CABINET FOR HEALTH AND FAMILY SERVICES

Office of Inspector General

Division of Certificate of Need

(Amended After Comments)

900 KAR 5:020. 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", **October 2025[~~June 2025~~]**, is incorporated by reference.

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

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

900 KAR 5:020

REVIEWED:

10/10/2025
Date

Signed by:
Tricia Steward
6BD83B57C467AD0
Tricia Steward, Inspector General
Office of Inspector General

APPROVED:

10/10/2025
Date

Signed by:
Steven Stack
A6C077BED9A2471
Steven J. Stack, MD, MBA, Secretary
Cabinet for Health and Family Services

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation: 900 KAR 5:020
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;

- Makes changes to Ambulatory Surgical Centers in regards to ownership of Ambulatory Surgical Centers that perform "cornea transplants" and "glaucoma fistulizing surgery";
- Makes changes to Cardiac Catheterizations to establish a comprehensive (diagnostic and therapeutic) cardiac catheterization service if applicant is under same ownership in the same county.

These changes align with the proposed amendment of 900 KAR 6:075 and 900 KAR 6:075E, Section 2(3)(k)-(l), 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 amendments after comments document makes the following changes:

- In the Acute Care Hospital section of the State Health Plan adding language to allow hospitals in contiguous counties to a new acute care hospital if the county doesn't have a hospital or if the existing hospital has owned and operated a full service emergency department in the contiguous county for over 5 years or longer with a minimum of 15,000 emergency room visits in the most recent year of existence and the transfer of the acute care beds does not result in the need for additional acute care beds in the county of the transferring facility using the SHP methodology for the net county acute care bed need.

- Adds language to Section D. Special Care Neonatal Beds 6.b.to read as follows:

> Detailed policies and procedures **from the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists** described in the *Guidelines for Perinatal Care* **and the Standards for Levels of Neonatal Care: II, III, and IV for the availability of appropriately trained personnel and providers**[~~for the availability of obstetrics and neonatologists who are continuously available on site or able to be present within 30 minutes~~]; appropriate equipment; [~~appropriately trained personnel;~~] and transfer agreements and procedures for infants born at < thirty-two (32) weeks gestation or who weigh < 1,500 grams at birth or when needed for pediatric surgical or medical subspecialty intervention;

- Corrects numbering in the same section from 4.to 9.

- Makes a correction to language within regards to ICF/IID (Section E) to align with statute.

- Adds the words "**; or more recent verifiable external or applicant's internal data source.**" To the Megavoltage Radiation Equipment review criteria number 1.

- Also adds the words "**an existing Kentucky**" to criteria 4.

- Under Section V. Miscellaneous Services, A. Ambulance Service, add "**or**" before III and delete "**or IV**"

(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) Does this administrative regulation or amendment implement legislation from the previous five years? {If yes, provide the year of the legislation and either the bill number or Ky Acts chapter number being implemented.} Yes, 2022 HB 777 & 2025 HB 305 for changes in ambulance services, and 2023 HB 334 for ICF/IID changes,

(4) 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.

(5) Provide an analysis of how the entities identified in question (4) 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 (4) 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 (4). 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 (4): 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.

(6) 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.

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

(8) 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.

(9) 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.

(10) 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 5:020
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 5:020. 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 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;
- Makes changes to applications to relocate Megavoltage Radiation Therapy Programs;
- Makes changes to Ambulatory Surgical Centers in regards to ownership of Ambulatory Surgical Centers that perform "cornea transplants" and "glaucoma fistulizing surgery";
- Adds language to establish comprehensive (diagnostic and therapeutic) cardiac catheterization services so long as there is common ownership with an existing provider and so long as they are in the same county.

The amended after comments document makes changes to the following:

- Acute Care Hospital section of the State Health Plan adding language to allow hospitals in contiguous counties to a new acute care hospital if the county doesn't have a hospital or if the existing hospital has owned and operated a full service emergency department in the contiguous county for over 5 years or longer with a minimum of 15,000 emergency room visits in the most recent year of existence and the transfer of the acute care beds does not result in the need for additional acute care beds in the county of the transferring facility using the SHP methodology for the net county acute care bed need.

