment carries any significant risk of permanent side effects.

(4) Upon completion of the hearing, the court shall enter an appropriate judgment. The proposed treatment shall be authorized if supported by clear and convincing evidence. If the court denies the ICF/MR the right to administer the treatment in question, the ICF/MR may discharge the resident, unless an interdisciplinary team of the ICF/MR determines that an alternative treatment is available and acceptable to both the interdisciplinary team and the resident and would benefit the resident.

202B.250 Review hearing -- Procedures -- Disposition -- Requested hearing by resident or certain persons.

(1) No less than once in every five (5) years following the initial order for involuntary admission of a resident to an ICF/MR, or an order authorizing continued care and treatment following review pursuant to this section, the court shall hold a hearing to review the status of the resident and necessity for continued care and treatment in the ICF/MR. Notice at least twenty (20) days in advance of the hearing shall be provided by the court to the ICF/MR, county attorney, guardian or limited guardian of the resident, if any, or, if none, an immediate family member as listed on the last interdisciplinary report filed by the ICF/MR. The court shall appoint an attorney to represent the resident at the review hearing.

(2) The review hearing may be informal and held in open court, in chambers, or at the ICF/MR. The hearing shall be held without a jury and the resident shall be entitled to present documentary evidence and witnesses and cross-examine witnesses against the resident.

(3) At the conclusion of the review hearing, the court shall make written findings of fact concerning whether the criteria for involuntary admission set forth in KRS 202B.040 continue to be satisfied based upon clear and convincing evidence. If the court finds that the involuntary admission criteria continue to be satisfied, the court shall enter an order authorizing the continued care and treatment of the resident at the ICF/MR and shall establish the period within

which the next review shall be held. Otherwise, the court shall enter an order requiring the resident to be discharged from the ICF/MR.

(4) If at any point during the resident's placement at an ICF/MR it appears that the resident no longer meets the criteria for involuntary admission set forth in KRS 202B.040, the resident, the resident's parent, guardian or limited guardian, immediate family member, or attorney may request a review pursuant to this section.

202B.260 Petition for writ of habeas corpus.

At any time, and without notice, a person detained at a facility, or a relative, friend, guardian, representative, or attorney on behalf of such person, may petition for a writ of habeas corpus to question the cause and legality of the detention and request that the Circuit Court issue a writ for release.

202B.270 Convalescent leave status.

(1) A physician may release a resident on convalescent leave status when the interdisciplinary team concludes that the resident would not present a danger or a threat of danger to self, family, or others if provided with continued medical supervision in a less restrictive alternative mode of treatment. Release on convalescent leave status does not terminate a court admission order and shall include provisions for the development of a treatment plan jointly by the ICF/MR and by a provider of outpatient care for follow-up care by the provider and for the continual monitoring of that resident's condition by the provider.

(2) The ICF/MR from which the resident is given convalescent leave status may at any time readmit the resident without additional court proceedings. If there is reason to believe that it is in the best interest of the resident to be readmitted, the secretary or an authorized staff physician of the ICF/MR may issue an order for the immediate readmission of the resident. The order, if not voluntarily complied with, shall, upon the endorsement by a judge of any court of the county in which the resident resides or is present, authorize any peace officer to take the resident into custody and transport the person to the responsible ICF/MR. Notice of readmission under this section shall be given to the originating court as soon as practicable and simultaneously with the order directing the readmission if possible.

(3) Release on convalescent leave status shall not apply to persons held under admission orders arising out of KRS Chapter 504 unless consent of the appropriate court is obtained.

202B.280 Peace officer authorized to take absent resident into custody and return resident to ICF/MR.

If a resident undergoing involuntary treatment on an inpatient basis is absent from the ICF/MR without or in excess of authorization from the ICF/MR staff, the person in charge or that person's designee may notify the appropriate sheriff or other peace officers who shall take the resident into custody and return the resident to the ICF/MR.

202B.290 Respite care.

Upon recommendation or approval of the interdisciplinary team of an ICF/MR, a physician may admit for respite care a mentally retarded person. Respite care provided to any mentally retarded person under this section shall not exceed a total of thirty (30) days in any calendar year.

