



STATEMENT OF EMERGENCY
900 KAR 5:020E

- (1) This emergency administrative regulation is necessary to update the State Health Plan to increase access to all levels of pediatric healthcare including psychiatric care by allowing the construction of a pediatric teaching hospital. This emergency regulation is also necessary to increase access to Level II Special Care Neonatal beds, and increased access to NICU services, and grant nonsubstantive review status to certificate of need applications submitted by licensed health facilities by creating neonatal beds.
- (2) This emergency administrative regulation is deemed to be an emergency pursuant to KRS 13A.190(1)(a)1. in order to ensure access to care for all citizens of the commonwealth. Updated changes to the State Health Plan are needed to immediately help promote access to healthcare across the state and to maintain consistency with the companion administrative regulation filed concurrently, 900 KAR 6:075E, addressing nonsubstantive review of certificate of need applications.
- (3) This emergency administrative regulation will be replaced by an ordinary administrative regulation in an effort to promote greater access to care across Kentucky, help provide relief to the commonwealth's overburdened healthcare systems, and help prevent ongoing delays in healthcare delivery. The ordinary administrative regulation will not be identical to the emergency administrative regulation.


Andy Beshear, Governor

DocuSigned by:

Eric C. Friedlander, Secretary
Cabinet for Health and Family Services

CABINET FOR HEALTH AND FAMILY SERVICES

Office of Inspector General

Division of Certificate of Need

(Emergency Amendment)

900 KAR 5:020E. State Health Plan for facilities and services.

RELATES TO: KRS 216B.010-216B.130, 216B.178

STATUTORY AUTHORITY: KRS 194A.030, 194A.050(1), 216B.010, 216B.015(28),
216B.040(2)(a)2.a

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.040(2)(a)2.a requires the cabinet to promulgate an administrative regulation, updated annually, to establish the State Health Plan. The State Health Plan is a critical element of the certificate of need process for which the cabinet is given responsibility in KRS Chapter 216B. This administrative regulation establishes the State Health Plan for facilities and services.

Section 1. The State Health Plan shall be used to:

(1) Review a certificate of need application pursuant to KRS 216B.040; and

(2) Determine whether a substantial change to a health service has occurred pursuant to KRS 216B.015(29)(a) and 216B.061(1)(d).

Section 2. Incorporation by Reference.

(1) The "2025[2023] Update to the State Health Plan", June 2025[March 2024], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable

1 copyright law, at the Office of Inspector General, Division of Certificate of Need, 275
2 East Main Street, 5E-A, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to
3 4:30 p.m. This material may also be viewed on the Office of Inspector General's Web
4 site at: <https://chfs.ky.gov/agencies/os/oig/dcn/Pages/cn.aspx>.

900 KAR 5:020E

REVIEWED:

6/9/2025

Date

Signed by:
Tricia Steward
68D83857C4674D0
Tricia Steward, Acting Inspector General
Office of Inspector General

APPROVED:

6/9/2025

Date

DocuSigned by:
Eric Friedlander
0AFA1D6C15D6431
Eric C. Friedlander, Secretary
Cabinet for Health and Family Services

PUBLIC HEARING AND PUBLIC COMMENT PERIOD:

A public hearing on this administrative regulation shall, if requested, be held on July 21, 2025, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by July 14, 2025, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until July 31, 2025. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, KY 40621; Phone: 502-564-7476; Fax: 502-564-7091; CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation: 900 KAR 5:020E
Agency Contact: Valerie Moore
Phone Number: (502) 226-0196
Email: valeriek.moore@ky.gov

Contact Person: Krista Quarles
Phone Number: (502) 564-7476
Email: CHFSregs@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation incorporates by reference the current State Health Plan as defined by KRS 216B.015(28) and as required by KRS 216B.040(2)(a).

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with the content of the authorizing statutes, specifically KRS 216B.010, 216B.015(28), and 216B.040(2)(a)2.a.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes, KRS 216B.010, 216B.015(28), and 216B.040(2)(a)2.a., by establishing the State Health Plan's review criteria used for determinations regarding the issuance and denial of certificates of need.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing the review criteria for certificate of need determinations.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: In response to suggestions and comments submitted to the cabinet by interested groups, the amendment to this administrative regulation makes the following changes to the State Health Plan (SHP):

- Updates the title and edition date of the SHP on page i of the Plan;
- Updates page numbers on Table of Contents section on page ii;
- Updates the title of the SHP on page iii of the Plan under the heading "Purpose";
- Adds new definition under Section A: Acute Care Hospital for "Pediatric Teaching Hospital";
- Adds new language on page 3 to establish criteria for new "acute care hospitals" that are "pediatric teaching hospitals";
- Establishes that a "pediatric teaching hospital" shall not be considered a "specialized hospital";
- Adds language to permit a Level II PRTF with four (4) Level II Special Care Neonatal beds;

These changes align with the proposed amendment of 900 KAR 6:075& 900 KAR 6:075E, Section 2(3)(k), filed concurrently with this administrative regulation to grant nonsubstantive review status to certificate of need applications for acute care hospitals that wish to convert existing acute care beds to pediatric psychiatric beds at pediatric teaching hospitals as described above.