- Adds language to Section D. Special Care Neonatal Beds 6.b.to read as follows:

Detailed policies and procedures **from the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists** described in the *Guidelines for Perinatal Care* **and the Standards for Levels of Neonatal Care: II, III, and IV for the availability of appropriately trained personnel and providers**[~~for the availability of obstetrics and neonatologists who are continuously available on site or able to be present within 30 minutes~~]; appropriate equipment; [~~appropriately trained personnel;~~] and transfer agreements and procedures for infants born at < thirty-two (32) weeks gestation or who weigh < 1,500 grams at birth or when needed for pediatric surgical or medical subspecialty intervention;

- Corrects numbering in the same section from 4.to 9.
- Makes a correction to language within regards to ICF/IID (Section E) to align with statute.
- Adds the words "**; or more recent verifiable external or applicant's internal data source.**" To the Megavoltage Radiation Equipment review criteria number 1.
- Also adds the words "**an existing Kentucky**" to criteria 4.
- Under Section V. Miscellaneous Services, A. Ambulance Service, add "**or**" before III and delete "**or IV**"

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

STATEMENT OF CONSIDERATION
RELATING TO 900 KAR 05:020

Cabinet for Health and Family Services, Office of Inspector General
Division of Certificate of Need
(Amended After Comments)

I. The public hearing on 900 KAR 05:020, scheduled for August 18, 2025, at 9:00 a.m. in a Zoom meeting format by the CHFS Office of Legislative and Regulatory Affairs was cancelled due to no requests to be heard. However, written comments were received during the public comment period.

II. The following people submitted comments:

Name and Title	Agency/Organization/Entity/Other
Heidi Schissler Lanham Legal Director	Protection and Advocacy
Lisa English Hinkle	McBrayer Firm on behalf of Leading Age of Kentucky, Inc.
Marian J Hayden, Esq.	Cull & Hayden, P.S.C.
Lori Hayden, JD Attorney at Law	Lori Hayden Law
John M. Franklin, MD President	Kentucky Academy of Eye Physicians and Surgeons
Donna Little Associate Vice President for Health Policy and Regulatory Affairs	Kentucky Hospital Association
Donovan Blackburn President and CEO	Pikeville Medical Center
Sherri Craig, MBA, FACHE Market Vice President, External Relations	CHI St Joseph Health
Craig Self System Vice President, Chief Growth Officer	Deaconess Health System

Byron Gabbard Chief Financial Officer	Appalachian Regional Health Care
Steven T Hester, MD, MBA Senior Vice President, Chief Clinical & Strategy Officer	Norton Health Care
Tim Marcum Associate Vice President of Planning	Baptist Health
Brandy Cantor Executive Director	Kentucky Association of Hospice and Palliative Care
Janet Craig Attorney at Law	Stites and Harbison, PLLC
Russ Ranallo Chief Financial Officer	Owensboro Health

III. The following people from the promulgating administrative body responded to the comments:
Name and Title:
Tricia Steward, Inspector General
Valerie Moore, Policy Specialist

IV. Summary of Comments and Responses

(1) Subject: Diagnostic Cardiac Catheterization Services

(a) Comment: Donna Little on behalf of Kentucky Hospital Association wrote in support of the newly added Criterion 10 in the Cardiac Catheterization portion of the State Health Plan.

(b) The cabinet appreciates the statement of support from the Kentucky Hospital Association. The cabinet is not amending this language.

(a) Donovan Blackburn on behalf of Pikeville Medical commented that they oppose the new cardiac catheterization language included by the cabinet because it only allows extra services in the county that holds the CON license, but they would like for this to extend to contiguous counties.

(b) Response: The cabinet appreciates the comments by Pikeville Medical Center. The cabinet is not amending the previously submitted language for criterion 10 of the cardiac

catheterization language in the State Health Plan.

(a) Craig Self on behalf of Deaconess Medical commented that they supported the cabinet's addition of Criterion 10 of the Cardiac Catheterization section of the State Health Plan, but they would like to amend the language to extend services to the same ADD or 40-45 minute drive time.

(b) Response: The cabinet appreciates the comments regarding diagnostic cardiac catheterization services. The cabinet is not amending the language at this time.

(2) Subject: Hospice Services

(a) Comment: The cabinet received comments from Janet A. Craig of Stites and Harbison on behalf of Affinity Health Management and Shalom Hospice requesting additional changes to eliminate the review criteria in the State Health Plan for hospice services as defined in Section III. C. of the Plan ("Hospice Services"), thereby enabling certificate of need (CON applications proposed new Hospice Services to be reviewed through the nonsubstantive review process.

(b) Response: The cabinet thanks Ms. Craig for her comments. The cabinet will not be amending the State Health Plan regarding hospice service CON requirements at this time.

(a) Comment: Brandy Cantor on behalf of the Kentucky Association of Hospice and Palliative Care expressed appreciation to the cabinet for making no changes to the hospice section of the State Health Plan stating that "there is not enough evidence that patients who want hospice services are unable to find care or are being denied care by the existing hospice providers in the Commonwealth."