202B.300 Return of Kentucky residents from other states -- Determination of need for further admission.

(1) Legal residents of the state who have become public charges in other states and have been returned to Kentucky because they have been involuntarily admitted may be immediately admitted to an ICF/MR at the request of the secretary or the secretary's designated representative.

(2) Within seventy-two (72) hours, excluding weekends and holidays, of the admission date, the staff of the ICF/MR shall determine the need of the person for further admission. If two (2) qualified mental retardation professionals, at least one (1) of whom is a physician, conclude that the person shall be involuntarily admitted, they shall file in the appropriate court a

certification requesting involuntary admission procedures be initiated under the provisions of this chapter, unless the person has agreed to remain voluntarily and possesses the mental capacity to give informed consent for voluntary admission.

202B.990 Penalties.

(1) The unwarranted admission of any person under the provisions of this chapter; or

(2) The denial of any person of any of the rights accorded to him under the provisions of this chapter shall be punished by a fine not exceeding five thousand dollars ($5,000) or imprisonment for a term not to exceed five (5) years or both.

(3) Any person who violates the confidentiality of any mental health record under the provisions of this chapter shall be guilty of a Class A misdemeanor.

209.030 Rules and regulations -- Reports -- Cabinet actions.

(1) The secretary may, within his discretion, adopt such rules, regulations, procedures, guidelines, or any other expressions of policy necessary to effect the purpose of this chapter insofar as such action is reasonably calculated to serve the public interest. The secretary may take necessary action and may offer or cause to be offered protective services toward safeguarding the welfare of an adult who has experienced abuse or neglect, inflicted or caused by a spouse.

(2) Any person, including, but not limited to, physician, law enforcement officer, nurse, social worker, cabinet personnel, coroner, medical examiner, alternate care facility employee, or caretaker, having reasonable cause to suspect that an adult has suffered abuse, neglect, or exploitation, shall report or cause reports to be made in accordance with the provisions of this chapter. Death of the adult does not relieve one of the responsibility for reporting the circumstances surrounding the death.

(3) An oral or written report shall be made immediately to the cabinet upon knowledge of the occurrence of suspected abuse, neglect, or exploitation of an adult. Any person making such a report shall provide the following information, if known: The name and address of the adult, or of any other person responsible for his care; the age of the adult; the nature and extent of the abuse, neglect, or exploitation, including any evidence of previous abuse, neglect, or exploitation; the identity of the perpetrator, if known; the identity of the complainant, if possible; and any other information that the person believes might be helpful in establishing the cause of abuse, neglect, or exploitation.

(4) Upon receipt of the report, the cabinet shall take the following action as soon as practical:

(a) Notify the appropriate law enforcement agency;

(b) Initiate an investigation of the complaint; and

(c) Make a written report of the initial findings together with a recommendation for further action, if indicated.

(5) Any representative of the cabinet may enter any health facility or health service licensed by the cabinet at any reasonable time to carry out the cabinet's responsibilities under this chapter. Any representative of the cabinet actively involved in the conduct of an abuse, neglect, or exploitation investigation under this chapter shall also be allowed access to the mental and physical health records of the adult which are in the possession of any individual, hospital, or other facility if necessary to complete the investigation mandated by this chapter.

(6) Any representative of the cabinet may with consent of the adult or caretaker enter any private premises where any adult alleged to be abused, neglected, or exploited is found in order to investigate the need for protective services for the purpose of carrying out the provisions of this chapter. If the adult or caretaker does not consent to the investigation, a search warrant may issue upon a showing of probable cause that an adult is being abused, neglected, or exploited, to enable a representative of the cabinet to proceed with the investigation.

(7) If a determination has been made that protective services are necessary when indicated by the investigation, the cabinet shall provide such services within budgetary limitations, except in such cases where an adult chooses to refuse such services.

(8) In the event the adult elects to accept the protective services to be provided by the cabinet, the caretaker shall not interfere with the cabinet when rendering such services.