(b) The necessity of the amendment to this administrative regulation: This amendment is needed to expand inpatient pediatric behavioral health services throughout the state, including rural areas, to enhance immediate access to resources for at-risk pediatric mental health patients of such acuity that they need inpatient services and stabilization.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes because it incorporates by reference the State Health Plan.

(d) How the amendment will assist in the effective administration of the statutes: This amendment assists in the effective administration of the statutes by establishing the review criteria for certificate of need determinations.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects entities that submit certificate of need applications and affected persons as defined by KRS 216B.015(3). A total of 60 certificate of need applications were submitted to the cabinet in calendar year 2020; 70 certificate of need applications were submitted in calendar year 2021; 81 applications submitted in calendar year 2022; 60 applications submitted in calendar year 2023; and 67 applications submitted in calendar year 2024.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Entities that submit a certificate of need application are subject to the criteria set forth in the State Health Plan.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). The certificate of need application filing fee for nonsubstantive review and formal review is established in a separate administrative regulation, 900 KAR 6:020.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Entities subject to certificate of need approval must demonstrate that their proposal is consistent with the State Health Plan pursuant to KRS 216B.040(2)(a)2.a.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There are no additional costs to the Office of Inspector General for implementation of this amendment.

(b) On a continuing basis: There are no additional costs to the Office of Inspector General for implementation of this amendment on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general funds and agency monies are used to implement and enforce this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary to implement this amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This amendment does not establish or increase any fees.

(9) TIERING: Is tiering applied? (Explain why or why not) Yes, tiering is used as there are different certificate of need review criteria for each licensure category addressed in the State Health Plan.

FISCAL IMPACT STATEMENT

Administrative Regulation: 900 KAR 5:020E

Agency Contact: Valerie Moore

Phone Number: (502) 226-0196

Email: valeriek.moore@ky.gov

Contact Person: Krista Quarles

Phone Number: (502) 564-7476

Email: CHFSregs@ky.gov

(1) Identify each state statute, federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 216B.010, 216B.015(28), and 216B.040(2)(a)2.a.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: This administrative regulation impacts the Cabinet for Health and Family Services, Office of Inspector General, and may impact any government owned or controlled health care facility.

(a) Estimate the following for the first year:

Expenditures: This amendment will not cause additional expenditures.

Revenues: This amendment will not generate additional revenue.

Cost Savings: This amendment will not generate any cost savings.

(b) How will expenditures, revenue, or cost savings differ in subsequent years? This amendment will not generate additional expenditures, revenue or cost savings for state or local government during subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): This amendment should have no additional effect on local entities.

(a) Estimate the following for the first year:

Expenditures: No additional expenditures are expected from this amendment.

Revenues: No additional revenues are expected as a result of this amendment.

Cost Savings: No additional cost savings is expected as a result of this amendment.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? No additional budgetary impact is expected as a result of this amendment in subsequent years.

(4) Identify additional regulated entities not identified in questions (2) or (3): All affected entities are listed in questions (2) and (3).

(a) Estimate the following for the first year:

Expenditures: No additional expenditures are expected from this amendment.

Revenues: No additional revenues are expected as a result of this amendment.

Cost Savings: No additional cost savings are expected as a result of this amendment.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?
No additional budgetary impact is expected as a result of this amendment in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: There is no anticipated fiscal impact as a result of the amendment to this regulation.

(b) Methodology and resources used to determine the fiscal impact: No money spent; no money gained equals no fiscal impact.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse economic impact to the entities identified in questions (2) – (4). (\$500,000 or more, in aggregate). This administrative regulation is not expected to have a major economic impact on the regulated entities.

(b) The methodology and resources used to reach this conclusion: No money spent; no money gained equals no fiscal impact.

SUMMARY OF MATERIAL INCORPORATED BY REFERENCE

Cabinet for Health and Family Services
Office of Inspector General
Division of Certificate of Need

900 KAR 5:020E. State Health Plan for facilities and services.

The State Health Plan, May 2025, is incorporated by reference. The State Health Plan establishes the review criteria used for determinations regarding the issuance and denial of certificates of need. Changes to the State Health Plan (SHP) include the following:

- Updates the title and edition date of the SHP on page i of the Plan;
- Updates the title and edition date of the SHP on page i of the Plan;
- Updates page numbers on Table of Contents section on page ii;
- Updates the title of the SHP on page iii of the Plan under the heading "Purpose";
- Updates the title of the SHP on page iii of the Plan under the heading "Purpose";
- Adds new definition under Section A: Acute Care Hospital for "Pediatric Teaching Hospital";
- Adds new language on page 3 to establish criteria for new "acute care hospitals" that are "pediatric teaching hospitals";
- Establishes that a "pediatric teaching hospital" shall not be considered a "specialized hospital";
- Adds language to permit a Level II PRTF with four (4) Level II Special Care Neonatal beds;

These changes align with the proposed amendment of 900 KAR 6:075E, Section 2(3)(k), filed concurrently with this administrative regulation to grant nonsubstantive review status to certificate of need applications for acute care hospitals that wish to convert existing acute care beds to pediatric psychiatric beds at pediatric teaching hospitals as described above.

The total number of pages incorporated by reference in this administrative regulation is fifty-seven (57).