(b) Response: The cabinet thanks the Kentucky Association of Hospice and Palliative Care for their comments of support. The cabinet will not be amending the regulation due to this comment.

(3) Subject: Correction of typographical error

(a) Comment: Donna Little, Associate Vice President, Kentucky Hospital Association, pointed out a typographical error in the numbering of criteria for Special Care Neonatal beds in the State Health Plan. "After Criterion 8., the numbering of the next criterion should be "9." rather than "4.".

(b) The cabinet appreciates Ms. Little for pointing out this error; the cabinet will amend the regulation.

(6) Subject: Megavoltage Radiation

(a) Comment: Donna Little, Associate Vice President, Kentucky Hospital Association,

commented that KHA recognizes that the cabinet's change in language regarding Megavoltage Radiation equipment would improve access to Megavoltage Radiation Therapy Programs, but they request that a requirement be added that the program being relocated is an existing Kentucky program. The request the words "an existing Kentucky" be added to the cabinet's existing proposed language.

(b) Response: The cabinet thanks the Kentucky Hospital Association for their comment on Megavoltage Radiation Therapy Programs. The cabinet will amend the regulation.

(a) Comment: Marian J. Hayden on behalf of Taylor County Hospital District Health Facilities Corporation d/b/a Taylor Regional requested that "or more recent verifiable external or Applicant's internal data source" be added to the end of "1." in review criteria.

(b) Response: The cabinet appreciates the comments on behalf of Taylor Regional and will amend the regulation.

(a) Comment: Byron Gabbard, Chief Financial Officer, Appalachian Regional Healthcare requested an additional revision be reflected within the proposed language, stipulating that if the adjacent county of the proposed relocation already has an established hospital, the relocation would be subject to full substantive review if there is no intent to relocate the equipment in partnership with the existing hospital system.

(b) Response: The cabinet appreciates the comments on behalf of Appalachian Regional Healthcare; however, the cabinet will not be amending the regulation.

(4) Subject: Acute care beds

(a) Comment: Donna Little, Associate Vice President, Kentucky Hospital Association and Sheri Craig on behalf of CHI-St Joseph Health requested additional amendments to the Acute Care Hospital Review Criterion 2.c. to authorize a new acute care hospital if the existing hospital is located in a contiguous county to the new acute care hospital and other specified requirements are met. New proposed language is:
c. i. The existing hospital is located within the same county as the new acute care hospital; or
ii. The existing hospital is located in a contiguous county to the new acute care hospital contiguous and;
(a) The county does not have a hospital;
(b) The existing hospital has owned and operated a full service emergency department in the contiguous county for five years or longer with a minimum of 15,000 emergency room visits in the most recent year in existence; and
(c)The transfer of the acute care beds does not result in the need for additional acute care beds in the county of the transferring facility using the State Health Plan methodology for the net county acute care bed need;

(b) Response: The cabinet appreciates the comment from KHA regarding acute care beds. The cabinet will amend the State Health Plan.

(5) Subject: Class IV ambulance services & Consistency with 2022 HB 777 and 2025 HB 305

(a) Comment: Donna Little with the Kentucky Hospital Association commented KRS 216B.095(3) was amended by the 2022 HB 777 to delete specific authorization for nonsubstantive review from statute. However, the 2025 HB 305 removed the sunset date from statute. This was corrected in the revision of 900 KAR 6:075. During that revision OIG learned that Class IV ambulances were included in the State Health Plan along with class I, II and III. KRS 216B and 900 KAR 6:075 allow Class IV or industrial or similar ambulances to be subject to nonsubstantive review. It has been recommended to remove Class IV ambulances from the State Health Plan to come into compliance with statute.

(b) Response: The cabinet appreciates the comments from the Kentucky Hospital Association. 900 KAR 6:075 has been amended to account for this change and this regulation will be amended.

(6) Subject: Criteria for Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID).

(a) Comment: Lisa English Hinkle of McBrayer and Heidi Schissler Lanham of Protection and Advocacy commented that the cabinet had overlooked a statute change by not amending the plan to reflect legislative changes to KRS 216B.178.

(b) Response: The cabinet appreciates these comments. This was an oversight, and the regulation will be amended.

(7) Subject: Establishment of four Level II neonatal bed units for hospitals under common ownership with an existing Level II NICU program in the same ADD, makes them subject to nonsubstantive review.

(a) Comment: Steven Hester, MD, MBA on behalf of Norton Healthcare writes in support of the language as written.

(b) Response: The cabinet appreciates the letter of support.