209.050 Immunity from civil or criminal liability.

Anyone acting upon reasonable cause in the making of any report or investigation or participating in the filing of a petition to obtain injunctive relief or emergency protective services for an adult pursuant to this chapter, including representatives of the cabinet in the reasonable performance of their duties in good faith, and within the scope of their authority, shall have immunity from any civil or criminal liability that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or investigation and such immunity shall apply to those who render protective services in good faith pursuant either to the consent of the adult or to court order.

209.060 Privileged relationships not ground for excluding evidence.

Neither the psychiatrist-patient privilege nor the husband-wife privilege shall be a ground for excluding evidence regarding the abuse, neglect, or exploitation of an adult or the cause thereof in any judicial proceeding resulting from a report pursuant to this chapter.

311.375 Conditions governing use of title "Doctor" or "Dr."

(1) No person shall, in connection with the practice of medicine, surgery, osteopathy, optometry, dentistry, podiatry, pharmacy, chiropractic, psychology or psychiatry, nursing, anesthesiology, physio or physical therapy, or any other profession or business having for its purpose the diagnosis, treatment, correction or cure of any human ailment, condition, disease, injury or infirmity, hold himself out as a doctor or employ or use in any manner the title "Doctor" or "Dr.," unless he actually has graduated and holds a doctor degree from a school, college, university or institution authorized by its governing body to confer such degree.

(2) No person who holds a doctor degree, as provided in subsection (1) of this section, shall use or employ the title "Doctor" or "Dr." in or upon any letter, statement, card, prescription, sign, listing or other writing without affixing suitable words or letters designating the particular doctor degree held by such person.

422.317 Copy of patient's medical record to be supplied on patient's written request -- Exception for Department of Corrections.

(1) Upon a patient's written request, a hospital licensed under KRS Chapter 216B or a health care provider shall provide, without charge to the patient, a copy of the patient's medical record. A copying fee, not to exceed one dollar ($1) per page, may be charged by the health care provider for furnishing a second copy of the patient's medical record upon request either by the patient or the patient's attorney or the patient's authorized representative.

(2) The Department of Corrections shall not be considered as a health care provider under this section; however, the department may make medical records of an individual inmate available to that individual inmate unless the department, through its designee, determines that the provision of the record is subject to the provisions of KRS 197.025.

620.030 Duty to report dependency, neglect or abuse.

(1) Any person who knows or has reasonable cause to believe that a child is dependent, neglected or abused shall immediately cause an oral or written report to be made to a local law enforcement agency or the Kentucky State Police; the cabinet or its designated representative; the Commonwealth's attorney or the county attorney; by telephone or otherwise. Any supervisor who receives from an employee a report of suspected dependency, neglect or abuse shall promptly make a report to the proper authorities for investigation. If the cabinet receives a report of abuse or neglect allegedly committed by a person other than a parent, guardian or person exercising custodial control or supervision, the cabinet shall refer the matter to the Commonwealth's attorney or the county attorney and the local law enforcement agency or the Kentucky State Police. Nothing in this section shall relieve individuals of their obligations to report.

(2) Any person, including but not limited to a physician, osteopathic physician, nurse, teacher, school personnel, social worker, coroner, medical examiner, child-caring personnel, resident, intern, chiropractor, dentist, optometrist, emergency medical technician, paramedic,

health professional, mental health professional, peace officer or any organization or agency for any of the above, who knows or has reasonable cause to believe that a child is dependent, neglected or abused, regardless of whether the person believed to have caused the dependency, neglect or abuse is a parent, guardian, person exercising custodial control or supervision or another person, or who has attended such child as a part of his professional duties shall, if requested, in addition to the report required in subsection (1) of this section, file with the local law enforcement agency or the Kentucky State Police or the Commonwealth's or county attorney, the cabinet or its designated representative within forty-eight (48) hours of the original report a written report containing:

(a) The names and addresses of the child and his parents or other persons exercising custodial control or supervision;

(b) The child's age;

(c) The nature and extent of the child's alleged dependency, neglect or abuse (including any previous charges of dependency, neglect or abuse) to this child or his siblings;

(d) The name and address of the person allegedly responsible for the abuse or neglect; and

(e) Any other information that the person making the report believes may be helpful in the furtherance of the purpose of this section.