(a) Comment: Donna Little, Associate Vice President, Kentucky Hospital Association, and Donovan Blackburn, President and CEO, Pikeville Medical Center, commented that allowing applicants under common ownership with an existing provider of Level II services within the same area development district (ADD) would create inconsistencies and inequitable treatment between existing providers. They state that existing providers of Level II services who wish to expand their Level II program at its current location by up to four (4) beds would

be required to complete the formal review process for Certificate of Need (CON), whereas an established provider of Level II services who want to establish a new Level II program at a different location within the same ADD would be subject to nonsubstantive review.

(b) Response: The cabinet appreciates the feedback from Pikeville Medical Center and the Kentucky Hospital Association. 900 KAR 6:075 will be amended accordingly.

(8) Subject: Special Care Neonatal Beds

(a) Comment: Sherri Craig, MBA, FACHE, CHI St. Joseph Health, and Donna Little, Associate Vice President, Kentucky Hospital Association, commented that the criteria for neonatal Level II beds should be consistent with national guidelines.
Ms. Little suggested a change to D.6.b. to read as follows:

Detailed policies and procedures **from the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists** described in the *Guidelines for Perinatal Care* **and the Standards for Levels of Neonatal Care: II, III, and IV for the availability of appropriately trained personnel and** providers ~~**[for the availability of obstetrics and neonatologists who are continuously available on site or able to be present within 30 minutes]**~~; appropriate equipment; ~~**[appropriately trained personnel;]**~~ and transfer agreements and procedures for infants born at < thirty-two (32) weeks gestation or who weigh < 1,500 grams at birth or when needed for pediatric surgical or medical subspecialty intervention;

(b) Response: The cabinet appreciates comments from CHI- St Joeseph Health and from KHA. The cabinet will amend the regulation.

(9) Subject: Ambulatory Surgical Centers

(a) Comment: Dr. Lawrence Tenkman, MD met with officials from OIG and CHFS and submitted comments regarding ownership of Ambulatory Surgical Centers in regard to ownership by ophthalmologists and optometrists.

(b) Response: The cabinet appreciates Dr. Tenkman's comments. At this time, the cabinet will not be amending the State Health Plan regarding Ambulatory Surgical Centers.

(a) Comment: John M. Franklin, M.D., President, KY Academy of Eye Physicians and Surgeons (KAEPS) stated their membership had concerns about patient safety and quality of care provided if the ambulatory surgical center language is not amended.

(b) Response: The cabinet thanks KAEPS for commenting on this issue. The cabinet has reviewed and considered your concerns on the language regarding ambulatory surgical centers. The cabinet will not be amending the language in the State Health Plan regarding ambulatory surgical centers.

(a) Comment: John M. Franklin, M.D., President, KY Academy of Eye Physicians and Surgeons (KAEPS) wrote that their membership had concerns over singling out specialties if language wasn't changed in the State Health Plan regarding ambulatory surgical centers.

(b) Response: The cabinet thanks KAEPS for commenting on this issue. The cabinet has reviewed and considered your concerns on the language regarding ambulatory surgical centers. The cabinet will not be amending the language in the State Health Plan regarding ambulatory surgical centers.

(a) Comment: John M. Franklin, M.D., President, KY Academy of Eye Physicians and Surgeons (KAEPS) commented that his association had concerns over unnecessary and inappropriate surgery incentives if language in the State Health Plan isn't amended.

(b) Response: The cabinet thanks KAEPS for commenting on this issue. The cabinet has reviewed and considered your concerns on the language regarding ambulatory surgical centers. The cabinet will not be amending the language in the State Health Plan regarding ambulatory surgical centers.

(a) Comment: John M. Franklin, M.D., President, KY Academy of Eye Physicians and Surgeons (KAEPS) commented that changes to this plan should come from the Kentucky Legislature and that they had declined to do so during the 2023 legislative interim.

(b) Response: The cabinet appreciates KAEPS's comments on this issue. The State Health Plan will go through the statutorily required process including review by legislative committee. The cabinet will not be amending the regulation at this time.

(a) Comment: John M. Franklin, M.D., President, KY Academy of Eye Physicians and Surgeons (KAEPS) brings up the concern of unqualified owners.

(b) Response: The cabinet thanks KAEPS for commenting on this issue. The cabinet has reviewed and considered your concerns on the language regarding ambulatory surgical centers. The cabinet will not be amending the language in the State Health Plan regarding ambulatory surgical centers.

(a) Donovan Blackburn, President and CEO, Pikeville Medical Center expressed concerns that ophthalmologists will not be in the area more than a few days a month and optometrists will be performing procedures that could be performed in an office.

(b) Response: The cabinet thanks Pikeville Medical Center for commenting on this issue. The cabinet has reviewed and considered your concerns on the language regarding ambulatory surgical centers. The cabinet will not be amending the language in the State Health Plan regarding ambulatory surgical centers.

(a) Donna Little on behalf of the KY Hospital Association, has concerns regarding optometrists owning Ambulatory Surgical Centers. KHA states that optometrists are not M.D.s and issues have occurred in other states where optometrists own ASCs and contract with physicians (who have no relationship to the patients) to perform eye surgery with no further physician follow up or continuity of care. They also express concerns that ASCs would be utilized only for eye procedures. They further voice concerns that the proposed changes include references to time without further explanation of how that time is to be calculated

(b) Response: The cabinet thanks the Kentucky Hospital Association for commenting on this issue. The cabinet has reviewed and considered your concerns on the language regarding ambulatory surgical centers. At this time, the cabinet will not be amending the language in the State Health Plan regarding ambulatory surgical centers.

(a) Comment: Lori Hayden, representing her unnamed client requests that revisions in the State Health Plan affecting ophthalmic surgery procedures be deleted in its entirety.

(b) Response: The cabinet thanks Ms. Hayden for her comments. The cabinet will not be amending the language in the State Health Plan regarding ambulatory surgical centers.

(a) Comment: Russ Ranallo of Owensboro Health shared concerns that post-surgical complications aren't able to be treated after hours especially if the surgeon has no ties to the community. They further express concerns about continuity of care.

(b) Response: The cabinet thanks Mr. Ranallo for his comments. The cabinet will not be amending the language in the State Health Plan regarding ambulatory surgical centers.

(10) Subject: General Support

(a) Comment: Tim Marcum of Baptist Healthcare commented that they support the letter submitted by the Kentucky Hospital Association.

(b) Response: The cabinet appreciates the comments from Baptist Healthcare. The cabinet will amend the regulation due to some comments made by the Kentucky Hospital Association.

Summary of Statement of Consideration and
Action Taken by Promulgating Administrative Body

The public hearing on this administrative regulation scheduled for August 25, 2025, not request and therefore was canceled. However, written comments were received during the public comment period. The Cabinet for Health and Family Services, Office of Inspector General responded to the comments and amends the administrative regulation as follows:

Page 1
Section 2
Line 19
After "Update to State Health Plan", insert "**October 2025**"
Delete "June 2025"

Material Incorporated by Reference
State Health Plan

Cover Page
Upper Right Corner
Edition Date
After "Date", insert "**October 2025**"
Delete "June 2025"

Center of Page
Title
After "PLAN", insert "**October 2025**"
Delete "June 2025"

Section I.A.3.c.
Page 3
After "c" insert "**i.**"
After "pediatric teaching hospital;" insert

or
ii. The existing hospital is located in a contiguous county to the new acute care hospital and;

(a) The contiguous county does not have a hospital.

(b) The existing hospital has owned and operated a full service emergency department in the contiguous county for over five (5) years or longer with a minimum of fifteen thousand (15,000) emergency room visits in the most recent year of existence; and

(c)The transfer of the acute care beds does not result in the need for

additional acute care beds in the county of the transferring facility using the State Health Plan (SHP) methodology for the net county acute care bed need;

Section I.D.6.b.
Page 13
After "policies and procedures" insert "**from the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists**"
After "*for Perinatal Care*", Insert "**and the Standards for Levels of Neonatal Care: II, III, and IV for the availability of appropriately trained personnel and providers**"
Delete "for the availability of obstetrics and neonatologists who are continuously available on site or able to be present within 30 minutes"
After "appropriate equipment;" delete "appropriately trained personnel;"

Page 15
Renumber "4.", "9."

Section III.E.
Page 39
After "existing ICF/IID facility." Insert

An application to increase the number of beds by an existing ICF/ID facility shall be consistent with the state health plan if the applicant:

(1) Is an ICF/ID owned by a non-governmental entity;

(2) Requests additional beds in a freestanding building on or off the campus of the ICF/ID facility;

(3) Demonstrates that the additional beds will be filled with individuals from the applicant's waiting list or from a community-based setting that the applicant currently supports; and

(4) Demonstrates that each individual living at the ICF/ID will have an individualized plan developed to improve their life experiences.

Section IV.B.1.
Page 47
After "*Radiation Services Report*" Insert "**; or more recent verifiable external or applicant's internal data source.**"

Section IV.B.4.
Page 47
After "relocate" insert "**an existing Kentucky**"
Delete "a"

Section V.A.
Definition
Page 53

After "II." Insert "**or**"
After "III" delete "~~, or~~ IV"