(3) The cabinet upon request shall receive from any agency of the state or any other agency, institution or facility providing services to the child or his family, such cooperation, assistance and information as will enable the cabinet to fulfill its responsibilities under KRS 620.030, 620.040, and 620.050.

645.270 Duty of qualified mental health professional to warn intended victim of patient's threat of violence.

(1) No monetary liability and no cause of action shall arise against any qualified mental health professional for failing to predict, warn or take precautions to provide protection from a patient's violent behavior, unless the patient has communicated to the qualified mental health professional or person serving in a counselor role an actual threat of physical violence against a clearly identified or reasonably identified victim, or unless the patient has communicated to the qualified mental health professional or other person serving in a counselor role an actual threat of some specific violent act.

(2) The duty to warn or to take reasonable precautions to provide protection from violent behavior arises only under limited circumstances specified in subsection (1) of this section. The duty to warn a clearly or reasonably identifiable victim shall be discharged by the qualified mental health professional or person serving in a counselor role if reasonable efforts are made to communicate the threat to the victim and to notify the law enforcement office closest to the patient's and the victim's residence of the threat of violence. If the patient has communicated to the qualified mental health professional or person serving in a counselor role an actual threat of some specific violent act and no particular victim is identifiable, the duty to warn has been discharged if reasonable efforts are made to communicate the threat to law enforcement authorities. The duty to take reasonable precautions to provide protection from violent behavior shall be satisfied if reasonable efforts are made to seek civil commitment of the child under KRS Chapter 645.

(3) No monetary liability and no cause of action shall arise against any qualified mental health professional or person serving in a counselor role for confidences disclosed to third parties in an effort to discharge a duty arising under this section.

Rule 507 Psychotherapist-patient privilege.

(a) Definitions. As used in this rule:

(1) A "patient" is a person who, for the purpose of securing diagnosis or treatment of his or her mental condition, consults a psychotherapist.

(2) A "psychotherapist" is:

(A) A person licensed by the state of Kentucky, or by the laws of another state, to practice medicine, or reasonably believed by the patient to be licensed to practice medicine, while engaged in the diagnosis or treatment of a mental condition;

(B) A person licensed or certified by the state of Kentucky, or by the laws of another state, as a psychologist, or a person reasonably believed by the patient to be a licensed or certified psychologist;

(C) A licensed clinical social worker, licensed by the Kentucky Board of Social Work; or

(D) A person licensed as a registered nurse or advanced registered nurse practitioner by the board of nursing and who practices psychiatric or mental health nursing.

(3) A communication is "confidential" if not intended to be disclosed to third persons other than those present to further the interest of the patient in the consultation, examination, or interview, or persons reasonably necessary for the transmission of the communication, or persons who are present during the communication at the direction of the psychotherapist, including members of the patient's family.

(4) "Authorized representative" means a person empowered by the patient to assert the privilege granted by this rule and, until given permission by the patient to make disclosure, any person whose communications are made privileged by this rule.

(b) General rule of privilege. A patient, or the patient's authorized representative, has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications, made for the purpose of diagnosis or treatment of the patient's mental condition, between the patient, the patient's psychotherapist, or persons who are participating in the diagnosis or treatment under the direction of the psychotherapist, including members of the patient's family.

(c) Exceptions. There is no privilege under this rule for any relevant communications under this rule:

(1) In proceedings to hospitalize the patient for mental illness, if the psychotherapist in the course of diagnosis or treatment has determined that the patient is in need of hospitalization;

(2) If a judge finds that a patient, after having been informed that the communications would not be privileged, has made communications to a psychotherapist in the course of an examination ordered by the court, provided that such communications shall be admissible only on issues involving the patient's mental condition; or

(3) If the patient is asserting that patient's mental condition as an element of a claim or defense, or, after the patient's death, in any proceeding in which any party relies upon the condition as an element of a claim or defense.